

Chapter 20 - TAXATION

***Cross reference**— Dog license tax, § 5-49; vehicle licenses, § 22-216 et seq.

***State law reference**— Local taxes, Code of Virginia, § 58.1-3000 et seq.

ARTICLE I. - IN GENERAL

Sec. 20-1. - Applicability of state law.

The provisions of Code of Virginia, title 15.2 (Code of Virginia, § 15.2-100 et seq.), and Code of Virginia, title 58.1 (Code of Virginia, § 58.1-1 et seq.), applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation under this chapter mutatis mutandis, including, without limitation, provisions relating to tax liens, the board of real estate review and equalization and the correction of erroneous assessments.

(Code 1980, § 20-15; Code 1995, § 20-1; Ord. No. 990, § 1, 9-14-1999)

Sec. 20-2. - Filing of returns and payment of taxes by mail or on Saturday, Sunday or legal holiday.

When the filing of a tax return or the payment of a tax is required by law to be made to the director of finance on or before a given date to avoid penalty or interest, the receipt by the director of finance of the tax return or payment in a sealed envelope bearing a postmark on or before midnight of the day such return is required to be filed or such payment is required to be made without penalty or interest shall constitute filing or payment to the same extent that would have been accomplished had such filing or payment been delivered in person to the director of finance before the close of business of the last day on which such filing or payment otherwise could have been made without penalty or interest, even though such return or payment is not delivered to the director of finance until some time after the last day on which such return or payment otherwise could have been made without penalty or interest. When remittance of a tax payment is made by electronic funds transfer, receipt of funds available for withdrawal, in a bank account designated to receive such payments by the person to whom such payment is required to be made, on or before midnight of the day such payment is required to be made without penalty or interest, shall constitute payment as if such payment had been made before the close of business on the last day on which such tax may be paid without penalty or interest. When the last day on which a tax return may be filed or a tax may be paid without penalty or interest falls on a Saturday, Sunday, legal holiday or day on which the county offices are closed, then such return may be filed or such payment may be made without penalty or interest on the next succeeding business day.

(Code 1980, § 20-1; Code 1995, § 20-2)

State law reference— Similar provisions Code of Virginia, §§ 58.1-8, 58.1-9.

Sec. 20-3. - Crediting of payments to delinquent accounts.

The director of finance shall not be required to credit payments received for any local levies to the most delinquent local account of the taxpayer making such payment.

(Code 1980, § 20-1.1; Code 1995, § 20-3)

State law reference— Authority to so provide, Code of Virginia, § 58.1-3913.

Sec. 20-4. - Administrative fees for collecting delinquent taxes.

(a) If a person fails to timely pay taxes due the county, such person shall be subject to and liable for administrative costs of \$20.00 for taxes or other charges collected subsequent to 30 or more days after notice of delinquent taxes or charges pursuant to Code of Virginia, § 58.1-3919 but prior to the taking of any judgment with respect to such delinquent taxes or charges, and such person shall be subject to and liable for administrative costs of \$25.00 for taxes or other charges collected by the county subsequent to judgment. The administrative costs imposed by this section shall be in addition to all applicable penalties and interest. Such person shall also be liable for reasonable attorney's or collection agency's fees equal to 20 percent of the taxes or other charges so collected.

(b) If the collection activity is to collect on a nuisance abatement lien, the fee for administrative costs shall be \$150.00 or 25 percent of the costs, whichever is less; however, in no event shall the fee be less than \$25.00.

(c) No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under Code of Virginia, § 58.1-3980, so long as the appeal is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination of the appeal, provided that nothing in this subsection shall be construed to preclude the assessment or refund, following the final determination of such appeal, of such interest as otherwise may be provided by general law as to that portion of a tax bill which has remained unpaid or was overpaid during the pendency of such appeal and is determined in such appeal to be properly due and owing.

(Code 1980, § 2-17; Code 1995, § 20-4; Ord. No. 985, § 1, 7-13-1999)

State law reference — Administrative fee for collecting delinquent taxes and charges, Code of Virginia, § 58.1-3958.

Sec. 20-5. - Triennial application for exemption.

(a) Any entity which owns real or personal property exempt pursuant to Code of Virginia, title 58.1, ch. 36 (Code of Virginia, § 58.1-3601 et seq.) shall, after receiving 60 days' written notice, file triennially an application with the director of finance as a requirement for retention of the exempt status of the property. The application shall show the ownership and usage of the property and shall be filed within the next 60 days preceding the tax year for which retention is sought on a form furnished by the director of finance.

(b) This requirement shall not apply to the United States or to the state or any of its political subdivisions.

(Code 1995, § 20-5; Ord. No. 899, § 1, 6-28-1995)

State law reference — Authority to so provide, Code of Virginia, § 58.1-3605.

Sec. 20-6. - Correction of erroneous assessments.

(a) Any person assessed by the director of finance with any local levies, penalty or interest on tangible personal property, machinery and tools, local license, consumer utilities, transient occupancy or short-term rental property aggrieved by any such assessment, may, within three years from the last day of the tax year for which such assessment is made, or within one year from the date of the assessment, whichever is later, apply to the director of finance for a correction thereof.

(b) The director of finance, after diligent investigation and upon being satisfied that he has erroneously assessed a taxpayer with any local levies, penalty or interest on tangible personal property, machinery and tools, local license, consumer utilities, transient occupancy or short term rental property, shall correct such assessment.

(1) If the assessment exceeds the proper amount and if the levies, penalty or interest have not been

paid, the director of finance shall exonerate the taxpayer from payment of so much thereof as is erroneous.

(2) If the assessment exceeds the proper amount and the levies, penalty or interest have been paid, the director of finance shall refund to the taxpayer the amount erroneously paid with interest as provided in section 20-7.

(3) If the assessment is less than the proper amount, the director of finance shall assess such applicant with the proper amount.

(c) If any assessment is erroneous because of a mere clerical error or calculation, the assessment may be corrected as provided in this section and with or without petition from the taxpayer.

(d) This section also shall apply to erroneous assessment of real estate, provided that the error sought to be corrected was not a judgmental error involving valuation, and further provided that the error sought to be corrected made by the director of finance. When an unpaid erroneous assessment of real estate is corrected under this section and such real estate has been sold at a delinquent land sale, the director of finance shall certify a copy of such correction to the clerk of the circuit court; and the clerk shall note the correction in the delinquent land book opposite the entry of the tract or lot for the year for which the correction is made.

(e) Notwithstanding the provisions of subsection (a) of this section:

(1) An unpaid tangible personal property tax assessment may be appealed to the director of finance at any time during which the assessment is collectible under Code of Virginia, § 58.1-3940, provided the taxpayer can demonstrate by clear factual evidence that he was not subject to the tax for the year in question. If the director of finance is satisfied that the assessment is erroneous, he shall abate the assessment and shall take such other steps as may be necessary to correct the taxpayer's liability accordingly upon the books of the county.

