

A vertical strip on the left side of the slide shows a topographic map with contour lines, a yellow road, and a white arrow pointing horizontally to the right. The background of the slide is a dark teal color with light teal contour lines.

2011 Legal Update: Virginia Legal Developments of Interest to Assessors

Andrew H. Herrick
Senior Assistant Albemarle County Attorney

A vertical strip on the left side of the slide shows a topographic map of a coastline. The map features contour lines, a yellow line indicating a path or boundary, and various terrain features. The rest of the slide has a dark teal background with light teal wavy lines.

Overview

- ▣ Passed Legislation
- ▣ Failed Legislation
- ▣ Attorney General's Opinions
- ▣ Recent Court Cases

Passed Legislation

- Burden of Proof
- Relief for Elderly and Permanently and Totally Disabled
- Exemption for Disabled Veterans
- Alternates to Boards of Equalization
- Information Regarding Income and Expenses of Income-Producing Property
- Defective Chinese Drywall
- Partial Exemption for Certain Improvements
- Other Passed Legislation

HB 1588; SB 1350 -- Burden of Proof

Summary: Specifies that the burden of proof is on a taxpayer, when he appeals the assessment of real property to a board of equalization or to a circuit court, to show by a preponderance of the evidence that the property in question is valued at more than fair-market value or the assessment is not uniform in its application. The bill includes requirements on assessors to provide certain notice and to furnish certain information in appeals of assessments. The bill is applicable to tax years beginning on or after January 1, 2012. (Chapter 232; Chapter 184)



HB 2278; SB 1073 -- Relief for Elderly and Permanently and Totally Disabled

Summary: Authorizes local governments to establish annual income or financial worth limitations as a condition of eligibility for real property tax relief for the elderly and permanently and totally disabled. The bill implements the amendment to Article X, Section 6 (b) of the Constitution of Virginia that limits the General Assembly's ability to establish the limitations and allows the General Assembly to authorize local governments to establish the limitations. The bill contains an emergency clause. (Chapter 496; Chapter 438)

A vertical strip on the left side of the slide shows a topographic map of a coastline, with contour lines and a yellow line indicating a path or boundary.

HB 1645; SB 987 -- Exemption for Disabled Veterans

Summary: Codifies the constitutional amendment adopted by voters in November, 2010, that provides for a property tax exemption for veterans who have a 100 percent, service-related disability. The exemption would apply to the principal residence and the land, not exceeding one acre, upon which it is situated. However, if the locality exempts more than one acre under its tax relief program for the elderly, then the real estate tax exemption for the disabled veteran would apply to the principal residence and the same number of acres as are exempt under the tax relief program for the elderly. The constitutional amendment requires the General Assembly to enact the exemption in general law. (Chapter 769; Chapter 840)

A vertical strip on the left side of the slide shows a topographic map of a river valley. The map features contour lines, a river channel, and various terrain features. The colors range from green and yellow to brown and grey, indicating different elevations and land use.

HB 1470 -- Alternates to Boards of Equalization

Summary: Permits appointment of alternate members to boards of equalization to serve if a member is absent or abstains. (Chapter 10)

A vertical strip on the left side of the slide shows a topographic map of a coastline. The map features contour lines, a yellow road, and a green shoreline. The rest of the slide has a dark teal background with faint, light blue wavy lines.

HB 1526 -- Information Regarding Income and Expenses of Income-Producing Property

Summary: Provides that information regarding the income and expenses of income-producing real property may be used in a complaint to a board of equalization, even though such information was not timely presented to the assessor, provided that the income and expense information is provided to the board of equalization no later than the appeal filing deadline of the board.
(Chapter 200)

HB 1610; SB 942 -- Defective Chinese Drywall

Summary: Requires licensees engaged by sellers and buyers, and landlords who have actual knowledge of defective Chinese drywall in a dwelling unit, to disclose that information to the prospective tenant or buyer. If a tenant is not provided disclosure within 60 days of discovery of defective drywall he may terminate the lease. The bill also provides, upon confirmation by a building official that defective Chinese drywall is present, that the commissioner or other assessing official shall reassess the property accordingly. Local governments may also designate the property as a rehabilitation district for purposes of granting the owner a partial real estate tax exemption. This bill is a recommendation of the Housing Commission. (Chapter 34; Chapter 46)

A vertical strip on the left side of the slide shows a topographic map of a coastline. The map features contour lines, a yellow line representing a road or path, and a blue area representing water. The map is partially obscured by the dark green background of the slide.

