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SENATE BILL NO. 366

Offered January 13, 2016

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A BILL to amend and reenact §§ 46.2-653.1, 58.1-3219.5, and 58.1-3219.9 of the Code of Virginia, relating to real property tax exemption; residence of disabled veteran, and the spouse of a service member killed in action.

Patrons—Chafin and Cosgrove

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-653.1, 58.1-3219.5, and 58.1-3219.9 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-653.1. Conversion of manufactured home to real property.

A. After a manufactured home has been titled in the Commonwealth and at such time as the wheels and other equipment previously used for mobility have been removed and the unit has been attached to real property owned by the manufactured home owner, the owner may convert the home to real property in accordance with the provisions of subsection B. ~~The~~ Except as provided in §§ 58.1-3219.5 and 58.1-3219.9, and for the purposes stated in §§ 58.1-3219.5 and 58.1-3219.9, the provisions of this section constitute the only manner by which a manufactured home owner may convert a manufactured home to real property.

B. A manufactured home owner who wishes to convert the home to real property shall submit a sworn affidavit to the Department that the wheels and other equipment previously used for mobility have been removed from the manufactured home and the unit has been attached to real property owned by the manufactured home owner.

The affidavit must be in a form approved by the Commissioner. Upon compliance by the owner with the procedure for surrender of title, the Department shall rescind and cancel the Virginia title. The Department shall not cancel the title if a security interest has been recorded on the title and not released by the secured party. After canceling the title, the Department shall provide written confirmation to the owner that the title has been surrendered and has been canceled by the Department.

Upon receipt of confirmation that the title has been surrendered and has been canceled by the Department, the owner shall file a sworn affidavit of affixation with the circuit court of the locality where the real property is located. The affidavit shall include all of the following information:

1. The manufacturer and, if applicable, the model name of the manufactured home.
2. The vehicle identification number and serial number of the manufactured home.
3. The legal description of the real property on which the manufactured home is placed, including the property address, stating that the owner of the manufactured home also owns the real property.
4. Certification that there are no security interests in the manufactured home that have not been released by the secured party.
5. The homeowner's statement that the title has been surrendered and has been canceled by the Department and that the home is intended to be a permanent fixture and improvement to the land, to the same extent as any site-built home, and assessed and taxed with the land as real property.

In addition, a copy of the confirmation provided by the Department that the title has been surrendered and canceled by the Department shall be attached to and filed with the affidavit.

Upon filing the affidavit of affixation, the manufactured home shall then be deemed to be real estate and shall thereafter be conveyed and encumbered only as real estate is conveyed and encumbered, except when the home is thereafter physically severed from the real property and a new title issued in accordance with subsection C.

A security interest in a manufactured home is perfected against the rights of judicial lien creditors, execution creditors, and purchasers for value on and after the date such security interest attaches. The Commissioner shall have prepared a list of all titles canceled pursuant to this section and furnish it, in conjunction with the reports submitted pursuant to § 46.2-210, to the commissioner of the revenue of each county and city without cost.

C. If the owner of a manufactured home whose certificate of title has been canceled under this section subsequently seeks to sever the manufactured home from the real property, the owner may apply for a new certificate of title in accordance with the provisions of this section.

1. The owner shall file with the circuit court where the real property is located an affidavit that includes or provides for all of the following information:

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- 59 a. The manufacturer and, if applicable, the model name of the manufactured home.  
60 b. The vehicle identification number and serial number of the manufactured home.  
61 c. The legal description of the real property on which the manufactured home is or was placed,  
62 stating that the owner of the manufactured home also owns the real property.  
63 d. Certification that there are no security interests in the manufactured home that have not been  
64 released by the secured party.  
65 e. The homeowner's statement that the home has been or will be physically severed from the real  
66 property.

67 2. The owner must submit the following to the Department:

- 68 a. A copy of the affidavit filed in accordance with subdivision C 1.  
69 b. Verification that the manufactured home has been severed from the real property. Confirmation of  
70 severance by the commissioner of the revenue where the real property is located shall constitute  
71 acceptable evidence that the unit has been severed from the real property.

72 Upon receipt of the information required in subdivision C 2, together with a title application and  
73 required fee, the Department is authorized to issue a new title for the manufactured home. The initial  
74 title issued under the provisions of this subsection shall contain no security interests, provided however,  
75 that nothing contained herein shall be construed to prevent a subsequent security interest from being  
76 recorded on the title.