(2) In the case of an erroneous assessment that has been satisfied in whole or in part through an involuntary payment, an appeal to the director of finance must be made within one year from the date of the involuntary payment. If the director of finance is satisfied that the assessment is erroneous, he shall issue a refund for the amount of the involuntary payment. For purposes of this provision, the term "involuntary payment" means a payment received pursuant to Code of Virginia, § 58.1-3952, or the Setoff Debt Collection Act, Code of Virginia, § 58.1-520 et seq.

(f) In any action on application for correction of an erroneous assessment, if so requested by the applicant, the director of finance shall state in writing the facts and law supporting the action on such application and mail a copy of the writing to the applicant at his last known address.

(Code 1995, § 20-6; Ord. No. 934, § 1, 8-14-1996; Ord. No. 990, § 2, 9-14-1999)

State law reference— Similar provisions, Code of Virginia, §§ 58.1-3980, 58.1-3981, 58.1-3990.

Sec. 20-7. - Interest paid on refunds of erroneously assessed taxes.

(a) On and after July 1, 1999, all refunds of erroneously assessed taxes, together with any penalty and interest paid thereon, shall be paid with interest at the applicable rate specified in section 20-33 for real estate taxes, section 20-108 for personal property taxes, section 20-277 for transient occupancy taxes, and section 20-315 for short-term rental property taxes. Interest on refunds of license taxes shall be paid at the rate and in the manner as specified in article XI of this chapter.

(b) Except as provided in article XI of this chapter for license taxes, interest payable on any refund of an erroneously assessed tax shall begin to accrue on the later of July 1, 1999, or the date on which the tax being refunded was paid. Except as provided in article XI of this chapter, interest shall not accrue for any period of time prior to July 1, 1999.

(c) Except as otherwise provided in article XI of this chapter, interest shall not be paid on any refund caused by an overpayment that was not the result of an erroneously assessed tax. Refunds caused by

overpayments that are not the result of an erroneously assessed tax shall include, but not be limited to:

- (1) Any statutory relief provided in accordance with section 20-109; and
- (2) Any refund of duplicate payments that are not the result of duplicate assessments for the same tax.

(d) No interest shall be required to be paid on a refund if the amount of the refund is \$10.00 or less or the refund is the result of proration pursuant to section 20-109.

(Code 1995, § 20-7; Ord. No. 990, § 5, 9-14-1999)

State law reference—Interest on refunds, Code of Virginia, § 58.1-3916.

Sec. 20-8. - Criminal penalty for failure to file return or filing false return.

Any person willfully failing or refusing to timely file any return required in this chapter or making false statements in such returns with intent to defraud shall be guilty of an offense punishable as a class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is \$1,000.00 or less or a class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than \$1,000.00.

(Code 1980, § 20-8.2; Code 1995, § 20-32)

State law reference—Authority to so provide, Code of Virginia, § 58.1-3916.1; penalty for class 3 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 20-9. - Preservation of returns.

Pursuant to Code of Virginia § 58.1-3112, the Director of Finance is authorized to retain copies of original tangible personal property, machinery and tools, and merchants' capital tax returns in lieu of retaining the original returns in the Director's office. Copies must be retained for at least six years after the tax assessment year on a durable medium that complies with the requirements of the Virginia Public Records Act. After copying, original returns may be destroyed in accordance with Code of Virginia § 15.2-1412.

Secs. 20-10 – 20-32. - Reserved.

ARTICLE II. - REAL ESTATE TAX

***Cross reference**—Annual tax levy saved from repeal, § 1-10(a)(5).

***State law reference**—Property subject to local taxation, Code of Virginia, § 58.1-3000.

DIVISION 1. - GENERALLY

Sec. 20-33. - Payment of real estate tax; penalty for failure to pay tax; interest on unpaid tax.

(a) For each calendar year, the tax levied on real estate situated in the county shall be due and payable in two equal installments, the first installment being due and payable on June 5 of each calendar year and the second installment being due and payable on December 5 of each calendar year. If any person fails to pay any such installment of taxes on or before the date it is due, he shall incur a penalty of ten percent of the tax past due. The penalty shall be assessed on the day after the installment of taxes is due and shall become a part of the taxes. There shall also be assessed interest at the rate of four percent per annum on the amount of tax past due, which interest shall commence on the first day of the month following the date such installment of taxes is due. In addition to taxes assessed and past due on or after October 1, 1999, any tax

that was assessed and past due prior to October 1, 1999, shall accrue interest. The interest to be charged on any such delinquent tax payment shall be at the rate specified by this Code at the time the tax was assessed and shall accrue at that specified rate beginning on the first day of the month following the date such tax payment was due and extending until September 30, 1999, unless sooner paid. In addition, any tax that was assessed and past due prior to October 1, 1999, shall accrue interest at four percent per annum beginning on and after October 1, 1999.

(b) The director of finance shall give notice at least ten days prior to June 5 of each calendar year, by publication in a newspaper of general circulation in the county, that he is prepared to receive at his office the installment of the real estate taxes from any taxpayer charged therewith prior to June 6 of such year, without penalty.

(c) The director of finance shall give notice at least ten days prior to December 5 of each calendar year by publication in a newspaper of general circulation in the county that he is prepared to receive at his office the installment of the real estate taxes from any taxpayer charged therewith prior to December 6 of such year, without penalty.

(d) Nothing in this section shall be construed to prohibit the payment of the whole of the taxes levied on real estate by any taxpayer in one sum at any time, provided that any penalty and interest that may have accrued on the whole or any part thereof at the time of payment as provided in this section be paid therewith.

(Code 1980, § 20-2; Code 1995, § 20-31; Ord. No. 966, § 1, 11-12-1997; Ord. No. 990, § 3, 9-14-1999)

State law reference— Authority to provide dates for payment of real estate taxes and late payment penalties, Code of Virginia, § 58.1-3916; notice of taxes due, Code of Virginia, § 58.1-3911.

Secs. 20-34 – 20-56. - Reserved.

DIVISION 2. - LAND USE ASSESSMENT

***State law reference**— Application for assessment, Code of Virginia, § 58.1-3234.

Sec. 20-57. - Entry of use and fair market values on land books; basis for tax.

The use value and fair market value of any qualifying property shall be placed on the land book before delivery to the treasurer, and the tax for the next succeeding tax year shall be extended from the use value.

(Code 1980, § 20-12; Code 1995, § 20-51)

State law reference— Similar provisions, Code of Virginia, § 58.1-3236(D).

