

ORDINANCE TO AMEND THE CODE OF THE COUNTY OF PRINCE GEORGE, VIRGINIA, 2005, AS AMENDED, BY AMENDING CHAPTER 74 - TAXATION, DIVISION 2 - EXEMPTIONS FOR ELDERLY AND DISABLED TO EXEMPT FROM REAL PROPERTY TAXATION THE PRINCIPAL DWELLING OF THE SURVIVING SPOUSES OF CERTAIN PERSONS KILLED IN THE LINE OF DUTY.

BE IT ORDAINED by the Board of Supervisors of Prince George County:

- (1) That The Code of The County of Prince George, Virginia, 2005, as amended, is amended and re-codified by amending Division 2 – Exemptions for Elderly and Disabled, as follows:

DIVISION 2. - EXEMPTIONS FOR ELDERLY, ~~AND~~ DISABLED, ~~AND~~ SURVIVING SPOUSES OF CERTAIN PERSONS KILLED IN THE LINE OF DUTY

Sec. 74-221. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Average assessed value shall be such average for all dwellings located within the county that are situated on property zoned as single-family residential.

Beneficiary means the spouse of a deceased person and such persons as are entitled to take under the will of a deceased person if testate, or as his heirs at law if intestate.

Covered person means any deceased person, as defined by Virginia Code § 9.1-400, and as set forth in this section, whose beneficiary, as defined by Virginia Code § 9.1-400, and as set forth in this section, is entitled to receive benefits under Virginia Code § 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.

Deceased person means any individual whose death occurs on or after April 8, 1972, in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under Virginia Code §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, as a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in Virginia Code § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town; a member of any fire company providing fire protection services for facilities of the Virginia National Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Board; any regular or special

conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to the provisions of Virginia Code § 29.1-200; any commissioned forest warden appointed under the provisions of Virginia Code § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to Virginia Code § 28.2-900; any Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in Virginia Code § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with Virginia Code § 44-146.28; any employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in Virginia Code § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with Virginia Code § 44-146.28 or a local emergency, as defined Virginia Code in § 44-146.16, declared by a local governing body; any nonfirefighter regional hazardous materials emergency response team member; any conservation officer of the Department of Conservation and Recreation commissioned pursuant to Virginia Code § 10.1-115; or any full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to Virginia Code § 46.2-217.

Eligible person means a person who is at least age 65 or permanently and totally disabled. The term does not include any interest held under a leasehold or term of years.

Net combined financial worth means all assets of the owners of the dwelling who reside therein and of any relative of the owner who resides in the dwelling, including equitable interests, excluding the value of the dwelling and the land, in an amount not to exceed five acres upon which it is situated.

Permanently and totally disabled means unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person's life.

Total combined income means gross income from all sources of the owners of the dwelling residing therein and of any relatives of the owner who reside in the dwelling.

Sec. 74-221.1. - Exemption for disabled veterans.

The real property, including the joint real property of husband and wife, of any veteran who has been rated by the U. S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent, and total disability, and who occupies the real estate as his principal place of residence shall be exempt from taxation without regard to total combined income or net worth for such principal residence and the land in an amount not to exceed five acres on which it is situated. The surviving spouse of a veteran eligible for the exemption set forth in this article shall also qualify for this exemption so long as the death of the veteran occurs on or after January 1, 2011, the surviving spouse does not remarry, and the surviving spouse continues to occupy the real property as his principal place of residence.

Sec. 74-222. - Eligibility for exemption for eligible person.

- (a) Any eligible person not less than 65 years of age as of the last day of the immediately preceding taxable year or any person under 65 years of age who has been determined to be permanently and totally disabled on the last day of the immediately preceding taxable year, who owns or partially owns a dwelling or mobile home as the sole dwelling of that person, shall be eligible

for, and may apply for, an exemption of real estate taxes on such dwelling or mobile home and the land, in an amount not to exceed five contiguous acres on which it is situated, provided that:

