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HOUSE BILL NO. 339

Offered January 13, 2016

Prefiled January 5, 2016

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.

Patron—Pogge

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 Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect

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59 or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise
60 would be unable to afford to buy a home through conventional means.

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

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

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

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

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

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

71 6. *Securing a loan made by a county, city, or town, or an agency of such a locality, to a borrower*
72 *whose household income does not exceed 80 percent of the area median household income established*
73 *by the U.S. Department of Housing and Urban Development, for the purpose of erecting or*
74 *rehabilitating a home for such borrower, including the purchase of land for such home.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

108 **§ 58.1-811. (Contingent effective date) Exemptions.**

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

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

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

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

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

120 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.

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; *or*

6. *Securing a loan made by a county, city, or town, or an agency of such a locality, to a borrower whose household income does not exceed 80 percent of the area median household income established by the U.S. Department of Housing and Urban Development, for the purpose of erecting or rehabilitating a home for such borrower, including the purchase of land for such home.*

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

1. Transaction described in subdivisions A 6 through 13;

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.

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

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

187 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
188 apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or
189 (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of
190 gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness,
191 natural or open space areas.

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

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

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

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