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HOUSE BILL NO. 1721

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 17, 2015)

(Patron Prior to Substitute—Delegate Ramadan)

A BILL to amend and reenact §§ 58.1-3219.9, 58.1-3360.1, and 58.1-3360.2 of the Code of Virginia, relating to the real property tax exemption for surviving spouses of soldiers killed in action.

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3219.9, 58.1-3360.1, and 58.1-3360.2 of the Code of Virginia are amended and reenacted as follows:

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

A. Pursuant to subdivision (b) of Section 6-A of Article X of the Constitution of Virginia, and for tax years beginning on or after January 1, 2015, the General Assembly hereby exempts from taxation the real property described in subsection B of the surviving spouse (i) of any member of the armed forces of the United States who was killed in action as determined by the United States Department of Defense and (ii) who occupies the real property as his principal place of residence. If such member of the armed forces of the United States is killed in action after January 1, 2015, and the surviving spouse has a qualified principal residence on the date that such member of the armed forces is killed in action, then the exemption for the surviving spouse shall begin on the date that such member of the armed forces is killed in action. However, no county, city, or town shall be liable for any interest on any refund due to the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or written statement required by § 58.1-3219.10. If the surviving spouse acquires the property after January 1, 2015, 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. ~~Only those~~ Those dwellings in the locality with assessed values in the most recently ended tax year that are not in excess of the average assessed value for such year of a dwelling situated on property that is zoned as single family residential shall qualify for ~~the~~ a total exemption from real property taxes under this article. *If the value of a dwelling is in excess of the average assessed value as described in this subsection, then only that portion of the assessed value in excess of the average assessed value shall be subject to real property taxes, and the portion of the assessed value that is not in excess of the average assessed value shall be exempt from real property taxes.* Single family homes, condominiums, town homes, and other types of dwellings of surviving spouses that (i) meet this requirement and (ii) are occupied by such persons as their principal place of residence shall qualify for the real property tax exemption.

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

C. The surviving spouse of a member of the armed forces killed in action shall qualify for the exemption so long as the surviving spouse does not remarry and continues to occupy the real property as his principal place of residence. *The exemption applies without any restriction on the spouse's moving to a different principal place of residence.*

D. A county, city, or town shall provide for the exemption from real property taxes (i) the qualifying dwelling, *or the portion of the value of such dwelling and land that qualifies for the exemption pursuant to subsection B*, and (ii) 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.

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

F. 1. In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection E 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 1 as a numerator ~~the number of~~

60 surviving spouses who are qualified for the exemption pursuant to this section and has as a denominator
61 the total number of all people having an ownership interest that permits them to occupy the property.

62 2. In the event that the principal residence is jointly owned by two or more individuals, ~~not all of~~
63 ~~whom qualify for the exemption,~~ *including the surviving spouse*, and no person is entitled to the
64 exemption under this section by virtue of holding the property in any of the three ways set forth in
65 subsection E, then the exemption shall be prorated by multiplying the amount of the exemption by a
66 fraction that has as a numerator the percentage of ownership interest in the dwelling held by ~~all such~~
67 ~~joint owners who qualify for the exemption~~ *the surviving spouse*, and as a denominator, 100 percent.

68 **§ 58.1-3360.1. Clerk to furnish certificate of land acquired; contents of certificate; certificate as**
69 **authority to receive and prorate taxes.**

70 The clerk of the court of the county or city in which is recorded the transfer of title to such property
71 shall furnish a certificate to the county or city treasurer showing the quantity of land so taken or
72 acquired, and whether by the Commonwealth; *or any political subdivision thereof; a church or religious*
73 *body, which that is exempt from taxation by Article X, Section 6 of the Constitution of Virginia; a*
74 *surviving spouse of a member of the armed forces of the United States who was killed in action for that*
75 *portion of the property that is exempt from taxation pursuant to § 58.1-3219.9; or a disabled veteran for*
76 *that portion of the property that is exempt from taxation pursuant to § 58.1-3219.5, the name of the*
77 *former owner and a description of the property and the district or ward in which the property is situated,*
78 *also the date of the recordation of the deed or order by which such property was taken or acquired by*
79 *the Commonwealth or any political subdivision thereof or any such church or religious body, as shown*
80 *by the records in his office. Such certificate shall be sufficient evidence to the county and city treasurers*
81 *to authorize them to receive and prorate the taxes and levies as herein authorized.*

82 **§ 58.1-3360.2. Proration by court; effect on interest and penalties.**

83 Any such taxpayer, or his heirs, successors or assigns, who shall fail to have his taxes prorated by
84 the county or city treasurer, as above provided, shall be entitled to apply to the appropriate court for
85 proration of the taxes, as herein provided, in the same manner and within the same time as provided by
86 law for the correction of erroneous assessments and refunding taxes erroneously charged; provided,
87 however that in such proceedings such taxpayer shall be entitled to relief of interest and penalties only
88 as to the proportionate part of the property so taken or acquired by the Commonwealth; *or any county*
89 *or municipality thereof; a church or religious body, which that is exempt from taxation by Article X,*
90 *Section 6 of the Constitution of Virginia; a surviving spouse of a member of the armed forces of the*
91 *United States who was killed in action for that portion of the property that is exempt from taxation*
92 *pursuant to § 58.1-3219.9; or a disabled veteran for that portion of the property that is exempt from*
93 *taxation pursuant to § 58.1-3219.5.*

94 **2. That county, city, and town treasurers shall refund, without interest and to the extent paid, any**
95 **taxes on a surviving spouse's real property that was (i) not exempt from taxation under Article 2.4**
96 **(§ 58.1-3219.9 et seq.) of Chapter 32 of Title 58.1 of the Code of Virginia as of January 1, 2015,**
97 **and (ii) made exempt from real property taxation under the provisions of this act. The refund**
98 **shall be limited to (a) such taxes on that portion of the surviving spouse's real property that is**
99 **exempt from taxation under Article 2.4 and (b) tax year 2015 real property taxes.**