

**INTERIM REPORT OF THE
COMMISSION ON THE NEEDS OF ELDERLY VIRGINIANS**

**To
THE GOVERNOR
And
THE GENERAL ASSEMBLY OF VIRGINIA**



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**INTERIM REPORT OF THE
COMMISSION ON THE NEEDS OF ELDERLY VIRGINIANS**

to the

GOVERNOR AND GENERAL ASSEMBLY

Richmond, Virginia

January 26, 1976

To: Honorable Mills E. Godwin, Jr., Governor of Virginia

and

The General Assembly of Virginia

INTRODUCTION

The Commission to Study the Needs of Elderly Virginians, first established by the 1973 General Assembly, is currently operating under the following resolution:

HOUSE JOINT RESOLUTION NO. 173

To continue the Commission on the Needs of Elderly Virginians.

WHEREAS, the Commission on the Needs of Elderly Virginians was created in nineteen hundred seventy-three by the General Assembly to make specific recommendations as to areas of need affecting the elderly; and

WHEREAS, the Commission has conducted a study of these needs including holding six public hearings around the State which assisted it in identifying the numerous needs of the elderly; and

WHEREAS, the Commission has submitted two reports to the General Assembly setting out these needs and suggesting ways to assist the elderly in meeting them; and

WHEREAS, the Commission has identified more areas of need than it could reasonably find means to deal with, among which were property tax relief and employment; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Commission on the Needs of Elderly Virginians is hereby continued in existence and shall continue to study and make specific recommendations to the Governor and the General Assembly on

areas of need affecting the elderly.

All agencies of the Commonwealth are directed to cooperate with the Commission upon request.

The fifteen members now serving on the Commission shall continue to serve as members of the Commission. If a vacancy should occur, the vacancy shall be filled in the same manner as the appointment of the original member. Members of the Commission shall receive compensation of thirty-five dollars per diem for each day or part thereof devoted to their duties as members of the Commission and, in addition, shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

The Commission shall file an interim report not later than December one, nineteen hundred seventy-five and shall conclude its study and file its final report by November one, nineteen hundred seventy-six.

In order to continue its work and complete its charge through 1976, the Commission proposes the following new resolution:

HOUSE JOINT RESOLUTION NO.....

To continue the Commission on the Needs of Elderly Virginians and allocate money therefor.

WHEREAS, the Commission on the Needs of Elderly Virginians was created in nineteen hundred seventy-three by the General Assembly to make specific recommendations as to areas of need affecting the elderly; and

WHEREAS, the Commission was directed by House Joint Resolution No. 173 of the 1975 Session of the General Assembly to make its final report by November one, nineteen hundred seventy-six; and

WHEREAS, additional funds are needed for the continued operation of the Commission; now, therefore, be it

RESOLVED, by the House of Delegates, the Senate concurring, That the Commission on the Needs of Elderly Virginians is hereby continued. Members of the Commission shall receive a per diem allowance of fifty dollars for each day and any part thereof devoted to their duties as members of the Commission and in addition shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties for which, and for such secretarial, technical and other assistance as may be required, there is hereby allocated the sum of fifteen thousand dollars from the contingent fund of the General Assembly.

Throughout 1975, the Commission has addressed itself to several issues relative to the needs of Virginia's elderly citizens, including State supplementation of Supplemental Security Income

benefits, mandatory retirement, rights of patients in nursing homes and homes for adults, protective services, and property tax relief. Four hearings were held in order to acquaint the public with the issues and to receive suggestions on the proposals under consideration.

Through their study of the issues and submission of necessary legislation to accomplish certain goals for the elderly, the members of the Commission on the Needs of Elderly Virginians have sought to provide Virginia's elderly citizens with the means to live more dignified and comfortable lives. It is the Commission's hope that this report will not only serve to directly relieve some of the burdens of Virginia's elderly citizens but also to educate the public to these needs and to create an awareness which will lead to a greater public concern for members of the rising elderly population.

The following recommendations, some of which include specific legislative proposals, are submitted by the Commission on the Needs of Elderly Virginians:

RECOMMENDATIONS

1. Supplemental Security Income Payments.

The Commission recommends that the State supplement this federal payment program through the issuance of a separate State check to eligible SSI recipients, which supplementation could not be reduced in the event that the federal government further increased payments. Since it has been the past policy of the State to decrease its share of funds to SSI recipients corresponding with any federal government payment increases, resulting in an overall general decrease in payments to eligible SSI recipients, the Commission recommends that the money appropriated for State supplementation of SSI be specifically labeled as a set supplementation, not to be decreased in the event of a federal increase to the SSI program.

Additional supplementation to SSI recipients in homes for adults is discussed in Recommendation 3.

2. Mandatory Retirement.

The Commission found that most State agencies have adopted a policy which requires retirement, under most circumstances, at the age of sixty-five. It is the feeling of the Commission that forced retirement based solely on an arbitrarily selected age factor is unfair and unwarranted. The following bill addresses itself to this concern and establishes the Virginia Employees Retirement Review Board where those persons over the age of sixty-five may appear annually to seek continuation of their job services. The Board would serve to evaluate a person's ability to perform his or her job efficiently and effectively. The Commission urges private industry to also consider this more equitable approach to the retirement of workers.

*A retirement review board would do more psychological harm than social good in the process of attempting to weed out those who should retire, by, in effect, informing them of their inability to continue in their jobs. It would be most difficult to develop equitable and appropriate standards under which such a review board could determine job competency. There are many wiser ways to allow the able elderly to continue to lead productive working lives.

*Dissent of Delegate Thomas Michie

A BILL to amend and reenact §§ 51-111.10 and 51-111.54, as amended, of the Code of Virginia; and to amend the Code of Virginia by adding sections numbered 51-111.54:1 and 51-111.54:2, the amended and added sections relating to the definition of "State employee," mandatory retirement, applications for continuation of employment and the provision for a Virginia Employees Retirement Review Board; appropriation therefor.

Be it enacted by the General Assembly of Virginia:

1. That §§ 51-111.10 and 51-111.54, as amended, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 51-111.54:1 and 51-111.54:2 as follows:

§ 51-111.10. Definitions.—As used in this chapter unless a different meaning is plainly required by the context:

(1) "Retirement system" means the Virginia Supplemental Retirement System provided for in § 51-111.11;

(2) "Board" means the board of trustees as provided by § 51-111.17;

(3) "Medical board" means the board of physicians as provided by § 51-111.26;

(4) "Teacher" means any person who is regularly employed full time on a salary basis as a professional or clerical employee of a county, city or other local public school board or of a corporation participating in the retirement system as provided by Article 4.1 (§ 51-111.38:1 et seq.);

(5) "State employee" means any person who is regularly employed full time on a salary basis, whose tenure is not restricted as to temporary or provisional appointment, *or any person who is employed part-time pursuant to a decision of the Virginia Employees Retirement Review Board made in accordance with § 51-111.54:2*, in the service of, and whose compensation is payable, not oftener than biweekly, in whole or in part, by the Commonwealth or any department, institution or agency thereof; "State employee" shall not include the following: (a) any officer elected by vote of the General Assembly or either House thereof, with the exception of the Auditor of Public Accounts, the Director of the Division of Legislative Services, and the clerks of the State

