

DEPARTMENT OF TAXATION

2018 Fiscal Impact Statement

1. **Patron** Mark L. Keam

3. **Committee** House Finance

4. **Title** Local Taxes; Appeal to Court

2. **Bill Number** HB 786

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would clarify the burden of proof standard in an appeal of an assessment of local taxes brought in circuit court. It would add a provision that the taxpayer does not need to show that the assessment is a result of manifest error or disregard of controlling evidence.

The bill would also add a provision that if an assessment of real or personal property that is the subject of an appeal is an increase of more than 20 percent over the assessment for the same property for the prior tax year, except in cases of buildings constructed in the previous five years, the assessor shall have the burden of proving by a preponderance of the evidence that the assessment is correct.

Under current law, the burden of proof is on the taxpayer to show that the property in question is valued at more than its fair market value or that the assessment is not uniform in its application, or that the assessment is otherwise invalid or illegal

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No

7. **Fiscal Impact:** Not available. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

Localities could experience unknown administrative costs as a result of this bill. There would be no impact on state administrative costs.

Revenue Impact

To the extent that this bill makes it easier for taxpayers to succeed in local tax appeals in circuit court, localities could experience an unknown revenue loss as a result of this bill. There would be no impact on state revenues.

9. Specific agency or political subdivisions affected: All localities

10. Technical amendment necessary: No

11. Other comments:

Current Law

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 these proceedings, the taxpayer has the burden of proving that the property in question is assessed at more than its fair market value, the assessment is not uniform in its application, or the assessment is otherwise invalid or illegal.

The taxpayer is not required to show that intentional, systematic and willful discrimination has been made. Under Virginia case law, a taxing authority's assessment is presumed to be correct, and a taxpayer challenging the assessment of his or her real property has the burden to rebut that presumption by establishing that the real property in question is assessed at more than fair market value or that the assessment is not uniform in its application. To rebut the presumption of correctness, a taxpayer must show by a clear preponderance of the evidence that the taxing authority committed manifest error or totally disregarded controlling evidence in making the assessment.

In ascertaining and assessing the fair market value of property, assessors and appraisers must make a physical examination of the property if required by the taxpayer and may make a physical examination of the property in any other case they deem it advisable.

Proposal

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Similar Legislation

House Bill 787 would revise the burden of proof standard in cases appealing local real property tax assessments before a board of equalization.