Code of Virginia

§ 58.1-3200. Real estate subject to local taxation; taxable real estate defined; leaseholds.

All taxable real estate, having been segregated for and made subject to local taxation only by Article X, Section 4 of the Constitution of Virginia, shall be assessed for local taxation in accordance with the provisions of this chapter and other provisions of law. For purposes of the assessment of real estate for taxation, the term "taxable real estate" shall include a leasehold interest in every case in which the land or improvements, or both, as the case may be, are exempt from assessment for taxation to the owner. The provisions of this chapter relating to the assessment of real estate shall not apply to property required by law to be assessed by the State Corporation Commission or the Department of Taxation.

(Code 1950, § 58-758; 1954, c. 317; 1984, c. 675; 1985, c. 221.)

§ 58.1-3201. What real estate to be taxed; amount of assessment; public service corporation property.

All real estate, except that exempted by law, shall be subject to such annual taxation as may be prescribed by law.

All general reassessments or annual assessments in those localities which have annual assessments of real estate, except as otherwise provided in § 58.1-2604, shall be made at 100 percent fair market value and, except as provided in § 58.1-2608, the State Corporation Commission and the Department of Taxation shall certify public service corporation property to such county or city, with the exception of the nonoperating (noncarrier) property of railroads, on the basis of the assessment ratio as most recently determined and published by the Department of Taxation. The Department of Taxation shall, ten days after determining the assessment ratio, notify the locality of that determination and the basis on which the determination was made. Nonoperating (noncarrier) property of railroads shall be valued for assessment by the city or county in which it is located uniformly with similarly situated real estate in the same jurisdiction upon the best and most reliable information that can be procured. The Tax Commissioner shall determine which property is part of the operating unit of the railroads and which is nonoperating (noncarrier) property for purposes of the report described in § 58.1-2653. Such determination shall be made in accordance with the meaning of such terms in the Interstate Commerce Commission's Uniform System of Accounts. The inclusion, or failure to include, property in such report described in § 58.1-2653 may be reviewed and redetermined by the Tax Commissioner at the request of any railroad, county, city, town or magisterial district.

(Code 1950, § 58-760; 1982, c. 619; 1983, cc. 556, 570; 1984, c. 675; 1985, c. 30.)

§ 58.1-3202. Taxation of certain multi-unit real estate.

Beginning with assessments effective on January 1, 1984, the fair market value of multi-unit real estate leased primarily to residential tenants shall be determined without regard to its potential for conversion to condominium or cooperative ownership. A sale of apartment property shall not be presumed to be for such conversion unless overt action which is a prerequisite to conversion by the buyer has been taken within three months from the recordation of the deed.

(Code 1950, § 58-760; 1982, c. 619; 1983, cc. 556, 570; 1984, c. 675.)

§ 58.1-3203. Taxation of certain leasehold interests; concessions.

All leasehold interests in real property which is exempt from assessment for taxation from the owner shall be assessed for local taxation to the lessee. If the remaining term of the lease is fifty years or more, or the lease permits the lessee to acquire the real property for a nominal sum at the completion of the term, such leasehold interest shall be assessed as if the lessee were the owner. Otherwise, such assessment shall be reduced two percent for each year that the remainder of such term is less than fifty years; however, no such assessment shall be reduced more than eighty-five percent. If the lessee has a right to renew without the consent of the lessor, the term of such lease shall be the sum of the original lease term plus all such renewal terms.

When any real property is exempt from taxation under Section 6 (a) (1) or (2) or by designation under Section 6 (a) (6) of Article X of the Constitution of Virginia, the leasehold interest in such property may also be exempt from taxation, provided that the property is leased to a lessee who is exempt from taxation pursuant to § 501(c) of the Internal Revenue Code and is used exclusively by such lessee primarily for charitable, literary, scientific, or educational purposes. No leasehold interest or concession,

as defined in § 56-557, of tax exempt property of a governmental agency shall be subject to assessment for local property tax purposes where the property is leased to a public service corporation or subsidiary thereof or a nonstock, nonprofit corporation whose occupation, use or operation of the tax exempt property is in aid of or promotes the governmental purposes set out in Chapter 10 (§ 62.1-128 et seq.) of Title 62.1 or to a private entity that is party to a concession agreement with a responsible public entity pursuant to the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or to similar federal law. The provisions of this section shall not apply to any leasehold interests exempted or partially exempted by other provisions of law.

(Code 1950, § 58-758.1; 1975, c. 374; 1976, c. 418; 1979, c. 359; 1981, c. 431; 1983, c. 549; 1984, c. 675; 1992, c. 842; 1996, c. 478; 2006, c. 922.)

§ 58.1-3204. Lands acquired from United States, etc., when beneficial ownership held prior to January 1.

All persons or corporations who receive deeds from the United States or its agencies for lands in the Commonwealth of Virginia by virtue of contracts therefor by which the beneficial ownership was held prior to January 1 of that year shall be assessable by the commissioners of the revenue for taxes and levies on such lands for the then current year, as if the deed for the lands had been recorded on or before January 1 of that year.

(Code 1950, § 58-761; 1984, c. 675.)

§ 58.1-3205. Assessment of real property where interest less than fee is held by public body; exemption of interest of public body from taxation.

Where an interest in real property less than the fee is held by a public body for the purposes of the Open-Space Land Act (§ 10.1-1700 et seq.), the Virginia Conservation Easement Act (§ 10.1-1009 et seq.), or Chapters 22 and 24 of Title 10.1, assessments for local taxation on the property shall conform to the requirements of § 10.1-1011. The value of the interest held by the public body shall be exempt from property taxation to the same extent as other property owned by the public body.

(1984, c. 675; 1998, c. 487.)

§ 58.1-3210. Exemption or deferral of taxes on property of certain elderly and handicapped persons.

A. The governing body of any county, city or town may, by ordinance, provide for the exemption from, deferral of, or a combination program of exemptions from and deferrals of taxation of real estate and manufactured homes as defined in § 36-85.3, or any portion thereof, and upon such conditions and in such amount as the ordinance may prescribe. Such real estate shall be owned by, and be occupied as the sole dwelling of anyone at least 65 years of age or if provided in the ordinance, anyone found to be permanently and totally disabled as defined in § 58.1-3217. Such ordinance may provide for the exemption from or deferral of that portion of the tax which represents the increase in tax liability since the year such taxpayer reached the age of 65 or became disabled, or the year such ordinance became effective, whichever is later. A dwelling jointly held by a husband and wife, with no other joint owners, may qualify if either spouse is 65 or over or is permanently and totally disabled, and the proration of the exemption or deferral under § 58.1-3211.1 shall not apply for such dwelling.

B. For purposes of this article, any reference to real estate shall include manufactured homes.

(Code 1950, § 58-760.1; 1971, Ex. Sess., c. 169; 1972, cc. 315, 616; 1973, c. 496; 1974, c. 427; 1976, c. 543; 1977, cc. 48, 453, 456; 1978, cc. 774, 776, 777, 780, 788, 790; 1979, cc. 543, 544, 545, 563; 1980, cc. 656, 666, 673; 1981, c. 434; 1982, cc. 123, 457; 1984, cc. 267, 675; 1993, c. 911; 2007, c. 357.)

§ 58.1-3211. Restrictions and exemptions.

Any exemption or deferral program enacted by a county, city or town pursuant to § 58.1-3210 shall be subject to the following restrictions and conditions:

1. a. Subject to subdivision 1 b of this section, the total combined income received from all sources during the preceding calendar year by (i) owners of the dwelling who use it as their principal residence, (ii) owners' relatives who live in the dwelling, and (iii) at the option of each locality, nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide paid caregivers of the owner, shall not exceed the greater of $50,000, or the income limits based upon family size for the respective metropolitan statistical area, annually published by the Department of Housing and Urban Development for qualifying

for federal housing assistance pursuant to § 235 of the National Housing Act (12 U.S.C. § 1715z). As an alternative option, a county, city, or town may provide that the total combined income received from all sources during the preceding calendar year by (a) owners of the dwelling who use it as their principal residence, (b) owners' relatives who live in the dwelling, and (c) at the option of each locality, nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide paid caregivers of the owner, shall not exceed the county's or city's median adjusted gross income of its married residents. Each county's or city's median adjusted gross income of its married residents means the most recent median adjusted gross income of individual income tax returns of the married residents of the county or city for a taxable year as published by the Weldon Cooper Center for Public Service of the University of Virginia. A town's median adjusted gross income of its married residents shall equal the applicable county's median adjusted gross income of its married residents.

Any amount up to $10,000 of income of each relative who is not the spouse of an owner living in the dwelling and who does not qualify for the exemption provided by subdivision 1 b hereof, and any amount up to $10,000 of income of each nonrelative who is not the bona fide tenant or bona fide paid caregiver of an owner living in the dwelling and who does not qualify for the exemption provided by subdivision 1 b hereof, may be excluded in determining total combined income. The local government may exclude up to $5,000 of any permanent or temporary disability benefit, from whatever source, received by an owner. The local government may also exclude up to $10,000 of income for an owner who is permanently disabled.

b. Notwithstanding subdivision 1 a of this section, if an owner qualifies for an exemption or deferral under this article, and if the owner can prove by clear and convincing evidence that his physical or mental health has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a person move in and provide care for the owner, and if a person does then move in for that purpose, then none of the income of the person or of the person's spouse shall be counted towards the income limit, provided the owner of the residence has not transferred assets in excess of $10,000 without adequate consideration within a three-year period prior to or after the person moves into such residence.

2. The net combined financial worth, including the present value of all equitable interests, as of December 31 of the immediately preceding calendar year, of the owners, and of the spouse of any owner, excluding the value of the dwelling and the land, not exceeding 10 acres, upon which it is situated shall not exceed $200,000. The local government may also exclude furnishings. Such furnishings shall include furniture, household appliances and other items typically used in a home. The local government may also elect to annually increase the net combined financial worth limit by an amount equivalent to the percentage increase in the Consumer Price Index for the 12-month period ending September 30 of the year immediately preceding the affected tax year.

3. Notwithstanding the provisions of subdivisions 1 and 2, in the Cities of Charlottesville, Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Richmond, Suffolk, and Virginia Beach and the Counties of Chesterfield, Goochland, Hanover, Henrico, and Powhatan, the board of supervisors or council may, by ordinance, raise the income and financial worth limitations for any exemption or deferral program to a maximum of the greater of $67,000 or the income limits based upon family size for the respective metropolitan statistical area, annually published by the Department of Housing and Urban Development for qualifying for federal housing assistance pursuant to § 235 of the National Housing Act (12 U.S.C. § 1715z), for the total combined income amount, and $350,000 for the maximum net combined financial worth amount, which shall exclude the value of the dwelling and the land, not exceeding 10 acres, upon which it is situated. Any amount up to $10,000 of income of each person who is not the spouse of an owner living in the dwelling may be excluded under this subdivision. In addition, as an alternative option such cities and counties may use the median adjusted gross income of its married residents, as determined under subdivision 1 a, for the total combined income limit and may also elect to annually increase the net combined financial worth limit herein in the same manner as provided in subdivision 2.

4. Notwithstanding the provisions of subdivisions 1 and 2, in the Counties of Arlington, Clarke, Fairfax, Fauquier, Loudoun, Prince William, and Stafford, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, and in any incorporated town located in such counties, the respective board of supervisors or council may, by ordinance, raise the income and financial worth limitations for any exemption or deferral program to a maximum of the greater of $75,000 or the income limits based upon family size for the respective metropolitan statistical area, annually published by the Department of Housing and Urban Development for qualifying for federal housing assistance pursuant to § 235 of the National Housing Act (12 U.S.C. § 1715z), for the total combined income amount, and $540,000 for the maximum net combined financial worth amount, which shall exclude the value of the dwelling and the land, up to but not exceeding 25 acres, all of which shall be non-income producing, upon which it is situated. Any amount up to $10,000 of income of each person who is not the spouse of an owner living in

the dwelling may be excluded under this subdivision. In addition, as an alternative option such counties, cities, and towns may use the median adjusted gross income of its married residents, as determined under subdivision 1 a, for the total combined income limit and may also elect to annually increase the net combined financial worth limit herein in the same manner as provided in subdivision 2.

5. For purposes of this article, income shall mean total gross income from all sources, without regard to whether a tax return is actually filed. Income shall not include life insurance benefits or receipts from borrowing or other debt.

(Code 1950, § 58-760.1; 1971, Ex. Sess., c. 169; 1972, cc. 315, 616; 1973, c. 496; 1974, c. 427; 1976, c. 543; 1977, cc. 48, 453, 456; 1978, cc. 774, 776, 777, 780, 788, 790; 1979, cc. 543, 544, 545, 563; 1980, cc. 656, 666, 673; 1981, c. 434; 1982, cc. 123, 457; 1984, cc. 267, 675; 1987, cc. 525, 546; 1988, cc. 463, 466; 1989, cc. 555, 568; 1990, cc. 479, 486, 504; 1991, c. 63; 1992, cc. 346, 383; 1993, cc. 14, 49, 66, 149; 1997, cc. 704, 710, 872; 1998, c. 361; 1999, c. 205; 2001, cc. 428, 457; 2002, cc. 9, 20, 171; 2004, cc. 5, 6, 77, 78, 494, 503; 2005, cc. 214, 215, 224; 2006, c. 585; 2007, cc. 60, 587; 2008, cc. 144, 231, 298, 334, 695.)

§ 58.1-3211.1. Prorated tax exemption or deferral of tax.

A. The governing body of the county, city, or town may, by ordinance, also provide for an exemption from or deferral of (or combination program thereof) real estate taxes for dwellings jointly held by two or more individuals not all of whom are at least age 65 or (if provided in the ordinance) permanently and totally disabled, provided that (i) the dwelling is occupied as the sole dwelling by all such joint owners, and (ii) the net combined financial worth of all such joint owners, including the present value of all equitable interests and computed without any exclusion for the dwelling or for any other asset notwithstanding the provisions of § 58.1-3211, as of December 31 of the immediately preceding calendar year, does not exceed the following:

1. $500,000 for joint owners living in Arlington County, Clarke County, Fairfax County, Fauquier County, Loudoun County, Prince William County, Stafford County, any incorporated town located in any such county, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, or the City of Manassas Park;

2. $324,075 for joint owners living in Chesterfield County, Goochland County, Hanover County, Henrico County, Powhatan County, the City of Charlottesville, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Portsmouth, the City of Richmond, the City of Suffolk, or the City of Virginia Beach; and

3. $185,200 for joint owners living in any other county or city of the Commonwealth.

The tax exemption or deferral for the dwelling that otherwise would have been provided under the local ordinance shall be prorated by multiplying the amount of the exemption or deferral by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by all such joint owners who are at least age 65 or (if provided in the ordinance) permanently and totally disabled, and as a denominator, 100%. As a condition of eligibility for such tax exemption or deferral, the joint owners of the dwelling shall be required to furnish to the relevant local officer sufficient evidence of each joint owner's ownership interest in the dwelling.

B. As provided in § 58.1-3211, the local governing body may elect to annually increase the net combined financial worth limit by an amount equivalent to the percentage increase in the Consumer Price Index.

C. The provisions of this section shall not apply to dwellings jointly held by a husband and wife, with no other joint owners.

D. The income limitation provisions of § 58.1-3211 shall be applicable to joint owners described under this section. Nothing in this section shall be interpreted or construed to provide for an exemption from or deferral of tax for any dwelling jointly held by nonindividuals.

(2007, c. 357; 2008, cc. 298, 695.)

§ 58.1-3212. Local restrictions and exemptions.

Notwithstanding the provisions of subdivisions 1 and 2 of § 58.1-3211, the governing body of a county, city or town may by ordinance specify lower (i) income and financial worth figures, (ii) disability

compensation reduction figures, if applicable, and (iii) reductions for income of relatives living in the dwelling, other than those set forth in § 58.1-3211. No local ordinance shall require that a citizen reside in the jurisdiction for a designated period of time as a condition for qualifying for any real estate tax exemption or deferral program established pursuant to § 58.1-3210.

(Code 1950, § 58-760.1; 1971, Ex. Sess., c. 169; 1972, cc. 315, 616; 1973, c. 496; 1974, c. 427; 1976, c. 543; 1977, cc. 48, 453, 456; 1978, cc. 774, 776, 777, 780, 788, 790; 1979, cc. 543, 544, 545, 563; 1980, cc. 656, 666, 673; 1981, c. 434; 1982, cc. 123, 457; 1984, cc. 267, 675; 1989, c. 568.)

§ 58.1-3213. Application for exemption.

A. The person claiming such exemption shall file annually with the commissioner of the revenue of the county, city or town assessing officer or such other officer as may be designated by the governing body in which such dwelling lies, on forms to be supplied by the county, city or town concerned, an affidavit or written statement setting forth (i) the names of the related persons occupying such real estate and (ii) that the total combined net worth, including equitable interests and the combined income from all sources, of the persons specified in § 58.1-3211 or 58.1-3211.1, as the case may be, does not exceed the limits prescribed in such ordinance.

B. In lieu of the annual affidavit or written statement filing requirement, a county, city or town may prescribe by ordinance for the filing of the affidavit or written statement on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding affidavit or written statement filed has changed to violate the limitations and conditions provided herein.

C. Notwithstanding the provisions of subsections A, B, and E of this section, any county, city or town may, by local ordinance, prescribe the content of the affidavit or written statement described in subsection A, subject to the requirements established in § § 58.1-3211 and 58.1-3211.1; the frequency with which an affidavit, written statement or certification as described in subsection B of this section must be filed; and a procedure for late filing of affidavits or written statements.

D. If such person is under 65 years of age, such form shall have attached thereto a certification by the Social Security Administration, the Department of Veterans Affairs or the Railroad Retirement Board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors who are either licensed to practice medicine in the Commonwealth or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that the person is permanently and totally disabled, as defined in § 58.1-3217; however, a certification pursuant to 42 U.S.C. § 423 (d) by the Social Security Administration so long as the person remains eligible for such social security benefits shall be deemed to satisfy such definition in § 58.1-3217. The affidavit of at least one of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability as defined in § 58.1-3217.

E. Such affidavit, written statement or certification shall be filed after January 1 of each year, but before April 1, or such later date as may be fixed by ordinance. Such ordinance may include a procedure for late filing by first-time applicants or for hardship cases.

F. The commissioner of the revenue or town assessing officer or another officer designated by the governing body of the county, city or town shall also make any other reasonably necessary inquiry of persons seeking such exemption, requiring answers under oath, to determine qualifications as specified herein, including qualification as permanently and totally disabled as defined in § 58.1-3217 and qualification for the exclusion of life insurance benefits paid upon the death of an owner of a dwelling, or as specified by county, city or town ordinance. The local governing body may, in addition, require the production of certified tax returns to establish the income or financial worth of any applicant for tax relief or deferral.

(Code 1950, § 58-760.1; 1971, Ex. Sess., c. 169; 1972, cc. 315, 616; 1973, c. 496; 1974, c. 427; 1976, c. 543; 1977, cc. 48, 453, 456; 1978, cc. 774, 776, 777,780, 788, 790; 1979, cc. 543, 544, 545, 563; 1980, cc. 656, 666, 673; 1981, c. 434; 1982, cc. 123, 457; 1984, cc. 267, 675; 1986, c. 214; 1988, c. 334; 1990, c. 158; 1991, c. 286; 1996, c. 480; 1997, c. 710; 2007, c. 357.)

§ 58.1-3213.1. Notice of local real estate tax exemption or deferral program for the elderly and handicapped.

The treasurer of any county, city or town shall enclose written notice, in each real estate tax bill, of the terms and conditions of any local real estate tax exemption or deferral program established in the jurisdiction pursuant to § 58.1-3210. The treasurer shall also employ any other reasonable means necessary to notify residents of the county, city or town about the terms and conditions of the real estate tax exemption or deferral program for elderly and handicapped residents of the county, city or town.

(1989, c. 568.)

§ 58.1-3214. Absence from residence.

The fact that persons who are otherwise qualified for tax exemption or deferral by an ordinance promulgated pursuant to this article are residing in hospitals, nursing homes, convalescent homes or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which tax exemption or deferral is sought does not continue to be the sole dwelling of such persons during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration.

(Code 1950, § 58-760.1; 1971, Ex. Sess., c. 169; 1972, cc. 315, 616; 1973, c. 496; 1974, c. 427; 1976, c. 543; 1977, cc. 48, 453, 456; 1978, cc. 774, 776, 777, 780, 788, 790; 1979, cc. 543, 544, 545, 563; 1980, cc. 656, 666, 673; 1981, c. 434; 1982, cc. 123, 457; 1984, cc. 267, 675.)

§ 58.1-3215. Effective date; change in circumstances.

A. An exemption or deferral enacted pursuant to § 58.1-3210 or 58.1-3211.1 may be granted for any year following the date that the qualifying individual occupying such dwelling and owning title or partial title thereto reaches the age of 65 years or for any year following the date the disability occurred. Changes in income, financial worth, ownership of property or other factors occurring during the taxable year for which an affidavit is filed and having the effect of exceeding or violating the limitations and conditions provided herein or by county, city or town ordinance shall nullify any exemption or deferral for the remainder of the current taxable year and the taxable year immediately following. However, any locality may by ordinance provide a prorated exemption or deferral for the portion of the taxable year during which the taxpayer qualified for such exemption or deferral.

B. An ordinance enacted pursuant to this article may provide that a change in ownership to a spouse or a nonqualifying individual, when such change resulted solely from the death of the qualifying individual, or a sale of such property shall result in a prorated exemption or deferral for the then current taxable year. The proceeds of the sale which would result in the prorated exemption or deferral shall not be included in the computation of net worth or income as provided in subsection A. Such prorated portion shall be determined by multiplying the amount of the exemption or deferral by a fraction wherein the number of complete months of the year such property was properly eligible for such exemption or deferral is the numerator and the number 12 is the denominator.

C. An ordinance enacted pursuant to this article may provide that an individual who does not qualify for the exemption or deferral under this article based upon the previous year's income limitations and financial worth limitations, may nonetheless qualify for the current year by filing an affidavit that clearly shows a substantial change of circumstances, that was not volitional on the part of the individual to become eligible for the exemption or deferral, and will result in income and financial worth levels that are within the limitations of the ordinance. The ordinance may impose additional conditions and require other information under this subsection. The locality may prorate the exemption or deferral from the date the affidavit is submitted or any other date.

Any exemption or deferral under this subsection must be conditioned upon the individual filing another affidavit after the end of the year in which the exemption or deferral was granted, within a period of time specified by the locality, showing that the actual income and financial worth levels were within the limitations set by the ordinance. If the actual income and financial worth levels exceeded the limitations any exemption or deferral shall be nullified for the current taxable year and the taxable year immediately following.

(Code 1950, § 58-760.1; 1971, Ex. Sess., c. 169; 1972, cc. 315, 616; 1973, c. 496; 1974, c. 427; 1976, c. 543; 1977, cc. 48, 453, 456; 1978, cc. 774, 776, 777, 780, 788, 790; 1979, cc. 543, 544, 545, 563; 1980, cc. 656, 666, 673; 1981, c. 434; 1982, cc. 123, 457; 1984, cc. 267, 675; 1987, cc. 525, 534; 1989, c. 40; 2007, c. 357; 2008, c. 208.)

§ 58.1-3216. Deferral programs; taxes to be lien on property.

In the event of a deferral of real estate taxes granted by ordinance, the accumulated amount of taxes deferred shall be paid to the county, city or town concerned by the vendor upon the sale of the dwelling, or from the estate of the decedent within one year after the death of the last owner thereof who qualifies for tax deferral by the provisions of this section and by the county, city or town ordinance. Such deferred real estate taxes shall be paid without penalty, except that any ordinance establishing a combined program of exemptions and deferrals, or deferrals only, may provide for interest not to exceed eight percent per annum on any amount so deferred, and such taxes and interest, if applicable, shall constitute a lien upon the said real estate as if it had been assessed without regard to the deferral permitted by this article. Any such lien shall, to the extent that it exceeds in the aggregate ten percent of the price for which such real estate may be sold, be inferior to all other liens of record.

