

# 2003 SESSION

INTRODUCED

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## HOUSE BILL NO. 2503

Offered January 8, 2003

Prefiled January 8, 2003

A BILL to amend and reenact §§ 15.2-717, 58.1-3256, 58.1-3260, 58.1-3374, 58.1-3378, 58.1-3379, 58.1-3380 and 58.1-3384 of the Code of Virginia; to amend and reenact § 2 of Chapter 261 of the Acts of Assembly of 1936 (which was continued in effect by § 58-769 of the Code of Virginia; and now continued in effect by § 58.1-3260 of the Code of Virginia) as amended by Chapter 339 of the Acts of Assembly of 1958; to amend and reenact § 3 of Chapter 261 of the Acts of Assembly of 1936 (which was continued in effect by § 58-769 of the Code of Virginia; and now continued in effect by § 58.1-3260 of the Code of Virginia), as amended by Chapter 422 of the Acts of Assembly of 1950, and as amended by Chapter 339 of the Acts of Assembly of 1958; relating to appeals of real estate assessments.

Patrons—Griffith, Joannou, Johnson, Louderback, Melvin and Parrish; Senators: Bolling and Hanger

Referred to Committee on Counties, Cities and Towns

### Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-717, 58.1-3256, 58.1-3260, 58.1-3374, 58.1-3378, 58.1-3379, 58.1-3380 and 58.1-3384 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-717. Time in which to contest real property assessments.

Notwithstanding any other provision of law and instead of any other right to apply to court, any person aggrieved by an assessment of real estate made by the department of real estate assessments may apply for relief to the circuit court of the county within one year from December 31 of the year in which such assessment is made *the timeframe as provided by general law pursuant to § 58.1-3984*. The application shall be before the court when it is filed in the clerk's office. In such proceeding the burden of proof shall be 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, but it shall not be necessary for the taxpayer to show that intentional, systematic and willful discrimination has taken place. The proceedings shall be conducted as an action at law before the court, sitting without a jury, and the court shall act with the authority granted by §§ 58.1-3987 and 58.1-3988.

§ 58.1-3256. Reassessment in towns; appeals of assessments.

In any incorporated town there may be for town taxation and debt limitation, a general reassessment of the real estate in any such town in the year designated, and every fourth year thereafter, that the council of such town shall declare by ordinance or resolution the necessity therefor. Every such general reassessment of real estate in any such town shall be made by a board of assessors consisting of three resident freeholders, who hold no official office or position with the town government, appointed by the council of such town for each general reassessment and the compensation of the person so designated shall be prescribed by the council and paid out of the town treasury. The assessors so designated shall assess the property in accordance with the general law and Constitution of Virginia. If for any cause the board is unable to complete an assessment within the year for which it is appointed, the council shall extend the time therefor for three months. Any vacancy in the membership of the board shall be filled by the council within thirty days after the occurrence thereof, but such vacancy shall not invalidate any assessment. The assessments so made shall be open for public inspection after notice of such inspection shall have been advertised in a newspaper of general circulation within the town at least five days prior to such date or dates of inspection. Within thirty days after the final date of inspection the assessors shall file the completed reassessments in the office of the town clerk and at the same time forward to the Department of Taxation a copy of the recapitulation sheets of such assessments.

Any person, firm, or corporation claiming to be aggrieved by any assessment may, within thirty days after the filing of reassessments in the office of the town clerk, apply to the town board of equalization for a correction of such assessment by filing with the town clerk a written statement setting forth his grievances. The board of equalization of every such town shall, within thirty days of the filing of such complaint, fix a date for a hearing on such application and, after giving the applicant at least ten days' notice of the time fixed, shall hear such evidence as may be introduced by interested parties and correct the assessment by increasing or reducing the same. The circuit court having jurisdiction within the town shall, in each tax year immediately following the year in which a general reassessment was conducted, appoint for such town a board of equalization of real estate assessments made up of three to five citizens of the town. Any such town board of equalization shall be subject to the same member

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59 composition requirements and limits on terms of service as provided for boards of equalization pursuant  
60 to § 58.1-3374. In addition, at least once in every 4 years of service on a town board of equalization,  
61 each member of such board shall take continuing education instruction provided by the Tax  
62 Commissioner pursuant to § 58.1-206. In equalizing real property tax assessments, such board of  
63 equalization shall hear complaints, including but not limited to, that real property is assessed at more  
64 than fair market value. In hearing complaints, the board shall establish the value of real property as  
65 provided in § 58.1-3378. The provisions of § 58.1-3379 shall apply to all complaints heard by any town  
66 board of equalization.

