

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 58.1-3916 of the Code of Virginia, relating to local taxation; extension for*
 3 *federal government shutdown.*

4 [H 915]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 58.1-3916 of the Code of Virginia is amended and reenacted as follows:**8 **§ 58.1-3916. Counties, cities, and towns may provide dates for filing returns and set penalties,**
 9 **interest, etc.**

10 Notwithstanding provisions contained in §§ 58.1-3518, 58.1-3900, 58.1-3913, 58.1-3915, and 58.1-3918,
 11 the governing body of any county, city, or town may provide by ordinance the time for filing local license
 12 applications and annual returns of taxable tangible personal property, machinery and tools, and merchants'
 13 capital. The governing body may also by ordinance establish due dates for the payment of local taxes; may
 14 provide that payment be made in a single installment or in two equal installments; may offer options, which
 15 may include coupon books and payroll deductions, which allow the taxpayer to determine whether to pay the
 16 tangible personal property tax through monthly, bimonthly, quarterly, or semiannual installments or in a lump
 17 sum, provided such taxes are paid in full by the final due date; may provide by ordinance penalties for failure
 18 to file such applications and returns and for nonpayment in time; may provide for payment of interest on
 19 delinquent taxes; and may provide for the recovery of reasonable attorney's or collection agency's fees
 20 actually contracted for, not to exceed 20 percent of the delinquent taxes and other charges so collected. A
 21 locality that provides for payment of interest on delinquent taxes shall provide for interest at the same rate on
 22 overpayments due to erroneously assessed taxes to be paid to the taxpayer, provided that no interest shall be
 23 required to be paid on such refund if (i) the amount of the refund is \$10 or less or (ii) the refund is the result
 24 of proration pursuant to § 58.1-3516. A court that finds that an overpayment of local taxes has been made in
 25 an action brought pursuant to § 58.1-3984 shall award interest at the appropriate rate, notwithstanding the
 26 failure of the locality to conform its ordinance to the requirements of this section.

27 Notwithstanding any contrary provision of law, the local governing body shall allow an automatic
 28 extension on real property taxes imposed upon a primary residence and personal property taxes imposed upon
 29 a qualifying vehicle, as defined in § 58.1-3523, owed by members of the armed services of the United States
 30 deployed outside of the United States. Such extension shall end and the taxes shall be due 90 days following
 31 the completion of such member's deployment. For purposes of this section, "the armed services of the United
 32 States" includes active duty service with the regular Armed Forces of the United States or the National Guard
 33 or other reserve component.

34 *Notwithstanding any contrary provision of law, the local governing body may by ordinance allow an*
 35 *extension on personal property taxes owed by (i) federal employees who are furloughed due to a federal*
 36 *government shutdown and (ii) essential federal employees who continue to work during a federal government*
 37 *shutdown but do not receive immediate payment for such work as a result of such shutdown. Such extension*
 38 *shall be granted only upon application of a federal employee. Any such extension granted shall end and the*
 39 *taxes shall be due no later than 90 days following the reopening of the federal government.*

40 No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures
 41 prescribed herein during the pendency of any administrative appeal under § 58.1-3980, so long as the appeal
 42 is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination
 43 of the appeal, provided that nothing in this paragraph shall be construed to preclude the assessment or refund,
 44 following the final determination of such appeal, of such interest as otherwise may be provided by general
 45 law as to that portion of a tax bill that has remained unpaid or was overpaid during the pendency of such
 46 appeal and is determined in such appeal to be properly due and owing.

47 Interest may commence not earlier than the first day following the day such taxes are due by ordinance to
 48 be filed, at a rate not to exceed 10 percent per year. The governing body may impose interest at a rate not to
 49 exceed the rate of interest established pursuant to § 6621 of the Internal Revenue Code of 1954, as amended,
 50 or 10 percent annually, whichever is greater, for the second and subsequent years of delinquency. No penalty
 51 for failure to pay a tax or installment shall exceed (i) 10 percent of the tax past due on such property; (ii) in
 52 the case of delinquent tangible personal property tax more than 30 days past due on property classified
 53 pursuant to subdivision A 15, 16, or 20 of § 58.1-3506, which remains unpaid after 10 days' written notice
 54 sent by United States mail to the taxpayer of the intention to impose a penalty pursuant hereto, the penalty
 55 shall not exceed an amount equal to the difference between the tax due and owing with respect to such
 56 property and the tax that would have been due and owing if the property in question had been classified as

