

Article 4. Special Assessment for Land Preservation.

§ 58.1-3229. Repealed.

Repealed by Acts 2022, c. 294, cl. 2.

§ 58.1-3230. Special classifications of real estate established and defined.

For the purposes of this article the following special classifications of real estate are established and defined:

"Real estate devoted to agricultural use" shall mean real estate devoted to the bona fide production for sale of plants and animals, or products made from such plants and animals on the real estate, that are useful to man or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to soil and water conservation programs under an agreement with an agency of the state or federal government under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). "Real estate devoted to agricultural use" shall include a property that formerly participated in such a state or federal soil and water conservation program and continues to meet the qualifications of such program but is no longer receiving payments or compensation. Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for a profit or otherwise shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to agricultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to agricultural use. In determining whether real property is devoted to agricultural use, zoning designations and special use permits for the property shall not be the sole considerations. The presence of noxious weeds, as defined in § 3.2-800, or woody growth shall not be the sole basis for the denial of such designation or for the exclusion of such land for the purposes of determining minimum acreage if the landowner provides documentation, in the form of receipts or invoices, of a regular or annual control method of such weeds or growth.

"Real estate devoted to horticultural use" shall mean real estate devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts, and berries; vegetables; nursery and floral products; and plants or products directly produced from fruits, vegetables, nursery and floral products, or plants on such real estate or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil and water conservation program under an agreement with an agency of the state or federal government under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). "Real estate devoted to horticultural use" shall include a property that formerly participated in such a state or federal soil and water conservation program and continues to meet the qualifications of such program but is no longer receiving payments or compensation. Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for profit or otherwise shall be considered real estate devoted to horticultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to horticultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to horticultural use. In determining whether real property is devoted to horticultural use, zoning designations and special use permits for the property shall not be the sole considerations.

"Real estate devoted to forest use" shall mean land, including the standing timber and trees thereon, devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester pursuant to the authority set out in § 58.1-3240 and in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for profit, or otherwise, shall still be considered real estate devoted to forest use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it no longer constitutes a forest area under standards prescribed by the State Forester pursuant to the authority set out in § 58.1-3240. Real property that has been designated as devoted to forest use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or is otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to forest use. In determining whether real property is devoted to forest use, zoning designations and special use permits for the property shall not be the sole consideration.

"Real estate devoted to open-space use" shall mean real estate used as, or preserved for, (i) park or recreational purposes, including public or private golf courses, (ii) conservation of land or other natural resources, (iii) floodways, (iv) wetlands as defined in § 58.1-3666, (v) riparian buffers as defined in § 58.1-3666, (vi) historic or scenic purposes, or (vii) assisting in the shaping of the character, direction, and timing of community development or for the public interest and consistent with the local land-use plan under uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § 58.1-3240 and in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and the local ordinance. Prior, discontinued use of property shall not be considered in determining its current use. Real property that has been designated as devoted to open-space use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or is otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to open-space use. In determining whether real property is devoted to open-space use, zoning designations and special use permits for the property shall not be the sole considerations.

Code 1950, § 58-769.5; 1971, Ex. Sess., c. 172; 1973, c. 209; 1984, cc. 675, 739, 750; 1987, c. 550; 1988, c. 695; 1989, cc. 648, 656; 1996, c. 573; 1998, c. 516; 2006, c. 817; 2009, c. 800; 2012, c. 653; 2018, c. 504; 2023, c. 345.

§ 58.1-3231. Authority of counties, cities and towns to adopt ordinances; general reassessment following adoption of ordinance.

