

053694204

HOUSE BILL NO. 2697**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on General Laws
on February 5, 2005)

(Patron Prior to Substitute—Delegate Scott, J. M.)

A *BILL to amend and reenact §§ 15.2-5214, 15.2-5343, 16.1-319, 23-50.16:12, 58.1-811, 58.1-58.1-3606, and 58.1-3617, of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 57-16.1, relating to certain substantive changes to modernize laws governing churches.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-5214, 15.2-5343, 16.1-319, 23-50.16:12, 58.1-811, 58.1- 58.1-3606, and 58.1-3617 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 57-16.1 as follows:

§ 15.2-5214. Eminent domain.

The commission shall have the right to acquire by eminent domain any real property, including fixtures and improvements, which it deems necessary to carry out the purposes of this chapter after it adopts a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The commission may exercise the power of eminent domain pursuant to the provisions of any applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain by any locality.

Property already devoted to a public use may be acquired; however, no property belonging to any locality, government, or religious or charitable corporation may be acquired without its consent. *Property belonging to a church, whether incorporated or unincorporated, may be acquired without its consent.*

§ 15.2-5343. Eminent domain.

The authority shall have the right to acquire by eminent domain any real property, including fixtures and improvements, which it may deem necessary to carry out the purposes of this chapter after the adoption by it of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The authority may exercise the power of eminent domain pursuant to the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 and any applicable statutory provisions in force or hereafter enacted for the exercise of the power of eminent domain by cities.

Property already devoted to a public use may be acquired. No property belonging to any locality, government, or religious or charitable corporation may be acquired without its consent. *Property belonging to a church, whether incorporated or unincorporated, may be acquired without its consent.*

§ 16.1-319. Acquisition of property by commission.

The commission shall have the right to acquire by eminent domain any real property, including fixtures and improvements, which it may deem necessary to carry out the purposes of this article, after the adoption by it of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use; provided, however, that no such real property shall be so acquired or such facility established within the territorial limits of such political subdivision without the approval, after public hearing, of the governing body of such political subdivision.

Subject to the provisions of § 25.1-102, property already devoted to a public use may be acquired, provided, that no property belonging to any county or city or to any religious or charitable corporation may be acquired without its consent. *Property belonging to a church, whether incorporated or unincorporated, may be acquired without its consent.*

§ 23-50.16:12. Eminent domain.

The Authority may exercise the power of eminent domain pursuant to the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 to acquire by condemnation any real property, including fixtures and improvements, which it may deem necessary to carry out the purposes of this chapter, upon its adoption of a resolution declaring that the acquisition of such property is in the public interest and necessary for public use and upon the approval of the Governor. The Authority may acquire property already devoted to a public use, provided that no property belonging to any city, town or county or to any government or to any religious or charitable corporation may be acquired without its consent. *Property belonging to a church, whether incorporated or unincorporated, may be acquired without its consent.*

§ 57-16.1. *Property of unincorporated church held by corporation.*

Whenever the laws, rules, or ecclesiastic polity of an unincorporated church or religious body provide for it to create a corporation to hold, administer, and manage its real and personal property, such corporation shall have the power to (i) acquire by deed, devise, gift, purchase, or otherwise, any real or personal property for any purpose authorized and permitted by the laws, rules, or ecclesiastic polity of the church or body, and not prohibited by the law of the Commonwealth and (ii) hold,

60 *improve, mortgage, sell, and convey the same in accordance with such law, rules, and ecclesiastic*
61 *polity, and in accordance with the law of the Commonwealth.*

62 § 58.1-811. Exemptions.

63 A. The taxes imposed by §§ 58.1-801 and 58.1-807 shall not apply to any deed conveying real estate
64 or lease of real estate:

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

68 2. To an incorporated church or religious body or to the trustee or trustees of any church or religious
69 body, *or a corporation mentioned in § 57-16.1*, where such real estate is intended to be used exclusively
70 for religious purposes, or for the residence of the minister of any such church or religious body;

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

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

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

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

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

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

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

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

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

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

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

102 14. When the grantor is an organization exempt from taxation under § 501 (c) (3) of the Internal
103 Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect
104 or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise
105 would be unable to afford to buy a home through conventional means, located in a county with a
106 population of not less than 28,500 and not more than 28,650 or a city with a population of not less than
107 66,000 and not more than 70,000.

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

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

111 2. Given by the trustee or trustees of a church or religious body or given by an incorporated church
112 or religious body, *or given by a corporation mentioned in § 57-16.1*;

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

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

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

119 C. The tax imposed by § 58.1-802 shall not apply to any :

120 1. Transaction described in subdivisions 6 through 13 of subsection A of this section;

121 2. Instrument or writing given to secure a debt;

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

4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town, district or other political subdivision thereof;

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

6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an incorporated church or religious body, *or from a corporation mentioned in § 57-16.1.*

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

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

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 (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural or open space areas.

G. The words "trustee" or "trustees," as used in subdivision 2 of subsection A ~~and~~, subdivision 2 of subsection B, ~~mean and subdivision 6 of subsection C, include~~ the trustees mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

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

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

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

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

2. Buildings with land they actually occupy, and the ~~furniture and furnishings therein~~ *personal property* owned by churches or religious bodies, including (i) an incorporated church or religious body *and (ii) a corporation mentioned in § 57-16.1*, and exclusively occupied or used for religious worship or for the residence of the minister of any church or religious body, and such additional adjacent land reasonably necessary for the convenient use of any such building.

3. Nonprofit private or public burying grounds or cemeteries.

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

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

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

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

8. Property of any nonprofit corporation organized to establish and maintain a museum.

B. Property, belonging in one of the classes listed in subsection A of this section, which was exempt from taxation on July 1, 1971, shall continue to be exempt from taxation under the rules of statutory construction applicable to exempt property prior to such date.

§ 58.1-3617. Churches and religious bodies.

Any church, religious association or religious denomination operated exclusively on a nonprofit basis for charitable, religious or educational purposes is hereby classified as a religious and charitable

183 organization. Notwithstanding § 58.1-3609, only property of such association or denomination used
184 exclusively for charitable, religious or educational purposes shall be so exempt from taxation.

185 Motor vehicles owned or leased by churches and used predominantly for church purposes, are hereby
186 classified as property used by its owner for religious purposes.

187 For purposes of this section, property of a church, religious association or religious denomination, *or*
188 *religious body* owned or leased in the name of *an incorporated church or religious body or corporation*
189 *mentioned in § 57-16.1*, a duly designated ecclesiastical officer, or ~~of~~ a trustee *of an unincorporated*
190 *church or religious body* shall be deemed to be owned by such church, association or denomination *or*
191 *religious body*.