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57 general tangible personal property pursuant to § 58.1-3503; (iii) in the case of delinquent tangible personal
58 property tax more than 30 days past due, 25 percent of the tax past due on such tangible personal property;
59 (iv) in the case of delinquent remittance of excise taxes on meals, lodging, or admissions collected from
60 consumers, 10 percent for the first month the taxes are past due, and five percent for each month thereafter,
61 up to a maximum of 25 percent of the taxes collected but not remitted; or (v) \$10, whichever is greater,
62 provided, however, that the penalty shall in no case exceed the amount of the tax assessable. No penalty for
63 failure to file a return shall be greater than 10 percent of the tax assessable on such return or \$10, whichever
64 is greater, provided, however, that the penalty shall in no case exceed the amount of the tax assessable. The
65 assessment of such penalty shall not be deemed a defense to any criminal prosecution for failing to make
66 return of taxable property as may be required by law or ordinance. Penalty for failure to file an application or
67 return may be assessed on the day after such return or application is due; penalty for failure to pay any tax
68 may be assessed on the day after the first installment is due. Any such penalty when so assessed shall become
69 a part of the tax. Any bill issued by the treasurer imposing a penalty or interest for taxes owed on machinery
70 and tools or tangible personal property owned by a business shall separately state the total amount of tax
71 owed, the amount of any interest assessed, and the amount of the penalty imposed.

72 No penalty for failure to pay any tax shall be imposed for any assessment made later than two weeks prior
73 to the day on which the taxes are due, if such assessment is made thereafter through the fault of a local
74 official, and if such assessment is paid within two weeks after the notice thereof is mailed.

75 In the event a transfer of real property ownership occurs after January 1 of a tax year and a real estate tax
76 bill has been mailed pursuant to §§ 58.1-3281 and 58.1-3912, the treasurer or other appropriate local official
77 designated by ordinance of the local governing body in jurisdictions not having a treasurer, upon ascertaining
78 that a property transfer has occurred, may invalidate a bill sent to the prior owner and reissue the bill to the
79 new owner as permitted by § 58.1-3912, and no penalty for failure to pay any tax for any such assessment
80 shall be imposed if the tax is paid within two weeks after the notice thereof is mailed.

81 Penalty and interest for failure to file a return or to pay a tax shall not be imposed if such failure was not
82 the fault of the taxpayer, or was the fault of the commissioner of the revenue, the treasurer, or the United
83 States Postal Service when no postmark is properly affixed or if the postmark affixed by the United States
84 Postal Service is illegible or bears no date, and the return or payment is received through the United States
85 mail no later than five days following the time of the close of business on the last day on which such return
86 may be filed or such tax may be paid without penalty or interest, as the case may be. No such penalty and
87 interest shall be imposed if a taxpayer provides evidence that a tax return filing or a tax payment was timely
88 by producing a United States Postal Service Certificate of Mailing, or other proof of mailing, showing such
89 return was filed or such payment was made before the close of business on the last day such return may be
90 filed or such tax may be paid without penalty or interest. The failure to file a return or to pay a tax due to the
91 death of the taxpayer or a medically determinable physical or mental impairment on the date the return or tax
92 is due shall be presumptive proof of lack of fault on the taxpayer's part, provided the return is filed or the
93 taxes are paid within 30 days of the due date; however, if there is a committee, legal guardian, conservator or
94 other fiduciary handling the individual's affairs, such return shall be filed or such taxes paid within 120 days
95 after the fiduciary qualifies or begins to act on behalf of the taxpayer. Interest on such taxes shall accrue until
96 paid in full. Any such fiduciary shall, on behalf of the taxpayer, by the due date, file any required returns and
97 pay any taxes that come due after the 120-day period. The treasurer shall make determinations of fault
98 relating exclusively to failure to pay a tax, and the commissioner of the revenue shall make determinations of
99 fault relating exclusively to failure to file a return. In jurisdictions not having a treasurer or commissioner of
100 the revenue, the governing body may delegate to the appropriate local tax officials the responsibility to make
101 the determination of fault.

102 The governing body may further provide by resolution for reasonable extensions of time, not to exceed 90
103 days, for the payment of real estate and personal property taxes and for filing returns on tangible personal
104 property, machinery and tools, and merchants' capital, and the business, professional, and occupational
105 license tax, whenever good cause exists. The official granting such extension shall keep a record of every
106 such extension. If any taxpayer who has been granted an extension of time for filing his return fails to file his
107 return within the extended time, his case shall be treated the same as if no extension had been granted.

108 The governing body may further provide by resolution that the treasurer or other officer responsible for
109 the collection of taxes may enter into an agreement with any taxpayer who has been assessed with omitted
110 taxes, including penalties and interest with respect to such taxes, pursuant to § 58.1-3903 or 58.1-3904, for
111 the payment of the taxes, penalties, and interest so assessed over a period that is reasonable under the
112 circumstances but that in no event shall exceed 72 months. Any agreement under this paragraph shall provide
113 for the payment of current tax obligations as they come due, which payments shall be credited to current tax
114 obligations notwithstanding the provisions of § 58.1-3913 and shall be secured by the lien of the locality
115 pursuant to § 58.1-3340.

116 This section shall be the sole authority for local ordinances setting due dates of local taxes and penalty and
117 interest thereon and shall supersede the provisions of any charter or special act.