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HOUSE BILL NO. 768

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact § 58.1-3221.3 of the Code of Virginia, relating to additional real property tax on commercial and industrial property in certain localities.

Patron—LaRock

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-3221.3 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-3221.3. Classification of certain commercial and industrial real property and taxation of such property by certain localities.**

A. Beginning January 1, 2008, and solely for the purposes of imposing the tax authorized pursuant to this section, in the counties and cities that are wholly embraced by the Northern Virginia Transportation Authority and the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to 23 U.S.C. § 134 of Title 23 of the United States Code, all real property used for or zoned to permit commercial or industrial uses is hereby declared to be a separate class of real property for local taxation. Beginning January 1, 2020, and solely for the purposes of imposing the tax authorized pursuant to this section, in the counties and cities that are wholly embraced by Planning District 3, 4, 5, 6, or 7, or any combination of such planning districts, all real property used for or zoned to permit commercial or industrial use is hereby declared to be a separate class of real property for local taxation. Such classification of real property shall exclude all residential uses and all multifamily residential uses, including but not limited to single family residential units, cooperatives, condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit by unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

B. In addition to all other taxes and fees permitted by law, (i) the governing body of any locality embraced by the Northern Virginia Transportation Authority may, by ordinance, annually impose on all real property in the locality specially classified in subsection A: an amount of real property tax, in addition to such amount otherwise authorized by law, at a rate not to exceed \$0.125 per \$100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses; and (ii) the governing body of any locality wholly embraced by the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code may, by ordinance, annually impose on all real property in the locality specially classified in subsection A: an amount of real property tax, in addition to such amount otherwise authorized by law, at a rate not to exceed \$0.10 per \$100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses; and (iii) the governing body of any locality wholly embraced by Planning District 3, 4, 5, 6, or 7, or any combination of such planning districts, may, by ordinance, annually impose on all real property in the locality specially classified in subsection A an amount of real property tax, in addition to such amount otherwise authorized by law, at a rate not to exceed \$0.10 per \$100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses. The authority granted in this subsection shall be subject to the following conditions:

(1) 1. Upon appropriation, all revenues generated from the additional real property tax imposed shall be used to benefit the locality imposing the tax solely for (i) new road construction and associated planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of existing roads that add new capacity, service, or access, (ii) new public transit construction and associated planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of existing public transit projects that add new capacity, service, or access, (iii) other capital costs related to new transportation projects that add new capacity, service, or access and the operating costs directly related to the foregoing, (iv) the issuance costs and debt service on bonds that may be issued to support the capital costs permitted in subdivisions (i), (ii), or (iii), or (v) for a locality subject to § 33.2-3404, any other transportation purposes, provided that the amount used does not exceed the amount such locality is required to transfer pursuant to § 33.2-3404; and

(2) 2. The additional real property tax imposed shall be levied, administered, enforced, and collected in the same manner as set forth in Subtitle III of Title 58.1 for the levy, administration, enforcement, and collection of local taxes. In addition, the local assessor shall separately assess and set forth upon the

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HB768

59 locality's land book the fair market value of that portion of property that is defined as a separate class of
60 real property for local taxation in accordance with the provisions of this section.

61 C. Beginning January 1, 2008, in lieu of the authority set forth in subsections A and B above and
62 solely for the purposes of imposing the tax authorized pursuant to this section, in the counties and cities
63 wholly embraced by the Northern Virginia Transportation Authority and the Hampton Roads
64 metropolitan planning area as of January 1, 2008, pursuant to 23 U.S.C. § 134 of Title 23 of the United
65 States Code, all real property used for or zoned to permit commercial or industrial uses is hereby
66 declared to be a separate class of real property for local taxation. *Beginning January 1, 2020, and solely*
67 *for the purposes of imposing the tax authorized pursuant to this section, in the counties and cities that*
68 *are wholly embraced by Planning District 3, 4, 5, 6, or 7, or any combination of such planning*
69 *districts, all real property used or zoned to permit commercial or industrial use is hereby declared to be*
70 *a separate class of real property for local taxation.* Such classification of real property shall exclude all
71 residential uses and all multifamily residential uses, including but not limited to single family residential
72 units, cooperatives, condominiums, townhouses, apartments, or homes in a subdivision when leased on a
73 unit by unit basis even though these units may be part of a larger building or parcel of real estate
74 containing more than four residential units.

