

ARTICLE IV. REAL ESTATE AND PERSONAL PROPERTY TAX RELIEF FOR ELDERLY AND DISABLED PERSONS¹

Sec. 15-66. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Net combined financial worth. All assets of the owners of the dwelling and the spouse of any owner who resides therein, including equitable interests but excluding the value of the dwelling and the land in an amount not to exceed one (1) acre upon which it is situated.

Permanently and totally disabled. Any person 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. 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.

(Code 1981, § 16-13)

State law reference(s)—"Permanently and totally disabled" defined, Code of Virginia, § 58.1-3217.

Sec. 15-67. Eligibility for exemption.

Any person sixty-five (65) years of age or older on December 31 of the year immediately preceding the taxable year who owns or partially owns a dwelling as the sole dwelling of that person, or who is sixty-five (65) years of age and resides in a hospital, nursing home, convalescent home or other facility for physical or mental care for extended periods of time, provided such residence is not used or leased to others for consideration or who is determined to be permanently and totally disabled as defined herein, shall be eligible for and may apply for an exemption of real estate taxes on such dwelling and land, in an amount not to exceed five (5) acres on which it is situated; provided that:

- (1) The total combined income during the immediately preceding calendar year from all sources of the owners of the dwelling living therein and of the owners' relatives living in the dwelling does not exceed seventy-two thousand dollars (\$72,000.00), the first ten thousand dollars (\$10,000.00) of the income of each relative, other than spouse, of the owner or owners, who is living in the dwelling shall not be included in such total.
- (2) Notwithstanding subsection (1) of this section, if a person has already qualified for an exemption or deferral under this article, and if the person can prove by clear and convincing evidence that after so qualifying the person's physical or mental health has been deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for the person, and if relative

¹State law reference(s)—Real estate tax exemptions for elderly and handicapped, Code of Virginia, § 58.1-3210 et seq.

does move in for that purpose, then none of the relative's income shall be counted towards the income limit.

- (3) The net combined financial worth, as hereinabove defined, as of December 31 of the immediately preceding year, cannot exceed four hundred forty thousand dollars (\$440,000.00).

(Code 1981, § 16-14; Ord. No. 1989-2, 5-2-89; Ord. No. 1992-17, 8-11-92; Ord. No. 1997-07, 6-10-97; Ord. No. 2017-01, 2-14-17)

State law reference(s)—Restrictions and exemptions, Code of Virginia, §§ 58.1-3211, 58.1-3213; absence from residence, Code of Virginia, § 58.1-3214.

Sec. 15-68. Application for real estate exemption.

- (a) The person claiming an exemption provided for herein, shall file in writing an application with the commissioner of the revenue annually, on a form prescribed by the commissioner. The application shall be accompanied by an affidavit, setting forth the names of all persons occupying such dwellings and stating that the total combined income, and the net combined financial worth, do not exceed the limitations set forth in section 8-3. Such application shall be accepted on a rolling basis throughout the year.
- (b) In lieu of the filing of an annual application once a taxpayer is determined to be eligible, an application may be filed on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding application filed has changed to violate the limitations and conditions provided in section 8-3. Such annual certification, on a form prescribed by the commissioner, shall be accepted on a rolling basis throughout the year.
- (c) The commissioner of the revenue may require an applicant to answer questions under oath, as to his requirements under this article or to produce for inspection certified federal income tax returns for the preceding three (3) years to establish the total combined income or net combined financial worth as hereinbefore defined. If such person is under sixty-five (65) years of age, such form shall have attached thereto a certification by the Social Security Administration, the veteran's administration, or the railroad retirement board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two (2) medical doctors licensed to practice medicine in the commonwealth, or who 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 section 8-2. The affidavit of at least one (1) of the doctors shall be based on a physical examination of the person by such doctor. The commissioner of the revenue shall further determine that a permanently disabled person meets the test prescribed in Code of Virginia, 1950, §§ 58.1-3217 and 58.1-3213(c), as amended.

(Code 1981, § 16-15; Ord. No. 1992-18, 8-11-92; Ord. No. 1998-11, 8-11-98)

State law reference(s)—Application for exemption, Code of Virginia, § 58.1-3213.

Sec. 15-69. Application for personal property exemption.

