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HOUSE BILL NO. 1394

Offered January 9, 2008

A BILL to amend and reenact §§ 58.1-801, 58.1-802, and 58.1-812 of the Code of Virginia, relating to recordation taxes.

Patrons—Miller, J.H., Athey, Cole, Lingamfelter and Sherwood

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-801, 58.1-802, and 58.1-812 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-801. Deeds generally; charter amendments.

A. On every deed admitted to record, except a deed exempt from taxation by law, there is hereby levied a state recordation tax. The rate of the tax shall be 25 cents on every $100 or fraction thereof of the *stated* consideration of the deed ~~or the actual value of the property conveyed, whichever is greater~~.

Upon deeds conveying property lying partly within the Commonwealth and partly without the Commonwealth, the tax herein imposed shall apply only to the value of so much of the property conveyed as is situated within the Commonwealth.

B. When the charter of a corporation is amended, and the only effect of such amendment is to change the corporate name of such corporation, the tax upon the recordation of a deed conveying to, or vesting in, such corporation under its changed name, the title to any or all of the real or personal property of such corporation held in its name as it existed immediately prior to such amendment, shall be 50 cents.

§ 58.1-802. Additional tax paid by grantor; collection.

A. In addition to any other tax imposed under the provisions of this chapter, a tax is hereby imposed on each deed, instrument, or writing by which lands, tenements or other realty sold is granted, assigned, transferred, or otherwise conveyed to, or vested in the purchaser, or any other person, by such purchaser's direction. The rate of the tax, when the *stated* consideration ~~or value~~ of the interest~~, whichever is greater,~~ exceeds $100, shall be 50 cents for each $500 or fraction thereof, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or encumbrance. No increase in the city or county recordation tax authorized by § 58.1-814 shall be deemed authorized by this section.

The tax imposed by this section shall be paid by the grantor, or any person who signs on behalf of the grantor, of any deed, instrument or writing subject to the tax imposed by this section.

No such deed, instrument or other writing shall be admitted to record without certification of the clerk of the court wherein first recorded having been affixed thereto that the tax imposed by this section has been paid. The clerk shall include within the certificate the amount of such tax collected thereon.

B. Taxes imposed by this section shall be collected as provided in § 58.1-812 and the clerk shall return taxes collected hereunder one-half into the state treasury and one-half into the treasury of the locality.

The local portion of the tax imposed by this section on property which is located in more than one jurisdiction shall be collected by the clerk in proportion to the value of the property located in each such locality when recorded therein.

Every clerk of court collecting taxes under this section for the county or city which he serves shall be entitled to compensation for such service at five percent of the amount so collected and paid.

§ 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,

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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 *the stated consideration on a deed or other instrument or* any of the *other* information requested by the clerk of court pursuant to this section shall be guilty of a Class 2 misdemeanor.