Sec. 20-58. - Roll-back tax.

(a) *Levy; interest.* There is hereby imposed a roll-back tax including simple interest thereon at an annual rate of eight percent. The amount of the roll-back tax upon any property as to which the use or zoning changes, or which has a separation or split-off of lots or parcels which do not individually meet the minimum acreage requirements, shall be determined under Code of Virginia, §§ 58.1-3237 and 58.1-3241.

(b) *Report of change in status; failure to make report or pay tax; false statements on applications.*

(1) The owner of any real estate liable for roll-back taxes shall, within 60 days following a change in use or zoning, report such change to the director of finance on such forms as may be prescribed. The director of finance shall forthwith determine and assess the roll-back tax, which shall be paid to the cashier within 30 days of the assessment. On failure to report within 60 days following such change in

use or zoning or failure to pay within 30 days of the assessment, such owner shall be liable for an additional penalty equal to ten percent of the amount of the roll-back tax and interest, which penalty shall be collected as a part of the tax. In addition to such penalty, there is hereby imposed interest of one-half percent of the amount of the roll-back tax, interest and penalty for each month or fraction thereof during which the failure continues.

(2) Any person making a material misstatement of fact in any application filed pursuant to this article shall be liable for all taxes in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the county, together with interest and penalties thereon. If such material misstatement was made with the intent to defraud, he shall be further assessed with an additional penalty of 100 percent of such unpaid taxes.

(3) For purposes of this section and Code of Virginia, § 58.1-3234, incorrect information on the following subjects will be considered material misstatements of fact:

- a. The number and identities of the known owners of the property at the time of application.
- b. The actual use of the property.
- c. The intentional misrepresentation of the number of acres in the parcel or the number of acres to be taxed according to use.

(Code 1980, §§ 20-13, 20-14; Code 1995, § 20-52)

State law reference—Imposition of roll-back tax, Code of Virginia, § 58.1-3237; change in use or zoning, Code of Virginia, §§ 58.1-3237, 58.1-3238, 58.1-3241.

Sec. 20-59. - Agricultural, horticultural, forest and open space uses.

(a) *Findings.* The county finds that the preservation of real estate devoted to agricultural, horticultural, forest and open space uses within its boundaries is in the public interest and, having heretofore adopted a land use plan, hereby ordains that such real estate shall be taxed in accordance with the provisions of Code of Virginia, title 58.1, ch. 32, art. 4 (Code of Virginia, § 58.1-3230 et seq.) and this article.

(b) *Application for taxation on basis of use; fees.*

(1) The owner of any real estate meeting the criteria set forth in Code of Virginia, §§ 58.1-3230 and 58.1-3233, including for agricultural or horticultural use a minimum of five acres, for forest use a minimum of 20 acres and for open space use a minimum of five acres, at least 60 days preceding the tax year for which such taxation is sought, may apply to the director of finance for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use, under the procedures set forth in Code of Virginia, § 58.1-3236. Such application must be on forms provided by the state department of taxation and supplied by the director of finance and include such additional schedules, photographs, and drawings as may be required by the director of finance. The written agreement required by Code of Virginia, § 58.1-3233 for real estate devoted to open space use may be signed on behalf of the county by the county manager. Any individual who is the 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, cannot be located, or represent a minority interest in such parcel. An application must be submitted whenever the use, zoning, or acreage of such land previously approved changes; provided that such property owner must revalidate annually with the director of finance any applications previously approved.

(2) A separate application shall be filed for each parcel on the land book.

(3) A nonrefundable fee of \$20.00 plus \$0.10 per acre or portion thereof in such parcel shall accompany such initial application.

(4) Each parcel must be revalidated annually on forms provided by the state department of taxation and supplied by the director of finance.

(5) A late filing deadline extension is provided for initial applications and revalidation applications until December 15 upon payment of a late filing fee. The total application fee for late filing of initial applications shall be \$40.00 plus \$0.20 per acre or portion thereof in such parcel. The total application fee for late filing of revalidation applications shall be \$20.00 plus \$0.10 per acre or portion thereof in such parcel.

(c) *Determination of eligibility and value of property.*

(1) Promptly upon receipt of any application, the director of finance shall determine whether the subject property meets the criteria for taxation under this section. If the director of finance determines that the subject property does meet such criteria, he shall determine the value of such property for its qualifying use as well as its fair market value.

(2) In determining whether the subject property meets the criteria for agricultural use, horticultural use, forest use or open space use, the director of finance may request an opinion from the director of the state department of conservation and recreation, the state forester or the state commissioner of agriculture and consumer services. Upon the refusal of the commissioner of agriculture and consumer services, the state forester or the director of the department of conservation and recreation to issue an opinion, or in the event of an unfavorable opinion which does not comport with standards set forth by the respective official, the party aggrieved may seek relief from the circuit court of the county. If the court finds in his favor, it may issue an order which shall serve in lieu of an opinion for the purposes of this article.

(Code 1980, §§ 20-9—20-11; Code 1995, § 20-53)

State law reference—Special assessments for agricultural, horticultural, forest and open space uses, Code of Virginia, § 58.1-3229 et seq.; application, Code of Virginia, §§ 58.1-3234, 58.1-3235; determination of eligibility, Code of Virginia, §§ 58.1-3233, 58.1-3240.

Secs. 20-60—20-76. - Reserved.

DIVISION 3. - EXEMPTIONS

***State law reference**—Exemptions, Code of Virginia, §§ 58.1-3210 et seq., 58.1-3220 et seq., 58.1-3660 et seq.

Sec. 20-77. - Reserved.

Sec. 20-78. - Reserved.

Sec. 20-79. - Partial exemption for rehabilitated, renovated or replacement residential structures other than multifamily residential rental units.

(a) *Exemption authorized.* Partial exemption from real estate taxes is hereby provided in accordance with the provisions of this section for qualifying property devoted to residential units other than multifamily whose structures are rehabilitated in accordance with the criteria set out in Code of Virginia, § 58.1-3220 and this section.

(b) *Qualifications.* For the purposes of this section, the total assessed value of a residential property other than multifamily residential rental units shall not exceed \$300,000.00 and the structure must be at least 26 years old. The real estate shall be deemed to be substantially rehabilitated when it has been so improved as to increase the assessed value of the structure by no less than 20 percent, but without increasing the total footage of such structure by more than 100 percent. Detached improvements, including, but not limited to, a garage, shed or swimming pool, are not eligible. As used in this section, the terms "rehabilitation" and "rehabilitated" shall also include situations in which the structures on the property have been demolished and replaced with new residential structures.

(c) Application; determination of base value; application fee.