Senate and House of Delegates; (b) any local officer as defined in paragraph (21) of this section; (c) any employee of a political subdivision of the Commonwealth; (d) any State police officer of the Department of State Police; (e) the Executive Secretary of the Supreme Court, and the Assistant Executive Secretary of the Supreme Court; or (f) any magistrate, with the exception of those magistrates certified to be serving on a regular full-time basis by the Committee on District Courts pursuant to § 14.1-44.2:1;

(6) "Employee" means any teacher, State employee, officer or employee of a locality participating in the retirement system as provided in Article 4 (§ 51-111.31 et seq.), or any employee of a corporation participating in the retirement system as provided in article 4.1 (§ 51-111.38:1 et seq.);

(7) "Employer" means Commonwealth, in the case of a State employee, the local public school board in the case of a public school teacher, or the locality, or corporation participating in the retirement system as provided in Articles 4 (§ 51-111.31 et seq.) and 4.1 (§ 51-111.38:1 et seq.);

(8) "Member" means any person included in the membership of the retirement system as provided in § 51-111.27 or elsewhere in this chapter;

(9) "Service" means service as an employee;

(10) "Prior service" means service as an employee rendered prior to the date of establishment of the retirement system for which credit is allowable under §§ 51-111.39 to 51-111.41:1, 51-111.63 and 51-111.64 or service as an employee for such periods as provided in § 51-111.32, or service as a clerk or employee of a district court for which credit is allowed under § 51-111.10:1;

(11) "Membership service" means service as an employee rendered while a contributing member of the retirement system except as provided in §§ 51-111.41:1, 51-111.45, 51-111.57, 51-111.63 and 51-111.64;

(12) "Creditable service" means prior service plus membership service for which credit is allowable under this chapter;

(13) "Beneficiary" means any person entitled to receive benefits under this chapter;

(14) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, together with interest credited on such amounts and also any other amounts he shall have contributed or transferred thereto including interest credited thereon as provided in §§ 51-111.41:1 and 51-111.49;

(15) "Creditable compensation" means the full compensation payable annually to an employee working the full working time for his covered position. In cases where compensation includes

maintenance or other perquisites, the Board shall fix the value of that part of the compensation not paid in money; provided that for the purposes of this chapter remuneration received by members of the General Assembly shall be deemed creditable compensation;

(16) "Average final compensation" means the average annual creditable compensation of a member during his thirty-six highest consecutive months of creditable service or during the entire period of his creditable service if less than thirty-six months;

(17) "Retirement allowance" means the retirement payments to which a member is entitled as provided in this chapter;

(18) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the Board;

(19) "Normal retirement date" means a member's sixty-fifth birthday;

(20) "Abolished system" means the Virginia Retirement Act, §§ 51-30 to 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952 as of February one, nineteen hundred fifty-two;

(21) "Local officer" means the treasurer, commissioner of the revenue, Commonwealth's attorney, clerk of a circuit court, sheriff, or constable, of any county or city, or his deputy or employee; and

(22) "Primary social security benefit" means, with respect to any member, the primary insurance amount to which the member is entitled, for old age or disability, as the case may be, pursuant to the provisions of the federal Social Security Act as in effect at his date of retirement, under the provisions of this chapter except as otherwise specifically provided; provided, however, in any case in which the amount of a member's primary old age social security benefit at a date subsequent to such member's date of retirement is pertinent to the computation of benefits under this chapter other than under § 51-111.60:4, the amount of such social security benefit shall be computed as of the date of retirement of the member under the assumption that thereafter the member would have no earnings that would be considered as "wages" for the purposes of the federal Social Security Act.

§ 51-111.54. Retirement on attaining sixty-five or seventy years of age.—Any State employee or teacher, both as defined in § 51-111.10, who attains seventy years of age shall be retired forthwith; provided that ~~the employer may provide for the compulsory retirement of his employees at any age from sixty five to seventy~~, however, any employee at the age of sixty-five years who desires to continue his employment shall be subject to the provisions of § 51-111.54:1; and provided that, upon the request of his employer in the case of a teacher, or the head of the department, institution or agency by which he is employed, in the case of a State employee, he may remain in service not longer than the last day of the fiscal year during which he attains seventy years of age; and provided further, that this section shall not apply to any State employee (a) who is appointed by the

Governor or appointed by the Attorney General as an assistant Attorney General; or elected by the joint vote of the two houses of the General Assembly for the term of four years; or who is a physician employed by the Department of Mental Health and Mental Retardation, if his retention in service is approved by the Commissioner of Mental Health and Mental Retardation, or (b) who is the clerk or deputy clerk of a court or (c) who is a member of the General Assembly or other State officer elected by the people. Notwithstanding the foregoing provisions, the Governor may, in his discretion, in the case of a State employee appointed by him who has attained the age of seventy years, retain him in service as a consultant if in the opinion of the Governor he has by reason of long service and experience become specially fitted to perform duties essential to the administration of the affairs of the State. The salary of any such consultant shall be fixed by the Governor.

§ 51-111.54:1. Application for continuation of employment by State employees.—A. Any (i) State employee or teacher, both as defined in § 51-111.10, or (ii) part-time employee who is working pursuant to an order of the Virginia Employees Retirement Review Board, who, pursuant to § 51-111.54 desires to continue his employment past his sixty-fifth birthday, shall apply for a continuation of employment on an annual basis on a form provided by the State Director of the Division of Personnel. The application for continuation of employment, in the first instance, shall be submitted not less than thirty nor more than ninety days prior to becoming sixty-five years of age to the employee's department head and to the agency that determines the employee's employment status. In the case of a department head, the application shall be submitted solely to the agency that determines his employment status.

B. If the written application by the employee is not approved, the employee shall, upon his request, be given a full hearing before the Virginia Employees Retirement Review Board.

C. If the written application by the employee is approved, employment shall be authorized for one year. Further continuation of employment shall be based on the execution of the appropriate application form not less than thirty nor more than ninety days prior to the completion of each authorized year.

D. Nothing in this section shall be construed to apply to the State employees exempted from the provisions of § 51-111.54.

§ 51-111.54:2. Virginia Employees Retirement Review Board.—A. There is hereby created the Virginia Employees Retirement Review Board. The Board shall be composed of seven members including the following: the Director of the Division of Personnel, the Director of the Office on Aging, the Superintendent of Public Instruction, a physician designated by the Director of the Department of Health and three members appointed by the Governor to represent the public at large. The members appointed by the Governor shall serve terms of four years. Four members of the Board shall be a quorum.

B. The Board shall determine all retirement cases brought before it by a State employee or the head of the employee's department. Subject to the provisions of § 51-111.54:1, the Board may decide to retire the employee, to permit him to continue in employment within the same agency or department, to transfer him to another position within the same agency or department or to place him on a part-time employment basis within the same agency or department. The decision of the Board shall be binding on the agency or department.

C. In making decisions on cases brought before the Board, it shall consider, among other factors, the physical, mental and emotional health of the employee and his capability to continue to function efficiently and effectively in his present position in State government.

