

VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

CHAPTER 323

An Act to amend and reenact §§ 34-3, 58.1-3112, 58.1-3129, 58.1-3912, 58.1-3919, 58.1-3940, 58.1-3941 and 58.1-3965 of the Code of Virginia, relating to tax bills, tax liens and the powers of treasurers and commissioners of the revenue.

[H 773]

Approved March 22, 1996

Be it enacted by the General Assembly of Virginia:

1. That §§ 34-3, 58.1-3112, 58.1-3129, 58.1-3912, 58.1-3919, 58.1-3940, 58.1-3941 and 58.1-3965 of the Code of Virginia are amended and reenacted as follows:

§ 34-3. Articles not exempt from taxes or levies or for their purchase price.

The exemptions under §§ 34-4, 34-4.1, 34-26, 34-27, 34-29, and 64.1-151.3 shall not extend to distress *or lien* for state or local taxes or levies, nor to levy, ~~or~~ distress, *or lien* for the purchase price of any articles claimed as exempt or any part of the price thereof nor for fines and damages or either arising from trespass by animals under § 55-306 as to such animal so trespassing. If an article purchased and not paid for is exchanged or converted into other property of the debtor, such property shall not be exempt from payment of the unpaid purchase money debt.

§ 58.1-3112. Commissioner to preserve returns; destruction of returns; penalty.

A. The commissioner of the revenue shall preserve in a permanent file in his office all returns of tangible personal property, machinery and tools, and merchants' capital.

B. The commissioner may, in his discretion, subject to the requirements of the Virginia Public Records Act (§ 42.1-76 et seq.), destroy any returns, collected by the commissioner of the revenue, which have been on file in his office for at least six years after the tax assessment year. Any commissioner who fails to comply with the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

C. In lieu of retaining the original returns in his office for at least six years after the tax assessment year, the commissioner, with the consent of the local governing body, may have the original returns copied. Any such copies shall be on a durable medium that complies with the requirements of the Virginia Public Records Act. After copying, the original returns may be destroyed in accordance with the provisions of § 15.1-8, and the copies shall be retained in accordance with the provisions of subsections A and B of this section, mutatis mutandis. Any such copy may be used in any legal proceeding if the copy is authenticated in accordance with applicable law.

§ 58.1-3129. Destruction of paid tax tickets; other tax tickets; records.

A. The treasurer may, with the consent of the governing body, destroy all paid tax tickets at any time after five years from the end of the fiscal year during which taxes represented by such tickets were paid, in accordance with retention regulations pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.).

B. The treasurer may, at any time after the expiration of three years from the date he certifies the lists mentioned in § 58.1-1801 and subdivisions 2 and 4 of § 58.1-3921, and after the expiration of five years from the date he certifies the list mentioned in subdivision 3 of § 58.1-3921, destroy the tax tickets made out by him for the taxes and levies included therein, provided the certification of the Auditor of Public Accounts is obtained to the effect that these tickets are no longer needed for audit purposes.

C. The treasurer may cause records to be destroyed after audit, with the consent of the Auditor of Public Accounts and the State Librarian, in accordance with retention regulations for records maintained by the treasurer established under the Virginia Public Records Act (§ 42.1-76 et seq.).

D. In lieu of retaining the original tax tickets for at least five years after the end of the fiscal year during which taxes represented by such tickets were paid, the treasurer, with the consent of the Auditor of Public Accounts and the local governing body, may have the original tax tickets copied. Any such copies shall be on a durable medium that complies with the requirements of the Virginia Public Records Act. After copying, the original tax tickets may be destroyed in accordance with the provisions of § 15.1-8 and the copies shall be retained in accordance with the provisions of subsections A, B and C of this section, mutatis mutandis. Any such copy may be used in any legal proceeding if the copy is authenticated in accordance with applicable law.

§ 58.1-3912. Treasurers to mail certain bills to taxpayers; penalties.

