

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to establish a second supplemental federal retiree settlement program.*

3 [H 292]

4 Approved

5 Whereas, during its special session in July 1994, the General Assembly passed legislation authorizing
 6 the Tax Commissioner to enter into settlement agreements with retired federal and military Virginia
 7 taxpayers affected by the *Harper v. Virginia Department of Taxation* case; and

8 Whereas, such legislation contained a November 1, 1994, deadline for the affected taxpayers to file
 9 certain forms and other supporting documentation, where necessary, with the Department of Taxation in
 10 order to participate in the settlement; and

11 Whereas, such legislation also contained a February 1, 1995, deadline for the affected taxpayers to
 12 deliver a settlement agreement accepting the final settlement offer to the Department of Taxation; and

13 Whereas, a large number of such taxpayers failed to provide the necessary supporting documentation,
 14 missed a deadline for filing, or mailed or otherwise sent the appropriate documentation which was not
 15 received by the Department of Taxation, thereby missing the opportunity to participate in the settlement;
 16 and

17 Whereas, during the 1995 Session, the General Assembly passed legislation (Chapters 185 and 203
 18 of the 1995 Acts of Assembly) granting retired federal and military taxpayers who failed to provide the
 19 necessary supporting documentation or missed the deadline for filing a response or delivering a
 20 settlement agreement, due to circumstances beyond their control, a period of 60 days, which expired
 21 May 15, 1995, to participate in the settlement by providing the documentation, filing the response, or
 22 delivering the settlement agreement; and

23 Whereas, a large number of retired federal and military taxpayers again missed the opportunity to
 24 participate in the settlement by failing to provide the necessary supporting documentation, file a
 25 response, or deliver a settlement agreement by May 15, 1995; and

26 Whereas, the General Assembly wants as many of the affected taxpayers as possible to participate in
 27 the settlement; and

28 Whereas, it is the intent of the General Assembly that this act provide the final opportunity for
 29 affected taxpayers to submit any claim to the General Assembly for a tax refund pursuant to the
 30 settlement program or for any other relief related to the *Harper* case; now, therefore,

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

32 1. § 1. The Tax Commissioner is hereby authorized to determine which retired federal and military
 33 taxpayers were denied participation in either the Federal Retiree Settlement Act (Enactment clause 2 of
 34 Chapter 5 of the 1994 Acts of Assembly, Special Session I) or the supplemental federal retiree settlement
 35 program (Chapters 185 and 203 of the 1995 Acts of Assembly); and is authorized to enter into
 36 settlement agreements with such taxpayers in an amount equal to the settlement amounts retirees will
 37 receive or have received under the Federal Retiree Settlement Act.

38 1. To be eligible to receive these payments, a taxpayer shall (i) have failed to fully or partially
 39 participate in either the original settlement program or the supplemental settlement program; (ii) have
 40 notified the Tax Department by June 10, 1996, that he or she is not currently participating or did not
 41 participate in the prior settlement programs; (iii) provide the Department with the information the
 42 Department deems to be necessary for purposes of determining the validity of and quantifying a
 43 taxpayer's claimed tax overpayment; and (iv) submit a properly executed settlement agreement, which
 44 releases the Commonwealth and its agencies, officers and employees from any further liability for claims
 45 arising out of taxes paid on federal retirement income received during the 1985 through 1988 taxable
 46 years and dismissing any litigation as to such claims in which the taxpayer is a party. To meet the
 47 notice requirement of clause (ii) above, the taxpayer's contact with the Department to put it on notice
 48 must be documented in the Department's records.

49 2. The payments shall be made over a four-year period in annual installments and shall be disbursed
 50 by the Tax Commissioner or his designees to the taxpayers participating in the settlement as follows:

51 a. The Department shall offer each affected taxpayer an amount equal to the same percentage of the
 52 disputed refund as computed under the Federal Retiree Settlement Act. Disbursements to these taxpayers
 53 shall be limited to an amount equal to the percentage of disputed refunds and shall not include any
 54 additional amounts.

55 b. Disbursements shall be made in up to four payments, the first of which shall be made on July 31,
 56 1996, or as soon thereafter as practical with each of the remaining three disbursements to be made on

57 each March 31 thereafter through 1999.

58 c. Payments under the settlement program created by this act shall be to taxpayers over the same
59 payment schedule as if the taxpayers were participating in the Federal Retiree Settlement Act, except
60 that the initial payment shall be equal to the first two payments that the participants would have
61 received had they participated in the Federal Retiree Settlement Act.

62 d. Any amount received by a taxpayer pursuant to this section shall be subject to debt collection
63 pursuant to Article 21 (§ 58.1-520 et seq.) of Chapter 1 of Title 58.1.

64 3. The Tax Commissioner is authorized to order payments to be made out of the state treasury as if
65 the amount each affected taxpayer is entitled to receive pursuant to this act is a refund pursuant to
66 § 58.1-309.

67 4. A taxpayer is hereby authorized, for purposes of the settlement created by this act, to sign on
68 behalf of a spouse with whom he or she jointly filed an income tax return for a taxable year to which
69 the settlement is related. By signing the agreement to settle the claim on behalf of both spouses, the
70 signing taxpayer thereby agrees to indemnify the Commonwealth for any amounts related to the
71 settlement payments that it may be required to pay under the law to the nonsigning spouse.

72 5. The Tax Commissioner is authorized to enter into such contracts or execute such instruments or
73 agreements as may be necessary (i) to effect compromise or settlement of disputed refund claims
74 through creation of a trust or other legal entity or (ii) to obtain administrative or investment services
75 relevant to any such settlement or compromise. Any such contracts or agreements for services shall be
76 approved by the Attorney General and shall be exempt from the provisions of the Virginia Public
77 Procurement Act (§ 11-35 et seq.).

78 6. Except and to the extent specifically authorized in this act, nothing in this act shall be construed
79 or interpreted to revive any claim barred by Chapter 5 of the 1994 Acts of Assembly, Special Session I,
80 and nothing in this act shall be construed or interpreted to authorize any taxpayer to be entitled to the
81 relief granted in the Harper litigation.

82 **2. That an emergency exists and this act is in force from its passage.**