D. The Board shall promulgate rules and regulations for applications and hearing and appeal procedures in accordance with Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code.

E. All members of the Board shall serve without compensation but shall receive thirty-five dollars per day for attendance at meetings and their actual expenses incurred in attending meetings of the Board and in the performance of any duties as members or by direction of the Board.

F. The Board shall annually elect its own chairman. All departments and agencies of the State shall, upon request, assist the Board in the performance of its duties.

2. To carry out the purposes of this act there is hereby appropriated to the Division of Personnel from the general fund of the State Treasury the sum of five thousand dollars for the 1976-78 biennium.

3. Rights of Patients in Nursing Homes; Rights of Patients in Homes for Adults; and State Supplementation to Homes for Adults.

Although the Commission feels that abuses of nursing home patients in Virginia have not been found to the extent that they have in some other states, the members believe that these citizens need protection in order to preserve their rights and personal dignity. Currently, the federal government provides a bill of rights for nursing home patients who receive Medicaid assistance payments. The following bill extends the same rights to private patients which are accorded by federal law to patients who receive Medicaid funds.

In the opinion of the Commission, a resident in a home for adults should be allowed to manage his personal financial affairs or, if he has delegated this responsibility to the facility in which he resides, to receive at least a quarterly accounting of financial transactions made on his behalf. The following bill addresses itself to this concern of the Commission.

Based on testimony received at the public hearings and other information compiled throughout their study, the Commission recommends that licensed homes for adults be allowed to receive up to \$300 per month for each SSI recipient residing in these facilities rather than the present maximum of \$200. This maximum amount should be made available only to those homes for adults which submit an adequate cost accounting to the Department of Welfare, a very important requirement currently imposed by the Department of Welfare on homes for adults seeking to qualify for the present maximum of \$200 per month. Without such an increase, the Commission feels that more and more homes will refuse to accept residents on public assistance and that this will lead to more costly and unnecessary housing of these citizens in more expensive nursing homes and State institutions.

*The goals sought under the name of "Rights and Patient Care Policies for Citizens in Nursing Homes" are admirable and humanitarian, but elusive. I believe that enforcement of such a mandate would make the administrative cost so high as to leave further depleted resources for actual care of the patient and add tremendously to the cost of nursing home care.

*Dissent of Senator John Buchanan

A BILL to amend the Code of Virginia by adding in Title 32 a chapter numbered 15.1, consisting of § 32-296.1, relating to a bill of rights and patient care policies for patients residing in nursing homes.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 32 a chapter numbered 15.1, consisting of § 32-296.1, as follows:

Chapter 15.1.

Rights and Patient Care Policies for

Citizens in Nursing Homes

§ 32-296.1. *Bill of rights and patient care policies for patients residing in nursing homes.—A. The governing body of a nursing home facility required to be licensed under the provisions of Chapter 16 (§ 32-297 et seq.) of Title 32 of the Code of Virginia, through the administrator of such facility, shall cause to be promulgated policies and procedures to ensure that, at the minimum, each patient admitted to such facility:*

1. Is fully informed, as evidenced by the patient's written acknowledgment, prior to or at the time of admission and during his stay, of his rights and of all rules and regulations governing patient conduct and responsibilities;

2. Is fully informed, prior to or at the time of admission and during his stay, of services available in the facility, and of related charges including any charges for services not covered under titles XVIII or XIX of the Social Security Act, or not covered by the facility's basic per diem rate;

3. Is fully informed, by a physician, of his medical condition unless medically contraindicated (as documented, by a physician, in his medical record), and is afforded the opportunity to participate in the planning of his medical treatment and to refuse to participate in experimental research;

4. Is transferred or discharged only for medical reasons, or for his welfare or that of other patients, or for non-payment for his stay (except as prohibited by titles XVIII or XIX of the Social Security Act), and is given reasonable advance notice to ensure orderly transfer or discharge, and such actions are documented in his medical record;

5. Is encouraged and assisted, throughout the period of his stay, to exercise his rights as a patient and as a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and/or to outside representatives of his

choice, free from restraint, interference, coercion, discrimination, or reprisal;

6. *May manage his personal financial affairs, or is given at least a quarterly accounting of financial transactions made on his behalf should the facility accept his written delegation of this responsibility to the facility for any period of time in conformance with State law;*

7. *Is free from mental and physical abuse, and free from chemical and, except in emergencies, physical restraints except as authorized in writing by a physician for a specified and limited period of time, or when necessary to protect the patient from injury to himself or to others;*

8. *Is assured confidential treatment of his personal and medical records, and may approve or refuse their release to any individual outside the facility, except in case of his transfer to another health care institution, or as required by law or third-party payment contract;*

9. *Is treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs;*

10. *Is not required to perform services for the facility that are not included for therapeutic purposes in his plan of care;*

11. *May associate and communicate privately with persons of his choice, and send and receive his personal mail unopened, unless medically contraindicated (as documented by his physician in his medical record);*

12. *May meet with, and participate in activities of social, religious, and community groups at his discretion, unless medically contraindicated (as documented by his physician in his medical record);*

13. *May retain and use his personal clothing and possessions as space permits, unless to do so would infringe upon rights of other patients, and unless medically contraindicated (as documented by his physician in his medical record); and*

14. *If married, is assured privacy for visits by his or her spouse; if both are in-patients in the facility, they are permitted to share a room, unless medically contraindicated (as documented by the attending physician in the medical record).*

B. All established policies and procedures shall be posted conspicuously in a public place in all nursing home facilities required to be licensed under the provisions of Chapter 16 (§ 32-297 et seq.) of Title 32 of this Code. Copies of such policies and procedures shall be made available to patients upon admittance to the facility and to patients currently in residence, any guardians, next of kin, sponsoring agency or agencies, and to the public.

C. The provisions of this section shall not be construed to restrict any right which any patient in residence has under law.

D. Each facility shall provide appropriate staff training to implement each patient's rights included in subsection A. hereof.

E. All rights and responsibilities specified in subsection A. hereof as they pertain to (i) a patient adjudicated incompetent in accordance with State law, (ii) a patient who is found, by his physician, to be medically incapable of understanding these rights, or (iii) a patient who is unable to communicate with others shall devolve to such patient's guardian, next of kin, sponsoring agency or agencies, or representative payee (except when the

facility itself is representative payee) selected pursuant to section 205(j) of the Social Security Act.

F. A nursing home facility shall cause to be written patient care policies to govern continued skilled nursing care and related medical or other services provided. These policies shall ensure that:

1. The facility has policies, which are developed by the medical director or the organized medical staff with the advice of a group of professional personnel including one or more physicians and one or more registered nurses, to govern the skilled nursing care and related medical or other services it provides. The facility shall provide for review of such policies from time to time, but at least annually, by the aforementioned group of professional personnel. The policies, which shall be available to admitting physicians, sponsoring agencies, patients, and the public, shall reflect awareness of, and provision for, meeting the total medical and psychosocial needs of patients, including admission, transfer, and discharge planning, and the range of services available to patients, including frequency of physician visits by each category of patients admitted. These policies shall also include provisions to protect patients' personal and property rights. Medical records and minutes of staff and committee meetings shall reflect that patient care is being rendered in accordance with the written patient care policies, and that recommendations regarding the policies by the professional personnel previously mentioned in this subsection are reviewed and necessary steps taken to ensure compliance.