(Code 1950, § 58-760.1; 1971, Ex. Sess., c. 169; 1972, cc. 315, 616; 1973, c. 496; 1974, c. 427; 1976, c. 543; 1977, cc. 48, 453, 456; 1978, cc. 774, 776, 777, 780, 788, 790; 1979, cc. 543, 544, 545, 563; 1980, cc. 656, 666, 673; 1981, c. 434; 1982, cc. 123, 457; 1984, cc. 267, 675.)

§ 58.1-3217. Permanently and totally disabled defined.

For purposes of this article, the term "permanently and totally disabled" shall mean unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person's life.

(Code 1950, § 58-760.1; 1971, Ex. Sess., c. 169; 1972, cc. 315, 616; 1973, c. 496; 1974, c. 427; 1976, c. 543; 1977, cc. 48, 453, 456; 1978, cc. 774, 776, 777, 780, 788, 790; 1979, cc. 543, 544, 545, 563; 1980, cc. 656, 666, 673; 1981, c. 434; 1982, cc. 123, 457; 1984, cc. 267, 675.)

§ 58.1-3218. Designation by General Assembly.

The General Assembly hereby deems those persons falling within the limitations and conditions provided in §§ 58.1-3210 and 58.1-3211 of this article to be bearing an extraordinary tax burden on the real estate in relation to their income and financial worth.

(Code 1950, § 58-760.1; 1971, Ex. Sess., c. 169; 1972, cc. 315, 616; 1973, c. 496; 1974, c. 427; 1976, c. 543; 1977, cc. 48, 453, 456; 1978, cc. 774, 776, 777, 780, 788, 790; 1979, cc. 543, 544, 545, 563; 1980, cc. 656, 666, 673; 1981, c. 434; 1982, cc. 123, 457; 1984, cc. 267, 675.)

§ 58.1-3219. Deferral of portion of real estate tax increases.

Any county, city, or town may adopt, by ordinance, a deferral program for real estate taxes, in such amount as the ordinance may prescribe, subject to the limitations and conditions of this article. The local governing body shall adopt, by ordinance, the terms and conditions of the program and whether the deferral program shall apply only to real estate owned by and occupied as the sole dwelling of the taxpayer or whether the program shall apply to all property.

(1990, cc. 858, 871.)

§ 58.1-3219.1. Conditions of deferral; payment of deferred amounts.

The deferral program provided in this article shall allow the taxpayer the option of deferring all or any portion of the real estate tax that exceeds 105 percent of the real estate tax on such property owned by the taxpayer in the previous tax year. The governing body may adopt a higher minimum percentage increase figure.

The deferred amount shall be subject to interest computed at a rate established by the governing body, not to exceed the rate established pursuant to § 6621 of the Internal Revenue Code. The accumulated amount of taxes deferred and interest shall be paid to the county, city, or town by the owner upon the sale or transfer of the property, or from the estate of the decedent within one year after the death of the owner. If the real estate is owned jointly and all such owners applied and qualified for the deferral program established by ordinance, the death of one of the joint owners shall not disqualify the survivor or survivors from participating in the deferral program. All accumulated deferred taxes and interest shall be paid within one year of the date of death of the last qualifying owner. The accumulated amount of tax deferred and interest shall constitute a lien upon the real estate.

(1990, cc. 858, 871; 1991, cc. 316, 331; 2005, cc. 502, 561.)

§ 58.1-3219.2.

Repealed by Acts 2006, c. 356, cl. 1.

§ 58.1-3219.3. Limitations.

The deferral program provided under this article shall not apply to the following:

1. Real estate which participates in the real estate tax relief or deferral program for the elderly or permanently or totally disabled pursuant to Article 2 (§ 58.1-3210 et seq.) of Chapter 32 of this title;

2. Persons who are delinquent on any portion of real estate taxes for which deferral is sought;

3. Real estate assessed on the basis of use value pursuant to Article 4 (§ 58.1-3230 et seq.) of Chapter 32 of this title.

(1990, cc. 858, 871.)

§ 58.1-3219.4. Partial exemption for structures in redevelopment or conservation areas or rehabilitation districts.

For purposes of this section, unless the context requires otherwise:

"Redevelopment or conservation area or rehabilitation district" means a redevelopment or conservation area or a rehabilitation district established in accordance with law.

A. The governing body of any county, city, or town may, by ordinance, provide for the partial exemption from taxation of (i) new structures located in a redevelopment or conservation area or rehabilitation district or (ii) other improvements to real estate located in a redevelopment or conservation area or rehabilitation district. The governing body of a county, city, or town may (a) establish criteria for determining whether real estate qualifies for the partial exemption authorized by this section, (b) establish requirements for the square footage of new structures that would qualify for the partial exemption, and (c) place such other restrictions and conditions on such new structures or improvements as may be prescribed by ordinance.

B. The partial exemption provided by the local governing body shall be provided in the local ordinance and shall be either (i) an amount equal to the increase in assessed value or a percentage of such increase resulting from the construction of the new structure or other improvement to the real estate as determined by the commissioner of the revenue or other local assessing officer, or (ii) an amount up to 50% of the cost of such construction or improvement, as determined by ordinance. The exemption may commence upon completion of the new construction or improvement or on January 1 of the year following completion of the new construction or improvement and shall run with the real estate for a period of no longer than 15 years. The governing body of a county, city, or town may place a shorter time limitation on the length of such exemption, or reduce the amount of the exemption in annual steps over the entire period or a portion thereof, in such manner as the ordinance may prescribe.

C. Nothing in this section shall be construed so as to permit the commissioner of the revenue to list upon the land book any reduced value due to the exemption provided in subsection B.

D. The governing body of any county, city, or town may assess a fee not to exceed $125 for residential properties, or $250 for commercial, industrial, and/or apartment properties of six units or more, for processing an application requesting the exemption provided by this section. No property shall be eligible for such exemption unless the appropriate building permits have been acquired and the commissioner of the revenue or assessing officer has verified that the new structures or other improvements have been completed.

E. Where the construction of a new structure is achieved through demolition and replacement of an existing structure, the exemption provided in subsection A shall not apply when any structure demolished is a registered Virginia landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic district.

(2006, c. 572.)

§ 58.1-3220. Partial exemption for certain rehabilitated, renovated or replacement residential structures.

A. The governing body of any county, city or town may, by ordinance, provide for the partial exemption from taxation of real estate on which any structure or other improvement no less than fifteen years of age has undergone substantial rehabilitation, renovation or replacement for residential use, subject to such conditions as the ordinance may prescribe. The ordinance may, in addition to any other restrictions hereinafter provided, restrict such exemptions to real property located within described zones or districts whose boundaries shall be determined by the governing body. The governing body of a county, city or town may (i) establish criteria for determining whether real estate qualifies for the partial exemption authorized by this provision, (ii) require such structures to be older than fifteen years of age, (iii) establish requirements for the square footage of replacement structures, and (iv) place such other restrictions and conditions on such property as may be prescribed by ordinance. Such ordinance may also provide for the partial exemption from taxation of multifamily residential units that have been substantially rehabilitated by replacement for multifamily use.

B. The partial exemption provided by the local governing body may be an amount equal to the increase in assessed value or a percentage of such increase resulting from the rehabilitation, renovation or replacement of the structure as determined by the commissioner of revenue or other local assessing officer or an amount up to fifty percent of the cost of the rehabilitation, renovation or replacement, as determined by ordinance. The exemption may commence upon completion of the rehabilitation, renovation or replacement or on January 1 of the year following completion of the rehabilitation, renovation or replacement and shall run with the real estate for a period of no longer than fifteen years. The governing body of a county, city or town may place a shorter time limitation on the length of such exemption, or reduce the amount of the exemption in annual steps over the entire period or a portion thereof, in such manner as the ordinance may prescribe.

C. Nothing in this section shall be construed as to permit the commissioner of the revenue to list upon the land book any reduced value due to the exemption provided in subsection B.

D. The governing body of any county, city or town may assess a fee not to exceed one hundred twenty-five dollars for residential properties, or two hundred fifty dollars for commercial, industrial, and/or apartment properties of six units or more for processing an application requesting the exemption provided by this section. No property shall be eligible for such exemption unless the appropriate building permits have been acquired and the commissioner of the revenue or assessing officer has verified that the rehabilitation, renovation or replacement indicated on the application has been completed.

E. Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in subsection A shall not apply when any structure demolished is a registered Virginia landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic district.

(Code 1950, § 58-760.2; 1979, c. 195; 1980, c. 417; 1981, c. 625; 1984, cc. 675, 750; 1986, c. 271; 1989, cc. 89, 656; 1994, cc. 424, 435; 1995, c. 673; 2001, c. 489; 2002, cc. 21, 144.)

§ 58.1-3220.01. Local real property tax credits on certain rehabilitated, renovated or replacement residential structures.

A. The governing body of any county, city or town may, by ordinance, provide for a local real property tax credit equal to certain property tax liens owed on real estate on which any structure or other improvement no less than fifteen years of age has undergone substantial rehabilitation, renovation or replacement for residential use, subject to such conditions as the ordinance may prescribe. The credit shall be used by the owner of the property which has the real property tax liens and can be used to offset real property taxes assessed against such property. The governing body of a county, city or town may establish criteria for determining whether real estate qualifies for the credit authorized by this provision and may require such structures to be older than fifteen years of age, or place such other restrictions and conditions on such property as may be prescribed by ordinance. Such ordinance may also provide for a credit for multifamily residential units which have been substantially rehabilitated by replacement for multifamily use. Such replacement structures may exceed the total square footage of the replaced structures by no more than thirty percent.

B. The local tax credit shall be available only to those property owners who have purchased a structure which at the time of purchase contained property tax liens exceeding fifty percent of the assessed value of the property. The tax credit granted by the locality shall not exceed the amount by which the property tax liens exceeded fifty percent of the assessed value of the property at the time of purchase. The credit may be applied upon completion of the rehabilitation, renovation or replacement or on January 1 of the year following completion of the rehabilitation, renovation or replacement and may be divided over a period of no longer than ten years.

C. The governing body of any county, city or town may assess a fee not to exceed one hundred twenty-five dollars for residential properties, or two hundred fifty dollars for commercial, industrial, and/or apartment properties of six units or more for processing an application requesting the credit provided by this section. No property shall be eligible for such credit unless the appropriate building permits have been acquired and the commissioner of the revenue or assessing officer has verified that the rehabilitation, renovation or replacement indicated on the application has been completed.

D. Where rehabilitation is achieved through demolition and replacement of an existing structure, the credit shall not apply when any structure demolished is a registered Virginia landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic district.

(1996, c. 765; 2001, c. 489.)

§ 58.1-3220.1. Partial exemption for certain rehabilitated, renovated or replacement hotel or motel structures.

A. The governing body of any county, city or town may, by ordinance, provide partial exemption from taxation of real estate on which a hotel or motel no less than thirty-five years of age has undergone substantial rehabilitation, renovation or replacement for residential use, subject to such conditions as the ordinance may prescribe. The ordinance may, in addition to any other restrictions hereinafter provided, restrict such exemptions to real property located within described zones or districts whose boundaries shall be determined by the governing body. The governing body of a county, city or town may establish criteria for determining whether real estate qualifies for the exemption authorized by this provision and may require such structures to be older than thirty-five years of age, or place such other restrictions and conditions on such property as may be prescribed by ordinance.

B. The "partial exemption" provided by the local governing body may not exceed either an amount equal to ninety percent of the total assessed value of the rehabilitated, renovated or replaced structure or an amount equal to the increase in assessed value resulting from the rehabilitation, renovation or replacement of the structure as determined by the commissioner of the revenue or other local assessing officer, as established by ordinance. The partial exemption may commence upon completion of the rehabilitation, renovation or replacement or on January 1 of the year following completion of the rehabilitation, renovation or replacement and shall run with the real estate for a period of no longer than twenty-five years. The governing body of a county, city or town may place a shorter time limitation on the length of such exemption, or reduce the amount of the exemption in annual steps over the entire period or a portion thereof, in such manner as the ordinance may prescribe.

C. Nothing in this section shall be construed as to permit the commissioner of the revenue to list upon the land book any reduced value due to the exemption provided in subsection B.

D. The governing body of any county, city or town may assess a fee for processing an application requesting the exemption provided by this section. No property shall be eligible for such partial exemption unless the appropriate building permits have been acquired and the commissioner of the revenue or assessing officer has verified that the rehabilitation, renovation or replacement indicated on the application has been completed.

E. Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in subsection A shall not apply when any structure demolished is a registered Virginia landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic district.

(1993, c. 157; 1994, cc. 424, 435.)

§ 58.1-3221. Partial exemption for certain rehabilitated, renovated or replacement commercial or industrial structures.

A. The governing body of any county, city or town may, by ordinance, provide for the partial exemption from taxation of real estate on which any structure or other improvement no less than twenty years of age, or fifteen years of age if the structure is located in an area designated as an enterprise zone by the Commonwealth, has undergone substantial rehabilitation, renovation or replacement for commercial or industrial use, subject to such conditions as the ordinance may prescribe. The ordinance may, in addition to any other restrictions hereinafter provided, restrict such exemptions to real property located within described zones or districts whose boundaries shall be determined by the governing body. The governing body of a county, city or town may establish criteria for determining whether real estate qualifies for the

partial exemption authorized by this provision and may require the structure to be older than twenty years of age, or fifteen years of age if the structure is located in an area designated as an enterprise zone by the Commonwealth, or place such other restrictions and conditions on such property as may be prescribed by ordinance. Such ordinance may also provide for the partial exemption from taxation of real estate which has been substantially rehabilitated by complete replacement for commercial and industrial use.

B. The partial exemption provided by the local governing body may not exceed an amount equal to the increase in assessed value resulting from the rehabilitation, renovation or replacement of the commercial or industrial structure as determined by the commissioner of revenue or other local assessing officer or an amount up to fifty percent of the cost of rehabilitation, renovation or replacement as determined by ordinance. The exemption may commence upon completion of the rehabilitation, renovation or replacement, or on January 1 of the year following completion of the rehabilitation, renovation or replacement and shall run with the real estate for a period of no longer than fifteen years. The governing body of a county, city or town may place a shorter time limitation on the length of such exemption, or reduce the amount of the exemption in annual steps over the entire period or a portion thereof, in such manner as the ordinance may prescribe.

C. Nothing in this section shall be construed as to permit the commissioner of the revenue to list upon the land book any reduced value due to the exemption provided in subsection B.

D. The governing body of any county, city or town may assess a fee not to exceed one hundred twenty-five dollars for residential properties, or two hundred fifty dollars for commercial, industrial, and/or apartment properties of six units or more for processing an application requesting the exemption provided by this section. No property shall be eligible for such exemption unless the appropriate building permits have been acquired and the commissioner of the revenue or assessing officer has verified that the rehabilitation, renovation or replacement indicated on the application has been completed.

E. Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in subsection A shall not apply when any structure demolished is a registered Virginia landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic landmark.

(Code 1950, § 58-760.3; 1979, c. 195; 1980, c. 417; 1984, c. 675; 1986, c. 271; 1989, c. 89; 1994, cc. 424, 435, 608; 1995, c. 673; 2001, c. 489; 2002, cc. 8, 137.)

§ 58.1-3221.1. Classification of land and improvements for tax purposes.

A. In the City of Fairfax and the City of Roanoke improvements to real property are declared to be a separate class of property and shall constitute a separate classification for local taxation of real property.

B. The governing body of the City of Fairfax and the City of Roanoke, after giving public notice and an opportunity for the public to be heard in the manner provided in § 58.1-3007, may levy a tax on the property enumerated in subsection A at a different rate than the tax imposed upon the land on which it is located, provided that the rate of tax on the property described in subsection A shall not be zero and shall not exceed the rate of tax on the land on which it is located.

C. Nothing in this section shall be construed to permit the City of Fairfax or the City of Roanoke to alter in any way its valuation of real property covered by this section.

(2002, c. 16; 2003, c. 164.)

§ 58.1-3221.2. Classification of certain energy-efficient buildings for tax purposes.

A. Energy-efficient buildings, not including the real estate or land on which they are located, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of real property. The governing body of any county, city, or town may, by ordinance, levy a tax on the value of such buildings at a different rate from that of tax levied on other real property. The rate of tax imposed by any county, city, or town on such buildings shall not exceed that applicable to the general class of real property.

B. For purposes of this section, an energy-efficient building is any building that exceeds the energy efficiency standards prescribed in the Virginia Uniform Statewide Building Code by 30 percent. Energy-efficient building certification for purposes of this subsection shall be determined by any qualified

architect, professional engineer, or licensed contractor who is not related to the taxpayer and who shall certify to the taxpayer that he or she has qualifications to provide the certification.

C. Notwithstanding the provisions of subsection B, for purposes of this section, an energy-efficient building may also be any building that (i) meets or exceeds performance standards of the Green Globes Green Building Rating System of the Green Building Initiative, (ii) meets or exceeds performance standards of the Leadership in Energy and Environmental Design (LEED) Green Building Rating System of the U.S. Green Building Council, (iii) meets or exceeds performance standards or guidelines under the EarthCraft House Program, or (iv) is an Energy Star qualified home, the energy efficiency of which meets or exceeds performance guidelines for energy efficiency under the Energy Star program developed by the United States Environmental Protection Agency. Energy-efficient building certification for purposes of this subsection shall be determined by (a) the granting of a certification under one of the programs in clauses (i) through (iv) that certifies the building meets or exceeds the performance standards or guidelines of the program, or (b) a qualified architect or professional engineer designated by the county, city, or town who shall determine whether the building meets or exceeds the performance standards or guidelines under any program described in clauses (i) through (iv).

(2007, cc. 328, 354; 2008, cc. 288, 401; 2009, c. 512.)

§ 58.1-3221.3. (Effective until June 30, 2013) Classification of certain commercial and industrial real property and taxation of such property by certain localities.

A. Beginning January 1, 2008, and solely for the purposes of imposing the tax authorized pursuant to this section, in the counties and cities that are wholly embraced by the Northern Virginia Transportation Authority and the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code, all real property used for or zoned to permit commercial or industrial uses is hereby declared to be a separate class of real property for local taxation. Such classification of real property shall exclude all residential uses and all multifamily residential uses, including but not limited to single family residential units, cooperatives, condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit by unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

B. In addition to all other taxes and fees permitted by law, (i) the governing body of any locality embraced by the Northern Virginia Transportation Authority may, by ordinance, annually impose on all real property in the locality specially classified in subsection A: an amount of real property tax, in addition to such amount otherwise authorized by law, at a rate not to exceed $0.125 per $100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses; and (ii) the governing body of any locality wholly embraced by the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code may, by ordinance, annually impose on all real property in the locality specially classified in subsection A: an amount of real property tax, in addition to such amount otherwise authorized by law, at a rate not to exceed $0.10 per $100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses. The authority granted in this subsection shall be subject to the following conditions:

(1) Upon appropriation, all revenues generated from the additional real property tax imposed shall be used to benefit the locality imposing the tax solely for (i) new road construction and associated planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of existing roads that add new capacity, service, or access, (ii) new public transit construction and associated planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of existing public transit projects that add new capacity, service, or access, (iii) other capital costs related to new transportation projects that add new capacity, service, or access and the operating costs directly related to the foregoing, or (iv) the issuance costs and debt service on bonds that may be issued to support the capital costs permitted in subdivisions (i), (ii), or (iii); and

(2) The additional real property tax imposed shall be levied, administered, enforced, and collected in the same manner as set forth in Subtitle III of Title 58.1 for the levy, administration, enforcement, and collection of local taxes. In addition, the local assessor shall separately assess and set forth upon the locality's land book the fair market value of that portion of property that is defined as a separate class of real property for local taxation in accordance with the provisions of this section.

C. Beginning January 1, 2008, in lieu of the authority set forth in subsections A and B above and solely for the purposes of imposing the tax authorized pursuant to this section, in the counties and cities wholly embraced by the Northern Virginia Transportation Authority and the Hampton Roads metropolitan

planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code, all real property used for or zoned to permit commercial or industrial uses is hereby declared to be a separate class of real property for local taxation. Such classification of real property shall exclude all residential uses and all multifamily residential uses, including but not limited to single family residential units, cooperatives, condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit by unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

D. In addition to all other taxes and fees permitted by law, (i) the governing body of any locality embraced by the Northern Virginia Transportation Authority may, by ordinance, create within its boundaries, one or more special regional transportation tax districts and, thereafter, may, by ordinance, impose upon the real property located in special regional transportation tax districts specially classified in subsection C within such special regional transportation tax districts: an amount of real property tax, in addition to such amounts otherwise authorized by law, at a rate not to exceed $0.125 per $100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses; and, (ii) the governing body of any locality wholly embraced by the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code may, by ordinance, create within its boundaries, one or more special regional transportation tax districts and, thereafter, may, by ordinance, impose upon the real property specially classified in subsection C within such special regional transportation tax districts: an amount of real property tax, in addition to such amounts otherwise authorized by law, at a rate not to exceed $0.10 per $100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses. The authority granted in this subsection shall be subject to the following conditions:

(1) Notwithstanding any other provisions of law to the contrary, upon appropriation, all revenues generated from the additional real property taxes imposed in accordance with subsection C and this subsection shall be used for transportation purposes that benefit the special regional transportation tax district to which such revenue is attributable and solely for (i) new road construction and associated planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of existing roads that add new capacity, service, or access, (ii) new public transit construction and associated planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of existing public transit projects that add new capacity, service, or access, (iii) other capital costs related to new transportation projects that add new capacity, service, or access and the operating costs directly related to the foregoing, or (iv) the issuance costs and debt service on bonds that may be issued to support the capital costs permitted in subdivisions (i), (ii), or (iii);

(2) Any local ordinance adopted in accordance with the provisions of subsection C and this subsection shall include the requirement that the additional real property taxes so authorized are to be imposed annually in accordance with applicable law;

(3) Any locality that imposes the additional real property taxes set forth in subsections A and B shall not be permitted to also impose the additional real property taxes set forth in subsection C and this subsection. In addition, any locality electing to impose the additional real property taxes on all real property located in such locality that is specially classified in subsections A and B must do so in the manner prescribed in subsections A and B and not by creation of a special transportation tax district as set forth in subsection C and this subsection. The creation of such special regional transportation tax districts shall not, however, affect the authority of a locality to establish tax districts pursuant to other provisions of law;

(4) The total revenues generated from the additional real property taxes imposed in accordance with subsection C and this subsection shall not be less than 85% of the revenues estimated to be generated when imposing the additional real property taxes in accordance with subsections A and B at the rate of $0.125 per $100 of assessed value in any locality embraced by the Northern Virginia Transportation Authority and at the rate of $0.10 per $100 of assessed value in any locality wholly embraced by the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code; and

(5) The additional real property taxes imposed pursuant to subsection C and this subsection shall be levied, administered, enforced, and collected, in the same manner as set forth in Subtitle III of Title 58.1 for the levy, administration, enforcement, and collection of all local taxes. In addition, the local assessor shall separately assess and set forth upon the locality's land book the fair market value of that portion of property that is defined as separate class of real property for local taxation in accordance with the provisions of this section.

(2007, c. 896; 2009, cc. 677, 822, 864, 871.)

§ 58.1-3221.3. (Effective June 30, 2013) Classification of certain commercial and industrial real property and taxation of such property by certain localities.

