

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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An Act to amend and reenact §§ 58.1-3219.5, 58.1-3219.7, and 58.1-3360 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 32 of Title 58.1 an article numbered 2.4, consisting of sections numbered 58.1-3219.9 through 58.1-3219.12, and to provide for the submission to the voters of a proposed amendment to Section 6-A of Article X of the Constitution of Virginia, relating to a real property tax exemption for surviving spouses of soldiers killed in action.

[H 46]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3219.5, 58.1-3219.7, and 58.1-3360 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 32 of Title 58.1 an article numbered 2.4, consisting of sections numbered 58.1-3219.9 through 58.1-3219.12, as follows:

§ 58.1-3219.5. Exemption from taxes on property for disabled veterans.

A. Pursuant to ~~Article X, Section 6-A~~ *subdivision (a) of Section 6-A of Article X* of the Constitution of Virginia, and for tax years beginning on or after January 1, 2011, the General Assembly hereby exempts from taxation the real property, including the joint real property of husband and wife, of any veteran who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent, and total disability, and who occupies the real property as his principal place of residence. If the veteran's disability rating occurs after January 1, 2011, and he has a qualified primary residence on the date of the rating, then the exemption for him under this section begins on the date of such rating. However, no county, city, or town shall be liable for any interest on any refund due to the veteran for taxes paid prior to the veteran's filing of the affidavit or written statement required by § 58.1-3219.6. If the qualified veteran acquires the property after January 1, 2011, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to § 58.1-3360.

B. The surviving spouse of a veteran eligible for the exemption set forth in this article shall also qualify for the exemption, so long as the death of the veteran occurs on or after January 1, 2011, the surviving spouse does not remarry, and the surviving spouse continues to occupy the real property as his principal place of residence.

C. A county, city, or town shall provide for the exemption from real property taxes the qualifying dwelling pursuant to this section, and shall provide for the exemption from real property taxes the land, not exceeding one acre, upon which it is situated. However, if a county, city, or town provides for an exemption from or deferral of real property taxes of more than one acre of land pursuant to Article 2 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an exemption for the same number of acres pursuant to this section.

D. For purposes of this exemption, real property of any veteran includes real property (i) held by a veteran alone or in conjunction with the veteran's spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the veteran or the veteran and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which a veteran alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term does not include any interest held under a leasehold or term of years.

The exemption for a surviving spouse under subsection B includes real property (a) held by the veteran's spouse as tenant for life, (b) held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (c) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. The exemption does not apply to any interest held under a leasehold or term of years.

E. 1. In the event that (i) a person is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection D and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the number of people who are qualified for the exemption pursuant to this section and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

2. In the event that the primary residence is jointly owned by two or more individuals, not all of whom qualify for the exemption pursuant to subsection A or B, and no person is entitled to the

57 exemption under this section by virtue of holding the property in any of the three ways set forth in
 58 subsection D, then the exemption shall be prorated by multiplying the amount of the exemption or
 59 deferral by a fraction that has as a numerator the percentage of ownership interest in the dwelling held
 60 by all such joint owners who qualify for the exemption pursuant to subsections A and B, and as a
 61 denominator, 100 percent.

62 **§ 58.1-3219.7. Commissioner of the Department of Veterans Services; rules and regulations;**
 63 **appeal.**

64 A. The Commissioner of the Department of Veterans Services shall promulgate rules and regulations
 65 governing the administration and implementation of the property tax exemption under this article. Such
 66 rules and regulations shall include, but not be limited to, written guidance for veterans residing in the
 67 Commonwealth and for commissioners of the revenue or other assessing officers relating to the
 68 determination of eligibility for the property tax exemption under this article and procedures for appealing
 69 a decision of the Commissioner of the Department of Veterans Services to a circuit court pursuant to
 70 subsection B. The Commissioner of the Department of Veterans Services may also provide written
 71 guidance to, and respond to requests for information from, veterans residing in the Commonwealth and
 72 commissioners of the revenue or other assessing officers regarding the exemption under this article,
 73 including interpretation of the provisions of ~~Article X, Section 6-A subdivision (a) of Section 6-A of~~
 74 *Article X* of the Constitution of Virginia and this article.

