

15101153D

HOUSE BILL NO. 1576

Offered January 14, 2015

Prefiled January 7, 2015

A BILL to amend and reenact §§ 8.01-581, 58.1-3330, and 58.1-3331 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-3984.1, relating to certain real property tax assessments; arbitration.

 Patron—Pogge

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-581, 58.1-3330, and 58.1-3331 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-3984.1, as follows:

§ 8.01-581. Fiduciary and certain taxpayers may submit to arbitration.

A. Any personal representative of a decedent, fiduciary of a person under a disability, or other fiduciary may submit to arbitration any suit or matter of controversy touching the estate or property of such decedent, or person under a disability or in respect to which he is trustee. And any submission so made in good faith, and the award made thereupon, shall be binding and entered as the judgment of a court, if so required by the agreement, in the same manner as other submissions and awards. No such fiduciary shall be responsible for any loss sustained by an award adverse to the interests of the person under a disability or beneficiary under any such trust, unless it was caused by his fault or neglect.

B. Any taxpayer who is eligible to elect to arbitrate the assessment of real property pursuant to § 58.1-3984.1 may submit such assessment to arbitration.

§ 58.1-3330. Notice of change in assessment.

A. Whenever in any county, city or town there is a reassessment of real estate, or any change in the assessed value of any real estate, notice shall be given by mail directly to each property owner, as shown by the land books of the county, city or town whose assessment has been changed. Such notice shall be sent by postpaid mail at least fifteen days prior to the date of a hearing to protest such change to the address of the property owner as shown on such land books. The governing body of the county, city or town shall require the officer of such county, city or town charged with the assessment of real estate to send such notices or it shall provide funds or services to the persons making such reassessment so that such persons can send such notices.

B. Every notice shall, among other matters, show the magisterial or other district, if any, in which the real estate is located, the amount and the new and immediately prior two assessed values of land, and the new and immediately prior two assessed values of improvements. It shall further set out the time and place at which persons may appear before the officers making such reassessment or change and present objections thereto. The notice shall also inform each property owner of the right to view and make copies of records maintained by the local assessment office pursuant to §§ 58.1-3331 and 58.1-3332, and inform each property owner that the records available and the procedure for accessing them are set out in §§ 58.1-3331 and 58.1-3332. *The notice shall also inform each property owner of the right to (i) make application for relief to the board of equalization pursuant to § 58.1-3380 if the county, city, or town has a board of equalization, (ii) seek relief from the assessment through arbitration as provided in § 58.1-3984.1, and (iii) appeal the assessment to the circuit court as provided in § 58.1-3984.* In counties that have elected by ordinance to prepare land and personal property books in alphabetical order as authorized by § 58.1-3301 B, such notice may omit reference to districts, as provided herein.

The following requirements shall apply to any notice of change in assessment other than one in which the change arises solely from the construction or addition of new improvements to the real estate. If the tax rate that will apply to the new assessed value has been established, then the notice shall set out such rate. In addition, whether or not the tax rate applicable to the new assessed value has been established, the notice shall set out the tax rates for the immediately prior two tax years, the total amount of the new tax levy, based on the current tax rate at the time the notices are prepared, and the amounts of the total tax levies for the immediately prior two tax years, and the percentage changes in the new tax levy from the tax levies in the immediately prior two tax years.

If the tax rate that will apply to the new assessed value has not been established, then the notice shall set out the time and place of the next meeting of the local governing body at which public testimony will be accepted on any real estate tax rate changes. If this meeting will be more than 60 days from the date of the reassessment notice, then instead of the date of the meeting, the notice shall include

INTRODUCED

HB1576

59 information on when the date of the meeting will be set and where it will be publicized.

60 C. Any person other than the owner who receives such reassessment notice, shall transmit the notice
61 to such owner, at his last known address, immediately on receipt thereof, and shall be liable to such
62 owner in an action at law for liquidated damages in the amount of twenty-five dollars, in the event of a
63 failure to so transmit the notice. Mailing such notice to the last known address of the property owner
64 shall be deemed to satisfy the requirements of this section.