A. Beginning January 1, 2008, and solely for the purposes of imposing the tax authorized pursuant to this section, in the counties and cities that are wholly embraced by the Northern Virginia Transportation Authority and the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code, all real property used for or zoned to permit commercial or industrial uses is hereby declared to be a separate class of real property for local taxation. Such classification of real property shall exclude all residential uses and all multifamily residential uses, including but not limited to single family residential units, cooperatives, condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit by unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

B. In addition to all other taxes and fees permitted by law, (i) the governing body of any locality embraced by the Northern Virginia Transportation Authority may, by ordinance, annually impose on all real property in the locality specially classified in subsection A: an amount of real property tax, in addition to such amount otherwise authorized by law, at a rate not to exceed $0.25 per $100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses; and (ii) the governing body of any locality wholly embraced by the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code may, by ordinance, annually impose on all real property in the locality specially classified in subsection A: an amount of real property tax, in addition to such amount otherwise authorized by law, at a rate not to exceed $0.10 per $100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses. The authority granted in this subsection shall be subject to the following conditions:

(1) Upon appropriation, all revenues generated from the additional real property tax imposed shall be used to benefit the locality imposing the tax solely for (i) new road construction and associated planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of existing roads that add new capacity, service, or access, (ii) new public transit construction and associated planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of existing public transit projects that add new capacity, service, or access, (iii) other capital costs related to new transportation projects that add new capacity, service, or access and the operating costs directly related to the foregoing, or (iv) the issuance costs and debt service on bonds that may be issued to support the capital costs permitted in subdivisions (i), (ii), or (iii); and

(2) The additional real property tax imposed shall be levied, administered, enforced, and collected in the same manner as set forth in Subtitle III of Title 58.1 for the levy, administration, enforcement, and collection of local taxes. In addition, the local assessor shall separately assess and set forth upon the locality's land book the fair market value of that portion of property that is defined as a separate class of real property for local taxation in accordance with the provisions of this section.

C. Beginning January 1, 2008, in lieu of the authority set forth in subsections A and B above and solely for the purposes of imposing the tax authorized pursuant to this section, in the counties and cities wholly embraced by the Northern Virginia Transportation Authority and the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code, all real property used for or zoned to permit commercial or industrial uses is hereby declared to be a separate class of real property for local taxation. Such classification of real property shall exclude all residential uses and all multifamily residential uses, including but not limited to single family residential units, cooperatives, condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit by unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

D. In addition to all other taxes and fees permitted by law, (i) the governing body of any locality embraced by the Northern Virginia Transportation Authority may, by ordinance, create within its boundaries, one or more special regional transportation tax districts and, thereafter, may, by ordinance, impose upon the real property located in special regional transportation tax districts specially classified in subsection C within such special regional transportation tax districts: an amount of real property tax, in addition to such amounts otherwise authorized by law, at a rate not to exceed $0.25 per $100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses; and, (ii) the governing body of any locality wholly embraced by the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of

Title 23 of the United States Code may, by ordinance, create within its boundaries, one or more special regional transportation tax districts and, thereafter, may, by ordinance, impose upon the real property specially classified in subsection C within such special regional transportation tax districts: an amount of real property tax, in addition to such amounts otherwise authorized by law, at a rate not to exceed $0.10 per $100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses. The authority granted in this subsection shall be subject to the following conditions:

(1) Notwithstanding any other provisions of law to the contrary, upon appropriation, all revenues generated from the additional real property taxes imposed in accordance with subsection C and this subsection shall be used for transportation purposes that benefit the special regional transportation tax district to which such revenue is attributable and solely for (i) new road construction and associated planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of existing roads that add new capacity, service, or access, (ii) new public transit construction and associated planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of existing public transit projects that add new capacity, service, or access, (iii) other capital costs related to new transportation projects that add new capacity, service, or access and the operating costs directly related to the foregoing, or (iv) the issuance costs and debt service on bonds that may be issued to support the capital costs permitted in subdivisions (i), (ii), or (iii);

(2) Any local ordinance adopted in accordance with the provisions of subsection C and this subsection shall include the requirement that the additional real property taxes so authorized are to be imposed annually in accordance with applicable law;

(3) Any locality that imposes the additional real property taxes set forth in subsections A and B shall not be permitted to also impose the additional real property taxes set forth in subsection C and this subsection. In addition, any locality electing to impose the additional real property taxes on all real property located in such locality that is specially classified in subsections A and B must do so in the manner prescribed in subsections A and B and not by creation of a special transportation tax district as set forth in subsection C and this subsection. The creation of such special regional transportation tax districts shall not, however, affect the authority of a locality to establish tax districts pursuant to other provisions of law;

(4) The total revenues generated from the additional real property taxes imposed in accordance with subsection C and this subsection shall not be less than 85% of the revenues estimated to be generated when imposing the additional real property taxes in accordance with subsections A and B at the rate of $0.25 per $100 of assessed value in any locality embraced by the Northern Virginia Transportation Authority and at the rate of $0.10 per $100 of assessed value in any locality wholly embraced by the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code; and

(5) The additional real property taxes imposed pursuant to subsection C and this subsection shall be levied, administered, enforced, and collected, in the same manner as set forth in Subtitle III of Title 58.1 for the levy, administration, enforcement, and collection of all local taxes. In addition, the local assessor shall separately assess and set forth upon the locality's land book the fair market value of that portion of property that is defined as separate class of real property for local taxation in accordance with the provisions of this section.

(2007, c. 896; 2009, cc. 677, 864, 871.)

§ 58.1-3221.4. Classification of improvements to real property designed and used primarily for the manufacture of a renewable energy product for tax purposes.

Improvements to real property designed and used primarily for the purpose of manufacturing a product from renewable energy, as defined in § 56-576, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of real property. The governing body of any county, city, or town may, by ordinance, levy a tax on the value of such improvements at a different rate from that of tax levied on other real property. The rate of tax imposed by any county, city, or town on such improvements shall not exceed that applicable to the general class of real property.

(2010, cc. 264, 849.)

§ 58.1-3222. Abatement of levies on buildings razed, destroyed or damaged by fortuitous happenings.

The governing body of any county or city may provide for the abatement of levies on buildings which are (i) razed, or (ii) destroyed or damaged by a fortuitous happening beyond the control of the owner. In any county or city wherein assessments are made as provided in § 58.1-3292 or § 58.1-3292.1, the governing body shall so provide. No such abatement, however, shall be allowed if the destruction or damage to such building shall decrease the value thereof by less than $500. Also, no such abatement shall be allowed unless the destruction or damage renders the building unfit for use and occupancy for thirty days or more during the calendar year. The tax on such razed, destroyed or damaged building is computed according to the ratio which the portion of the year the building was fit for use, occupancy and enjoyment bears to the entire year. Application for such abatement shall be made by or on behalf of the owner of the building within six months of the date on which the building was razed, destroyed or damaged.

(Code 1950, § 58-811.2; 1958, c. 559; 1984, cc. 372, 675; 2000, c. 399.)

§ 58.1-3223. Taxation of life tenant's interest when remainder held by United States.

The life tenant of any property, a remainder interest in which has been acquired by the United States, shall receive a credit on his real estate tax each year for any amount paid to the county, city or town in such years under § 3 of Public Law 94-565 (31 U.S.C. § 1603) on behalf of such property. Such credit shall not exceed the amount of tax on such property.

(Code 1950, § 58-761.1; 1980, c. 290; 1984, c. 675.)

§ 58.1-3224. Apportionment of city taxes when part of real estate becomes separately owned.

The circuit court of any city in which is situated real estate upon which city taxes have been assessed may, when any part of such real estate has become, since such assessment, the separate property of any of the original owners or of any other person in interest, determine the value, as of the date of the original assessment, of any portion of such real estate so separately owned. The court may also determine what part of the whole amount of the taxes, and of the penalties, if penalties have accrued upon the taxes, and of the expenses of the sale, if the property has been sold for the nonpayment of such taxes and purchased by such city or any person, may be paid by such owner of such separate part, his heirs or assigns, in order to release or redeem such part from the lien of the taxes originally assessed. The amount so fixed shall bear the same relation to the whole amount of such taxes, penalties and expenses as the value of such part of such real estate bore to the value of the whole, as of the date of the original assessment. The city attorney of such city and the commissioner of revenue shall have at least five days' notice of such application, and the order of the court shall show that fact. Upon the payment of the amount so fixed, including all costs, the owner of any such part, his heirs or assigns, shall hold the same free from any lien for city taxes for the year or years in question. Upon such payment and the delivery to him of a copy of the order of the court, the officer whose duty it is to receive such payment of such taxes shall make an appropriate entry on the tax books showing what part of the land has been so released or redeemed. Any person, upon request and the payment of a seventy-five cent fee, shall receive a copy of the order.

The provisions of this section shall not apply to any city until the city council shall by ordinance or resolution provide for its application to such city.

(Code 1950, § 58-825; 1984, c. 675.)

§ 58.1-3225. Apportionment of taxes, etc., on partition.

When there is a partition of any real estate owned by two or more persons as joint tenants, tenants in common or coparceners and taxes or taxes, penalty and interest or levies or assessments of any kind, whether state, county, city or town, are charged or chargeable against the joint estate, the circuit court of the county or the city in which such real estate is situated, shall, on the motion of any person to whom a portion of such real estate has been set off or allotted, or on the motion of any person who has the right to charge such portion or portions with a debt, ascertain and fix the pro rata of such amount aforesaid, which should be paid by such person on the portion or portions of such real estate set off or allotted to him. When the pro rata of such amount has been so ascertained and paid, he shall hold the portion or portions of such real estate set off or allotted to him or them, free from the residue of the tax, or tax, penalty and interest or levy or assessment charged on the tract before partition. And the portion or portions of such real estate set off or allotted to the person who shall not have paid their pro rata of the tax, or the tax, penalty and interest or levy or assessment, shall be charged with and held bound for the portion of such amount aforesaid remaining unpaid, in the same manner as if the partition had been made before the tax, or tax penalty and interest or levy or assessment had been assessed or accrued.

(Code 1950, § 58-826; 1984, c. 675.)

§ 58.1-3226. Procedure for such apportionment.

Before such motion shall be made, five days' notice thereof shall be given to the commissioner of the revenue, treasurer, and county or city attorney, and if none, to the attorney for the Commonwealth. The county or city attorney, and if none, the attorney for the Commonwealth shall be present and defend the motion, and the order of the court shall show the fact.

When such order has been made, the proper clerk shall certify a copy thereof to the commissioner of the revenue and treasurer. Such officers shall make entry of such order in the proper books and the clerk shall make an entry of such order in the delinquent land books, if such land has been returned delinquent, and shall furnish a copy thereof, for a fee of seventy-five cents to the person or persons making such motion.

(Code 1950, § 58-827; 1984, c. 675.)

§ 58.1-3226.1. Release of lien on portion of real estate upon payment of taxes.

The local governing body of any county, city or town may adopt an ordinance providing that when an individual purchases or acquires a portion of a tract of real estate, the individual or treasurer may apply to the commissioner of the revenue, or the real estate assessor of the county, city or town in which the real estate is located to determine the amount of any tax or assessment that is properly chargeable against such portion of real estate. The treasurer shall release such portion of real estate from any lien for delinquent taxes, upon receipt of payment for the total amount of taxes and penalty and interest due on such portion of real estate.

(1987, c. 245; 1988, c. 277.)

§ 58.1-3227. Proration of delinquent taxes after purchase of part of tract.

Any person who shall become the purchaser or in anywise acquire a portion of a tract of land or one or more lots, more than one of which are together assessed on one or more lines of the land assessment books, or any person having the right to charge a portion of a tract of land or one or more such lots with a debt, may petition the circuit court of the county or city wherein such real estate is situated to determine how much and what part of any delinquent tax, levy or assessment is properly chargeable against the land or lot or lots so purchased or acquired by such person or so liable to be charges for a debt. All persons interested in such real estate shall be summoned and made parties defendant to such petition and shall be entitled to ten days' notice thereof before a hearing may be held. The court may enter such order as may appear just and proper and, upon payment of the amount of the tax, levy or assessment due from the petitioners, the clerk of the court shall note the same on the margin of the delinquent tax books. Any person so paying part of any delinquent tax levy or assessment shall be entitled to sue and obtain judgment against any person primarily liable for such delinquent tax or who may have contracted for the payment of the same and failed to pay.

(Code 1950, § 58-828; 1984, c. 675.)

§ 58.1-3228. Release of delinquent tax lien to facilitate a conveyance of real property.

The local governing body of any county, city, or town may adopt an ordinance authorizing the locality to release all liens for delinquent real estate taxes, or any portion thereof, including penalty and accumulated interest, in order to facilitate the conveyance of the property. Such liens may only be released under the following conditions:

1. The purchaser is unrelated by blood or marriage to the owner;

2. The purchaser has no business association with the owner;

3. The purchaser owes no delinquent real estate taxes for any real property; and

4. The property, including land and improvements, is valued at less than $50,000.

All such liens shall remain the personal obligation of the owner of the property at the time the liens were imposed.

(2000, c. 756.)

§ 58.1-3229.

Not set out. (1950, § 58-769.4; 1971, Ex. Sess., c. 172; 1984, c. 675.)

§ 58.1-3230. Special classifications of real estate established and defined.

For the purposes of this article the following special classifications of real estate are established and defined:

"Real estate devoted to agricultural use" shall mean real estate devoted to the bona fide production for sale of plants and animals useful to man under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Real estate upon which recreational activities are conducted for a profit or otherwise; shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to agricultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning; provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to agricultural use. In determining whether real property is devoted to agricultural use, zoning designations and special use permits for the property shall not be the sole considerations.

"Real estate devoted to horticultural use" shall mean real estate devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts, and berries; vegetables; nursery and floral products under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ 2.2-4000 et seq.); or real estate devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Real estate upon which recreational activities are conducted for profit or otherwise, shall be considered real estate devoted to horticultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to horticultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning; provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to horticultural use. In determining whether real property is devoted to horticultural use, zoning designations and special use permits for the property shall not be the sole considerations.

"Real estate devoted to forest use" shall mean land including the standing timber and trees thereon, devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester pursuant to the authority set out in § 58.1-3240 and in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Real estate upon which recreational activities are conducted for profit, or otherwise, shall still be considered real estate devoted to forest use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it no longer constitutes a forest area under standards prescribed by the State Forester pursuant to the authority set out in § 58.1-3240. Real property that has been designated as devoted to forest use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or is otherwise allowed by zoning; provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to forest use. In

determining whether real property is devoted to forest use, zoning designations and special use permits for the property shall not be the sole considerations.

"Real estate devoted to open-space use" shall mean real estate used as, or preserved for, (i) park or recreational purposes, including public or private golf courses, (ii) conservation of land or other natural resources, (iii) floodways, (iv) wetlands as defined in § 58.1-3666, (v) riparian buffers as defined in § 58.1-3666, (vi) historic or scenic purposes, or (vii) assisting in the shaping of the character, direction, and timing of community development or for the public interest and consistent with the local land-use plan under uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § 58.1-3240, and in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and the local ordinance. Real property that has been designated as devoted to open-space use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or is otherwise allowed by zoning; provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to open-space use. In determining whether real property is devoted to open-space use, zoning designations and special use permits for the property shall not be the sole considerations.

(Code 1950, § 58-769.5; 1971, Ex. Sess., c. 172; 1973, c. 209; 1984, cc. 675, 739, 750; 1987, c. 550; 1988, c. 695; 1989, cc. 648, 656; 1996, c. 573; 1998, c. 516; 2006, c. 817; 2009, c. 800.)

§ 58.1-3231. Authority of counties, cities and towns to adopt ordinances; general reassessment following adoption of ordinance.

Any county, city or town which has adopted a land-use plan may adopt an ordinance to provide for the use value assessment and taxation, in accord with the provisions of this article, of real estate classified in § 58.1-3230. The local governing body pursuant to § 58.1-3237.1 may provide in the ordinance that property located in specified zoning districts shall not be eligible for special assessment as provided in this article. The provisions of this article shall not be applicable in any county, city or town for any year unless such an ordinance is adopted by the governing body thereof not later than June 30 of the year previous to the year when such taxes are first assessed and levied under this article, or December 31 of such year for localities which have adopted a fiscal year assessment date of July 1, under Chapter 30 (§ 58.1-3000 et seq.) of this subtitle. The provisions of this article also shall not apply to the assessment of any real estate assessable pursuant to law by a central state agency.

Land used in agricultural and forestal production within an agricultural district, a forestal district or an agricultural and forestal district that has been established under Chapter 43 (§ 15.2-4300 et seq.) of Title 15.2, shall be eligible for the use value assessment and taxation whether or not a local land-use plan or local ordinance pursuant to this section has been adopted.

Such ordinance shall provide for the assessment and taxation in accordance with the provisions of this article of any or all of the four classes of real estate set forth in § 58.1-3230. If the uniform standards prescribed by the Commissioner of Agriculture and Consumer Services pursuant to § 58.1-3230 require real estate to have been used for a particular purpose for a minimum length of time before qualifying as real estate devoted to agricultural use or horticultural use, then such ordinance may waive such prior use requirement for real estate devoted to the production of agricultural and horticultural crops that require more than two years from initial planting until commercially feasible harvesting.

In addition to but not to replace any other requirements of a land-use plan such ordinance may provide that the special assessment and taxation be established on a sliding scale which establishes a lower assessment for property held for longer periods of time within the classes of real estate set forth in § 58.1-3230. Any such sliding scale shall be set forth in the ordinance.

Notwithstanding any other provision of law, the governing body of any county, city or town shall be authorized to direct a general reassessment of real estate in the year following adoption of an ordinance pursuant to this article.

(Code 1950, § 58-769.6; 1971, Ex. Sess., c. 172; 1973, c. 209; 1974, c. 34; 1975, c. 233; 1977, c. 681; 1978, c. 250; 1984, cc. 92, 675; 1987, c. 628; 1988, c. 695; 1999, c. 1026; 2000, c. 410; 2001, c. 705.)

§ 58.1-3232. Authority of city to provide for assessment and taxation of real estate in newly annexed area.

The council of any city may adopt an ordinance to provide for the assessment and taxation of only the real estate in an area newly annexed to such city in accord with the provisions of this article. All of the provisions of this article shall be applicable to such ordinance, except that if the county from which such area was annexed has in operation an ordinance hereunder, the ordinance of such city may be adopted at any time prior to April 1 of the year for which such ordinance will be effective, and applications from landowners may be received at any time within thirty days of the adoption of the ordinance in such year. If such ordinance is adopted after the date specified in § 58.1-3231, the ranges of suggested values made by the State Land Evaluation Advisory Council for the county from which such area was annexed are to be considered the value recommendations for such city. An ordinance adopted under the authority of this section shall be effective only for the tax year immediately following annexation.

(Code 1950, § 58-769.6:1; 1976, c. 58; 1984, c. 675.)

§ 58.1-3233. Determinations to be made by local officers before assessment of real estate under ordinance.

Prior to the assessment of any parcel of real estate under any ordinance adopted pursuant to this article, the local assessing officer shall:

1. Determine that the real estate meets the criteria set forth in § 58.1-3230 and the standards prescribed thereunder to qualify for one of the classifications set forth therein, and he may request an opinion from the Director of the Department of Conservation and Recreation, the State Forester or the Commissioner of Agriculture and Consumer Services;

2. Determine further that real estate devoted solely to (i) agricultural or horticultural use consists of a minimum of five acres; except that for real estate used for purposes of engaging in aquaculture as defined in § 3.2-2600 or for the purposes of raising specialty crops as defined by local ordinance, the governing body may by ordinance prescribe that these uses consist of a minimum acreage of less than five acres, (ii) forest use consists of a minimum of 20 acres and (iii) open-space use consists of a minimum of five acres or such greater minimum acreage as may be prescribed by local ordinance; except that for real estate adjacent to a scenic river, a scenic highway, a Virginia Byway or public property in the Virginia Outdoors Plan or for any real estate in any city, county or town having a density of population greater than 5,000 per square mile, for any real estate in any county operating under the urban county executive form of government, or the unincorporated Town of Yorktown chartered in 1691, the governing body may by ordinance prescribe that land devoted to open-space uses consist of a minimum of one quarter of an acre.

The minimum acreage requirements for special classifications of real estate shall be determined by adding together the total area of contiguous real estate excluding recorded subdivision lots recorded after July 1, 1983, titled in the same ownership. However, for purposes of adding together such total area of contiguous real estate, any noncontiguous parcel of real property included in an agricultural, forestal, or an agricultural and forestal district of local significance pursuant to subsection B of § 15.2-4405 shall be deemed to be contiguous to any other real property that is located in such district. For purposes of this section, properties separated only by a public right-of-way are considered contiguous; and

3. Determine further that real estate devoted to open-space use is (i) within an agricultural, a forestal, or an agricultural and forestal district entered into pursuant to Chapter 43 (§ 15.2-4300 et seq.) of Title 15.2, or (ii) subject to a recorded perpetual easement that is held by a public body, and promotes the open-space use classification, as defined in § 58.1-3230, or (iii) subject to a recorded commitment entered into by the landowners with the local governing body, or its authorized designee, not to change the use to a nonqualifying use for a time period stated in the commitment of not less than four years nor more than 10 years. Such commitment shall be subject to uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § 58.1-3240. Such commitment shall run with the land for the applicable period, and may be terminated in the manner provided in § 15.2-4314 for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.

(Code 1950, § 58-769.7; 1971, Ex. Sess., c. 172; 1973, c. 209; 1980, c. 75; 1984, cc. 675, 739, 750; 1987, c. 550; 1988, cc. 462, 695; 1989, c. 656; 1990, c. 695; 1991, cc. 69, 490; 2002, c. 475; 2003, c. 356; 2010, c. 653.)

§ 58.1-3234. Application by property owners for assessment, etc., under ordinance; continuation of assessment, etc.

Property owners must submit an application for taxation on the basis of a use assessment to the local

assessing officer:

1. At least sixty days preceding the tax year for which such taxation is sought; or

2. In any year in which a general reassessment is being made, the property owner may submit such application until thirty days have elapsed after his notice of increase in assessment is mailed in accordance with § 58.1-3330, or sixty days preceding the tax year, whichever is later; or

3. In any locality which has adopted a fiscal tax year under Chapter 30 (§ 58.1-3000 et seq.) of this Subtitle III, but continues to assess as of January 1, such application must be submitted for any year at least sixty days preceding the effective date of the assessment for such year.

The governing body, by ordinance, may permit applications to be filed within no more than sixty days after the filing deadline specified herein, upon the payment of a late filing fee to be established by the governing body. In addition, a locality may, by ordinance, permit a further extension of the filing deadline specified herein, upon payment of an extension fee to be established by the governing body in an amount not to exceed the late filing fee, to a date not later than thirty days after notices of assessments are mailed. An individual who is owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located. An application shall be submitted whenever the use or acreage of such land previously approved changes; however, no application fee may be required when a change in acreage occurs solely as a result of a conveyance necessitated by governmental action or condemnation of a portion of any land previously approved for taxation on the basis of use assessment. The governing body of any county, city or town may, however, require any such property owner to revalidate annually with such locality, on or before the date on which the last installment of property tax prior to the effective date of the assessment is due, on forms prepared by the locality, any applications previously approved. Each locality which has adopted an ordinance hereunder may provide for the imposition of a revalidation fee every sixth year. Such revalidation fee shall not, however, exceed the application fee currently charged by the locality. The governing body may also provide for late filing of revalidation forms on or before the effective date of the assessment, on payment of a late filing fee. Forms shall be prepared by the State Tax Commissioner and supplied to the locality for use of the applicants and applications shall be submitted on such forms. An application fee may be required to accompany all such applications.

