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SENATE BILL NO. 1305

AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the Senate Committee on Local Government
 on January 20, 2025)

(Patron Prior to Substitute—Senator McPike)

A *BILL to amend and reenact §§ 58.1-3237 and 58.1-3285 of the Code of Virginia, relating to local taxes; zoning; assessments; ordinances.*

Be it enacted by the General Assembly of Virginia:

**1. That §§ 58.1-3237 and 58.1-3285 of the Code of Virginia are amended and reenacted as follows:
 § 58.1-3237. Change in use or zoning of real estate assessed under ordinance; roll-back taxes.**

A. 1. 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~~ \$10.

2. A change to the zoning of real estate pursuant to this section shall only be effective upon the later of the following: (i) the approval of the relevant modification in the zoning classification of real estate; (ii) the exhaustion of the period within which a challenge or appeal to such modification may be made; (iii) if pending, the final determination of any challenge or appeal to such modification that is made within such period; or (iv) the sale of the subject property.

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~~ 60 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~~ 30 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

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

72 However, the owner of any real property that qualified for assessment and taxation on the basis of use,
 73 and whose real property was rezoned to a more intensive use at the owner's request prior to 1980, may be
 74 eligible for taxation and assessment under this article provided the owner applies for rezoning to agricultural,
 75 horticultural, open-space or forest use. The real property shall be eligible for assessment and taxation on the
 76 basis of the qualifying use for the tax year following the effective date of the rezoning. If any such real
 77 property is subsequently rezoned to a more intensive use at the owner's request, within five years from the
 78 date the property was initially rezoned to a qualifying use under this section, the owner shall be liable for
 79 roll-back taxes when the property is rezoned to a more intensive use. Additionally, the owner shall be subject
 80 to a penalty equal to ~~forty~~ 50 percent of the roll-back taxes due as determined under subsection B of this
 81 section.

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

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

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

96 **§ 58.1-3285. Assessment and reassessment of lots when subdivided or rezoned.**

97 A. Whenever a tract of land is subdivided into lots under the provisions of law and plats thereof are
 98 recorded, subsequent to any general reassessment of real estate in the city or county in which such real estate
 99 is situated, each lot in such subdivision shall be assessed and shown separately upon the land books, as
 100 required by law. The commissioner of the revenue, in assessing each such lot, shall assess the same at fair
 101 market value as of January 1 of the year next succeeding the year in which such plat is recorded, without
 102 regard to the value at which such tract of land was assessed as acreage but with regard to other assessments of
 103 lots in such city or county. Such assessment shall stand until the next general reassessment of real estate in
 104 such city or county. The commissioner of the revenue shall also assess or reassess, as required, any lot, tract,
 105 piece or parcel of land which has been rezoned, reclassified or as to which any exception has been made, by
 106 the zoning authorities of the county. Further, the commissioner of the revenue shall assess or reassess, as
 107 required, any lot, tract, piece or parcel of land upon or to which improvements have been made, such as hard
 108 surfacing of streets or roadways, or installation of curbs, gutters, sidewalks and utilities, any one or all of
 109 which may add to the fair market value. Such an assessment shall be made with regard to other assessments
 110 of lots, tracts, pieces or parcels of land in the city or county. To such end the commissioner of the revenue
 111 shall be supplied by the city or county with the necessary data and records to indicate any rezoning,
 112 reclassification, exception or improvement.

113 B. *The assessment or reassessment required pursuant to subsection A shall only be effective upon the later*
 114 *of the following: (i) the approval of a modification in the zoning classification of the subject real estate, an*
 115 *exception to zoning or classification of the subject real estate, or a reclassification of the subject real estate;*
 116 *(ii) the exhaustion of the period within which a challenge or appeal to such approvals may be made; (iii) if*
 117 *pending, the final determination of any challenge or appeal to such approvals that is made within such*
 118 *period; or (iv) the sale of the subject property.*

119 **2. That for the purposes of this act, changes to the zoning ordinance or amendment thereof refers to**
 120 **such ordinances and amendments enacted after December 1, 2023.**