75 B. The Commissioner of the Department of Veterans Services shall hear and decide appeals by
 76 veterans residing in the Commonwealth from a denial of their application pursuant to § 58.1-3219.6 by a
 77 commissioner of the revenue or other assessing officer. However, such appeal shall be limited to appeals
 78 based upon a finding of fact regarding eligibility criteria set forth in ~~Article X, Section 6-A subdivision~~
 79 *(a) of Section 6-A of Article X* of the Constitution of Virginia and this article. The Commissioner of the
 80 Department of Veterans Services shall not be authorized to hear or decide appeals regarding a dispute
 81 over the assessed value of any property. Nothing in this section shall be construed to limit the appeal of
 82 a decision of the Commissioner of the Department of Veterans Services by either party to the circuit
 83 court in the locality in which the veteran resides.

84 *Article 2.4.*

85 *Exemption for Surviving Spouses of Members of the Armed Forces Killed in Action.*

86 **§ 58.1-3219.9. Exemption from taxes on property of surviving spouses of members of the armed**
 87 **forces killed in action.**

88 A. *Pursuant to subdivision (b) of Section 6-A of Article X of the Constitution of Virginia, and for tax*
 89 *years beginning on or after January 1, 2015, the General Assembly hereby exempts from taxation the*
 90 *real property described in subsection B of the surviving spouse (i) of any member of the armed forces of*
 91 *the United States who was killed in action as determined by the United States Department of Defense*
 92 *and (ii) who occupies the real property as his principal place of residence. If such member of the armed*
 93 *forces of the United States is killed in action after January 1, 2015, and the surviving spouse has a*
 94 *qualified principal residence on the date that such member of the armed forces is killed in action, then*
 95 *the exemption for the surviving spouse shall begin on the date that such member of the armed forces is*
 96 *killed in action. However, no county, city, or town shall be liable for any interest on any refund due to*
 97 *the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or written*
 98 *statement required by § 58.1-3219.10. If the surviving spouse acquires the property after January 1,*
 99 *2015, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled*
 100 *to a refund for a pro rata portion of real property taxes paid pursuant to § 58.1-3360.*

101 B. *Only those dwellings in the locality with assessed values in the most recently ended tax year that*
 102 *are not in excess of the average assessed value for such year of a dwelling situated on property that is*
 103 *zoned as single family residential shall qualify for the exemption under this article. Single family homes,*
 104 *condominiums, town homes, and other types of dwellings of surviving spouses that (i) meet this*
 105 *requirement and (ii) are occupied by such persons as their principal place of residence shall qualify for*
 106 *the real property tax exemption.*

107 *For purposes of determining whether a dwelling is exempt from county and town real property taxes,*
 108 *the average assessed value shall be such average for all dwellings located within the county that are*
 109 *situated on property zoned as single family residential.*

110 C. *The surviving spouse of a member of the armed forces killed in action shall qualify for the*
 111 *exemption so long as the surviving spouse does not remarry and continues to occupy the real property*
 112 *as his principal place of residence.*

113 D. *A county, city, or town shall provide for the exemption from real property taxes (i) the qualifying*
 114 *dwelling and (ii) the land, not exceeding one acre, upon which it is situated. However, if a county, city,*
 115 *or town provides for an exemption from or deferral of real property taxes of more than one acre of land*
 116 *pursuant to Article 2 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an*
 117 *exemption for the same number of acres pursuant to this section.*

118 E. For purposes of this exemption, real property of any surviving spouse of a member of the armed
119 forces killed in action includes real property (i) held by a surviving spouse as a tenant for life, (ii) held
120 in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii)
121 held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a
122 continuing right of use or support. The term does not include any interest held under a leasehold or
123 term of years.

124 F. 1. In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue
125 of holding the property in any of the three ways set forth in subsection E and (ii) one or more other
126 persons have an ownership interest in the property that permits them to occupy the property, then the
127 tax exemption for the property that otherwise would have been provided shall be prorated by
128 multiplying the amount of the exemption by a fraction that has as a numerator the number of surviving
129 spouses who are qualified for the exemption pursuant to this section and has as a denominator the total
130 number of all people having an ownership interest that permits them to occupy the property.

