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HOUSE BILL NO. 1168

Offered January 14, 2022

A BILL to amend and reenact §§ 58.1-3219.5, 58.1-3219.9, and 58.1-3980 of the Code of Virginia, relating to real property tax; exemption for disabled veterans and surviving spouses.

Patrons—Watts and Jenkins; Senator: DeSteph

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3219.5, 58.1-3219.9, and 58.1-3980 of the Code of Virginia are amended and reenacted as follows:

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

A. 1. 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 married individuals, 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~~ 2. Any person eligible for an exemption under this article shall be entitled to a refund retroactive to the date of disability, death, or acquisition, as applicable for purposes of determining eligibility, provided that such refund shall not include any time period prior to January 1, 2011. The refund shall be only for taxes paid during the period of exemption and shall not include interest or penalties. 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. 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

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59 apply to any interest held under a leasehold or term of years.

60 E. 1. In the event that (i) a person is entitled to an exemption under this section by virtue of holding
61 the property in any of the three ways set forth in subsection D and (ii) one or more other persons have
62 an ownership interest in the property that permits them to occupy the property, then the tax exemption
63 for the property that otherwise would have been provided shall be prorated by multiplying the amount of
64 the exemption by a fraction that has as a numerator the number of people who are qualified for the
65 exemption pursuant to this section and has as a denominator the total number of all people having an
66 ownership interest that permits them to occupy the property.

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

74 **§ 58.1-3219.9. Exemption from taxes on property of surviving spouses of members of the armed**
75 **forces killed in action.**

76 A. 1. Pursuant to subdivision (b) of Section 6-A of Article X of the Constitution of Virginia, and for
77 tax years beginning on or after January 1, 2015, the General Assembly hereby exempts from taxation
78 the real property described in subsection B of the surviving spouse (i) of any member of the armed
79 forces of the United States who was killed in action as determined by the U.S. Department of Defense
80 and (ii) who occupies the real property as his principal place of residence. For purposes of this section,
81 such determination of "killed in action" includes a determination by the U.S. Department of Defense of
82 "died of wounds received in action." If such member of the armed forces of the United States is killed
83 in action after January 1, 2015, and the surviving spouse has a qualified principal residence on the date
84 that such member of the armed forces is killed in action, then the exemption for the surviving spouse
85 shall begin on the date that such member of the armed forces is killed in action.

86 ~~However, no~~ 2. Any person eligible for an exemption under this article shall be entitled to a refund
87 retroactive to the date of death or acquisition, as applicable for purposes of determining eligibility,
88 provided that such refund shall not include any time period prior to January 1, 2015. The refund shall
89 be only for taxes paid during the period of exemption and shall not include interest or penalties. No
90 county, city, or town shall be liable for any interest on any refund due to the surviving spouse for taxes
91 paid prior to the surviving spouse's filing of the affidavit or written statement required by
92 § 58.1-3219.10. If the surviving spouse acquires the property after January 1, 2015, then the exemption
93 shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata
94 portion of real property taxes paid pursuant to § 58.1-3360.

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

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

113 C. The surviving spouse of a member of the armed forces killed in action shall qualify for the
114 exemption so long as the surviving spouse does not remarry. The exemption applies without any
115 restriction on the spouse's moving to a different principal place of residence.

116 D. A county, city, or town shall provide for the exemption from real property taxes (i) the qualifying
117 dwelling, or the portion of the value of such dwelling and land that qualifies for the exemption pursuant
118 to subsection B, and (ii) except land not owned by the surviving spouse, the land, not exceeding one
119 acre, upon which it is situated. However, if a county, city, or town provides for an exemption from or
120 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. 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.

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

F. 1. In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection E 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 the exemption by a fraction that has 1 as a numerator and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

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

§ 58.1-3980. Application to commissioner of the revenue or other official for correction.

A. Any person, firm or corporation assessed by a commissioner of the revenue or other official performing the duties imposed on commissioners of the revenue under this title with any local tax authorized by this title, including, but not limited to, taxes on tangible personal property, machinery and tools, merchants' capital, transient occupancy, food and beverage, or admissions, or a local license tax, aggrieved by any such assessment, may, within three years from the last day of the tax year for which such assessment is made, or within one year from the date of the assessment, whichever is later, apply to the commissioner of the revenue or such other official who made the assessment for a correction thereof.

Sections 58.1-3980 through 58.1-3983 shall also apply to erroneous assessments of real estate if the error sought to be corrected in any case was made by the commissioner of the revenue or such other official to whom the application is made, or is due to a factual error made by others in connection with conducting general reassessments as provided in subsection C of § 58.1-3981.

B. Notwithstanding the provisions of subsection A, an unpaid tangible personal property tax assessment may be appealed to the commissioner of the revenue or other assessing official at any time during which such assessment is collectible under § 58.1-3940, provided the taxpayer can demonstrate by clear factual evidence that he was not subject to the tax for the year in question. If the assessing official is satisfied that the assessment is erroneous, he shall abate the assessment and notify the treasurer or other collecting official of the abatement. Upon receipt of such notice, the treasurer or other collecting official shall forthwith issue a refund or take such other steps as may be necessary to correct the taxpayer's liability accordingly upon the books of the locality.

In the case of an erroneous assessment that has been satisfied in whole or in part through an involuntary payment, an appeal to the assessing official must be made within one year from the date of the involuntary payment. If the assessing official is satisfied that the assessment is erroneous, he shall abate the assessment and notify the treasurer or other collecting official of the abatement. Upon receipt of such notice, the treasurer or other collecting official shall forthwith issue a refund. For purposes of this section, "involuntary payment" means a payment received pursuant to the Setoff Debt Collection Act (§ 58.1-520 et seq.) or § 58.1-3952.

C. Any person eligible for a refund under Article 2.3 (§ 58.1-3219.5 et seq.) or 2.4 (§ 58.1-3219.9 et seq.) may apply for a correction pursuant to the provisions of this section; however, the time limitations specified in this section shall not apply to such application for correction.