

# Updates from the General Assembly



Honorable Onzlee Ware – 11<sup>th</sup> District  
Honorable Gregory Habeeb – 8<sup>th</sup> District  
October 5, 2011

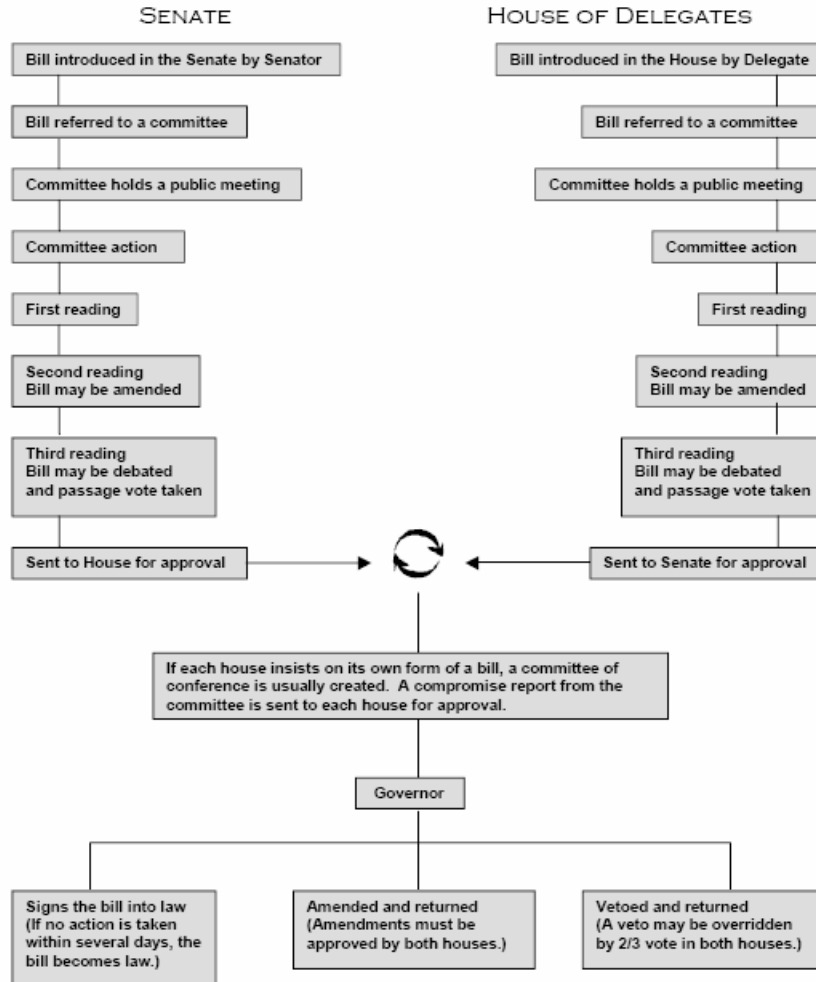
# Outline for October 5, 2011

- **Introduction – 5 minutes**
  - Introduction of Onzlee Ware and Gregory Habeed – 2.5 minutes
  - Background – education and work history of each – 2.5 minutes
- **How a Bill Becomes Law - 20 minutes**
  - Who, What, When, Where, and How a Bill is introduced into Law? – 5 minutes
  - How do we effectively approach the General Assembly with Real Estate issues? – 5 minutes
  - Lobbyist Role – 5 minutes
  - Citizen's Role – 5 minutes
- **The 2011 General Assembly – 15 minutes**
  - What is your vision for Local Government regarding funding for the future - 5 minutes
  - Real Estate Review – 5 minutes
  - Overview of Revenue Opportunities – 5 minutes
- **Real Estate Laws You need to Know – Review of Each Bill & History Behind it - 60 minutes**
  - HB1588-SB1350 Burden of Proof – 15 minutes
  - HB 1526 – Income and Expense Deadline - 5 minutes
  - HB 1645-SB 987 – Veterans Real Estate Exemption - 15 minutes
  - HB 1899 – SB 785 – Notice for Qualifying Property in a Redevelopment or Conservation District –5 minutes
  - HB 2278- SB 1973– Annual Income and Financial Worth – 5 minutes
  - SB 784 – Affordable Rental Housing – 5 minutes
  - HB 1610 – SB 942 – Chinese Drywall – 10 minutes
- **Eminent Domain & Virginia's Conservative Approach for Real Estate Development – 10 minutes**
  - Background/History
  - What are the new laws regarding eminent domain?– 5 minutes
  - Constitutional Amendment vs. State Codes? – 5 minutes
- **Constitutional Officers and their role in the 21<sup>st</sup> century – 10 minutes**
  - Overview – 5 minutes
  - Future Direction – 5 minutes
- **General Assembly 2012 and new Real Estate Legislation – 10 minutes**
  - What legislative Bills are coming back ?– 5 minutes
  - What can we look for in the 2012 General Assembly on New Real Estate Issues? – 5 minutes

