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HOUSE BILL NO. 1448

Offered January 17, 2018

A BILL to amend and reenact § 58.1-3230 of the Code of Virginia, relating to special assessment for land preservation; agricultural use.

Patron—Guzman

Referred to Committee on Finance

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 (the Commissioner) 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. Prior, discontinued use of property shall not be considered in determining its current use. The standards prescribed by the Commissioner shall not require that the real estate have been devoted to the bona fide production for sale of plants or animals for any amount of time prior to its designation as real estate devoted to agricultural use. Real estate upon which 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 the sole considerations.

"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; and 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. Prior, discontinued use of property shall not be considered in determining its current use. 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 the sole considerations.

"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.). Prior, discontinued use of property

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59 shall not be considered in determining its current use. Real estate upon which recreational activities are
60 conducted for profit, or otherwise, shall still be considered real estate devoted to forest use as long as
61 the recreational activities conducted on such real estate do not change the character of the real estate so
62 that it no longer constitutes a forest area under standards prescribed by the State Forester pursuant to the
63 authority set out in § 58.1-3240. Real property that has been designated as devoted to forest use shall
64 not lose such designation solely because a portion of the property is being used for a different purpose
65 pursuant to a special use permit or is otherwise allowed by zoning, provided that the property, excluding
66 such portion, otherwise meets all the requirements for such designation. The portion of the property
67 being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall
68 be deemed a separate piece of property from the remaining property for purposes of assessment. The
69 presence of utility lines on real property shall not be considered in determining whether the property,
70 including the portion where the utility lines are located, is devoted to forest use. In determining whether
71 real property is devoted to forest use, zoning designations and special use permits for the property shall
72 not be the sole considerations.

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