

HOUSE BILL 889

By Hackworth

AN ACT to amend Tennessee Code Annotated, Section 67-5-1509 and Section 67-5-903, relative to procedures for forced assessment and equalization of tangible personal property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-5-903, is amended by deleting subsections (c) and (d) in their entirety and by substituting instead the following:

(c) A taxpayer who fails, refuses or neglects to complete, sign and file such schedule with the assessor of property, as provided in subsection (b), shall be deemed to have waived objections to the forced assessment determined by the assessor, subject only to the remedies provided in subsection (d). In determining a forced assessment, the assessor shall consider available evidence indicative of the fair market value of property assessable to the taxpayer under this section, and having determined the assessable value thereof, the assessor shall give the taxpayer notice of such assessment by United States mail, addressed to the last known address of the taxpayer, or the taxpayer's agent, at least five (5) calendar days before the local board of equalization commences its annual session.

(d) The remedies of a taxpayer against whom a forced assessment is made, are as follows:

(1) The taxpayer may appeal to the county board of equalization pursuant to § 67-5-1407, but shall present a completed schedule as otherwise provided in this section;

(2) If the deadline to appeal to the county board of equalization has expired, then the taxpayer may request the assessor to mitigate the forced

assessment to the extent it is shown to exceed the standard depreciated value of the taxpayer's assessable property by twenty-five percent (25%) or more, so long as the failure to file the schedule or failure to timely appeal to the county board of equalization was not the result of gross negligence or willful disregard of the law. Mitigation of the forced assessment shall follow the procedure provided and be subject to the deadlines provided in § 67-5-509. Gross negligence shall be presumed if notice of the forced assessment, in a form approved by the state board of equalization, was sent certified mail, return receipt requested, to the taxpayer's last known address on file with the assessor.

(3) Whether or not an assessor's error affected the original assessment, the assessor may correct a forced assessment using the procedure provided and subject to the deadlines provided in § 67-5-509, upon determining that the taxpayer was not in business as of the assessment date for the year at issue, and upon determining that the taxpayer did not own or lease tangible personal property used or held for use in a business as of the assessment date for the year at issue.

SECTION 2. Tennessee Code Annotated, Section 67-5-1509, is amended by deleting the language "filed" and by substituting instead the language "timely filed" in the last sentence of subsection (a).

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.