

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 516

An Act to amend and reenact § 58.1-3230 of the Code of Virginia and to amend the Code of Virginia by adding in Article 5 of Chapter 36 a section numbered 58.1-3665, relating to taxation of wetlands and riparian buffers; exemptions from tax.

[H 1419]

Approved April 15, 1998

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3230 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 5 of Chapter 36 a section numbered 58.1-3665 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 useful to man under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ 9-6.14:1 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. 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 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; nursery and floral products under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ 9-6.14:1 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. 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 estate devoted to forest use" shall mean land including the standing timber and trees thereon, devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester pursuant to the authority set out in § 58.1-3240 and in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.). Real estate upon which recreational activities are conducted for profit, or otherwise, shall still be considered real estate devoted to forest use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it no longer constitutes a forest area under standards prescribed by the State Forester pursuant to the authority set out in § 58.1-3240.

"Real estate devoted to open-space use" shall mean real estate used as ~~to be provided~~, or preserved for, (i) park or recreational purposes, (ii) conservation of land or other natural resources, (iii) floodways, (iv) *wetlands as defined in § 58.1-3665*, (v) *riparian buffers as defined in § 58.1-3665*, (vi) historic or scenic purposes, or (vii) assisting in the shaping of the character, direction, and timing of community development or for the public interest and consistent with the local land-use plan under uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § 58.1-3240, and in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) and the local ordinance.

§ 58.1-3665. *Wetlands and riparian buffers.*

Wetlands, as defined herein, that are subject to a perpetual easement permitting inundation by water, and riparian buffers, as defined herein, that are subject to a perpetual easement permitting inundation by water, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of real property. The governing body of any county, city or town may, by ordinance, exempt or partially exempt such property from local taxation.

"Riparian buffer" means an area of trees, shrubs or other vegetation, subject to a perpetual easement permitting inundation by water, that is (i) at least thirty-five feet in width, (ii) adjacent to a body of water, and (iii) managed to maintain the integrity of stream channels and shorelines and reduce the effects of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, and

other chemicals.

"Wetlands" means an area that is inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, and that is subject to a perpetual easement permitting inundation by water.