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HOUSE BILL NO. 853

Offered January 9, 2002
Prefiled January 9, 2002

A BILL to amend and reenact § 58.1-3211 of the Code of Virginia, relating to the net combined financial worth limitation for the exemption or deferral of real estate taxes of persons at least sixty-five years of age or permanently and totally disabled.

Patron—May

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3211 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3211. Restrictions and exemptions.

Any exemption or deferral program enacted by a county, city or town pursuant to § 58.1-3210 shall be subject to the following restrictions and conditions:

1. a. Subject to subdivision 1 b of this section, the total combined income received from all sources during the preceding calendar year by (i) owners of the dwelling who use it as their principal residence and (ii) owners' relatives who live in the dwelling, shall not exceed the greater of $50,000, or the income limits based upon family size for the respective metropolitan statistical area, annually published by the Department of Housing and Urban Development for qualifying for federal housing assistance pursuant to § 235 of the National Housing Act (12 U.S.C. § 1715z). Any amount up to $6,500 of income of each relative who is not the spouse of an owner living in the dwelling and who does not qualify for the exemption provided by subdivision 1 b hereof may be excluded from the total combined income calculation. The local government may also exclude up to $7,500 of income for an owner who is permanently disabled.

b. Notwithstanding subdivision 1 a of this section, if a person qualifies for an exemption or deferral under this article, and if the person can prove by clear and convincing evidence that the person's physical or mental health has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for the person, and if a relative does then move in for that purpose, then none of the income of the relative or of the relative's spouse shall be counted towards the income limit, provided the owner of the residence has not transferred assets in excess of $5,000 without adequate consideration within a three-year period prior to or after the relative moves into such residence.

2. The net combined financial worth, including the present value of all equitable interests, as of December 31 of the immediately preceding calendar year, of the owners, and of the spouse of any owner, excluding the value of the dwelling and the land, not exceeding one acre, upon which it is situated shall not exceed $100,000. The local government may also exclude furnishings. Such furnishings shall include furniture, household appliances and other items typically used in a home.

3. Notwithstanding the provisions of subdivisions 1 and 2, in the Cities of Chesapeake, Portsmouth, Suffolk, and Virginia Beach and the Counties of Chesterfield, Fauquier, Henrico, and Stafford, the board of supervisors or council may, by ordinance, raise the income and financial worth limitations for any exemption or deferral program to a maximum of the greater of $52,000 or the income limits based upon family size for the respective metropolitan statistical area, annually published by the Department of Housing and Urban Development for qualifying for federal housing assistance pursuant to § 235 of the National Housing Act (12 U.S.C. § 1715z), for the total combined income amount, and $195,000 for the maximum net combined financial worth amount which shall exclude the value of the dwelling and the land, not exceeding one acre, upon which it is situated. Any amount up to $6,500 of income of each relative who is not the spouse of an owner living in the dwelling may be excluded under this subdivision.

4. Notwithstanding the provisions of subdivisions 1 and 2, in (i) any county having a population of more than 800,000, as determined by the 1990 United States Census; (ii) any county or city adjacent thereto; (iii) any city contiguous to such adjacent counties and cities; and (iv) any incorporated town located in the counties described in clauses (i) and (ii), the respective board of supervisors or council may, by ordinance, raise the income and financial worth limitations for any exemption or deferral program to a maximum of the greater of $62,000 or the income limits based upon family size for the respective metropolitan statistical area, annually published by the Department of Housing and Urban Development for qualifying for federal housing assistance pursuant to § 235 of the National Housing Act (12 U.S.C. § 1715z), for the total combined income amount, and $240,000 for the maximum net

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combined financial worth amount which shall exclude the value of the dwelling and the land, not exceeding ~~one~~ ~~acre~~ *twenty-five acres, all of which shall be non-income producing*, upon which it is situated. Any amount up to $6,500 of income of each relative who is not the spouse of an owner living in the dwelling may be excluded under this subdivision.

5. For purposes of this article, income shall mean total gross income from all sources, without regard to whether a tax return is actually filed. Income shall not include life insurance benefits or receipts from borrowing or other debt.