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**HOUSE BILL NO. 46****AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee on Finance  
on February 24, 2014)

(Patron Prior to Substitute—Delegate Ramadan)

*A BILL to amend and reenact §§ 58.1-3219.5, 58.1-3219.7, and 58.1-3360 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 32 of Title 58.1 an article numbered 2.4, consisting of sections numbered 58.1-3219.9 through 58.1-3219.12, and to provide for the submission to the voters of a proposed amendment to Section 6-A of Article X of the Constitution of Virginia, relating to a real property tax exemption for surviving spouses of soldiers killed in action.*

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

**1. That §§ 58.1-3219.5, 58.1-3219.7, and 58.1-3360 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 32 of Title 58.1 an article numbered 2.4, consisting of sections numbered 58.1-3219.9 through 58.1-3219.12, as follows:**

**§ 58.1-3219.5. Exemption from taxes on property for disabled veterans.**

A. Pursuant to ~~Article X, Section 6-A~~ subdivision (a) of Section 6-A of Article X of the Constitution of Virginia, and for tax years beginning on or after January 1, 2011, the General Assembly hereby exempts from taxation the real property, including the joint real property of husband and wife, of any veteran who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent, and total disability, and who occupies the real property as his principal place of residence. If the veteran's disability rating occurs after January 1, 2011, and he has a qualified primary residence on the date of the rating, then the exemption for him under this section begins on the date of such rating. However, no county, city, or town shall be liable for any interest on any refund due to the veteran for taxes paid prior to the veteran's filing of the affidavit or written statement required by § 58.1-3219.6. If the qualified veteran acquires the property after January 1, 2011, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to § 58.1-3360.

B. The surviving spouse of a veteran eligible for the exemption set forth in this article shall also qualify for the exemption, so long as the death of the veteran occurs on or after January 1, 2011, the surviving spouse does not remarry, and the surviving spouse continues to occupy the real property as his principal place of residence.

C. A county, city, or town shall provide for the exemption from real property taxes the qualifying dwelling pursuant to this section, and shall provide for the exemption from real property taxes the land, not exceeding one acre, upon which it is situated. However, if a county, city, or town provides for an exemption from or deferral of real property taxes of more than one acre of land pursuant to Article 2 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an exemption for the same number of acres pursuant to this section.

D. For purposes of this exemption, real property of any veteran includes real property (i) held by a veteran alone or in conjunction with the veteran's spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the veteran or the veteran and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which a veteran alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term does not include any interest held under a leasehold or term of years.

The exemption for a surviving spouse under subsection B includes real property (a) held by the veteran's spouse as tenant for life, (b) held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (c) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. The exemption does not apply to any interest held under a leasehold or term of years.

E. 1. In the event that (i) a person is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection D and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the number of people who are qualified for the exemption pursuant to this section and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

2. In the event that the primary residence is jointly owned by two or more individuals, not all of whom qualify for the exemption pursuant to subsection A or B, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in

60 subsection D, then the exemption shall be prorated by multiplying the amount of the exemption or  
61 deferral by a fraction that has as a numerator the percentage of ownership interest in the dwelling held  
62 by all such joint owners who qualify for the exemption pursuant to subsections A and B, and as a  
63 denominator, 100 percent.

64 **§ 58.1-3219.7. Commissioner of the Department of Veterans Services; rules and regulations;**  
65 **appeal.**

66 A. The Commissioner of the Department of Veterans Services shall promulgate rules and regulations  
67 governing the administration and implementation of the property tax exemption under this article. Such  
68 rules and regulations shall include, but not be limited to, written guidance for veterans residing in the  
69 Commonwealth and for commissioners of the revenue or other assessing officers relating to the  
70 determination of eligibility for the property tax exemption under this article and procedures for appealing  
71 a decision of the Commissioner of the Department of Veterans Services to a circuit court pursuant to  
72 subsection B. The Commissioner of the Department of Veterans Services may also provide written  
73 guidance to, and respond to requests for information from, veterans residing in the Commonwealth and  
74 commissioners of the revenue or other assessing officers regarding the exemption under this article,  
75 including interpretation of the provisions of ~~Article X, Section 6-A subdivision (a) of Section 6-A of~~  
76 ~~Article X~~ of the Constitution of Virginia and this article.

77 B. The Commissioner of the Department of Veterans Services shall hear and decide appeals by  
78 veterans residing in the Commonwealth from a denial of their application pursuant to § 58.1-3219.6 by a  
79 commissioner of the revenue or other assessing officer. However, such appeal shall be limited to appeals  
80 based upon a finding of fact regarding eligibility criteria set forth in ~~Article X, Section 6-A subdivision~~  
81 ~~(a) of Section 6-A of Article X~~ of the Constitution of Virginia and this article. The Commissioner of the  
82 Department of Veterans Services shall not be authorized to hear or decide appeals regarding a dispute  
83 over the assessed value of any property. Nothing in this section shall be construed to limit the appeal of  
84 a decision of the Commissioner of the Department of Veterans Services by either party to the circuit  
85 court in the locality in which the veteran resides.

