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HOUSE BILL NO. 1655

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance
on January 14, 2019)

(Patron Prior to Substitute—Delegate Miyares)

A BILL to amend and reenact §§ 58.1-3219.5, 58.1-3219.9, and 58.1-3219.14 of the Code of Virginia, relating to real property tax exemption for disabled veterans; surviving spouses; ability to move to a different residence.

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3219.5, 58.1-3219.9, and 58.1-3219.14 of the Code of Virginia are amended and reenacted as follows:

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

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

B. The surviving spouse of a veteran eligible for the exemption set forth in this article shall also qualify for the exemption, so long as the death of the veteran occurs on or after January 1, 2011, and the surviving spouse does not remarry, and the surviving spouse continues to occupy the real property as his. *The exemption applies without any restriction on the spouse's moving to a different principal place of residence.*

C. A county, city, or town shall provide for the exemption from real property taxes the qualifying dwelling pursuant to this section and shall provide for the exemption from real property taxes the land, not exceeding one acre, upon which it is situated. However, if a county, city, or town provides for an exemption from or deferral of real property taxes of more than one acre of land pursuant to Article 2 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an exemption for the same number of acres pursuant to this section. If the veteran owns a house that is his residence, including a manufactured home as defined in § 46.2-100 whether or not the wheels and other equipment previously used for mobility have been removed, such house or manufactured home shall be exempt even if the veteran does not own the land on which the house or manufactured home is located. If such land is not owned by the veteran, then the land is not exempt. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as the principal use of the improvement is (i) to house or cover motor vehicles or household goods and personal effects as classified in subdivision A 14 of § 58.1-3503 and as listed in § 58.1-3504 and (ii) for other than a business purpose.

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

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

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

60 the exemption by a fraction that has as a numerator the number of people who are qualified for the
61 exemption pursuant to this section and has as a denominator the total number of all people having an
62 ownership interest that permits them to occupy the property.

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

70 **§ 58.1-3219.9. Exemption from taxes on property of surviving spouses of members of the armed**
71 **forces killed in action.**

72 A. Pursuant to subdivision (b) of Section 6-A of Article X of the Constitution of Virginia, and for
73 tax years beginning on or after January 1, 2015, the General Assembly hereby exempts from taxation
74 the real property described in subsection B of the surviving spouse (i) of any member of the armed
75 forces of the United States who was killed in action as determined by the U.S. Department of Defense
76 and (ii) who occupies the real property as his principal place of residence. For purposes of this section,
77 such determination of "killed in action" includes a determination by the U.S. Department of Defense of
78 "died of wounds received in action." If such member of the armed forces of the United States is killed
79 in action after January 1, 2015, and the surviving spouse has a qualified principal residence on the date
80 that such member of the armed forces is killed in action, then the exemption for the surviving spouse
81 shall begin on the date that such member of the armed forces is killed in action. However, no county,
82 city, or town shall be liable for any interest on any refund due to the surviving spouse for taxes paid
83 prior to the surviving spouse's filing of the affidavit or written statement required by § 58.1-3219.10. If
84 the surviving spouse acquires the property after January 1, 2015, then the exemption shall begin on the
85 date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real
86 property taxes paid pursuant to § 58.1-3360.

87 B. Those dwellings in the locality with assessed values in the most recently ended tax year that are
88 not in excess of the average assessed value for such year of a dwelling situated on property that is
89 zoned as single family residential shall qualify for a total exemption from real property taxes under this
90 article. If the value of a dwelling is in excess of the average assessed value as described in this
91 subsection, then only that portion of the assessed value in excess of the average assessed value shall be
92 subject to real property taxes, and the portion of the assessed value that is not in excess of the average
93 assessed value shall be exempt from real property taxes. Single family homes, condominiums, town
94 homes, manufactured homes as defined in § 46.2-100 whether or not the wheels and other equipment
95 previously used for mobility have been removed, and other types of dwellings of surviving spouses,
96 whether or not the land on which the single family home, condominium, town home, manufactured
97 home, or other type of dwelling of a surviving spouse is located is owned by someone other than the
98 surviving spouse, that (i) meet this requirement and (ii) are occupied by such persons as their principal
99 place of residence shall qualify for the real property tax exemption. If the land on which the single
100 family home, condominium, town home, manufactured home, or other type of dwelling is located is not
101 owned by the surviving spouse, then the land is not exempt.

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

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

109 D. A county, city, or town shall provide for the exemption from real property taxes (i) the qualifying
110 dwelling, or the portion of the value of such dwelling and land that qualifies for the exemption pursuant
111 to subsection B, and (ii) except land not owned by the surviving spouse, the land, not exceeding one
112 acre, upon which it is situated. However, if a county, city, or town provides for an exemption from or
113 deferral of real property taxes of more than one acre of land pursuant to Article 2 (§ 58.1-3210 et seq.),
114 then the county, city, or town shall also provide an exemption for the same number of acres pursuant to
115 this section. A real property improvement other than a dwelling, including the land upon which such
116 improvement is situated, made to such one acre or greater number of acres exempt from taxation
117 pursuant to this subsection shall also be exempt from taxation so long as the principal use of the
118 improvement is (i) to house or cover motor vehicles or household goods and personal effects as
119 classified in subdivision A 14 of § 58.1-3503 and as listed in § 58.1-3504 and (ii) for other than a
120 business purpose.

