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**SENATE BILL NO. 2**

Offered January 13, 2016

Prefiled November 20, 2015

*A BILL to amend and reenact § 6.2-1000 of the Code of Virginia, relating to public guardian or conservator acting as trustee for trust of incapacitated person.*

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 Patron—Lucas
 

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Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That § 6.2-1000 of the Code of Virginia is amended and reenacted as follows:****§ 6.2-1000. Definitions.**

As used in this chapter, unless the context requires otherwise:

"Affiliated trust company" means a trust company that is controlled by a trust company holding company.

"Trust business" means the holding out by a person or legal entity to the public at large by advertising, solicitation, or other means that the person or legal entity is available to act as a fiduciary in the Commonwealth or is accepting and undertaking to perform the duties of a fiduciary in the regular course of its business. A person does not engage in trust business by:

1. Rendering services as an attorney at law in the performance of duties as a fiduciary;  
2. Rendering services as a certified or registered public accountant in the performance of duties as such;

3. Acting as trustee under a deed of trust made only as security for the payment of money or for the performance of another act;

4. Acting as a trustee in bankruptcy or as a receiver;

5. Holding trusts of real estate for the primary purpose of subdivision, development, or sale, or to facilitate any business transaction with respect to such real estate;

6. Engaging in the business of an escrow agent;

7. Holding assets as trustee of a trust created for charitable purposes if:

a. The trustee is an entity exempt from federal income tax under § 501(c) (3) of the Internal Revenue Code; and

b. The trust is (i) exempt from federal income taxes under § 501(c) (3) of the Internal Revenue Code; (ii) a charitable remainder trust described in § 664 of the Internal Revenue Code; (iii) a pooled income fund described in § 642(c) (5) of the Internal Revenue Code; or (iv) a trust the charitable interest in which is either a guaranteed annuity or a fixed percentage distributed yearly of the fair market value of the trust property, described in § 2055(e) (2) (B) or § 2522(c) (2) (B) of the Internal Revenue Code;

8. Receiving rents and proceeds of sale as a licensed real estate broker on behalf of the principal; or

9. Engaging in securities transactions as a broker-dealer or salesman; or

10. Holding assets as a trustee of a trust if:

a. The trustee is a local or regional program designated by the Department for Aging and Rehabilitative Services as a public guardian or public conservator pursuant to Article 6 (§ 51.5-149 et seq.) of Chapter 14 of Title 51.5; and

b. The trust primarily benefits a person for whom the trustee has been ordered by a court to serve as a guardian or conservator.

"Trust company" means a corporation, including an affiliated trust company, that is authorized to engage in the trust business under Article 2 (§ 6.2-1013 et seq.) of this chapter, the powers of which are expressly restricted to the conduct of trust business.

"Trust company holding company" means a corporation that controls a trust company. A trust company holding company shall not be deemed a financial institution holding company for any purpose under this title unless it controls a financial institution other than an affiliated trust company or another financial institution holding company.

"Trust institution" means any (i) bank authorized to engage in the trust business, (ii) trust company, or (iii) trust subsidiary.

"Trust subsidiary" or "subsidiary trust company" means a corporation organized under Chapter 9 (§ 13.1-601 et seq.) of Title 13.1, or an association organized under the National Banking Act with its main office located in the Commonwealth, that is authorized to transact trust business and business incidental thereto, but not to accept deposits except as incidental to such trust business.

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