- (a) The person applying under this article shall file annually with the commissioner of the revenue of the county, city or town assessing officer, or such other officer as may be designated by the governing body, on forms to be supplied by the county, city or town concerned, an affidavit setting forth that the total combined net worth, including equitable interests and the combined income from all sources, of the persons specified in Code of Virginia, § 58.1-3506.2 does not exceed the limits prescribed in such ordinance.

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- (b) In lieu of the annual affidavit filing requirement, a county, city or town may prescribe by ordinance for the filing of the affidavit on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding affidavit filed has changed to violate the limitations and conditions provided herein.
 - (c) Notwithstanding the provisions of subsections (a), (b), and (e) of this section, any county, city or town may, by local ordinance, prescribe: (i) the content of the affidavit described in subsection (a), subject to the requirements established in Code of Virginia, § 58.1-3506.2; and (ii) the frequency with which an affidavit, or certification as described in subsection (b) of this section must be filed, and may include a procedure for late filing of affidavits.
 - (d) If such person is under sixty-five (65) years of age, the form shall have attached thereto 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, § 58.1-3506.3. The affidavit of at least one (1) of the doctors shall be based upon a physical examination of the person by the doctor. The affidavit of one (1) 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, § 8.1-3506.3.
 - (e) Such affidavit or certification shall be filed after January 1 of each year, but before April 1, or such later date as may be fixed by ordinance. Such ordinance may include a procedure for late filing by first-time applicants or for hardship cases.
 - (f) The commissioner of the revenue or town assessing officer, or another officer designated by the governing body of the county, city or town, shall also make any other reasonably necessary inquiry of persons applying under this article, requiring answers under oath, to determine qualifications as specified herein, including qualification as permanently and totally disabled as defined in Code of Virginia, § 58.1-3506.3, or as specified by county, city or town ordinance. The local governing body may, in addition, require the production of certified tax returns to establish the income or financial worth of any applicant for tax relief.

Sec. 15-70. Changes in ownership, income or financial worth.

- (a) 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 article, receive the exemption or deferral for the portion of the year during which he or she qualifies and lose the exemption or deferral only for the remainder of the year, and the taxable year immediately following. However, change in ownership to a spouse due to the death of the qualified individual will result in a prorated exemption for the then-eligible year. Such prorated portion shall be determined by multiplying the amount of the exemption or deferral by a fraction wherein the number of complete months of the year such property was properly eligible for such exemption or deferral is the numerator and the number of twelve (12) is the denominator.
- (b) An individual who does not qualify for the exemption under this article based upon the previous year's income limitations and financial worth limitations, may nonetheless qualify for the current year by filing an affidavit that clearly shows a substantial change of circumstances, that was not volitional on the part of the individual to become eligible for the exemption, and will result in income and financial worth levels that are within the limitations of the ordinance.
- (c) A death of a spouse, resulting in loss of income during the current tax may qualify the surviving spouse, provided that no other source of income with the exception of insurance proceeds is available to the surviving spouse. Upon filing an affidavit as prescribed by the commissioner of the revenue, that includes a

copy of the death certificate and a federal tax return from the immediately preceding calendar year, the current year tax shall be prorated from the date the substantial change in income occurred.

- (d) Any exemption under this section is conditioned upon the individual filing another affidavit in the year following the year in which the exemption was granted, showing that the actual income and financial net worth levels were within the limitations set by the ordinance. If the actual income and financial net worth levels exceeded the limitations, any exemption granted shall be nullified for that taxable year and the taxable year immediately following.

(Code 1981, § 16-16; Ord. No. 1992-19, 8-11-92)

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3215.

Sec. 15-71. Amount of exemption; proration.

- (a) Real estate described in section 15-67 shall be exempt from real estate taxes under the provision of this article 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, then the amount of the tax exemption hereunder shall be in proportion to the applicant's ownership interest in the subject real property, as that ownership interest may appear.
- (b) A change in ownership to a spouse, when such change results solely from the death of the qualifying individual, or a sale of such property, shall result in a prorated exemption for the then current taxable year. The proceeds of the sale which would result in the prorated exemption or deferral shall not be included in the computation of net worth or income as provided in section 15-67. Such prorated portion shall be determined by multiplying the amount of the exemption or deferral by a fraction wherein the number of complete months of the year such property was properly eligible for such exemption or deferral is the numerator and the number of twelve (12) is the denominator.

(Code 1981, § 16-17; Ord. No. 1992-20, 8-11-92)

Sec. 15-72. Notification to finance director of eligible persons.

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

(Code 1981, § 16-18)

Secs. 15-73—15-85. Reserved.