75 D. In addition to all other taxes and fees permitted by law, (i) the governing body of any locality
76 embraced by the Northern Virginia Transportation Authority may, by ordinance, create within its
77 boundaries, one or more special regional transportation tax districts and, thereafter, may, by ordinance,
78 impose upon the real property located in special regional transportation tax districts specially classified
79 in subsection C within such special regional transportation tax districts: an amount of real property tax,
80 in addition to such amounts otherwise authorized by law, at a rate not to exceed \$0.125 per \$100 of
81 assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all
82 real property used for or zoned to permit commercial or industrial uses; ~~and~~, (ii) the governing body of
83 any locality wholly embraced by the Hampton Roads metropolitan planning area as of January 1, 2008,
84 pursuant to § 134 of Title 23 of the United States Code may, by ordinance, create within its boundaries,
85 one or more special regional transportation tax districts and, thereafter, may, by ordinance, impose upon
86 the real property specially classified in subsection C within such special regional transportation tax
87 districts: an amount of real property tax, in addition to such amounts otherwise authorized by law, at a
88 rate not to exceed \$0.10 per \$100 of assessed value as the governing body may, by ordinance, impose
89 upon the annual assessed value of all real property used for or zoned to permit commercial or industrial
90 uses; *and (iii) the governing body of any locality wholly embraced by Planning District 3, 4, 5, 6, or 7,*
91 *or any combination of such planning districts, may, by ordinance, annually impose on all real property*
92 *in the locality specially classified in subsection A an amount of real property tax, in addition to such*
93 *amount otherwise authorized by law, at a rate not to exceed \$0.10 per \$100 of assessed value as the*
94 *governing body may, by ordinance, impose upon the annual assessed value of all real property used for*
95 *or zoned to permit commercial or industrial uses.* The authority granted in this subsection shall be
96 subject to the following conditions:

97 (1) 1. Notwithstanding any other provisions of law to the contrary, upon appropriation, all revenues
98 generated from the additional real property taxes imposed in accordance with subsection C and this
99 subsection shall be used for transportation purposes that benefit the special regional transportation tax
100 district to which such revenue is attributable and solely for (i) new road construction and associated
101 planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of
102 existing roads that add new capacity, service, or access, (ii) new public transit construction and
103 associated planning, design, and right-of-way acquisition, including new additions to, expansions, or
104 extensions of existing public transit projects that add new capacity, service, or access, (iii) other capital
105 costs related to new transportation projects that add new capacity, service, or access and the operating
106 costs directly related to the foregoing, (iv) the issuance costs and debt service on bonds that may be
107 issued to support the capital costs permitted in subdivisions (i), (ii), or (iii), or (v) for a locality subject
108 to § 33.2-3404, any other transportation purposes, provided that the amount used does not exceed the
109 amount such locality is required to transfer pursuant to § 33.2-3404;

110 (2) 2. Any local ordinance adopted in accordance with the provisions of subsection C and this
111 subsection shall include the requirement that the additional real property taxes so authorized are to be
112 imposed annually in accordance with applicable law;

113 (3) 3. Any locality that imposes the additional real property taxes set forth in subsections A and B
114 shall not be permitted to also impose the additional real property taxes set forth in subsection C and this
115 subsection. In addition, any locality electing to impose the additional real property taxes on all real
116 property located in such locality that is specially classified in subsections A and B must do so in the
117 manner prescribed in subsections A and B and not by creation of a special transportation tax district as
118 set forth in subsection C and this subsection. The creation of such special regional transportation tax
119 districts shall not, however, affect the authority of a locality to establish tax districts pursuant to other
120 provisions of law;

121 (4) 4. The total revenues generated from the additional real property taxes imposed in accordance
122 with subsection C and this subsection shall not be less than 85% of the revenues estimated to be
123 generated when imposing the additional real property taxes in accordance with subsections A and B at
124 the rate of \$0.125 per \$100 of assessed value in any locality embraced by the Northern Virginia
125 Transportation Authority and at the rate of; \$0.10 per \$100 of assessed value in any locality wholly
126 embraced by the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to 23
127 U.S.C. § 134 of Title 23 of the United States Code; and \$0.10 per \$100 of assessed value in any
128 locality wholly embraced by Planning District 3, 4, 5, 6, or 7, or any combination of such planning
129 districts; and

130 (5) 5. The additional real property taxes imposed pursuant to subsection C and this subsection shall
131 be levied, administered, enforced, and collected, in the same manner as set forth in Subtitle III of Title
132 58.1 for the levy, administration, enforcement, and collection of all local taxes. In addition, the local
133 assessor shall separately assess and set forth upon the locality's land book the fair market value of that
134 portion of property that is defined as separate class of real property for local taxation in accordance with
135 the provisions of this section.