DEPARTMENT OF TAXATION
2016 Fiscal Impact Statement

1. Patron Joseph R. Yost

2. Bill Number HB 1203

House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

3. Committee Passed House and Senate

4. Title Real Property Tax; Exemptions for Disabled Veterans and Spouses of Soldiers Killed in Action

Second House:
_____ **In Committee**
_____ **Substitute**
_X_ **Enrolled**

5. Summary/Purpose:

This bill would clarify that houses, manufactured homes, and other types of dwellings owned by and the residence of certain disabled veterans or surviving spouses of disabled veterans and members of the armed forces killed in action may qualify for these real property tax exemptions, even if the disabled veteran or surviving spouse does not own the land on which the residence is located. The bill would provide that such manufactured homes would be considered real property and may qualify for these real property tax exemptions regardless of whether the equipment previously used for mobility has been removed and the manufactured home converted to real property. The bill also would provide that if the land is not owned by the disabled veteran or surviving spouse, the land would not be exempt from the real property tax.

Under current law, the principal residence of a surviving spouse of any member of the armed forces of the United States who was killed in action or a veteran (or widow or widower of a veteran) who has been determined to have a 100 percent service-connected, permanent, and total disability is exempt from real property taxation. The land, not to exceed one acre, upon which the dwelling is situated, is also exempt from taxation. However, if the locality provides for an exemption or deferral of real property taxes of more than one acre for the elderly and handicapped, the locality must also provide an exemption of the same number of acres for disabled veterans and their surviving spouses and surviving spouses of soldiers killed in action.

The effective date of this bill is not specified.

6. Budget amendment necessary: No.

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

8. Fiscal implications:

To the extent that localities currently are not allowing the real property tax exemptions for houses, manufactured homes, and other types of dwellings owned by and the residence of certain disabled veterans and surviving spouses of disabled veterans and members of

the armed forces killed in action if the residences are located on land not owned by the disabled veteran or surviving spouse, the bill would result in an unknown revenue loss to localities. Additionally, to the extent that localities currently are disallowing the exemptions from the real property tax for manufactured homes owned by and the residence of certain disabled veterans and surviving spouses of disabled veterans and members of the armed forces killed in action if the owner has not followed the correct procedures to convert the residence to real property, the bill would result in an unknown revenue loss on localities. This bill would have no impact on state revenues.

9. Specific agency or political subdivisions affected:

All localities

10. Technical amendment necessary: No.

11. Other comments:

Exemption for Surviving Spouses of Soldiers Killed in Action

Legislation enacted in the 2014 General Assembly Session, House Bill 46 (*Acts of Assembly* 2014, Chapters 757), provided the necessary statutory authorization required by the constitutional amendment to Article X, § 6 of the *Constitution of Virginia*, adopted by voters authorizing the General Assembly to exempt from taxation real property that is the principal residence of a surviving spouse of any member of the armed forces of the United States who was killed in action as determined by the Department of Defense. The constitutional amendment was adopted by voters and became effective January 1, 2015.

Under current law, the real property tax exemption for surviving spouses of soldiers killed in action applies to the principal place of residence with an assessed value not exceeding the average assessed value of all dwellings located within the locality that are zoned as single family residential. For principal places of residence that are assessed at more than the average assessed value of all dwellings located within the locality that are zoned as single family residential, the exemption only applies to the portion of the assessed value of that does not exceed the average assessed value of all dwellings located within the locality that are zoned as single family residential. The exemption applies without any restriction on the surviving spouse moving to a different principal place of residence.

Exemption for Disabled Veterans

House Bill 1645 and Senate Bill 987 (*Acts of Assembly* 2011, Chapters 769 and 840) provided the necessary statutory authorization to exempt from taxation, for tax years beginning on or after January 1, 2011, real property that is the principal residence of a veteran (or widow or widower of a veteran) if the veteran has been determined by the United States Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent, and total disability. The surviving spouse of a veteran is eligible 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.

Qualifying Land

For both the real property tax exemption for surviving spouses of soldiers killed in action and the real property tax exemption for disabled veterans and their surviving spouses, the land upon which the dwelling is situated, not to exceed one acre, is also exempt from taxation. However, if the locality provides for an exemption or deferral of real property taxes of more than one acre for the elderly and handicapped, the locality must also provide an exemption of the same number of acres for disabled veterans and surviving spouses and surviving spouses of soldiers killed in action. If the real property is jointly owned by one or more persons and not all persons qualify for the exemption, then the exemption is prorated based on the ownership interest of all joint owners.

Manufactured Homes

A manufactured home, formerly defined as a mobile home, is a structure that is defined as:

- Transportable in one or more sections;
- Eight body feet or more in width and 40 body feet or more in length in the traveling mode, or when erected on site, is 320 or more square feet;
- Built on a permanent chassis; and
- Designed to be used as a single family dwelling, with or without a permanent foundation, when connected to the required utilities (includes plumbing, heating, air-conditioning, and electrical system contained in the structure).

Manufactured Homes are subject to the Motor Vehicle Sales and Use Tax at the rate of three percent. The Motor Vehicle Sales and Use Tax is paid by the purchaser at the time the purchaser applies to the Department of Motor Vehicles ("DMV") for a certificate of title.

Manufactured homes generally are considered tangible personal property until converted to real property. Under *Va. Code* § 58.1-3506, vehicles without motive power, used or designed to be used as manufactured homes, are subject to the tangible personal property tax at a rate equal to the rate applicable to real property. *Virginia Code* § 46.2-653.1 sets forth the procedures to be used for a manufactured home owner to convert his manufactured home to real property. Such owner must:

- Remove the wheels and other equipment previously used for mobility and attach the manufactured home to real property owned by the manufactured home owner;
- Submit a sworn affidavit to DMV that the equipment used for mobility have been removed and the manufactured home has been attached to real property owned by the manufactured home owner and surrender the title; and
- File a sworn affidavit of affixation with the circuit court of the locality where the real property is located upon receipt of confirmation that the title has been canceled.

Proposal

This bill would clarify that houses, manufactured homes, and other types of dwellings owned by and the residence of certain disabled veterans or surviving spouses of disabled veterans and members of the armed forces killed in action may qualify for these real property tax exemptions, even if the disabled veteran or surviving spouse does not own the land on which the residence is located. The bill would provide that such manufactured homes would be considered real property and may qualify for these real property tax exemptions regardless of whether the equipment previously used for mobility has been removed and the manufactured home converted to real property. The bill also would provide that if the land is not owned by the disabled veteran or surviving spouse, the land would not be exempt from the real property tax.

The effective date of this bill is not specified.

Similar Legislation

Senate Bill 366 is identical to this bill.

House Bill 127 and **Senate Bill 99** would expand the determination of "killed in action" as determined by the U.S. Department of Defense, for purposes of the real property tax exemption for the principal place of residence of a surviving spouse of a soldier killed in action, to include the determination of "died of wounds received in action" by the U.S. Department of Defense.

House Bill 421 would extend the real property tax exemptions for certain disabled veterans and surviving spouses of members of the armed forces killed in action to include real property improvements made to the land surrounding the residences so long as the principal use of the improvement is to house or cover motor vehicles or household goods and personal effects for other than a business purpose.

cc : Secretary of Finance

Date: 3/2/2016 AM
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