

VIRGINIA ACTS OF ASSEMBLY -- 2004 RECONVENED SESSION

CHAPTER 990

An Act to amend and reenact § 58.1-812 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 8 of Title 58.1 a section numbered 58.1-817, relating to open-space preservation fees.

[H 549]

Approved April 21, 2004

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-812 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 8 of Title 58.1 a section numbered 58.1-817 as follows:

§ 58.1-812. Payment prerequisite to recordation; exceptions; assessment and collection of tax; penalty for misrepresentation.

A. Except as otherwise provided in this chapter, no deed, deed of trust, contract or other instrument shall be admitted to record without the payment of the tax imposed thereon by law *and the fee pursuant to § 58.1-817, as applicable*. However, after payment of the tax imposed by this chapter, when an instrument is first offered for recordation, such instrument may thereafter be recorded in the office of any other clerk without the payment of any tax except any local recordation tax as provided in Article 1 (§ 58.1-3800 et seq.) of Chapter 38 of this title. Any instrument may also be recorded free of tax *and fee* in the office of the clerk where such instrument was originally recorded when the record containing such instrument has been destroyed.

B. The tax on every deed, deed of trust, contract or other instrument shall be determined and collected by the clerk in whose office the instrument is first offered for recordation. The clerk may ascertain the consideration of the deed or of the instrument, the actual value of the property conveyed, and the qualification of the deed or instrument for any exemption claimed by inquiry, affidavit, declaration or other extrinsic evidence acceptable to the clerk. *The fee shall be \$1 on every recorded deed pursuant to § 58.1-817 and shall be collected by the clerk in whose office the deed is offered for recordation.*

C. Any person who knowingly misrepresents any of the information requested by the clerk of court pursuant to this section shall be guilty of a Class 2 misdemeanor.

§ 58.1-817. *Fee for open-space preservation.*

In addition to all other taxes and fees imposed by this chapter, beginning July 1, 2004, there is hereby imposed a \$1 fee on every deed admitted to record in those jurisdictions in which open-space easements are held by the Virginia Outdoors Foundation. The fee shall be collected as provided in § 58.1-812 and the clerk shall deposit all fees collected hereunder into a special fund within the state treasury which shall be created on the books of the Comptroller for this revenue. On a monthly basis, the Comptroller shall distribute all revenue collected from such fee to the Virginia Outdoors Foundation, which shall accept, hold and administer such funds in accordance with its purpose and powers as set forth in Chapter 18 (§ 10.1-1800 et seq.) of Title 10.1.