Any county, city or town which has adopted a land-use plan may adopt an ordinance to provide for the use value assessment and taxation, in accord with the provisions of this article, of real estate classified in § 58.1-3230. The local governing body pursuant to § 58.1-3237.1 may provide in the ordinance that property located in specified zoning districts shall not be eligible for special assessment as provided in this article. However, real estate that is being provided use value assessment and taxation shall not be denied such use value assessment and taxation solely because of its location in a newly created zoning district that was not requested by the real estate owner. The provisions of this article shall not be applicable in any county, city or town for any year unless such an ordinance is adopted by the governing body thereof not later than June 30 of the year previous to the year when such taxes are first assessed and levied under this article, or December 31 of such year for localities which have adopted a fiscal year assessment date of July 1, under Chapter 30 (§ 58.1-3000 et seq.) of this subtitle. The provisions of this article also shall not apply to the assessment of any real estate assessable pursuant to law by a central state agency.

Land used in agricultural and forestal production within an agricultural district, a forestal district or an agricultural and forestal district that has been established under Chapter 43 (§ 15.2-4300 et seq.) of Title 15.2, shall be eligible for the use value assessment and taxation whether or not a local land-use plan or local ordinance pursuant to this section has been adopted.

Such ordinance shall provide for the assessment and taxation in accordance with the provisions of this article of any or all of the four classes of real estate set forth in § 58.1-3230. If the uniform standards prescribed by the Commissioner of Agriculture and Consumer Services pursuant to § 58.1-3230 require real estate to have been used for a particular purpose for a minimum length of time before qualifying as real estate devoted to agricultural use or horticultural use, then such ordinance may waive such prior use requirement for real estate devoted to the production of agricultural and horticultural crops that require more than two years from initial planting until commercially feasible harvesting. If the uniform standards prescribed by the Commissioner of Agriculture

and Consumer Services pursuant to § 58.1-3230 require real estate to have been used for a particular purpose for a minimum length of time before qualifying as real estate devoted to agricultural use or horticultural use, then (i) use of other similar property by a lessee of the owner shall be included in calculating such time and (ii) the Commissioner of Agriculture and Consumer Service shall include in the uniform standards a shorter minimum length of time for real estate with no prior qualifying use, provided that the owner submits a written document of the owner's intent regarding use of the real estate containing elements set out in the uniform standards. Localities are not required to maintain such written document.

Such ordinance may provide that the annual increase in the assessed value of property within the classes of real estate set forth in § 58.1-3230 shall not exceed a dollar amount per acre specified in the ordinance.

In addition to but not to replace any other requirements of a land-use plan such ordinance may provide that the special assessment and taxation be established on a sliding scale which establishes a lower assessment for property held for longer periods of time within the classes of real estate set forth in § 58.1-3230. Any such sliding scale shall be set forth in the ordinance.

Notwithstanding any other provision of law, the governing body of any county, city or town shall be authorized to direct a general reassessment of real estate in the year following adoption of an ordinance pursuant to this article.

Code 1950, § 58-769.6; 1971, Ex. Sess., c. 172; 1973, c. 209; 1974, c. 34; 1975, c. 233; 1977, c. 681; 1978, c. 250; 1984, cc. 92, 675; 1987, c. 628; 1988, c. 695; 1999, c. 1026; 2000, c. 410; 2001, c. 705; 2018, c. 504; 2019, c. 22.

§ 58.1-3232. Authority of city to provide for assessment and taxation of real estate in newly annexed area.

The council of any city may adopt an ordinance to provide for the assessment and taxation of only the real estate in an area newly annexed to such city in accord with the provisions of this article. All of the provisions of this article shall be applicable to such ordinance, except that if the county from which such area was annexed has in operation an ordinance hereunder, the ordinance of such city may be adopted at any time prior to April 1 of the year for which such ordinance will be effective, and applications from landowners may be received at any time within thirty days of the adoption of the ordinance in such year. If such ordinance is adopted after the date specified in § 58.1-3231, the ranges of suggested values made by the State Land Evaluation Advisory Council for the county from which such area was annexed are to be considered the value recommendations for such city. An ordinance adopted under the authority of this section shall be effective only for the tax year immediately following annexation.

Code 1950, § 58-769.6:1; 1976, c. 58; 1984, c. 675.

