

25104325D

SENATE BILL NO. 1305

Offered January 9, 2025

Prefiled January 9, 2025

A BILL to amend and reenact §§ 15.2-2285, 58.1-3237, 58.1-3285, 58.1-3958, and 58.1-3993 of the Code of Virginia, relating to local taxes; zoning; assessments; injunctions; ordinances.

Patron—McPike

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2285, 58.1-3237, 58.1-3285, 58.1-3958, and 58.1-3993 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-2285. Preparation and adoption of zoning ordinance and map and amendments thereto; appeal.

A. The planning commission of each locality may, and at the direction of the governing body shall, prepare a proposed zoning ordinance including a map or maps showing the division of the territory into districts and a text setting forth the regulations applying in each district. The commission shall hold at least one public hearing on a proposed ordinance or any amendment of an ordinance, after notice as required by § 15.2-2204, and may make appropriate changes in the proposed ordinance or amendment as a result of the hearing. Upon the completion of its work, the commission shall present the proposed ordinance or amendment including the district maps to the governing body together with its recommendations and appropriate explanatory materials.

B. No zoning ordinance shall be amended or reenacted unless the governing body has referred the proposed amendment or reenactment to the local planning commission for its recommendations. Failure of the commission to report 100 days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission, or such shorter period as may be prescribed by the governing body, shall be deemed approval, unless the proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period. The governing body shall hold at least one public hearing on a proposed reduction of the commission's review period. The governing body shall publish a notice of the public hearing in a newspaper having general circulation in the locality at least two weeks prior to the public hearing date and shall also publish the notice on the locality's website, if one exists. In the event of and upon such withdrawal, processing of the proposed amendment or reenactment shall cease without further action as otherwise would be required by this subsection.

C. 1. Before approving and adopting any zoning ordinance or amendment thereof, the governing body shall hold at least one public hearing thereon, pursuant to public notice as required by § 15.2-2204, after which the governing body may make appropriate changes or corrections in the ordinance or proposed amendment. However, no land may be zoned to a more intensive use classification than was contained in the documentation made available for examination pursuant to subsection A of § 15.2-2204 without an additional public hearing after notice required by § 15.2-2204. Zoning ordinances shall be enacted in the same manner as all other ordinances.

2. Notwithstanding the provisions of subdivision 1, any zoning ordinance or amendment thereof enacted after December 1, 2023, shall not become effective until the later of either (i) the exhaustion of the period within which a decision of the local governing body may be contested pursuant to subsection F or (ii) if pending, the date of final determination for all actions related to a contested decision of the local governing body pursuant to subsection F.

D. Any county which has adopted an urban county executive form of government provided for under Chapter 8 (§ 15.2-800 et seq.) may provide by ordinance for use of plans, profiles, elevations, and other such demonstrative materials in the presentation of requests for amendments to the zoning ordinance.

E. The adoption or amendment prior to March 1, 1968, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise, give notice or conduct more than one public hearing as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to the adoption or amendment.

F. Every action contesting a decision of the local governing body adopting or failing to adopt a proposed zoning ordinance or amendment thereto or granting or failing to grant a special exception shall be filed within thirty days of the decision with the circuit court having jurisdiction of the land affected by the decision. However, nothing in this subsection shall be construed to create any new right to contest the action of a local governing body.

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

59 A. 1. When real estate qualifies for assessment and taxation on the basis of use under an ordinance
60 adopted pursuant to this article, and the use by which it qualified changes to a nonqualifying use, or, except
61 as provided by ordinance enacted pursuant to subsection G, the zoning of the real estate is changed to a more
62 intensive use at the request of the owner or his agent, it shall be subject to additional taxes, hereinafter
63 referred to as roll-back taxes. Such additional taxes shall only be assessed against that portion of such real
64 estate which no longer qualifies for assessment and taxation on the basis of use or zoning. Liability for
65 roll-back taxes shall attach and be paid to the treasurer only if the amount of tax due exceeds ten dollars.