2. The medical director or a registered nurse is designated, in writing, to be responsible for the execution of patient care policies. If the responsibility for day-to-day execution of patient care policies has been delegated to a registered nurse, the medical director shall serve as the advisory physician from whom he or she receives medical guidance.

A BILL to amend the Code of Virginia by adding a section numbered 63.1-173.1, relating to the right of a resident of a home for adults to manage his personal financial affairs or to be given a quarterly financial accounting.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 63.1-173.1 as follows:

§ 63.1-173.1. Right to manage financial affairs or receive quarterly accounting.— Every resident of a home for adults licensed under this chapter shall be entitled to manage his personal financial affairs or to be given at least a quarterly accounting of financial transactions made on his behalf should the facility accept his written delegation of this responsibility to the facility for any period of time in conformance with State law.

4. Geriatric Day Care.

The following resolution proposed by the Commission is designed to encourage more local development of geriatric day care programs. By increasing eligibility requirements for participation to those earning up to eighty percent of the State's median income, the Commission feels that localities, through the use of Title XX funds, would develop more geriatric day care programs. Such programs could result in a decrease in costly and unnecessary institutionalization and would thereby relieve the burdened

Medicaid budget of the State.

HOUSE JOINT RESOLUTION NO.....

Encouraging localities to develop geriatric day care programs and setting eligibility requirements for participation in such programs.

WHEREAS, funds are available through Title XX of the Social Security Act for the development of programs on the local level for day care for senior citizens; and

WHEREAS, geriatric day care is a viable alternative to the institutionalization of some elderly Virginians in more expensive homes for adults and nursing homes; and

WHEREAS, local day care centers funded by Title XX funds could relieve the overly burdened Medicaid budget; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That localities are encouraged to develop day care programs for senior citizens through Title XX monies and that all senior citizens who earn up to eighty percent of the State's median income be eligible to participate in such programs.

5. Protective Services for Adults.

Throughout its public hearings this year and in previous years, it has been brought to the attention of the Commission that abuse of individuals is by no means limited to children. Protective services for adults is a concept which has been endorsed by several knowledgeable groups, including the Medical Society of Virginia and the Virginia Nurses Association. Provision of protective services for adults is an important objective of the Title XX legislation. The following bill defines the type of person who potentially is in need of protective services, defines what is included in these services, and sets out the necessary regulations and restrictions for implementing a program of protective services for adults.

*In my opinion, evidence has not been found or presented to the Commission which would indicate the need for such encompassing legislation in the area of protective services. The provision of such services to all adults, eighteen years of age and older, would not only be impractical for the Department of Welfare to undertake, but would also be a very expensive program.

*Dissent of Delegate Jefferson Stafford

A BILL to amend and reenact § 63.1-55.1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 63.1-55.2 through 63.1-55.7, relating to the protection of abused

or neglected adult citizens.

Be it enacted by the General Assembly of Virginia:

1. That § 63.1-55.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 63.1-55.2 through 63.1-55.7 as follows:

§ 63.1-55.1. Protective services for aged and infirm persons.— Each local board is ~~authorized to~~ *shall* provide, subject to supervision of the Commissioner and in accordance with rules prescribed by the State Board, protective services for persons who by reason of advanced age or impaired health or physical disability, cannot, unaided, take care of themselves or their affairs, and when such a person has no relative able, available and willing to provide guidance, supervision or other needed care. The ~~authority~~ *direction* to provide such services shall not limit the right of any individual to refuse to accept any of the services so offered , *except as provided in § 63.1-55.6 .*

§ 63.1-55.2. *Definitions.—As used in §§ 63.1-55.3 through 63.1-55.7:*

“Caretaker” means an individual who has the responsibility for the care of an adult person as a result of family relationship or who has assumed the responsibility for the care of the person voluntarily or by contract.

“Director” means the director of the department of public welfare or social services of the city or county in which the person resides or is found or his delegated representative.

“Person” means any person eighteen years of age and older who resides in the State of Virginia.

A person is deemed to be “in need of protective services” if that person is unable to perform or obtain for himself services which are necessary to maintain his mental and physical health.

“Protective services” means services provided by the State or other government or private organizations or individuals which are necessary to prevent abuse or neglect. Abuse shall include the willful infliction of physical pain, injury or mental anguish or the willful deprivation by a caretaker of services which are necessary to maintain mental and physical health. Neglect refers to a person who is either living alone and not able to provide for himself the services which are necessary to maintain his mental and physical health or is not receiving the said services from his caretaker.

“Services which are necessary to maintain mental and physical health” shall include, but shall not be limited to, the provision of medical care for physical and mental health needs, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from physical mistreatment and transportation necessary to secure any of the above stated needs; provided that the words “services which are necessary to maintain mental and physical health” shall not include taking the person into physical custody without his consent, except as provided in § 63.1-55.6.

§ 63.1-55.3. *Duty to report.—A. Any person having reasonable cause to believe that a person is in need of protective services shall report such information to the director.*

B. Anyone who makes a report pursuant to this statute or who testifies in any judicial proceeding arising from the report shall be immune from any civil or criminal liability on account of such report or testimony, unless such person acted in bad faith or with a malicious purpose.

§ 63.1-55.4. Duty of director upon receiving report.—Any director receiving a report that a person is in need of protective services shall make a prompt and thorough evaluation to determine whether the person is in need of protective services and what services are needed. The evaluation shall include a visit to the person and consultation with others having knowledge of the facts of the particular case. After completing the evaluation the director shall make a written report of the case indicating whether he believes protective services are needed and shall notify the person making the report of his determination as to whether the person needs protective services.

§ 63.1-55.5. Provision of protective services with the consent of the person.—A. If the director determines that a person is in need of protective services, he shall immediately provide or arrange for the provision of protective services, provided that the person consents.

B. When a caretaker of a person who consents to the receipt of protective services refuses to allow the provision of such services to the person, the director may petition the circuit court for an order enjoining the caretaker from interfering with the provision of protective services to the person. The petition must allege specific facts sufficient to show that the person is in need of protective services and consents to the receipt of protective services and that the caretaker refuses to allow the provision of such services. If the court finds that the person is in need of protective services and that the caretaker refuses to allow the provision of such services, he may issue an order enjoining the caretaker from interfering with the provision of protective services to the person.

C. If a person does not consent to the receipt of protective services, or if he withdraws his consent, the services shall not be provided, unless the director reasonably determines that the person lacks capacity to consent, in which case he may seek court authorization to provide protective services pursuant to § 63.1-55.6.

§ 63.1-55.6. Provision of protective services to persons who do not have the capacity to consent; emergency orders.—A. If the director reasonably determines that a person is being abused or neglected and lacks capacity to consent to protective services, the director may petition the circuit court for an order authorizing the provision of protective services. The petition must allege specific facts sufficient to show that the person is in need of protective services and lacks capacity to consent to them.

