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HOUSE BILL NO. 1492

Offered January 14, 2015

Prefiled January 5, 2015

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 and to repeal § 58.1-806 of the Code of Virginia, relating to recordation tax; exemption.

Patrons—Simon, Carr, Kory and Watts

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-811, as it is currently effective and as it may become effective, 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

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59 Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect
60 or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise
61 would be unable to afford to buy a home through conventional means;

62 15. When it is a deed of partition, or any combination of deeds simultaneously executed and having
63 the effect of a deed of partition, among joint tenants, tenants in common, or coparceners; or

64 16. When it is a deed transferring property pursuant to a decree of divorce or of separate
65 maintenance or pursuant to a written instrument incident to such divorce or separation.

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

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

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

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

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

75 5. Securing a loan made by an organization described in subdivision A 14.

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

77 1. Transaction described in subdivisions A 6 through 13, 15, and 16;

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

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

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

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

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

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

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

93 F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-802.2, 58.1-807, 58.1-808, and
94 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The
95 Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy,
96 where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of
97 preserving wilderness, natural or open space areas.

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

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

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

106 J. No recordation tax shall be required for the recordation of any transfer on death deed or any
107 revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act
108 (§ 64.2-621 et seq.) when no consideration has passed between the parties.

109 **§ 58.1-811. (Contingent effective date) Exemptions.**

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

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

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

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

120 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 would be unable to afford to buy a home through conventional means;

15. *Pursuant to any deed of partition, or any combination of deeds simultaneously executed and having the effect of a deed of partition, among joint tenants, tenants in common, or coparceners; or*

16. *Pursuant to any deed transferring property pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation.*

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, or given by a corporation mentioned in § 57-16.1;

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

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

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

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

1. Transaction described in subdivisions A 6 through 13, 15, and 16;

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

182 incorporated church or religious body, or from a corporation mentioned in § 57-16.1.

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

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

188 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
189 apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or
190 (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of
191 gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness,
192 natural or open space areas.

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

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

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

201 J. No recordation tax shall be required for the recordation of any transfer on death deed or any
202 revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act
203 (§ 64.2-621 et seq.) when no consideration has passed between the parties.

204 **2. That § 58.1-806 of the Code of Virginia is repealed.**