121 E. For purposes of this exemption, real property of any surviving spouse of a member of the armed

122 forces killed in action includes real property (i) held by a surviving spouse as a tenant for life, (ii) held
123 in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii)
124 held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a
125 continuing right of use or support. The term does not include any interest held under a leasehold or term
126 of years.

127 F. 1. In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue
128 of holding the property in any of the three ways set forth in subsection E and (ii) one or more other
129 persons have an ownership interest in the property that permits them to occupy the property, then the
130 tax exemption for the property that otherwise would have been provided shall be prorated by
131 multiplying the amount of the exemption by a fraction that has 1 as a numerator and has as a
132 denominator the total number of all people having an ownership interest that permits them to occupy the
133 property.

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

139 **§ 58.1-3219.14. Exemption from taxes on property of surviving spouses of certain persons killed**
140 **in the line of duty.**

141 A. Pursuant to Article X, Section 6-B of the Constitution of Virginia, for tax years beginning on or
142 after January 1, 2017, any county, city, or town may exempt from taxation the real property described in
143 subsection B of the surviving spouse of any covered person who occupies the real property as his
144 principal place of residence. If the covered person's death occurred on or prior to January 1, 2017, and
145 the surviving spouse has a principal residence on January 1, 2017, eligible for the exemption under this
146 section, then the exemption for the surviving spouse shall begin on January 1, 2017. If the covered
147 person's death occurs after January 1, 2017, and the surviving spouse has a principal residence eligible
148 for the exemption under this section on the date that such covered person dies, then the exemption for
149 the surviving spouse shall begin on the date that such covered person dies. If the surviving spouse
150 acquires the property after January 1, 2017, then the exemption shall begin on the date of acquisition,
151 and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid
152 pursuant to § 58.1-3360. No county, city, or town shall be liable for any interest on any refund due to
153 the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or written
154 statement required by § 58.1-3219.15.

155 B. Those dwellings, in any locality that provides the exemption pursuant to this article, with assessed
156 values in the most recently ended tax year that are not in excess of the average assessed value for such
157 year of a dwelling situated on property that is zoned as single-family residential shall qualify for a total
158 exemption from real property taxes under this article. If the value of a dwelling is in excess of the
159 average assessed value as described in this subsection, then only that portion of the assessed value in
160 excess of the average assessed value shall be subject to real property taxes, and the portion of the
161 assessed value that is not in excess of the average assessed value shall be exempt from real property
162 taxes. Single-family homes, condominiums, town homes, manufactured homes as defined in § 46.2-100
163 whether or not the wheels and other equipment previously used for mobility have been removed, and
164 other types of dwellings of surviving spouses, whether or not the land on which the single-family home,
165 condominium, town home, manufactured home, or other type of dwelling of a surviving spouse is
166 located is owned by someone other than the surviving spouse, that (i) meet this requirement and (ii) are
167 occupied by such persons as their principal place of residence shall qualify for the real property tax
168 exemption. If the land on which the single-family home, condominium, town home, manufactured home,
169 or other type of dwelling is located is not owned by the surviving spouse, then the land is not exempt.

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

173 C. The surviving spouse shall qualify for the exemption so long as the surviving spouse does not
174 remarry and continues to occupy the real property as his principal place of residence. The exemption
175 applies without any restriction on the spouse's moving to a different principal place of residence.

176 D. A county, city, or town shall provide for the exemption from real property taxes of (i) the
177 qualifying dwelling, or that portion of the value of such dwelling and land that qualifies for the
178 exemption pursuant to subsection B, and (ii) with the exception of land not owned by the surviving
179 spouse, the land, not exceeding one acre, upon which it is situated. However, if a county, city, or town
180 provides for an exemption from or deferral of real property taxes of more than one acre of land pursuant
181 to Article 2 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an exemption for the
182 same number of acres pursuant to this section. A real property improvement other than a dwelling,

183 including the land upon which such improvement is situated, made to such one acre or greater number
184 of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as
185 the principal use of the improvement is (a) to house or cover motor vehicles or household goods and
186 personal effects as classified in subdivision A 14 of § 58.1-3503 and as listed in § 58.1-3504 and (b) for
187 other than a business purpose.

188 E. For purposes of this exemption, real property of any surviving spouse of a covered person
189 includes real property (i) held by a surviving spouse as a tenant for life, (ii) held in a revocable inter
190 vivos trust over which the surviving spouse holds the power of revocation, or (iii) held in an irrevocable
191 trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or
192 support. Such real property does not include any interest held under a leasehold or term of years.

193 F. 1. In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue
194 of holding the property in any of the three ways set forth in subsection E and (ii) one or more other
195 persons have an ownership interest in the property that permits them to occupy the property, then the
196 tax exemption for the property that otherwise would have been provided shall be prorated by
197 multiplying the amount of the exemption by a fraction the numerator of which is 1 and the denominator
198 of which equals the total number of people having an ownership interest that permits them to occupy
199 the property.

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

205 **2. That the provisions of this act shall apply to taxable years beginning on and after January 1,**
206 **2019.**

207 **3. That if a surviving spouse was eligible for an exemption pursuant to the provisions of**
208 **§ 58.1-3219.5 of the Code of Virginia prior to January 1, 2019, but became ineligible for such**
209 **exemption prior to January 1, 2019, solely because he moved to a different principal place of**
210 **residence, then he shall be eligible to claim such exemption for taxable years beginning on and**
211 **after January 1, 2019, so long as he is eligible for such exemption pursuant to the provisions of**
212 **§ 58.1-3219.5 of the Code of Virginia, as amended by this act.**