- (1) The total combined income during the immediately preceding year shall not exceed \$45,000.00. The following scale shall apply: on such combined income amounts of from \$0.00 to \$28,000.00, the exemption shall be 100 percent; and on such combined income amounts of \$28,001.00 to \$45,000.00, the exemption shall be 50 percent.
 - (2) The net combined financial worth, as of December 31 of the immediately preceding year, cannot exceed \$120,000.00.
- (b) The total combined income applicable in this section includes the income of:
- (1) The owners of the dwelling who use it as their principal residence;
 - (2) The owners' relatives who live in the dwelling, except for those relatives living in the dwelling and providing bona fide caregiving services to the owner, whether such relatives are compensated or not; and
 - (3) Non-relatives of the owner who live in the dwelling except for bona fide tenants or bona fide caregivers of the owner, whether compensated or not.
- (c) Real property owned and occupied as the sole dwelling of an eligible person or two or more individuals includes real property:
- (1) Held by the eligible person alone, in conjunction with his spouse, or in conjunction with one or more other people as tenant or tenants for life or joint lives;
 - (2) Held in a revocable inter vivos trust over which an eligible person alone, with his spouse, or with one or more other people hold the power to revocation; or
 - (3) Held in an irrevocable trust under which an eligible person alone, in conjunction with his spouse, or in conjunction with one or more other person possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support.

Sec. 74-223. - Violations.

Any person falsely claiming an exemption pursuant to this division shall be guilty of a misdemeanor.

Sec. 74-224. - Application for exemption for eligible person; affidavit.

- (a) Application for exemption provided for in this division shall be made from January 1 through February 15 of each year for which exemption is sought to the commissioner of the revenue on forms to be provided by the commissioner. The application shall be accompanied by an affidavit, setting forth the names of all persons occupying such dwelling and stating that the total combined income and the net combined financial worth do not exceed the limitations set forth in subsections 74-222(1) and (2). The commissioner may require an applicant to answer questions under oath, as to the commissioner's requirements under this division, and to produce for inspection certified federal income tax returns for the preceding three years to establish the total combined income or net combined financial worth.
- (b) Any person permanently and totally disabled shall attach to his application a certification by the Social Security Administration, the department of veterans affairs or the railroad retirement

board or, if such person is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors who are either licensed to practice medicine in the commonwealth or are military officers on active duty who practice medicine with the United States armed forces, to the effect that the person is permanently and totally disabled, as defined in Code of Virginia, § 58.1-3217; however, a certification pursuant to 42 USC 423(d) by the Social Security Administration so long as the person remains eligible for such social security benefits shall be deemed to satisfy such definition in Code of Virginia, § 58.1-3217. The affidavit of at least one of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the civil service commission which is relevant to the standards for determining permanent and total disability as defined in Code of Virginia, § 58.1-3217.

- (c) Any disabled veteran or surviving spouse claiming the service-connected exemption shall file with the commissioner of the revenue an affidavit or written statement (i) setting forth the name of the disabled veteran and the name of the spouse; if any, also occupying the real property, (ii) indicating whether the real property is jointly owned by a husband and wife, and (iii) certifying that the real property is occupied as the veteran's principal place of residence. The veteran shall also provide documentation from the U. S. Department of Veterans Affairs or its successor agency indicating that the veteran has a 100 percent service-connected, permanent, and total disability. The veteran or spouse shall refile the information required only if the veteran or spouse's principal place of residence changes. In the event of a surviving spouse of a veteran claiming the exemption, the surviving spouse shall also provide documentation that the veteran's death occurred on or after January 1, 2011.
- (d) The commissioner of the revenue shall have authority to accept late applications from individuals who have filed in the previous year and who have failed to apply by the February 15 deadline of the current year, for good cause shown.

Sec. 74-225. - Changes in ownership, income or financial worth for eligible person.

Any change in respect to total combined income, net combined financial worth, ownership of the dwelling exempted or other factors which occur during the taxable year for which the affidavit is filed, and which has the effect of exceeding or violating the limitations and conditions of this division, shall nullify any exemption for the remainder of the current taxable year and the taxable year immediately following.

Sec. 74-226. - Amount of exemption for eligible person.

Real estate described in section 74-222 shall be exempt from 100 percent of real estate taxes under the provision of this division for any year in which proper application is made, provided that if the ownership of the property for which application for exemption is made is not held solely by the applicant or jointly with the applicant's spouse, the amount of the tax exemption under this division shall be in proportion to the applicant's ownership interest in the subject real property, as that ownership interest may appear.