In the event of a material misstatement of facts in the application or a material change in such facts prior to the date of assessment, such application for taxation based on use assessment granted thereunder shall be void and the tax for such year extended on the basis of value determined under § 58.1-3236 D. Except as provided by local ordinance, no application for assessment based on use shall be accepted or approved if, at the time the application is filed, the tax on the land affected is delinquent. Upon the payment of all delinquent taxes, including penalties and interest, the application shall be treated in accordance with the provisions of this section.

Continuation of valuation, assessment and taxation under an ordinance adopted pursuant to this article shall depend on continuance of the real estate in a qualifying use, continued payment of taxes as referred to in § 58.1-3235, and compliance with the other requirements of this article and the ordinance and not upon continuance in the same owner of title to the land.

In the event that the locality provides for a sliding scale under an ordinance, the property owner and the locality shall execute a written agreement which sets forth the period of time that the property shall remain within the classes of real estate set forth in § 58.1-3230. The term of the written agreement shall be for a period not exceeding twenty years, and the instrument shall be recorded in the office of the clerk of the circuit court for the locality in which the subject property is located.

(Code 1950, § 58-769.8; 1971, Ex. Sess., c. 172; 1973, cc. 93, 209; 1974, c. 33; 1976, c. 478; 1977, c. 213; 1978, cc. 250, 644, 645; 1979, cc. 180, 632; 1980, cc. 493, 508; 1982, c. 624; 1984, cc. 92, 675; 1988, c. 695; 1993, c. 102; 1999, c. 1026; 2001, c. 50.)

§ 58.1-3235. Removal of parcels from program if taxes delinquent.

If on April 1 of any year the taxes for any prior year on any parcel of real property which has a special assessment as provided for in this article are delinquent, the appropriate county, city or town treasurer shall forthwith send notice of that fact and the general provisions of this section to the property owner by first-class mail. If, after the notice has been sent, such delinquent taxes remain unpaid on June 1, the treasurer shall notify the appropriate commissioner of the revenue who shall remove such parcel from the land use program. Such removal shall become effective for the current tax year.

(Code 1950, § 58-769.8:1; 1980, c. 508; 1984, c. 675; 1994, c. 199.)

§ 58.1-3236. Valuation of real estate under ordinance.

A. In valuing real estate for purposes of taxation by any county, city or town which has adopted an ordinance pursuant to this article, the commissioner of the revenue or duly appointed assessor shall consider only those indicia of value which such real estate has for agricultural, horticultural, forest or open space use, and real estate taxes for such jurisdiction shall be extended upon the value so determined. In addition to use of his personal knowledge, judgment and experience as to the value of real estate in agricultural, horticultural, forest or open space use, he shall, in arriving at the value of such land, consider available evidence of agricultural, horticultural, forest or open space capability, and the recommendations of value of such real estate as made by the State Land Evaluation Advisory Council.

B. In determining the total area of real estate actively devoted to agricultural, horticultural, forest or open space use there shall be included the area of all real estate under barns, sheds, silos, cribs, greenhouses, public recreation facilities and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities; but real estate under, and such additional real estate as may be actually used in connection with, the farmhouse or home or any other structure not related to such special use, shall be excluded in determining such total area.

C. All structures which are located on real estate in agricultural, horticultural, forest or open space use and the farmhouse or home or any other structure not related to such special use and the real estate on which the farmhouse or home or such other structure is located, together with the additional real estate used in connection therewith, shall be valued, assessed and taxed by the same standards, methods and procedures as other taxable structures and other real estate in the locality.

D. In addition, such real estate in agricultural, horticultural, forest or open space use shall be evaluated on the basis of fair market value as applied to other real estate in the taxing jurisdiction, and land book records shall be maintained to show both the use value and the fair market value of such real estate.

(Code 1950, § 58-769.9; 1971, Ex. Sess., c. 172; 1984, c. 675.)

§ 58.1-3237. Change in use or zoning of real estate assessed under ordinance; roll-back taxes.

A. When real estate qualifies for assessment and taxation on the basis of use under an ordinance adopted pursuant to this article, and the use by which it qualified changes to a nonqualifying use, or the zoning of the real estate is changed to a more intensive use at the request of the owner or his agent, it shall be subject to additional taxes, hereinafter referred to as roll-back taxes. Such additional taxes shall only be assessed against that portion of such real estate which no longer qualifies for assessment and taxation on the basis of use or zoning. Liability for roll-back taxes shall attach and be paid to the treasurer only if the amount of tax due exceeds ten dollars.

B. In localities which have not adopted a sliding scale ordinance, the roll-back tax shall be equal to the sum of the deferred tax for each of the five most recent complete tax years including simple interest on such roll-back taxes at a rate set by the governing body, no greater than the rate applicable to delinquent taxes in such locality pursuant to § 58.1-3916 for each of the tax years. The deferred tax for each year shall be equal to the difference between the tax levied and the tax that would have been levied based on the fair market value assessment of the real estate for that year. In addition the taxes for the current year shall be extended on the basis of fair market value which may be accomplished by means of a supplemental assessment based upon the difference between the use value and the fair market value.

C. In localities which have adopted a sliding scale ordinance, the roll-back tax shall be equal to the sum of the deferred tax from the effective date of the written agreement including simple interest on such roll-back taxes at a rate set by the governing body, which shall not be greater than the rate applicable to delinquent taxes in such locality pursuant to § 58.1-3916, for each of the tax years. The deferred tax for each year shall be equal to the difference between the tax levied and the tax that would have been levied based on the fair market value assessment of the real estate for that year and based on the highest tax rate applicable to the real estate for that year, had it not been subject to special assessment. In addition the taxes for the current year shall be extended on the basis of fair market value which may be accomplished by means of a supplemental assessment based upon the difference between the use value and the fair market value and based on the highest tax rate applicable to the real estate for that year.

D. Liability to the roll-back taxes shall attach when a change in use occurs, or a change in zoning of the real estate to a more intensive use at the request of the owner or his agent occurs. Liability to the roll-

back taxes shall not attach when a change in ownership of the title takes place if the new owner does not rezone the real estate to a more intensive use and continues the real estate in the use for which it is classified under the conditions prescribed in this article and in the ordinance. The owner of any real estate which has been zoned to more intensive use at the request of the owner or his agent as provided in subsection E, or otherwise subject to or liable for roll-back taxes, shall, within sixty days following such change in use or zoning, report such change to the commissioner of the revenue or other assessing officer on such forms as may be prescribed. The commissioner shall forthwith determine and assess the roll-back tax, which shall be assessed against and paid by the owner of the property at the time the change in use which no longer qualifies occurs, or at the time of the zoning of the real estate to a more intensive use at the request of the owner or his agent occurs, and shall be paid to the treasurer within thirty days of the assessment. If the amount due is not paid by the due date, the treasurer shall impose a penalty and interest on the amount of the roll-back tax, including interest for prior years. Such penalty and interest shall be imposed in accordance with §§ 58.1-3915 and 58.1-3916.

E. Real property zoned to a more intensive use, at the request of the owner or his agent, shall be subject to and liable for the roll-back tax at the time such zoning is changed. The roll-back tax shall be levied and collected from the owner of the real estate in accordance with subsection D. Real property zoned to a more intensive use before July 1, 1988, at the request of the owner or his agent, shall be subject to and liable for the roll-back tax at the time the qualifying use is changed to a nonqualifying use. Real property zoned to a more intensive use at the request of the owner or his agent after July 1, 1988, shall be subject to and liable for the roll-back tax at the time of such zoning. Said roll-back tax, plus interest calculated in accordance with subsection B, shall be levied and collected at the time such property was rezoned. For property rezoned after July 1, 1988, but before July 1, 1992, no penalties or interest, except as provided in subsection B, shall be assessed, provided the said roll-back tax is paid on or before October 1, 1992. No real property rezoned to a more intensive use at the request of the owner or his agent shall be eligible for taxation and assessment under this article, provided that these provisions shall not be applicable to any rezoning which is required for the establishment, continuation, or expansion of a qualifying use. If the property is subsequently rezoned to agricultural, horticultural, or open space, it shall be eligible for consideration for assessment and taxation under this article only after three years have passed since the rezoning was effective.

However, the owner of any real property that qualified for assessment and taxation on the basis of use, and whose real property was rezoned to a more intensive use at the owner's request prior to 1980, may be eligible for taxation and assessment under this article provided the owner applies for rezoning to agricultural, horticultural, open-space or forest use. The real property shall be eligible for assessment and taxation on the basis of the qualifying use for the tax year following the effective date of the rezoning. If any such real property is subsequently rezoned to a more intensive use at the owner's request, within five years from the date the property was initially rezoned to a qualifying use under this section, the owner shall be liable for roll-back taxes when the property is rezoned to a more intensive use. Additionally, the owner shall be subject to a penalty equal to fifty percent of the roll-back taxes due as determined under subsection B of this section.

F. If real estate annexed by a city and granted use value assessment and taxation becomes subject to roll-back taxes, and such real estate likewise has been granted use value assessment and taxation by the county prior to annexation, the city shall collect roll-back taxes and interest for the maximum period allowed under this section and shall return to the county a share of such taxes and interest proportionate to the amount of such period, if any, for which the real estate was situated in the county.

(Code 1950, § 58-769.10; 1971, Ex. Sess., c. 172; 1973, c. 209; 1974, c. 34; 1977, c. 323; 1979, c. 179; 1980, c. 363; 1984, cc. 92, 222, 675, 676, 681; 1985, c. 478; 1988, cc. 422, 695; 1990, c. 841; 1992, Sp. Sess., c. 3; 1998, c. 274; 1999, c. 1026.)

§ 58.1-3237.1. Authority of counties to enact additional provisions concerning zoning classifications.

Albemarle County, Arlington County, Augusta County, Loudoun County, and Rockingham County may include the following additional provisions in any ordinance enacted under the authority of this article:

1. The governing body may exclude land lying in planned development, industrial or commercial zoning districts from assessment under the provisions of this article. This provision applies only to zoning districts established prior to January 1, 1981.

2. The governing body may provide that when the zoning of the property taxed under the provisions of this article is changed to allow a more intensive nonagricultural use at the request of the owner or his agent, such property shall not be eligible for assessment and taxation under this article. This shall not apply, however, to property which is zoned agricultural and is subsequently rezoned to a more intensive

use which is complementary to agricultural use, provided such property continues to be owned by the same owner who owned the property prior to rezoning and continues to operate the agricultural activity on the property. Notwithstanding any other provision of law, such property shall be subject to and liable for roll-back taxes at the time the zoning is changed to allow any use more intensive than the use for which it qualifies for special assessment. The roll-back tax, plus interest, shall be calculated, levied and collected from the owner of the real estate in accordance with § 58.1-3237 at the time the property is rezoned.

(1987, c. 628; 1992, Sp. Sess., c. 3; 1993, c. 584; 2007, c. 813.)

§ 58.1-3238. Failure to report change in use; misstatements in applications.

Any person failing to report properly any change in use of property for which an application for use value taxation had been filed shall be liable for all such taxes, in such amounts and at such times as if he had complied herewith and assessments had been properly made, and he shall be liable for such penalties and interest thereon as may be provided by ordinance. Any person making a material misstatement of fact in any such application shall be liable for all such taxes, in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the taxing jurisdiction, together with interest and penalties thereon. If such material misstatement was made with the intent to defraud the locality, he shall be further assessed with an additional penalty of 100 percent of such unpaid taxes.

For purposes of this section and § 58.1-3234, incorrect information on the following subjects will be considered material misstatements of fact:

1. The number and identities of the known owners of the property at the time of application;

2. The actual use of the property.

The intentional misrepresentation of the number of acres in the parcel or the number of acres to be taxed according to use shall also be considered a material misstatement of fact for the purposes of this section and § 58.1-3234.

(Code 1950, § 58-769.10:1; 1971, Ex. Sess., c. 172; 1982, c. 624; 1984, cc. 675, 681.)

§ 58.1-3239. State Land Evaluation Advisory Committee continued as State Land Evaluation Advisory Council; membership; duties; ordinances to be filed with Council.

The State Land Evaluation Advisory Committee is continued and shall hereafter be known as the State Land Evaluation Advisory Council. The Advisory Council shall be composed of the Tax Commissioner, the dean of the College of Agriculture of Virginia Polytechnic Institute and State University, the State Forester, the Commissioner of Agriculture and Consumer Services and the Director of the Department of Conservation and Recreation.

The Advisory Council shall determine and publish a range of suggested values for each of the several soil conservation service land capability classifications for agricultural, horticultural, forest and open space uses in the various areas of the Commonwealth as needed to carry out the provisions of this article.

On or before October 1 of each year the Advisory Council shall submit recommended ranges of suggested values to be effective the following January 1 or July 1 in the case of localities with fiscal year assessment under the authority of Chapter 30 of this subtitle, within each locality which has adopted an ordinance pursuant to the provisions of this article based on the productive earning power of real estate devoted to agricultural, horticultural, forest and open space uses and make such recommended ranges available to the commissioner of the revenue or duly appointed assessor in each such locality.

The Advisory Council, in determining such ranges of values, shall base the determination on productive earning power to be determined by capitalization of warranted cash rents or by the capitalization of incomes of like real estate in the locality or a reasonable area of the locality.

Any locality adopting an ordinance pursuant to this article shall forthwith file a copy thereof with the Advisory Council.

(Code 1950, § 58-769.11; 1971, Ex. Sess., c. 172; 1976, c. 55; 1979, c. 152; 1984, cc. 675, 739, 750; 1985, c. 448; 1987, c. 550; 1989, c. 656.)

§ 58.1-3240. Duties of Director of the Department of Conservation and Recreation, the State Forester and the Commissioner of Agriculture and Consumer Services; remedy of person aggrieved by action or nonaction of Director, State Forester or Commissioner.

The Director of the Department of Conservation and Recreation, the State Forester, and the Commissioner of Agriculture and Consumer Services shall provide, after holding public hearings, to the commissioner of the revenue or duly appointed assessor of each locality adopting an ordinance pursuant to this article, a statement of the standards referred to in § 58.1-3230 and subdivision 1 of § 58.1-3233, which shall be applied uniformly throughout the Commonwealth in determining whether real estate is devoted to agricultural use, horticultural use, forest use or open-space use for the purposes of this article and the procedure to be followed by such official to obtain the opinion referenced in subdivision 1 of § 58.1-3233. Upon the refusal of the Commissioner of Agriculture and Consumer Services, the State Forester or the Director of the Department of Conservation and Recreation to issue an opinion or in the event of an unfavorable opinion which does not comport with standards set forth in the statements filed pursuant to this section, the party aggrieved may seek relief in the circuit court of the county or city wherein the real estate in question is located, and in the event that the court finds in his favor, it may issue an order which shall serve in lieu of an opinion for the purposes of this article.

(Code 1950, § 58-769.12; 1971, Ex. Sess., c. 172; 1973, c. 209; 1984, cc. 675, 739, 750; 1987, c. 550; 1989, c. 656.)

§ 58.1-3241. Separation of part of real estate assessed under ordinance; contiguous real estate located in more than one taxing locality.

A. Separation or split-off of lots, pieces or parcels of land from the real estate which is being valued, assessed and taxed under an ordinance adopted pursuant to this article, either by conveyance or other action of the owner of such real estate, shall subject the real estate so separated to liability for the roll-back taxes applicable thereto, but shall not impair the right of each subdivided parcel of such real estate to qualify for such valuation, assessment and taxation in any and all future years, provided it meets the minimum acreage requirements and such other conditions of this article as may be applicable. Such separation or split-off of lots shall not impair the right of the remaining real estate to continuance of such valuation, assessment and taxation without liability for roll-back taxes, provided it meets the minimum acreage requirements and other applicable conditions of this article.

B. 1. No subdivision, separation, or split-off of property which results in parcels that meet the minimum acreage requirements of this article, and that are used for one or more of the purposes set forth in § 58.1-3230, shall be subject to the provisions of subsection A.

2. The application of roll-back taxes pursuant to subsection A shall, at the option of the locality, also not apply to a subdivision, separation, or split-off of property made pursuant to a subdivision ordinance adopted under § 15.2-2244 that results in parcels that do not meet the minimum acreage requirements of this article, provided that title to the parcels subdivided, separated, or split-off is held in the name of an immediate family member for at least the first 60 months immediately following the subdivision, separation, or split-off.

For purposes of this subdivision, an "immediate family member" means any person defined as such in the locality's subdivision ordinance adopted pursuant to § 15.2-2244.

C. Where contiguous real estate in agricultural, horticultural, forest or open-space use in one ownership is located in more than one taxing locality, compliance with the minimum acreage shall be determined on the basis of the total area of such real estate and not the area which is located in the particular taxing locality.

(Code 1950, § 58-769.13; 1971, Ex. Sess., c. 172; 1978, c. 385; 1984, c. 675; 1988, c. 695; 2006, c. 221.)

§ 58.1-3242. Taking of real estate assessed under ordinance by right of eminent domain.

The taking of real estate which is being valued, assessed and taxed under an ordinance adopted pursuant to this article by right of eminent domain shall not subject the real estate so taken to the roll-back taxes herein imposed.

(Code 1950, § 58-769.14; 1971, Ex. Sess., c. 172; 1984, c. 675.)

§ 58.1-3243. Application of other provisions of Title 58.1.

The provisions of this title applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation hereunder mutatis mutandis including, without limitation, provisions relating to tax liens, boards of equalization and the correction of erroneous assessments and for such purposes the roll-back taxes shall be considered to be deferred real estate taxes.

(Code 1950, § 58-769.15; 1971, Ex. Sess., c. 172; 1980, c. 241; 1983, c. 304; 1984, c. 675.)

§ 58.1-3244. Article not in conflict with requirements for preparation and use of true values.

Nothing in this article shall be construed to be in conflict with the requirements for preparation and use of true values where prescribed by the General Assembly for use in any fund distribution formula.

(Code 1950, § 58-769.15:1; 1971, Ex. Sess., c. 172; 1984, c. 675.)

§ 58.1-3245. Definitions.

As used in this article, unless the context clearly shows otherwise, the term or phrase:

"Base assessed value" means the assessed value of real estate within a development project area as shown upon the land book records of the local assessing officer on January 1 of the year preceding the effective date of the ordinance creating the development project area.

"Blighted area" means any area within the borders of a development project area which impairs economic values and tax revenues, causes an increase in and spread of disease and crime, and is a menace to the health, safety, morals and welfare of the citizens of the Commonwealth; or any area which endangers the public health, safety and welfare because commercial, industrial and residential structures are subject to dilapidation, deterioration, obsolescence, inadequate ventilation, inadequate public utilities and violations of minimum health and safety standards; or any area previously designated as a blighted area pursuant to § 36-48; or any area adjacent to or in the immediate vicinity thereof which may be improved or enhanced in value by the placement of a proposed highway construction project.

"Current assessed value" means the annual assessed value of real estate in a development project area as recorded on the land book records of the local assessing officer.

"Development project area" means any area designated for development or redevelopment in an ordinance passed by the local governing body.

"Development project cost" has the same meaning as the term "cost" in the Public Finance Act (§ 15.2-2600 et seq.) and, in the case of blighted areas, includes amounts paid to carry out the purposes described in § 144(c)(3) of the Internal Revenue Code of 1986, as amended.

"Development project cost commitment" means a determination by the local governing body of payment of a sum specific of development project costs from the tax increment and other available funds in a development area.

"Governing body" means the board of supervisors, council or other legislative body of any county, city or town.

"Obligations" means bonds, general obligation bonds and revenue bonds as defined in § 15.2-2602 of the Public Finance Act (§ 15.2-2600 et seq.), and any other form of indebtedness which the county, city or town may incur.

"Tax increment" means the amount by which the current assessed value of real estate exceeds the base assessed value.

(1988, c. 776; 1989, c. 418; 1990, c. 296; 1994, c. 667.)

§ 58.1-3245.1. Blighted areas constitute public danger.

It is hereby found and declared that blighted areas exist in the Commonwealth, and these areas impair and endanger the health, safety, morals and welfare of the citizens because commercial, residential and industrial structures or improvements are subject to dilapidation, deterioration, inadequate ventilation, and inadequate public utilities. It is a public purpose to provide public facilities including, but not limited to, roads, water, sewers, parks, and real estate devoted to open-space use as that term is defined in § 58.1-

3230 within redevelopment and conservation areas to encourage the private development in such areas in order to eliminate blighted conditions. It is essential to the public interest that governing bodies have authority to finance development project costs by using real estate tax increments to encourage private investment in development project areas.

(1988, c. 776; 1990, c. 296; 1999, cc. 162, 190; 2006, c. 784.)

§ 58.1-3245.2. Tax increment financing.

A. The governing body of any county, city or town may adopt tax increment financing by passing an ordinance designating a development project area and providing that real estate taxes in the development project area shall be assessed, collected and allocated in the following manner for so long as any obligations or development project cost commitments secured by the Tax Increment Financing Fund, hereinafter authorized, are outstanding and unpaid.

1. The local assessing officer shall record in the land book both the base assessed value and the current assessed value of the real estate in the development project area.

2. Real estate taxes attributable to the lower of the current assessed value or base assessed value of real estate located in a development project area shall be allocated by the treasurer or director of finance pursuant to the provisions of this chapter.

3. Real estate taxes attributable to the increased value between the current assessed value of any parcel of real estate and the base assessed value of such real estate shall be allocated by the treasurer or director of finance and paid into a special fund entitled the "Tax Increment Financing Fund" to pay the principal and interest on obligations issued or development project cost commitments entered into to finance the development project costs.

B. The governing body shall hold a public hearing on the need for tax increment financing in the county, city or town prior to adopting a tax increment financing ordinance. Notice of the public hearing shall be published once each week for three consecutive weeks immediately preceding the public hearing in each newspaper of general circulation in such county, city or town. The notice shall include the time, place and purpose of the public hearing, define tax increment financing, indicate the proposed boundaries of the development project area, and propose obligations to be issued to finance the development project area costs.

(1988, c. 776; 1990, c. 296; 1994, c. 667.)

§ 58.1-3245.3. Copies of tax increment financing ordinance to local assessing officer and treasurer or director of finance.

The governing body shall transmit to the local assessing officer and treasurer or director of finance a copy of the tax increment financing ordinance, a description of all real estate located within the development project area, a map indicating the boundaries of the development project area and the manner of collecting and allocating real estate taxes pursuant to this article.

(1988, c. 776.)

§ 58.1-3245.4. Issuance of obligations for project costs.

Any county, city or town which adopts tax increment financing may issue obligations and may make development project cost commitments secured by the Tax Increment Financing Fund established in § 58.1-3245.2 to finance the development project costs. All obligations issued pursuant to this section shall be subject to the requirements and limitations of the Public Finance Act (Chapter 26, § 15.2-2600 et seq., of Title 15.2) and the charter provisions of each county, city or town. The ordinance authorizing the issuance of obligations may pledge all or any part of the funds deposited in the Tax Increment Financing Fund for the payment of the development project costs and any obligations to be issued to finance them. Any revenues in the Tax Increment Financing Fund which are not pledged as security for the obligations issued or allocated for development project cost commitments shall be deemed "surplus funds." At the end of the tax year, all surplus funds may be paid into the general fund of the county, city or town in which the development project area is located. The local governing body may agree, in writing, to pay all or a portion of any project development cost in annual installments from the tax increment and other available funds.

A county, city or town may also pledge any part or combination of the following revenues for a period not to exceed the term of the obligations:

1. Net revenues of all or part of any development project;

2. All real estate and tangible personal property taxes;

3. The full faith and credit of the locality;

4. Any other taxes or anticipated revenues that the county, city or town may lawfully pledge.

(1988, c. 776; 1990, c. 296; 1994, c. 667.)

§ 58.1-3245.4:1. No annual debt limits for certain cities.

The Cities of Chesapeake and Virginia Beach, when issuing debt obligations pursuant to § 58.1-3245.4 shall not be subject to any annual debt limitations set forth in the charter provisions of such city.

