

**DEPARTMENT OF TAXATION
2007 Fiscal Impact Statement**

1. Patron Robert G. Marshall

3. Committee House Finance

4. Title Real Property Tax: Separate Classifications
for Residential Property and Property
Devoted to Agricultural, Horticultural, Forest
or Open-Space Use

2. Bill Number HB 1672

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would create separate real property tax classifications for (1) residential property and (2) property devoted to agricultural, horticultural, forest or open-space use. Localities would be authorized to impose the local real property tax on property within these classifications at a rate different from that applicable to the general class of real property.

Under current law, all real estate is generally considered to be one class of property subject to the same rate of tax.

The effective date of this bill is not specified.

6. Fiscal Impact Estimates are: Not available. (See Line 8.)

7. Budget amendment necessary: No.

8. Fiscal implications:

This bill would have no impact on state revenues. The immediate impact on local revenues is uncertain because localities may or may not exercise the authority to impose different rates of tax on residential property or property devoted to agricultural, horticultural, forest or open-space use than imposed on the general classification of real property. The revenue impact on each locality would be dependent upon the assessed value of residential property subject to the different rate of tax and the rate of tax imposed.

9. Specific agency or political subdivisions affected:

All localities.

10. Technical amendment necessary: Yes.

If the intent of this bill is to authorize localities to impose the local real property tax on property within the two new classifications at a rate that does not exceed that applicable

to the general class of real property, similar to the authority currently granted to them regarding tangible personal property, the following technical amendment is suggested:

Page 1, Line 22, after: at

Strike: remainder of line

Insert: rates that are different from each other and do not exceed the tax rate levied on all other real property.

11. Other comments:

Real Property Tax Classifications

Article X, § 1 of the Constitution of Virginia authorizes the General Assembly to define and classify taxable subjects. Under current law, all real estate is considered to be one class of property subject to the same rate of tax. In the 2002 and 2003 General Assembly Sessions, however, separate classifications of real property were created composed of improvements to real property located in the cities of Fairfax and Roanoke. These cities were authorized to tax improvements at a lower rate than that applicable to the land.

Land Use Taxation

Currently, tax relief is provided to owners of real estate devoted solely to agricultural, horticultural, forest or open-space use through land use valuation and taxation. In valuing land at its use value, the assessing officer considers both the value of the real estate in its current use and the fair market value of the land at its most profitable use under current zoning and other legal restrictions. The tax rate, however, is applied only to the current use value in calculating the tax to be paid. Owners of real property situated in a locality that has adopted a land use plan and ordinance providing for use value assessment may apply to their local assessing officer for taxation of their real property on the basis of use value. Such owners must devote a minimum number of acres of real property to agricultural, horticultural, forest, or open-space use.

A landowner who subdivides, separates or splits-off parcels subject to use valuation is subject to roll-back taxes for the preceding 5 years unless the remaining real estate meets the minimum acreage and other requirements for use taxation. Roll-back taxes are the difference between what real property taxes would have been had real property been assessed at fair market value compared to real property taxes based upon use value.

Proposal

This bill would create separate real property tax classifications for residential property and for property devoted to agricultural, horticultural, forest or open-space use. Localities would be authorized to impose the local real property tax on property within these classifications at a rate different from that applicable to the general class of real property. Because owners of these types of real property would no longer have to apply for taxation on the basis of land value, they would no longer be subject to roll-back taxes if they chose to subdivide, separate, or split off parcels.

"Residential property" would be defined as "improved real property used or occupied, or intended to be used or occupied, for residential purposes." Additionally, this classification would include unimproved property that is locally zoned solely for residential purposes. Property that otherwise meets the definition of residential property would not be classified otherwise solely because a person residing in the property also conducts business in the property.

"Real estate devoted to agricultural use" is real estate devoted to the bona fide production for sale of plants and animals useful to man under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services.

"Real estate devoted to horticultural use" is real estate devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts, and berries; vegetables; nursery and floral products under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services.

"Real estate devoted to forest use" is land including the standing timber and trees thereon, devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester.

"Real estate devoted to open-space use" is real estate used as, or preserved for, park or recreational purposes, conservation of land or other natural resources, floodways, wetlands, riparian buffers, historic or scenic purposes, or assisting in the shaping of the character, direction, and timing of community development or for the public interest and consistent with the local land-use plan under uniform standards prescribed by the Director of the Department of Conservation and Recreation.

Similar Legislation

House Bill 1730 would create a separate real property tax classification for residential property and would place certain limitations on the subsequent rates imposed on the general class of real property if the locality imposes a lower tax rate on the separate class of residential property.

House Bill 2618 and **Senate Bill 1051** would create a separate classification of real property for certain energy efficient buildings.

House Bill 2812 would create a separate classification of real property for purposes of the Real Property Tax for residential property.

cc : Secretary of Finance

Date: 1/16/2007 AMS
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