B. The circuit court shall set the case for hearing within fourteen days after the filing of the petition if sufficiently specific facts are alleged. The person shall receive at least five days' notice of the hearing and shall have the right to be present and represented by counsel at the hearing. If the person is indigent or, in the determination of the judge, lacks the capacity to waive the right to counsel, the court shall appoint counsel. If the person is indigent, the cost of representation shall be borne by the State. If the person is not indigent, the cost of representation by counsel shall be added to the court costs.

If, at the hearing, the judge finds that the person is in need of protective services and lacks capacity to consent to protective services, he may issue an order authorizing the provision of protective services. This order may include the designation of an individual or the local department of public welfare or social services to be responsible for the personal welfare of the person. If it is determined that the person is indigent, the designee of any such order shall be the local department of public welfare or social services. In any case where such local department is designated to be responsible for a person pursuant to this

section, the posting of bond shall not be required. No person may be committed to a mental health facility under this section.

C. If, on the basis of the facts alleged in the director's petition, the judge makes a preliminary finding that the person lacks capacity to consent and will be in substantial danger of death or may suffer irreparable harm if protective services are not provided immediately, then the judge may issue an emergency order authorizing the immediate provision of protective services; but nevertheless the court shall proceed in accordance with subsection B. of this section, and the emergency order shall have no force or effect after the required hearing.

D. Any order of the court issued pursuant to subsection B. hereof shall be reviewed by the court every six months to determine if protective services are still needed.

E. All individuals or local departments of public welfare or social services which are designated pursuant to subsection B. hereof to be responsible for persons receiving protective services shall annually file an accounting of the finances of such persons with the commissioner of accounts.

§ 63.1-55.7. Petition for review.—Notwithstanding any finding by the court of lack of capacity of the person pursuant to the procedures set forth in § 63.1-55.6, the person or the individual or local department of public welfare or social services designated to be responsible for the personal welfare of the person shall have the right to petition for review of an order issued pursuant to the procedures set forth in § 63.1-55.6.

6. Advertising of Prices of Eyeglasses.

The Commission endorses the concept behind the proposals presented at several public hearings to remove the restriction prohibiting the advertising of prices of eyeglasses. As was pointed out to the members, the purchase of eyeglasses is a major expense for many elderly citizens and, based on statistics made available from other states which have lifted such restrictions, advertising of eyeglass prices can lead to substantial savings to the public.

A BILL to amend and reenact § 54-388 as amended, and § 54-396 of the Code of Virginia, relating to prohibited behavior and acts by optometrists.

Be it enacted by the General Assembly of Virginia:

1. That § 54-388 as amended, and § 54-396 of the Code of Virginia are amended and reenacted as follows:

§ 54-388. Grounds for revocation of certificate or censure of holder.—The Board shall revoke or suspend a certificate of registration or exemption, or censure the holder of such certificate, for any of the following causes:

1. Grounds generally.—(a) If the holder thereof is in default in the payment of his yearly license for more than thirty days after being notified of such default by registered letter sent to his last known place of address;

- (b) If such person is guilty of fraud or deceit in his practice;
- (c) If such person has been convicted of a felony or other crime involving moral turpitude;
- (d) If such person is an habitual drunkard or is incompetent to practice optometry;
- (e) If such person has been guilty of fraud or deceit in the answering of any question required to be answered as to his qualification for the purpose of being admitted to examination or in the procuring of a certificate to practice optometry;
- (f) If such person employs an unlicensed person to do anything for which a certificate to practice optometry is required;
- (g) If such person practices optometry while suffering from any infectious or contagious disease;
- (h) If such person neglects or refuses to display his certificate and the renewal receipt for the same for the current year, as required by § 54-386 for more than thirty days after being required to do so by written notice given him by any member of the Board;
- (i) If such person refuses or neglects to issue the bill of purchase required in § 54-387 when practicing outside of or away from his office;
- (j) If such person engages in the house to house soliciting for the purpose of fitting or selling or peddling spectacles, eyeglasses or lenses.

2. Unprofessional conduct.—The following acts shall be deemed unprofessional conduct on the part of the holder of a certificate of registration to practice optometry:

- (a) The obtaining of any fee by fraud or misrepresentation or the practice of deception or fraud upon any patient;
- (b) The employment of any person to solicit from house to house the sale of eyeglasses, spectacles, lenses, frames, mountings or optometric services or examinations;
- (c) The conducting or employment of any person to conduct a house to house canvass for the purpose of selling, advertising or soliciting the sale of spectacles; eyeglasses, lenses, frames, mountings or optometric services or examinations;
- (d) The advertising directly or indirectly the following: Statements as to skill or method of practice of any person or of any optometrist, in any manner that will tend to deceive, mislead or defraud the public; to claim professional superiority; to offer free optometrical services or examinations; ~~to set forth any amount, price, premium, gift, discount or terms for professional services or for eyeglasses, spectacles, lenses, frames, mountings or any other prosthetic devices;~~

(e) The employment, hiring, procuring, or inducing a person not licensed to practice optometry to so practice;

(f) The aiding or abetting in the practice of optometry any person not duly licensed to practice in this State;

(g) The advertising, practicing or attempting to practice optometry under a name other than one's own name as set forth on the certificate of registration;

(h) The lending, leasing, renting or in any other manner placing his certificate of registration at the disposal or in the service of any person not licensed to practice optometry in this State;

(i) The splitting or dividing of a fee with any person or persons other than with a duly registered optometrist who is a legal partner.

(j) But nothing contained in this statute shall prohibit any registered optometrist from practicing optometry as a full-time employee on the premises of any commercial or mercantile establishment and from advertising, either himself or through such commercial or mercantile establishment, that he is a duly registered optometrist and offering to practice optometry as an employee of such commercial or mercantile establishment.

(k) No registered optometrist shall practice optometry as an employee, directly or indirectly, of any commercial or mercantile establishment nor shall he so advertise himself or through such commercial or mercantile establishment, unless such commercial or mercantile establishment was employing a full-time registered optometrist in its established place of business on June twenty-first, nineteen hundred and thirty-eight.

(l) The violation of such other standards of unprofessional conduct as may be adopted as rules by the Board.

3. Association with optometrist violating chapter.—The continuance of an optometrist directly or indirectly in the employ of or in association with any optometrist, after he has knowledge that such optometrist is engaged in violation of the provisions of this chapter.

§ 54-396. Prohibited acts.—It shall be unlawful for any person:

(1) To practice optometry in this State without being the holder of either certificate of registration or certificate of exemption duly issued to him and filed as provided. Practicing or offering to practice optometry, or the public representation of being qualified to practice the same by any person not authorized to practice optometry, shall be sufficient evidence of a violation of the law.

(2) To falsely impersonate a registered optometrist of like or different name.

(3) To buy or sell or fraudulently obtain a diploma, certificate of registration or certificate of exemption issued to another.

(4) To do any act for which if he were an optometrist his certificate of registration or exemption may be revoked as provided by § 54-388.

(5) To solicit from house to house, place to place, or on the highways or byways the fitting, selling or peddling of spectacles, eyeglasses or lenses.

