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HOUSE BILL NO. 1866

Offered January 12, 2011

Prefiled January 11, 2011

A BILL to amend and reenact §§ 58.1-3213, 58.1-3215, and 58.1-3218 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-3211.01, relating to real property tax exemptions for the elderly and permanently and totally disabled.

Patron—Cole

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3213, 58.1-3215, and 58.1-3218 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-3211.01 as follows:

§ 58.1-3211.01. Alternative restrictions and exemptions.

A. As an alternative to the provisions of § 58.1-3211, the governing body of any county, city, or town may, by ordinance, enact an exemption, in whole or in part, or deferral program pursuant to § 58.1-3210 by establishing, as the amount of real property taxes owed annually, the lesser of the unreduced real property taxes or an amount equal to annual income multiplied by a certain uniform percentage, to be determined by the locality. Annual income shall be computed by adding together the total income received during the preceding calendar year, without regard to whether a tax return is actually filed, by (i) owners of the dwelling who use it as their principal residence, (ii) owners' relatives who live in the dwelling, and (iii) at the option of each locality, nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide paid caregivers of the owner. Income shall include only those sources of income that are subject to tax under federal income tax laws, regulations, rules, or policies.

B. If the dwelling is 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, and is occupied as the sole dwelling by all such joint owners, the county, city, or town may increase the calculation of the annual income multiplied by a certain uniform percentage pursuant to subsection A by 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. The provisions of this subsection shall not apply to dwellings jointly held by a husband and wife, with no other joint owners.

§ 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) for exemptions pursuant to § 58.1-3211.01, the combined income, from all sources, of the persons specified in § 58.1-3211.01; or (ii) for exemptions pursuant to § 58.1-3211 or 58.1-3211.1, 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 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

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HB1866

59 eligible for such social security benefits shall be deemed to satisfy such definition in § 58.1-3217. The
60 affidavit of at least one of the doctors shall be based upon a physical examination of the person by such
61 doctor. The affidavit of one of the doctors may be based upon medical information contained in the
62 records of the Civil Service Commission which is relevant to the standards for determining permanent
63 and total disability as defined in § 58.1-3217.

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

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

75 § 58.1-3215. Effective date; change in circumstances.

76 A. An exemption or deferral enacted pursuant to § 58.1-3210, ~~or~~ 58.1-3211.1, *or 58.1-3211.01* may
77 be granted for any year following the date that the qualifying individual occupying such dwelling and
78 owning title or partial title thereto reaches the age of 65 years or for any year following the date the
79 disability occurred. Changes in income, financial worth, ownership of property or other factors occurring
80 during the taxable year for which an affidavit is filed and having the effect of exceeding or violating the
81 limitations and conditions provided herein or by county, city or town ordinance shall nullify any
82 exemption or deferral for the remainder of the current taxable year and the taxable year immediately
83 following. However, any locality may by ordinance provide a prorated exemption or deferral for the
84 portion of the taxable year during which the taxpayer qualified for such exemption or deferral.

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

93 C. An ordinance enacted pursuant to this article may provide that an individual who does not qualify
94 for the exemption or deferral under this article based upon the previous year's income limitations and
95 financial worth limitations, may nonetheless qualify for the current year by filing an affidavit that clearly
96 shows a substantial change of circumstances, that was not volitional on the part of the individual to
97 become eligible for the exemption or deferral, and will result in income and financial worth levels that
98 are within the limitations of the ordinance. The ordinance may impose additional conditions and require
99 other information under this subsection. The locality may prorate the exemption or deferral from the
100 date the affidavit is submitted or any other date.

101 Any exemption or deferral under this subsection must be conditioned upon the individual filing
102 another affidavit after the end of the year in which the exemption or deferral was granted, within a
103 period of time specified by the locality, showing that the actual income and financial worth levels were
104 within the limitations set by the ordinance. If the actual income and financial worth levels exceeded the
105 limitations any exemption or deferral shall be nullified for the current taxable year and the taxable year
106 immediately following.

107 § 58.1-3218. Designation by General Assembly.

108 The General Assembly hereby deems those persons falling within the limitations and conditions
109 provided in ~~§§ 58.1-3210 and 58.1-3211~~ of this article to be bearing an extraordinary tax burden on the
110 real estate in relation to their income and financial worth.

111 **2. That the provisions of this act shall be effective for tax years beginning on or after January 1,**
112 **2011.**