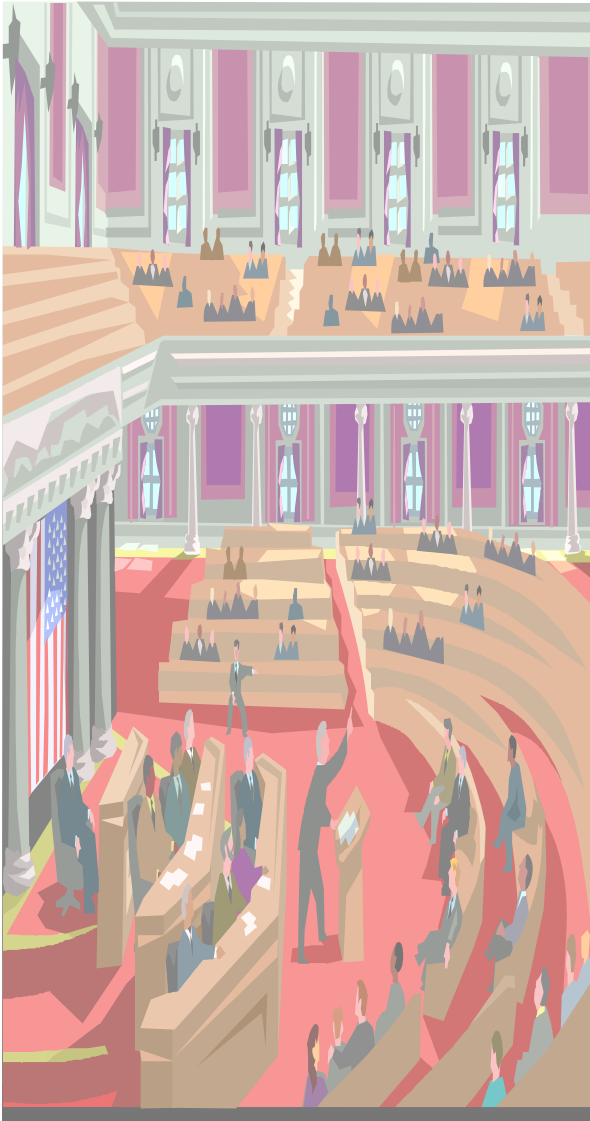


# TACS FACTS<sup>SM</sup>

*A Resource for Treasurers on Developments and Trends in Collection and Bankruptcy  
From Taxing Authority Consulting Services, P.C.*

Volume IV, Issue 3

Summer 2009



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## Annual Legislative Update

### 2009 General Assembly Session

Another General Assembly session has come and gone and there are a host of new laws taking effect as of July 1, 2009. Some of these laws, of course, even affect the duties and responsibilities of Treasurers and the operations of the Treasurers' Office. While the session itself was filled with drama, particularly with respect to budget issues, the resulting enacted legislation was more mundane with little of earth-shaking magnitude. All of the bills referenced may be viewed on the Virginia General Assembly Legislative Information Service webpage by entering the referenced bill number:

<http://leg1.state.va.us/cgi-bin/legp504.exe?091+men+BIL>

Among the significant bills of interest to Treasurers was HB1830/SB1292 which provides authorizing legislation for participation in the Federal Tax Offset Program (TOPS). This legislation would allow Virginia localities to claim and receive payment on delinquent taxes from a debtor's federal tax refund once Congress has passed legislation permitting localities to participate. While the potential for recovery through TOPS is great, this Virginia legislation is only a minor hurdle toward full enactment. For this law to take effect, Congress needs to amend the TOPS program to allow localities (through their State Taxing Authorities) to participate. The legislation has garnered strong support in the House Ways & Means Committee in the past, but still faces several hurdles prior to becoming law. *TACS FACTS* will report on this legislation as matters develop.

*Continued next page*

## Annual Legislative Update (continued)

Privacy concerns remain a priority for the General Assembly and there were two bills of note in this area, both dealing with social security numbers. HB 2427 makes the first 5 digits of a social security number contained in a public record confidential and exempt from disclosure under the Freedom of Information Act. Most Treasurers have already considered this information confidential as part of a confidential tax record, but this amendment makes it clear that this information, if contained in an otherwise public record, should be redacted. The other piece of legislation in this area delays the implementation of the prohibition on collecting social security numbers until July 1, 2010. As part of an amendment to the Government Data Collection and Dissemination Practices Act, the General Assembly prohibited the collection of SSNs unless authorized or required by law and essential for the agencies duties. This bill, which was scheduled to take effect on July 1, 2009, was the cause of the surveys on the gathering and use of SSNs that all agencies of the government were required to complete last year for VML and VACO. It turns out that so much data was collected that it couldn't be properly analyzed adding an additional year to the effective date.

This session included a couple of amendments to the Bill in Equity tax sale process. The first, HB1671/SB 1094 provides for a tax sale of derelict or blighted buildings after one year's tax delinquency and provides for the appointment of a Commissioner of Sale upon an affidavit of a value from the assessor if the property is worth less than \$100,000.00. The second, HB 2651, provides that a party secured by a properly recorded deed of trust is not required to file a claim in order to be paid upon the judicial sale of such property. The expectation appears that this interest be recognized and paid by the Commissioner of Sale based on the title report or the report of a Commissioner in Chancery. One inherent difficulty with this amendment is the difficulty in determining who the proper secured party is when the mortgage debt is resold.

