

# VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

## CHAPTER 710

*An Act to amend and reenact §§ 58.1-3211 and 58.1-3213 of the Code of Virginia, relating to real estate tax exemptions for certain elderly and handicapped persons.*

[S 842]

Approved March 22, 1997

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-3211 and 58.1-3213 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-3211. Restrictions and exemptions.

Any exemption or deferral program enacted by a county, city or town pursuant to § 58.1-3210 shall be subject to the following restrictions and conditions:

1. a. Subject to subdivision 1 b of this section, the total combined income received from all sources during the preceding calendar year by (i) owners of the dwelling who use it as their principal residence and (ii) owners' relatives who live in the dwelling, shall not exceed the greater of \$30,000, or the income limits based upon family size for the respective metropolitan statistical area, annually published by the Department of Housing and Urban Development for qualifying for federal housing assistance pursuant to § 235 of the National Housing Act (12 U.S.C. § 1715z). Any amount up to \$6,500 of income of each relative who is not the spouse of an owner living in the dwelling and who does not qualify for the exemption provided by subdivision 1 b hereof may be excluded from the total combined income calculation. The local government may also exclude up to \$7,500 of income for an owner who is permanently disabled. *For purposes of this section, any life insurance benefits shall not be considered income.*

b. Notwithstanding subdivision 1 a of this section, if a person qualifies for an exemption or deferral under this article, and if the person can prove by clear and convincing evidence that the person's physical or mental health has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for the person, and if a relative does then move in for that purpose, then none of the income of the relative or of the relative's spouse shall be counted towards the income limit, provided the owner of the residence has not transferred assets in excess of \$5,000 without adequate consideration within a three-year period prior to or after the relative moves into such residence.

2. The net combined financial worth, including the present value of all equitable interests, as of December 31 of the immediately preceding calendar year, of the owners, and of the spouse of any owner, excluding the value of the dwelling and the land, not exceeding one acre, upon which it is situated shall not exceed \$75,000. The local government may also exclude furnishings. Such furnishings shall include furniture, household appliances and other items typically used in a home.

3. Notwithstanding the provisions of subdivisions 1 and 2, in any county, city or town having a 1980 population of more than 500,000; any county, city or town adjacent thereto; the Cities of Manassas, Manassas Park, Chesapeake, Portsmouth, Suffolk, and Virginia Beach; the Counties of Chesterfield, Fauquier, Henrico, and Stafford; and the Town of Leesburg, the board of supervisors or council may, by ordinance, raise the income and financial worth limitations for any exemption or deferral program to a maximum of \$40,000 for the total combined income amount, and \$150,000 for the maximum net combined financial worth amount which shall exclude the value of the dwelling and the land, not exceeding one acre, upon which it is situated. Any amount up to \$6,500 of income of each relative who is not the spouse of an owner living in the dwelling may be excluded under this subdivision.

§ 58.1-3213. Application for exemption.

A. The person claiming such exemption shall file annually with the commissioner of the revenue of the county, city or town assessing officer or such other officer as may be designated by the governing body in which such dwelling lies, on forms to be supplied by the county, city or town concerned, an affidavit or written statement setting forth (i) the names of the related persons occupying such real estate and (ii) that the total combined net worth, including equitable interests and the combined income from all sources, of the persons specified in § 58.1-3211 does not exceed the limits prescribed in such ordinance.

B. In lieu of the annual affidavit or written statement filing requirement, a county, city or town may prescribe by ordinance for the filing of the affidavit or written statement on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding affidavit or written statement filed has changed to violate the limitations and conditions provided herein.

C. Notwithstanding the provisions of subsections A, B, and E of this section, any county, city or town may, by local ordinance, prescribe the content of the affidavit or written statement described in subsection A, subject to the requirements established in § 58.1-3211; the frequency with which an

affidavit, written statement or certification as described in subsection B of this section must be filed; and a procedure for late filing of affidavits or written statements.

D. If such person is under sixty-five years of age, such form shall have attached thereto a certification by the Social Security Administration, the Department of Veterans Affairs or the Railroad Retirement Board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors who are either licensed to practice medicine in the Commonwealth or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that the person is permanently and totally disabled, as defined in § 58.1-3217; however, a certification pursuant to 42 U.S.C. § 423 (d) by the Social Security Administration so long as the person remains eligible for such social security benefits shall be deemed to satisfy such definition in § 58.1-3217. The affidavit of at least one of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability as defined in § 58.1-3217.

E. Such affidavit, written statement or certification shall be filed after January 1 of each year, but before April 1, or such later date as may be fixed by ordinance. Such ordinance may include a procedure for late filing by first-time applicants or for hardship cases.

F. The commissioner of the revenue or town assessing officer or another officer designated by the governing body of the county, city or town shall also make any other reasonably necessary inquiry of persons seeking such exemption, requiring answers under oath, to determine qualifications as specified herein, including qualification as permanently and totally disabled as defined in § 58.1-3217 *and qualification for the exclusion of life insurance benefits paid upon the death of an owner of a dwelling*, or as specified by county, city or town ordinance. The local governing body may, in addition, require the production of certified tax returns to establish the income or financial worth of any applicant for tax relief or deferral.