# Agenda

- Introduction
- How a Bill Becomes Law
- 2011 General Assembly
- Real Estate Laws You Need to Know
- Eminent Domain & Virginia's Conservative Approach for Real Estate Development
- Constitutional Officers and their role in the 21<sup>st</sup> century
- General Assembly 2012 and New Real Estate Legislation

# HOW A BILL BECOMES A LAW IN VIRGINIA



# The 2011 General Assembly



Virginia State Capitol in  
Richmond

# Overview of 2011 General Assembly

- The General Assembly convened on January 12, 2011 and held session for 47 days until February 27, 2011. The 2012 General Assembly begins \_\_\_\_\_ for a long session ending \_\_\_\_\_.
- Citizens are encouraged to participate in the legislative process:
  - Sit in the chamber – 99 persons on a first come first serve basis
  - Watch or listen to the action live on line
  - Contact your delegate and senator
  - Attend a committee meeting
- There were 2968 bills that were proposed  
( 888 passed, 1084 died, 996 never made it passed committee's)
- Real Estate Bills -
- State Budget - Overview

# Real Estate Laws You Need to Know



# Burden of Proof

## HB1588 – SB 1350

### HB 1588 Real property tax assessments; appeals.

- Introduced by: [Salvatore R. Iaquinto](#)
- **Real property tax assessments; appeals.** 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.

### SB 1350 Real property tax assessments; appeals.

- Introduced by: [Thomas K. Norment, Jr.](#)
- **Real property tax assessments; appeals.** 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.

# **Burden of Proof**

## **HB1588 – SB 1350**

- 1) Requires written notice, at least 45 days, prior to taxpayers hearing**
- 2) Must include a statement informing the taxpayer their right to review and obtain copies of all records and paper used to determine the fair market value**
- 3) Must inform the taxpayer they can require the assessor to make physical inspection of the subject property**
- 4) These Requirements affect only residential properties of less than 4 units**
- 5) Reduce the burden level from Substantial to Preponderance of evidence**

# Income and Expense Deadline

## HB 1526

**HB 1526 Real property tax appeal; information regarding income and expenses of income-producing property.**

- Introduced by: [Thomas A. Greason](#))
- **Real property tax; appeal.** 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.

# Veterans Real Estate Exemption

## HB 1645 – SB 987

### HB 1645 Real property tax; exemption for disabled veterans.

- Introduced by: [John M. O'Bannon, III](#)
- **Real property tax; exemption for disabled veterans.** 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.

### SB 1358 Real property tax; exemption for disabled veterans.

- Introduced by: [Walter A. Stosch](#)
- **Real property tax; exemption for disabled veterans.** 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 constitutional amendment requires the General Assembly to enact the exemption in general law. This bill was incorporated into [SB 987](#).

