

**DEPARTMENT OF TAXATION  
2008 Fiscal Impact Statement**

1. **Patron** Robert G. Marshall

2. **Bill Number** HB 184

3. **Committee** House Finance

**House of Origin:**

☐ **Introduced**

☐ **Substitute**

☐ **Engrossed**

4. **Title** Real Estate Tax; Tax Relief for Certain  
Rehabilitated, Renovated, or Replacement  
Real Property Limited to Persons Legally  
Present in the 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 property tax relief under any program providing partial exemptions and/or tax credits for certain rehabilitated, renovated, or replacement real property.

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 applicant's documentation of legal presence, this bill would increase the cost to localities of administering property tax relief for certain rehabilitated, renovated, or replacement real property.

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

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

11. **Other comments:**

Current Law

Under current law, localities are authorized to provide partial exemptions and/or tax credits for certain real estate that contains a structure that has undergone substantial rehabilitation, renovation, or replacement. The governing body of any locality may elect to adopt an exemption program, a tax credit program, both, or none of the above. Currently, eligibility for such programs does not depend on legal presence in the United States.

## 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 property tax relief under any program providing partial exemptions and/or tax credits for certain rehabilitated, renovated, or replacement real property. 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 183** would place the legal presence requirement on applicants for the property tax exemption/deferral program for the elderly or handicapped.

**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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