(1) As a requisite for qualifying for partial tax exemption, the owner of the structure must, prior to commencing rehabilitation (including any demolition of), such structure, file with the county's director of finance, upon forms furnished by him, an application to qualify such structure as a rehabilitated residential structure. Upon receipt of an application for tax exemption, the director of finance will determine a base fair market value assessment (referred to in this section as base value) of the structure as it was immediately prior to commencement of rehabilitation. The tax assessment of the improvements located upon the qualifying real estate will be considered in determining the base value. The base value will serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 20 percent.

(2) Rehabilitation must be completed within three years from the date on which the director of finance determines the base value.

(3) The application to qualify for the rehabilitated structure tax exemption must be accompanied by a payment of a fee of \$50.00, which fee shall be applied to offset the cost of processing such application, making the required assessments, and making an annual inspection to determine the progress of the work.

(d) Inspection of progress of work; effective date of exemption.

(1) During the period between the receipt of the application and the time when the director of finance may ascertain that the assessed value has increased by at least 20 percent, the owner of the property shall be subject to taxation upon the full fair market value of the property. An owner may, at any time prior to November 1 of any calendar year in which rehabilitation of a structure is underway, submit a written request to the director of finance to inspect the structure to determine if it then qualifies for the rehabilitated property exemption.

(2) When it is determined that the rehabilitation is completed and that it has resulted in at least a 20 percent increase in assessed value (base value is exceeded by 20 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year.

(e) Credit memorandum. The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit memorandum in the amount of the difference in taxes computed upon the base value and the assessed value of the property resulting from the rehabilitation for each year of a 10-year period of exemption from real estate taxes. Such 10-year period shall begin as specified in subsection (d) of this section. Additional increases resulting from increases in value occurring in subsequent years of the 10-year period shall not be eligible for partial tax relief. Such credit memorandum shall be surrendered when payment is made of the real estate taxes payable for the year for which such credit memorandum has been issued. Each credit memorandum timely surrendered shall be credited in its full amount against the taxes due for the real estate for which partial exemption has been obtained. Each credit memorandum so surrendered shall be charged against an appropriation made by the board of supervisors for the purpose of honoring such credit memorandums.

(f) Credit to run with land. Exemption from taxation of real estate qualifying for the rehabilitation exemption shall run with the land, and the owner of such property during each of the 10 years of exemption shall be entitled to receive a credit memorandum for such partial exemption from taxation.

(g) Methods of evaluation. In determining the base value of a structure and whether the rehabilitation results in a 20 percent increase over such base value, the director of finance shall employ usual and customary methods of assessing real estate.

(h) Exemption not applicable to demolition of historic structures. Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in this section shall not apply when any structure demolished is a registered state landmark or is determined by the state's department of historic resources to contribute to the significance of a registered historic district.

(i) *Condition of the property.* Upon making application to qualify for partial tax exemption, an applicant shall certify that the property that is the subject of the application, including the real estate upon which the structure is located, shall be maintained in compliance with all Code requirements. Failure to properly maintain the property in compliance with all Code provisions shall be grounds for denial of the requested partial tax exemption.

(Ord. No. 1139, § 20-73, 11-24-2009)

Sec. 20-80. - Partial exemption for rehabilitated, renovated or replacement multifamily residential rental units.

(a) *Exemption authorized.* Partial exemption from real estate taxes is hereby provided in accordance with the provisions of this section for qualifying property devoted to multifamily residential rental units whose structures are rehabilitated in accordance with the criteria set out in Code of Virginia, § 58.1-3220 and this section.

(b) *Qualifications.* For the purposes of this section, multifamily residential rental real estate shall be deemed to be substantially rehabilitated when a structure on such real estate which is no less than 26 years old and no more than 39 years old has been so improved as to increase the assessed value of the structure by no less than 50 percent, but without increasing the total footage of such structure by more than 100 percent, or when a structure on such real estate which is no less than 40 years old has been so improved as to increase the assessed value of the structure by no less than 50 percent. As used in this section, the terms "rehabilitation" and "rehabilitated" shall also include situations in which the structures on the property have been demolished and replaced with new structures for multifamily residential rental use.

(c) *Application; determination of base value; application fee.*

(1) As a requisite for qualifying for partial tax exemption, the owner of the structure must, prior to commencing rehabilitation (including any demolition) of, such structure, file with the county's director of finance, upon forms furnished by him, an application to qualify such structure as a rehabilitated multifamily residential rental structure. Upon receipt of an application for tax exemption, the director of finance will determine a base fair market value assessment (referred to in this section as base value) of the structure as it was immediately prior to commencement of rehabilitation. The tax assessment of the improvements located upon the qualifying real estate will be considered in determining the base value. The base value will serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 50 percent.

(2) The application to qualify for tax exemption shall be effective for three years from the date on which the director of finance determines the base value. If, by such expiration date, rehabilitation has not progressed to such a point that the assessed value of the structure is at least 50 percent greater than the base value of such structure, then to retain such eligibility a new application to qualify for tax exemption must be filed prior to the expiration date and a new base value established. In no event, however, shall there be more than two additional applications following the initial application on any structure, except that where a rehabilitation project encompasses at least 50 contiguous acres on which demolition of all structures takes place within one year of the initial application, a total of six additional applications following the initial application may be filed. The new base value shall be based upon the value of the improvements as of the date of the most recent application. Under no circumstances shall any new base value be less than the original base value.

(3) The initial application to qualify for the rehabilitated structure tax exemption and any subsequent application must be accompanied by a payment of a fee of \$50.00, which fee shall be applied to offset the cost of processing such application, making the required assessments, and making an annual inspection to determine the progress of the work.

