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HOUSE BILL NO. 540

Offered January 11, 2006

Prefiled January 9, 2006

A BILL to amend and reenact §§ 58.1-3210 and 58.1-3211 of the Code of Virginia, relating to real property taxes; exemption for certain elderly or disabled persons.

Patron—McClellan

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3210 and 58.1-3211 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3210. Exemption or deferral of taxes on property of certain elderly and handicapped persons.

A. The governing body of any county, city or town may, by ordinance, provide for the exemption from, deferral of, or a combination program of exemptions from and deferrals of taxation of real estate and manufactured homes as defined in § 36-85.3, or any portion thereof, and upon such conditions and in such amount as the ordinance may prescribe. Such real estate shall be owned by, and be occupied as the sole dwelling of anyone at least sixty-five years of age or if provided in the ordinance, anyone found to be permanently and totally disabled as defined in § 58.1-3217. ~~Such ordinance may provide for the exemption from or deferral of that portion of the tax which represents the increase in tax liability since the year such taxpayer reached the age of sixty-five or became disabled, or the year such ordinance became effective, whichever is later.~~ A dwelling jointly held by a husband and wife may qualify if either spouse is sixty-five or over or is permanently and totally disabled.

B. For purposes of this article, any reference to real estate shall include manufactured homes.

§ 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 ~~$50,000~~ *$75,000*, ~~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)~~. As an alternative option, a county, city, or town may provide that the total combined income received from all sources during the preceding calendar year by (a) owners of the dwelling who use it as their principal residence and (b) owners' relatives who live in the dwelling shall not exceed~~ *, or* the county's or city's median adjusted gross income of its married residents. Each county's or city's median adjusted gross income of its married residents means the most recent median adjusted gross income of individual income tax returns of the married residents of the county or city for a taxable year as published by the Weldon Cooper Center for Public Service of the University of Virginia. A town's median adjusted gross income of its married residents shall equal the applicable county's median adjusted gross income of its married residents.

Any amount up to $10,000 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 in determining total combined income. The local government may exclude up to $5,000 of any permanent or temporary disability benefit, from whatever source, received by an owner. The local government may also exclude up to $10,000 of income for an owner who is permanently disabled.

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 $10,000 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 ~~10~~ *20* acres, upon which it is situated shall not exceed ~~$200,000~~ *$350,000*. The local government may also exclude furnishings. Such

furnishings shall include furniture, household appliances and other items typically used in a home. The local government may also elect to annually increase the net combined financial worth limit by an amount equivalent to the percentage increase in the Consumer Price Index for the 12-month period ending September 30 of the year immediately preceding the affected tax year.

~~3. Notwithstanding the provisions of subdivisions 1 and 2, in the Cities of Charlottesville, Chesapeake, Portsmouth, Suffolk, and Virginia Beach and the Counties of Chesterfield, Fauquier, Goochland, Henrico, and Stafford, 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 the greater of $52,000 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), for the total combined income amount, and $200,000 for the maximum net combined financial worth amount, which shall exclude the value of the dwelling and the land, not exceeding 10 acres, upon which it is situated. Any amount up to $10,000 of income of each relative who is not the spouse of an owner living in the dwelling may be excluded under this subdivision. In addition, as an alternative option such cities and counties may use the median adjusted gross income of its married residents, as determined under subdivision 1 a, for the total combined income limit and may also elect to annually increase the net combined financial worth limit herein in the same manner as provided in subdivision 2.~~

~~4. Notwithstanding the provisions of subdivisions 1 and 2, in (i) any county having a population of more than 800,000, as determined by the 1990 United States Census; (ii) any county or city adjacent thereto; (iii) any city contiguous to such adjacent counties and cities; and (iv) any incorporated town located in the counties described in clauses (i) and (ii), the respective 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 the greater of $72,000 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), for the total combined income amount, and $340,000 for the maximum net combined financial worth amount, which shall exclude the value of the dwelling and the land, up to but not exceeding 25 acres, all of which shall be non-income producing, upon which it is situated. Any amount up to $10,000 of income of each relative who is not the spouse of an owner living in the dwelling may be excluded under this subdivision. In addition, as an alternative option such counties, cities, and towns may use the median adjusted gross income of its married residents, as determined under subdivision 1 a, for the total combined income limit and may also elect to annually increase the net combined financial worth limit herein in the same manner as provided in subdivision 2.~~

~~5~~*3*. For purposes of this article, income shall mean total gross income from all sources, without regard to whether a tax return is actually filed. Income shall not include life insurance benefits or receipts from borrowing or other debt.

2. That an emergency exists and this act is in force from its passage.