67 Town taxes for each year on real estate subject to reassessment shall be extended on the basis of the  
68 last general reassessment made prior to such year subject to such changes as may have been lawfully  
69 made. The town tax assessor shall make changes required by new construction, subdivision and disaster  
70 loss. The council of any town may provide by ordinance that it will have a general reassessment of real  
71 estate in the town in the year designated by the town council and every year thereafter. The town  
72 council may declare the necessity for such general reassessment by such ordinance, but in all other  
73 respects this section shall be controlling. No county or district levies shall be extended on any  
74 assessments made under the provisions of this section.

75 Any town which has failed to conduct a general reassessment within five years shall use only those  
76 assessed values assigned by the county.

77 § 58.1-3260. Acts authorizing, in certain cities and counties, provision for the annual general  
78 reassessment of real estate and equalization of assessments, by continuing assessors, conferring upon  
79 assessors certain duties of commissioners of the revenue, etc.

80 The following acts are continued in effect *as amended from time to time*:

81 1. Chapter 261 of the Acts of Assembly of 1936, approved March 25, 1936, as amended by Chapter  
82 64 of the Acts of Assembly of 1938, approved March 4, 1938, Chapter 234 of the Acts of Assembly of  
83 1942, approved March 14, 1942, Chapter 422 of the Acts of Assembly of 1950, *and* Chapter 339 of the  
84 Acts of Assembly of 1958, *and as amended by the 2003 regular Session of the General Assembly*,  
85 authorizing provision for the annual general reassessment of real estate and the election of assessors in  
86 cities of more than 175,000; transferring to the assessors in such cities the duties in regard to the  
87 assessment of real estate formerly devolved upon the commissioners of the revenue; repealing all  
88 provisions of law relating to the equalization of real estate assessments insofar as they applied to such  
89 cities; and relating to other connected matters.

90 2. Chapter 29 of the Acts of Assembly of 1947, approved January 29, 1947, authorizing provision  
91 for the annual general reassessment of real estate, the appointment of assessors, and the appointment of  
92 boards of review, in cities of not less than 125,000 nor more than 190,000; conferring on such boards of  
93 review the powers exercised by boards of equalization; and relating to other connected matters.

94 3. Chapter 211 of the Acts of Assembly of 1944, amended by Chapter 167 of the Acts of Assembly  
95 of 1946 (Repealed by Acts of Assembly of 1952, Chapter 636).

96 4. Chapter 65 of the Acts of Assembly of 1944, approved February 26, 1944, as amended by Chapter  
97 80 of the Acts of Assembly of 1954, and Chapter 624 of the Acts of Assembly of 1968, authorizing, in  
98 cities of not less than 40,000 nor more than 50,000, provision for the general reassessment of real estate  
99 and equalization of assessments every 1, 2, 3 or 4 years, and the appointment of assessors to perform  
100 these duties; conferring on the assessors certain duties formerly imposed upon commissioners of the  
101 revenue; and relating to other connected matters.

102 5. Chapter 17 of the Acts of Assembly of 1947, approved January 29, 1947, as amended by Chapter  
103 29 of the Acts of Assembly of 1952, Ex. Sess., authorizing, in cities having a population of not less  
104 than 30,000 nor more than 31,000, provision for the annual general reassessment of real estate and  
105 equalization of assessments, and the appointment of assessors to perform these duties; conferring on the  
106 assessors certain duties formerly imposed upon commissioners of the revenue; and relating to other  
107 connected matters.