(1994, c. 667; 2005, c. 733.)

§ 58.1-3245.5. Dissolving the Tax Increment Financing Fund.

The governing body may pass an ordinance to dissolve the Tax Increment Financing Fund, and to terminate the existence of a development project area, upon the payment or defeasance of all obligations secured by the Tax Increment Financing Fund and payment or provision for payment of all development project cost commitments. When the Tax Increment Financing Fund is dissolved, any revenue remaining in the Fund after payment or provision for payment of all such obligations and commitments shall be paid into the general fund of the county, city or town.

Upon dissolving the Tax Increment Financing Fund, the real estate shall be assessed and taxes collected in the same manner as applicable in the year preceding the adoption of the tax increment financing ordinance, and pursuant to this chapter.

(1988, c. 776; 1990, c. 296; 1994, c. 667.)

§ 58.1-3245.6. Definitions.

As used in this article, unless the context clearly shows otherwise, the term or phrase:

"Base assessed value" means the assessed value of real estate or machinery and tools within a local enterprise zone as shown upon the records of the local assessing officer on January 1 of the year preceding the effective date of the ordinance establishing the local enterprise zone development taxation.

"Current assessed value" means the annual assessed value of real estate or machinery and tools in a local enterprise zone as shown upon the records of the local assessing officer.

"Enterprise zone" means an area designated by the Governor as an enterprise zone pursuant to Chapter 49 (§ 59.1-538 et seq.) of Title 59.1.

"Local enterprise zone" means an enterprise zone designated as a local enterprise zone by an ordinance adopted pursuant to § 58.1-3245.8.

"Tax increment" means all or a portion of the amount by which the current assessed value of real estate or machinery and tools, or both, in a local enterprise zone exceeds the base assessed value.

(1997, c. 314; 2005, cc. 863, 884.)

§ 58.1-3245.7. Promotion of development of local enterprise zones.

It is hereby found and declared that the health, safety, and welfare of the citizens of the Commonwealth are dependent upon the continual encouragement, development, growth, and expansion of the private sector within the Commonwealth and that there are certain areas in the Commonwealth that need the attention of local governments to attract private sector investment. Local government efforts to encourage private investment in areas designated by the Governor as enterprise zones will complement the efforts of

the Commonwealth to stimulate business and industrial growth in such areas. It is essential to the public interest that governing bodies of counties, cities, and towns have authority to use tax increments to encourage private investment in local enterprise zones.

(1997, c. 314.)

§ 58.1-3245.8. Adoption of local enterprise zone development taxation program.

A. The governing body of any county, city, or town may adopt a local enterprise zone development taxation program by passing an ordinance designating an enterprise zone located within its boundaries as a local enterprise zone; however, an ordinance may designate an area as a local enterprise zone contingent upon the designation of the area as an enterprise zone pursuant to Chapter 49 (§ 59.1-538 et seq.) of Title 59.1. If the county, city, or town contains more than one enterprise zone, such ordinance may designate one or more as a local enterprise zone. If an enterprise zone is located in more than one county, city, or town, the governing body may designate the portion of the enterprise zone located within its boundaries as a local enterprise zone. An ordinance designating a local enterprise zone shall provide that all or a specified percentage of the real estate taxes, machinery and tools taxes, or both, in the local enterprise zone shall be assessed, collected and allocated in the following manner:

1. The local assessing officer shall record in the appropriate books both the base assessed value and the current assessed value of the real estate or machinery and tools, or both, in the local enterprise zone.

2. Real estate taxes or machinery and tools taxes attributable to the lower of the current assessed value or base assessed value of real estate or machinery and tools located in a local enterprise zone shall be allocated by the treasurer or director of finance as they would be in the absence of such ordinance.

3. All or the specified percentage of the increase in real estate taxes or machinery and tools taxes, or both, attributable to the difference between (i) the current assessed value of such property and (ii) the base assessed value of such property shall be allocated by the treasurer or director of finance and paid into a special fund entitled the "Local Enterprise Zone Development Fund" to be used as provided in § 58.1-3245.10. Such amounts paid into the fund shall not include any additional revenues resulting from an increase in the tax rate on real estate or machinery and tools after the adoption of a local enterprise zone development taxation ordinance, nor shall it include any additional revenues merely resulting from an increase in the assessed value of real estate or machinery and tools which were located in the zone prior to the adoption of a local enterprise zone development taxation ordinance unless such property is improved or enhanced.

B. The governing body shall hold a public hearing on the need for a local enterprise zone development taxation program in the county, city, or town prior to adopting a local enterprise zone development taxation ordinance. Notice of the public hearing shall be published once each week for three consecutive weeks immediately preceding the public hearing in each newspaper of general circulation in such county, city, or town. The notice shall include the time, place and purpose of the public hearing; define local enterprise zone development taxation; indicate the proposed boundaries of the local enterprise zone; state whether all or a specified percentage of real property or machinery or tools, or both, will be subject to local enterprise zone development taxation; and describe the purposes for which funds in the Local Enterprise Zone Development Fund are authorized to be used.

(1997, c. 314; 2005, cc. 863, 884.)

§ 58.1-3245.9. Copies of local enterprise zone development taxation ordinance to local assessing officer and treasurer or director of finance.

The governing body shall transmit to the local assessing officer and treasurer or director of finance a copy of the local enterprise zone development taxation ordinance, a description of all real estate or machinery and tools, or both, located within the local enterprise zone, a map indicating the boundaries of the local enterprise zone and the manner of collecting and allocating real estate taxes or machinery and tools taxes pursuant to this article.

(1997, c. 314.)

§ 58.1-3245.10. Use of funds deposited in the Local Enterprise Zone Development Fund.

A. Any county, city, or town which adopts a local enterprise zone development taxation program may use funds in the Local Enterprise Zone Development Fund for any one or more of the following purposes:

1. To provide enhanced law-enforcement and other governmental services, including financing transportation projects, as may be appropriate to secure and promote private investment in the local enterprise zone;

2. To make grants to chambers of commerce and similar organizations within such county, city, or town in order to secure and promote economic development within the local enterprise zone; or

3. To make grants to any industrial development authority created by the governing body pursuant to Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, in order to secure and promote economic development within the local enterprise zone.

B. Any revenues in the Local Enterprise Zone Development Fund which are not used for a purpose authorized by subsection A shall be deemed "surplus funds." At the end of the tax year, all surplus funds may be paid into the general fund of the county, city, or town in which the local enterprise zone is located.

(1997, c. 314.)

§ 58.1-3245.11. Dissolving the Local Enterprise Zone Development Fund.

The existence of a local enterprise zone shall terminate, and the Local Enterprise Zone Development Fund shall dissolve, upon the earliest to occur of (i) the passage by the governing body of an ordinance repealing the local enterprise zone taxation ordinance or (ii) the termination of designation of the area as an enterprise zone. When the Local Enterprise Zone Development Fund is dissolved, any revenue remaining in the Fund shall be paid into the general fund of the county, city, or town.

Upon dissolving the Local Enterprise Zone Development Fund, the real estate or machinery and tools, or both, shall be assessed and taxes collected in the same manner as applicable in the year preceding the adoption of the local enterprise zone development taxation ordinance.

(1997, c. 314.)

§ 58.1-3245.12. Local enterprise zone program for technology zones.

The governing body of any county, city, or town may also adopt a local enterprise zone development taxation program for a technology zone, as described in § 58.1-3850, located within its boundaries, regardless of whether such technology zone has been designated by the Governor as an enterprise zone pursuant to Chapter 49 (§ 59.1-538 et seq.) of Title 59.1. Such program for a technology zone shall be adopted by local ordinance. All other provisions in this article as they relate to a local enterprise zone development taxation program for enterprise zones shall apply to such program for technology zones.

(2002, c. 449; 2005, cc. 863, 884.)

§ 58.1-3250. General reassessment in cities.

In each of the cities of this Commonwealth, there shall be a general reassessment of real estate every two years. Sections 58.1-3258, 58.1-3275, 58.1-3271, 58.1-3276, and 58.1-3278, and other relevant provisions of law shall be applicable to general reassessments of real estate in cities. Any city which has a total population of 30,000 or less, may elect by majority vote of its council to conduct its general reassessments at four-year intervals.

No provision of this section shall affect the power of any city to use the annual or biennial assessment method in lieu of general assessments.

(Code 1950, § 58-776; 1976, c. 717; 1979, c. 577; 1980, c. 569; 1984, c. 675.)

§ 58.1-3251. Annual assessment and reassessment in cities having not more than 30,000 population.

The governing body of any city having a population not in excess of 30,000 may, in lieu of the reassessment provided by general law, by ordinance provide for the annual assessment and reassessment and equalization of assessments of real estate therein, and to that end may appoint a professional real estate assessor certified by the Department, or a board of assessors, to assess and from time to time reassess for taxation in such city, and shall prescribe the duties and terms of office of the assessor or assessors.

(Code 1950, § 58-776.1; 1950, p. 700; 1952, c. 164; 1976, c. 717; 1979, c. 577; 1983, c. 304; 1984, c. 675.)

§ 58.1-3252. In counties.

There shall be a general reassessment of real estate every four years. Any county which, however, has a total population of 50,000 or less may elect by majority vote of its board of supervisors to conduct its general reassessments at either five-year or six-year intervals. In addition, Augusta County may elect by majority vote of its board of supervisors to conduct its general reassessments at either five-year or six-year intervals.

Nothing in this section shall affect the power of any county to use the annual or biennial assessment method as authorized by law.

(Code 1950, § 58-778; 1950, p. 10; 1976, c. 717; 1977, c. 419; 1979, cc. 574, 577; 1981, c. 439; 1984, cc. 273, 675; 2009, c. 529.)

§ 58.1-3253. Biennial general reassessments; annual or biennial assessment.

A. Notwithstanding any other provision of law, the governing body of any county or city having at least one full-time real estate appraiser or assessor qualified by the Tax Commissioner may provide by ordinance for the biennial assessment and equalization of real estate in lieu of the reassessments required under this chapter. Any county or city employing such method shall conduct a new reassessment of all real property biennially, but may complete such reassessment during an entire two-year period, employing the same standards of value for all appraisals made during such period.

B. In lieu of the method now prescribed by law, the governing body of any county or city may, by ordinance duly adopted, provide for the annual assessment and equalization of real estate for local taxation, or the biennial assessment as authorized by subsection A. If so made, all real estate shall thereafter be assessed as of January 1 of each year, except as provided in Chapter 30 of this subtitle.

(Code 1950, §§ 58-769.2, 58-778.1; 1966, c. 84; 1976, cc. 711, 717; 1979, c. 577; 1984, c. 675; 2008, c. 540.)

§ 58.1-3254. Reassessment by direction of governing body.

Notwithstanding any other provision of this article to the contrary, there may be a general reassessment of real estate in any county or city in any year if the governing body so directs by a majority of all the members thereof, by a recorded yea and nay vote. If such general reassessment is conducted, further general reassessments shall be required only every fourth year thereafter for counties, or every second year thereafter for cities notwithstanding the provisions of §§ 58.1-3250 and 58.1-3252 to the contrary.

(Code 1950, § 58-784.3; 1950, p. 1267; 1976, c. 717; 1984, c. 675.)

§ 58.1-3255. General reassessment every four years not required in certain counties.

The governing body of any county which established a department of real estate assessments and provided for annual assessment and reassessment and equalization of assessments of real estate as provided in §§ 15.2-716 and 15.2-716.1 shall not be required to undertake general reassessments of real estate every four years as otherwise provided in this article.

(Code 1950, § 58-784.5; 1973, c. 152; 1976, c. 717; 1984, c. 675; 2010, cc. 154, 199.)

§ 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 residents, a majority of whom shall be 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 30 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 30 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 30 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 30 days of the filing of such complaint, fix a date for a hearing on such application and, after giving the applicant at least 10 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 composition requirements and limits on terms of service as provided for boards of equalization pursuant to § 58.1-3374. In addition, at least once in every four years of service on a town board of equalization, each member of such board shall take continuing education instruction provided by the Tax Commissioner pursuant to § 58.1-206. In equalizing real property tax assessments, such board of equalization shall hear complaints, including but not limited to, that real property is assessed at more than fair market value. In hearing complaints, the board shall establish the value of real property as provided in § 58.1-3378. The provisions of § 58.1-3379 shall apply to all complaints heard by any town board of equalization.

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

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

(Code 1950, § 58-795; 1956, c. 219; 1958, c. 428; 1962, c. 174; 1976, c. 717; 1983, c. 304; 1984, c. 675; 2003, c. 1036.)

§ 58.1-3257. Completion of work; extensions.

A. Except as provided in subsection B, in every city and county the person or officers making such reassessment shall complete the same and comply with the provisions of § 58.1-3300 not later than December 31 of the year of such reassessment. But the circuit court in such city or county may for good cause, extend the time for completing such reassessment and complying with such section for a period not exceeding three months from December 31 of the year of such reassessment.

B. In Hanover County, the person or officers making such reassessment shall complete the same and comply with the provisions of § 58.1-3300 not later than three months after December 31 of the year of such reassessment.

(Code 1950, § 58-792; 1968, c. 742; 1971, Ex. Sess., c. 221; 1976, c. 717; 1980, c. 2; 1984, c. 675; 2001, c. 449; 2007, c. 813.)

§ 58.1-3258. Provisions for annual or biennial assessment not repealed; qualifications of supervisors, assessors and appraisers.

A. Nothing contained in this article shall be construed as repealing or amending any provisions of law authorizing or permitting the annual or biennial assessment or reassessment of real estate in cities or counties, except as hereinafter expressly provided.

B. The supervisors, assessors and appraisers conducting assessments who are employees of the locality

shall have the qualifications prescribed by the Department for the particular position held, which shall include such combination of education, training and experience as deemed necessary for the performance of their duties.

C. The supervisors, assessors and appraisers conducting assessments who have been contracted by the locality to conduct assessments shall hold a valid certification issued by the Department pursuant to § 58.1-3258.1.

(Code 1950, § 58-785; 1950, p. 1267; 1983, c. 304; 1984, c. 675; 2008, c. 540.)

§ 58.1-3258.1. Certification of supervisors, assessors and appraisers contracted by a locality to perform assessments.

A. No supervisor, assessor or appraiser shall contract or offer to contract to perform the assessment or reassessment of real property for any locality unless he holds a valid certification issued by the Department.

B. The Department shall establish requirements for the certification of all supervisors, appraisers and personnel contracted by a locality to perform the assessment or reassessment of real property located in the locality. Such requirements shall prescribe qualifications for certification including (i) minimum education and training requirements, to include guidance for conducting appraisals of certain multi-unit real estate under § 58.1-3295 and guidance for following generally accepted appraisal practices; (ii) minimum levels of experience; and (iii) standards of conduct. All supervisors, appraisers, and personnel employed or contracted to perform general assessments shall be required to hold a valid certification issued by the Department.

C. The Department may establish requirements for continuing education as a prerequisite to renewal of any certificate issued under this section.

(2008, c. 540; 2010, c. 552.)

§ 58.1-3258.2. Grounds for denial or revocation of certification.

The Department shall have the power to require remedial education, suspend, revoke, or deny renewal of the certificate of any supervisor, assessor or appraiser who is found to be in violation of the regulations established by the Department pursuant to § 58.1-3258.1.

The Department may suspend, revoke, or deny renewal of an existing certificate, or refuse to issue a certificate, to any supervisor, assessor or appraiser who is shown to have a substantial identity of interest with a supervisor, assessor or appraiser whose certificate has been revoked or not renewed by the Department.

(2008, c. 540.)

§ 58.1-3259. Failure of county or city to comply with law on general reassessment of real estate.

If any county or city fails to comply with the provisions of this article requiring a general reassessment of real estate periodically in such county or city by omitting such general reassessment in the year required by this article, or by failing to comply with the provisions of § 58.1-3201 requiring assessment at 100 percent fair market value, the Department, on receiving proof of such delinquency, shall so notify the Comptroller, whereupon the Comptroller shall withhold from such county or city the payment of its share of the net profits of the operation of the alcoholic beverage control system as provided for by § 4.1-117 until such time as the provisions of § 58.1-3201 have been complied with in such county or city. Results of the Tax Department's official assessment sales ratio study showing such county or city to have a sales assessment ratio lower than 70 percent or higher than 130 percent for the year a general reassessment or annual assessment is effective shall be prima facie proof that such locality has failed to assess at 100 percent.

The Department shall notify the Comptroller to pay over the accumulated profits, less a penalty charge of eight percent annually, on receipt of the results of an official assessment sales ratio study showing such county or city to have a sales assessment ratio higher than 70 percent and less than 130 percent.

(Code 1950, § 58-795.2; 1964, c. 281; 1979, c. 156; 1980, c. 125; 1983, c. 161; 1984, c. 675; 1993, c. 866; 2010, c. 552.)

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

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

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

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

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

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

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

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

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

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

9. Chapter 345 of the Acts of Assembly of 1942, approved March 31, 1942, authorizing, in any county adjoining a city of more than 190,000, and any county with an area of less than 70 square miles of highland, provision for the annual general reassessment of real estate and the equalization of assessments, and the appointment of assessors to perform such duties; conferring upon the assessors certain duties imposed by general law on commissioners of the revenue; and relating to other connected matters.

10. Chapter 237 of the Acts of Assembly of 1946, approved March 25, 1946, authorizing, in counties having an area of more than 135 square miles but less than 152 square miles, and a population of more than 4,000 but less than 8,000, provision for boards for the annual general reassessment of real estate

and equalization of assessments; conferring on the assessors certain duties imposed by general law upon commissioners of the revenue; and relating to other connected matters.

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

(Code 1950, § 58-769; 1984, c. 675; 2003, c. 1036.)

§ 58.1-3261. Annual assessment of real estate in certain other cities and counties.

The following acts are incorporated in this Code by this reference:

1. Chapter 32 of the Acts of Assembly of 1956, approved February 13, 1956, as amended by Chapter 33 of the Acts of Assembly of 1958, authorizing provision for annual assessments of real estate and equalization of assessments in cities of not less than 70,000 and not more than 125,000 inhabitants, but not in cities of not less than 90,000 and not more than 100,000 inhabitants.

2. Chapter 348 of the Acts of Assembly of 1956, approved March 14, 1956, authorizing provision for annual assessment of real estate in any county having a population of more than 99,000 and adjoining 3 or more cities lying entirely within the State.

3. Chapter 383 of the Acts of Assembly of 1956, approved March 14, 1956, authorizing provision for annual assessments of real estate and equalization thereof, in any county having a population of more than 22,000 but less than 23,000.

4. Chapter 56 of the Acts of Assembly of 1959, Ex. Sess., approved April 27, 1959, authorizing provision for annual assessments of real estate and equalization of assessments in any city having a population of more than 25,000 and less than 34,000.

5. Chapter 548 of the Acts of Assembly of 1964, approved March 31, 1964, providing for annual assessment and equalization of assessments in any county having a population of more than 20,000 but less than 50,000 and adjoining a county having a population of more than 200,000.

6. Chapter 584 of the Acts of Assembly of 1964, approved March 31, 1964, authorizing provision for annual assessment of real estate and equalization of assessments in any city having a population of more than 92,000 and less than 110,000.

7. Chapter 311 of the Acts of Assembly of 1966, authorizing provision for annual assessment and equalization of assessments of real estate in any county adjoining two cities of the first class and in which a military fort is located.

(Code 1950, § 58-769.1; 1984, c. 675.)

§ 58.1-3270. Annual or biennial assessment and equalization by commissioner of revenue.

The governing body of any county or city may, by resolution duly adopted, in lieu of the method now prescribed by law, provide for the annual assessment and equalization of real estate for local taxation, or the biennial assessment as authorized by § 58.1-3253, by the commissioner of the revenue. No commissioner of the revenue without his consent shall be required to make an annual or biennial assessment and equalization of real estate for local taxation as provided in § 58.1-3253 B, and if made, all costs incurred shall be borne by the county or city.

(Code 1950, § 58-769.2; 1966, c. 84; 1979, c. 577; 1984, c. 675.)

§ 58.1-3271. Appointment of board of assessors and real estate appraiser or board of equalization in counties and cities.

A. In the event the commissioner of revenue, pursuant to the provisions of § 58.1-3270, will not consent to make an annual or biennial assessment and equalization of real estate for local taxation in any county or city, the governing body thereof may appoint a board of real estate assessors consisting of three

members, who shall be initially appointed as follows: one for a term of one year, one for a term of two years and one for a term of three years. As the terms of the initial appointees expire, their successors shall be appointed for terms of three years each. The compensation of the members of the board shall be fixed by the governing body, who shall also provide necessary clerical and other assistance to the board. The board shall assess all real estate within the county or city on an annual or biennial basis and transfer such assessment to the commissioner of revenue. Prior to transferring the final assessment to the commissioner of the revenue, the board shall give any real property owner whose property has been assessed an opportunity to be heard.

B. The governing body of any such county or city may appoint a real estate appraiser either (i) an employee who qualified by the Department or (ii) an independent contractor who holds a valid certification issued by the Department to perform the actual function of determining value for real estate in the county or city for use by the board of assessors. Such appraiser may serve in lieu of the board of assessors provided for in subsection A, in which event he shall assess all real estate within the county or city on an annual or biennial basis and transfer such assessment to the commissioner of the revenue. In the event such appraiser is in addition to the board of assessors, he shall assemble information concerning real property in the county or city at the request of such board of real estate assessors and prepare and preserve all records of the board including the minutes of its meetings. The appraiser's compensation shall be fixed by the governing body.

(Code 1950, §§ 58-769.3, 58-776.3, 58-788; 1950, p. 701; 1968, c. 631; 1979, c. 577; 1984, c. 675; 2008, c. 540.)

§ 58.1-3272. How assessments made by board or assessor.

Assessments made by the board of real estate assessors or real estate assessor shall be made in the same manner and on the same basis as is provided by general law, and the members of any board so appointed shall have the same powers and be charged with the same duties as the persons appointed according to the provisions of § 58.1-3276.

(Code 1950, § 58-776.2; 1950, p. 700; 1979, c. 577; 1984, c. 675.)

§ 58.1-3273.

Reserved.

§ 58.1-3274. Establishment of department of real estate assessment; joint departments.

A. Notwithstanding any other provision of law, Goochland, Powhatan, James City and Accomack Counties may, by resolution duly adopted, establish departments of real estate assessment. Any such department shall assess all real estate within such county on an annual or biennial basis as authorized by § 58.1-3270, and transfer such assessment to the commissioner of the revenue of such county. Prior to transferring the final assessment to the commissioner of the revenue, the department shall give any real property owner whose property has been assessed an opportunity to be heard.

The department shall consist of such members as the governing body of such county shall deem necessary.

The compensation and terms of office of department members shall be fixed by the governing body.

B. Upon establishment of a department of real estate assessment, James City and Powhatan Counties may, by resolution duly adopted, enter into an agreement with any contiguous county or city for the establishment of a joint department of real estate assessment. The joint department shall assess all real estate within such localities on an annual or biennial basis and transfer such assessment to the commissioner of the revenue pursuant to subsection A of this section. The membership, compensation, terms of office and office expenses of such members of the joint department shall be fixed by agreement by the governing body of James City County or Powhatan County and such county or city with which it may establish a joint department of real estate assessment.

(Code 1950, § 58-769.3:1; 1974, c. 656; 1979, c. 299; 1984, c. 675; 1987, cc. 318, 362; 2003, c. 474; 2004, c. 576.)

§ 58.1-3275. By whom reassessment made in cities and counties.

Every general reassessment of real estate in a city or county shall be made by (i) a professional assessor appointed by the governing body, who is either an employee qualified by the Department or an independent contractor holding valid certification issued by the Department; or (ii) a board of assessors of not fewer than three members, with not more than one member from each district for the election of a member of the governing body within such city or county appointed by the governing body. The assessors shall be designated on or after July 1 in the year immediately preceding the year in which the general reassessment of real estate is required to be made.

