

DEPARTMENT OF TAXATION

2015 Fiscal Impact Statement

1. **Patron** Brenda L. Pogge

3. **Committee** House Finance

4. **Title** Real Property Tax Appeals; Arbitration

2. **Bill Number** HB 1576

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would allow the owner of an owner-occupied dwelling to submit the dwelling's real property assessment to arbitration proceedings in lieu of an appeal to the circuit court. The arbitrator would have the authority to correct assessments based upon his fair market value determination. In these proceedings, there would be no presumption of correctness and neither party would have the burden of proof.

Under current law, real property owners may seek correction of real estate assessments by filing an appeal with the local Board of Equalization or the circuit court of the county or city in which the property is located. In appeals of real property tax assessments brought in circuit court, the assessor's valuation or board of equalization's adjustments are presumed correct.

The effective date of this bill is not specified.

6. Budget amendment necessary: No.

7. No Fiscal Impact. (See Line 8.)

8. Fiscal implications:

Because the arbitration proceedings proposed in this bill would relax the evidentiary burden for taxpayers to prove the assessments are incorrect, this bill has the potential to allow taxpayers to prevail in more real property tax appeals. As such, the bill has the potential to decrease local revenues by an unknown amount.

This bill would have no impact on state revenues.

9. Specific agency or political subdivisions affected:

All localities

10. Technical amendment necessary: No.

11. Other comments:

Board of Equalization Appeals Process

Circuit courts within each county or city are authorized to appoint a Board of Equalization of real estate assessments, whose purpose is to hear complaints regarding a lack of uniformity or errors in acreage in a real property assessment, and complaints that real property is assessed at more than fair market value. Once the Board hears these complaints, it is authorized to increase or decrease assessments based on fairness. The Board may not increase an assessment until after the owner of the property has been notified and given an opportunity to show cause against such increase.

Circuit Court Appeals Process

Any person assessed with any local tax can appeal to the circuit court in the locality in which the property subject to tax is located to show that the tax was incorrectly assessed. In proceedings seeking relief from real property taxes, the court begins with the presumption that the valuation determined by the assessor or adjusted by the board of equalization is correct. The taxpayer has the burden of rebutting this presumption and showing by a preponderance of the evidence that the property in question is valued at more than its fair market value or that the assessment is not uniform in its application; and that it was not arrived at in accordance with generally accepted appraisal practices, procedures, rules and standards as prescribed by nationally recognized professional appraisal organizations and applicable Virginia law.

Arbitration, Generally

Typically, disputes are submitted to arbitration by parties who have voluntarily entered into a contractual arrangement that requires arbitration. Such agreements typically specify who will serve as arbitrator and how any dispute over the choice of arbitrator will be resolved. If the agreement does not specify how an arbitrator will be chosen or the chosen arbitrator is unable to fulfill this obligation, the court must appoint one or more arbitrators.

Proposal

Arbitration Proceeding

This bill would allow the owner of an owner-occupied dwelling to submit the dwelling's assessment to arbitration proceedings in lieu of applying to the circuit court for relief from a real property tax assessment. Unlike typical arbitration proceedings, if a taxpayer chooses to arbitrate under this bill, the local assessing officer or locality does not have to agree in order for the arbitration to proceed. The arbitration proceedings would be conducted by one or more licensed residential real estate appraisers. Unless the parties have contractually agreed upon an arbitrator in writing, the court would be required to appoint one or more arbitrators.

The bill would require that the assessor provide written notice to the taxpayer of the availability of information concerning the methodology employed and the information

considered in determining the property's assessed value. If the taxpayer makes a written request within the time constraints set by statute, the assessing officer would need to provide such information to the taxpayer within 15 days of the taxpayer's written request. The bill would require any assessor that fails to meet this requirement to present at the arbitration meeting, copies of the assessment records, testimony that explains the methodologies he employed, and testimony indicating that the assessed value was reached in accordance with generally accepted appraisal practices.

Under the terms of the bill, neither the taxpayer nor the assessor would have the burden of proof, and there would be no presumption that the tax assessment is correct. The arbitrator would determine whether the property's assessed value was: 1) at fair market value; 2) applied uniformly; and 3) reached based on generally accepted appraisal practices and standards. The arbitrator would have the same powers and duties as the local assessor to adjust assessments based upon his fair market value determination. In addition, he would be authorized to declare an assessment incorrect and refund the taxpayer any taxes and interest that were remitted as a result of the incorrect assessment.

Notice of Assessment

This bill would require that the notice of change in assessment, required under current law whenever any county, city, or town has a reassessment of real estate or a change in the assessed value of real estate, notify each taxpayer of his right to apply for relief to a board of equalization in the county, city or town in which the property is located.

Notice that Assessment Information is Available

Additionally, the bill would require that the assessing officer send those taxpayers electing to use the arbitration process for appeals, written notice of the availability of information pertaining to how the assessor determined the fair market value and advising the taxpayer of his rights to obtain copies of this information and to request that the assessor make a physical examination of the property.

The effective date of this bill is not specified.

Similar Legislation

House Bill 1291 and **Senate Bill 678** would clarify that the information required on the notice of assessment regarding assessments in the immediately prior two tax years refers to the immediately prior two tax years' final assessments.

Senate Bill 872 would require assessing officers to provide written explanations for increases in the property's assessed value to any requesting taxpayer whose property has been assessed.

cc : Secretary of Finance

Date: 1/26/2015 KP
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