Though not effective unless reenacted by the 2010 session of the General Assembly, HB2583 has caused some concern among local government officials. The bill requires that at least 10 percent of local government investment in LGIP assets shall be invested in time, savings, or demand deposits at financial institutions qualified to accept public

*Continued next page*

## WHO IS TACS?

Taxing Authority Consulting Services, P.C. is a Virginia law firm formed by Jeffrey A. Scharf and Mark K. Ames to meet the needs of treasurers and localities.

TACS' sole focus is on tax collection, assessment and bankruptcy issues faced by governments.

TACS can provide assistance to your locality to help increase your revenue through ordinance and process review, collections consulting and as outside collection attorneys.

Please contact us at (804) 649-2445 or by e-mail to [info@taxva.com](mailto:info@taxva.com) to discuss your collection needs or for more information.

Please also visit our website at [www.taxva.com](http://www.taxva.com) for more information about the firm, our newsletter archive and helpful forms.

Please contact us at [info@taxva.com](mailto:info@taxva.com) if you need the password to access the protect pages of the site.



## Annual Legislative Update (continued)

deposits under the Virginia Security for Public Deposits Act. The fear raised in some local government circles is that the requirements of this bill, if reenacted, could affect local bond ratings.

HB1771 provides that a vacancy in a constitutional office in a locality with a population of less than 15,000 will be held on the next general election date rather than require a special election, as is currently the case. Localities with populations above 15,000 are still required to petition the Circuit Court to “promptly” set a special election to fill the vacancy. This bill was enacted with an “emergency clause” and became effective as of March 16, 2009.

HB2472/SB1419 establish a new “short term rental property tax” and repeals the current “Daily rental property tax”. The amendment also removes daily rental property from the definition of merchant’s capital. The law allows a locality to impose a 1-1 ½% tax on the property rental in lieu of taxing the rental property as business personal property. This law contains a number of definitions and criteria for assessment by the Commissioner of Revenue and allows the provisions of the Retail Sales and Use Tax to be adopted into the local ordinance, thus possibly denominating the tax as a trust tax and imposing the penalties, interest and responsible officer liability imposed by the Virginia Department of Taxation for unpaid sales taxes.

Lastly, even though Treasurers are not directly affected, SB1120 is worth noting. This bill authorizes the State Tax Commissioner to operate a tax amnesty program during the 2009-2010 fiscal year, similar to the amnesty program operated in 2003-04. The program would be open to any taxpayer that is required but has failed to file a return or to pay any tax administered by the Department of Taxation. All civil or criminal penalties assessed or assessable and one-half of the interest assessed or assessable, would be waived upon payment of the taxes and remaining interest.

If this isn’t enough for, you’ll just have to wait until next year.



### Government Revenue Collection Association Conference brings collection professionals together

The first annual Government Revenue Collection Association (GRCA) Conference was held in April in San Francisco bringing together a wide variety of people interested in government collections, including Treasurers, court collections officers, front line collectors, technology experts and vendors.

There were a variety of informative sessions offered including “Using E-commerce”;

*Continued next page*



## Government Revenue Collection Association

(continued)

“How to Build a Collection Program”;  
“Contacting the Debtor” and “Handling  
Bankruptcy Today”, which was taught by Jeffrey  
Scharf of TACS.



The aim of the  
Conference, and of  
the organization  
itself, is to improve  
collection practices  
for all public sector  
entities collecting  
government  
receivables. The  
conference brought  
together  
government

collection professionals from all over the country  
and from a variety of organizational  
backgrounds to share their experiences and  
exchange information with their colleagues from  
other states.

By focusing on the government collector, GRCA  
is filling a unique niche and can be a potential  
resource for Virginia’s treasurers on the  
developments and happenings in the world of  
government collections. You can learn more  
about GRCA by visiting their website at:  
[www.govcollect.org](http://www.govcollect.org).

*TACS FACTS* is a publication of Taxing Authority  
Consulting Services, PC (TACS, PC)  
(804) 649-2445 • [www.taxva.com](http://www.taxva.com)

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# tacs

## Answers to Some Frequently Asked Questions:

Q: Do we have to notify the taxpayer directly that  
we are going to be placing a stop on their vehicle  
registration? Do we have to notify them at all  
prior to placing the stop?

A: While you do need to notify the taxpayer, you  
do not need to do a special notice to withhold the  
DMV registration. The Code provides the  
treasurer “shall provide the debtor notice of the  
intent to deny renewal of registration at least 30  
days prior to the expiration date of a current  
vehicle registration”, Code of Virginia §46.2-752.  
My suggestion is to include this language on  
your delinquent notice so you don’t need to do a  
separate notice just for DMV stops. That way,  
you are in compliance and can place a DMV stop  
once 30 days has past after send the delinquent  
notice.

Q: We just took a taxpayer to court and received  
a judgment from the General District Court. Does  
the judgment we just took attach to the debtor’s  
real property?

A: In order to be a lien on real estate, a judgment  
must be taken in or docketed in Circuit Court. If  
the judgment was entered by the General District  
Court, you need to take an additional step to  
create the lien on real estate. You should file an  
“Abstract of Judgment” (which is a court form  
that your General District Court can complete).  
The completed abstract is then filed in the Circuit  
Court and becomes a lien on the debtor’s real  
property in the locality. You can also file an  
Abstract of Judgment in any other locality where  
you believe the debtor has an interest in real  
property and create liens there as well.