108 6. Chapter 146 of the Acts of Assembly of 1942, approved March 9, 1942, authorizing, in any city  
109 adjoining a county having a density of more than 1,000 per square mile, provision for the annual  
110 general reassessment of real estate and equalization of assessments, and the appointment of assessors to  
111 perform these duties; conferring on the assessors certain duties formerly imposed upon commissioners of  
112 the revenue; and relating to other connected matters.

113 7. Chapter 189 of the Acts of Assembly of 1946, approved March 15, 1946, as amended by Chapter  
114 325 of the Acts of Assembly of 1950, authorizing, in any county adjoining a county having a population  
115 density of 1,000 or more per square mile, provision for the annual general reassessment of real estate  
116 and equalization of assessments, and the appointment of assessors to perform these duties; conferring on  
117 the assessors certain duties formerly imposed upon commissioners of the revenue; and relating to other  
118 connected matters.

119 8. Chapter 237 of the Acts of Assembly of 1942, amended by Chapter 44 of the Acts of Assembly  
120 of 1946 and Chapter 59 of the Acts of Assembly of 1948.

121     9. Chapter 345 of the Acts of Assembly of 1942, approved March 31, 1942, authorizing, in any  
122 county adjoining a city of more than 190,000, and any county with an area of less than seventy square  
123 miles of highland, provision for the annual general reassessment of real estate and the equalization of  
124 assessments, and the appointment of assessors to perform such duties; conferring upon the assessors  
125 certain duties imposed by general law on commissioners of the revenue; and relating to other connected  
126 matters.

127     10. Chapter 237 of the Acts of Assembly of 1946, approved March 25, 1946, authorizing, in counties  
128 having an area of more than 135 square miles but less than 152 square miles, and a population of more  
129 than 4,000 but less than 8,000, provision for boards for the annual general reassessment of real estate  
130 and equalization of assessments; conferring on the assessors certain duties imposed by general law upon  
131 commissioners of the revenue; and relating to other connected matters.

132     11. Chapter 85 of the Acts of Assembly of 1948, approved March 3, 1948, codified in Michie  
133 Supplement 1948 as Tax Code § 348b, as amended by Chapter 266 of the Acts of Assembly of 1952,  
134 providing, in counties of not more than 30,000 adjoining cities of not less than 100,000 and not more  
135 than 150,000, for continuing boards of assessors to meet annually and perform the duties imposed upon  
136 boards of assessors of real estate assessments by general law, and relating to other connected matters, is  
137 incorporated in this Code by this reference.

138       § 58.1-3374. Qualifications of members; vacancies; maximum terms.

139     Except as provided in § 58.1-3371 or § 58.1-3373, every board of equalization shall be composed of  
140 not less than three nor more than five members ~~who shall be freeholders in the county or city for which~~  
~~they are to serve and who shall be selected by the court or judge from the citizens of the county or city.~~  
141 ~~All members of every board of equalization shall be freeholders in the county or city for which they are~~  
~~to serve and shall be selected from the citizens of the county or city. Appointments to the board of~~  
142 ~~equalization shall be broadly representative of the community. Thirty percent of the members of the~~  
143 ~~board shall be commercial or residential real estate appraisers, other real estate professionals, builders,~~  
144 ~~developers, or legal or financial professionals, and at least one such member shall sit in all cases~~  
145 ~~involving commercial, industrial or multi-family residential property, unless waived by the taxpayer.~~ No  
146 member of the board of assessors shall be eligible for appointment to the board of equalization for the  
147 same reassessment. In order to be eligible for appointment, each prospective member of such board shall  
148 attend and participate in the basic course of instruction given by the Department of Taxation under  
149 § 58.1-206. *In addition, at least once in every 4 years of service on a board of equalization, each*  
150 *member of a board of equalization shall take continuing education instruction provided by the Tax*  
151 *Commissioner pursuant to § 58.1-206.* Any vacancy occurring on any board of equalization shall be  
152 filled for the unexpired term by the authority making the original appointment.