(d) *Inspection of progress of work; effective date of exemption.*

- (1) During the period between the receipt of the application and the time when the director of finance may ascertain that the assessed value has increased by at least 50 percent, the owner of the property shall be subject to taxation upon the full fair market value of the property. An owner may, at any time prior to November 1 of any calendar year in which rehabilitation of a structure is underway, submit a written request to the director of finance to inspect the structure to determine if it then qualifies for the rehabilitated property exemption.
- (2) When it is determined that the rehabilitation is completed and that it has resulted in at least a 50 percent increase in assessed value (base value is exceeded by 50 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year.
- (e) *Credit memorandum.* The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit memorandum in the amount of the difference in taxes computed upon the base value and the assessed value of the property resulting from the rehabilitation for each year of a seven-year period of exemption from real estate taxes. Such seven-year period shall begin as specified in subsection (d) of this section. Additional increases resulting from increases in value occurring in subsequent years of the seven-year period shall not be eligible for partial tax relief. Such credit memorandum shall be surrendered when payment is made of the real estate taxes payable for the year for which such credit memorandum has been issued. Each credit memorandum timely surrendered shall be credited in its full amount against the taxes due for the real estate for which partial exemption has been obtained. Each credit memorandum so surrendered shall be charged against an appropriation made by the board of supervisors for the purpose of honoring such credit memorandums.
- (f) *Credit to run with land.* Exemption from taxation of real estate qualifying for the rehabilitation exemption shall run with the land, and the owner of such property during each of the seven years of exemption shall be entitled to receive a credit memorandum for such partial exemption from taxation.
- (g) *Methods of evaluation.* In determining the base value of a structure and whether the rehabilitation results in a 50 percent increase over such base value, the director of finance shall employ usual and customary methods of assessing real estate.
- (h) *Exemption not applicable to demolition of historic structures.* Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in this section shall not apply when any structure demolished is a registered state landmark or is determined by the state's department of historic resources to contribute to the significance of a registered historic district.
- (i) *Condition of the property.* Upon making application to qualify for partial tax exemption, an applicant shall certify that the property that is the subject of the application, including the real estate upon which the structure is located, shall be maintained in compliance with all Code requirements. Failure to properly maintain the property in compliance with all Code provisions shall be grounds for denial of the requested partial tax exemption.
- (Code 1995, § 20-74; Ord. No. 1019, § 2, 10-23-2001; Ord. No. 1031, § 1, 8-13-2002)

State law reference— Partial exemption for certain rehabilitated, renovated or replacement residential structures authorized, Code of Virginia, § 58.1-3220.

Sec. 20-81. - Partial exemption for rehabilitated, renovated or replacement commercial and industrial structures.

- (a) *Exemption authorized.* Partial exemption from real estate taxes is hereby provided in accordance with the provisions of this section for qualifying property devoted to commercial and industrial uses whose structures are rehabilitated in accordance with the criteria set out in Code of Virginia, § 58.1-3221 and this section.
- (b) *Qualifications.* For the purposes of this section, commercial and industrial real estate will be deemed to

be substantially rehabilitated when a structure on such real estate is at least 26 years old and has been so improved as to increase the assessed value of the structure by at least 40 percent, or by at least 30 percent in the case of an office seeking qualification under subsection (l). However, if the total square footage of the final structure is greater than 20,000 square feet, the square footage of the structure may not have been increased by more than 125 percent. As used in this section, the terms "rehabilitation" and "rehabilitated" also include situations in which the structures have been demolished and replaced with new structures. Subject to the limitations of this section, the rehabilitated, renovated, or replacement structure may be used for any commercial or industrial use, other than dwellings.

(c) *Application; determination of base value; application fee.*

(1) As a requisite for qualifying for partial tax exemption, the owner of the structure must, prior to commencing rehabilitation (including any demolition) of, such structure, file with the county's director of finance, upon forms furnished by him, an application to qualify such structure as a rehabilitated commercial or industrial structure. Upon receipt of an application for tax exemption, the director of finance will determine a base fair market value assessment (referred to in this section as base value) of the structure as it was immediately prior to commencement of rehabilitation. The tax assessment of the improvements located upon the qualifying real estate will be considered in determining the base value. The base value will serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 40 percent, or by at least 30 percent in the case of an office seeking qualification under subsection (l).

(2) The application to qualify for tax exemption shall be effective for three years from the date on which the director of finance determines the base value. If, by such expiration date, rehabilitation has not progressed to such a point that the assessed value of the structure is at least 40 percent greater than the base value of such structure, or at least 30 percent greater than the base value of such structure in the case of an office seeking qualification under subsection (l), then to retain such eligibility a new application to qualify for tax exemption must be filed prior to the expiration date and a new base value established. In no event, however, shall there be more than two additional applications following the initial application on any structure. The new base value shall be based upon the value of the improvements as of the date of the second or third application. Under no circumstances shall any new base value be less than the original base value.

(3) The initial application to qualify for the rehabilitated structure tax exemption and any subsequent application must be accompanied by a payment of a fee of \$50.00, which fee shall be applied to offset the cost of processing such application, making the required assessments, and making an annual inspection to determine the progress of the work.

(d) *Inspection of progress of work; effective date of exemption.*

(1) During the period between the receipt of the application and the time when the director of finance may ascertain that the assessed value has increased by at least 40 percent, or by at least 30 percent in the case of an office seeking qualification under subsection (l), the owner of the property shall be subject to taxation upon the full fair market value of the property. An owner may, at any time prior to November 1 of any calendar year in which rehabilitation of a structure is underway, submit a written request to the director of finance to inspect the structure to determine if it then qualifies for the rehabilitated property exemption.

(2) When it is determined that the rehabilitation is completed and that it has resulted in at least a 40 percent increase in assessed value (base value is exceeded by 40 percent or more), or in at least a 30 percent increase in assessed value in the case of an office seeking qualification under subsection (l) (base value is exceeded by 30 percent or more in such case), the tax exemption shall become effective beginning on January 1 of the next calendar year.

(e) *Credit memorandum.* The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit memorandum in the amount of the difference in taxes

computed upon the base value and the assessed value of the property resulting from the rehabilitation for each year of a seven-year period of exemption from real estate taxes. Such seven-year period shall begin as specified in subsection (d) of this section. Additional increases resulting from increases in value occurring in subsequent years of the seven-year period shall not be eligible for partial tax relief. Such credit memorandum shall be surrendered when payment is made of the real estate taxes payable for the year for which such credit memorandum has been issued. Each credit memorandum timely surrendered shall be credited in its full amount against the taxes due for the real estate for which partial exemption has been obtained. Each credit memorandum so surrendered shall be charged against an appropriation made by the board of supervisors for the purpose of honoring such credit memorandums.

(f) *Credit to run with land.* Exemption from taxation of real estate qualifying for the rehabilitation exemption shall run with the land, and the owner of such property during each of the seven years of exemption shall be entitled to receive a credit memorandum for such partial exemption from taxation.

(g) *Methods of evaluation.* In determining the base value of a structure and whether the rehabilitation results in a 40 percent increase over such base value, or a 30 percent increase over such base value in the case of an office seeking qualification under subsection (l), the director of finance shall employ usual and customary methods of assessing real estate.

(h) *Exemption not applicable to demolition of historic structures.* Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in this section shall not apply when any structure demolished is a registered state landmark or is determined by the state's department of historic resources to contribute to the significance of a registered historic landmark.

(i) *Condition of the property.* Upon making application to qualify for partial tax exemption, an applicant shall certify that the property that is the subject of the application, including the real estate upon which the structure is located, shall be maintained in compliance with all Code requirements. Failure to properly maintain the property in compliance with all Code provisions shall be grounds for denial of the requested partial tax exemption.