HB 1899; SB 785 -- Partial Exemption for Certain Improvements

Summary: Clarifies that the partial exemption from the assessed value of real property subject to real property tax for improvements to rehabilitated, renovated, or replacement residential structures or for improvements in rehabilitation districts or redevelopment or conservation areas runs with the land and shall not be reduced during the period of exemption, unless the locality notifies the taxpayer at the time the exemption is approved that the amount may be reduced. The bill contains technical amendments. (Chapter 460; Chapter 423)

Other Passed Legislation

- Assessments of real property; affordable housing
- Judicial sale of real estate
- City of Poquoson real estate tax rates
- Real property tax; classification of certain historical buildings
- Local tax administration; special commissioner to execute title to real estate



Failed Legislation

- Land Use Taxation
- Real property tax assessment; notice

A vertical strip on the left side of the slide shows a topographic map of a river valley. The map features contour lines, a river, and various land use patterns. The colors range from green (low elevation) to brown and tan (higher elevation).

HB 777 -- Land Use Taxation

Summary: Would have required a locality that has adopted land use value assessment and taxation on three classifications to adopt land use value assessment and taxation on all four classifications of land.

HB 2371 – Real property tax assessment; notice

Summary: Would have required that notice be published in a newspaper 30 to 45 days prior to the beginning of a reassessment cycle of real property advising taxpayers that they have (i) the right to have the assessor examine their property on site and (ii) the right to be present during such examination. Amending § 58.1-3330.

A vertical strip on the left side of the slide shows a topographic map of a coastline. It features contour lines, a yellow line representing a road or path, and various terrain features. The map is partially obscured by the dark teal background of the slide.

Attorney General's Opinions

- Disabled Veterans Exemption
- Correction of Erroneous Assessments
- Suffolk Assessor
- BPOL Liability
- Property Distraint

No. 11-017

- Were it to become law [which it later did], the real estate tax exemption for veterans proposed by HB 1645 and SB 987 would not apply to payments due for the tax year that began on July 1, 2010, including payments due for the second half of the tax year.

No. 10-094

- A county commissioner of the revenue's "certification" of a correction of a local tax assessment for purposes of § 58.1-3981(A) means that the commissioner should provide written verification that he has determined that the original local tax assessment paid by the affected taxpayer was erroneous.
- Further, § 58.1-3(A)(2) authorizes a county commissioner of the revenue to supply to the attorney for his county any information that is necessary to enable the attorney to make an informed decision as to whether to consent to the commissioner of the revenue's determination.
- Finally, a county attorney's consent to a reduction of a real estate tax assessment by a county board of equalization is not a prerequisite to the county's issuance of a refund of excess taxes.

A vertical strip on the left side of the slide shows a topographic map of a coastline. It features contour lines, a road network, and a yellow line running vertically along the shore. The map is partially obscured by the dark teal background of the slide.

No. 10-042

- In the City of Suffolk, the devolution of the Commissioner of the Revenue's duties with respect to the assessment of real estate to a city real estate assessor transfers to the assessor the Commissioner's responsibility under § 58.1-3984(B) to the extent § 58.1-3984(B) applies to assessments of real property.

No. 10-038

- Liability for payment of BPOL taxes always lies with the persons engaged in businesses, professions, or occupations upon which localities levy such taxes, and not with their customers.
- Additionally, absent an express statutory authorization such as that applying to motor vehicle dealers, no business may pass through to its customers by way of a surcharge the BPOL taxes attributable to the gross receipts generated by sales to those customers without the surcharge also being included in the gross receipts of the business and subjected to the BPOL tax.



No. 10-040

- Police officers do not have the civil authority to distraint property for the collection of delinquent City accounts.

Recent Court Cases

- *TB Venture, LLC v. Arlington County*, 280 Va. 558; 701 S.E.2d 791 (2010)
- *FFW Enterprises v. Fairfax County, et al.* and *FFW Enterprises v. Fairfax County Economic Development Authority, et al.*, 280 Va. 583; 701 S.E.2d 795 (2010)
- *Richard R. Nageotte, et al. v. Board of Supervisors of Stafford County, et al.* (No. 090543)
- *County of Albemarle v. Keswick Club, L.P.*, 280 Va. 381, 699 S.E.2d 491 (2010)
- *Ford Motor Credit Co. v. Chesterfield County*, 281 Va. 321, 707 S.E.2d 311 (2011)
- *Riverside v. City of Richmond*, 2011 Va. LEXIS 136

A vertical strip on the left side of the slide shows a topographic map of Virginia, with yellow lines indicating major roads and green lines indicating water bodies. The rest of the slide has a dark teal background with light blue contour lines.

For More Information

See General Assembly's Legislative
Information System website:

<http://leg1.state.va.us>



Any Questions?

The End