131 2. In the event that the principal residence is jointly owned by two or more individuals, not all of
132 whom qualify for the exemption, and no person is entitled to the exemption under this section by virtue
133 of holding the property in any of the three ways set forth in subsection E, then the exemption shall be
134 prorated by multiplying the amount of the exemption by a fraction that has as a numerator the
135 percentage of ownership interest in the dwelling held by all such joint owners who qualify for the
136 exemption, and as a denominator, 100 percent.

137 **§ 58.1-3219.10. Application for exemption.**

138 A. The surviving spouse claiming the exemption under this article shall file with the commissioner of
139 the revenue of the county, city, or town or such other officer as may be designated by the governing
140 body in which the real property is located, on forms to be supplied by the county, city, or town, an
141 affidavit or written statement (i) setting forth the surviving spouse's name, (ii) indicating any other joint
142 owners of the real property, and (iii) certifying that the real property is occupied as the surviving
143 spouse's principal place of residence. The surviving spouse shall also provide documentation from the
144 United States Department of Defense or its successor agency indicating the date that the member of the
145 armed forces of the United States was killed in action.

146 The surviving spouse shall be required to refile the information required by this section only if the
147 surviving spouse's principal place of residence changes.

148 B. The surviving spouse shall promptly notify the commissioner of the revenue of any remarriage.

149 **§ 58.1-3219.11. Commissioner of the Department of Veterans Services; rules and regulations.**

150 The Commissioner of the Department of Veterans Services shall promulgate rules and regulations
151 governing the administration and implementation of the property tax exemption under this article. Such
152 rules and regulations shall include, but not be limited to, written guidance for surviving spouses
153 residing in the Commonwealth and for commissioners of the revenue or other assessing officers relating
154 to the determination of eligibility for the property tax exemption under this article. The Commissioner of
155 the Department of Veterans Services may also provide written guidance to, and respond to requests for
156 information from, surviving spouses residing in the Commonwealth and commissioners of the revenue or
157 other assessing officers regarding the exemption under this article, including interpretation of the
158 provisions of subdivision (b) of Section 6-A of Article X of the Constitution of Virginia and this article.

159 **§ 58.1-3219.12. Absence from residence.**

160 The fact that surviving spouses who are otherwise qualified for tax exemption pursuant to this article
161 are residing in hospitals, nursing homes, convalescent homes, or other facilities for physical or mental
162 care for extended periods of time shall not be construed to mean that the real estate for which tax
163 exemption is sought does not continue to be the sole dwelling of such persons during such extended
164 periods of other residence so long as such real estate is not used by or leased to others for
165 consideration.

166 **§ 58.1-3360. Credit on current year's taxes when land acquired by United States, the**
167 **Commonwealth, a political subdivision, a church or religious body, a disabled veteran, or a**
168 **surviving spouse of a member of the armed forces who was killed in action.**

169 Any taxpayer whose lands, or any portion thereof, are in any year acquired or taken in any manner
170 by the United States; the Commonwealth; a political subdivision; a church or religious body, which is
171 exempt from taxation by Article X, Section 6 of the Constitution of Virginia; a surviving spouse of a
172 member of the armed forces of the United States who was killed in action for that portion of the
173 property that is exempt under § 58.1-3219.9; or a disabled veteran for that portion of the property that is
174 exempt from taxation pursuant to § 58.1-3219.5, shall be relieved from the payment of taxes and levies
175 from the date of divestment of such land for that portion of the year in which the property was taken or
176 acquired. The county treasurers as to land situated in counties and the city treasurers and city collectors
177 as to lands situated in cities shall receive from and receipt to the original owner of the lands so taken,
178 for his proportionate part of the taxes and levies for the year and credit the payment on the tax tickets

179 and shall return at the same time he makes his return of lands and lots improperly assessed, as required
 180 by law, the proportional part of the taxes and levies exonerated from taxation for any such year,
 181 indicating on the margin of the list the date on which the property was acquired by the government or
 182 religious body. Such list, when approved by the proper authorities, shall be considered as a credit to any
 183 such treasurer or collector in the settlement of the accounts for such year.