86 *Article 2.4.*

87 *Exemption for Surviving Spouses of Members of the Armed Forces Killed in Action.*

88 **§ 58.1-3219.9. Exemption from taxes on property of surviving spouses of members of the armed**  
89 **forces killed in action.**

90 A. Pursuant to subdivision (b) of Section 6-A of Article X of the Constitution of Virginia, and for tax  
91 years beginning on or after January 1, 2015, the General Assembly hereby exempts from taxation the  
92 real property described in subsection B of the surviving spouse (i) of any member of the armed forces of  
93 the United States who was killed in action as determined by the United States Department of Defense  
94 and (ii) who occupies the real property as his principal place of residence. If such member of the armed  
95 forces of the United States is killed in action after January 1, 2015, and the surviving spouse has a  
96 qualified principal residence on the date that such member of the armed forces is killed in action, then  
97 the exemption for the surviving spouse shall begin on the date that such member of the armed forces is  
98 killed in action. However, no county, city, or town shall be liable for any interest on any refund due to  
99 the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or written  
100 statement required by § 58.1-3219.10. If the surviving spouse acquires the property after January 1,  
101 2015, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled  
102 to a refund for a pro rata portion of real property taxes paid pursuant to § 58.1-3360.

103 B. Only those dwellings in the locality with assessed values in the most recently ended tax year that  
104 are not in excess of the average assessed value for such year of a dwelling situated on property that is  
105 zoned as single family residential shall qualify for the exemption under this article. Single family homes,  
106 condominiums, town homes, and other types of dwellings of surviving spouses that (i) meet this  
107 requirement and (ii) are occupied by such persons as their principal place of residence shall qualify for  
108 the real property tax exemption.

109 For purposes of determining whether a dwelling is exempt from county and town real property taxes,  
110 the average assessed value shall be such average for all dwellings located within the county that are  
111 situated on property zoned as single family residential.

112 C. The surviving spouse of a member of the armed forces killed in action shall qualify for the  
113 exemption so long as the surviving spouse does not remarry and continues to occupy the real property  
114 as his principal place of residence.

115 D. A county, city, or town shall provide for the exemption from real property taxes (i) the qualifying  
116 dwelling and (ii) the land, not exceeding one acre, upon which it is situated. However, if a county, city,  
117 or town provides for an exemption from or deferral of real property taxes of more than one acre of land  
118 pursuant to Article 2 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an  
119 exemption for the same number of acres pursuant to this section.

120 E. For purposes of this exemption, real property of any surviving spouse of a member of the armed  
121 forces killed in action includes real property (i) held by a surviving spouse as a tenant for life, (ii) held

in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. The term does not include any interest held under a leasehold or term of years.

F. 1. In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection E and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the number of surviving spouses who are qualified for the exemption pursuant to this section and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

2. In the event that the principal residence is jointly owned by two or more individuals, not all of whom qualify for the exemption, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in subsection E, then the exemption shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by all such joint owners who qualify for the exemption, and as a denominator, 100 percent.

**§ 58.1-3219.10. Application for exemption.**

A. The surviving spouse claiming the exemption under this article shall file with the commissioner of the revenue of the county, city, or town or such other officer as may be designated by the governing body in which the real property is located, on forms to be supplied by the county, city, or town, an affidavit or written statement (i) setting forth the surviving spouse's name, (ii) indicating any other joint owners of the real property, and (iii) certifying that the real property is occupied as the surviving spouse's principal place of residence. The surviving spouse shall also provide documentation from the United States Department of Defense or its successor agency indicating the date that the member of the armed forces of the United States was killed in action.

The surviving spouse shall be required to refile the information required by this section only if the surviving spouse's principal place of residence changes.

B. The surviving spouse shall promptly notify the commissioner of the revenue of any remarriage.

**§ 58.1-3219.11. Commissioner of the Department of Veterans Services; rules and regulations.**

The Commissioner of the Department of Veterans Services shall promulgate rules and regulations governing the administration and implementation of the property tax exemption under this article. Such rules and regulations shall include, but not be limited to, written guidance for surviving spouses residing in the Commonwealth and for commissioners of the revenue or other assessing officers relating to the determination of eligibility for the property tax exemption under this article. The Commissioner of the Department of Veterans Services may also provide written guidance to, and respond to requests for information from, surviving spouses residing in the Commonwealth and commissioners of the revenue or other assessing officers regarding the exemption under this article, including interpretation of the provisions of subdivision (b) of Section 6-A of Article X of the Constitution of Virginia and this article.

**§ 58.1-3219.12. Absence from residence.**

The fact that surviving spouses who are otherwise qualified for tax exemption pursuant to this article are residing in hospitals, nursing homes, convalescent homes, or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which tax exemption is sought does not continue to be the sole dwelling of such persons during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration.

