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## HOUSE BILL NO. 2754

Offered January 25, 1999

A BILL to amend and reenact §§ 58.1-3231, 58.1-3234 and 58.1-3237 of the Code of Virginia, relating to special assessments for land preservation.

\_\_\_\_\_  
Patron—Orrock

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Consent to introduce

\_\_\_\_\_  
Referred to Committee on Finance

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

**1. That §§ 58.1-3231, 58.1-3234 and 58.1-3237 of the Code of Virginia are amended and reenacted as follows:**

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

Any county, city or town which has adopted a land-use plan may adopt an ordinance to provide for the use value assessment and taxation, in accord with the provisions of this article, of real estate classified in § 58.1-3230. The local governing body pursuant to § 58.1-3237.1 may provide in the ordinance that property located in specified zoning districts shall not be eligible for special assessment as provided in this article. The provisions of this article shall not be applicable in any county, city or town for any year unless such an ordinance is adopted by the governing body thereof not later than June 30 of the year previous to the year when such taxes are first assessed and levied under this article, or December 31 of such year for localities which have adopted a fiscal year assessment date of July 1, under Chapter 30 (§ 58.1-3000 *et seq.*) of this subtitle. The provisions of this article also shall not apply to the assessment of any real estate assessable pursuant to law by a central state agency.

Land used in agricultural and forestal production within an agricultural district, a forestal district or an agricultural and forestal district that has been established under ~~§ 15.1-1506~~ Chapter 43 (§ 15.2-4300 *et seq.*) of Title 15.2, shall be eligible for the use value assessment and taxation whether or not a local land-use plan or local ordinance pursuant to this section has been adopted.

Such ordinance shall provide for the assessment and taxation in accordance with the provisions of this article of any or all of the four classes of real estate set forth in § 58.1-3230.

*Such ordinance may provide that the special assessment and taxation be established on a sliding scale which establishes a lower tax rate for property held for longer periods of time within the classes of real estate set forth in § 58.1-3230. Any such sliding scale shall be set forth in the ordinance.*

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

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

Property owners must submit an application for taxation on the basis of a use assessment to the local assessing officer:

1. At least sixty days preceding the tax year for which such taxation is sought; or
2. In any year in which a general reassessment is being made, the property owner may submit such application until thirty days have elapsed after his notice of increase in assessment is mailed in accordance with § 58.1-3330, or sixty days preceding the tax year, whichever is later; or
3. In any locality which has adopted a fiscal tax year under Chapter 30 (§ 58.1-3000 *et seq.*) of this Subtitle III, but continues to assess as of January 1, such application must be submitted for any year at least sixty days preceding the effective date of the assessment for such year.

The governing body, by ordinance, may permit applications to be filed within no more than sixty days after the filing deadline specified herein, upon the payment of a late filing fee to be established by the governing body. An individual who is owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located. An application shall be submitted whenever the use or acreage of such land previously approved changes; however, no application fee may be required when a change in acreage occurs solely as a result of a conveyance necessitated by governmental action or condemnation of a portion of any land previously approved for taxation on the basis of use assessment. The governing body of any county, city or town may, however, require any such property owner to revalidate annually with such locality, on or before the date on which the last installment of property tax

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HB2754

60 prior to the effective date of the assessment is due, on forms prepared by the locality, any applications  
61 previously approved. Each locality which has adopted an ordinance hereunder may provide for the  
62 imposition of a revalidation fee every sixth year. Such revalidation fee shall not, however, exceed the  
63 application fee currently charged by the locality. The governing body may also provide for late filing of  
64 revalidation forms on or before the effective date of the assessment, on payment of a late filing fee.  
65 Forms shall be prepared by the State Tax Commissioner and supplied to the locality for use of the  
66 applicants and applications shall be submitted on such forms. An application fee may be required to  
67 accompany all such applications.

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

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

79 *In the event that the locality provides for a sliding scale under an ordinance, the property owner and*  
80 *the locality shall execute a written agreement which sets forth the period of time that the property shall*  
81 *remain within the classes of real estate set forth in § 58.1-3230.*

82 § 58.1-3237. Change in use or zoning of real estate assessed under ordinance; roll-back taxes.

83 A. When real estate qualifies for assessment and taxation on the basis of use under an ordinance  
84 adopted pursuant to this article, and the use by which it qualified changes to a nonqualifying use, or the  
85 zoning of the real estate is changed to a more intensive use at the request of the owner or his agent, it  
86 shall be subject to additional taxes, hereinafter referred to as roll-back taxes. Such additional taxes shall  
87 only be assessed against that portion of such real estate which no longer qualifies for assessment and  
88 taxation on the basis of use or zoning. Liability for roll-back taxes shall attach and be paid to the  
89 treasurer only if the amount of tax due exceeds ten dollars.

