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HOUSE BILL NO. 871

House Amendments in [] — February 1, 2018

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.

Patron Prior to Engrossment—Delegate Orrock

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 horticultural use. In determining whether real property is devoted to horticultural use, zoning

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59 designations and special use permits for the property shall not be the sole considerations.

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

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

96 **§ 58.1-3231. Authority of counties, cities and towns to adopt ordinances; general reassessment**
97 **following adoption of ordinance.**

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

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

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

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

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

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

137 **§ 58.1-3234. Application by property owners for assessment, etc., under ordinance; continuation**
 138 **of assessment, etc.**

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

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

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

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

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

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

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

181 In the event that the locality provides for a sliding scale under an ordinance, the property owner and

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

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