(6) To use, employ or cause to be used or employed any false, misleading or trick advertisement or sign or any advertisement or sign which would tend to deceive or mislead the public concerning any matter relating to the practice of optometry or to the furnishing, supplying or dispensing of any article used or employed in connection with the practice of optometry whether such advertisement be printed, radio, display or by any other means.

(7) To have possession of any trial lenses, trial frames, graduated test cards, appliances or instruments used in the practice of optometry, self-testing devices or eyeglass vending machines for the purpose of fitting or prescribing glasses in the practice of optometry, unless he be the holder of or unless he regularly employs on the premises the holder of a certificate of registration or exemption to practice optometry or a duly licensed physician.

(8) To give or offer to give either in person or by or through employees, solicitors or agents any eyeglasses, spectacles or lenses, either with or without frames, or mountings, as a premium, gift or inducement for the purchase of any goods, wares or merchandise.

(9) To advertise by print, radio, display or by any other means whatsoever any advertisement ~~which quotes prices of eyeglasses, spectacles, lenses, frames or mountings or which quotes a discount, gift or terms of credit or payment for professional services or prosthetic devices, spectacles, eyeglasses, lenses, frames or mountings to be furnished to the public or which quotes "moderate prices," "low prices," "lowest prices," "guaranteed glasses," "satisfaction guaranteed," or any words of similar import, or which includes in said advertisement the words "eye examination free," "consultation free," "free eye-sight test," "free sight test," or any words of similar import.~~

(10) To sell, provide, furnish, supply or duplicate spectacles, eyeglasses, or lenses for the correction of vision, except upon the prescription of a duly licensed physician or duly registered optometrist, unless he is the holder of a certificate of registration or exemption to practice optometry or a license to practice medicine under the laws of this State.

7. Prescription Drugs.

The Commission, having been made aware of the work of the State's Subcommittee Studying Prescription Drugs, endorses the basic concepts of the bills which resulted from that study relating to the creation of a voluntary formulary of equivalent drugs and the advertising of prescription drugs. The elderly are understandably

concerned with the high prices of prescription drugs, since a considerable portion of the budget of senior citizens may be spent to purchase such drugs. The Commission feels that the approach taken by these two bills is a step in the right direction toward dealing with the high cost of prescription drugs.

8. State Office on Aging.

The bill which follows amends the presently existing legislation which established the Office on Aging and is intended to ensure that a State plan of services to the elderly, based on information provided by the appropriate State agencies, is developed by the Office on Aging, biennially. It is the Commission's intent to make available aging programs more visible and to assure effective review and evaluation of these programs by the executive and legislative branches of State government.

The Commission, in its continuing evaluation of programs for the elderly, has been very interested in the excellent work and progress of Virginia's Office on Aging and wishes to endorse certain of the budget proposals put forward by the Office, specifically the appropriation of an additional \$80,000 for administration expenses, \$420,000 for local area agencies on aging and \$300,000 for expansion of nutrition projects throughout the State.

A BILL to amend and reenact § 2.1-373 of the Code of Virginia, relating to powers and duties of the Office on Aging.

Be it enacted by the General Assembly of Virginia:

1. That § 2.1-373 of the Code of Virginia is amended and reenacted as follows:

§ 2.1-373. Powers and duties of Office with respect to aging persons; local or district commissions on the aging.—(a) The Office shall have the following duties with respect to the following:

(1) To study the economic and physical condition of the residents in the Commonwealth whose age qualifies them for coverage under Public Law 89-73 or any law amendatory or supplemental thereto of the Congress of the United States, hereinafter referred to as the aging, and the employment, medical, educational, recreational and housing facilities available to them, with the view of determining the needs and problems of such persons;

(2) To determine the services and facilities, private and governmental and State and local, provided for and available to the aging and to recommend to the appropriate person or persons such coordination of and changes in such services and facilities as will make them of greater benefit to the aging and more responsive to their needs;

(3) To act as the single State agency, under Public Law 89-73 or any law amendatory or supplemental thereto of the Congress of the

United States, and as the sole agency for administering or supervising the administration of such plans as may be adopted in accordance with the provisions of such law or laws. As such agency, the Office shall have authority to prepare, submit and carry out State plans and shall be the agency primarily responsible for coordinating State programs and activities related to the purposes of, or undertaken under, such plans or laws. ~~Each State agency, under the coordination of the State Office on Aging, shall develop a State plan and a work plan for the services which they provide to the elderly of the Commonwealth ;~~

(4) With the approval of the Governor, to apply for and expend such grants, gifts or bequests from any source as may become available in connection with its duties under this section, and is authorized to comply with such conditions and requirements as may be imposed in connection therewith;

(5) To hold such hearings and conduct such investigations as are necessary to pass upon applications for approval of a project under the plans and laws set out in (3) hereof, and shall make such reports to the Secretary of the United States Department of Health, Education and Welfare as may be required;

(6) All agencies of the State shall assist the Office in effectuating its functions in accordance with its designation as the single State agency under the laws set out in (3) and (8) hereof -;

(7) To designate Area Agencies on Aging pursuant to Public Law 89-73 or any law amendatory or supplemental thereto of the Congress of the United States and to promulgate rules and regulations for the composition and operation of such Area Agencies on Aging;

(8) To develop biennially a State plan for the services provided by State agencies to the elderly of the Commonwealth and to report on such plan to the Governor and General Assembly commencing on September one, nineteen hundred seventy-eight.

~~(b) The governing body of every county and city, or any combination thereof, may establish a local or district commission on the aging in accordance with rules and regulations promulgated by the Office. Such local or district commission shall assist the Office in the performance of the duties imposed on it by this section. The governing body of any county, city or town may appropriate funds for support of Area Agencies on Aging designated pursuant to subsection (a)(7) hereof.~~

(c) The Governor is authorized to select such persons as may be qualified, as an advisory board, to assist the Office in the performance of the duties imposed upon it herein.

9. No-Fault Insurance.

The no-fault approach to automobile insurance received considerable attention and support at the Commission's public hearings. Senior citizens contend that they suffer particularly by having to wait a long time for claims to be processed. The Commission recognizes this valid concern and endorses the concept

of no-fault insurance.

10. Property Tax Relief.

Introduction

The most disheartening event that can happen to a senior citizen is to be forced into selling the property he has worked all his life for because of an inability to meet the increasing burden of the real property tax. This issue surfaced as a major problem of the elderly at all of the public hearings conducted by the Commission. The complexity of the issue, tied with the present decline of available State revenues, resulted in the Commission devoting a majority of its time searching for a cure to this pressing problem.

When the Constitution of Virginia was revised, effective July 1, 1971, language was added to Article X, Section 6, permitting the General Assembly to allow localities to exempt any or all property owned by persons over the age of sixty-five from the real property tax. Section 58-760.1 was subsequently adopted permitting such relief, provided the total combined income of such person did not exceed \$10,000 and his net combined financial worth did not exceed \$35,000. As of May, 1975, more than fifty-five counties and cities in the Commonwealth offered some tax relief, either in the form of an exemption or in the form of a deferral, pursuant to this statute. The amount of relief granted by local ordinance varies per individual from a high of \$630 to a low of \$45. As a general rule, the more urbanized areas offer greater relief than do rural areas. The major problem with the current locally financed program is that the rural areas with the most poverty are unable to grant any relief because of the costs involved in enacting tax exemptions.

