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HOUSE BILL NO. 871

Offered January 10, 2018

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A *BILL to amend and reenact §§ 58.1-3230, 58.1-3231, and 58.1-3234 of the Code of Virginia, relating to real property tax; use value assessment.*

Patrons—Orrock and Guzman

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3230, 58.1-3231, and 58.1-3234 of the Code of Virginia are 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, *or products made from such plants and animals on the real estate, that are useful to man or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to soil and water conservation programs under an agreement with an agency of the state or federal government* 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 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 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; *and plants or products directly produced from fruits, vegetables, nursery and floral products, or plants on such real estate or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil and water conservation program under an agreement with an agency of the state or federal government* 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

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59 horticultural use. In determining whether real property is devoted to horticultural use, zoning
60 designations and special use permits for the property shall not be the sole considerations.

61 "Real estate devoted to forest use" shall mean land, including the standing timber and trees thereon,
62 devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area
63 under standards prescribed by the State Forester pursuant to the authority set out in § 58.1-3240 and in
64 accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Prior, discontinued use of property
65 shall not be considered in determining its current use. Real estate upon which recreational activities are
66 conducted for profit, or otherwise, shall still be considered real estate devoted to forest use as long as
67 the recreational activities conducted on such real estate do not change the character of the real estate so
68 that it no longer constitutes a forest area under standards prescribed by the State Forester pursuant to the
69 authority set out in § 58.1-3240. Real property that has been designated as devoted to forest use shall
70 not lose such designation solely because a portion of the property is being used for a different purpose
71 pursuant to a special use permit or is otherwise allowed by zoning, provided that the property, excluding
72 such portion, otherwise meets all the requirements for such designation. The portion of the property
73 being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall
74 be deemed a separate piece of property from the remaining property for purposes of assessment. The
75 presence of utility lines on real property shall not be considered in determining whether the property,
76 including the portion where the utility lines are located, is devoted to forest use. In determining whether
77 real property is devoted to forest use, zoning designations and special use permits for the property shall
78 not be the sole considerations.

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

97 **§ 58.1-3231. Authority of counties, cities and towns to adopt ordinances; general reassessment**
98 **following adoption of ordinance.**

99 Any county, city or town which has adopted a land-use plan may adopt an ordinance to provide for
100 the use value assessment and taxation, in accord with the provisions of this article, of real estate
101 classified in § 58.1-3230. The local governing body pursuant to § 58.1-3237.1 may provide in the
102 ordinance that property located in specified zoning districts shall not be eligible for special assessment
103 as provided in this article. *However, real estate that is being provided use value assessment and taxation*
104 *shall not be denied such use value assessment and taxation solely because of its location in a newly*
105 *created zoning district that was not requested by the real estate owner.* The provisions of this article
106 shall not be applicable in any county, city or town for any year unless such an ordinance is adopted by
107 the governing body thereof not later than June 30 of the year previous to the year when such taxes are
108 first assessed and levied under this article, or December 31 of such year for localities which have
109 adopted a fiscal year assessment date of July 1, under Chapter 30 (§ 58.1-3000 et seq.) of this subtitle.
110 The provisions of this article also shall not apply to the assessment of any real estate assessable pursuant
111 to law by a central state agency.

112 Land used in agricultural and forestal production within an agricultural district, a forestal district or
113 an agricultural and forestal district that has been established under Chapter 43 (§ 15.2-4300 et seq.) of
114 Title 15.2, shall be eligible for the use value assessment and taxation whether or not a local land-use
115 plan or local ordinance pursuant to this section has been adopted.

116 Such ordinance shall provide for the assessment and taxation in accordance with the provisions of
117 this article of any or all of the four classes of real estate set forth in § 58.1-3230. If the uniform
118 standards prescribed by the Commissioner of Agriculture and Consumer Services pursuant to
119 § 58.1-3230 require real estate to have been used for a particular purpose for a minimum length of time
120 before qualifying as real estate devoted to agricultural use or horticultural use, then such ordinance may

121 waive such prior use requirement for real estate devoted to the production of agricultural and
 122 horticultural crops that require more than two years from initial planting until commercially feasible
 123 harvesting. *If the uniform standards prescribed by the Commissioner of Agriculture and Consumer*
 124 *Services pursuant to § 58.1-3230 require real estate to have been used for a particular purpose for a*
 125 *minimum length of time before qualifying as real estate devoted to agricultural use or horticultural use,*
 126 *then (i) use of other similar property by a lessee of the owner shall be included in calculating such time*
 127 *and (ii) the Commissioner of Agriculture and Consumer Services shall include in the uniform standards*
 128 *a shorter minimum length of time for real estate with no prior qualifying use, provided that the owner*
 129 *submits a written document of the owner's intent regarding use of the real estate containing elements set*
 130 *out in the uniform standards. Localities are not required to maintain such written document.*

131 In addition to but not to replace any other requirements of a land-use plan such ordinance may
 132 provide that the special assessment and taxation be established on a sliding scale which establishes a
 133 lower assessment for property held for longer periods of time within the classes of real estate set forth
 134 in § 58.1-3230. Any such sliding scale shall be set forth in the ordinance.