A. The treasurer of every city and county shall, as soon as reasonably possible in each year, but not later than fourteen days prior to the due date of the taxes, send *or cause to be sent* by United States mail to each taxpayer assessed with taxes and levies for that year amounting to five dollars or more as shown by an assessment book in such treasurer's office, a bill or bills setting forth the amounts due. *The*

treasurer may employ the services of a mailing service or other vendor for fulfilling the requirements of this section. The failure of any such treasurer to comply with this section shall be a Class 4 misdemeanor. Such treasurer shall be deemed in compliance with this section as to any taxes due on real estate if, upon certification by the obligee of any note or other evidence of debt secured by a mortgage or deed of trust on such real estate that an agreement has been made with the obligor in writing within the mortgage or deed of trust instrument that such arrangements be made, he mails the bill for such taxes to the obligee thereof. Upon nonpayment of taxes by either the obligee or obligor, a past-due tax bill will be sent to the taxpayer. No governing body shall publish the name of a taxpayer in connection with a tax debt for which a bill was not sent, without first sending a notice of deficiency to his last known address at least two weeks before such publication.

B. The governing body of any county, city or town may attach to or mail with all real estate and tangible personal property tax bills, prepared for taxpayers in such locality, information indicating how the tax rate charged upon such property and revenue derived therefrom is apportioned among the various services and governmental functions provided by the locality.

C. Notwithstanding the provisions of subsection A of this section, in any county which has adopted the urban county executive form of government, and in any county contiguous thereto which has adopted the county executive form of government, tangible personal property tax bills shall be mailed not later than thirty days prior to the due date of such taxes.

D. Notwithstanding the provisions of subsection A of this section, any county and town, the governing bodies of which mutually agree, shall be allowed to send, to each taxpayer assessed with taxes, by United States mail no later than fourteen days prior to the due date of the taxes, a single real property tax bill and a single tangible personal property tax bill.

§ 58.1-3919. Collection of taxes not paid when due; distress for same.

The treasurer, after the due date of any tax *or other charge collected by such treasurer*, shall call upon each person chargeable with such tax who has not paid the same prior to that time, or upon the agent, if any, of such person resident within the county, city or town for payment thereof; and upon failure or refusal of such person or agent to pay the same he shall proceed to collect by distress or otherwise. Should it come to the knowledge of the treasurer that any person owing taxes is moving or contemplates moving from the county, city or town prior to the due date of such taxes, he shall have power to collect the same by distress or otherwise at any time after such bills shall have come into his hands. Notwithstanding § 58.1-3954, the treasurer or his deputy, in person or by counsel, may institute and prosecute all proceedings to enforce the payment of any tax in courts not of record.

§ 58.1-3940. Limitation on collection of local taxes.

A. Except as otherwise specifically provided, collection of local taxes shall only be enforceable for five years following December 31 of the year for which such taxes were assessed.

B. Real property taxes shall be enforceable by sale under Article 4 (§ 58.1-3965 et seq.) of the property on which such taxes were assessed *and by other means permitted under this chapter* for twenty years after December 31 of the year for which such taxes were assessed, provided that whenever taxes or portions of taxes that would otherwise be due have been deferred pursuant to an ordinance enacted in conformity with Article 2 (§ 58.1-3210 et seq.) or Article 2.1 (§ 58.1-3219 et seq.) of Chapter 32 of this title, the statute of limitations provided by this subsection shall be tolled with respect to taxes deferred during the pendency of such deferral.

C. Nothing in this section shall affect a judgment lien resulting from a suit to collect taxes.

§ 58.1-3941. What may be distrained for taxes.

Any goods or chattels, *money and bank notes* in the county, city or town belonging to the person or estate assessed with taxes or levies may be distrained therefor by the treasurer, sheriff, constable or collector. Property subject to levy or distress for taxes shall be liable to levy or distress in the hands of any person for taxes, *penalties and interest* thereon, except that any motor vehicle as defined in § 58.1-2101 purchased by a bona fide purchaser for value shall not be liable to levy or distress for such taxes unless the purchaser knew at the time of purchase that the taxes had been specifically assessed against such vehicle.