153       *In no case shall a person serve as a member of a board of equalization for more than 9 consecutive*  
154 *years, and upon the expiration of such 9 consecutive years such person shall not be eligible for*  
155 *reappointment for a period of 3 years.*

156       § 58.1-3378. Sittings; notices thereof.

157     Each board of equalization shall sit at and for such time or times as may be necessary to discharge  
158 the duties imposed and to exercise the powers conferred by this chapter. Of each sitting public notice  
159 shall be given at least ten days beforehand by publication in a newspaper having general circulation in  
160 the county or city and, in a county, also by posting the notice at the courthouse and at each public  
161 library, voting precinct or both. Such posting shall be done by the sheriff or his deputy. Such notice  
162 shall inform the public that the board shall sit at the place or places and on the days named therein for  
163 the purpose of equalizing real estate assessments in such county or city and for the purpose of hearing  
164 complaints of inequalities wherein the property owners allege a lack of uniformity in assessment, or  
165 errors in acreage in such real estate assessments. *The board also shall hear complaints that real*  
166 *property is assessed at more than fair market value. Except as otherwise provided by the Code of*  
167 *Virginia:*

168       1. *The fair market value of real property shall be established by the board as of January 1 of the*  
169 *applicable year; or*

170       2. *If a county or city has adopted July 1 as its tax day for real property pursuant to § 58.1-3011,*  
171 *then, for other than public service corporation property, the fair market value of real property shall be*  
172 *established by the board as of July 1 of the applicable year.*

173     The governing body of any county or city may provide by ordinance the date by which applications  
174 must be made by property owners or lessees for relief. Such date shall not be earlier than thirty days  
175 after the termination of the date set by the assessing officer to hear objections to the assessments as  
176 provided in § 58.1-3330. If no applications for relief are received by such date, the board of equalization  
177 shall be deemed to have discharged its duties. Such governing body may also provide by ordinance the  
178 deadline by which all applications must be finally disposed of by the board of equalization. All such  
179 deadlines shall be clearly stated on the notice of assessment.

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182       § 58.1-3379. Hearing complaints and equalizing assessments.

183       A. The board shall hear and give consideration to such complaints and *shall adjust and equalize* such  
184 assessments and shall, moreover, be charged with the especial duty of increasing as well as decreasing  
185 assessments, whether specific complaint be laid or not, if in its judgment, the same be necessary to  
186 equalize and accomplish the end that the burden of taxation shall rest equally upon all citizens of such  
187 county or city.

188       B. *In all cases brought before the board, there shall be a presumption that the valuation determined  
189 by the assessor is correct, and the board shall be advised that it is not necessary that the taxpayer show  
190 that the assessment is a result of manifest error or disregard of controlling evidence, but rather that the  
191 standard of proof is in accordance with subsection C.*

192       C. *The burden of proof shall be upon a taxpayer seeking relief to show that the property in question  
193 is valued at more than its fair market value, that the assessment is not uniform in its application, or  
194 that the assessment is otherwise not equalized. In order to receive relief, the taxpayer must produce  
195 substantial evidence that the valuation determined by the assessor is erroneous and was not arrived at  
196 in accordance with generally accepted appraisal practice.*

197       D. The commissioner of the revenue or other local assessing officer of such county or city shall,  
198 when requested, attend the meetings of the board, without additional compensation, and shall call the  
199 attention of the board to such inequalities in real estate assessments in his county or city as may be  
200 known to him.

201       E. Every board of equalization may go upon and inspect any real estate subject to *adjustment or  
202 equalization* by it.

203       F. *The burdens and standards set out in subsections B and C shall apply in hearings before the  
204 board and nothing contained in this section shall be construed to change or have any effect upon the  
205 burdens and standards applicable to applications to correct erroneous assessments filed with circuit  
206 courts pursuant to §§ 58.1-3984 through 58.1-3987.*

207       § 58.1-3380. Taxpayer or local authorities may apply for equalization.

208       Any taxpayer may apply to the board of equalization for the *adjustment to fair market value and  
209 equalization* of his assessment, including errors in acreage, and any county or city through its appointed  
210 representative or attorney may apply to the board of equalization to *adjust an assessment of real  
211 property to its fair market value and to equalize* the assessment of any taxpayer.