77 **§ 58.1-3219.5. Exemption from taxes on property for disabled veterans.**

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

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

94 C. A county, city, or town shall provide for the exemption from real property taxes the qualifying  
95 dwelling pursuant to this section, and shall provide for the exemption from real property taxes the land,  
96 not exceeding one acre, upon which it is situated. However, if a county, city, or town provides for an  
97 exemption from or deferral of real property taxes of more than one acre of land pursuant to Article 2  
98 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an exemption for the same  
99 number of acres pursuant to this section. *If the veteran owns a house that is his residence, including a  
100 trailer as defined in § 46.2-100 whether or not the wheels and other equipment previously used for  
101 mobility have been removed, such house or trailer shall be exempt even if the veteran does not own the  
102 land on which the house or trailer is located. If such land is not owned by the veteran, then the land is  
103 not exempt.*

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

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

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

121 ownership interest that permits them to occupy the property.

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

129 **§ 58.1-3219.9. Exemption from taxes on property of surviving spouses of members of the armed**  
130 **forces killed in action.**

131 A. Pursuant to subdivision (b) of Section 6-A of Article X of the Constitution of Virginia, and for  
132 tax years beginning on or after January 1, 2015, the General Assembly hereby exempts from taxation  
133 the real property described in subsection B of the surviving spouse (i) of any member of the armed  
134 forces of the United States who was killed in action as determined by the United States Department of  
135 Defense and (ii) who occupies the real property as his principal place of residence. If such member of  
136 the armed forces of the United States is killed in action after January 1, 2015, and the surviving spouse  
137 has a qualified principal residence on the date that such member of the armed forces is killed in action,  
138 then the exemption for the surviving spouse shall begin on the date that such member of the armed  
139 forces is killed in action. However, no county, city, or town shall be liable for any interest on any  
140 refund due to the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or  
141 written statement required by § 58.1-3219.10. If the surviving spouse acquires the property after January  
142 1, 2015, then the exemption shall begin on the date of acquisition, and the previous owner may be  
143 entitled to a refund for a pro rata portion of real property taxes paid pursuant to § 58.1-3360.

144 B. Those dwellings in the locality with assessed values in the most recently ended tax year that are  
145 not in excess of the average assessed value for such year of a dwelling situated on property that is  
146 zoned as single family residential shall qualify for a total exemption from real property taxes under this  
147 article. If the value of a dwelling is in excess of the average assessed value as described in this  
148 subsection, then only that portion of the assessed value in excess of the average assessed value shall be  
149 subject to real property taxes, and the portion of the assessed value that is not in excess of the average  
150 assessed value shall be exempt from real property taxes. Single family homes, condominiums, town  
151 homes, *trailers as defined in § 46.2-100 whether or not the wheels and other equipment previously used*  
152 *for mobility have been removed, and whether or not the land on which the house or trailer is located is*  
153 *owned by someone other than the spouse, and other types of dwellings of surviving spouses that (i)*  
154 *meet this requirement and (ii) are occupied by such persons as their principal place of residence shall*  
155 *qualify for the real property tax exemption. If the land on which the house or trailer is located is not*  
156 *owned by the veteran, then the land is not exempt.*

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

160 C. The surviving spouse of a member of the armed forces killed in action shall qualify for the  
161 exemption so long as the surviving spouse does not remarry and continues to occupy the real property  
162 as his principal place of residence. The exemption applies without any restriction on the spouse's moving  
163 to a different principal place of residence.

164 D. A county, city, or town shall provide for the exemption from real property taxes (i) the qualifying  
165 dwelling, or the portion of the value of such dwelling and land that qualifies for the exemption pursuant  
166 to subsection B, and (ii) *except land not owned by the spouse*, the land, not exceeding one acre, upon  
167 which it is situated. However, if a county, city, or town provides for an exemption from or deferral of  
168 real property taxes of more than one acre of land pursuant to Article 2 (§ 58.1-3210 et seq.), then the  
169 county, city, or town shall also provide an exemption for the same number of acres pursuant to this  
170 section.

171 E. For purposes of this exemption, real property of any surviving spouse of a member of the armed  
172 forces killed in action includes real property (i) held by a surviving spouse as a tenant for life, (ii) held  
173 in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii)  
174 held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a  
175 continuing right of use or support. The term does not include any interest held under a leasehold or term  
176 of years.

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

182 denominator the total number of all people having an ownership interest that permits them to occupy the  
183 property.

184 2. In the event that the principal residence is jointly owned by two or more individuals including the  
185 surviving spouse, and no person is entitled to the exemption under this section by virtue of holding the  
186 property in any of the three ways set forth in subsection E, then the exemption shall be prorated by  
187 multiplying the amount of the exemption by a fraction that has as a numerator the percentage of  
188 ownership interest in the dwelling held by the surviving spouse, and as a denominator, 100 percent.