Property on which taxes were not specifically assessed shall not be subject to distress after it passes into the hands of a bona fide purchaser for value.

§ 58.1-3965. When land may be sold for delinquent taxes; notice of sale; owner's right of redemption.

A. When any taxes on any real estate in a county, city or town are delinquent on December 31 following the third anniversary of the date on which such taxes have become due, *or, in the case of real property upon which is situated any structure that has been condemned by the local building official pursuant to applicable law or ordinance, the first anniversary of the date on which such taxes have become due*, such real estate may be sold for the purpose of collecting all delinquent taxes on such property. The officer charged with the duty of collecting taxes for the locality wherein the real property lies shall, at least thirty days prior to instituting any action pursuant to this section, send a notice to the last known address of the property owner (and to the property address if the property address is different from the owner's address and if the real estate is listed with the post office by a numbered and named

street address) and to the last known address of any trustee under any deed of trust, mortgagee under any mortgage and any other lien creditor, if such trustee, mortgagee or lien creditor is not otherwise made a party defendant under § 58.1-3967, advising such property owner, trustee, mortgagee or other lien creditor of the delinquency and the officer's intention to take action. Such officer shall also cause to be published at least once a list of real estate which will be offered for sale under the provisions of this article in a newspaper of general circulation in the locality, at least thirty days prior to the date on which proceedings under the provisions of this article are to be commenced. The pro rata cost of such publication shall become a part of the tax and together with all other costs, including reasonable attorneys' fees set by the court and the costs of any title examination conducted in order to comply with the notice requirements imposed by this section, shall be collected if payment is made by the owner in redemption of the real property described therein whether or not court proceedings have been initiated. A notice substantially in the following form shall be sufficient:

Notice

Judicial Sale of Real Property

On (date) proceedings will be commenced under the authority of § 58.1-3965 et seq. of the Code of Virginia to sell the following parcels for payment of delinquent taxes:

(description of properties)

B. The owner of any property listed may redeem it at any time before the date of the sale by paying all accumulated taxes, penalties, interest and costs thereon, including the pro rata cost of publication hereunder. Partial payment of delinquent taxes, penalties, interest or costs shall not be sufficient to redeem the property, and shall not operate to suspend, invalidate or make moot any action for judicial sale brought pursuant to this article.

C. Notwithstanding the provisions of subsection B *and of § 58.1-3954*, the treasurer or other officer responsible for collecting taxes may suspend any action for sale of the property commenced pursuant to this article upon entering into an agreement with the owner of the real property for the payment of all delinquent amounts in installments over a period which is reasonable under the circumstances, but in no event shall exceed twenty-four months. Any such agreement shall be recorded by the officer among the land records of the locality in which the property lies, and shall be secured by the lien of the locality pursuant to § 58.1-3340.

D. During the pendency of any installment agreement permitted under subsection C, any proceeding for sale previously commenced shall not abate, but shall be continued on the docket of the court in which such action is pending. It shall be the duty of the treasurer or other officer responsible for collecting taxes to promptly notify the clerk of such court when obligations arising under such an installment agreement have been fully satisfied. Upon the receipt of such notice, the clerk shall cause the action to be stricken from the docket.

E. In the event the owner of the property or other responsible person defaults upon obligations arising under an installment agreement permitted by subsection C, or during the term of any installment agreement, defaults on any current obligation as it becomes due, such agreement shall be voidable by the treasurer or other officer responsible for collecting taxes upon fifteen days' written notice to the signatories of such agreement. Any action for the sale previously commenced pursuant to this article may proceed without any requirement that the notice or advertisement required by subsection A, which had previously been made with respect to such property, be repeated. No owner of property which has been the subject of a defaulted installment agreement shall be eligible to enter into a second installment agreement with respect to the same property within three years of such default.