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HOUSE BILL NO. 1337

Offered January 14, 2015

Prefiled November 25, 2014

A BILL to amend and reenact § 58.1-811, as it is currently effective and as it may become effective, of the Code of Virginia, relating to recordation tax; exemption for property bail bondsmen.

Patrons—Spruill, BaCote and Hester; Senator: Locke

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-811 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-811. (Contingent expiration date) Exemptions.

A. The taxes imposed by §§ 58.1-801 and 58.1-807 shall not apply to any deed conveying real estate or lease of 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, or a corporation mentioned in § 57-16.1, 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 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, limited partnership, business trust, or limited liability company upon a merger or consolidation to which two or more such entities are parties, 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 50 percent of the profits and surplus of such partnership or limited liability company; provided that the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the company to avoid recordation taxes;

11. From a partnership or limited liability company, when the grantees are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company; provided that the transfer from a limited liability company is not subsequent to a transfer of control of the assets of the company to avoid recordation taxes;

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 deed of trust conveying property to secure the payment of money or the performance of an obligation, 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

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59 would be unable to afford to buy a home through conventional means.

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

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

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

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

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

69 5. Securing a loan made by an organization described in subdivision A 14; *or*

70 6. *Given by a property bail bondsman, as defined in § 9.1-185, as security on a bond.*

71 C. The tax imposed by § 58.1-802 and the fee imposed by § 58.1-802.2 shall not apply to any:

72 1. Transaction described in subdivisions A 6 through 13;

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

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

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

78 5. Conveyance of real estate to the Commonwealth or any county, city, town, district or other  
79 political subdivision thereof, if such political unit is required by law to reimburse the parties taxable  
80 pursuant to § 58.1-802 or subject to the fee under § 58.1-802.2; or

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

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

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

88 F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-802.2, 58.1-807, 58.1-808, and  
89 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The  
90 Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy,  
91 where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of  
92 preserving wilderness, natural or open space areas.

93 G. The words "trustee" or "trustees," as used in subdivisions A 2, B 2, and C 6, include the trustees  
94 mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

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

98 I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement,  
99 release, or other document recorded in connection with a concession pursuant to the Public-Private  
100 Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.

101 J. No recordation tax shall be required for the recordation of any transfer on death deed or any  
102 revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act  
103 (§ 64.2-621 et seq.) when no consideration has passed between the parties.

104 **§ 58.1-811. (Contingent effective date) Exemptions.**

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

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

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

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

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

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

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

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

124 8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited  
125 liability company upon a merger or consolidation to which two or more such entities are parties, or in a  
126 reorganization within the meaning of § 368(a)(1)(C) and (F) of the Internal Revenue Code as amended;

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

130 10. To a partnership or limited liability company, when the grantors are entitled to receive not less  
131 than 50 percent of the profits and surplus of such partnership or limited liability company; provided that  
132 the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the  
133 company to avoid recordation taxes;

134 11. From a partnership or limited liability company, when the grantees are entitled to receive not less  
135 than 50 percent of the profits and surplus of such partnership or limited liability company; provided that  
136 the transfer from a limited liability company is not subsequent to a transfer of control of the assets of  
137 the company to avoid recordation taxes;

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

142 13. When the grantor is the personal representative of a decedent's estate or trustee under a will or  
143 inter vivos trust of which the decedent was the settlor, other than a deed of trust conveying property to  
144 secure the payment of money or the performance of an obligation, and the sole purpose of such transfer  
145 is to comply with a devise or bequest in the decedent's will or to transfer title to one or more  
146 beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust  
147 instrument; or

148 14. When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal  
149 Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect  
150 or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise  
151 would be unable to afford to buy a home through conventional means.

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

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

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

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

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

161 5. Securing a loan made by an organization described in subdivision A 14; or

162 6. *Given by a property bail bondsman, as defined in § 9.1-185, as security on a bond.*

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

164 1. Transaction described in subdivisions A 6 through 13;

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

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

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

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

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

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

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

180 F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-807, 58.1-808, and 58.1-814 shall not  
181 apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or

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

185 G. The words "trustee" or "trustees," as used in subdivisions A 2, B 2, and C 6, include the trustees  
186 mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

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

190 I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement,  
191 release, or other document recorded in connection with a concession pursuant to the Public-Private  
192 Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.

193 J. No recordation tax shall be required for the recordation of any transfer on death deed or any  
194 revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act  
195 (§ 64.2-621 et seq.) when no consideration has passed between the parties.