

# TACS FACTS<sup>SM</sup>

*A Resource for Treasurers on Developments and Trends in Collection and Bankruptcy*

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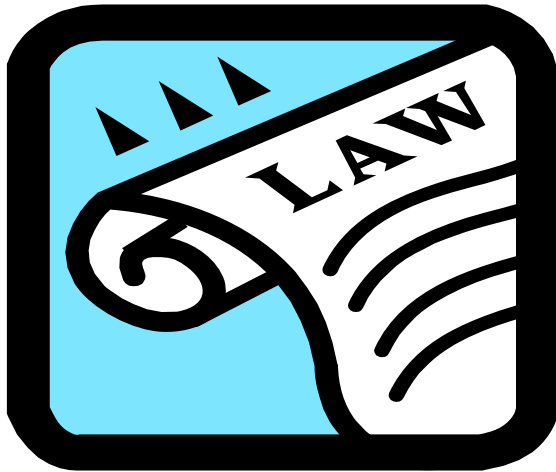
Legislation Effective July 1, 2007

July 2007

## Legislative Changes

This Special Report highlights the legislative changes made in the 2007 Virginia General Assembly session which take effect July 1, 2007. The text of these bills can be accessed at: <http://leg1.state.va.us/lis.htm>

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### QUOTABLE:

Abracadabra, thus we learn  
The more you create, the less you earn.  
The less you earn, the more you're given,  
The less you lead, the more you're driven,  
The more destroyed, the more they feed,  
The more you pay, the more they need,  
The more you earn, the less you keep,  
And now I lay me down to sleep.  
I pray the Lord my soul to take,  
If the tax-collector hasn't got it before I wake.

— Ogden Nash

## Laws Affecting Tax Collection

Another Virginia legislative session has come and gone and there are several new laws that were enacted which affect the way Treasurers conduct business and of which they should be aware.

In an unusual twist, the majority of changes to code sections concerning the collection of taxes and other local charges from this session involve court process and procedure rather than the Treasurer's administrative tools as in a typical session.

### Court Process

Foremost among these changes was the enactment of HB 3127 which amended Code of Virginia §8.01-328.1. This amendment gives a clear indication that a locality can obtain personal jurisdiction (and thus the ability to have a judgment entered) against any person's "having incurred a liability for taxes, fines, penalties, interest, or other charges to any political subdivision of the Commonwealth."

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*A locality may now proceed in General District Court against a taxpayer who has left the Commonwealth owing taxes or other charges by serving the Secretary of the Commonwealth*

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A locality, therefore, may now proceed in their local General District Court against a taxpayer who has left the Commonwealth owing taxes, fines or other charges to the locality by serving process on the Virginia Secretary of the Commonwealth. This service requires the completion of an Affidavit (available on the General District Court's website and which should be updated prior to July 1): <http://www.courts.state.va.us/forms/district/dc410.pdf> The locality also has to pay the \$28.00 cost of service which can be added into the amount of the judgment sought as costs.

*Continued on next page*

## Laws Affecting Tax Collection (continued)

The second change to be aware of concerns the payment of court and sheriff's fees. SB 1293 amended Code of Virginia §17.1-266 to provide that localities are exempt from paying court fees when the locality is a party to a case filed in a court serving that locality. The Treasurer therefore should not have to pay any court fees to bring suit in his or her own locality. The bill also provides for the reciprocal waiver of fees by agreement with other jurisdictions and gives the sheriffs power to waive their fees to other localities.

The third "legal" change to be aware of concerns the payment of a deceased person's debts. SB 1263 added a new priority to §64.1-157 requiring that debts and taxes due to localities and municipal corporations of the Commonwealth be paid prior to general claims. While still paid behind costs of administration, funeral expenses, federal and state taxes and limited medical expenses, this provision should give treasurers more of an opportunity to receive the funds they are due from the administration of a deceased taxpayer's estate.

### Lists of Uncollectible Taxes

HB 2390 added a 6<sup>th</sup> list to the list of uncollectible taxes to be made out by the Treasurer each year under §58.1-3921. This new list is to include "uncollected balances of previously billed tangible personal property taxes on vehicles that (i) were owned by taxpayers, now deceased, upon whose estates no qualification has been made, or (ii) were transferred to bona fide purchasers for value...without knowledge, on the part of the persons so transferring, of the unpaid taxes."

While this list might provide a means for the treasurer to get credit for those taxes and being able to remove them from the books, the companion section (§58.1-3924) which provided credit for 2 of the other lists required by §58.1-3921 was not amended by this bill. Another factor to consider is the practical implications for the Treasurer to make the determinations required to include the taxes belong on this list.

### Decal Issues

For those jurisdictions that maintain the local motor vehicle license as an enforcement tool, the General Assembly also made a couple of changes to the local vehicle license statute. HB 2793 prohibits a locality from charging anyone who moves into the locality for a local license (decal) if they had already purchased a local license in another locality until the decal they had already purchase expires. This change is codified in §46.2-752(H). This bill also exempts any public service company having a fleet of over 2,500 vehicles in the Commonwealth from having to display local licenses.

HB 3143 clarified the amount that can be charged by a locality for a local motor vehicle license. The Code of Virginia §46.2-752 provided that the fee charged could not exceed the fee charged by the Commonwealth. This created issues where the State registration was for multiple years or was a lifetime registration. This amendment clarifies that the amount to be charged cannot exceed the amount charged by the Commonwealth for a one year registration.



## Legislative Change to FOIA Responses

This General Assembly, in HB 1791, amended the permissible responses for a public body to use in addressing a request for records under the Virginia Freedom of Information Act. Code of Virginia §2.2-3704 now specifies that besides providing or withholding the records, it is now permissible to reply that the "requested records could not be found or do not exist." This seems consistent with current law although this response was not previously specified in the statute. The new law also provides that if the public body that received the request knows that another public body has the requested records, that the response shall include contact information for the other public body.

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