

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

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| 1. Patron Joseph P. Johnson, Jr. | 2. Bill Number <u>HB 1128</u> |
| | House of Origin: |
| | <input type="checkbox"/> Introduced |
| | <input type="checkbox"/> Substitute |
| | <input type="checkbox"/> Engrossed |
| 3. Committee Senate Finance | |
| 4. Title Local Taxes; Modifies Procedure Governing
Delinquent Real Property Taxes | Second House: |
| | <input checked="" type="checkbox"/> In Committee |
| | <input type="checkbox"/> Substitute |
| | <input type="checkbox"/> Enrolled |

5. Summary/Purpose:

This bill would modify the procedures that govern the judicial sale of real property on which delinquent property taxes are owed. The bill would require that a proper objection be made by any interested party before the court can refer the case to a commissioner in chancery. The bill would also require that before a delinquent real property taxpayer can stop the judicial sale of real property on which delinquent taxes are owed, the owner must pay all taxes, penalties, and interest owed to a town or other concurrent taxing entity, in addition to the taxes, penalties, and interest imposed by the locality conducting the judicial sale. Finally, the bill would require the local attorney to report to the commissioner of the revenue and request that the commissioner correct the assessment for any real property the attorney discovers is improperly placed on the delinquent land books. If the correction cannot be made, the attorney would be required to move the court to correct the assessment.

The effective date of the bill is not specified.

- 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. This bill may impact local revenues to the extent that it 1) makes it more difficult for a taxpayer to stop a judicial sale and 2) enables towns or concurrent taxing entities to obtain the outstanding real property tax owed without having to employ a separate judicial sale of the real property.

9. Specific agency or political subdivisions affected:

All localities

10. Technical amendment necessary: Yes.

In order to correct a technical error, the following technical amendment is suggested:

Page 1, line 54, after §

Strike: 58.1-3381

Insert: 58.1-3981

Page 1, line 55, after §

Strike: 58.1-3381

Insert: 58.1-3981

11. Other comments:

Collection of Delinquent Taxes

Localities have a broad array of tools to collect delinquent taxes including collection from the taxpayer's bank account, wages, income tax refunds, suits against the taxpayer personally, and sale of the real estate to which the tax lien has attached. When taxes are delinquent on the last day of the year following the two-year anniversary date on which such taxes were due, localities may sell the real estate for the purpose of collecting all delinquent taxes on such property.

In general, the locality must file a bill in equity in the circuit court requesting that the property be sold. Prior to ordering that the property be sold, the court may refer the case to a commissioner in chancery for a hearing and report concerning the advisability of such a sale. Where there is no dispute as to title or value of the real estate, however, the circuit court may authorize a tax sale without a report by a commissioner in chancery upon receipt of 1) proper service of process on all parties defendant, 2) a written real estate title certificate, and 3) the written report of a licensed real estate appraiser.

Localities are required to provide notice to the property owners and all other parties who have an interest in the real property, including any trustee under a deed of trust or mortgagee before conducting a judicial sale of the property. Owners of the property may redeem it at any time prior to the date of the sale by paying all accumulated delinquent taxes, penalties, reasonable attorney's fees, interest and costs, and in some instances, are permitted to set up installment payment agreements with the local treasurer for a maximum period of 24 months.

Proposal

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correction cannot be made, the attorney would be required to move the court to correct the assessment.

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cc : Secretary of Finance

Date: 2/20/2012 KP
DLAS File Name: HB1128FE161