(Code 1950, § 58-786; 1976, c. 676; 1979, c. 577; 1983, c. 304; 1984, c. 675; 1985, c. 221; 1988, c. 896; 1994, c. 210; 2008, c. 540.)

§ 58.1-3276. Qualifications of assessors and appraisers; removal and appointment of substitute.

A. Any persons appointed to a board of assessors under the authority of this article shall be freeholders in the county or city for which they serve and shall be appointed by the governing body from the citizens of the county or city. If at any time the governing body is satisfied that any such assessor appointed under this article will not, or from any cause cannot, perform the duties devolved on him, the governing body may wholly supersede him and appoint another in his place. In order to be eligible for appointment, each prospective member of such board may, at the discretion of the Department, be required to attend and participate in the basic course of instruction given by the Department under § 58.1-206.

B. All supervisors, appraisers, and personnel employed by the board of assessors to perform the general reassessment shall have the qualifications prescribed by the Department for the particular position held, which shall include such combinations of education, training and experience as are deemed necessary for the performance of their duties. The provisions of this article as to the appointment or removal of such assessors shall apply to any appointments heretofore or hereafter made.

C. All supervisors, assessors and appraisers who have been contracted by the board of assessors to perform the general reassessment shall hold a valid certification issued by the Department pursuant to § 58.1-3258.1.

(Code 1950, § 58-789; 1979, c. 577; 1983, c. 304; 1984, c. 675; 2008, c. 540.)

§ 58.1-3277. Forms for general reassessment of real estate in counties, cities and towns.

The Department before January 1 of any year in which there is to be a general reassessment of real estate in any county, city or town under any provisions of this title shall prescribe, prepare and furnish proper forms for the use of the cities and counties and towns making general reassessment of real estate under the provisions of this article. Any county, city or town desiring to avail itself of the benefits of this section shall notify the Department of such desire at least six months prior to January 1 of the year when there will be a general reassessment in such city or county or town. Nothing in this section shall be construed to prohibit any county, city or town from prescribing and preparing forms for its use in making such general reassessments, the cost thereof to be paid out of the county or city or town treasury.

(Code 1950, § 58-793; 1956, c. 219; 1984, c. 675.)

§ 58.1-3278. Department to render assistance.

The Department, upon the request of the governing body of any county, city or town, shall render advisory aid and assistance in making any general reassessment of the real estate in such county, city or town.

(Code 1950, § 58-794; 1956, c. 219; 1984, c. 675.)

§ 58.1-3280. Assessment of values.

Every assessor or appraiser so designated under this chapter shall, as soon as practicable after being so designated, proceed to ascertain and assess the fair market value of all lands and lots assessable by them, with the improvements and buildings thereon. They shall make a physical examination thereof if required by the taxpayer, and in all other cases where they deem it advisable.

(Code 1950, § 58-790; 1975, cc. 51, 547; 1976, c. 676; 1983, c. 161; 1984, c. 675.)

§ 58.1-3281. When commissioner of the revenue to ascertain ownership of real estate; tax year.

Each commissioner of the revenue shall commence, annually, on January 1, and proceed without delay to ascertain all the real estate in his county or city, as the case may be, and the person to whom the same is chargeable with taxes on that day. The beginning of the tax year for the assessment of taxes on real estate shall be January 1 and the owner of real estate on that day shall be assessed for the taxes for the year beginning on that day.

The commissioner, before making out his land book, shall assess the value of any building and enclosure not previously assessed, found to be of the value of $100 and upwards. The value shall be added to the value at which the land was previously charged.

(Code 1950, §§ 58-796, 58-810; 1984, c. 675.)

§ 58.1-3282. When land and improvements owned separately; how assessed.

When a public service corporation or a political subdivision of the Commonwealth does not own both a tract, piece or parcel of land and the improvements thereon, including leasehold improvements owned by the lessee which are to be removed by the lessee at the end of the lease term, the land and such improvements may be assessed separately.

(Code 1950, § 58-773.1; 1952, c. 229; 1984, c. 675; 1988, c. 280.)

§ 58.1-3283. Assessment of airspace owned separately from subjacent land surface.

When airspace is owned by anyone other than the owner of the subjacent land surface, the airspace and the surface will be separately assessed to their respective owners.

(Code 1950, § 58-773.2; 1979, c. 431; 1984, c. 675.)

§ 58.1-3284. Assessment of standing timber trees owned by person who owns land surface; when owned separately.

A. When the land surface and standing timber trees are owned by the same person, the value of the land, inclusive of the standing timber trees, shall be ascertained and assessed at such ascertained value.

B. In any case when the surface of the land is owned by one person and the standing timber trees thereon are owned by another, the relative value of each shall be determined and the owners shall be assessed with the value of their respective interests.

(Code 1950, § 58-804; 1958, c. 314; 1970, c. 440; 1971, Ex. Sess., cc. 3, 172; 1975, c. 547; 1980, c. 360; 1984, c. 675.)

§ 58.1-3284.1. Assessment of lots and open spaces in certain planned development subdivisions.

A. Residential or commercial property, which is part of a planned development which contains open or common space, which includes the right by easement, covenant, deed or other interest in real estate, to the use of the open or common space, shall be assessed at a value which includes the proportional share of the value of such open or common space.

All real property used for open or common space pursuant to this section shall be construed as having no value in itself for assessment purposes. Its only value lies in the value that is attached to the residential or commercial property which has a right by easement, covenant, deed or other interest.

"Open or common space" shall, for purposes of this section, include parks, parking areas, private streets, walkways, recreational facilities, natural or improved areas, lakes, ponds, recreational, community service, or maintenance buildings or structures, or any other property used and owned by an automatic membership corporation or association. It shall also include such property that is part of a planned residential development initially recorded before January 1, 1985, that is exempt from the requirements of the Property Owners' Association Act pursuant to § 55-508 and did not include automatic membership in a membership corporation or association in its declaration.

B. No locality shall assess real estate taxes against a membership corporation or association for open or common space except as may be permitted pursuant to this section. Every locality shall reassess such open or common space, and the planned development of which it is part, as of the date of transfer of such open or common space to the association. The developer of such planned development shall pay all real

estate taxes attributable to such open or common space at the time of transfer as provided in § 55-509.1.

(1985, c. 550; 1993, c. 956; 2005, c. 218.)

§ 58.1-3285. Assessment and reassessment of lots when subdivided or rezoned.

Whenever a tract of land is subdivided into lots under the provisions of law and plats thereof are recorded, subsequent to any general reassessment of real estate in the city or county in which such real estate is situated, each lot in such subdivision shall be assessed and shown separately upon the land books, as required by law. The commissioner of the revenue, in assessing each such lot, shall assess the same at fair market value as of January 1 of the year next succeeding the year in which such plat is recorded, without regard to the value at which such tract of land was assessed as acreage but with regard to other assessments of lots in such city or county. Such assessment shall stand until the next general reassessment of real estate in such city or county. The commissioner of the revenue shall also assess or reassess, as required, any lot, tract, piece or parcel of land which has been rezoned, reclassified or as to which any exception has been made, by the zoning authorities of the county. Further, the commissioner of the revenue shall assess or reassess, as required, any lot, tract, piece or parcel of land upon or to which improvements have been made, such as hard surfacing of streets or roadways, or installation of curbs, gutters, sidewalks and utilities, any one or all of which may add to the fair market value. Such an assessment shall be made with regard to other assessments of lots, tracts, pieces or parcels of land in the city or county. To such end the commissioner of the revenue shall be supplied by the city or county with the necessary data and records to indicate any rezoning, reclassification, exception or improvement.

(Code 1950, § 58-772.1; 1950, p. 1017; 1954, c. 515; 1984, c. 675.)

§ 58.1-3286. Mineral lands to be specially and separately assessed; severance tax.

The several commissioners of the revenue shall, as soon as practicable after January 1 of each year, specially and separately assess at the fair market value all mineral lands and the improvements thereon and shall enter the same on the land books of their respective counties separately from other lands charged thereon.

The commissioner, in assessing mineral lands, shall set forth upon the land book:

1. The area and the fair market value of such portion of each tract as is improved and under development;

2. The fair market value of the improvements upon each tract; and

3. The area and fair market value of such portion of each tract not under development.

Notwithstanding any other provision of law and subject to the approval of the Board of Supervisors of Buchanan County, the commissioner of the revenue of the county may reassess gas wells and related improvements on an annual basis, provided that such gas wells and related improvements shall be reassessed in the general reassessment for the locality, as required by § 58.1-3287, and provided further a settlement agreement between the County and a taxpayer may provide a methodology for determining fair market value.

In the alternative to the procedure outlined in subdivision 1 above, any county or city may impose by ordinance a severance tax on all coal and gases extracted from the land lying within its jurisdiction. The rate of such tax shall not exceed one percent of the gross receipts from such coal or gases. Any such county or city may further require any producer of such coal or gases and any common carrier to maintain records showing the quantities of coal and gases which they have produced or transported, respectively.

If the surface of the land is held by one person, and the coal, iron and other minerals, mineral waters, gas or oil under the surface are held by another person, the estate therein of each and the relative fair market value of their respective interests shall be ascertained by the commissioner. If the surface of the land and the coal, iron and other minerals, mineral waters, gas or oil under the surface are owned by the same person, the commissioner shall ascertain the fair market value of the land, exclusive of the coal, iron, other minerals, mineral waters, gas or oils. He shall also ascertain the fair market value of the coal, iron, other minerals, mineral waters, gas, and oils and shall assess each at such ascertained values, stating separately in every case the value of the surface of the land and the value of the coal, iron, other minerals, mineral waters, gas and oils under the surface.

(Code 1950, § 58-774; 1972, c. 715; 1976, c. 53; 1984, c. 675; 2009, c. 770.)

§ 58.1-3287. Mineral lands and minerals to be included in general reassessment of real estate.

Notwithstanding § 58.1-3286, whenever there is a general reassessment of real estate in any county or city, mineral lands and minerals shall be included in the general reassessment, but shall be separately assessed from other real estate, and the assessor or assessors shall be governed by the provisions of § 58.1-3286 in making the assessment. Taxes for each year on the mineral lands and minerals assessed under this section shall be extended by the commissioner of the revenue on the basis of the last general reassessment made prior to such year, subject to such changes as may be made by him in performing his annual duties under § 58.1-3286. In performing such annual duties he shall adjust the assessed values in such manner as to reflect such changes as may have occurred during the preceding year, especially such changes as may have operated to increase or decrease (i) the area and the value of such portion of each tract as is improved and under development, (ii) the value of the improvements upon each tract, and (iii) the area and value of such portion of each tract as shall not be under development.

Every county in which there are mineral lands shall have a general reassessment of real estate in the year prescribed by law, even though the greater part of the area of the county consists of mineral lands.

The Department shall render advisory aid and assistance of a technical nature to the assessor or assessors, in making a general reassessment of mineral lands and minerals, upon request of the governing body of the county or city, or to the commissioner of the revenue, upon his request, provided moneys are available to the Department to defray the cost thereof.

(Code 1950, § 58-774.2; 1950, p. 1269; 1964, c. 296; 1983, c. 304; 1984, c. 675.)

§ 58.1-3288. Assessment in name of "unknown owner.".

When the owner of any parcel of real property is unknown and the commissioner of the revenue has exercised due diligence to ascertain the owner of such parcel, such commissioner of the revenue is empowered on January 1 of each year to assess for taxation such parcel of real property in his county or city in the name of "unknown owner." Before such property is first assessed in the name of "unknown owner" each commissioner of the revenue shall advertise the description of the property in a local newspaper of general circulation once a week for two consecutive weeks preceding the first day of the year in which such first assessment is made and at the same time he shall make affidavit that he has used due diligence to ascertain the owner of the property.

(Code 1950, § 58-770.1; 1956, c. 581; 1958, c. 32; 1984, c. 675.)

§ 58.1-3289.

Reserved.

§ 58.1-3290. How land divided among several owners to be assessed.

When a tract or lot becomes the property of different owners in two or more parcels, subsequent to any general reassessment of real estate in the city or county in which such tract or lot is situated each of the two or more parcels shall be assessed and shown separately upon the land books, as required by law. The commissioner of the revenue, in assessing each lot or parcel, shall assess the same at its fair market value as of January 1 of the year next succeeding the year in which the tract or lot of land becomes the property of several owners, without regard to the value at which such tract of land was assessed as a whole, but with regard to other assessments of lots, pieces or parcels of land in the city or county. Such assessment shall stand until the next general reassessment of real estate in the city or county. Failure of the owner or person dividing and selling the land to record a plat thereof shall not relieve the commissioner of the revenue of the responsibility for assessing or reassessing any such tract of land when divided as provided for in this section.

(Code 1950, § 58-773; 1954, c. 655; 1984, c. 675.)

§ 58.1-3291. Valuation of repairs, additions and new buildings.

Any building and enclosure which may have been increased in value to $500 or upwards, by repairs or additions thereto, shall be assessed in the same manner as if they were new.

New buildings shall be assessed, whether entirely finished or not, at their actual value at the time of assessment.

(Code 1950, §§ 58-811, 58-812; 1974, c. 133; 1983, c. 161; 1984, c. 675.)

§ 58.1-3292. Assessment of new buildings substantially completed, etc.; extension of time for paying assessment.

In any county, city or town that has not adopted an ordinance pursuant to § 58.1-3292.1, upon the adoption of an ordinance so providing, all new buildings substantially completed or fit for use and occupancy prior to November 1 of the year of completion shall be assessed when so completed or fit for use and occupancy, and the commissioner of the revenue of such county, city or town shall enter in the books the fair market value of such building. No partial assessment as provided herein shall become effective until information as to the date and amount of such assessment is recorded in the office of the official authorized to collect taxes on real property and made available for public inspection. The total tax on any such new building for that year shall be the sum of (i) the tax upon the assessment of the completed building, computed according to the ratio which the portion of the year such building is substantially completed or fit for use and occupancy bears to the entire year, and (ii) the tax upon the assessment of such new building as it existed on January 1 of that assessment year, computed according to the ratio which the portion of the year such building was not substantially complete or fit for use and occupancy bears to the entire year. With respect to any assessment made under this section after September 1 of any year, the penalty for nonpayment by December 5 shall be extended to February 5 of the succeeding year.

(Code 1950, § 58-811.1; 1954, c. 250; 1958, c. 77; 1960, c. 414; 1964, c. 308; 1980, c. 497; 1984, c. 675; 1999, c. 760.)

§ 58.1-3292.1. Assessment of new buildings substantially completed in a county operating under the urban county executive form of government, and in certain other cities and counties; extension of time for paying assessment.

A. In the Counties of Arlington, Fairfax, Loudoun, and Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, upon the adoption of an ordinance so providing, all new buildings shall be assessed when substantially completed or fit for use and occupancy, regardless of the date of completion or fitness, and the commissioner of the revenue of such county, city or town shall enter in the books the fair market value of such building.

B. No partial assessment as provided herein shall become effective until information as to the date and amount of such assessment is recorded in the office of the official authorized to collect taxes on real property and made available for public inspection. The total tax on any such new building for that year shall be the sum of (i) the tax upon the assessment of the completed building, computed according to the ratio which the portion of the year such building is substantially completed or fit for use and occupancy bears to the entire year and (ii) the tax upon the assessment of such new building as it existed on January 1 of that assessment year, computed according to the ratio which the portion of the year such building was not substantially complete or fit for use and occupancy bears to the entire year.

C. With respect to any assessment made under this section after November 1 of any year, no penalty for nonpayment shall be imposed until the last to occur of (i) December 5 of such year or (ii) 30 days following the date of the official billing.

(1999, c. 760; 2003, cc. 6, 581; 2007, c. 813.)

§ 58.1-3293. Building, etc., when damaged or destroyed, value to be reduced.

When from natural decay or other causes any previously assessed building and enclosure as aforesaid, is either wholly destroyed or reduced in value below $100, the commissioner shall deduct from the charge against the owner the value at which such building and enclosure may have been assessed; and if the value of the building has been impaired by violence to the extent of $100 or more, the commissioner shall assess the building in its present condition and reduce the charge for the same to the amount so assessed. When any timberland heretofore assessed, the owner of the timber on which is also the owner of the land, is reduced in value to the extent of $200 or more by the removal of the timber therefrom, the commissioner shall assess the land in its then present condition and reduce the charge for the same to the amount so assessed.

(Code 1950, § 58-813; 1984, c. 675.)

§ 58.1-3294. Reports of income data by owners of income-producing realty; certification; confidentiality.

Any duly authorized real estate assessor, board of assessors, or department of real estate assessments may require that the owners of income-producing real estate in the county or city subject to local taxation, except property producing income solely from the rental of no more than four dwelling units, and except property being used exclusively as an owner-occupied property, not as a hotel, motel, or office building over 12,000 square feet, and not engaged in a retail or wholesale business where merchandise for sale is displayed, furnish to such assessor, board or department on or before a time specified, which time may be extended for not less than ninety days, upon application of the owner of such property statements of the income and expenses attributable over a specified period of time to each such parcel of real estate. Each such statement shall be certified as to its accuracy by an owner of the real estate for which the statement is furnished, or a duly authorized agent thereof. Any statement required by this section shall be kept confidential in accordance with the provisions of § 58.1-3. The failure of the owner of income-producing property, except property producing income solely from the rental of no more than four dwelling units, and except property being used exclusively as an owner-occupied property, not as a hotel, motel, or office building over 12,000 square feet, and not engaged in a retail or wholesale business where merchandise for sale is displayed, to furnish a statement of income and expenses as required by this section shall bar such owner or his representative from introducing into evidence, or using in any other manner, any of the required but not furnished income and expense information in any judicial action brought under § 58.1-3984.

(Code 1950, § 58-769.3:2; 1982, c. 619; 1984, c. 675; 1990, c. 671; 2000, c. 515.)

§ 58.1-3295. (Effective for tax years beginning before January 1, 2011) Assessment of real property; affordable housing.

A. Notwithstanding any other provision of law, in determining the fair market value of real property containing more than four residential units operated in whole or in part as affordable rental housing, in accordance with the provisions of (i) 26 U.S.C. § 42, 26 U.S.C. § 142(d), 24 CFR § 983, 24 CFR § 236, 24 CFR § 241(f), 24 CFR § 221(d) (3), or any successors thereto; (ii) applicable state law; or (iii) local ordinances adopted by the locality wherein such real property is located, the duly authorized real estate assessor shall consider:

1. The rent and the impact of applicable rent restrictions;

2. The operating expenses and expenditures and the impact of any such additional expenses or expenditures; and

3. Restrictions on the transfer of title or other restraints on alienation of the real property.

The owner of real property containing more than four residential units that is operated in whole or in part as affordable rental housing in accordance with the definition of affordable rental housing established by ordinance or resolution of the locality in which the real property is located may make an application to the locality to have the real property assessed pursuant to this section. The application shall be granted by the locality if (i) the owner charges rents at levels that meet the locality's definition of affordable housing and (ii) the real property does not have any pending building code violations at the time of the application.

The duly authorized real estate assessor shall also consider evidence presented by the property owner of other restrictions imposed by law that impact the variables set forth in this subsection.

B. Federal or state income tax credits with respect to affordable housing rental property within the purview of subsection A shall not be considered real property or income attributable to real property.

C. For property where only a portion of the units are operated as affordable housing, as defined in § 42 of the Internal Revenue Code or as required by state law or applicable local ordinance, only the portion determined to be affordable housing shall be subject to this section.

(2006, c. 688; 2009, c. 264.)

§ 58.1-3295. (Effective for tax years beginning on or after January 1, 2011) Assessment of real property; affordable housing.

A. Notwithstanding any other provision of law, in determining the fair market value of real property operated in whole or in part as affordable rental housing, in accordance with the provisions of (i) 26 U.S.C. § 42, 26 U.S.C. § 142(d), 24 CFR § 983, 24 CFR § 236, 24 CFR § 241(f), 24 CFR § 221(d) (3), or any successors thereto; (ii) applicable state law; or (iii) local ordinances adopted by the locality wherein

such real property is located, the duly authorized real estate assessor shall consider:

1. The contract rent and the impact of applicable rent restrictions;

2. The actual operating expenses and expenditures and the impact of any such additional expenses or expenditures; and

3. Restrictions on the transfer of title or other restraints on alienation of the real property.

The owner of real property that is operated in whole or in part as affordable rental housing in accordance with the definition of affordable rental housing established by ordinance or resolution of the locality in which the real property is located may make an application to the locality to have the real property assessed pursuant to this section. Notwithstanding the exception in § 58.1-3294 for an owner of four or fewer residential units, upon application by such an owner, the duly authorized real estate assessor may require the owner to comply with all provisions of § 58.1-3294. The application shall be granted by the locality if (i) the owner charges rents at levels that meet the locality's definition of affordable housing and (ii) the real property does not have any pending building code violations at the time of the application.

The duly authorized real estate assessor shall also consider evidence presented by the property owner of other restrictions imposed by law that impact the variables set forth in this subsection.

B. Federal or state income tax credits with respect to affordable housing rental property within the purview of subsection A shall not be considered real property or income attributable to real property.

C. For property where only a portion of the units are operated as affordable housing, as defined in § 42 of the Internal Revenue Code or as required by state law or applicable local ordinance, only the portion determined to be affordable housing shall be subject to this section.

D. Notwithstanding any other provision in this section or other law, the real property governed by this section that is generating income as affordable housing shall be assessed using the income approach based on: the property's current use, income restrictions, provisions of any arm's-length contract including but not limited to restrictions on the transfer of title or other restraints on alienation of the real property, the requirements of subsection B, and all other provisions of this section.

(2006, c. 688; 2009, c. 264; 2010, cc. 552, 791, 824.)

§ 58.1-3300. Reassessment record; original filed in clerk's office; copies to commissioner of the revenue and local board of equalization; recapitulation sheets to Department.

As soon as the persons, or officers, designated under the provisions of Article 6 (§ 58.1-3270 et seq.) herein have completed the reassessment, they shall make two copies of such record, in the form in which the land books are made out, and shall certify on oath that no assessable real estate is omitted and that there is no error on the face of such record. Such persons, or officers, designated as aforesaid shall then file the original of such reassessment in the office of the circuit court clerk of the city or county, who shall preserve the same in his office; and he or they shall deliver one copy of such reassessment to the commissioner of the revenue of the city or county and one copy to the local board of equalization of such city or county. For cities having an additional court for the recordation of deeds, one extra copy of such reassessment, embracing real estate the conveyance of which is required to be recorded in the clerk's office of such additional court, shall be made and filed in such circuit court clerk's office.

Such persons or officers shall at the same time forward to the Department of Taxation a copy of the recapitulation sheets of such reassessment.

In lieu of complying with the foregoing provisions of this section, the person or persons appointed by the governing body to perform the annual or biennial reassessment of real estate set forth in §§ 58.1-3251 and 58.1-3253 shall sign the land book attesting to the valuations contained therein resulting from such assessment.

(Code 1950, § 58-791; 1984, c. 675; 1985, c. 221.)

§ 58.1-3301. Form of land book.

A. The Department of Taxation shall prescribe the form of the land book to be used by the commissioner of the revenue and shall furnish each commissioner of the revenue with four copies of blank land books

prepared in the form so prescribed. The land books may be produced in the form of microfilm, microfiche, or any other similar microphotographic process and shall be distributed as provided in § 58.1-3310 in the form of such process so long as such process complies with standards adopted pursuant to regulations issued under § 42.1-82 for microfilm, microfiche, or such other microphotographic process and is acceptable to and meets the requirement of the recipients of copies of the land book as designated by § 58.1-3310.