**§ 58.1-3360. Credit on current year's taxes when land acquired by United States, the Commonwealth, a political subdivision, a church or religious body, a disabled veteran, or a surviving spouse of a member of the armed forces who was killed in action.**

Any taxpayer whose lands, or any portion thereof, are in any year acquired or taken in any manner by the United States; the Commonwealth; a political subdivision; a church or religious body, which is exempt from taxation by Article X, Section 6 of the Constitution of Virginia; a surviving spouse of a member of the armed forces of the United States who was killed in action for that portion of the property that is exempt under § 58.1-3219.9; or a disabled veteran for that portion of the property that is exempt from taxation pursuant to § 58.1-3219.5, shall be relieved from the payment of taxes and levies from the date of divestment of such land for that portion of the year in which the property was taken or acquired. The county treasurers as to land situated in counties and the city treasurers and city collectors as to lands situated in cities shall receive from and receipt to the original owner of the lands so taken, for his proportionate part of the taxes and levies for the year and credit the payment on the tax tickets and shall return at the same time he makes his return of lands and lots improperly assessed, as required by law, the proportional part of the taxes and levies exonerated from taxation for any such year,

183 indicating on the margin of the list the date on which the property was acquired by the government or  
184 religious body. Such list, when approved by the proper authorities, shall be considered as a credit to any  
185 such treasurer or collector in the settlement of the accounts for such year.

186 **2. That the provisions of the first enactment of this act shall become effective on January 1, 2015,**  
187 **if a majority of those voting on the question in the third enactment of this act vote in the**  
188 **affirmative.**

189 **3. § 1.** It shall be the duty of the officers conducting the election directed by law to be held on the  
190 Tuesday after the first Monday in November 2014, at the places appointed for holding the same, to open  
191 a poll and take the sense of the qualified voters upon the ratification or rejection of the proposed  
192 amendment to the Constitution of Virginia, contained herein and in the joint resolution proposing such  
193 amendment, to wit:

194 Amend Section 6-A of Article X of the Constitution of Virginia as follows:

195 ARTICLE X

196 TAXATION AND FINANCE

197 Section 6-A. Property tax exemption for certain veterans *and surviving spouses of soldiers killed in*  
198 *action.*

199 (a) Notwithstanding the provisions of Section 6, the General Assembly by general law, and within  
200 the restrictions and conditions prescribed therein, shall exempt from taxation the real property, including  
201 the joint real property of husband and wife, of any veteran who has been determined by the United  
202 States Department of Veterans Affairs or its successor agency pursuant to federal law to have a one  
203 hundred percent service-connected, permanent, and total disability, and who occupies the real property as  
204 his or her principal place of residence. The General Assembly shall also provide this exemption from  
205 taxation for real property owned by the surviving spouse of a veteran who was eligible for the  
206 exemption provided in this ~~section~~ subdivision, so long as the surviving spouse does not remarry and  
207 continues to occupy the real property as his or her principal place of residence.

208 (b) *Notwithstanding the provisions of Section 6, the General Assembly by general law, and within the*  
209 *restrictions and conditions prescribed therein, may exempt from taxation the real property of the*  
210 *surviving spouse of any member of the armed forces of the United States who was killed in action as*  
211 *determined by the United States Department of Defense, who occupies the real property as his or her*  
212 *principal place of residence. The exemption under this subdivision shall cease if the surviving spouse*  
213 *remarries and shall not be claimed thereafter. This exemption applies regardless of whether the spouse*  
214 *was killed in action prior to the effective date of this subdivision, but the exemption shall not be*  
215 *applicable for any period of time prior to the effective date. This exemption applies to the surviving*  
216 *spouse's principal place of residence without any restriction on the spouse's moving to a different*  
217 *principal place of residence and without any requirement that the spouse reside in the Commonwealth*  
218 *at the time of death of the member of the armed forces.*

219 § 2. The ballot shall contain the following question:

220 "Question: Shall Section 6-A of Article X (Taxation and Finance) of the Constitution of Virginia be  
221 amended to allow the General Assembly to exempt from taxation the real property of the surviving  
222 spouse of any member of the armed forces of the United States who was killed in action, where the  
223 surviving spouse occupies the real property as his or her principal place of residence and has not  
224 remarried?"

225 The ballots shall be prepared, distributed and voted, and the results of the election shall be  
226 ascertained and certified, in the manner prescribed by § 24.2-684 of the Code of Virginia. The State  
227 Board of Elections shall comply with § 30-19.9 of the Code and shall cause to be sent to the electoral  
228 boards of each county and city sufficient copies of the full text of the amendment and question  
229 contained herein for the officers of election to post in each polling place on election day.

230 The electoral board of each county and city shall make out, certify and forward an abstract of the  
231 votes cast for and against such proposed amendment in the manner now prescribed by law in relation to  
232 votes cast in general elections.

233 The State Board of Elections shall open and canvass such abstracts and examine and report the  
234 whole number of votes cast at the election for and against such amendment in the manner now  
235 prescribed by law in relation to votes cast in general elections. The State Board of Elections shall record  
236 a certified copy of such report in its office and without delay make out and transmit to the Governor an  
237 official copy of such report, certified by it. The Governor shall without delay make proclamation of the  
238 result, stating therein the aggregate vote for and against the amendment.

239 If a majority of those voting vote in favor of the amendment, it shall become effective on January 1,  
240 2015.

241 The expenses incurred in conducting this election shall be defrayed as in the case of election of  
242 members of the General Assembly.