212       § 58.1-3384. Minutes and copies of orders.

213       The board shall keep minutes of its meetings and enter therein all orders made and transmit promptly  
214 copies of such orders as relate to the increase or decrease of assessments to the taxpayer and  
215 commissioner of the revenue. *The orders shall be recorded on forms prepared by the Tax Commissioner  
216 and provided to localities by the Department of Taxation or on forms prepared by the board that  
217 contain, at a minimum, all the information required on the forms prepared by the Tax Commissioner.*

218       2. That § 2 of Chapter 261 of the Acts of Assembly of 1936 (which was continued in effect by  
219 § 58-769 of the Code of Virginia; and now continued in effect by § 58.1-3260 of the Code of  
220 Virginia) as amended by Chapter 339 of the Acts of Assembly of 1958 is amended and reenacted  
221 as follows:

222       § 2. All duties now devolved upon the commissioner of the revenue with respect to the  
223 assessment of real estate and making up the land books in such cities, shall be transferred to  
224 and devolved upon the assessor or assessors to be appointed pursuant to this act, *including the  
225 duty and power to assess omitted real estate taxes for the then current year or any tax year of the  
226 three tax years last past as provided in § 58.1-3904 of the Code of Virginia.* All such real estate  
227 shall be assessed at its fair market value, and taxes for each year on such real estate shall be  
228 extended by such assessor or assessors on the basis of the last assessment made prior to such  
229 year, subject to such changes as may have been lawfully made. The assessor or assessors, upon  
230 completion of each annual assessment and final recordation thereof in the land book, shall  
231 certify thereon in writing on oath that all real estate subject to taxation by such cities has been  
232 assessed by him or them at the fair market value thereof and that there are no errors on the  
233 face of the land book. In case of the absence, incapacity, death, resignation or removal from  
234 office of the assessor or assessors or failure, refusal or neglect so to do, and because thereof,  
235 the land book is not so certified when or after such assessment is finally recorded therein, the  
236 governing body of such cities shall designate a person in the office of the assessor or assessors  
237 who can make such certification on oath to make the certification within thirty days from the  
238 final recordation of such annual assessment in the land book.

239       3. That § 3 of Chapter 261 of the Acts of Assembly of 1936 (which was continued in effect by  
240 § 58-769 of the Code of Virginia; and now continued in effect by § 58.1-3260 of the Code of  
241 Virginia), as amended by Chapter 422 of the Acts of Assembly of 1950, and as amended by  
242 Chapter 339 of the Acts of Assembly of 1958, is amended and reenacted as follows:

243       § 3. The corporation or hustings circuit court of any such city or the judge thereof in vacation

244 shall before the first day of July in each year appoint for such city a board of review of real estate  
245 assessments, to be composed of three members, who shall be freeholders of the city for which they  
246 serve, any two of whom shall have authority to act for the board. One member of the board shall  
247 be a real estate broker as defined by § 54-730 54.1-2100 of the Code of Virginia, one member of  
248 the board shall be a contractor as defined in § 58-297 58.1-3714 of the Code of Virginia, and one  
249 member of the board shall be a person who shall have had at least five years' experience in  
250 appraising the value of real estate. The terms of such members shall commence on the date of  
251 their appointment and shall expire on the thirtieth day of November of the year in which they are  
252 appointed unless such terms are extended. The *circuit* court or the judge thereof in vacation may  
253 extend the terms of the members of the said board of review and shall fill any vacancy therein for  
254 the unexpired term. The members of the board shall receive per diem compensation for the time  
255 actually engaged in the duties of the board, to be fixed by the *circuit* court or the judge thereof in  
256 vacation and to be paid out of the treasury of such city; provided, however, the said *circuit* court  
257 or judge may limit the per diem compensation to such number of days as in its or his judgment is  
258 sufficient for the completion of the work of the board. Such board of review shall have and may  
259 exercise the power to review any assessment of real estate made by the assessor or assessors  
260 appointed pursuant to § 1 of this chapter in the year in which they serve upon the complaint of  
261 the owner of the real estate, and to change, revise, correct and amend any such assessment, and to  
262 that end shall have all the powers conferred upon the said assessor or assessors. The board may  
263 adopt any regulations providing for the oral presentation, without formal petition or other  
264 pleadings or request for review, and looking to the further facilitation and simplification of  
265 proceedings before the board. The assessor or one of the assessors appointed pursuant to § 1 of  
266 this chapter shall attend and participate in the proceedings of, but shall not vote in, the meetings  
267 of the board. Any person or any such city aggrieved by any assessment made by the assessor or  
268 assessors appointed pursuant to § 1 of this chapter or by the board of review may apply for relief  
269 to the corporation or hustings *circuit* court of such city within one year from the thirty-first day of  
270 December of the year in which such assessment is made *the timeframe as provided by general law*  
271 *pursuant to § 58.1-3984 of the Code of Virginia*, and the procedure in such cases shall be in the  
272 manner prescribed by §§ 58-1145 to 58-1151 58.1-3984 through 58.1-3989, both inclusive, of the  
273 Code of Virginia.

