

**DEPARTMENT OF TAXATION
2008 Fiscal Impact Statement**

1. Patron Paula J. Miller

2. Bill Number HB 1118

3. Committee House Privileges and Elections

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. Title Real Property Tax Exemption and Deferrals
for Certain Residential or Farm Property.

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would permit localities to provide, by ordinance, for the exemption, deferral, or a combination thereof, from property taxes of up to 20% of the value of residential or farm property that is designed for continuous habitation as a home and is occupied as the primary dwelling of the owner or owners who are all individuals.

This bill would be effective for tax years beginning on or after January 1, 2009 provided that an amendment to the *Constitution of Virginia* authorizing such exemption or deferral programs is affirmed in a referendum of voters in November, 2008.

6. Fiscal Impact Estimates are: Not available. (See Line 8.)

7. Budget amendment necessary: No.

8. Fiscal implications:

There would be no state revenue impact associated with this bill. Localities would be impacted to the extent that they choose to provide the authorized exemption or deferral programs.

9. Specific agency or political subdivisions affected:

All localities.

10. Technical amendment necessary: No.

11. Other comments:

Real Estate Tax Exemptions

Article X, § 6 of the *Constitution of Virginia* lists all property that may be exempted from taxation:

- Property owned directly or indirectly by the Commonwealth or any political subdivision.
- Property owned and exclusively occupied or used by churches or religious bodies for religious worship or for the residences of their ministers.
- Private or public burying grounds or cemeteries, provided the same are not operated for profit.
- Property owned by public libraries or by institutions of learning not conducted for profit, so long as such property is primarily used for literary, scientific, or educational purposes or purposes incidental thereto.
- Intangible personal property, as may be exempted by general law.
- Property used by its owner for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes, as may be provided by classification or designation by an ordinance adopted by the local governing body.
- Land subject to a perpetual easement permitting inundation by water as may be exempted in whole or in part by general law.

Article X, § 6 of the *Constitution of Virginia* also provides that the General Assembly may, by general law:

- Restrict or condition, in whole or in part, but not extend, any or all of the above exemptions.
- Authorize any locality to provide for the exemption from local property taxation of property designed for continuous habitation owned by, and occupied as the sole dwelling of, persons not less than sixty-five years of age or persons permanently and totally disabled as established by general law.
- Define as a separate subject of taxation any property used primarily for the purpose of abating or preventing pollution and allow any locality to exempt or partially exempt such property from taxation, or by general law may directly exempt or partially exempt such property from taxation.
- Define as a separate subject of taxation household goods, personal effects and tangible farm property and products and allow any locality to exempt or partially exempt such property from taxation, or by general law may directly exempt or partially exempt such property from taxation.
- Authorize any locality to impose a service charge upon the owners of a class or classes of exempt property for services provided by such governments.
- Authorize any locality to provide for a partial exemption from local real property taxation, within such restrictions and upon such conditions as may be prescribed,

(i) of real estate whose improvements, by virtue of age and use, have undergone substantial renovation, rehabilitation or replacement or (ii) of real estate with new structures and improvements in conservation, redevelopment, or rehabilitation areas.

- Allow any locality to exempt or partially exempt from taxation any generating equipment for the purpose of converting from oil or natural gas to coal or to wood, wood bark, wood residue, or to any other alternate energy source for manufacturing, and any co-generation equipment installed since such date for use in manufacturing.
- Allow any locality to have the option to exempt or partially exempt from taxation any business, occupational or professional license or any merchants' capital, or both.

Finally, Article X, § 6 of the *Constitution of Virginia* also provides that exemptions of property from taxation shall be strictly construed.

Proposal

This bill would permit localities to provide, by ordinance, for exemption programs, deferral programs, and programs allowing for both the exemption and deferral from property taxes of up to 20% of the assessed value of residential or farm property that is designed for continuous habitation as a home and is occupied on the tax day as the primary dwelling of the owner or owners who are all individuals.