# **Disabled Veteran's Eligibility Opinion**

by letter dated July 15, 2011 from Kenneth T. Cuccinelli

## Conclusion:

- The effective date is January 1, 2011.
- The surviving spouse of a veteran who dies before January 1, 2011, effective date of the tax exemption does not qualify for this exemption.
- The provisions of 58.1-3219.5 and 3219.6 do not apply to either veterans who die before the effective date of these provisions or their spouses who have not remarried and continue to occupy the real property as their principal place of residence.
- The tax exemption applies to veterans rated by the VA with a total disability rating on the basis of individual unemployability due to service connected disability which rating revolves around the inability to engage in substantially gainful employment.
- The Commissioner of the Revenue has the responsibility for interpreting and implementing this exemption.
- The General Assembly may enact legislation authorizing the Commissioner of VDVS to promulgate rules and regulations governing the administration and/or implementation of this tax exemption.
- The General Assembly had the authority to limit the tax break to the land that does not exceed one acre

# Notice for Qualifying Property in a Redevelopment or Conservation District

## HB 1899 – SB 785

**HB 1899 Real property tax assessment; partial exemption for certain improvements.**

- Introduced by: [Timothy D. Hugo](#)
- **Real property tax assessment; partial exemption for certain improvements.** 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.

**SB 785 Real property tax assessment; partial exemption for certain improvements.**

- Introduced by: [John C. Watkins](#)
- **Real property tax assessment; partial exemption for certain improvements.** 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 an emergency clause and technical amendments.

# Annual Income and Financial Worth

## HB 2278 – SB 1073

HB 2278 Real estate tax; relief for elderly and permanently and totally disabled.

- Introduced by: [Mark L. Keam](#)
- **Real estate tax relief for the elderly and permanently and totally disabled.** 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. The bill incorporates [HB 1866](#).

SB 1073 Real estate tax relief; for the elderly and permanently and totally disabled.

- Introduced by: [George L. Barker](#)
- **Real estate tax relief for the elderly and permanently and totally disabled.** 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.

# Affordable Rental Housing

## SB 784

**SB 784 Affordable housing; assessments of real property.**

- Introduced by: [John C. Watkins](#)
- **Assessments of real property; affordable housing.** Requires owners of four or fewer rental units of real property to furnish to a real estate assessor, board, or department statements of income and expenses attributable to the property to determine that it is affordable rental housing. This bill is recommended by the Virginia Housing Commission.

# Defective Chinese Drywall

## HB 1610 – SB 942

HB 1610 Defective Chinese drywall; disclosure of information, real estate tax exemption.

- Introduced by: [G. Glenn Oder](#)
- **Defective Chinese drywall; disclosure, assessed value, real estate tax exemption.** 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 may 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. This bill is identical to [SB 942](#).
- Note – The Code of Virginia 55-248.12:2 requires the landlord of a residential dwelling unit who has actual knowledge that the property contains defective drywall to provide written disclosure of that fact to the prospective tenant prior to the execution of a lease, or if no lease, occupancy of the property. Tenants have the right to terminate the lease if the defective drywall condition is not disclosed.

# Eminent Domain & Virginia's Conservative Approach for Real Estate Development



# Eminent Domain

- Background History
- Constitutional Amendments
- Restricting ability of local governments to acquire land
- State Laws governing eminent domain

# History

- In 2005, the Supreme Court (the Federal supreme court, not the state supreme court) ruled in *Kelo v New London* that local governments could seize land through the right of eminent domain to force the transfer of land from one private owner to another.
- Public reaction was strong that this was wrong.
- The state legislatures define the legitimate “public uses” for taking land through eminent domain. The Constitution states:
  - *That no person shall be deprived of his life, liberty, or property without due process of law; that the General Assembly shall not pass any law impairing the obligation of contracts, nor any law whereby private property shall be taken or damaged for public uses, without just compensation, the term "public uses" to be defined by the General Assembly...*
- In Virginia, local governments are Not authorized to condemn property for economic development purposes. In Virginia, which governs according to the Dillon Rule, local governments have only the authorities granted to them by General Assembly. The General Assembly has empowered local governments in Virginia to condemn property for roads, schools, and other public uses, but local governments do not have the right to condemn property for economic development.
- Virginia Beach clarified this limitation in 2000. The City tried to condemn private property on the oceanfront to help Hilton Hotel build a parking garage, but Circuit Court Judge H. Thomas Padrick, Jr. ruled that Virginia Beach could not use eminent domain for that purpose.

# **General Assembly 2012 and New Real Estate Legislation**

- Recording Assessed Values as Sale Prices
- Lawmakers Look to Lengthen Larger Loan Limits
- Redistricting for Congressional Seats Complete

Questions?

