

**DEPARTMENT OF TAXATION  
2008 Fiscal Impact Statement**

1. **Patron** George L. Barker

3. **Committee** Senate Finance

4. **Title** Real Property Tax; Exemption and/or  
Deferral Programs for Individuals

2. **Bill Number** SB 425

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

**5. Summary/Purpose:**

This bill would provide that a locality may 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 or under a deferral program for the increases on property tax bills associated with a reassessment.

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. To the extent that a locality uses the authority granted by this bill, this bill may increase local revenue because fewer people may qualify for the exemption or deferral programs.

**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

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

Any locality may adopt, by ordinance, a deferral program for the increase in real estate taxes associated with reassessments. The locality must adopt, by ordinance, the terms and conditions of the program and whether the deferral program shall apply only to real estate owned by and occupied as the sole dwelling of the taxpayer or whether the program shall apply to all property.

The deferral program allows the taxpayer the option of deferring all or any portion of the real estate tax that exceeds 105 percent of the real estate tax on such property owned by the taxpayer in the previous tax year. The locality may adopt a higher minimum percentage increase figure.

The deferred amount is be subject to interest computed at a rate established by the locality, not to exceed the rate established pursuant to § 6621 of the Internal Revenue Code. The accumulated amount of taxes deferred and interest shall be paid to the locality by the owner upon the sale or transfer of the property, or from the estate of the decedent within one year after the death of the owner. The accumulated amount of tax deferred and interest constitutes a lien upon the real estate.

The deferral program cannot apply to real estate which participates in the real estate tax relief or deferral program for the elderly or disabled, individuals who are delinquent on any

portion of real estate taxes for which deferral is sought, nor real estate assessed on the basis of use value.

### 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 may 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 and under a deferral program for the increases on property tax bills associated with a reassessment.

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

**Senate Bill 424** would provide that a locality may 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 for structures in redevelopment or conservation areas or rehabilitation districts and partial exemptions and/or tax credits for certain rehabilitated, renovated, or replacement real property.

cc : Secretary of Finance

Date: 1/18/2008 jkl  
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