For purposes of this bill, real property would include a “manufactured home,” which means “a structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and forty body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.”

The governing body of each locality would be responsible for providing an annual written notice to the general public concerning any local real estate tax exemption or deferral program. The notice would need to be mailed with each real estate assessment notice or other appropriate mailing.

The deferred taxes authorized by local ordinance would be paid by the owner upon the sale of the dwelling, or from the estate of the deceased owner who qualified for the tax deferral under local ordinance, within one year after the death of the last qualifying owner. Such deferred real estate taxes would constitute a lien upon the said real property as if it had been assessed without regard to the deferral permitted under the local ordinance. Any such lien would, to the extent that it exceeds in the aggregate 10 percent of the price for which such real property may be sold, be inferior to all other liens of record.

This bill would be effective for tax years beginning on or after January 1, 2009 provided that an amendment to the *Constitution of Virginia* authorizing this exemption is approved.

Constitutional Amendment

Article XII, Section 1 of the *Constitution of Virginia* provides that any amendment to the *Constitution* must be proposed in the Senate or House of Delegates and be approved by a majority of the members of each house. The proposed amendment must then be referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates. If the amendment is approved by a majority of the members of each house at the succeeding session of the General Assembly, the proposed amendment must be submitted to the voters not sooner than ninety days after final passage by the General Assembly. If a majority of those voting vote in favor of the proposed amendment, it shall become part of the *Constitution* on the date prescribed by the General Assembly in submitting the amendment to the voters.

Senate Joint Resolution 354 (*Acts of Assembly* 2007, Chapter 843) proposed that Article X, § 6 of the *Constitution of Virginia* be amended to permit localities to provide, by ordinance, for exemption programs, deferral programs, and programs allowing for both the exemption and deferral from property taxes of up to 20% of the value of residential or farm property that is designed for continuous habitation as a home and is occupied as the primary dwelling of the owner or owners who are all individuals. A similar measure must be approved by the majority of members of both houses of the General Assembly and approved by the voters in a referendum in November, 2008 for this proposal to be effective for tax years beginning on or after January 1, 2009.

Similar Legislation

Senate Bill 496 is identical to this bill.

House Bill 681 and **Senate Bill 10** (Identical) would permit localities to provide, by ordinance, for the exemption, deferral, or a combination thereof, from property taxes of up to 20% of the value of residential or farm property that is designed for continuous habitation as a home and is occupied as the primary dwelling of the owner or owners who are all individuals. The bill mandates that the treasurer of any locality instituting the program must provide notice to taxpayers in each real estate bill.

House Bill 1045 would permit localities to provide, by ordinance, for the exemption, deferral, or a combination thereof, from property taxes of up to 20% of the value of residential or farm property, not to exceed one acre in size, that is designed for continuous habitation as a home and is occupied as the primary dwelling of the owner or owners who are all individuals, with restriction on the exemption or deferral amount. The maximum amount of the exemption must be the same for each property. In addition, the maximum dollar amount of the exemption must not exceed 20 percent of the median sales price for such properties sold within the locality during the immediately preceding calendar year.

House Joint Resolution 3, House Joint Resolution 4, House Joint Resolution 121 and **Senate Joint Resolution 6** (Substantively Identical) would provide the necessary resolution for the 2008 General Assembly Session to approve the constitutional

amendment first proposed in Senate Joint Resolution 354 (*Acts of Assembly* 2007, Chapter 843).

House Bill 6, House Bill 272 and **Senate Bill 9** (Identical) would provide for a November, 2008 referendum necessary for the approval of the proposed constitutional amendment effective for tax years beginning on or after January 1, 2009.

House Bill 11 would provide for a November, 2009 referendum for the approval of the proposed constitutional amendment effective for tax years beginning on or after January 1, 2010.

cc : Secretary of Finance

Date: 1/18/2008 jkl
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