B. Tracts of lands in counties shall be entered in the land book by magisterial or school districts and town lots shall be entered upon sheets provided in the land book for that purpose. The governing body of any county having sanitary districts may provide by resolution that land books, personal property books and other tax assessment records be entered and arranged alphabetically to show the persons chargeable with taxes in each such district. The sanitary district in which the property is located shall be designated by an appropriate coding which shall provide for the means of recapitulation by sanitary districts, setting forth the total assessment and tax levy for each such district.

C. Nothing in this section shall be construed to prohibit any commissioner of the revenue of any city from using a land book in the form prescribed and furnished by or under the authority of the council of his city and at the cost of his city, provided that whether the land book is furnished by the city or the Tax Commissioner, it shall contain the name and street address of every owner of real property in the local jurisdiction. In cases where real property is owned by more than one person, the land book shall contain the name and street address of at least one of the owners.

D. In the event real estate is assessed at use value as provided in Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of this title, the land book shall show both the use value and the fair market value.

(Code 1950, § 58-804; 1958, c. 314; 1970, c. 440; 1971, Ex. Sess., cc. 3, 172; 1975, c. 547; 1980, c. 360; 1984, c. 675; 1995, c. 679.)

§ 58.1-3302. What the table of town or city lots to contain.

In the table of town or city lots the commissioner of the revenue shall enter separately each lot and shall set forth in as many separate columns as may be necessary the name of the person, his residence and estate, as in the table of tracts of land. The commissioner shall set forth in other columns the number of each lot in the town or city, with the name of the town or city, if not previously placed in the caption or heading of the table, a description, when the person does not own the whole lot, of the part which he owns, the value of the buildings on the lot, the value of the lot including buildings, the amount of tax at the legal rate and like notice of the source of title and explanation of alteration as in the table of tracts of land. The commissioner of revenue of Pulaski County, however, when assessing or listing for taxation the town lots in the town of Pulaski for such county, shall in addition set forth in other columns the number of each lot in the town and the number of the section or block in which it is located.

(Code 1950, § 58-805; 1984, c. 675.)

§ 58.1-3303. Clerks to forward copies of certain receipts and make certain reports regarding deeds and property transfers to local commissioners and Department.

The clerk of every circuit court shall, before the fifteenth of each month, forward to the commissioner of revenue for his county or city and to the Department a copy of the recordation receipt for all deeds for the partition and conveyance of land, other than deeds of trust and mortgages, made to secure the payment of debts, which have been admitted to record in the clerk's office of such court within the month next preceding. In lieu of a printed paper copy of the recordation receipt, the Department shall accept the monthly electronic transfer of the recordation receipt copy on magnetic tape or other media acceptable to the Department. The receipt shall state the date of the deed, when admitted to record, the name of the grantor and grantee, the address of the grantee, given pursuant to § 17.1-223, and the description, quantity and specified value of land conveyed. Such clerk shall, at the same time, forward to the commissioner and the Department a list of all lands acquired in fee simple by the Commonwealth, through condemnation proceedings, and shall give the names of the persons from whom acquired, the dates of confirmation of the commissioners' reports in such proceedings, the quantity of land acquired in each case, the value thereof as specified in the reports and a description of each such tract.

The commissioner shall, upon receipt of any such receipt, promptly and carefully check the same against the records in the office of the clerk who furnished the same and, if he finds any errors in the receipt or list, he shall make proper correction thereof.

(Code 1950, § 58-797; 1956, c. 34; 1962, c. 236; 1964, cc. 488, 644; 1972, c. 648; 1974, cc. 338, 352; 1975, c. 223; 1979, c. 527; 1984, c. 675; 1990, c. 46; 2006, c. 355.)

§ 58.1-3304. Lists of judgments for partition or recovery of lands and of lands devised.

The clerk of every court in which judgments are required to be docketed, except such clerks in cities having a population of more than 219,000 but not more than 300,000 and in cities having a population of more than 70,000 but not more than 86,000 and adjoining a city having a population of more than 200,000, shall make out a list of all judgments and decrees for the partition or recovery of lands which have been rendered and of all lands devised by will, which have been recorded in such court within the year ending on December 31 next preceding. The list shall state the date of the decree, the land which is the subject of the partition and between whom and in what proportion it is divided or, as the case may be, the date of the will containing the devise, when admitted to record, the names of the devisor and devisee and the description of the land devised. The clerk shall deliver the list to the commissioner for his county or city on or before January 15 in each year.

Upon receipt of any such list as hereinbefore provided for, the commissioner shall promptly and carefully check the list against the records in the office of the clerk who furnished the same and, if he finds any errors in the list, he shall make proper correction thereof.

(Code 1950, § 58-798; 1956, c. 34; 1962, c. 236; 1964, c. 488; 1984, c. 675.)

§ 58.1-3305. Penalty on clerks for failure to deliver such lists.

If any clerk fails to perform the duties required of him by § 58.1-3303 or § 58.1-3304 he shall forfeit to the Commonwealth the sum of $100 and the judge of each circuit court shall ascertain at the term of his court next succeeding January 15 of each year whether the clerk of such court has performed such duties. If it appears that the clerk has failed to perform such duties, in the manner and within the time prescribed, the judge shall issue a rule against the clerk, returnable within five days, to show cause, if any, why judgment shall not be entered against him for the penalty herein imposed.

(Code 1950, § 58-799; 1984, c. 675.)

§ 58.1-3306. Librarian of Virginia to furnish abstracts of grants.

An abstract shall be made out by the Librarian of Virginia on or before January 15 of each year, or as soon thereafter as practicable, for the commissioner of the revenue of each county or city, of all grants issued for lands therein from his office within the year ending December 31 next preceding. The Librarian of Virginia shall transmit every such abstract to the commissioner of the revenue for the proper county or city.

(Code 1950, § 58-800; 1984, c. 675; 1998, c. 427.)

§ 58.1-3307.

Reserved.

§ 58.1-3308. Commissioner to enter lands appearing on abstracts and assess their value.

The commissioner of the revenue shall enter in the books and assess the fair market value of all lands in his county or city appearing by the abstracts to have been granted.

(Code 1950, § 58-802; 1984, c. 675.)

§ 58.1-3309. Lands on lists to be transferred and charged; apportionment of value of soil and standing timber.

The lands and standing timber appearing on the lists or statements referenced in §§ 58.1-3303 through 58.1-3308 shall be transferred accordingly on the land book and charged to the person to whom the transfer is made or the grant has issued. When standing timber is so transferred the commissioner shall apportion the assessed value of the land on which the timber is standing between the owner of the soil and the owner of the timber.

(Code 1950, § 58-803; 1984, c. 675.)

§ 58.1-3310. Commissioner of the revenue to retain original land book; disposition of copies; penalties.

Each commissioner of the revenue shall retain in his office the original land book. Each commissioner of the revenue shall deliver to the treasurer of his county or city and, if requested by the Department in writing, to the Department of Taxation one copy each of the land book on or before September 1 of each year or within ninety days from the date on which the rate of tax on real property has been determined, whichever is later. However, the Department may, for good cause, extend the time for delivery of such copies. Each commissioner of the revenue shall file a copy of the land book in the office of the clerk of the circuit court of his county or city. Such clerk shall preserve such copies in his office, but the commissioner of the revenue need not preserve the original nor the treasurer his copy for a longer period than six years following the tax year to which such books relate.

(Code 1950, § 58-806; 1962, c. 282; 1976, c. 532; 1984, c. 675; 1997, c. 701.)

§ 58.1-3311. Land book not to be altered after delivery to local treasurer.

After the commissioner of the revenue shall have delivered a copy of his land book to the county or city treasurer, no alteration shall be made therein by him affecting the taxes or levies of that year.

(Code 1950, § 58-807; 1984, c. 675.)

§ 58.1-3312. Changes to be noted in land book by commissioner in making it out.

Such changes as may happen within the county or city of any commissioner shall be noted by him in making out his land book.

(Code 1950, § 58-808; 1984, c. 675.)

§ 58.1-3313. Commissioners to correct mistakes in their land books.

Every commissioner, in making out his land book, shall correct any mistake made in any entry therein. But land which has been correctly charged to one person shall not afterwards be charged to another without evidence of record that such charge is proper.

(Code 1950, § 58-809; 1984, c. 675.)

§ 58.1-3314. Transfer and entry fees.

The fees for entering and transferring lands on commissioners' land books shall be as follows:

1. For making an entry and assessment under § 58.1-3308, one dollar for every parcel, to be paid by the owner;

2. For making an entry and assessment, when required by any owner, under the provisions of § 58.1-3290, one dollar and seventy-five cents and the parties among whom the land is divided shall be jointly and severally liable for such fee, unless the land is divided in a court proceeding, in which event the fee shall be paid by the plaintiff, or by such person or persons as the court may direct;

3. For making an entry transferring to one person lands before charged to another, one dollar, which shall be paid by the person to whom the transfer is made, and shall be a compensation for all tracts in the commissioner's county or city conveyed by the same deed; and

4. For an entry of land according to § 58.1-3352, one dollar, which shall be paid by the person for whom the entry is made.

(Code 1950, § 58-816; 1984, c. 675.)

§ 58.1-3315. Collection of fees.

All the fees mentioned in § 58.1-3314 shall be collected by the clerks of the courts of record of the counties and cities at the time of recording the deed or will or upon the confirmation of a commissioner's report of partition, or at the time an entry is made by the commissioner under § 58.1-3308, which fee shall be paid by the vendee. In the case of lands acquired in fee simple by the Commonwealth, the quantity of land in each case shall be deducted from the land of the prior owner, but shall not be transferred to the

Commonwealth, nor shall any transfer or other fee be charged or collected thereon.

(Code 1950, § 58-817; 1973, c. 75; 1984, c. 675.)

§ 58.1-3320. Taxes to be extended on basis of assessment.

Taxes for each year on real estate subject to assessment or reassessment shall be extended on the basis of the last general reassessment or biennial assessment made prior to such year, subject to such changes as may have been lawfully made.

(Code 1950, § 58-759; 1984, c. 675.)

§ 58.1-3321. Effect on rate when assessment results in tax increase; public hearings.

A. When any annual assessment, biennial assessment or general reassessment of real property by a county, city or town would result in an increase of 1 percent or more in the total real property tax levied, such county, city, or town shall reduce its rate of levy for the forthcoming tax year so as to cause such rate of levy to produce no more than 101 percent of the previous year's real property tax levies, unless subsection B of this section is complied with, which rate shall be determined by multiplying the previous year's total real property tax levies by 101 percent and dividing the product by the forthcoming tax year's total real property assessed value. An additional assessment or reassessment due to the construction of new or other improvements, including those improvements and changes set forth in § 58.1-3285, to the property shall not be an annual assessment or general reassessment within the meaning of this section, nor shall the assessed value of such improvements be included in calculating the new tax levy for purposes of this section. Special levies shall not be included in any calculations provided for under this section.

B. The governing body of a county, city, or town may, after conducting a public hearing, which shall not be held at the same time as the annual budget hearing, increase the rate above the reduced rate required in subsection A above if any such increase is deemed to be necessary by such governing body.

Notice of the public hearing shall be given at least 30 days before the date of such hearing by the publication of a notice in (i) at least one newspaper of general circulation in such county or city and (ii) a prominent public location at which notices are regularly posted in the building where the governing body of the county, city, or town regularly conducts its business, except that such notice shall be given at least 14 days before the date of such hearing in any year in which neither a general appropriation act nor amendments to a general appropriation act providing appropriations for the immediately following fiscal year have been enacted by April 30 of such year. Any such notice shall be at least the size of one-eighth page of a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18-point. The notice described in clause (i) shall not be placed in that portion, if any, of the newspaper reserved for legal notices and classified advertisements. The notice described in clauses (i) and (ii) shall be in the following form and contain the following information, in addition to such other information as the local governing body may elect to include:

NOTICE OF PROPOSED REAL PROPERTY TAX INCREASE

The (name of the county, city or town) proposes to increase property tax levies.

1. Assessment Increase: Total assessed value of real property, excluding additional assessments due to new construction or improvements to property, exceeds last year's total assessed value of real property by . . . . . percent.

2. Lowered Rate Necessary to Offset Increased Assessment: The tax rate which would levy the same amount of real estate tax as last year, when multiplied by the new total assessed value of real estate with the exclusions mentioned above, would be $. . . . . per $100 of assessed value. This rate will be known as the "lowered tax rate."

3. Effective Rate Increase: The (name of the county, city or town) proposes to adopt a tax rate of $. . . . . per $100 of assessed value. The difference between the lowered tax rate and the proposed rate would be $..... per $100, or. . . . . percent. This difference will be known as the "effective tax rate increase."

Individual property taxes may, however, increase at a percentage greater than or less than the above percentage.

4. Proposed Total Budget Increase: Based on the proposed real property tax rate and changes in other revenues, the total budget of (name of county, city or town) will exceed last year's by. . . . . percent.

A public hearing on the increase will be held on (date and time) at (meeting place).

C. All hearings shall be open to the public. The governing body shall permit persons desiring to be heard an opportunity to present oral testimony within such reasonable time limits as shall be determined by the governing body.

D. The provisions of this section shall not be applicable to the assessment of public service corporation property by the State Corporation Commission.

E. Notwithstanding other provisions of general or special law, the tax rate for taxes due on or before June 30 of each year, may be fixed on or before April 15 of that tax year.

(Code 1950, § 58-785.1; 1975, c. 622; 1979, c. 473; 1980, c. 396; 1981, c. 212; 1984, c. 675; 1990, c. 579; 2007, c. 948; 2009, cc. 30, 511.)

§ 58.1-3330. Notice of change in assessment.

A. Whenever in any county, city or town there is a reassessment of real estate, or any change in the assessed value of any real estate, notice shall be given by mail directly to each property owner, as shown by the land books of the county, city or town whose assessment has been changed. Such notice shall be sent by postpaid mail at least fifteen days prior to the date of a hearing to protest such change to the address of the property owner as shown on such land books. The governing body of the county, city or town shall require the officer of such county, city or town charged with the assessment of real estate to send such notices or it shall provide funds or services to the persons making such reassessment so that such persons can send such notices.

B. Every notice shall, among other matters, show the magisterial or other district, if any, in which the real estate is located, the amount and the new and immediately prior appraised value of land, the new and immediately prior appraised value of improvements, and the new and immediately prior assessed value of each if different from the appraised value. It shall further set out the time and place at which persons may appear before the officers making such reassessment or change and present objections thereto. In counties that have elected by ordinance to prepare land and personal property books in alphabetical order as authorized by § 58.1-3301 B, such notice may omit reference to districts, as provided herein.

The following requirements shall apply to any notice of change in assessment other than one in which the change arises solely from the construction or addition of new improvements to the real estate. If the tax rate that will apply to the new assessed value has been established, then the notice shall set out such rate, the total amount of the new tax levy, and the percentage change in the new tax levy from the immediately prior one. If the tax rate that will apply to the new assessed value has not been established, then the notice shall set out the time and place of the next meeting of the local governing body at which public testimony will be accepted on any real estate tax rate changes. If this meeting will be more than 60 days from the date of the reassessment notice, then instead of the date of the meeting, the notice shall include information on when the date of the meeting will be set and where it will be publicized.

C. Any person other than the owner who receives such reassessment notice, shall transmit the notice to such owner, at his last known address, immediately on receipt thereof, and shall be liable to such owner in an action at law for liquidated damages in the amount of twenty-five dollars, in the event of a failure to so transmit the notice. Mailing such notice to the last known address of the property owner shall be deemed to satisfy the requirements of this section.

D. Notwithstanding the provisions of this section, if the address of the taxpayer as shown on the tax record is in care of a lender, the lender shall upon request furnish the county, city or town a list of such property owners, together with their current addresses as they appear on the books of the lender, or the parties may by agreement permit the lender to forward such notices to the property owner, with the cost of postage to be paid by the county, city or town.

(Code 1950, § 58-792.01; 1973, c. 210; 1974, c. 179; 1975, c. 614; 1977, c. 594; 1984, c. 675; 2006, cc. 255, 509; 2007, cc. 344, 353.)

§ 58.1-3331. Public disclosure of certain assessment records.

A. All property appraisal cards or sheets within the custody of a county, city or town assessing officer, except those cards or sheets containing information made confidential by § 58.1-3, shall be open for inspection, after the notice of reassessment is mailed as provided in § 58.1-3330, the normal office hours of such official by any taxpayer, or his duly authorized representative, desiring to review such cards or sheets.

B. Any taxpayer, or his duly authorized representative, whose real property has been assessed for taxation shall, upon request, be allowed to examine the working papers used by any such assessing official in arriving at the appraised and assessed value of such person's land and any improvements thereon.

C. Upon request of any taxpayer or his duly authorized representative, the assessing officer of the governing body shall make available information regarding the methodology employed in the calculation of a property's assessed value to include the capitalization rate used to determine the property's value, a list of comparable properties or sales figures considered in the valuation, and any other market surveys, formulas, matrices, or other factors considered in determining the value of the property. Nothing in this section shall be construed to require disclosure of information that is prohibited from disclosure pursuant to §§ 58.1-3 and 58.1-3294.

D. The assessing officer of the governing body may fix and promulgate a limited period within normal office hours when such records shall be available for inspection and copying, but such period of time may not be less than four hours per day on Monday through Friday, except on such days when the office is otherwise closed.

E. If, within at least five days prior to any action by a court under § 58.1-3984 or by a board of equalization under § 58.1-3379, the assessing officer fails to disclose or make available for inspection any information required to be disclosed or made available for inspection and copying under this section, then the assessing official and the applicable local government shall not be allowed to introduce such information or use it in any other manner in any such appeal.

(Code 1950, § 58-792.02; 1975, c. 615; 1979, c. 577; 1980, c. 124; 1983, c. 161; 1984, c. 675; 2010, c. 552.)

§ 58.1-3332. Property appraisal cards or sheets.

Each county, city or town assessing officer shall maintain current property appraisal cards or sheets for all parcels of real estate assessed and assessable by him. Any such assessing officer who maintains such property appraisal cards or sheets shall include thereon the appraised value of the property and improvements, if any, and the calculations and methodology used in determining the assessed value of such property and improvements.

(Code 1950, § 58-817.1; 1975, c. 618; 1983, c. 161; 1984, c. 675.)

§ 58.1-3340. Lien on real estate for taxes and levies assessed thereon; responsibility of purchaser or trustee at sale; lien on rents.

There shall be a lien on real estate for the payment of taxes and levies assessed thereon prior to any other lien or encumbrance. The lien shall continue to be such prior lien until actual payment shall have been made to the proper officer of the taxing authority. The purchaser at a sale, or trustee in the event of a foreclosure sale, shall cause the proceeds to be applied to the payment of all taxes and levies assessed on real estate. In the case of the purchase of a portion of a tract of land, the purchaser shall cause the proceeds to be applied to the payment of taxes and levies assessed on the entire tract, prorated in accordance with the relationship that the purchase price bears to the most recent assessed value of the entire tract. If the cost per acre of the purchased parcel is less than the assessed value per acre of the entire tract, or if, in the reasonable opinion of the local commissioner of the revenue or other assessing officer, the purchase price is less than the fair market value of the purchased parcel, the local commissioner of the revenue or other assessing officer may require that an appraisal, prepared by a state-certified or state-licensed appraiser, of the purchased parcel be provided, and in such event the proration shall be made in accordance with the relationship that the greater of (i) the appraised value of the purchased parcel or (ii) the purchase price bears to the most recent assessed value of the entire tract. In the event a proration is necessary, the purchaser's portion of such tract of land shall be relieved of such lien to the extent the proceeds exceed the purchaser's pro rata share of taxes. It shall be the responsibility of the treasurer or other proper officer of the taxing authority to cause the release of the lien. The seller's liability for taxes and levies shall be effectively prorated contractually. The words "taxes" and "levies" as used in this section include the penalties and interest accruing on such taxes and levies in pursuance of

law. The lien imposed hereby shall, in addition to existing remedies for the collection of taxes and levies, be enforceable by suit in equity under the provisions of Article 4 (§ 58.1-3965 et seq.) of Chapter 39.

There shall be a further lien upon the rents of such real estate whether the same be in money or in kind, for taxes of the current year.

(Code 1950, §§ 58-762, 58-1023; 1973, c. 467; 1979, c. 12; 1984, c. 675; 1994, c. 386; 1995, c. 143; 2010, c. 417.)

§ 58.1-3341. Liens for taxes delinquent twenty years or more released; lands purchased by Commonwealth; pending suits.

No lien upon real estate for taxes and levies due and payable to the Commonwealth or any political subdivision thereof which has been, or shall hereafter become, delinquent for twenty or more years shall be enforced in any proceeding at law or in equity and such lien shall be deemed to have expired and to be barred and cancelled after such time. For purposes of this section, taxes deferred pursuant to an ordinance enacted in conformity with Article 2 (§ 58.1-3210 et seq.) or Article 2.1 (§ 58.1-3219 et seq.) of Chapter 32 of this title shall not be considered "delinquent" during the pendency of any period of deferral, and the lien upon real property for taxes and levies shall remain valid for twenty years plus any period of deferral afforded pursuant to such ordinance.

The right, title and interest of the Commonwealth in and to all real estate sold for taxes and levies which have been, or hereafter become, delinquent for twenty or more years, when such real estate has been purchased by the Commonwealth and not resold, is hereby unconditionally released unto and vested by operation of law in the person or persons who owned the real estate at the time the Commonwealth so acquired title or persons claiming, or to claim, by, through or under them.

No clerk shall make a tax deed conveying to any person any real estate sold for delinquent taxes or levies which have been, or hereafter become, delinquent for twenty or more years.

(Code 1950, § 58-767; 1962, c. 93; 1984, c. 675; 1994, c. 209.)

§ 58.1-3342. Assessment upon owner's death; liability of personalty for tax.

When an owner dies intestate, the commissioner of the revenue may ascertain who are the heirs of the intestate and charge the land to such heirs or he may charge the land to the decedent's estate until a transfer thereof. When the owner has devised the land, the commissioner may charge the same to such person as may be beneficially entitled thereto under the will. If, under the will, the land is to be sold, it shall continue charged to the decedent's estate until a transfer thereof and, while it continues so charged to the estate, the personal property shall be liable for the tax on all property so charged and subject to distress or other lawful process for the recovery of the same. Any assets in the hands of the personal representatives of the decedent shall be likewise liable therefor.

(Code 1950, § 58-771; 1984, c. 675.)

§ 58.1-3343. Effect of lien on certain real estate jointly owned.

The lien on real estate owned by more than one person as tenants in common, joint tenants or otherwise for the payment of all prior, present and subsequent taxes and levies or assessments thereof, including any tax, levy, or assessment authorized under §§ 58.1-3712, 58.1-3713, or § 58.1-3713.4, shall not be impaired if such real estate was or is assessed in the name of one of such owners with the notation, "and another," or "and others," or "and wife," or "and husband," or the appropriate abbreviations of such words, or their legal equivalents, so as to indicate that the real estate was or is owned by more than one person.

(Code 1950, § 58-770; 1984, c. 675; 2001, c. 462.)

§ 58.1-3344. Taxes a lien on fee simple estate, not merely on interest of owner.

In any city, county, district or town:

1. Taxes assessed against real estate subject to taxes shall be a lien on the property and the name of the person listed as owner shall be for convenience in the collection of the taxes. The lien for taxes shall not be limited to the interest of the person assessed but shall be on the entire fee simple estate. There shall be no lien when for any year the same property is assessed to more than one person and all taxes

assessed against the property in one of the names have been paid for that year.

2. When taxes are assessed against land in the name of a life tenant or other person owning less than the fee or owing no interest, the land may be sold under § 58.1-3965 et seq. for delinquent taxes provided the owner of record or his heirs be made parties to the proceeding for sale.

