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HOUSE BILL NO. 996

Offered January 12, 2022

Prefiled January 12, 2022

A BILL to amend and reenact §§ 58.1-3234 and 58.1-3237 of the Code of Virginia, relating to land use assessment; parcels with multiple owners.

Patron—Webert

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

**1. That §§ 58.1-3234 and 58.1-3237 of the Code of Virginia are amended and reenacted as follows:
§ 58.1-3234. Application by property owners for assessment, etc., under ordinance; continuation of assessment, etc.**

Property owners shall submit an application for taxation on the basis of a use assessment to the local assessing officer as follows:

1. The property owner shall submit an initial application, unless it is a revalidation form, at least 60 days preceding the tax year for which such taxation is sought;

2. In any year in which a general reassessment is being made, the property owner may submit such application until 30 days have elapsed after his notice of increase in assessment is mailed in accordance with § 58.1-3330, or 60 days preceding the tax year, whichever is later; or

3. In any locality which has adopted a fiscal tax year under Chapter 30 (§ 58.1-3000 et seq.), but continues to assess as of January 1, such application shall be submitted for any year at least 60 days preceding the effective date of the assessment for such year.

The governing body, by ordinance, may permit applications to be filed within no more than 60 days after the filing deadline specified herein, upon the payment of a late filing fee to be established by the governing body. In addition, a locality may, by ordinance, permit a further extension of the filing deadline specified herein, upon payment of an extension fee to be established by the governing body in an amount not to exceed the late filing fee, to a date not later than 30 days after notices of assessments are mailed. An individual who is owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located, or represent a minority interest in such parcel. An application shall be submitted whenever the use or acreage of such land previously approved changes; however, no application fee may be required when a change in acreage occurs solely as a result of a conveyance necessitated by governmental action or condemnation of a portion of any land previously approved for taxation on the basis of use assessment. The governing body of any locality may, however, require any such property owner to revalidate at least every six years with such locality, on or before the date on which the last installment of property tax prior to the effective date of the assessment is due, on forms prepared by the locality, any applications previously approved. Each locality which has adopted an ordinance hereunder may provide for the imposition of a revalidation fee every sixth year. Such revalidation fee shall not, however, exceed the application fee currently charged by the locality. The governing body may also provide for late filing of revalidation forms on or before the effective date of the assessment, on payment of a late filing fee. Forms shall be prepared by the State Tax Commissioner and supplied to the locality for use of the applicants and applications shall be submitted on such forms. An application fee may be required to accompany all such applications.

In the event of a material misstatement of facts in the application or a material change in such facts prior to the date of assessment, such application for taxation based on use assessment granted thereunder shall be void and the tax for such year extended on the basis of value determined under § 58.1-3236 D. Except as provided by local ordinance, no application for assessment based on use shall be accepted or approved if, at the time the application is filed, the tax on the land affected is delinquent. Upon the payment of all delinquent taxes, including penalties and interest, the application shall be treated in accordance with the provisions of this section.

Continuation of valuation, assessment and taxation under an ordinance adopted pursuant to this article shall depend on continuance of the real estate in a qualifying use, continued payment of taxes as referred to in § 58.1-3235, and compliance with the other requirements of this article and the ordinance and not upon continuance in the same owner of title to the land.

In the event that the locality provides for a sliding scale under an ordinance, the property owner and the locality shall execute a written agreement which sets forth the period of time that the property shall remain within the classes of real estate set forth in § 58.1-3230. The term of the written agreement shall

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59 be for a period not exceeding 20 years, and the instrument shall be recorded in the office of the clerk of
60 the circuit court for the locality in which the subject property is located.

61 No locality shall require any applicant who is a lessor of the property or a portion of the property
62 that is the subject of an application submitted pursuant to this section to provide the lease agreement
63 governing the property for the purpose of determining whether the property is eligible for special
64 assessment and taxation pursuant to this article.

65 **§ 58.1-3237. Change in use or zoning of real estate assessed under ordinance; roll-back taxes.**

66 A. When real estate qualifies for assessment and taxation on the basis of use under an ordinance
67 adopted pursuant to this article, and the use by which it qualified changes to a nonqualifying use, or,
68 except as provided by ordinance enacted pursuant to subsection G, the zoning of the real estate is
69 changed to a more intensive use at the request of the owner or his agent, it shall be subject to additional
70 taxes, hereinafter referred to as roll-back taxes. Such additional taxes shall only be assessed against that
71 portion of such real estate which no longer qualifies for assessment and taxation on the basis of use or
72 zoning. Liability for roll-back taxes shall attach and be paid to the treasurer only if the amount of tax
73 due exceeds ~~ten dollars~~ \$10. *For any parcel for which the majority owner of an undivided interest*
74 *submits the application on behalf of other owners, as provided in § 58.1-3234, such majority interest*
75 *shall be responsible for paying any roll-back taxes imposed pursuant to this section.*

76 B. In localities which have not adopted a sliding scale ordinance, the roll-back tax shall be equal to
77 the sum of the deferred tax for each of the five most recent complete tax years including simple interest
78 on such roll-back taxes at a rate set by the governing body, no greater than the rate applicable to
79 delinquent taxes in such locality pursuant to § 58.1-3916 for each of the tax years. The deferred tax for
80 each year shall be equal to the difference between the tax levied and the tax that would have been
81 levied based on the fair market value assessment of the real estate for that year. In addition the taxes for
82 the current year shall be extended on the basis of fair market value which may be accomplished by
83 means of a supplemental assessment based upon the difference between the use value and the fair
84 market value.

