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SENATE BILL NO. 73

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 9, 2004)

(Patron Prior to Substitute—Senator Howell)

*A BILL to amend and reenact §§ 58.1-811 and 58.1-3606 of the Code of Virginia, relating to taxes upon incorporated churches.***Be it enacted by the General Assembly of Virginia:****1. That §§ 58.1-811 and 58.1-3606 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-811. Exemptions.

A. The taxes imposed by § 58.1-801 shall not apply to any deed conveying real estate:

1. To an incorporated college or other incorporated institution of learning not conducted for profit, where such real estate is intended to be used for educational purposes and not as a source of revenue or profit;

2. To an incorporated church or religious body or to the trustee or trustees of any church or religious body, where such real estate is intended to be used exclusively for religious purposes, or for the residence of the minister of any such church or religious body;

3. To the United States, the Commonwealth, or to any county, city, town, district or other political subdivision of the Commonwealth;

4. To the Virginia Division of the United Daughters of the Confederacy;

5. To any nonstock corporation organized exclusively for the purpose of owning and/or operating a hospital or hospitals not for pecuniary profit;

6. To a corporation upon its organization by persons in control of the corporation in a transaction which qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code as it exists at the time of the conveyance;

7. From a corporation to its stockholders upon complete or partial liquidation of the corporation in a transaction which qualifies for income tax treatment pursuant to §§ 331, 332, 333 or § 337 of the Internal Revenue Code as it exists at the time of liquidation;

8. To the surviving or new corporation, partnership or limited liability company upon merger or consolidation of two or more corporations, partnerships or limited liability companies, or in a reorganization within the meaning of § 368 (a) (1) (C) and (F) of the Internal Revenue Code as amended;

9. To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal Revenue Code as amended;

10. To a partnership or limited liability company, when the grantors are entitled to receive not less than fifty 50 percent of the profits and surplus of such partnership or limited liability company;

11. From a partnership or limited liability company, when the grantees are entitled to receive not less than fifty 50 percent of the profits and surplus of such partnership or limited liability company;

12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, when no consideration has passed between the grantor and the beneficiaries; and to the original beneficiaries of a trust from the trustees holding title under a deed in trust;

13. When the grantor is the personal representative of a decedent's estate or trustee under a will or inter vivos trust of which the decedent was the settlor, other than a security trust defined in § 55-58.1, and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument; or

14. When the grantor is an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise would be unable to afford to buy a home through conventional means, located in a county with a population of not less than 28,500 and not more than 28,650 or a city with a population of not less than 66,000 and not more than 70,000.

B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:

1. Given by an incorporated college or other incorporated institution of learning not conducted for profit;

2. Given by the trustee or trustees of a church or religious body or given by an incorporated church or religious body;

60 3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or
61 operating a hospital or hospitals not for pecuniary profit;

62 4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a
63 debt payable to any other local governmental entity or political subdivision; or

64 5. Securing a loan made by an organization described in subdivision 14 of subsection A of this
65 section.

66 C. The tax imposed by § 58.1-802 shall not apply to any transaction described in subdivisions 6
67 through 13 of subsection A of this section, nor to any:

68 1. Instrument or writing given to secure a debt;

69 2. Deed conveying real estate from an incorporated college or other incorporated institution of
70 learning not conducted for profit;

71 3. Deed conveying real estate from the Commonwealth or any county, city, town, district or other
72 political subdivision thereof;

73 4. Conveyance of real estate to the Commonwealth or any county, city, town, district or other
74 political subdivision thereof, if such political unit is required by law to reimburse the parties taxable
75 pursuant to § 58.1-802; or

76 5. Deed conveying real estate from ~~any~~ *the trustee or trustees of a church or religious body or from*
77 *an incorporated church or religious body.*

78 D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or
79 grantors and a grantee or grantees when no consideration has passed between the parties. Such deed
80 shall state therein that it is a deed of gift.

81 E. The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the
82 Commonwealth, or any county, city, town, district or other political subdivision of the Commonwealth.

