

# VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

## CHAPTER 557

*An Act to amend and reenact §§ 58.1-3400 and 58.1-3651 of the Code of Virginia, relating to property tax exemptions.*

[H 1076]

Approved April 12, 2004

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-3400 and 58.1-3651 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-3400. Service charge on certain real property.

Notwithstanding the provisions of Chapter 36 (§ 58.1-3600 et seq.) of this title relating to the exemption of property from taxation, the governing body of any county, city or town is authorized to impose and collect a service charge upon the owners of all real estate situated within its jurisdiction which is exempted from property taxation under subdivision A 1, except property owned by the Commonwealth, and subdivisions A 3, A 4 and A 7 of § 58.1-3606, subdivisions A 2 through A 7 of § 58.1-3607 and all sections in Articles 3 (§ 58.1-3609 et seq.) ~~and~~ 4 (§ 58.1-3650 et seq.), *and 4.1* (§ 58.1-3651) of Chapter 36 of this title.

The service charge may be imposed only if the commissioner of revenue or other assessing officer for such locality, prior to imposing the service charge, publishes and lists all exempt real estate in the land books of such locality, in the same manner as is taxable real estate.

§ 58.1-3651. Property exempt from taxation by classification or designation by ordinance adopted by local governing body on or after January 1, 2003.

A. Pursuant to subsection 6 (a) (6) of Article X of the Constitution of Virginia, on and after January 1, 2003, any county, city, or town may by designation or classification exempt from real or personal property taxes, or both, by ordinance adopted by the local governing body, the real or personal property, or both, owned by a nonprofit organization that uses such property for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes. The ordinance shall state the specific use on which the exemption is based, and continuance of the exemption shall be contingent on the continued use of the property in accordance with the purpose for which the organization is classified or designated. No exemption shall be provided to any organization that has any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex, or national origin.

B. ~~The~~ Any ordinance exempting property *by designation* pursuant to subsection A shall be adopted only after holding a public hearing with respect thereto, at which citizens shall have an opportunity to be heard. The local governing body shall publish notice of the hearing once in a newspaper of general circulation in the county, city, or town where the real property is located. The notice shall include the assessed value of the real and tangible personal property for which an exemption is requested as well as the property taxes assessed against such property. The public hearing shall not be held until at least five days after the notice is published in the newspaper. The local governing body ~~may~~ *shall* collect the cost of publication from the organization requesting the property tax exemption. Before adopting any such ordinance the governing body shall consider the following questions:

1. Whether the organization is exempt from taxation pursuant to § 501 (c) of the Internal Revenue Code of 1954;

2. Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Virginia Alcoholic Beverage Control Board to such organization, for use on such property;

3. Whether any director, officer, or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services which such director, officer, or employee actually renders;

4. Whether any part of the net earnings of such organization inures to the benefit of any individual, and whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions, or local, state or federal grants. As used in this subsection, donations shall include the providing of personal services or the contribution of in-kind or other material services;

5. Whether the organization provides services for the common good of the public;

6. Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office;

7. The revenue impact to the locality and its taxpayers of exempting the property; and

8. Any other criteria, facts and circumstances that the governing body deems pertinent to the adoption of such ~~resolution~~ *ordinance*.

*C. Any ordinance exempting property by classification pursuant to subsection A shall be adopted only after holding a public hearing with respect thereto, at which citizens shall have an opportunity to be heard. The local governing body shall publish notice of the hearing once in a newspaper of general circulation in the county, city, or town. The public hearing shall not be held until at least five days after the notice is published in the newspaper.*

*¶ D. Exemptions of property from taxation under this article shall be strictly construed in accordance with Article X, Section 6 (f) of the Constitution of Virginia.*

*¶ E. Nothing in this section or in any ordinance adopted pursuant to this section shall affect the validity of either a classification exemption claimed by an organization, or a designation exemption granted by the General Assembly, prior to January 1, 2003, that was still effective on December 31, 2002, pursuant to Article 2 (§ 58.1-3606 et seq.), Article 3 (§ 58.1-3609 et seq.) or 4 (§ 58.1-3650 et seq.) of this chapter, and no locality shall recognize a classification exemption first claimed by an organization pursuant to Article 3 (§ 58.1-3609 et seq.) of this chapter after January 1, 2003. An exemption granted pursuant to Article 4 (§ 58.1-3650 et seq.) of this chapter may be revoked in accordance with the provisions of § 58.1-3605. For purposes of this subsection "a classification exemption claimed by an organization" as of January 1, 2003, means that the organization owns property in a locality that is not being taxed by the locality on December 31, 2002, by virtue of a classification exemption provided under Article 3 (§ 58.1-3609 et seq.) of this chapter. Such claim of exemption applies to each such locality in which such an organization owns property that is not being taxed on December 31, 2002, and only to each such locality.*

**2. That an emergency exists and this act is in force beginning January 1, 2003. Ordinances adopted pursuant to this act may be effective on or after January 1, 2003.**

**3. That the provisions of this act are declaratory of existing law.**