



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Robert F. McDonnell
Attorney General

June 1, 2007

900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

The Honorable L. Scott Lingamfelter
House of Delegates
5420 Lomax Way
Woodbridge, Virginia 22193

Dear Delegate Lingamfelter:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You ask whether a constitutional amendment is necessary to provide a 100% homestead tax exemption for veterans who are 100% permanently and totally disabled.

Response

It is my opinion that a constitutional amendment is necessary to provide a 100% homestead exemption for veterans who are 100% permanently and totally disabled and who do not meet the income and financial worth limitations required by Article X, § 6(b) of the Constitution of Virginia.

Background

You relate that during the 2007 Session of the General Assembly you introduced House Joint Resolution 581¹ ("HJ 581") to propose a constitutional amendment authorizing a general law to provide a homestead tax exemption for veterans who are 100% permanently and totally disabled as a result of service in the armed forces. Additionally, you note that such an amendment would include the surviving spouse of any veteran eligible for the exemption.

Applicable Law and Discussion

Article X, § 1 of the Virginia Constitution provides that "[a]ll property, except as hereinafter provided, shall be taxed." Article X, § 6(b) provides that:

The General Assembly may by general law authorize the governing body of any [locality] to provide for the exemption from local property taxation, or a portion thereof, within such restrictions and upon such conditions as may be prescribed, of real estate and

¹See 2007 H.J.R. 581, available at <http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+HJ581>.

personal property designed for continuous habitation owned by, and occupied as the sole dwelling of, persons not less than sixty-five years of age or persons permanently and totally disabled as established by general law who are deemed by the General Assembly to be bearing an extraordinary tax burden on said property in relation to their income and financial worth.

Thus, § 6(b) empowers the General Assembly to enact general laws authorizing local governing bodies to provide for the complete or partial exemption of real estate or personal property from local property taxes if such property is “designed for continuous habitation” and is

owned by, and occupied as the sole dwelling of, persons not less than sixty-five years of age or persons permanently and totally disabled as established by general law who are deemed by the General Assembly to be bearing an extraordinary tax burden on said property in relation to their income and financial worth.

The General Assembly has enacted such general laws in Articles 2, §§ 58.1-3210 through 58.1-3218, and 2.1, §§ 58.1-3219 through 58.1-3219.1, 58.1-3219.3, of Chapter 32 of Title 58.1. Specifically, § 58.1-3210(A) authorizes localities to enact ordinances exempting or deferring the taxation of real estate or a combination thereof. Consistent with Article X, § 6(b), § 58.1-3210(A) limits such exemptions and deferrals to real estate owned and occupied as the sole dwelling of persons who are at least sixty-five years of age or who are permanently and totally disabled within the meaning of § 58.1-3217.

Section 6(b) also provides that such exemption is available only to those persons who bear an extraordinary tax burden with respect to the property in relation to their income and financial worth. In §§ 58.1-3210 and 58.1-3211, the General Assembly has established the criteria to determine the persons who bear an extraordinary tax burden on property in relation to their income and worth.²

Section 58.1-3211(1)(a) establishes a restriction for the total combined income from all sources during the preceding calendar year to that earned by the owners of the dwelling using it as their principal residence and any relatives also living in the dwelling. Section 58.1-3211(2) imposes a similar restriction on a qualifying person’s net combined financial worth. Consequently, a person will not qualify for such exemption unless he satisfies the requirements in § 58.1-3210, and the income and net worth restrictions established by § 58.1-3211.

The exemption proposed by HJ 581 would not have imposed income limitations or restrictions on a qualifying veteran’s income or net combined financial worth. Rather, it would extend the homestead tax exemption to all permanently and totally disabled veterans regardless of income and financial worth. Because Article X, § 6(b) limits homestead exemptions to qualifying individuals who bear an extraordinary tax burden in relation to their income and financial worth, I must conclude that a constitutional amendment is required to authorize an exemption for all veterans who are 100% permanently and totally disabled.

²See VA. CODE ANN. § 58.1-3218 (2004).

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Conclusion

Accordingly, it is my opinion that a constitutional amendment is necessary to provide a 100% homestead exemption for veterans who are 100% permanently and totally disabled and who do not meet the income and financial worth limitations required by Article X, § 6(b) of the Constitution of Virginia.

Thank you for letting me be of service to you.

Sincerely,

A handwritten signature in black ink, reading "Robert F. McDonnell". The signature is written in a cursive style with a large, prominent initial "R".

Robert F. McDonnell