§ 58.1-3233. Determinations to be made by local officers before assessment of real estate under ordinance.

Prior to the assessment of any parcel of real estate under any ordinance adopted pursuant to this article, the local assessing office shall:

1. Determine that the real estate meets the criteria set forth in § 58.1-3230 and the standards prescribed thereunder to qualify for one of the classifications set forth therein, and he may request an opinion from the Director of the Department of Conservation and Recreation, the State Forester or the Commissioner of Agriculture and Consumer Services;
2. Determine further that real estate devoted solely to (i) agricultural or horticultural use consists of a minimum of five acres, except that for real estate used for agricultural purposes, for purposes of engaging in aquaculture as defined in § 3.2-2600, or for purposes of raising specialty crops as defined by local ordinance, the governing body may by ordinance prescribe that these uses consist of a minimum acreage of less than five acres; (ii) forest use consists of a minimum of 20 acres; and (iii) open-space use consists of a minimum of five acres or such greater minimum acreage as may be prescribed by local ordinance, except that for real estate adjacent to a scenic river, a scenic highway, a Virginia Byway or public property in the Virginia Outdoors Plan or for any real estate in any city, county or town having a density of population greater than 5,000 per square mile, for any real estate in any county operating under the urban county executive form of government, or the unincorporated Town of Yorktown chartered in 1691, the governing body may by ordinance prescribe that land devoted to open-space uses consist of a minimum of one quarter of an acre.

The minimum acreage requirements for special classifications of real estate shall be determined by adding together the total area of contiguous real estate excluding recorded subdivision lots recorded after July 1, 1983, titled in the same ownership. However, for purposes of adding together such total area of contiguous real estate, any noncontiguous parcel of real property included in an agricultural, forestal, or an agricultural and forestal district of local significance pursuant to subsection B of § 15.2-4405 shall be deemed to be contiguous to any other real property that is located in such district. For purposes of this section, properties separated only by a public right-of-way are considered contiguous; and

3. Determine further that real estate devoted to open-space use is (i) within an agricultural, a forestal, or an agricultural and forestal district entered into pursuant to Chapter 43 (§ 15.2-4300 et seq.) of Title 15.2, or (ii) subject to a recorded perpetual

easement that is held by a public body, and promotes the open-space use classification, as defined in § 58.1-3230, or (iii) subject to a recorded commitment entered into by the landowners with the local governing body, or its authorized designee, not to change the use to a nonqualifying use for a time period stated in the commitment of not less than four years nor more than 10 years. Such commitment shall be subject to uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § 58.1-3240. Such commitment shall run with the land for the applicable period, and may be terminated in the manner provided in § 15.2-4314 for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.

Code 1950, § 58-769.7; 1971, Ex. Sess., c. 172; 1973, c. 209; 1980, c. 75; 1984, cc. 675, 739, 750; 1987, c. 550; 1988, cc. 462, 695; 1989, c. 656; 1990, c. 695; 1991, cc. 69, 490; 2002, c. 475; 2003, c. 356; 2010, c. 653; 2015, c. 485.

§ 58.1-3234. Application by property owners for assessment, etc., under ordinance; continuation of assessment, etc.

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

1. The property owner shall submit an initial application, unless it is a revalidation form, at least 60 days preceding the tax year for which such taxation is sought;
2. In any year in which a general reassessment is being made, the property owner may submit such application until 30 days have elapsed after his notice of increase in assessment is mailed in accordance with § 58.1-3330, or 60 days preceding the tax year, whichever is later; or
3. In any locality which has adopted a fiscal tax year under Chapter 30 (§ 58.1-3000 et seq.), but continues to assess as of January 1, such application shall be submitted for any year at least 60 days preceding the effective date of the assessment for such year.

