

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

5 [H 773]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **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**
9 **the Code of Virginia are amended and reenacted as follows:**

10 § 34-3. Articles not exempt from taxes or levies or for their purchase price.

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

17 § 58.1-3112. Commissioner to preserve returns; destruction of returns; penalty.

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

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

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

32 § 58.1-3129. Destruction of paid tax tickets; other tax tickets; records.

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

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

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

46 D. *In lieu of retaining the original tax tickets for at least five years after the end of the fiscal year*
47 *during which taxes represented by such tickets were paid, the treasurer, with the consent of the Auditor*
48 *of Public Accounts and the local governing body, may have the original tax tickets copied. Any such*
49 *copies shall be on a durable medium that complies with the requirements of the Virginia Public Records*
50 *Act. After copying, the original tax tickets may be destroyed in accordance with the provisions of*
51 *§ 15.1-8 and the copies shall be retained in accordance with the provisions of subsections A, B and C*
52 *of this section, mutatis mutandis. Any such copy may be used in any legal proceeding if the copy is*
53 *authenticated in accordance with applicable law.*

54 § 58.1-3912. Treasurers to mail certain bills to taxpayers; penalties.

55 A. The treasurer of every city and county shall, as soon as reasonably possible in each year, but not
56 later than fourteen days prior to the due date of the taxes, send *or cause to be sent* by United States

57 mail to each taxpayer assessed with taxes and levies for that year amounting to five dollars or more as
 58 shown by an assessment book in such treasurer's office, a bill or bills setting forth the amounts due. *The*
 59 *treasurer may employ the services of a mailing service or other vendor for fulfilling the requirements of*
 60 *this section.* The failure of any such treasurer to comply with this section shall be a Class 4
 61 misdemeanor. Such treasurer shall be deemed in compliance with this section as to any taxes due on
 62 real estate if, upon certification by the obligee of any note or other evidence of debt secured by a
 63 mortgage or deed of trust on such real estate that an agreement has been made with the obligor in
 64 writing within the mortgage or deed of trust instrument that such arrangements be made, he mails the
 65 bill for such taxes to the obligee thereof. Upon nonpayment of taxes by either the obligee or obligor, a
 66 past-due tax bill will be sent to the taxpayer. No governing body shall publish the name of a taxpayer in
 67 connection with a tax debt for which a bill was not sent, without first sending a notice of deficiency to
 68 his last known address at least two weeks before such publication.

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

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

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

81 § 58.1-3919. Collection of taxes not paid when due; distress for same.

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

91 § 58.1-3940. Limitation on collection of local taxes.

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

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

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

102 § 58.1-3941. What may be distrained for taxes.

103 Any goods or chattels, *money and bank notes* in the county, city or town belonging to the person or
 104 estate assessed with taxes or levies may be distrained therefor by the treasurer, sheriff, constable or
 105 collector. Property subject to levy or distress for taxes shall be liable to levy or distress in the hands of
 106 any person for taxes, *penalties and interest* thereon, except that any motor vehicle as defined in
 107 § 58.1-2101 purchased by a bona fide purchaser for value shall not be liable to levy or distress for such
 108 taxes unless the purchaser knew at the time of purchase that the taxes had been specifically assessed
 109 against such vehicle.

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

112 § 58.1-3965. When land may be sold for delinquent taxes; notice of sale; owner's right of
 113 redemption.

114 A. When any taxes on any real estate in a county, city or town are delinquent on December 31
 115 following the third anniversary of the date on which such taxes have become due, *or, in the case of real*
 116 *property upon which is situated any structure that has been condemned by the local building official*
 117 *pursuant to applicable law or ordinance, the first anniversary of the date on which such taxes have*

118 *become due*, such real estate may be sold for the purpose of collecting all delinquent taxes on such
 119 property. The officer charged with the duty of collecting taxes for the locality wherein the real property
 120 lies shall, at least thirty days prior to instituting any action pursuant to this section, send a notice to the
 121 last known address of the property owner (and to the property address if the property address is different
 122 from the owner's address and if the real estate is listed with the post office by a numbered and named
 123 street address) and to the last known address of any trustee under any deed of trust, mortgagee under
 124 any mortgage and any other lien creditor, if such trustee, mortgagee or lien creditor is not otherwise
 125 made a party defendant under § 58.1-3967, advising such property owner, trustee, mortgagee or other
 126 lien creditor of the delinquency and the officer's intention to take action. Such officer shall also cause to
 127 be published at least once a list of real estate which will be offered for sale under the provisions of this
 128 article in a newspaper of general circulation in the locality, at least thirty days prior to the date on
 129 which proceedings under the provisions of this article are to be commenced. The pro rata cost of such
 130 publication shall become a part of the tax and together with all other costs, including reasonable
 131 attorneys' fees set by the court and the costs of any title examination conducted in order to comply with
 132 the notice requirements imposed by this section, shall be collected if payment is made by the owner in
 133 redemption of the real property described therein whether or not court proceedings have been initiated.
 134 A notice substantially in the following form shall be sufficient:

135 Notice

136 Judicial Sale of Real Property

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

139 (description of properties)

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

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

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

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