

**DEPARTMENT OF TAXATION  
2008 Fiscal Impact Statement**

1. **Patron** Robert G. Marshall

2. **Bill Number** HB 183

3. **Committee** House Finance

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Real Estate Tax; Exemption and/or Deferral  
Programs for Elderly and Handicapped  
Persons Limited to Persons Legally Present  
in United States.

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

5. **Summary/Purpose:**

This bill would provide that a locality must require a taxpayer to demonstrate that he has the right to be legally present in the United States prior to granting the taxpayer tax relief under a real property tax exemption or deferral program for the elderly or handicapped.

The effective date of this bill is not specified.

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

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

This bill would have no impact on state revenues. As this bill would require localities to review each exemption or deferral applicant's documentation of legal presence, this bill would increase the cost to localities of administering exemption or deferral programs for elderly or handicapped persons.

9. **Specific agency or political subdivisions affected:** All localities.

10. **Technical amendment necessary:** No.

11. **Other comments:**

Current Law

The exemption/deferral programs for the elderly or handicapped provide tax relief for persons sixty-five years of age or older and for those who are permanently and totally disabled. The governing body of any locality may elect to adopt an exemption program, a deferral program, a combination of both, or none of the above. Income and net financial worth restrictions were incorporated in the exemption/deferral programs to direct tax relief to those whose incomes and financial worth were sufficiently low to merit such relief.

In order to qualify for a real estate tax exemption or deferral, an elderly or disabled individual's total combined gross income from all sources, including the income of relatives living in the dwelling may not exceed \$50,000 during the previous year. The net combined financial worth of the applicant and spouse may not exceed \$200,000, but localities may annually increase net worth limitations by a percentage equal to the Consumer Price Index to account for inflation.

Several localities are authorized to use higher total income and combined net worth limits.

The following cities and counties are authorized to increase their income limits to \$62,000 and their net worth limits to \$350,000:

- Cities of Charlottesville, Chesapeake, Norfolk, Portsmouth, Richmond, Suffolk, and Virginia Beach
- Counties of Chesterfield, Goochland, and Henrico

In 2007, the General Assembly increased the income limitation for these localities from \$52,000 to \$62,000.

The following cities and counties are authorized to increase their income limits to \$75,000 and their net worth limits to \$540,000:

- Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park
- Counties of Arlington, Clarke, Fairfax, Fauquier, Loudoun, Prince William, and Stafford

In 2007, the General Assembly increased the income limitation for these localities from \$72,000 to \$75,000.

### Legal Presence

*Code of Va. § 46.2-328.1 (Acts of Assembly 2003, Chapter 817)* requires any applicant for an original driver's license, permit, or special identification card to provide to the Department of Motor Vehicles ("DMV") valid documentary evidence that the applicant is either (1) a citizen of the United States, (2) a legal permanent resident of the United States, or (3) a conditional resident alien of the United States.

An applicant who presents valid documentary evidence of (1) a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, (2) a pending or approved application for asylum in the United States, (3) entry into the United States in refugee status, (4) a pending or approved application for temporary protected status in the United States, (5) approved deferred action status, or (6) a pending application for adjustment of status to legal permanent residence status or conditional resident status, may be issued a temporary license, permit, or special identification card. Such temporary license, permit, or special identification card is valid only during the period

of time of the applicant's authorized stay in the United States or if there is no definite end to the period of authorized stay a period of one year.

The Department of Motor Vehicles ("DMV") allows legal presence to be proven using:

- U.S. birth certificate;
- U.S. passport;
- Virginia driver's license;
- Virginia ID card;
- Certificate of Citizenship;
- Certificate of Naturalization;
- Resident Alien Card; or
- Valid foreign passport with a visa, I-94 or an I-94W with a participating country.

### Proposal

This bill would provide that a locality must require a taxpayer to demonstrate that he has the right to be legally present in the United States prior to granting the taxpayer tax relief under a real property tax exemption or deferral program for the elderly or handicapped. This bill is silent as to what constitutes "legal presence" and what documentary evidence would be required to prove legal presence.

### Similar Legislation

**House Bill 163** would authorize localities to allow by ordinance a real property tax exemption or deferral to an elderly or handicapped based on the applicant's current year's income and financial worth.

**House Bill 184** would place the legal presence requirement on applicants for a partial exemption and/or tax credit for certain rehabilitated, renovated or replacement structures.

**House Bill 270** would raise the maximum income eligibility restrictions from \$62,000 to 65,000 in the Cities of Charlottesville, Chesapeake, Norfolk, Portsmouth, Richmond, Suffolk, and Virginia Beach and the Counties of Chesterfield, Goochland, and Henrico.

**House Bill 465** would provide an alternate formula for determining net combined financial worth that allows individuals who depend on investment income rather than pension income to qualify for real estate tax relief.

**House Bill 698** and **Senate Bill 283** (identical) would add the City of Newport News to the list of Southeastern and Central Virginia cities and counties authorized to use higher income and net worth limits to qualify for real estate tax relief.

**House Bill 1274** and **Senate Bill 203** (identical) would raise the maximum income eligibility restrictions from \$62,000 to 67,000 in the Cities of Charlottesville, Chesapeake, Norfolk, Portsmouth, Richmond, Suffolk, and Virginia Beach and the Counties of Chesterfield, Goochland, and Henrico.

cc : Secretary of Finance

Date: 1/13/2008 jkl  
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