From: Joe Lerch <jlerch@vaco.org>

To: Joe Lerch <jlerch@vaco.org>

Date: 04/29/2019 02:58 PM

Subject: Seeking input on draft revisions to land use valuation rules

To: VACo County Administrators

VACo Environment and Agriculture Steering Committee

VACo Finance Steering Committee

VACo Economic Development and Planning Steering Committee

VACo County Liaisons

VACo Legislative Team

From: Joe Lerch, VACo Director of Local Government Policy

Subject: Seeking input on draft revisions to land use valuation rules

The Virginia Department of Agriculture and Consumer Services (VDACS) has shared with VACo draft revisions (see attached) to the current rules on land use valuation, including removal of qualifying requirement for previous use in agriculture. Please note that the draft revisions have yet to be published for review and comment in the Virginia Regulatory Town Hall. VDACS anticipates that to take place sometime later this year. This draft has been shared with VACo so that we can solicit input from our members to share with VDACS prior to publication in the Virginia Register.

Please review and provide any comments and questions to Joe Lerch at [jlerch@vaco.org](mailto:jlerch@vaco.org).

BACKGROUND

VDACS has prepared draft regulations to revise [2VAC5-20](https://law.lis.virginia.gov/admincode/title2/agency5/chapter20/) of the Virginia Administrative Code (VAC) that pertains to Standards for Classification of Real Estate As Devoted to Agricultural Use and to Horticultural Use under the Virginia Land Use Assessment Law. The most significant of these revisions includes a proposal to no longer require that the *“… real estate sought to be qualified must have been devoted, for at least five consecutive years previous, to the production for sale of plants or animals, or to the production for sale of plant or animal products useful to man…”*

Counties are authorized under section [58.1-3231](https://law.lis.virginia.gov/vacode/58.1-3231) of the Code of Virginia to assess qualifying property at a reduced rate in order to lessen the tax burden as an incentive to preserve active farmland. The standards governing which properties qualify were promulgated in 1988 by the Commissioner of VDACS through administrative code and included the 5-year requirement for production for sale.

As the result of discussions between various stakeholders (including the Rappahannock River Basin Commission, the Virginia Department of Forestry, and the Virginia Farm Bureau) several changes to the statutes governing land use value taxation became effective July 1, 2018 (see [HB 871](http://lis.virginia.gov/cgi-bin/legp604.exe?181+sum+HB871). Among the changes were the following as it regards the previous use standard currently in the administrative code:

*If the uniform standards prescribed by the Commissioner of Agriculture and Consumer Services pursuant to §* ***58.1-3230*** *require real estate to have been used for a particular purpose for a minimum length of time before qualifying as real estate devoted to agricultural use or horticultural use, then (i) use of other similar property by a lessee of the owner shall be included in calculating such time and (ii) the Commissioner of Agriculture and Consumer Services shall include in the uniform standards a shorter minimum length of time for real estate with no prior qualifying use, provided that the owner submits a written document of the owner's intent regarding use of the real estate containing elements set out in the uniform standards.*

To comply with the new law VDACS has drafted changes to the administrative code. Rather than establish a minimum length of time shorter than 5 years, VDACS is proposing to remove this previous use requirement while at the same time clarifying and amending certification that the property is in agricultural production for sale.

Land Use Valuation - Working version\_stakeholders.pdf