65 D. Notwithstanding the provisions of this section, if the address of the taxpayer as shown on the tax
66 record is in care of a lender, the lender shall upon request furnish the county, city or town a list of such
67 property owners, together with their current addresses as they appear on the books of the lender, or the
68 parties may by agreement permit the lender to forward such notices to the property owner, with the cost
69 of postage to be paid by the county, city or town.

70 **§ 58.1-3331. Public disclosure of certain assessment records.**

71 A. All property appraisal cards or sheets within the custody of a county, city or town assessing
72 officer, except those cards or sheets containing information made confidential by § 58.1-3, shall be open
73 for inspection, after the notice of reassessment is mailed as provided in § 58.1-3330, the normal office
74 hours of such official by any taxpayer, or his duly authorized representative, desiring to review such
75 cards or sheets.

76 B. Any taxpayer, or his duly authorized representative, whose real property has been assessed for
77 taxation shall, upon request, be allowed to examine the working papers used by any such assessing
78 official in arriving at the appraised and assessed value of such person's land and any improvements
79 thereon.

80 C. Upon request of any taxpayer or his duly authorized representative, the assessing officer of the
81 governing body shall make available information regarding the methodology employed in the calculation
82 of a property's assessed value to include the capitalization rate used to determine the property's value, a
83 list of comparable properties or sales figures considered in the valuation, and any other market surveys,
84 formulas, matrices, or other factors considered in determining the value of the property. Nothing in this
85 section shall be construed to require disclosure of information that is prohibited from disclosure pursuant
86 to §§ 58.1-3 and 58.1-3294.

87 D. The assessing officer of the governing body may fix and promulgate a limited period within
88 normal office hours when such records shall be available for inspection and copying, but such period of
89 time may not be less than four hours per day on Monday through Friday, except on such days when the
90 office is otherwise closed.

91 E. Notwithstanding any special or general laws to the contrary, in any appeal of the assessment of
92 residential property filed by a taxpayer as an owner of real property containing less than four residential
93 units (i) to the board of equalization pursuant to § 58.1-3379, or (ii) to circuit court pursuant to
94 § 58.1-3984, the assessing officer shall send the taxpayer a written notice provided for in this subsection.
95 *Such notice shall also be sent to a taxpayer who elects to arbitrate the assessment of his property*
96 *pursuant to 58.1-3984.1.* Such notice shall be on the first page of such notice and be in bold type no
97 smaller than fourteen points and mailed to, or posted at, the last known address of the taxpayer as
98 shown on the current real estate tax assessment books or current real estate tax assessment records.
99 Notice under this subsection shall satisfy the notice requirements of this section. In an appeal before the
100 board of equalization, such written notice may be contained in the written notice of the hearing date
101 before the board. For all applicable assessments on or after January 1, 2012, such written notice shall:
102 (a) be given at least 45 days prior to the hearing of the taxpayer's appeal; (b) include a statement
103 informing the taxpayer of his rights under this section to review and obtain copies of all of the
104 assessment records pertaining to the assessing officer's determination of fair market value of such real
105 property; and (c) advise the taxpayer of his right to request that the assessor make a physical
106 examination of the subject property.

107 F. If, within at least five days prior to any action by a court under § 58.1-3984 or by a board of
108 equalization under § 58.1-3379, the assessing officer fails to disclose or make available for inspection
109 any information required to be disclosed or made available for inspection and copying under this
110 section, then the assessing official and the applicable local government shall not be allowed to introduce
111 such information or use it in any other manner in any such appeal.

112 **§ 58.1-3984.1. Arbitration in lieu of applying to court to correct certain erroneous real property tax**
113 **assessments.**

114 A. As used in this section, unless the context requires a different meaning:

115 "Parties" means the taxpayer and the local assessing officer.