90 B. ~~The~~ *In localities which have not adopted a sliding scale ordinance, the* roll-back tax shall be  
91 equal to the sum of the deferred tax for each of the five most recent complete tax years including  
92 simple interest on such roll-back taxes at a rate set by the governing body, no greater than the rate  
93 applicable to delinquent taxes in such locality pursuant to § 58.1-3916 for each of the tax years. The  
94 deferred tax for each year shall be equal to the difference between the tax levied and the tax that would  
95 have been levied based on the fair market value assessment of the real estate for that year. In addition  
96 the taxes for the current year shall be extended on the basis of fair market value which may be  
97 accomplished by means of a supplemental assessment based upon the difference between the use value  
98 and the fair market value.

99 C. *In localities which have adopted a sliding scale ordinance, the deferred tax for each year shall be*  
100 *the highest tax rate applicable to the real estate had it not been subject to special assessment. In*  
101 *addition the taxes for the current year shall be extended on the basis of fair market value which may be*  
102 *accomplished by means of a supplemental assessment based upon the difference between the use value*  
103 *and the fair market value.*

104 D. Liability to the roll-back taxes shall attach when a change in use occurs, or a change in zoning  
105 of the real estate to a more intensive use at the request of the owner or his agent occurs. Liability to the  
106 roll-back taxes shall not attach when a change in ownership of the title takes place if the new owner  
107 does not rezone the real estate to a more intensive use and continues the real estate in the use for which  
108 it is classified under the conditions prescribed in this article and in the ordinance. The owner of any real  
109 estate which has been zoned to more intensive use at the request of the owner or his agent as provided  
110 in subsection D, or otherwise subject to or liable for roll-back taxes, shall, within sixty days following  
111 such change in use or zoning, report such change to the commissioner of the revenue or other assessing  
112 officer on such forms as may be prescribed. The commissioner shall forthwith determine and assess the  
113 roll-back tax, which shall be assessed against and paid by the owner of the property at the time the  
114 change in use which no longer qualifies occurs, or at the time of the zoning of the real estate to a more  
115 intensive use at the request of the owner or his agent occurs, and shall be paid to the treasurer within  
116 thirty days of the assessment. If the amount due is not paid by the due date, the treasurer shall impose a  
117 penalty and interest on the amount of the roll-back tax, including interest for prior years. Such penalty  
118 and interest shall be imposed in accordance with §§ 58.1-3915 and 58.1-3916.

119 E. Real property zoned to a more intensive use, at the request of the owner or his agent, shall be  
120 subject to and liable for the roll-back tax at the time such zoning is changed. The roll-back tax shall be  
121 levied and collected from the owner of the real estate in accordance with subsection D. Real property

122 zoned to a more intensive use before July 1, 1988, at the request of the owner or his agent, shall be  
123 subject to and liable for the roll-back tax at the time the qualifying use is changed to a nonqualifying  
124 use. Real property zoned to a more intensive use at the request of the owner or his agent after July 1,  
125 1988, shall be subject to and liable for the roll-back tax at the time of such zoning. Said roll-back tax,  
126 plus interest calculated in accordance with subsection B, shall be levied and collected at the time such  
127 property was rezoned. For property rezoned after July 1, 1988, but before July 1, 1992, no penalties or  
128 interest, except as provided in subsection B, shall be assessed, provided the said roll-back tax is paid on  
129 or before October 1, 1992. No real property rezoned to a more intensive use at the request of the owner  
130 or his agent shall be eligible for taxation and assessment under this article, provided that these  
131 provisions shall not be applicable to any rezoning which is required for the establishment, continuation,  
132 or expansion of a qualifying use. If the property is subsequently rezoned to agricultural, horticultural, or  
133 open space, it shall be eligible for consideration for assessment and taxation under this article only after  
134 three years have passed since the rezoning was effective.

135 However, the owner of any real property that qualified for assessment and taxation on the basis of  
136 use, and whose real property was rezoned to a more intensive use at the owner's request prior to 1980,  
137 may be eligible for taxation and assessment under this article provided the owner applies for rezoning to  
138 agricultural, horticultural open-space or forest use. The real property shall be eligible for assessment and  
139 taxation on the basis of the qualifying use for the tax year following the effective date of the rezoning.  
140 If any such real property is subsequently rezoned to a more intensive use at the owner's request, within  
141 five years from the date the property was initially rezoned to a qualifying use under this section, the  
142 owner shall be liable for roll-back taxes when the property is rezoned to a more intensive use.  
143 Additionally, the owner shall be subject to a penalty equal to fifty percent of the roll-back taxes due as  
144 determined under subsection B of this section.

145 *EF.* If real estate annexed by a city and granted use value assessment and taxation becomes subject  
146 to roll-back taxes, and such real estate likewise has been granted use value assessment and taxation by  
147 the county prior to annexation, the city shall collect roll-back taxes and interest for the maximum period  
148 allowed under this section and shall return to the county a share of such taxes and interest proportionate  
149 to the amount of such period, if any, for which the real estate was situated in the county.