

VIRGINIA ACTS OF ASSEMBLY -- 2007 SESSION

CHAPTER 357

An Act to amend and reenact §§ 58.1-3210, 58.1-3213, and 58.1-3215 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-3211.1, relating to exemptions or deferrals of real estate taxes for the elderly and permanently and totally disabled.

[S 1265]

Approved March 13, 2007

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3210, 58.1-3213, and 58.1-3215 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-3211.1 as follows:

§ 58.1-3210. Exemption or deferral of taxes on property of certain elderly and handicapped persons.

A. The governing body of any county, city or town may, by ordinance, provide for the exemption from, deferral of, or a combination program of exemptions from and deferrals of taxation of real estate and manufactured homes as defined in § 36-85.3, or any portion thereof, and upon such conditions and in such amount as the ordinance may prescribe. Such real estate shall be owned by, and be occupied as the sole dwelling of anyone at least ~~sixty-five~~ 65 years of age or if provided in the ordinance, anyone found to be permanently and totally disabled as defined in § 58.1-3217. Such ordinance may provide for the exemption from or deferral of that portion of the tax which represents the increase in tax liability since the year such taxpayer reached the age of ~~sixty-five~~ 65 or became disabled, or the year such ordinance became effective, whichever is later. A dwelling jointly held by a husband and wife, *with no other joint owners*, may qualify if either spouse is ~~sixty-five~~ 65 or over or is permanently and totally disabled, *and the proration of the exemption or deferral under § 58.1-3211.1 shall not apply for such dwelling.*

B. For purposes of this article, any reference to real estate shall include manufactured homes.

§ 58.1-3211.1. *Prorated tax exemption or deferral of tax.*

A. *The governing body of the county, city, or town may, by ordinance, also provide for an exemption from or deferral of (or combination program thereof) real estate taxes for dwellings jointly held by two or more individuals not all of whom are at least age 65 or (if provided in the ordinance) permanently and totally disabled, provided that (i) the dwelling is occupied as the sole dwelling by all such joint owners, and (ii) the net combined financial worth of all such joint owners, including the present value of all equitable interests and computed without any exclusion for the dwelling or for any other asset notwithstanding the provisions of § 58.1-3211, as of December 31 of the immediately preceding calendar year, does not exceed the following:*

a. \$500,000 for joint owners living in Arlington County, Clarke County, Fairfax County, Fauquier County, Loudoun County, Prince William County, Stafford County, any incorporated town located in any such county, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, or the City of Manassas Park;

b. \$324,075 for joint owners living in Chesterfield County, Goochland County, Henrico County, the City of Charlottesville, the City of Chesapeake, the City of Norfolk, the City of Portsmouth, the City of Richmond, the City of Suffolk, or the City of Virginia Beach; and

c. \$185,200 for joint owners living in any other county or city of the Commonwealth.

The tax exemption or deferral for the dwelling that otherwise would have been provided under the local ordinance shall be prorated by multiplying the amount of the exemption or deferral by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by all such joint owners who are at least age 65 or (if provided in the ordinance) permanently and totally disabled, and as a denominator, 100%. As a condition of eligibility for such tax exemption or deferral, the joint owners of the dwelling shall be required to furnish to the relevant local officer sufficient evidence of each joint owner's ownership interest in the dwelling.

B. *As provided in § 58.1-3211, the local governing body may elect to annually increase the net combined financial worth limit by an amount equivalent to the percentage increase in the Consumer Price Index.*

C. *The provisions of this section shall not apply to dwellings jointly held by a husband and wife, with no other joint owners.*

D. *The income limitation provisions of § 58.1-3211 shall be applicable to joint owners described under this section. Nothing in this section shall be interpreted or construed to provide for an exemption from or deferral of tax for any dwelling jointly held by nonindividuals.*

§ 58.1-3213. Application for exemption.

A. The person claiming such exemption shall file annually with the commissioner of the revenue of the county, city or town assessing officer or such other officer as may be designated by the governing

body in which such dwelling lies, on forms to be supplied by the county, city or town concerned, an affidavit or written statement setting forth (i) the names of the related persons occupying such real estate and (ii) that the total combined net worth, including equitable interests and the combined income from all sources, of the persons specified in § 58.1-3211 *or 58.1-3211.1, as the case may be*, does not exceed the limits prescribed in such ordinance.

B. In lieu of the annual affidavit or written statement filing requirement, a county, city or town may prescribe by ordinance for the filing of the affidavit or written statement on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding affidavit or written statement filed has changed to violate the limitations and conditions provided herein.

C. Notwithstanding the provisions of subsections A, B, and E of this section, any county, city or town may, by local ordinance, prescribe the content of the affidavit or written statement described in subsection A, subject to the requirements established in §§ 58.1-3211 *and 58.1-3211.1*; the frequency with which an affidavit, written statement or certification as described in subsection B of this section must be filed; and a procedure for late filing of affidavits or written statements.

D. If such person is under ~~sixty-five~~ 65 years of age, such form shall have attached thereto a certification by the Social Security Administration, the Department of Veterans Affairs or the Railroad Retirement Board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors who are either licensed to practice medicine in the Commonwealth or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that the person is permanently and totally disabled, as defined in § 58.1-3217; however, a certification pursuant to 42 U.S.C. § 423 (d) by the Social Security Administration so long as the person remains eligible for such social security benefits shall be deemed to satisfy such definition in § 58.1-3217. The affidavit of at least one of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability as defined in § 58.1-3217.

E. Such affidavit, written statement or certification shall be filed after January 1 of each year, but before April 1, or such later date as may be fixed by ordinance. Such ordinance may include a procedure for late filing by first-time applicants or for hardship cases.

F. The commissioner of the revenue or town assessing officer or another officer designated by the governing body of the county, city or town shall also make any other reasonably necessary inquiry of persons seeking such exemption, requiring answers under oath, to determine qualifications as specified herein, including qualification as permanently and totally disabled as defined in § 58.1-3217 and qualification for the exclusion of life insurance benefits paid upon the death of an owner of a dwelling, or as specified by county, city or town ordinance. The local governing body may, in addition, require the production of certified tax returns to establish the income or financial worth of any applicant for tax relief or deferral.

§ 58.1-3215. Effective date; change in circumstances.

A. An exemption or deferral enacted pursuant to § 58.1-3210 *or 58.1-3211.1* may be granted for any year following the date that the qualifying individual occupying such dwelling and owning title or partial title thereto reaches the age of ~~sixty-five~~ 65 years or for any year following the date the disability occurred. Changes in income, financial worth, ownership of property or other factors occurring during the taxable year for which an affidavit is filed and having the effect of exceeding or violating the limitations and conditions provided herein or by county, city or town ordinance shall nullify any exemption or deferral for the remainder of the current taxable year and the taxable year immediately following. However, any locality may by ordinance provide a prorated exemption or deferral for the portion of the taxable year during which the taxpayer qualified for such exemption or deferral.

B. An ordinance enacted pursuant to this article may provide that a change in ownership to a spouse *or a nonqualifying individual*, when such change resulted solely from the death of the qualifying individual, or a sale of such property shall result in a prorated exemption or deferral for the then current taxable year. The proceeds of the sale which would result in the prorated exemption or deferral shall not be included in the computation of net worth or income as provided in subsection A. Such prorated portion shall be determined by multiplying the amount of the exemption or deferral by a fraction wherein the number of complete months of the year such property was properly eligible for such exemption or deferral is the numerator and the number ~~twelve~~ 12 is the denominator.