(Code 1950, § 58-1024; 1958, c. 602; 1972, cc. 10, 592; 1973, c. 467; 1984, c. 675.)

§ 58.1-3345. Tax liens on timber in certain counties.

In any county in this Commonwealth which adjoins three cities lying wholly within this Commonwealth, one of which cities has a population of 190,000 or more, taxes and levies assessed against the land of a life tenant shall be a lien upon any matured timber growing upon such land, and in any suit brought for the purpose of enforcing such lien the court may decree a sale of such timber. The term "matured timber," as used in this section, shall mean any timber which may be selectively cut without damage to the estate of the remainder, and the certificate of the State Forester that timber is matured shall be accepted as prima facie evidence of that fact.

(Code 1950, § 58-768.1; 1984, c. 675.)

§ 58.1-3350. Review of assessment.

Any person aggrieved by any assessment under this chapter may apply for relief to the board of assessors, or if none, to the board of equalization created under Article 14 (§ 58.1-3370 et seq.) of this chapter or may directly apply for relief to the appropriate circuit court of the county or city in those localities where application to the aforenamed board is not a prerequisite to the jurisdiction of the court.

(1984, c. 675; 1985, c. 64.)

§ 58.1-3351. How assessed value changed; improvements; correction by court or board of equalization.

The value of real estate as ascertained at a general reassessment and the ascertained value of new grants which may hereafter be entered and assessed shall only be changed to allow the addition of the value of improvements, or a total or partial deduction of the value of such improvements or an addition to or total or partial deduction from the value of the real estate caused by any easement affecting the real estate, except so far as the same are directed to be corrected by a court of competent jurisdiction or by the local board of equalization in the exercise of powers expressly conferred by law. Routine maintenance shall not be considered as improvements.

(Code 1950, § 58-763; 1968, c. 593; 1983, c. 161; 1984, c. 675.)

§ 58.1-3352. When lands in one place are assessed in another; how error corrected.

If land lying in one county or city be erroneously assessed in another, the commissioner on whose book it is erroneously assessed shall certify the owner's name and the quantity, description and value of the land to the proper commissioner, who shall enter the same on his book, and the commissioner on whose book it was erroneously entered shall strike the same therefrom upon being informed of the entry thereof by the proper commissioner.

(Code 1950, § 58-814; 1984, c. 675.)

§ 58.1-3353. Assessment not invalid unless rights prejudiced by error.

No assessment of any real estate, whether heretofore or hereafter made, shall be held to be invalid because of any error, omission or irregularity by the commissioner of the revenue or other assessing officer in charging such real estate on the land book unless it be shown by the person or persons contesting any such assessment that such error, omission or irregularity has operated to the prejudice of his or their rights.

(Code 1950, § 58-815; 1984, c. 675.)

§ 58.1-3354. Change when easement acquired.

In the case of any real estate upon which any easement has been acquired for the installation of public

service, highway or street facilities, and which has not been reassessed by the commissioner of the revenue on request of the landowner as provided in § 58.1-3351, the owner thereof may apply for relief to the circuit court of such county or any city court of record wherein such property is located. If the governing body of any county is of the opinion that any real estate therein is assessed at less than its fair market value, it shall direct the attorney for the Commonwealth to apply to the circuit court of such county to have the assessment corrected. Proceedings upon any such application shall be as provided in §§ 58.1-3984 to 58.1-3989 and the court shall enter such order with respect to the assessment as is just and proper.

(Code 1950, § 58-764; 1968, c. 593; 1976, c. 717; 1984, c. 675.)

§ 58.1-3355. Notice to State Corporation Commission and Department of deduction from value of real estate for public service corporation easement.

In the event any deduction has been made from the value of real estate for any public service corporation easement under either § 58.1-3351 or § 58.1-3354, the commissioner of revenue or director of finance shall, on request, send the State Corporation Commission, the Department of Taxation, and the public service corporation owning said easement the amount of the deduction so made.

(Code 1950, § 58-764.1; 1968, c. 593; 1977, c. 49; 1983, c. 570; 1984, c. 675.)

§ 58.1-3360. Credit on current year's taxes when land acquired by United States, the Commonwealth, a political subdivision, or a church or religious body.

Any taxpayer whose lands, or any portion thereof, are in any year acquired or taken in any manner by the United States, the Commonwealth, a political subdivision, or a church or religious body, which is exempt from taxation by Article X, Section 6 of the Constitution of Virginia, shall be relieved from the payment of taxes and levies from the date of divestment of such land for that portion of the year in which the property was taken or acquired. The county treasurers as to land situated in counties and the city treasurers and city collectors as to lands situated in cities shall receive from and receipt to the original owner of the lands so taken, for his proportionate part of the taxes and levies for the year and credit the payment on the tax tickets and shall return at the same time he makes his return of lands and lots improperly assessed, as required by law, the proportional part of the taxes and levies exonerated from taxation for any such year, indicating on the margin of the list the date on which the property was acquired by the government or religious body. Such list, when approved by the proper authorities, shall be considered as a credit to any such treasurer or collector in the settlement of the accounts for such year.

(Code 1950, §§ 58-818, 58-822; 1960, c. 58; 1962, c. 149; 1971, Ex. Sess., c. 47; 1984, c. 675.)

§ 58.1-3360.1. Clerk to furnish certificate of land acquired; contents of certificate; certificate as authority to receive and prorate taxes.

The clerk of the court of the county or city in which is recorded the transfer of title to such property shall furnish a certificate to the county or city treasurer showing the quantity of land so taken or acquired, and whether by the Commonwealth or any political subdivision thereof or church or religious body, which is exempt from taxation by Article X, Section 6 of the Constitution of Virginia, the name of the former owner and a description of the property and the district or ward in which the property is situated, also the date of the recordation of the deed or order by which such property was taken or acquired by the Commonwealth or any political subdivision thereof or any such church or religious body, as shown by the records in his office. Such certificate shall be sufficient evidence to the county and city treasurers to authorize them to receive and prorate the taxes and levies as herein authorized.

(Code 1950, § 58-823; 1958, c. 431; 1960, c. 58; 1971, Ex. Sess., c. 47; 1984, c. 675.)

§ 58.1-3360.2. Proration by court; effect on interest and penalties.

Any such taxpayer, or his heirs, successors or assigns, who shall fail to have his taxes prorated by the county or city treasurer, as above provided, shall be entitled to apply to the appropriate court for proration of the taxes, as herein provided, in the same manner and within the same time as provided by law for the correction of erroneous assessments and refunding taxes erroneously charged; provided, however that in such proceedings such taxpayer shall be entitled to relief of interest and penalties only as to the proportionate part of the property so taken or acquired by the Commonwealth, or any county or municipality thereof or church or religious body, which is exempt from taxation by Article X, Section 6 of the Constitution of Virginia.

(Code 1950, § 58-824; 1960, c. 58; 1971, Ex. Sess., c. 1; 1984, c. 675.)

§ 58.1-3361. Clerk to furnish lists of such lands.

The clerk of the court of the county or city in which the lands described in § 58.1-3360 lie shall furnish a certificate to the Comptroller and to the county or city treasurer, showing the quantity of land taken or acquired by the government or religious body, the name of the former owner and a description of the date of the recordation of the deed by which such lands were so taken or acquired as shown by the records in his office. Such certificate shall be sufficient evidence to county and city treasurers and city collectors to authorize them to receive and prorate the taxes and levies as herein authorized.

(Code 1950, § 58-819; 1984, c. 675.)

§ 58.1-3362. Refund of taxes paid; effect on penalties and interest.

Any taxpayer whose lands are taken and who has paid his taxes and levies for the whole year, shall be entitled to recover such portion of the taxes, as he would be relieved from paying under the terms of § 58.1-3360, on any lands that may have been taken or acquired by the government or religious body in the same manner as provided by law for the correction of erroneous assessments and reducing taxes erroneously charged. Any taxpayer, who has not paid the taxes or levies on any such lands so taken or acquired, shall also be relieved of interest and penalties therefor; however, he shall make payment for his proportion of the taxes and levies for the year during which the land was so taken or acquired, on or before July 1 of the year following.

(Code 1950, §§ 58-820, 58-822; 1960, c. 58; 1962, c. 149; 1971, Ex. Sess., c. 47; 1984, c. 675.)

§ 58.1-3363. Recovery of taxes paid while contesting condemnation.

Any taxpayer whose lands are taken by condemnation, who appeals from the order or decree of the trial court vesting title in the lands in the United States and who, pending such appeal, pays the taxes and levies on such lands, accruing subsequent to such order or decree vesting title to such lands in the United States, shall, in the event the order or decree appealed from is affirmed, be entitled to recover the taxes and levies so paid from the date upon which the title in the lands was vested in, and the possession and control thereof exercised by, the United States, in the same manner as provided by law for the correction of erroneous assessments and refunding taxes erroneously charged. Such right to recover such taxes and levies shall extend to September 1 of the year following the date of final determination of such appeal.

(Code 1950, § 58-821; 1984, c. 675.)

§ 58.1-3370. Appointment.

A. The circuit court having jurisdiction within each city and each county other than those counties operating under § 58.1-3371 shall, in each tax year immediately following the year a general reassessment or annual or biennial assessment is conducted in such city or county, appoint for such city or county a board of equalization of real estate assessments, unless such county or city has a permanent board of equalization appointed according to law.

B. The term of any board of equalization appointed under the authority of this section shall expire one year after the effective date of the assessment for which they were appointed.

(Code 1950, § 58-895; 1975, c. 575; 1979, c. 577; 1983, c. 304; 1984, cc. 273, 675; 1991, c. 240.)

§ 58.1-3371. Appointment in counties with county executive or county manager form of government.

Unless the county has a permanent board of equalization appointed according to law, the board of supervisors or other governing body of any county operating under the county executive form of government, or the county manager form of organization and government provided for in Chapter 5 (§ 15.2-500 et seq.) or Chapter 6 (§ 15.2-600 et seq.) of Title 15.2, shall for the year following any year a general reassessment or annual or biennial assessment is conducted create and appoint for the county a board of equalization of real estate assessments. For any county operating under the county executive form of government, the board shall be composed of not less than three nor more than the number of districts for the election of members of the board of supervisors in the county. The terms of the members of any board so appointed shall expire on December 31 of the year in which they are appointed. Members

of any board shall have the qualifications prescribed by § 58.1-3374 and shall conduct their business as required by § 58.1-3378.

(Code 1950, § 58-897; 1950, p. 851; 1979, c. 577; 1983, c. 304; 1984, c. 675; 1995, c. 24.)

§ 58.1-3372.

Repealed by Acts 1985, c. 62.

§ 58.1-3373. Permanent board of equalization.

Any county or city which uses the annual assessment method or the biennial assessment method authorized under § 58.1-3253 in lieu of periodic general assessments, may elect to create a permanent board of equalization in lieu of the board of equalization required under §§ 58.1-3370 and 58.1-3371. Such board shall consist of three or five members to be appointed by the circuit court of such county or city, or the circuit court having jurisdiction within such city, as follows: In the case of a three-member board, one member shall be appointed for a term of one year, one member shall be appointed for a term of two years, and one member shall be appointed for a term of three years. In the case of a five-member board, one member shall be appointed for a one-year term, one member shall be appointed for a two-year term, and three members shall be appointed for a three-year term. However, for any county operating under the county executive form of government, the number of members of the permanent board of equalization shall be no less than three nor more than the number of districts for the election of members of the board of supervisors in the county, and the members of the permanent board of equalization shall be appointed by the circuit court of such county for three-year terms. As the terms of the initial appointees expire, their successors shall be appointed for terms of three years. Members of such boards shall have the qualifications prescribed by § 58.1-3374, and shall conduct their business as required by § 58.1-3378. The compensation of the members of any such boards shall be fixed by the governing body.

(Code 1950, § 58-898.1; 1979, c. 577; 1984, c. 675; 1989, c. 390; 1995, c. 24.)

§ 58.1-3374. (Effective for tax years beginning before January 1, 2011) Qualifications of members; vacancies.

Except as provided in § 58.1-3371 or § 58.1-3373, every board of equalization shall be composed of not less than three nor more than five members. All members of every board of equalization shall be residents, a majority of whom 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 equalization shall be broadly representative of the community. Thirty percent of the members of the board shall be commercial or residential real estate appraisers, other real estate professionals, builders, developers, or legal or financial professionals, and at least one such member shall sit in all cases involving commercial, industrial or multi-family residential property, unless waived by the taxpayer. No member of the board of assessors shall be eligible for appointment to the board of equalization for the same reassessment. In order to be eligible for appointment, each prospective member of such board shall attend and participate in the basic course of instruction given by the Department of Taxation under § 58.1-206. In addition, at least once in every four years of service on a board of equalization, each member of a board of equalization shall take continuing education instruction provided by the Tax Commissioner pursuant to § 58.1-206. Any vacancy occurring on any board of equalization shall be filled for the unexpired term by the authority making the original appointment.

(Code 1950, § 58-899; 1979, c. 577; 1983, c. 304; 1984, c. 675; 1995, c. 24; 2003, c. 1036; 2009, c. 25.)

§ 58.1-3374. (Effective for tax years beginning on or after January 1, 2011) Qualifications of members; vacancies.

Except as provided in § 58.1-3371 or 58.1-3373, every board of equalization shall be composed of not less than three nor more than five members. All members of every board of equalization shall be residents, a majority of whom 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 equalization shall be broadly representative of the community. Thirty percent of the members of the board shall be commercial or residential real estate appraisers, other real estate professionals, builders, developers, or legal or financial professionals, and at least one such member shall sit in all cases involving commercial, industrial or multi-family residential property, unless waived by the taxpayer. No member of the board of assessors shall be eligible for appointment to the board of equalization for the same reassessment. In order to be

eligible for appointment, each prospective member of such board shall attend and participate in the basic course of instruction given by the Department of Taxation under § 58.1-206. In addition, at least once in every four years of service on a board of equalization, each member of a board of equalization shall take continuing education instruction provided by the Tax Commissioner pursuant to § 58.1-206. Any vacancy occurring on any board of equalization shall be filled for the unexpired term by the authority making the original appointment.

On any board or panel thereof considering appeals of commercial or multi-family residential property in a locality with a population exceeding 100,000, 30 percent of the members of such board or panel shall be commercial or multi-family residential real estate appraisers who are licensed and certified by the Virginia Real Estate Appraiser Board to serve as general real estate appraisers, other commercial or multi-family real estate professionals or licensed commercial or multi-family real estate brokers, builders, developers, active members of the Virginia State Bar, or other legal or financial professionals who have knowledge of the valuation of property, real estate transactions, building costs, accounting, finance, or statistics. For the purposes of this section, commercial or multi-family residential property shall be defined as any property that is either operated as or zoned for use as commercial, industrial or multi-family residential rental property.

(Code 1950, § 58-899; 1979, c. 577; 1983, c. 304; 1984, c. 675; 1995, c. 24; 2003, c. 1036; 2009, c. 25; 2010, c. 552.)

§ 58.1-3375. Compensation of members.

The members of every board of equalization shall receive compensation, for time actually engaged in the duties of the board, to be fixed by the governing body of the county or city and paid out of the local treasury. The governing body of every county and of every city may limit the compensation to such number of days as in its opinion is sufficient for the completion of the work of the board.

(Code 1950, § 58-900; 1984, c. 675.)

§ 58.1-3376. Organization and assistants; legal assistance.

A. Every board of equalization shall elect one of its members as chairman and another as secretary, and may employ necessary clerical and other assistants and call in advisors and fix their compensation, subject to the approval of the governing body of the county or city, to be paid out of the local treasury.

B. In any city with a population of more than 100,000, when the board of equalization, in fulfilling its functions, desires legal advice, the board shall request such advice from the attorney for the city or county for which they were appointed.

Notwithstanding any contrary provision of law, general or special, such attorney shall in a timely manner give his advice to the board.

If there is no such attorney or the attorney has a conflict, the board shall make a written request to the city or county governing body to employ an attorney to advise the board. The governing body shall respond in writing within ten days from receipt of such request.

If the governing body refuses to honor the board's request, then the board shall apply to the circuit court that appointed it. The judge of such circuit court may authorize the employment of an attorney to advise the board and order that the attorney be paid out of the local treasury.

(Code 1950, § 58-901; 1984, c. 675; 1994, c. 509.)

§ 58.1-3377. Use of land books.

Every board of equalization for a county not having a general reassessment of real estate shall procure for its use from the clerk of the circuit court of the county the copy of the land book on file in his office for the current year if available, otherwise for the preceding year, and the board shall return the land book to the clerk upon the completion of its work. Every board of equalization for a city having need of a copy of the land book for any year shall procure an existing copy if available for the purpose; otherwise the governing body of the city shall cause a new copy to be made and furnished the board at the expense of the city.

(Code 1950, § 58-902; 1984, c. 675.)

§ 58.1-3378. Sittings; notices thereof.

Each board of equalization shall sit at and for such time or times as may be necessary to discharge the duties imposed and to exercise the powers conferred by this chapter. Of each sitting public notice shall be given at least 10 days beforehand by publication in a newspaper having general circulation in the county or city and, in a county, also by posting the notice at the courthouse and at each public library, voting precinct or both. Such posting shall be done by the sheriff or his deputy. Such notice shall inform the public that the board shall sit at the place or places and on the days named therein for the purpose of equalizing real estate assessments in such county or city and for the purpose of hearing complaints of inequalities wherein the property owners allege a lack of uniformity in assessment, or errors in acreage in such real estate assessments. The board also shall hear complaints that real property is assessed at more than fair market value. Except as otherwise provided by the Code of Virginia:

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

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

The governing body of any county or city may provide by ordinance the date by which applications must be made by property owners or lessees for relief. Such date shall not be earlier than 30 days after the termination of the date set by the assessing officer to hear objections to the assessments as provided in § 58.1-3330. If no applications for relief are received by such date, the board of equalization shall be deemed to have discharged its duties. Such governing body may also provide by ordinance the deadline by which all applications must be finally disposed of by the board of equalization. All such deadlines shall be clearly stated on the notice of assessment.

(Code 1950, § 58-903; 1976, c. 679; 1983, c. 304; 1984, c. 675; 1989, c. 300; 2000, c. 383; 2003, c. 1036.)

§ 58.1-3379. (Effective for hearings held before October 1, 2010) Hearing complaints and equalizing assessments.

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

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

C. The burden of proof shall be upon a taxpayer seeking relief to show 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 and was not arrived at in accordance with generally accepted appraisal practice. Mistakes of fact, including computation, that affect the assessment shall be deemed not to be in accordance with generally accepted appraisal practice.

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

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

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

(Code 1950, § 58-904; 1984, c. 675; 2003, c. 1036.)

§ 58.1-3379. (Effective for hearings held on or after October 1, 2010) Hearing complaints and equalizing assessments.

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

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

C. The burden of proof shall be upon a taxpayer seeking relief to show 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 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 (IAAO). Mistakes of fact, including computation, that affect the assessment shall be deemed not to be in accordance with generally accepted appraisal practice.

D. In any case before the board concerning a taxpayer's complaint in which the commissioner of the revenue or other local assessing officer requests the board to increase the assessment after the taxpayer files an appeal to the board on a commercial, multifamily residential, or industrial property, the commissioner or other officer shall provide the taxpayer notice of the request not less than 14 days prior to the hearing of the board. Except as provided herein, if the taxpayer contests the requested increase, the assessor shall either withdraw the request or shall provide the board an appraisal performed by an independent contractor who is licensed and certified by the Virginia Real Estate Appraiser Board to serve as a general real estate appraiser, which appraisal affirms that such increase in value represents the property's fair market value as of the date of the assessment in dispute. The provisions of this subsection that require that the assessor provide the board with an appraisal shall not apply if (i) the requested increase is based on mistakes of fact, including computation errors, or (ii) the information on which the commissioner or other officer bases the requested increase was available to, but not provided by, the taxpayer in response to a request for information made by the commissioner or other officer at the time the challenged assessment was made.

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

F. Every board of equalization may go upon and inspect any real estate subject to adjustment or equalization by it.

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

(Code 1950, § 58-904; 1984, c. 675; 2003, c. 1036; 2010, c. 552.)

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

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

(Code 1950, § 58-905; 1984, c. 675; 2003, c. 1036.)

§ 58.1-3381. Action of board; notice required before increase made.

A. The board shall hear and determine any and all such petitions and, by order, may increase, decrease or affirm the assessment of which complaint is made; and, by order, it may increase or decrease any assessment, upon its own motion. No assessment shall be increased until after the owner of the property has been notified and given an opportunity to show cause against such increase, unless such owner has already been heard.

B. Any determination of the assessment by the board shall be deemed presumptively correct for the succeeding two years unless the assessor can demonstrate by clear and convincing evidence that a substantial change in value of the property has occurred. This subsection shall apply to the City of Virginia Beach.

(Code 1950, § 58-906; 1984, c. 675; 1993, c. 136; 2007, c. 813.)

§ 58.1-3382. Appeal.

The attorney for the county, city or town or any taxpayer, aggrieved by any such order, may apply to the circuit court of the county or city, for the correction and revision of such order, in the same manner and within the same time as is provided by law for the correction of erroneous assessments of real estate by any person who is aggrieved thereby.

(Code 1950, § 58-907; 1984, c. 675.)

§ 58.1-3383. Omitted real estate and duplicate assessments.

The board may direct the commissioner of the revenue to enter upon the land books real estate which is found to have been omitted, and to cancel duplicate assessments of real estate.

(Code 1950, § 58-908; 1984, c. 675.)

§ 58.1-3384. Minutes and copies of orders.

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

(Code 1950, § 58-909; 1984, c. 675; 2003, c. 1036.)

§ 58.1-3385. Commissioner to make changes ordered; when order exonerates taxpayer.

The commissioner of the revenue shall make on his land book the changes so ordered by the board and, if such changes affect the land book for the then current year and such land book has been then completed, the commissioner of the revenue may for that year make a supplemental assessment in case of an increase in valuation. In case of a decrease in valuation, the order of the board shall entitle the taxpayer to an exoneration from so much of the assessment as exceeds the proper amount, if the taxes have not been paid by him and, in case the taxes have been paid, to a refund of so much thereof as is erroneous.

(Code 1950, § 58-910; 1984, c. 675.)

§ 58.1-3386. Power of boards to send for persons and papers.

Such board shall have authority to summon taxpayers or their agents, or any person: (1) to furnish information relating to the real estate of any and all taxpayers, (2) to answer, under oath, all questions touching the ownership and value of real estate of any and all taxpayers, and (3) to bring before it their books of account or other papers and records containing information with respect to the valuation of real estate of the taxpayer or any other real estate subject to taxation within the county or city under review by the board. Such summons may be served in person or by registered mail.

(Code 1950, § 58-911; 1984, c. 675.)

§ 58.1-3387. Penalty for failure to obey summons.

Any person refusing to answer the summons of the board of equalization, to furnish information or to produce his books of account, papers and other records, as required by this chapter, shall be deemed guilty of a Class 4 misdemeanor, and each day's failure to answer such summons, to furnish such information or to produce such books of account, papers and other records shall constitute a separate offense.

(Code 1950, § 58-912; 1984, c. 675.)

§ 58.1-3388. In counties not having general reassessment, or annual or biennial assessment, taxes to be extended on basis of last equalization made.

In every county not having a general reassessment or an annual or biennial assessment of real estate, taxes for each year on real estate shall be extended on the basis of the last equalization made prior to such year, subject to such changes as may have been lawfully made.

(Code 1950, § 58-913; 1979, c. 577; 1984, c. 675.)

§ 58.1-3389. Article not applicable to real estate assessable by Corporation Commission or Department.

This article shall not apply to any real estate which is assessable under the law by the State Corporation Commission or the Department of Taxation.

(Code 1950, § 58-915; 1983, cc. 304, 570; 1984, c. 675.)