

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 667

An Act to amend and reenact §§ 58.1-1205 and 58.1-1206 of the Code of Virginia, relating to the computation of capital taxable under the bank franchise tax.

[S 174]

Approved April 6, 2002

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-1205 and 58.1-1206 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-1205. Computation of net capital.

The net capital of any bank shall be ascertained by adding together its capital, surplus, undivided profits, and one half of any reserve for loan losses net of applicable deferred tax to obtain gross capital and deducting therefrom (i) the assessed value of real estate as provided in § 58.1-1206, (ii) the book value of tangible personal property under § 58.1-1206, (iii) the pro rata share of government obligations as set forth in § 58.1-1206, (iv) the capital accounts of any bank subsidiaries under § 58.1-1206, ~~and~~ (v) the amount of any reserve for marketable securities valuation which is included in capital, surplus and undivided profits as defined hereinabove to the extent that such reserve reflects the difference between the book value and the market value of such marketable securities on December 31 next preceding the date for filing the bank's return under § 58.1-1207, *and (vi) the value of goodwill described under subdivision A 5 of § 58.1-1206.*

§ 58.1-1206. Deductions from gross capital.

A. There shall be deducted from the gross capital otherwise ascertainable under § 58.1-1205:

1. The assessed value of real estate if otherwise taxed in this Commonwealth which is owned by such bank, or is used or occupied by such bank, if held in the name of a majority-owned subsidiary of the bank or of a bank holding company which owns a majority of the capital stock of such bank or of any wholly-owned subsidiary of the bank holding company which owns the majority of the capital stock of such bank and the assessed value, up to the amount of the unencumbered equity, of real estate in the nature of improvements which are owned by the bank, or used or occupied by the bank and held by a majority-owned subsidiary or a bank holding company or a wholly-owned subsidiary of a bank holding company, even if assessed in the name of some other person because of the ownership of the underlying land by such person. Real estate used or occupied by a subsidiary or originally conveyed as collateral for loans made by a subsidiary of the bank and reacquired upon foreclosure of mortgage loans will be deemed to be used or occupied by the bank. The deduction for assessed value of real estate shall be the most recent assessment made prior to January 1 of the current bank franchise tax year for real estate owned by the bank or affiliate on January 1 of the current year.

2. The book value of tangible personal property which shall be held for lease and is otherwise taxed which is owned by such bank or in the name of a majority-owned subsidiary of the bank. If the bank does not own all the stock of such subsidiary, it shall be entitled to deduct only such portion of the assessed value of the real estate and the value of such tangible personal property as the common stock it owns in such subsidiary bears to the whole issue of common stock of such corporation.

3. An amount which shall equal the same percentage of the gross capital account, defined as its capital, surplus and undivided profits as set forth in § 58.1-1205 at December 31 next preceding as the obligations of the United States bear to the total assets of the bank. Such percentage of U.S. obligations shall be determined as of the four most recent (or less in case of a new bank) Reports of Condition and the percentage obtained shall be averaged. *For purposes of computing such percentage, total assets shall not include the goodwill described in subdivision 5.* The obligations of the United States as used herein shall include all obligations of the United States exempt from taxation under 31 U.S.C. § 3124, of the United States Constitution or any other statute, or any instrumentality or agency of the United States which obligations shall be exempt from state or local taxation under the United States Constitution or any statute of the United States.

4. The amount of retained earnings and surplus of subsidiaries to the extent included in the gross capital of the bank.

5. *Any amount equal to ninety percent of goodwill created in connection with any acquisition or merger occurring on or after July 1, 2001.*

B. For purposes of this section, "goodwill" shall be determined using generally accepted accounting principles.

2. That the provisions of this act shall apply to bank franchise taxes payable to the Commonwealth or its political subdivisions on or after January 1, 2002.