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HOUSE BILL NO. 2098

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 17, 2009)

(Patron Prior to Substitute—Delegate Orrock)

A BILL to amend and reenact § 58.1-3230 of the Code of Virginia, relating to real property tax; land use assessment.

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3230 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3230. Special classifications of real estate established and defined.

For the purposes of this article the following special classifications of real estate are established and defined:

"Real estate devoted to agricultural use" shall mean 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 in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Real estate upon which (i) recreational activities are conducted for a profit or otherwise; shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. *Real property that has been designated as devoted to agricultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning; provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to agricultural use. In determining whether real property is devoted to agricultural use, zoning designations and special use permits for the property shall not be considered.*

"Real estate devoted to horticultural use" shall mean 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 in accordance with the Administrative Process Act (§ 2.2-4000 et seq.); or real estate devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Real estate upon which recreational activities are conducted for profit or otherwise, shall be considered real estate devoted to horticultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. *Real property that has been designated as devoted to horticultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning; provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to horticultural use. In determining whether real property is devoted to horticultural use, zoning designations and special use permits for the property shall not be considered.*

"Real estate devoted to forest use" shall mean 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 pursuant to the authority set out in § 58.1-3240 and in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Real estate upon which recreational activities are conducted for profit, or otherwise, shall still be considered real estate devoted to forest use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it no longer constitutes a forest area under standards prescribed by the State Forester pursuant to the authority set out in § 58.1-3240. *Real property that has been designated as devoted to forest use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or is otherwise allowed by zoning; provided that the*

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60 *property, excluding such portion, otherwise meets all the requirements for such designation. The portion*
61 *of the property being used for a different purpose pursuant to a special use permit or otherwise allowed*
62 *by zoning shall be deemed a separate piece of property from the remaining property for purposes of*
63 *assessment. The presence of utility lines on real property shall not be considered in determining whether*
64 *the property, including the portion where the utility lines are located, is devoted to forest use. In*
65 *determining whether real property is devoted to forest use, zoning designations and special use permits*
66 *for the property shall not be considered.*

67 "Real estate devoted to open-space use" shall mean real estate used as, or preserved for, (i) park or
68 recreational purposes, including public or private golf courses, (ii) conservation of land or other natural
69 resources, (iii) floodways, (iv) wetlands as defined in § 58.1-3666, (v) riparian buffers as defined in
70 § 58.1-3666, (vi) historic or scenic purposes, or (vii) assisting in the shaping of the character, direction,
71 and timing of community development or for the public interest and consistent with the local land-use
72 plan under uniform standards prescribed by the Director of the Department of Conservation and
73 Recreation pursuant to the authority set out in § 58.1-3240, and in accordance with the Administrative
74 Process Act (§ 2.2-4000 et seq.) and the local ordinance. *Real property that has been designated as*
75 *devoted to open-space use shall not lose such designation solely because a portion of the property is*
76 *being used for a different purpose pursuant to a special use permit or is otherwise allowed by zoning;*
77 *provided that the property, excluding such portion, otherwise meets all the requirements for such*
78 *designation. The portion of the property being used for a different purpose pursuant to a special use*
79 *permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining*
80 *property for purposes of assessment. The presence of utility lines on real property shall not be*
81 *considered in determining whether the property, including the portion where the utility lines are located,*
82 *is devoted to open-space use. In determining whether real property is devoted to open-space use, zoning*
83 *designations and special use permits for the property shall not be considered.*