The governing body, by ordinance, may permit applications to be filed within no more than 60 days after the filing deadline specified herein, upon the payment of a late filing fee to be established by the governing body. In addition, a locality may, by ordinance, permit a further extension of the filing deadline specified herein, upon payment of an extension fee to be established by the governing body in an amount not to exceed the late filing fee, to a date not later than 30 days after notices of assessments are mailed. An individual who is owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors, cannot be located, or represent a minority interest in such parcel. An application shall be submitted whenever the use or acreage of such land previously approved changes; however, no application fee may be required when a change in acreage occurs solely as a result of a conveyance necessitated by governmental action or condemnation of a portion of any land previously approved for taxation on the basis of use assessment. The governing body of any locality may, however, require any such property owner to revalidate at least every six years with such locality, on or before the date on which the last installment of property tax prior to the effective date of the assessment is due, on forms prepared by the Department, any applications previously approved. Each locality that has adopted an ordinance hereunder may provide for the imposition of a revalidation fee every sixth year. Such revalidation fee shall not, however, exceed the application fee currently charged by the locality. The governing body may also provide for late filing of revalidation forms on or before the effective date of the assessment, on payment of a late filing fee. Forms shall be prepared by the Department and supplied to the locality for use of the applicants and applications shall be submitted on such forms. An application fee may be required to accompany all such applications. The application form shall allow a landowner who received payments or compensation as a result of the former participation of his property in a state or federal soil and water conservation program, and whose property continues to meet the qualifications of such program but is no longer receiving such payments or compensation, to certify that the land continues to meet the requirements of such program for the purposes of classification pursuant to § 58.1-3230.

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

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

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

58.1-3230. The term of the written agreement shall be for a period not exceeding 20 years, and the instrument shall be recorded in the office of the clerk of the circuit court for the locality in which the subject property is located.

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

Code 1950, § 58-769.8; 1971, Ex. Sess., c. 172; 1973, cc. 93, 209; 1974, c. 33; 1976, c. 478; 1977, c. 213; 1978, cc. 250, 644, 645; 1979, cc. 180, 632; 1980, cc. 493, 508; 1982, c. 624; 1984, cc. 92, 675; 1988, c. 695; 1993, c. 102; 1999, c. 1026; 2001, c. 50; 2017, c. 25; 2018, c. 504; 2022, cc. 111, 314; 2023, c. 345.

§ 58.1-3235. Removal of parcels from program if taxes delinquent.

A. If on April 1 of any year the taxes for any prior year on any parcel of real property that has a special assessment as provided for in this article are delinquent, the appropriate county, city, or town treasurer shall forthwith send notice of that fact and the general provisions of this section to the property owner by first-class mail. If, after the notice has been sent, such delinquent taxes remain unpaid on June 1, the treasurer shall notify the appropriate commissioner of the revenue who shall remove such parcel from the land use program. Such removal shall become effective for the current tax year.

B. Notwithstanding the provisions of subsection A, a locality may, by ordinance, provide that if such delinquent taxes are paid no later than December 31, such parcel shall not be removed from the land use program.

C. No parcel of real property shall be removed from the land use program for delinquent taxes if (i) the taxes become delinquent during a state of emergency declared by the Governor pursuant to subdivision (7) of § 44-146.17; (ii) the treasurer determines that the disaster giving rise to the state of emergency has caused hardship for the taxpayer; and (iii) the delinquent taxes are paid no later than 90 days after the deadline provided in subsection A or B, as applicable.

Code 1950, § 58-769.8:1; 1980, c. 508; 1984, c. 675; 1994, c. 199; 2022, c. 663.

§ 58.1-3236. Valuation of real estate under ordinance.

A. In valuing real estate for purposes of taxation by any county, city or town which has adopted an ordinance pursuant to this article, the commissioner of the revenue or duly appointed assessor shall consider only those indicia of value which such real estate has for agricultural, horticultural, forest or open space use, and real estate taxes for such jurisdiction shall be extended up to the value so determined. In addition to use of his personal knowledge, judgment and experience as to the value of real estate in agricultural, horticultural, forest or open space use, he shall, in arriving at the value of such land, consider available evidence of agricultural, horticultural, forest or open space capability, and the recommendations of value of such real estate as made by the State Land Evaluation Advisory Council.