66 2. *A change to the zoning of real estate pursuant to this section shall only be effective following (i) the*
67 *approval of the relevant modification in the zoning classification of real estate; (ii) the exhaustion of the*
68 *period within which a challenge or appeal to such modification may be made; and (iii) if pending, the final*
69 *determination of any challenge or appeal to such modification that is made within such period.*

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

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

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

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

119 However, the owner of any real property that qualified for assessment and taxation on the basis of use,

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

128 The roll-back taxes and penalty that otherwise would be imposed under this subsection shall not become
 129 due at the time the zoning is changed if the locality has enacted an ordinance pursuant to subsection G.

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

135 G. A locality may enact an ordinance providing that (i) when a change in zoning of real estate to a more
 136 intensive use at the request of the owner or his agent occurs, roll-back taxes shall not become due solely
 137 because the change in zoning is for specific more intensive uses set forth in the ordinance, (ii) such real estate
 138 may remain eligible for use value assessment and taxation, in accordance with the provisions of this article,
 139 as long as the use by which it qualified does not change to a nonqualifying use, and (iii) no roll-back tax shall
 140 become due with respect to the real estate until such time as the use by which it qualified changes to a
 141 nonqualifying use.

142 **§ 58.1-3285. Assessment and reassessment of lots when subdivided or rezoned.**

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

159 *B. The assessment or reassessment required pursuant to subsection A shall only be effective following (i)*
 160 *the approval of a modification in the zoning classification of the subject real estate, an exception to zoning or*
 161 *classification of the subject real estate, or a reclassification of the subject real estate; (ii) the exhaustion of*
 162 *the period within which a challenge or appeal to such approvals may be made; or (iii) if pending, the final*
 163 *determination of any challenge or appeal to such approvals that is made within such period.*

164 **§ 58.1-3958. Payment of administrative costs, etc.**

165 A. The governing body of any county, city or town may impose, upon each person chargeable with
 166 delinquent taxes or other delinquent charges, fees to cover the administrative costs and reasonable attorney's
 167 or collection agency's fees actually contracted for. The attorney's or collection agency's fees shall not exceed
 168 20 percent of the taxes or other charges so collected. The administrative costs shall be in addition to all
 169 penalties and interest, and shall not exceed \$30 for taxes or other charges collected subsequent to 30 or more
 170 days after notice of delinquent taxes or charges pursuant to § 58.1-3919 but prior to the taking of any
 171 judgment with respect to such delinquent taxes or charges, and \$35 for taxes or other charges collected
 172 subsequent to judgment. If the collection activity is to collect on a nuisance abatement lien, the fee for
 173 administrative costs shall be \$150 or 25 percent of the cost, whichever is less; however, in no event shall the
 174 fee be less than \$25.

175 B. No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures
 176 prescribed herein during the pendency of any administrative appeal under § 58.1-3980, so long as the appeal
 177 is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination
 178 of the appeal, provided that nothing in this paragraph shall be construed to preclude the assessment or refund,
 179 following the final determination of such appeal, of such interest as otherwise may be provided by general
 180 law as to that portion of a tax bill that has remained unpaid or was overpaid during the pendency of such

181 appeal and is determined in such appeal to be properly due and owing.

182 *C. A circuit court in the county or city wherein a tax assessment is made may issue an injunction to stay*
183 *the collection of such taxes during the pendency of any application to the circuit court for an assessment*
184 *correction pursuant to § 58.1-3984 upon a showing of (i) a bona fide hardship caused by such assessment*
185 *and (ii) a bona fide financial inability to satisfy such assessed tax obligation. Any injunction issued pursuant*
186 *to this subsection may remain in effect until such bona fide hardship and bona fide financial inability to pay*
187 *are alleviated, or for a shorter or longer period, but in no event shall such injunction remain in effect later*
188 *than when a final determination is made on the merits of an application to the circuit court for an assessment*
189 *correction pursuant to § 58.1-3984.*

190 **§ 58.1-3993. No injunctions against assessment or collection of taxes; exceptions.**

191 No suit for the purpose of restraining the assessment or collection of any local tax shall be maintained in
192 any court of this Commonwealth, except when the party has no adequate remedy at law *or as provided in*
193 *subsection C of § 58.1-3958.*