(j) *Exterior-corridor hotels and motels.* Hotels and motels providing access to the majority of the structure's rental rooms via exterior corridors may qualify under this section for an exemption for 15 years instead of seven years. To qualify for the extended exemption, the exterior-corridor hotel or motel must be demolished and replaced with a structure used for any purpose, other than an exterior-corridor hotel or motel or enclosed shopping mall, that is allowed by the building code and the applicable zoning regulations for the property, including mixed use or dwellings. Except as altered by this subsection, all other subsections of this section apply to exemptions for the demolition and replacement of exterior-corridor hotels and motels, including all other qualification requirements and restrictions of this section.

(k) *Enclosed shopping malls.* For purposes of this section, an "enclosed shopping mall" is a shopping mall structure, other than a strip mall, with large and small retail units, including anchor department store spaces, where the majority of the retail units are accessed from interior corridors within the structure. The demolition and replacement of an enclosed shopping mall, or portion thereof, may qualify under this section for an exemption of 15 years instead of seven years. To qualify for the extended exemption, the enclosed shopping mall, or portion thereof, must be demolished and replaced with a structure used for any purpose, other than an exterior-corridor hotel or motel or enclosed shopping mall, that is allowed by the building code and the applicable zoning regulations for the property, including mixed use or dwellings. Notwithstanding the requirements of subsection (b), the square footage of the new structure may not be more than 250 percent greater than the square footage of the demolished enclosed shopping mall or portion thereof. Except as altered by this subsection, all other subsections of this section apply to exemptions for the demolition and replacement of enclosed shopping malls, including all other qualification requirements and restrictions of this section.

(l) *Offices.* For purposes of this section, "office" means a structure (often subdivided into smaller units for tenant or corporate use) used for the conduct of business in a professional setting, such as the provision of

business services, clerical services, financial services, professional services, or outpatient medical or dental services, and not located within the boundaries of a community development authority district. Notwithstanding the requirements of subsection (b), the rehabilitation of an office that is at least 20 years old, or at least 15 years old if the office is located in an area of the county designated as an enterprise zone by the commonwealth or as a technology zone by the county, may qualify for an exemption of 15 years instead of seven years if the original office is at least 60,000 square feet prior to rehabilitation, has been improved as to increase the assessed value of the structure by at least 30 percent, and has been rehabilitated for a commercial or industrial use other than dwellings. However, the square footage of the structure may not have been increased by more than 125 percent. Except as altered by this subsection, all other subsections of this section apply to exemptions for the rehabilitation of offices, including all other qualification requirements and restrictions of this section.

(Code 1995, § 20-75; Ord. No. 1019, § 3, 10-23-2001)

State law reference— Partial exemption for certain rehabilitated, renovated or replacement commercial or industrial structures authorized, Code of Virginia, § 58.1-3221.

Sec. 20-82. - Partial exemption for rehabilitated, renovated or replacement hotel and motel structures.

- (a) Exemption authorized.** Partial exemption from real estate taxes is hereby provided in accordance with the provisions of this section for qualifying property devoted to hotel and motel uses whose structures are rehabilitated for residential use in accordance with the criteria set out in Code of Virginia, § 58.1-3220.1 and this section.
- (b) Qualifications.** For the purposes of this section, hotel and motel real estate shall be deemed to be substantially rehabilitated when a structure on such real estate which is no less than 35 years old has been so improved as to increase the assessed value of the structure by no less than 50 percent, but without increasing the total footage of such structure by more than 100 percent. As used in this section, the terms "rehabilitation" and "rehabilitated" shall also include situations in which the structures on the property have been demolished and replaced with new structures for residential use.
- (c) Application; determination of base value; application fee.**
- (1)** As a requisite for qualifying for partial tax exemption, the owner of the structure must, prior to commencing rehabilitation (including any demolition) of, such structure, file with the county's director of finance, upon forms furnished by him, an application to qualify such structure as rehabilitated. Upon receipt of an application for tax exemption, the director of finance will determine a base fair market value assessment (referred to in this section as base value) of the structure as it was immediately prior to commencement of rehabilitation. The tax assessment of the improvements located upon the qualifying real estate will be considered in determining the base value. The base value will serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 50 percent.
 - (2)** The application to qualify for tax exemption shall be effective for three years from the date on which the director of finance determines the base value. If, by such expiration date, rehabilitation has not progressed to such a point that the assessed value of the structure is at least 50 percent greater than the base value of such structure, then to retain such eligibility a new application to qualify for tax exemption must be filed prior to the expiration date and a new base value established. In no event, however, shall there be more than two additional applications following the initial application on any structure. The new base value shall be based upon the value of the improvements as of the date of the second or third application. Under no circumstances shall any new base value be less than the original base value.

(3) The initial application to qualify for the rehabilitated structure tax exemption and any subsequent application must be accompanied by a payment of a fee of \$50.00, which fee shall be applied to offset the cost of processing such application, making the required assessments, and making an annual inspection to determine the progress of the work.

(d) *Inspection of progress of work; effective date of exemption.*

(1) During the period between the receipt of the application and the time when the director of finance may ascertain that the assessed value has increased by at least 50 percent, the owner of the property shall be subject to taxation upon the full fair market value of the property. An owner may, at any time prior to November 1 of any calendar year in which rehabilitation of a structure is underway, submit a written request to the director of finance to inspect the structure to determine if it then qualifies for the rehabilitated property exemption.

(2) When it is determined that the rehabilitation is completed and that it has resulted in at least a 50 percent increase in assessed value (base value is exceeded by 50 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year.

(e) *Credit memorandum.* The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit memorandum in the amount of the difference in taxes computed upon the base value and the assessed value of the property resulting from the rehabilitation for each year of a seven-year period of exemption from real estate taxes. Such seven-year period shall begin as specified in subsection (d) of this section. Additional increases resulting from increases in value occurring in subsequent years of the seven-year period shall not be eligible for partial tax relief. Such credit memorandum shall be surrendered when payment is made of the real estate taxes payable for the year for which such credit memorandum has been issued. Each credit memorandum timely surrendered shall be credited in its full amount against the taxes due for the real estate for which partial exemption has been obtained. Each credit memorandum so surrendered shall be charged against an appropriation made by the board of supervisors for the purpose of honoring such credit memorandums.

(f) *Credit to run with land.* Exemption from taxation of real estate qualifying for the rehabilitation exemption shall run with the land, and the owner of such property during each of the seven years of exemption shall be entitled to receive a credit memorandum for such partial exemption from taxation.

(g) *Methods of evaluation.* In determining the base value of a structure and whether the rehabilitation results in a 50 percent increase over such base value, the director of finance shall employ usual and customary methods of assessing real estate.