184 **2. That the provisions of the first enactment of this act shall become effective on January 1, 2015,**
 185 **if a majority of those voting on the question in the third enactment of this act vote in the**
 186 **affirmative.**

187 3. § 1. It shall be the duty of the officers conducting the election directed by law to be held on the
 188 Tuesday after the first Monday in November 2014, at the places appointed for holding the same, to open
 189 a poll and take the sense of the qualified voters upon the ratification or rejection of the proposed
 190 amendment to the Constitution of Virginia, contained herein and in the joint resolution proposing such
 191 amendment, to wit:

192 Amend Section 6-A of Article X of the Constitution of Virginia as follows:

193 ARTICLE X

194 TAXATION AND FINANCE

195 Section 6-A. Property tax exemption for certain veterans *and surviving spouses of soldiers killed in*
 196 *action.*

197 (a) Notwithstanding the provisions of Section 6, the General Assembly by general law, and within
 198 the restrictions and conditions prescribed therein, shall exempt from taxation the real property, including
 199 the joint real property of husband and wife, of any veteran who has been determined by the United
 200 States Department of Veterans Affairs or its successor agency pursuant to federal law to have a one
 201 hundred percent service-connected, permanent, and total disability, and who occupies the real property as
 202 his or her principal place of residence. The General Assembly shall also provide this exemption from
 203 taxation for real property owned by the surviving spouse of a veteran who was eligible for the
 204 exemption provided in this ~~section~~ subdivision, so long as the surviving spouse does not remarry and
 205 continues to occupy the real property as his or her principal place of residence.

206 (b) *Notwithstanding the provisions of Section 6, the General Assembly by general law, and within the*
 207 *restrictions and conditions prescribed therein, may exempt from taxation the real property of the*
 208 *surviving spouse of any member of the armed forces of the United States who was killed in action as*
 209 *determined by the United States Department of Defense, who occupies the real property as his or her*
 210 *principal place of residence. The exemption under this subdivision shall cease if the surviving spouse*
 211 *remarries and shall not be claimed thereafter. This exemption applies regardless of whether the spouse*
 212 *was killed in action prior to the effective date of this subdivision, but the exemption shall not be*
 213 *applicable for any period of time prior to the effective date. This exemption applies to the surviving*
 214 *spouse's principal place of residence without any restriction on the spouse's moving to a different*
 215 *principal place of residence and without any requirement that the spouse reside in the Commonwealth*
 216 *at the time of death of the member of the armed forces.*

217 § 2. The ballot shall contain the following question:

218 "Question: Shall Section 6-A of Article X (Taxation and Finance) of the Constitution of Virginia be
 219 amended to allow the General Assembly to exempt from taxation the real property of the surviving
 220 spouse of any member of the armed forces of the United States who was killed in action, where the
 221 surviving spouse occupies the real property as his or her principal place of residence and has not
 222 remarried?"

223 The ballots shall be prepared, distributed and voted, and the results of the election shall be
 224 ascertained and certified, in the manner prescribed by § 24.2-684 of the Code of Virginia. The State
 225 Board of Elections shall comply with § 30-19.9 of the Code and shall cause to be sent to the electoral
 226 boards of each county and city sufficient copies of the full text of the amendment and question
 227 contained herein for the officers of election to post in each polling place on election day.

228 The electoral board of each county and city shall make out, certify and forward an abstract of the
 229 votes cast for and against such proposed amendment in the manner now prescribed by law in relation to
 230 votes cast in general elections.

231 The State Board of Elections shall open and canvass such abstracts and examine and report the
 232 whole number of votes cast at the election for and against such amendment in the manner now
 233 prescribed by law in relation to votes cast in general elections. The State Board of Elections shall record
 234 a certified copy of such report in its office and without delay make out and transmit to the Governor an
 235 official copy of such report, certified by it. The Governor shall without delay make proclamation of the
 236 result, stating therein the aggregate vote for and against the amendment.

237 If a majority of those voting vote in favor of the amendment, it shall become effective on January 1,
 238 2015.

239 The expenses incurred in conducting this election shall be defrayed as in the case of election of

240 members of the General Assembly.

ENROLLED

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