85 C. In localities which have adopted a sliding scale ordinance, the roll-back tax shall be equal to the
86 sum of the deferred tax from the effective date of the written agreement including simple interest on
87 such roll-back taxes at a rate set by the governing body, which shall not be greater than the rate
88 applicable to delinquent taxes in such locality pursuant to § 58.1-3916, for each of the tax years. The
89 deferred tax for each year shall be equal to the difference between the tax levied and the tax that would
90 have been levied based on the fair market value assessment of the real estate for that year and based on
91 the highest tax rate applicable to the real estate for that year, had it not been subject to special
92 assessment. In addition the taxes for the current year shall be extended on the basis of fair market value
93 which may be accomplished by means of a supplemental assessment based upon the difference between
94 the use value and the fair market value and based on the highest tax rate applicable to the real estate for
95 that year.

96 D. Liability to the roll-back taxes shall attach when a change in use occurs, or, except as provided
97 by ordinance enacted pursuant to subsection G, a change in zoning of the real estate to a more intensive
98 use at the request of the owner or his agent occurs. Liability to the roll-back taxes shall not attach when
99 a change in ownership of the title takes place if the new owner does not rezone the real estate to a more
100 intensive use, unless otherwise provided by ordinance enacted pursuant to subsection G, and continues
101 the real estate in the use for which it is classified under the conditions prescribed in this article and in
102 the ordinance. The owner of any real estate which has been zoned to more intensive use at the request
103 of the owner or his agent as provided in subsection E, or otherwise subject to or liable for roll-back
104 taxes, shall, within sixty days following such change in use or zoning, report such change to the
105 commissioner of the revenue or other assessing officer on such forms as may be prescribed. The
106 commissioner shall forthwith determine and assess the roll-back tax, which shall be assessed against and
107 paid by the owner of the property at the time the change in use which no longer qualifies occurs, or at
108 the time of the zoning of the real estate to a more intensive use at the request of the owner or his agent
109 occurs, and shall be paid to the treasurer within thirty days of the assessment. If the amount due is not
110 paid by the due date, the treasurer shall impose a penalty and interest on the amount of the roll-back
111 tax, including interest for prior years. Such penalty and interest shall be imposed in accordance with
112 §§ 58.1-3915 and 58.1-3916.

113 E. Real property zoned to a more intensive use, at the request of the owner or his agent, shall be
114 subject to and liable for the roll-back tax at the time such zoning is changed. The roll-back tax shall be
115 levied and collected from the owner of the real estate in accordance with subsection D. Real property
116 zoned to a more intensive use before July 1, 1988, at the request of the owner or his agent, shall be
117 subject to and liable for the roll-back tax at the time the qualifying use is changed to a nonqualifying
118 use. Real property zoned to a more intensive use at the request of the owner or his agent after July 1,
119 1988, shall be subject to and liable for the roll-back tax at the time of such zoning. Said roll-back tax,
120 plus interest calculated in accordance with subsection B, shall be levied and collected at the time such

property was rezoned. For property rezoned after July 1, 1988, but before July 1, 1992, no penalties or interest, except as provided in subsection B, shall be assessed, provided the said roll-back tax is paid on or before October 1, 1992. No real property rezoned to a more intensive use at the request of the owner or his agent shall be eligible for taxation and assessment under this article, provided that these provisions shall not be applicable to any rezoning which is required for the establishment, continuation, or expansion of a qualifying use. If the property is subsequently rezoned to agricultural, horticultural, or open space, it shall be eligible for consideration for assessment and taxation under this article only after three years have passed since the rezoning was effective.

However, the owner of any real property that qualified for assessment and taxation on the basis of use, and whose real property was rezoned to a more intensive use at the owner's request prior to 1980, may be eligible for taxation and assessment under this article provided the owner applies for rezoning to agricultural, horticultural, open-space or forest use. The real property shall be eligible for assessment and taxation on the basis of the qualifying use for the tax year following the effective date of the rezoning. If any such real property is subsequently rezoned to a more intensive use at the owner's request, within five years from the date the property was initially rezoned to a qualifying use under this section, the owner shall be liable for roll-back taxes when the property is rezoned to a more intensive use. Additionally, the owner shall be subject to a penalty equal to fifty percent of the roll-back taxes due as determined under subsection B of this section.

The roll-back taxes and penalty that otherwise would be imposed under this subsection shall not become due at the time the zoning is changed if the locality has enacted an ordinance pursuant to subsection G.

F. If real estate annexed by a city and granted use value assessment and taxation becomes subject to roll-back taxes, and such real estate likewise has been granted use value assessment and taxation by the county prior to annexation, the city shall collect roll-back taxes and interest for the maximum period allowed under this section and shall return to the county a share of such taxes and interest proportionate to the amount of such period, if any, for which the real estate was situated in the county.

G. A locality may enact an ordinance providing that (i) when a change in zoning of real estate to a more intensive use at the request of the owner or his agent occurs, roll-back taxes shall not become due solely because the change in zoning is for specific more intensive uses set forth in the ordinance, (ii) such real estate may remain eligible for use value assessment and taxation, in accordance with the provisions of this article, as long as the use by which it qualified does not change to a nonqualifying use, and (iii) no roll-back tax shall become due with respect to the real estate until such time as the use by which it qualified changes to a nonqualifying use.