B. In determining the total area of real estate actively devoted to agricultural, horticultural, forest or open space use there shall be included the area of all real estate under barns, sheds, silos, cribs, greenhouses, public recreation facilities and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities; but real estate under, and such additional real estate as may be actually used in connection with, the farmhouse or home or any other structure not related to such special use, shall be excluded in determining such total area.

C. All structures which are located on real estate in agricultural, horticultural, forest or open space use and the farmhouse or home or any other structure not related to such special use and the real estate on which the farmhouse or home or such other structure is located, together with the additional real estate used in connection therewith, shall be valued, assessed and taxed by the same standards, methods and procedures as other taxable structures and other real estate in the locality.

D. In addition, such real estate in agricultural, horticultural, forest or open space use shall be evaluated on the basis of fair market value as applied to other real estate in the taxing jurisdiction, and land book records shall be maintained to show both the use value and the fair market value of such real estate.

Code 1950, § 58-769.9; 1971, Ex. Sess., c. 172; 1984, c. 675.

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

A. When real estate qualifies for assessment and taxation on the basis of use under an ordinance adopted pursuant to this article, and the use by which it qualified changes to a nonqualifying use, or, except as provided by ordinance enacted pursuant to subsection G, the zoning of the real estate is changed to a more intensive use at the request of the owner or his agent, it shall be subject to additional taxes, hereinafter referred to as roll-back taxes. Such additional taxes shall only be assessed against that

portion of such real estate which no longer qualifies for assessment and taxation on the basis of use or zoning. Liability for roll-back taxes shall attach and be paid to the treasurer only if the amount of tax due exceeds ten dollars.

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

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

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

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

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

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

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

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

Code 1950, § 58-769.10; 1971, Ex. Sess., c. 172; 1973, c. 209; 1974, c. 34; 1977, c. 323; 1979, c. 179; 1980, c. 363; 1984, cc. 92, 222, 675, 676, 681; 1985, c. 478; 1988, cc. 422, 695; 1990, c. 841; 1992, Sp. Sess., c. 3; 1998, c. 274; 1999, c. 1026; 2013, c. 269.

§ 58.1-3237.1. Authority of counties to enact additional provisions concerning zoning classifications.

A. Albemarle County, Arlington County, Augusta County, James City County, Loudoun County, and Rockingham County may include the following additional provisions in any ordinance enacted under the authority of this article:

1. The governing body may exclude land lying in planned development, industrial or commercial zoning districts from assessment under the provisions of this article. As applied to zoning districts, this provision applies only to zoning districts established prior to January 1, 1981.

2. The governing body may provide that when the zoning of the property taxed under the provisions of this article is changed to allow a more intensive nonagricultural use at the request of the owner or his agent, such property shall not be eligible for assessment and taxation under this article. This shall not apply, however, to property that is zoned agricultural and is subsequently rezoned to a more intensive use that is complementary to agricultural use, provided such property continues to be owned by the same owner who owned the property prior to rezoning and continues to operate the agricultural activity on the property. Notwithstanding any other provision of law, such property shall be subject to and liable for roll-back taxes at the time the zoning is changed to allow any use more intensive than the use for which it qualifies for special assessment. The roll-back tax plus interest, shall be calculated, levied and collected from the owner of the real estate in accordance with § 58.1-3237 at the time the property is rezoned.

B. Goochland County may include additional provisions specified in subdivisions A 1 and 2 in any ordinance enacted under the authority of this article, but only in service districts created after July 1, 2013, pursuant to Article 1 (§ 15.2-2400 et seq.) of Chapter 24 of Title 15.2.

1987, c. 628; 1992, Sp. Sess., c. 3; 1993, c. 584; 2007, c. 813; 2011, c. 12; 2013, c. 677.