274 4. That the provisions of this act shall apply to complaints filed with a board of equalization  
275 beginning with each county's, city's and town's first tax year commencing on or after January 1,  
276 2004.

277 5. That the Tax Commissioner, pursuant to § 58.1-3384, shall, by no later than January 1, 2004,  
278 design order forms to be used by boards of equalization. The provisions of the Administrative  
279 Process Act (§ 2.2-4000 et seq.) shall not apply to the development of such order forms.

280 6. That the Tax Commissioner shall, by no later than January 1, 2004, update his basic course of  
281 instruction for board of equalization members to incorporate the provisions of this act, including,  
282 but not limited to, what constitutes evidence of generally accepted appraisal practice and fair  
283 market value.

284 7. That the Tax Commissioner shall monitor the results of appeals of assessments of real property  
285 to boards of equalization and shall provide a report to the General Assembly by October 1, 2006,  
286 and such report shall be posted on the General Assembly's website. For purposes of such report,  
287 every board of equalization shall provide, upon request of the Tax Commissioner, information as  
288 necessary to evaluate the impact of the provisions of this act. The Tax Commissioner shall meet  
289 with interested parties to determine the elements to be included in such report to the General  
290 Assembly.

291 In addition, each board of equalization shall prepare an annual written report of their actions and  
292 shall make such report available, upon request, to the public, the local governing body of the  
293 respective county, city, or town and to the Tax Commissioner.

294 8. Any member of a board of equalization who, as of January 1, 2004, has not met continuing  
295 education requirements as provided under this act shall take such educational courses as soon as  
296 practical.

297 9. That, subject to the provisions of the tenth enactment clause of this act, any current member of  
298 a board of equalization who has served at least nine consecutive years immediately prior to  
299 January 1, 2004, shall be allowed to complete his current term of service, and upon completion of  
300 such term, shall not be eligible for reappointment for a period of three years.

301 10. That in any county, city or town where less than thirty percent of the members of the board of  
302 equalization are commercial or residential real estate appraisers, other real estate professionals,  
303 builders, developers, or legal or financial professionals, the appointing authority shall ensure that  
304 at least one member of such board so qualifies no later than January 1, 2004, and shall thereafter,

305 as soon as possible, in accordance with prevailing law, change the membership of such board of  
306 equalization to meet this thirty percent requirement.

307 11. That in any locality in which, prior to July 1, 2003, a person aggrieved by a real estate tax  
308 assessment was required to make an application for correction of such assessment to the board of  
309 equalization of such locality and in which the board was required to make a final determination  
310 on such application, both as a prerequisite for jurisdiction of the circuit court of such locality in  
311 any application for relief of such assessment, such requirements shall continue in effect in such  
312 locality as a prerequisite for jurisdiction of the circuit court.

313 12. That the fifth, sixth, and tenth enactments of this act are effective July 1, 2003. All other  
314 provisions of this act are effective January 1, 2004.