

# VIRGINIA ACTS OF ASSEMBLY -- 2018 SESSION

## CHAPTER 291

*An Act to amend and reenact § 58.1-3216 of the Code of Virginia, relating to recapture of deferred real estate taxes.*

[S 228]

Approved March 9, 2018

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

**1. That § 58.1-3216 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3216. Deferral programs; taxes to be lien on property.**

*A. For purposes of this section:*

*"Nonqualified transfer" means a transfer in ownership of the real estate by gift or otherwise not for bona fide consideration, other than (i) a transfer by the qualified owner to a spouse, including without limitation a transfer creating a tenancy for life or joint lives; (ii) a transfer by the qualified owner or the qualified owner and his spouse to a revocable inter vivos trust over which the qualified owner, or the qualified owner and his spouse, hold the power of revocation; or (iii) a transfer to an irrevocable trust under which a qualified owner 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.*

*"Qualified owner" means the owner of the real property who qualifies for a tax deferral by county, city, or town ordinance.*

*B. In the event of a deferral of real estate taxes granted by ordinance, the accumulated amount of taxes deferred shall be paid to the county, city, or town concerned by the vendor, transferor, executor, or administrator: (i) upon the sale of the dwelling, real estate; (ii) upon a nonqualified transfer of the real estate; or (iii) from the estate of the decedent within one year after the death of the last qualified owner thereof who qualifies for tax deferral by the provisions of this section and by the county, city or town ordinance. Such deferred real estate taxes shall be paid without penalty, except that any ordinance establishing a combined program of exemptions and deferrals, or deferrals only, may provide for interest not to exceed eight percent per annum year on any amount so deferred, and such taxes and interest, if applicable, shall constitute a lien upon the said real estate as if it had been assessed without regard to the deferral permitted by this article. Any such lien shall, to the extent that it exceeds in the aggregate ten 10 percent of the price for which such real estate may be sold, be inferior to all other liens of record.*