83 F. The taxes imposed by §§ 58.1-801, 58.1-802, 58.1-807, 58.1-808 and 58.1-814 shall not apply to
84 (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or (ii) any
85 lease of real property or any interest therein to The Nature Conservancy, where such deed of gift or
86 lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural
87 or open space areas.

88 G. The words "trustee" or "trustees," as used in subdivision 2 of subsection A and subdivision 2 of
89 subsection B, mean the trustees mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

90 H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual
91 right, if the release is contained within a single deed that performs more than one function, and at least
92 one of the other functions performed by the deed is subject to the recordation tax.

93 § 58.1-3606. Property exempt from taxation by classification.

94 A. Pursuant to the authority granted in Article X, Section 6 (a) (6) of the Constitution of Virginia to
95 exempt property from taxation by classification, the following classes of real and personal property shall
96 be exempt from taxation:

97 1. Property owned directly or indirectly by the Commonwealth, or any political subdivision thereof.

98 2. Buildings with land they actually occupy, and the furniture and furnishings therein owned by
99 churches or religious bodies, *including an incorporated church or religious body*, and exclusively
100 occupied or used for religious worship or for the residence of the minister of any church or religious
101 body, and such additional adjacent land reasonably necessary for the convenient use of any such
102 building.

103 3. Nonprofit private or public burying grounds or cemeteries.

104 4. Property owned by public libraries, law libraries of local bar associations when the same are used
105 or available for use by a state court or courts or the judge or judges thereof, medical libraries of local
106 medical associations when the same are used or available for use by state health officials, incorporated
107 colleges or other institutions of learning not conducted for profit. This paragraph shall apply only to
108 property primarily used for literary, scientific or educational purposes or purposes incidental thereto and
109 shall not apply to industrial schools which sell their products to other than their own employees or
110 students.

111 5. Property belonging to and actually and exclusively occupied and used by the Young Men's
112 Christian Associations and similar religious associations, including religious mission boards and
113 associations, orphan or other asylums, reformatories, hospitals and nunneries, conducted not for profit
114 but exclusively as charities (which shall include hospitals operated by nonstock corporations not
115 organized or conducted for profit but which may charge persons able to pay in whole or in part for their
116 care and treatment).

117 6. Parks or playgrounds held by trustees for the perpetual use of the general public.

118 7. Buildings with the land they actually occupy, and the furniture and furnishings therein belonging
119 to any benevolent or charitable organization and used by it exclusively for lodge purposes or meeting
120 rooms, together with such additional adjacent land as may be necessary for the convenient use of the
121 buildings for such purposes.

122 8. Property of any nonprofit corporation organized to establish and maintain a museum.
123 B. Property, belonging in one of the classes listed in subsection A of this section, which was exempt
124 from taxation on July 1, 1971, shall continue to be exempt from taxation under the rules of statutory
125 construction applicable to exempt property prior to such date.
126 **2. That an emergency exists and this act is in force from its passage and (i) any state or local**
127 **taxes assessed pursuant to Chapter 8 (§ 58.1-800 et seq.) of Title 58.1 of the Code of Virginia and**
128 **(ii) any local recordation taxes assessed pursuant to Article 1 (§ 58.1-3800 et seq.) of Chapter 38 of**
129 **Title 58.1 on or after January 1, 2004, through the date of the passage of this act upon any deed**
130 **conveying real estate to an incorporated church or religious body, deed of trust or mortgage given**
131 **by an incorporated church or religious body, or deed conveying real estate from an incorporated**
132 **church or religious body shall be refunded, if paid, with the amount of interest being determined**
133 **under existing law.**
134 **In addition, any local property taxes assessed on or after January 1, 2004, through the date of the**
135 **passage of this act upon an incorporated church or religious body for any property described and**
136 **occupied or used as provided under § 58.1-3606 shall be refunded, if paid, with the amount of**
137 **interest being determined under existing law.**