116 B. In lieu of applying to circuit court for relief from real property tax assessments as provided in §
117 58.1-3984, the owner of an owner-occupied residential dwelling may elect to submit the assessment of
118 such dwelling and all contiguous real property to arbitration. Such election does not require the
119 agreement of the local assessing officer, the board of equalization, or the county, city, or town. Such
120 election must be made in writing and received by the local assessing officer within the same time

constraints as an application to court. Unless otherwise agreed to by the parties in writing, the local assessing officer shall, within 14 days of receipt of such written election, have the submission to arbitration entered in the circuit court as provided in § 8.01-577.

C. Unless otherwise provided in this section, or otherwise agreed to by the parties in writing, the arbitration shall be governed by the applicable provisions of Chapter 21 (§ 8.01-577 et seq.) of Title 8.01.

D. The arbitrator shall be one or more licensed residential real estate appraisers as defined in § 54.1-2009.

E. There shall be no presumption that the tax assessment is correct and neither party shall have the burden of proof.

F. The local assessing officer shall give the required written notice to the taxpayer, or his duly authorized representative, under subsection E of § 58.1-3331, and, upon written request, shall provide the taxpayer or his duly authorized representative copies of the assessment records set out in subsections A, B, and C of § 58.1-3331, pertaining to the assessing officer's determination of fair market value of the property in question. Such written request by the taxpayer or his duly authorized representative shall be made following the taxpayer's election to arbitrate and no later than 45 days prior to the arbitration hearing, unless otherwise provided by an order of the arbitrator before which the matter is pending. Provided the written request is made in accordance with this section or any applicable order by the arbitrator, the assessing officer shall provide such records within 15 days of the written request to the taxpayer or his duly authorized representative. If the assessing officer fails to do so, the assessing officer shall present the following into evidence prior to any presentation of evidence by the taxpayer at the arbitration hearing: (i) copies of the assessment records maintained by the assessing officer under § 58.1-3331, (ii) testimony that explains the methodologies employed by the assessing officer to determine the assessed value of the property, and (iii) testimony that states that the assessed value was arrived at in accordance with generally accepted appraisal practices, procedures, rules, and standards as prescribed by nationally recognized professional appraisal organizations such as the International Association of Assessing Officers (IAAO) and applicable Virginia law relating to valuation of property.

G. The issues that may be raised before the arbitrator are whether (i) at the time of assessment, the assessed value of the property was at fair market value, (ii) the assessed value is uniform in its application, or (iii) the assessed value was arrived at in accordance with generally accepted appraisal practices, procedures, rules, and standards as prescribed by nationally recognized professional appraisal organizations such as the International Association of Assessing Officers (IAAO) and applicable Virginia law relating to valuation of property. Mistakes of fact, including computation, that affect the assessment shall be deemed not to be in accordance with generally accepted appraisal practices.

H. If the arbitrator is satisfied from the evidence that the assessment is erroneous and that the erroneous assessment was not caused by the willful failure or refusal of the applicant to furnish the tax-assessing authority with the necessary information, as required by law, the arbitrator shall order that the assessment be corrected and that the applicant be exonerated from the payment of so much as is erroneously charged, if not already paid. If the tax has been paid, the arbitrator shall order that it be refunded to the taxpayer, with interest at the rate provided by § 58.1-3918 or in the ordinance authorized by § 58.1-3916, or as otherwise authorized in that section.

If, in the opinion of the arbitrator, any property is valued for taxation at more than fair market value, the arbitrator shall reduce the assessment to what, in his opinion based on the evidence, is the fair market value of the property involved. If, in the opinion of the arbitrator, the assessment is less than fair market value, he shall order it increased to what in his opinion is the fair market value of the property involved and shall order that the applicant pay the proper taxes.

For the purpose of reducing or increasing the assessment and adjusting the taxes, the arbitrator shall have all the powers and duties of the authority that made the assessment complained of, as of the time when such assessment was made, and all powers and duties conferred by law upon such authority between the time such assessment was made and the time such application is heard.