

16101372D

HOUSE BILL NO. 595

Offered January 13, 2016

Prefiled January 11, 2016

A BILL to amend and reenact § 11-8 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 3 of Title 8.01 a section numbered 8.01-26.1 and by adding a section numbered 64.2-305.1 and to repeal Chapter 3 (§§ 55-35 through 55-47.1) of Title 55 of the Code of Virginia, relating to spouse's responsibility for other spouse's contract or tort liability to a third party; abolishment of equitable separate estates; property rights of married women.

Patrons—Simon and Boysko

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 11-8 of the Code of Virginia is amended and that the Code of Virginia is amended by adding in Article 1 of Chapter 3 of Title 8.01 a section numbered 8.01-26.1 and by adding a section numbered 64.2-305.1 as follows:

§ 8.01-26.1. Spouse not responsible for other spouse's contracts, etc.; mutual liability for necessities; responsibility of personal representative.

Except as otherwise provided in this section, a spouse shall not be responsible for the other spouse's contract or tort liability to a third party, whether such liability arose before or after the marriage. The doctrine of necessities as it existed at common law shall apply equally to both spouses, except where they are permanently living separate and apart, but shall in no event create any liability between such spouses as to each other. No lien arising out of a judgment under this section shall attach to the judgment debtors' principal residence held by them as tenants by the entireties or that was held by them as tenants by the entireties prior to the death of either spouse where the tenancy terminated as a result of the death of either spouse.

§ 11-8. Instruments executed by minors or unmarried widows to obtain benefits under certain federal legislation.

Any person under the age of eighteen or widow who has not remarried who is eligible for a guaranty of credit under the provisions of Title III of an Act of Congress of the United States approved June 22, 1944, entitled the "Servicemen's Readjustment Act of 1944," as now or hereafter amended, or other like federal law, shall be upon complying with the terms of this section, qualified to contract for and purchase any real or personal property with respect to which the guaranteed loan is to be made, to execute the note or other evidence of the loan indebtedness and to secure the debt by the execution of a deed of trust or chattel mortgage, or other instrument, upon the real or personal property acquired as aforesaid in connection with the proposed loan or theretofore acquired by such person, whether by purchase or otherwise, and such person shall, in all respects, be bound by such contracts or other instruments entered into as though he or she were of full age.

When any such person is under the age of eighteen years no contract, note, deed of trust, mortgage or other instrument required to obtain benefits under such federal legislation shall be executed by such person unless the circuit or corporation court of the city or county, or judge thereof in vacation, in which the property is located or to be used, after a petition signed by any such person shall have been filed with it or him, approve the same. Such petition shall set forth the facts pertaining to the proposed transaction and shall state why the judge or court should approve and authorize the execution of the necessary instruments.

The petition shall be heard by the court without a jury and its decision thereon shall be final. A guardian ad litem shall be appointed who shall make an investigation and report in writing whether in his opinion the best interest of the petitioner would be served by permitting the petitioner to enter into such transaction and the report shall be filed with the papers in the case. No such petition shall be approved by the court unless such approval is recommended by the report of the guardian ad litem and unless it is also recommended by the testimony of at least two disinterested and qualified witnesses appointed by the court, or the judge thereof in vacation. The order of approval shall recite the recommendation of the guardian ad litem and the witnesses and also their names and addresses. And the judge of the court hearing the case shall fix a reasonable fee for the attorneys and guardians ad litem.

The court, if of opinion that entry into such transaction would benefit the petitioner, shall approve the prayer of the petition and the petitioner, if he enter into such transaction and execute any instrument required therein, shall be bound thereby as if of full age whether all or part of the obligation secured be so guaranteed.

INTRODUCED

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59 All rights which have accrued or obligations which have arisen under this section prior to January
60 30, 1947, are hereby declared valid and binding.

61 If the court approve the prayer of the petition such approval shall operate to vest title and confer the
62 power to encumber or convey title to real or personal property acquired pursuant to such approval.

63 Any infant spouse of an infant veteran permitted by the court to make loans under this section may
64 unite in any conveyance to effectuate such a loan as if he or she was a spouse of an adult signing as
65 provided under the provisions of ~~§ 55-42~~, relating to the removal of disability of infancy in certain
66 cases.

67 **§ 64.2-305.1. Equitable separate estates abolished.**

68 *The estate known as the equitable separate estate no longer exists, and any language in any writing,*
69 *whenever executed, that purports to convey real property to a person as an equitable separate estate*
70 *has no legal or equitable significance after January 1, 1991, except as provided in § 64.2-301.*

71 **2. That Chapter 3 (§§ 55-35 through 55-47.1) of Title 55 of the Code of Virginia is repealed.**