

# DEPARTMENT OF TAXATION

## 2011 Fiscal Impact Statement

1. **Patron** Salvatore R. Iaquinto

2. **Bill Number** HB 1588

3. **Committee** Senate Finance

**House of Origin:**

           **Introduced**

           **Substitute**

           **Engrossed**

4. **Title** Real Property Tax; Appeals of Assessments

**Second House:**

  X   **In Committee**

           **Substitute**

           **Enrolled**

### 5. **Summary/Purpose:**

This bill would provide that on appeal the taxpayer has the burden of rebutting the presumption that the valuation determined by the assessor was correct and showing by a preponderance of the evidence that the property is valued at more than its fair market value.

The bill would also require the assessor in any appeal of an assessment by an owner of real property containing less than four residential units to provide written notice to the owner at least 45 days before the appeal informing him of his right to review the assessment records and to have the assessor make a physical examination of the property. The assessor would have 15 days from the written request of the taxpayer in an appeal to provide such assessment records or would be required to present at the hearing: i) copies of the records, ii) testimony to explain methodologies to determine the assessed value of the property, and iii) testimony that states that the assessed value was arrived at in accordance with generally accepted appraisal practices. In appeals to a circuit court, the taxpayer would be required to make the written request for assessment records no later than 45 days prior to trial, unless otherwise ordered by the court.

Under current law, a property owner may appeal to a Board of Equalization or a circuit court seeking relief from an erroneous real property assessment. In all such cases, the taxpayer has the burden of proving that the property in question is valued at more than its fair market value, that the assessment is not uniform in its application, or that the assessment is otherwise not equalized. In order to receive relief, the taxpayer must produce substantial evidence that the valuation determined by the assessor is erroneous.

This bill would be effective for tax years beginning on or after January 1, 2012.

6. **Budget amendment necessary:** No.

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

## **8. Fiscal implications:**

This bill would have no impact on state revenues. To the extent that lowering the evidentiary standard on the taxpayer results in more successful appeals, this bill may result in a decrease in real property assessments and a loss in local revenues.

## **9. Specific agency or political subdivisions affected:**

All localities

## **10. Technical amendment necessary: No.**

## **11. Other comments:**

### Current Law

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.

Under current law, the taxpayer has the burden of proving that the property in question is valued at more than its fair market value, that the assessment is not uniform in its application, or that the assessment is otherwise not equalized. The taxpayer is required to produce substantial evidence that the valuation determined by the assessor is erroneous and was not arrived at in accordance with generally accepted appraisal practices, procedures, rules and standards as prescribed by nationally recognized professional appraisal organizations such as the International Association of Assessing Officers, the Appraisal Institute, and the Appraisal Foundation in order to receive relief. Mistakes of fact, including computations that affect the assessment are deemed not to be in accordance with generally accepted appraisal practice. It is not necessary for the taxpayer to show that the assessment is a result of manifest error or disregards controlling evidence.

Any person assessed with any local tax can also 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

This bill would provide that on appeal the taxpayer has the burden of rebutting the presumption that the valuation determined by the assessor was correct and showing by a preponderance of the evidence that the property is valued at more than its fair market value.

The bill would also require the assessor in any appeal of an assessment by an owner of real property containing less than four residential units to provide written notice to the owner at least 45 days before the appeal informing him of his right to review the assessment records and to have the assessor make a physical examination of the property. The assessor would have 15 days from the written request of the taxpayer in an appeal to provide such assessment records or would be required to present at the hearing: i) copies of the records, ii) testimony to explain methodologies to determine the assessed value of the property, and iii) testimony that states that the assessed value was arrived at in accordance with generally accepted appraisal practices. In appeals to a circuit court, the taxpayer would be required to make the written request for assessment records no later than 45 days prior to trial, unless otherwise ordered by the court.

This bill would be effective for tax years beginning on or after January 1, 2011.

### Similar Legislation

**Senate Bill 1350** is identical to this bill.

**House Bill 1470** would authorize circuit courts for any locality to appoint up to two alternate board members to serve on local boards of equalization if a member of the board is absent or abstains.

**House Bill 1526** would allow statements of income and expense to be used in a complaint before a Board of Equalization and in an action for relief in court from the determination of the Board of Equalization even if the statements were not timely presented to the assessor. The bill provides that the statements must be submitted to the Board of Equalization at least 30 days prior to the hearing before the Board.

**House Bill 1899** and **Senate Bill 785** would clarify that the partial exemption from the assessed value of real property subject to real property tax for improvements to rehabilitated, renovated, or replacement residential structures may not be reduced during the period of exemption unless written notice is given when the exemption is approved that the exempt amount may be decreased.

**Senate Bill 784** would clarify that a real estate assessor may require an owner of real property with four or fewer residential units that is operated in whole or in part as affordable rental housing to furnish to the assessor a statement of the income and

expenses attributable to the property when owner applies to the locality to have the real property assessed as affordable housing.

cc : Secretary of Finance

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