Sec. 74-227. - Certification to treasurer by eligible person.

The commissioner of the revenue shall certify to the treasurer annually those persons who qualify under this division for an exemption and the amount thereof. The treasurer shall deduct the amount of the exemption from the applicant's real estate tax bill for that year.

Sec. 74-228. – Exemption from taxes on property of surviving spouses of certain persons killed in the line of duty.

A. Any covered person who occupies real property as his or her principal place of residence shall qualify for a real estate tax exemption, provided that the requirements of Virginia Code §§ 58.1-3219.14-58.1-3219.16 are met, as well as the following conditions:

1. The surviving spouse claiming the exemption shall file with the Prince George Commissioner of the Revenue:
 - a. The form supplied by Prince George County with an affidavit or written statement:
 - i. Setting forth the surviving spouse's name,
 - ii. Indicating any other joint owners of the real property,
 - iii. Certifying that the real property is occupied as the surviving spouse's principal place of residence, and
 - iv. Including evidence of the determination of the Comptroller or the Virginia Retirement System pursuant to Virginia Code § 58.1-3219.14(A);
 - b. Documentation that he or she is the surviving spouse of a covered person; and
 - c. The date that the covered person died.
2. The surviving spouse does not remarry; and
3. The residence has an assessed value in the most recently ended tax year that is not in excess of the average assessed value for such year of a dwelling situated on property that is zoned as single-family residential.

Prince George County 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 as required by paragraph A.

The surviving spouse shall only be required to file the information required by paragraph A of this section once. However, the surviving spouse shall be required to refile the information required by paragraph A only if the surviving spouse's principal place of residence changes.

B. The surviving spouse shall promptly notify the Commissioner of Revenue of any remarriage.

C. 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 Virginia Code § 58.1-3360.

D. If the value of a dwelling is in excess of the average assessed value, 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 Virginia Code § 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:

1. meet this requirement, and

2. 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.

E. The exemption from real property taxes provided by this section shall apply to:

1. the qualifying dwelling, or that portion of the value of such dwelling and land that qualifies for the exemption pursuant to Virginia Code § 58.1-3219.14(B), and

2. with the exception of land not owned by the surviving spouse, the land, not exceeding one acre, upon which it is situated.

F. The exemption permitted by this section shall apply to the same number of acres as Prince George County offers for elderly and disabled persons.

G. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this section shall also be exempt from taxation so long as the principal use of the improvement is:

1. to house or cover motor vehicles or household goods and personal effects as classified in Virginia Code § 58.1-3503(A)(14) and as listed in Virginia Code § 58.1-3504, and

2. for other than a business purpose.

H. For purposes of the exemption provided by this section, real property of any surviving spouse of a covered person includes real property:

1. held by a surviving spouse as a tenant for life,

2. held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or

3. held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support.

Such real property does not include any interest held under a leasehold or term of years.

I. In the event that:

1. 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 paragraph H and

2. 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 the numerator

of which is 1 and the denominator of which equals the total number of people having an ownership interest that permits them to occupy the property.

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

Secs. 74-2298—74-260. - Reserved.

(2) *That this Ordinance shall be effective for tax years beginning on or after July 1, 2017.*

DRAFT

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

CHAPTER 248

An Act 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.

[H 1884]

Approved February 24, 2017

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.

D. A county, city, or town shall provide for the exemption from real property taxes of (i) the qualifying dwelling, or that portion of the value of such dwelling and land that qualifies for the exemption pursuant to subsection B, and (ii) with the exception of land not owned by the surviving spouse, 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. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as the principal use of the improvement is (a) to house or cover motor vehicles or household goods and personal effects as classified in subdivision A 14 of § 58.1-3503 and as listed in § 58.1-3504 and (b) for other than a business purpose.

E. For purposes of this exemption, real property of any surviving spouse of a covered person 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. Such real property 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 the numerator of which is 1 and the denominator of which equals the total number of people having an ownership interest that permits them to occupy the property.

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

§ 58.1-3219.15. Application for exemption.

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

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

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

§ 58.1-3219.16. Absence from residence.

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