§ 58.1-3238. Failure to report change in use; misstatements in applications.

Any person failing to report properly any change in use of property for which an application for use value taxation had been filed shall be liable for all such taxes, in such amounts and at such times as if he had complied herewith and assessments had been properly made, and he shall be liable for such penalties and interest thereon as may be provided by ordinance. Any person making a material misstatement of fact in any such application shall be liable for all such 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 taxing jurisdiction, together with interest and penalties thereon. If such material misstatement was made with the intent to defraud the locality, he shall be further assessed with an additional penalty of 100 percent of such unpaid taxes.

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

1. The number and identities of the known owners of the property at the time of application;
2. The actual use of the property.

The intentional misrepresentation of the number of acres in the parcel or the number of acres to be taxed according to use shall also be considered a material misstatement of fact for the purposes of this section and § 58.1-3234.

Code 1950, § 58-769.10:1; 1971, Ex. Sess., c. 172; 1982, c. 624; 1984, cc. 675, 681.

§ 58.1-3239. State Land Evaluation Advisory Committee continued as State Land Evaluation Advisory Council; membership; duties; ordinances to be filed with Council.

The State Land Evaluation Advisory Committee is continued and shall hereafter be known as the State Land Evaluation Advisory Council. The Advisory Council shall be composed of the Tax Commissioner, the dean of the College of Agriculture of Virginia Polytechnic Institute and State University, the State Forester, the Commissioner of Agriculture and Consumer Services and the Director of the Department of Conservation and Recreation.

The Advisory Council shall determine and publish a range of suggested values for each of the several soil conservation service land capability classifications for agricultural, horticultural, forest and open space uses in the various areas of the Commonwealth as needed to carry out the provisions of this article.

On or before October 1 of each year the Advisory Council shall submit recommended ranges of suggested values to be effective the following January 1 or July 1 in the case of localities with fiscal year assessment under the authority of Chapter 30 of this subtitle, within each locality which has adopted an ordinance pursuant to the provisions of this article based on the productive earning power of real estate devoted to agricultural, horticultural, forest and open space uses and make such recommended ranges available to the commissioner of the revenue or duly appointed assessor in each such locality.

The Advisory Council, in determining such ranges of values, shall base the determination on productive earning power to be determined by capitalization of warranted cash rents or by the capitalization of incomes of like real estate in the locality or a reasonable area of the locality.

Any locality adopting an ordinance pursuant to this article shall forthwith file a copy thereof with the Advisory Council.

Code 1950, § 58-769.11; 1971, Ex. Sess., c. 172; 1976, c. 55; 1979, c. 152; 1984, cc. 675, 739, 750; 1985, c. 448; 1987, c. 550; 1989, c. 656.

§ 58.1-3240. Duties of Director of the Department of Conservation and Recreation, the State Forester and the Commissioner of Agriculture and Consumer Services; remedy of person aggrieved by action or nonaction of Director, State Forester or Commissioner.

The Director of the Department of Conservation and Recreation, the State Forester, and the Commissioner of Agriculture and Consumer Services shall provide, after holding public hearings, to the commissioner of the revenue or duly appointed assessor of each locality adopting an ordinance pursuant to this article, a statement of the standards referred to in § 58.1-3230 and subdivision 1 of § 58.1-3233, which shall be applied uniformly throughout the Commonwealth in determining whether real estate is devoted to agricultural use, horticultural use, forest use or open-space use for the purposes of this article and the procedure to be followed by such official to obtain the opinion referenced in subdivision 1 of § 58.1-3233. 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 in the statements filed pursuant to this section, the party aggrieved may seek relief in the circuit court of the county or city wherein the real estate in question is located, and in the event that 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 1950, § 58-769.12; 1971, Ex. Sess., c. 172; 1973, c. 209; 1984, cc. 675, 739, 750; 1987, c. 550; 1989, c. 656.