Numerous states, in lieu of such local option programs, have turned to what is commonly referred to as a property tax "circuit-breaker". The property tax circuit-breaker is a tax relief program designed to protect family income from property tax "overload" the same way that an electrical circuit-breaker protects the family home from current overload. When the property tax bill exceeds a set percentage of household income, the circuit-breaker goes into effect and relief is granted from the excess tax. Some states have extended this relief to cover not only persons who own real property but also those who rent. This is normally accomplished by assuming that a fixed percentage of the rental cost goes toward the payment of real estate taxes by the landlord.

All true circuit-breakers are financed at the State level. The cost of such programs ranges from a high of \$129,000,000 in Michigan to a low of \$35,000 in North Dakota, according to a publication of the Advisory Commission on Intergovernmental Relations.

Commission Considerations and Rationale for Recommendations

During the Commission's deliberations, four different programs for tax relief were examined. Public hearings were conducted on each such program. The program providing for a combination of local real property tax exemption or deferral pursuant to § 58-760.1, with a State financed circuit-breaker, received the greatest public support. The plan envisioned a maximum \$140 State ceiling with the individual localities having the option via local programs to pick up the relief from this point.

It was determined by the Commission that when real property taxation equaled or exceeded two percent of a person's income that relief would be granted. This figure, which is relatively low when compared with other states, was shown to be proper when the tax rates of the Commonwealth and a two thousand dollar annual income cut-off were considered.

There was concern that localities now offering minimal relief would utilize the State program as an opportunity to withdraw the local programs presently being administered. The Commission felt, however, that there would be ample pressure upon local officials by constituents to retain any programs now in existence.

Other proposals examined by the Commission included a State tax deferral program and two different combinations of circuit-breaker programs tied to local exemption programs. The Commission was shown by overwhelming evidence that any type of deferral program would not be readily accepted by the elderly community. Areas presently permitting deferral of taxes through local option programs have found that less than one percent, in many cases, of those persons eligible for the program were electing to participate. The Commission learned that the reason behind this lack of participation was a strong hesitance on the part of senior citizens to place a lien on their property thereby encumbrancing it for their heirs.

Another problem presented by a deferral program approach is that any such program would necessitate omitting persons renting property from its provisions. All deferral programs are enforced by placing a lien on the real property. Since it is highly unlikely that citizens renting actually own any other real property, there is no property on which a lien may be placed.

The most serious problem faced by the Commission was the lack of State revenues with which to work. It was estimated that the \$140 maximum State financed circuit-breaker, with an income level of \$7,000, would cost approximately twelve million dollars with 100 percent participation. The Commission members felt it would be futile to propose such a program because of the price tag it carried. They, therefore, agreed to adopt this program but with an income level of \$2,000. This approach would provide relief for those who desperately need it and would drop the estimated cost figure to less than seven million dollars.

Recommendation

The Commission recommends that the General Assembly adopt the legislation which follows and which provides for a general circuit-breaker tax relief program within the following guidelines and limitations:

(1) That before a taxpayer may receive relief under the legislation, he (a) must be sixty-five years of age or older, (b) must have a combined gross income of less than \$2,000, (c) must have a net combined financial worth of less than \$35,000 and (d) must have property taxes equaling or exceeding two percent of his gross income.

(2) That the maximum amount of relief granted at the State level would not exceed \$140.

(3) That the relief be administered as a credit on the State income tax.

(4) That the local option tax relief statutes be left as they are with the anticipation that the localities would pick up the relief at this point.

Conclusion

This recommendation would provide relief to over 110,000 senior citizens at an estimated cost of seven million dollars. The cost estimate was based solely on the basis of yearly income. Since there is no data regarding net combined financial worth, this factor was eliminated from the fiscal estimate. It is, therefore, possible to conclude that the estimated figure is conservative. It also assumes 100 percent participation from all persons eligible for the relief. History has shown through the local option relief programs that participation varies but normally does not exceed seventy-five percent.

It should be further noted that the Commission feels greater relief than that recommended is desirable to assist the senior citizens of the Commonwealth. The members concluded, however, that any recommendation must be realistic in the face of the existing economic crisis.

The Commission has studied the property tax relief issue in depth and is committed to such a concept. It strongly recommends that, if any additional tax relief is afforded the elderly by the 1976 Session of the General Assembly, property tax relief should be given top priority.

*The needs of the elderly in Virginia are many and varied. With only limited funds available to meet these needs, the undersigned do not feel that property tax relief is the most appropriate area in which to concentrate at this time. The cost of a circuit-breaker relief program appears to be disproportionately high in relation to the relief which would be granted the individual real property elderly taxpayer as a result of such a program.

In order to grant as much relief as possible to those who need this assistance the most, so that they may remain in their homes, the deferral approach, which would involve practically no cost to the State, should be pursued.

*Dissent of Senator Marshall Coleman, Delegates Thomas J. Michie, Frank Slayton and Jefferson Stafford.

*I believe it is unwise to provide rent relief under the guise of property tax relief for those who pay no property tax. While I agree with the noble purpose of giving financial aid to the needy elderly, such benefits would more properly be supplied by the Department of Social Services (Welfare Department).

*Dissent of Senator John Buchanan

A BILL to amend and reenact § 58-760.1, as amended, of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 4 of Title 58 an article numbered 7.2:1, consisting of sections numbered 58-151.020:1 through 58-151.020:6, the amended and added sections relating to property tax relief for persons sixty-five years of age and over; appropriations therefor.

Be it enacted by the General Assembly of Virginia:

1. That § 58-760.1, as amended, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 4 of Title 58 an article numbered 7.2:1, consisting of sections numbered 58-151.020:1 through 58-151.020:6, as follows:

§ 58-760.1. Exemption of or deferral of taxes on property of certain elderly persons.—(a) The governing body of any county, city or town may, by ordinance, provide for the exemption from, or deferral of, taxation of real estate, or any portion thereof, and upon such conditions and in such amount as the ordinance may prescribe, owned by, and occupied as the sole dwelling of a person or persons not less than sixty-five years of age; subject to the following restrictions and conditions:

(1) That the total combined income during the immediately preceding calendar year from all sources of the owners of the dwelling living therein and of the owners' relatives living in the dwelling does not exceed ten thousand dollars, provided that the first four thousand dollars of income of each relative, other than spouse, of the owner, or owners, who is living in the dwelling shall not be included in such total, and further provided that the county, city or town may by ordinance specify lower income figures.

(1a) That the net combined financial worth, including equitable interests, as of the thirty-first day of December of the immediately preceding calendar year, of the owners, and of the spouse of any owner, excluding the value of the dwelling and the land, not exceeding one acre, upon which it is situated does not exceed thirty-five thousand dollars; provided, however, that the county, city or

town ordinance may specify lower net worth figures.