135 Notwithstanding any other provision of law, the governing body of any county, city or town shall be
 136 authorized to direct a general reassessment of real estate in the year following adoption of an ordinance
 137 pursuant to this article.

138 **§ 58.1-3234. Application by property owners for assessment, etc., under ordinance; continuation**
 139 **of assessment, etc.**

140 Property owners ~~must~~ shall submit an application for taxation on the basis of a use assessment to the
 141 local assessing officer *as follows:*

142 1. ~~At~~ *The property owner shall submit an initial application, unless it is a revalidation form, at least*
 143 ~~sixty~~ 60 days preceding the tax year for which such taxation is sought; ~~or~~

144 2. In any year in which a general reassessment is being made, the property owner may submit such
 145 application until ~~thirty~~ 30 days have elapsed after his notice of increase in assessment is mailed in
 146 accordance with § 58.1-3330, or ~~sixty~~ 60 days preceding the tax year, whichever is later; or

147 3. In any locality which has adopted a fiscal tax year under Chapter 30 (§ 58.1-3000 et seq.) ~~of this~~
 148 ~~Subtitle III~~, but continues to assess as of January 1, such application ~~must~~ shall be submitted for any
 149 year at least ~~sixty~~ 60 days preceding the effective date of the assessment for such year.

150 The governing body, by ordinance, may permit applications to be filed within no more than ~~sixty~~ 60
 151 days after the filing deadline specified herein, upon the payment of a late filing fee to be established by
 152 the governing body. In addition, a locality may, by ordinance, permit a further extension of the filing
 153 deadline specified herein, upon payment of an extension fee to be established by the governing body in
 154 an amount not to exceed the late filing fee, to a date not later than ~~thirty~~ 30 days after notices of
 155 assessments are mailed. An individual who is owner of an undivided interest in a parcel may apply on
 156 behalf of himself and the other owners of such parcel upon submitting an affidavit that such other
 157 owners are minors or cannot be located. An application shall be submitted whenever the use or acreage
 158 of such land previously approved changes; however, no application fee may be required when a change
 159 in acreage occurs solely as a result of a conveyance necessitated by governmental action or
 160 condemnation of a portion of any land previously approved for taxation on the basis of use assessment.
 161 The governing body of any ~~county, city or town~~ locality may, however, require any such property owner
 162 to revalidate ~~annually~~ every two to six years with such locality, on or before the date on which the last
 163 installment of property tax prior to the effective date of the assessment is due, on forms prepared by the
 164 locality, any applications previously approved. Each locality which has adopted an ordinance hereunder
 165 may provide for the imposition of a revalidation fee every sixth year. Such revalidation fee shall not,
 166 however, exceed the application fee currently charged by the locality. The governing body may also
 167 provide for late filing of revalidation forms on or before the effective date of the assessment, on
 168 payment of a late filing fee. Forms shall be prepared by the State Tax Commissioner and supplied to the
 169 locality for use of the applicants and applications shall be submitted on such forms. An application fee
 170 may be required to accompany all such applications.

171 In the event of a material misstatement of facts in the application or a material change in such facts
 172 prior to the date of assessment, such application for taxation based on use assessment granted thereunder
 173 shall be void and the tax for such year extended on the basis of value determined under § 58.1-3236 D.
 174 Except as provided by local ordinance, no application for assessment based on use shall be accepted or
 175 approved if, at the time the application is filed, the tax on the land affected is delinquent. Upon the
 176 payment of all delinquent taxes, including penalties and interest, the application shall be treated in
 177 accordance with the provisions of this section.

178 Continuation of valuation, assessment and taxation under an ordinance adopted pursuant to this
 179 article shall depend on continuance of the real estate in a qualifying use, continued payment of taxes as
 180 referred to in § 58.1-3235, and compliance with the other requirements of this article and the ordinance
 181 and not upon continuance in the same owner of title to the land.

182 In the event that the locality provides for a sliding scale under an ordinance, the property owner and
183 the locality shall execute a written agreement which sets forth the period of time that the property shall
184 remain within the classes of real estate set forth in § 58.1-3230. The term of the written agreement shall
185 be for a period not exceeding ~~twenty~~ 20 years, and the instrument shall be recorded in the office of the
186 clerk of the circuit court for the locality in which the subject property is located.

187 No locality shall require any applicant who is a lessor of the property or a portion of the property
188 that is the subject of an application submitted pursuant to this section to provide the lease agreement
189 governing the property for the purpose of determining whether the property is eligible for special
190 assessment and taxation pursuant to this article.