(h) *Exemption not applicable to demolition of historic structures.* Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in this section shall not apply when any structure demolished is a registered state landmark or is determined by the state's department of historic resources to contribute to the significance of a registered historic district.

(i) *Condition of the property.* Upon making application to qualify for partial tax exemption, an applicant shall certify that the property that is the subject of the application, including the real estate upon which the structure is located, shall be maintained in compliance with all Code requirements. Failure to properly maintain the property in compliance with all Code provisions shall be grounds for denial of the requested partial tax exemption.

(Code 1995, § 20-76; Ord. No. 1019, § 4, 10-23-2001)

State law reference—Partial exemption for rehabilitated, renovated or replacement hotel and motel structures authorized, Code of Virginia, § 58.1-3220.1.

Sec. 20-83. Exemption for property of surviving spouses of certain persons killed in the line of duty.

(A) *Definitions.* As used in this section:

- (1) "Average assessed value" means the average assessed value for all dwellings located within the county that are situated on property zoned as single-family residential.
 - (2) "Covered person" means any person set forth in the definition of "deceased person" in Code of Virginia, § 9.1-400 whose beneficiary, as defined in Code of Virginia, § 9.1-400, is entitled to receive benefits under Code of Virginia, § 9.1-402, as determined by the Comptroller of Virginia prior to July 1, 2017, or as determined by the Virginia Retirement System on and after July 1, 2017.
- (B) *Exemption authorized; timing; refunds.* For tax years beginning on or after January 1, 2017, the real property described in this section of the surviving spouse of any covered person who occupies the real property as his principal place of residence is exempt from taxation. 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 Code of Virginia, § 58.1-3360. No interest shall be paid 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 this section.
- (C) *Scope of exemption.* Those dwellings with assessed values in the most recently ended tax year that are not in excess of the average assessed value for such year shall qualify for a total exemption from real property taxes under this section. If the value of a dwelling is in excess of the average assessed value for such year, 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 Code of Virginia, § 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 the requirements of this subsection 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.
- (D) *Occupation as principal place of residence required; effect of remarriage or moving.* 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 restriction on the spouse's moving to a different principal place of residence.
- (E) *Exemption for land upon which dwelling is situated; application of exemption to improvements other than a dwelling.* The exemption applies to (i) the qualifying dwelling, or that portion of the value of such dwelling and land that qualifies for the exemption pursuant to subsection (C), and (ii) with the exception of land not owned by the surviving spouse, the land, not exceeding ten acres, upon which it is situated. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such land as is exempt from taxation under this section, 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 the Code of Virginia, § 58.1-3503 and as listed in Code of Virginia, § 58.1-3504 and (b) for other than a business purpose.

(F) *Application to life estate, revocable inter vivos trust, irrevocable trust, leasehold, or term of years.* For purposes of this section, real property of any surviving spouse of a covered person includes real property held (i) by a surviving spouse as a tenant for life, (ii) in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii) in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys continuing right of use or support. Such real property does not include any interest held under a leasehold or term of years.

(G) *Effect of joint ownership.*

- (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 identified in clauses (i) through (iii) of subsection (F) 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 one 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 identified in clauses (i) through (iii) of subsection (F), 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.

(H) *Application for exemption; notification upon remarriage or change in principal place of residence.* The surviving spouse claiming the exemption under this section shall file with the director of finance on forms supplied by the county 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 of Virginia or the Virginia Retirement System that the deceased is a covered person. 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 subsection only if the surviving spouse's principal place of residence changes. The surviving spouse shall promptly notify the director of finance of any remarriage.

(I) *Effect of absence from residence.* The fact that surviving spouses who are otherwise qualified for tax exemption pursuant to this section 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.

Sec. 20-84. Partial exemption for demolition or renovation of derelict buildings.

Prior to demolishing or renovating a derelict building pursuant to a plan approved under article VI of chapter 6, at the request of the property owner, the real estate assessor shall make an assessment of the property in its current derelict condition. On the building permit application, the owner shall declare the costs of the demolition, or the costs of materials and labor to complete the renovation. At the request of the property owner, after demolition or renovation of the derelict building, the real estate assessor shall reflect the fair market value of the demolition costs or the fair market value of the renovation improvements in the real estate tax assessment records. The real estate tax on an amount equal to the costs of demolition or an amount equal to the increase in the fair market value of the renovations shall be abated for a period of seven years and is transferable with the property. The abatement of taxes for demolition shall not apply if the structure demolished is a registered Virginia landmark or is determined by the Virginia Department of Historic Resources to contribute to the significance of a registered historic district.

Secs. 20-85 – 20-89. Reserved.

DIVISION 4. – EXEMPTIONS FOR ELDERLY OR PERMANENTLY AND TOTALLY DISABLED PERSONS

***State law reference** – Exemptions, Code of Virginia, §§ 58.1-3210 et seq.

Sec. 20-90. Definitions.

As used in this Division, any reference to:

- (a) “Base amount” means the amount of real estate tax assessed on the qualified real estate in the later of (i) 2023 or (ii) the year before the taxpayer initially applies for RECAP. In addition, a taxpayer may reapply at any time to establish a new base amount equal to the real estate tax assessed on the qualified real estate in the immediately preceding tax year, but only if the new base amount will be lower than the previous base amount.
- (b) “Dwelling” includes an improvement to real estate exempt or partially exempt pursuant to this division and the land upon which such improvement is situated so long as the improvement is used principally for other than a business purpose and is used to house or cover any motor vehicle classified pursuant to Code of Virginia, § 58.1-3503.A.3. through 10.; household goods classified pursuant to Code of Virginia, § 58.1-3503.A.14.; or household goods exempted from personal property tax pursuant to Code of Virginia, § 58.1-3504.
- (c) “Gross combined income” includes only those sources of gross income that are subject to tax under federal income tax laws, regulations, rules, or policies, without regard to whether a tax return is actually filed, of the owner(s), the spouse and the owners’ relatives living in the dwelling for which exemption is claimed. Gross combined income does not include (i) life insurance benefits or receipts from borrowing or other debt, (ii) the first \$10,000 of annual income of each of the owners’ relatives, other than a spouse, living in the dwelling and who do not qualify for RECAP or REAP; (iii) the income of the owners’ relatives living in the dwelling and providing bona fide caregiving services to an owner, whether such relatives are compensated or not; and (iv) the disability income received by the owners’ relatives who are permanently and totally disabled and live in the dwelling.