(2) That the person or persons claiming such exemption, file annually with the commissioner of revenue of the county or city or town assessing officer or such other officer as may be designated by the governing body in which such dwelling lies, on forms to be supplied by the county, city or town concerned, an affidavit setting forth the names of the related persons occupying such real estate; that the total combined net worth, including equitable interests and the combined income from all sources, of the person or persons as specified in paragraph (1) above does not exceed the limits prescribed in such ordinance. Such affidavit shall be filed not later than the first day of May of each year or such earlier date, after the first day of February of each year, as may be fixed by ordinance. The commissioner of revenue or town assessing officer or such other officer as may be designated by the governing body of the county, city or town shall also make such further inquiry of persons seeking such exemption, requiring answers under oath, as may be reasonably necessary to determine qualifications therefor as specified herein or as specified by county, city or town ordinance. The local governing body may, in addition, require the production of certified tax returns to establish the income or financial worth of any applicant for tax relief or deferral *and the amount of relief granted pursuant to Article 7.2:1 of Chapter 4 of this title.*

(3) Any tax exempted or deferred pursuant to the provisions of this section shall be in addition to any State income tax credit permitted by Article 7.2:1 of Chapter 4 of this title; provided, however, that any credit granted pursuant to Article 7.2:1 of Chapter 4 and any exemption or deferral permitted pursuant to this section shall not be greater than one hundred per centum of the real property taxes levied.

(b) Such exemption may be granted for any year following the date that the head of the household occupying such dwelling and owning title or partial title thereto reaches the age of sixty-five years. Changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit is filed and having the effect of exceeding or violating the limitations and conditions provided herein or by county, city or town ordinance shall nullify any exemption for the then current taxable year and the taxable year immediately following.

(c) In the event of a deferral of real estate taxes granted by ordinance, the accumulated amount of taxes deferred shall be paid, without penalty or interest, to the county, city or town concerned by the vendor upon the sale of the dwelling, or from the estate of the decedent within one year after the death of the last owner thereof who qualifies for tax deferral by the provisions of this section and by the county, city or town ordinance. Such deferred real estate taxes shall constitute a lien upon the said real estate as if they had been assessed without regard to the deferral permitted by this section; provided, however, that such liens shall, to the extent that they exceed in the aggregate ten per centum of the price for which such real estate may be sold, be inferior to all other liens of record.

(d) The General Assembly hereby deems those persons falling

within the limitations and conditions provided in paragraphs (a) and (b) of this section to be bearing an extraordinary tax burden on the real estate described herein in relation to their income and financial worth.

Article 7.2:1.

Senior Citizens' Property Tax Relief Act of 1976.

§ 58-151.020:1. *Short title.*—This act may be cited as the “Senior Citizens’ Property Tax Relief Act of 1976.”

§ 58-151.020:2. *Definitions.*—Notwithstanding any provision of this title, as used in this article:

A. “*Dwelling*” shall mean a taxpayer’s principal residence, whether owned or rented, and so much of the land surrounding such residence if owned, not exceeding one acre, as is reasonably necessary for use of the structure as a home.

B. “*Gross income*” shall be defined pursuant to the provisions of § 61 of the Internal Revenue Code of 1954, as amended.

C. “*Real property taxes*” shall mean real property taxes, exclusive of special assessments, charges for services, penalties and interest, paid by a taxpayer and/or his spouse for his dwelling.

D. “*Rent constituting real property taxes*” shall be determined by multiplying the annual rent paid by a taxpayer by a constant of ten in calculating the estimated taxable value of such rental property for real property tax purposes and multiplying such valuation by the average effective true tax rate, as determined by the Department of Taxation, for the county or city wherein such property is located.

E. “*Spouse*” shall mean a husband or wife who is residing in the same dwelling with the taxpayer.

F. “*Taxpayer*” shall mean any person:

1. who paid real property taxes or who paid rent constituting real property taxes for the entire preceding taxable year,

2. whose combined gross income for the taxpayer and his spouse for the preceding taxable year did not exceed two thousand dollars.

3. whose net combined financial worth, including equitable interests, as of the thirty-first day of December of the immediately preceding calendar year, of such person, and of the spouse of such person excluding the value of the dwelling and the land, not exceeding one acre, upon which it is situated does not exceed thirty-five thousand dollars,

4. who reached the age of sixty-five before December thirty-first of such preceding taxable year, and

5. whose real property taxes or rent constituting real property taxes equaled or exceeded two per centum of the taxpayer’s and his spouse’s gross income.

§ 58-151.020:3. Claim as a credit against the State Income Tax.—Subject to the limitations provided in this article, a taxpayer may claim as a credit against Virginia income taxes otherwise due on his income, the lesser of one hundred and forty dollars or the real property taxes or rent constituting real property taxes accrued in the preceding calendar year which exceeded two per centum of such taxpayer's and his spouse's gross income. If the allowable amount of such claim exceeds the income taxes otherwise due on the taxpayer's income, or if there are no State income taxes due on the taxpayer's income, the amount of the claim not used as a credit against income taxes shall be paid to the taxpayer from the general fund of the State Treasury. No interest shall accrue on any payment made to a taxpayer pursuant to the provisions of this article.

The credit granted pursuant to this article and any exemption or deferral permitted pursuant to the provisions of § 58-760.1 shall in no situation exceed one hundred per centum of the real property taxes levied.

§ 58-151.020:4. Claim not to survive death of taxpayer.—The right to file a claim under this article shall be personal to the taxpayer and his spouse and shall not survive their death, but such right may be exercised on behalf of a taxpayer by his or her legal guardian or attorney-in-fact. If a taxpayer dies after having filed a timely claim, the amount thereof shall be disbursed to such taxpayer's spouse and if such spouse be not living, shall escheat to the State.

§ 58-151.020:5. One claim per household.—Only one taxpayer per household per year shall be entitled to relief under this article.

§ 58-020:6. Filing date; administration of article.—Any credit allowed pursuant to this article for property taxes or rent constituting property taxes paid during the preceding calendar year shall be filed with the Department of Taxation on or before the date prescribed by law for filing of the State individual income tax return. The Commissioner shall make available suitable forms with instructions for taxpayers, including a form which may be included with or as part of the individual income tax return. The Commissioner shall have the power to make and publish reasonable rules and regulations for the administration of this article.

2. That there is hereby appropriated from the general fund of the State Treasury the sum of seven million, twenty-eight thousand, three hundred seventy-eight dollars for carrying out the provisions of this act.

3. That the provisions of this act shall be effective on and after January one, nineteen hundred seventy-seven.

The recommendations and legislative proposals of the Commission on the Needs of Elderly Virginians have received careful consideration throughout the year and are respectfully submitted to the Governor and the General Assembly and to citizens of the Commonwealth.

Respectfully submitted,

Mary A. Marshall, Chairman

Orby L. Cantrell, Vice Chairman

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Leroy S. Bendheim

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*John C. Buchanan

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Howard C. Cobbs

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*J. Marshall Coleman

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George H. Heilig, Jr.

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Edward M. Holland

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*Thomas J. Michie, Jr.

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Bernard R. Mullady

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Thomas J. Rothrock

.....

*Frank M. Slayton

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*C. Jefferson Stafford

.....

T. Preston Turner

.....

Stanley C. Walker

*Dissent(s) of certain members of the Commission are included within the body of the Report.