§ 58.1-3241. Separation of part of real estate assessed under ordinance; contiguous real estate located in more than one taxing locality.

A. Separation or split-off of lots, pieces or parcels of land from the real estate which is being valued, assessed and taxed under an ordinance adopted pursuant to this article, either by conveyance or other action of the owner of such real estate, shall subject the real estate so separated to liability for the roll-back taxes applicable thereto, but shall not impair the right of each subdivided parcel of such real estate to qualify for such valuation, assessment and taxation in any and all future years, provided it meets the minimum acreage requirements and such other conditions of this article as may be applicable. Such separation or split-off of lots shall not impair the right of the remaining real estate to continuance of such valuation, assessment and taxation without liability for roll-back taxes, provided it meets the minimum acreage requirements and other applicable conditions of this article.

B. 1. No subdivision, separation, or split-off of property which results in parcels that meet the minimum acreage requirements of this article, and that are used for one or more of the purposes set forth in § 58.1-3230, shall be subject to the provisions of subsection A.

2. The application of roll-back taxes pursuant to subsection A shall, at the option of the locality, also not apply to a subdivision, separation, or split-off of property made pursuant to a subdivision ordinance adopted under § 15.2-2244 that results in parcels that do not meet the minimum acreage requirements of this article, provided that title to the parcels subdivided, separated, or split-off is held in the name of an immediate family member for at least the first 60 months immediately following the subdivision, separation, or split-off.

For purposes of this subdivision, an "immediate family member" means any person defined as such in the locality's subdivision ordinance adopted pursuant to § 15.2-2244.

C. Where contiguous real estate in agricultural, horticultural, forest or open-space use in one ownership is located in more than one taxing locality, compliance with the minimum acreage shall be determined on the basis of the total area of such real estate and not the area which is located in the particular taxing locality.

Code 1950, § 58-769.13; 1971, Ex. Sess., c. 172; 1978, c. 385; 1984, c. 675; 1988, c. 695; 2006, c. 221.

§ 58.1-3242. Taking of real estate assessed under ordinance by right of eminent domain.

The taking of real estate which is being valued, assessed and taxed under an ordinance adopted pursuant to this article by right of eminent domain shall not subject the real estate so taken to the roll-back taxes herein imposed.

Code 1950, § 58-769.14; 1971, Ex. Sess., c. 172; 1984, c. 675.

§ 58.1-3242.1. Forest Sustainability Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Forest Sustainability Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes set forth in subsection B. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the State Forester.

B. Any locality that has adopted an ordinance to provide for the use value assessment and taxation for real estate devoted for forest use pursuant to this article may apply for an annual allocation of funds from the Fund. A locality shall submit by November 15 of each year (i) a copy of its ordinance and (ii) the total revenue forgone by the locality in the prior fiscal year due to the use value assessment and taxation for real estate devoted for forest use. The State Forester shall allocate funds from the Fund on a proportional basis, based on the amount of revenues forgone by the applicant localities. Any funds received by a locality shall be used solely for public education generally or for projects related to outdoor recreation or forest conservation.

2022, cc. 378, 379.

§ 58.1-3243. Application of other provisions of Title 58.1.

The provisions of this title applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation hereunder mutatis mutandis including, without limitation, provisions relating to tax liens, boards of equalization and the correction of erroneous assessments and for such purposes the roll-back taxes shall be considered to be deferred real estate taxes.

Code 1950, § 58-769.15; 1971, Ex. Sess., c. 172; 1980, c. 241; 1983, c. 304; 1984, c. 675.

§ 58.1-3244. Article not in conflict with requirements for preparation and use of true values.

Nothing in this article shall be construed to be in conflict with the requirements for preparation and use of true values where prescribed by the General Assembly for use in any fund distribution formula.

Code 1950, § 58-769.15:1; 1971, Ex. Sess., c. 172; 1984, c. 675.

10/26/202



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