- (d) "Net combined financial worth" includes the value of all assets, including the present value of all equitable interests, of the owner(s) and spouse of any owner, excluding the fair market value of the qualified real estate and for which the tax exemption or tax cap is claimed. The value of household furnishings is excluded from the computation of net worth.
- (e) "Permanently and totally disabled" means a person who is 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.
- (f) "Qualified real estate" means the dwelling occupied by the applicant or participant in REAP or RECAP, and the land, not exceeding 10 acres, upon which it is situated.
- (g) "Real estate" includes manufactured homes as defined in Code of Virginia, § 36-85.3.
- (h) "Real Estate Advantage Program" or "REAP" means the program established to provide the tax exemption in section 20-94 of this division.
- (i) "RECAP" means the program established to provide the tax cap in section 20-93 of this division.
- (j) "Tax cap" means the partial tax exemption provided in section 20-93 of this division.
- (k) "Tax exemption" means the exemption provided in REAP for that portion of the real estate tax owned by a qualified taxpayer as determined by section 20-94 of this division.

Sec. 20-91. General provisions applicable to RECAP and REAP.

- (a) *Administration.* RECAP and REAP will be administered by the director of finance or his authorized designee. The director is authorized and empowered to prescribe, adopt, and enforce rules and regulations, including the requirement of answers under oath, as may be reasonably necessary to determine qualifications for RECAP or REAP. The director may require production of certified tax returns and appraisal reports to establish income or financial worth.
- (b) *Participation.* A qualifying taxpayer may participate in either RECAP or REAP but not both simultaneously.
- (c) *False claims.* Any person who knowingly falsely claims a tax exemption or tax cap under this division will be guilty of a misdemeanor.
- (d) *Applicability to life estates and certain trusts; inapplicability to leaseholds and terms of years.* For purposes of this division, a dwelling owned and occupied as the sole dwelling of a person claiming a tax exemption or tax cap in REAP or RECAP includes, among other forms of ownership, a dwelling (i) held by the claimant alone or in conjunction with his spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the claimant or the claimant and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which a claimant 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. However, a dwelling owned and occupied

as the sole dwelling of a claimant does not include a dwelling held under a leasehold or term of years.

Sec. 20-92. Application for tax exemption or tax cap; change in circumstances.

- (a) *Application; affidavit or written statement.* No later than April 1 of the taxable year, the person claiming a tax exemption or tax cap must file in writing an affidavit or written statement with the director. In lieu of the filing of an annual affidavit or written statement, once a taxpayer is determined to be eligible for a tax exemption or tax cap, an affidavit or written statement may be filed on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding affidavit or written statement filed has changed to violate the limitations and conditions provided in this division. Such annual certification must be filed not later than April 1 of the taxable year. Affidavits or written statements from first-time applicants or in hardship cases, as determined by the director of finance, will be accepted through December 31 of the taxable year.
- (1) Such affidavit or written statement must set forth, in a manner prescribed by the director, the names of all owners, the location and assessed value of the property, the names of any related persons occupying the dwelling for which tax exemption or tax cap is claimed, the gross combined income of all owners and owners' relatives who live in the residence, and the net combined financial worth of all owners and their spouses.
 - (2) If the person claiming a tax exemption or tax cap is under 65 years of age, such form must 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 or written statement by two medical doctors who are either licensed to practice medicine in the state or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that such person is permanently and totally disabled as defined in section 20-90 and stating the nature of the disability. A certification pursuant to 42 U.S.C. 423(d) by the Social Security Administration, so long as the person remains eligible for such Social Security benefits, will be deemed to satisfy the definition in section 20-90. The affidavit or written statement of at least one of the doctors must be based upon a physical examination of the person by such doctor. The affidavit or written statement 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 section 20-90.
 - (3) If, after an audit and investigation, the director determines that the person is qualified for a tax exemption or tax cap, he will certify that such person is so qualified and will determine the amount of exemption applicable to the claimant's real estate tax liability. Such exemption will apply only to the tax year for which issued. In order to avoid the payment of any penalty, the person to whom a tax exemption or tax cap has been issued must, on or before the past-due date established for the payment of such real estate tax, present payment for the difference between such tax exemption or tax cap and the full amount of the tax payment then due on the qualified real estate.
- (b) *Change in circumstances.* A qualified taxpayer who loses eligibility for a tax exemption or tax cap due to changes in respect to income, financial worth, ownership of property, or other factors

occurring during the taxable year for which the affidavit, written statement or certification mentioned in this section is filed and having the effect of exceeding or violating the limitations or conditions provided in this division will receive the tax exemption or tax cap for the portion of the year during which he qualifies and lose the tax exemption or tax cap only for the remainder of the year and the taxable year immediately following. When a change in ownership to a spouse who is less than 65 years of age or is not permanently and totally disabled results solely from the death of his qualified spouse, it will result in a prorated tax exemption or tax cap for the then-current taxable year. Such prorated portion will be determined by multiplying the amount of the tax exemption or tax cap by a fraction wherein the number of complete months of the year such qualified real estate was properly eligible for such tax exemption or tax cap is the numerator and the number 12 is the denominator.

Sec. 20-93. RECAP established; qualifications; amount of tax cap.

- (a) *Tax cap authorized.* RECAP is a program established to provide a tax cap for qualified property owners who are not less than 65 years of age or who are permanently and totally disabled and who are eligible according to the terms of this section. A dwelling jointly held by husband and wife may qualify if either spouse is 65 years of age or older or is permanently and totally disabled. Persons qualifying for a tax cap are deemed to be bearing an extraordinary real estate tax burden in relation to their income and financial worth.
- (b) *Qualifications.* A tax cap will be granted to persons subject to the following provisions:
 - (1) *Title.* The title to the qualified real estate for which the tax cap is claimed must be held, or partially held, on December 31 immediately preceding the taxable year, by the person or persons claiming the tax cap.
 - (2) *Age or disability.* The person occupying the dwelling and owning title or partial title thereto is 65 years or older on December 31 of the year immediately preceding the taxable year or the person claiming the tax cap was permanently and totally disabled on December 31 of the year immediately preceding the taxable year and is so disabled when he files the affidavit or written statement required in section 20-92 of this division. A dwelling jointly held by husband and wife may qualify if either spouse is 65 years of age or over or is permanently and totally disabled. Such dwelling must be owned by and occupied as the sole dwelling of the person claiming the tax cap. Persons who are otherwise qualified for the tax cap but are confined to hospitals, nursing homes, convalescent homes or other institutions for physical or mental care are not disqualified for the tax cap so long as the real estate for which the tax cap is sought is not used by or leased to others for consideration.
 - (3) *Gross combined income.* The gross combined income of the owner(s) during the year immediately preceding the taxable year must be determined by the director to be an amount not to exceed \$105,000.
 - (4) *Net combined financial worth.* The net combined financial worth of the owner(s) as of December 31 of the year immediately preceding the taxable year must be determined by the director to be an amount not to exceed \$700,000.