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**HOUSE BILL NO. 1884**

Offered January 11, 2017

Prefiled January 10, 2017

A *BILL to amend the Code of Virginia by adding in Chapter 32 of Title 58.1 an article numbered 2.5, consisting of sections numbered 58.1-3219.13 through 58.1-3219.16, relating to real property tax exemption; certain surviving spouses.*

Patrons—Hugo and Miller

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 32 of Title 58.1 an article numbered 2.5, consisting of sections numbered 58.1-3219.13 through 58.1-3219.16, as follows:**

**Article 2.5.*****Exemption for Surviving Spouses of Certain Persons Killed in the Line of Duty.*****§ 58.1-3219.13. Definitions.**

*As used in this article, unless the context requires otherwise:*

"Covered person" means any person set forth in the definition of "deceased person" in § 9.1-400 whose beneficiary, as defined in § 9.1-400, is entitled to receive benefits under § 9.1-402, as determined by the Comptroller prior to July 1, 2017, or as determined by the Virginia Retirement System on and after July 1, 2017.

**§ 58.1-3219.14. Exemption from taxes on property of surviving spouses of certain persons killed in the line of duty.**

A. Pursuant to Article X, Section 6-B of the Constitution of Virginia, for tax years beginning on or after January 1, 2017, any county, city, or town may exempt from taxation the real property described in subsection B of the surviving spouse of any covered person who occupies the real property as his principal place of residence. If the covered person's death occurred on or prior to January 1, 2017, and the surviving spouse has a principal residence on January 1, 2017, eligible for the exemption under this section, then the exemption for the surviving spouse shall begin on January 1, 2017. If the covered person's death occurs after January 1, 2017, and the surviving spouse has a principal residence eligible for the exemption under this section on the date that such covered person dies, then the exemption for the surviving spouse shall begin on the date that such covered person dies. If the surviving spouse acquires the property after January 1, 2017, 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. 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 § 58.1-3219.15.

B. Those dwellings, in any locality that provides the exemption pursuant to this article, 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 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, manufactured homes as defined in § 46.2-100 whether or not the wheels and other equipment previously used for mobility have been removed, and other types of dwellings of surviving spouses, whether or not the land on which the single-family home, condominium, town home, manufactured home, or other type of dwelling of a surviving spouse is located is owned by someone other than the surviving spouse, 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. If the land on which the single-family home, condominium, town home, manufactured home, or other type of dwelling is located is not owned by the surviving spouse, then the land is not exempt.

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 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.

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59 D. A county, city, or town shall provide for the exemption from real property taxes of (i) the  
60 qualifying dwelling, or that portion of the value of such dwelling and land that qualifies for the  
61 exemption pursuant to subsection B, and (ii) with the exception of land not owned by the surviving  
62 spouse, the land, not exceeding one acre, upon which it is situated. However, if a county, city, or town  
63 provides for an exemption from or deferral of real property taxes of more than one acre of land  
64 pursuant to Article 2 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an  
65 exemption for the same number of acres pursuant to this section. A real property improvement other  
66 than a dwelling, including the land upon which such improvement is situated, made to such one acre or  
67 greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from  
68 taxation so long as the principal use of the improvement is (a) to house or cover motor vehicles or  
69 household goods and personal effects as classified in subdivision A 14 of § 58.1-3503 and as listed in  
70 § 58.1-3504 and (b) for other than a business purpose.

71 E. For purposes of this exemption, real property of any surviving spouse of a covered person  
72 includes real property (i) held by a surviving spouse as a tenant for life, (ii) held in a revocable inter  
73 vivos trust over which the surviving spouse holds the power of revocation, or (iii) held in an irrevocable  
74 trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or  
75 support. Such real property does not include any interest held under a leasehold or term of years.

76 F. 1. In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue  
77 of holding the property in any of the three ways set forth in subsection E and (ii) one or more other  
78 persons have an ownership interest in the property that permits them to occupy the property, then the  
79 tax exemption for the property that otherwise would have been provided shall be prorated by  
80 multiplying the amount of the exemption by a fraction the numerator of which is 1 and the denominator  
81 of which equals the total number of people having an ownership interest that permits them to occupy  
82 the property.

83 2. In the event that the principal residence is jointly owned by two or more individuals including the  
84 surviving spouse, and no person is entitled to the exemption under this section by virtue of holding the  
85 property in any of the three ways set forth in subsection E, then the exemption shall be prorated by  
86 multiplying the amount of the exemption by a fraction the numerator of which is the percentage of  
87 ownership interest in the dwelling held by the surviving spouse and the denominator of which is 100.

88 **§ 58.1-3219.15. Application for exemption.**

89 A. The surviving spouse claiming the exemption under this article shall file with the commissioner of  
90 the revenue of the county, city, or town or such other officer as may be designated by the governing  
91 body in which the real property is located, on forms to be supplied by the county, city, or town, an  
92 affidavit or written statement (i) setting forth the surviving spouse's name, (ii) indicating any other joint  
93 owners of the real property, (iii) certifying that the real property is occupied as the surviving spouse's  
94 principal place of residence, and (iv) including evidence of the determination of the Comptroller or the  
95 Virginia Retirement System pursuant to subsection A. The surviving spouse shall also provide  
96 documentation that she is the surviving spouse of a covered person and of the date that the covered  
97 person died.

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

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

101 **§ 58.1-3219.16. Absence from residence.**

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

108 2. That county, city, and town treasurers shall refund, without interest and to the extent paid, any  
109 taxes on a surviving spouse's real property that was (i) not exempt from taxation under Article 2.4  
110 (§ 58.1-3219.9 et seq.) of Chapter 32 of Title 58.1 of the Code of Virginia as of January 1, 2017,  
111 and (ii) made exempt from real property taxation under the provisions of this act. The refund  
112 shall be limited to (a) such taxes on that portion of the surviving spouse's real property that is  
113 exempt from taxation under Article 2.4 and (b) tax year 2017 real property taxes.