

DEPARTMENT OF TAXATION

2015 Fiscal Impact Statement

1. **Patron** Scott W. Taylor

3. **Committee** House Courts of Justice

4. **Title** Real Property Tax; Burden of Proof for Real Property Tax Appeals

2. **Bill Number** HB 1416

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would eliminate the presumption of correctness currently afforded an assessor's valuation in real property tax appeals brought in circuit court, and would remove the taxpayer's burden to rebut this presumption. Instead, each party would be required to present evidence demonstrating whether the property is valued at fair market value, whether the assessment is uniform in its application, and whether the assessment was determined in accordance with generally accepted appraisal practices, procedures, rules and standards. The bill would also eliminate the taxpayer's burden to rebut evidence presented by assessors in appeals involving real property containing fewer than four residential units.

Under current law, in appeals of real property tax assessments brought in circuit court, the assessor's valuation or board of equalization's adjustments are presumed correct and the taxpayer has the burden of rebutting this presumption and showing by a preponderance of the evidence that: 1) the property was assessed at more than fair market value or 2) the assessment was not uniform in its application; and 3) the assessment was determined in accordance with generally accepted appraisal practices, procedures, rules and standards. In appeals cases involving residential real property containing fewer than four residential units, the taxpayer may make a written request for information from the assessor involving the methodology employed to arrive at the assessment. The taxpayer has the burden of proof by a preponderance to rebut any such evidence presented by the assessing officer.

The effective date of this bill is not specified.

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

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

8. **Fiscal implications:**

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 corresponding loss in local property tax revenues.

This bill would have no impact on state revenue.

9. Specific agency or political subdivisions affected:

All localities

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Any person assessed with any local tax can 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 proceedings seeking relief from real property taxes, the court begins with the presumption that the valuation determined by the assessor or adjusted by the board of equalization is correct. The taxpayer has the burden of rebutting this presumption and showing by a preponderance of the evidence that the property in question is valued at more than its fair market value or that the assessment is not uniform in its application; and that it was not arrived at in accordance with generally accepted appraisal practices, procedures, rules and standards as prescribed by nationally recognized professional appraisal organizations and applicable Virginia law.

For appeals involving residential real property containing fewer than four residential units, the assessor must provide written notice to the taxpayer of the availability of information concerning the methodology employed and the information considered in determining the property's assessed value. If the taxpayer makes a written request within the time constraints set by statute, the assessing officer must provide such information to the taxpayer within 15 days of the taxpayer's written request. If the assessor does not meet this requirement, he will be compelled to present the court with copies of the assessment records, testimony that explains the methodologies he employed, and testimony indicating that the assessed value was reached in accordance with generally accepted appraisal practices. Currently, the taxpayer has the burden of rebutting this evidence.

Proposal

This bill would eliminate the presumption of correctness currently afforded an assessor's valuation in real property tax appeals brought in circuit court, and would remove the taxpayer's burden to rebut this presumption. Instead, each party would be required to present evidence demonstrating whether the property is valued at fair market value, whether the assessment is uniform in its application, and whether the assessment was determined in accordance with generally accepted appraisal practices, procedures, rules and standards. The bill would also eliminate the taxpayer's burden to rebut evidence presented by assessors in appeals involving real property containing fewer than four residential units.

Similar Legislation

House Bill 1576 would establish a binding arbitration process, as an alternative to an appeal to a local board of equalization or circuit court, for taxpayers seeking relief from real property tax assessments for owner-occupied residential dwellings.

cc : Secretary of Finance

Date: 1/18/2015 KP
DLAS File Name: HB1416F161