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SENATE BILL NO. 875

Offered January 11, 2017

Prefiled December 15, 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.

Patrons—Ruff and Hanger

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;

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

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

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

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

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

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

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

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

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

79 7. *Given by any entity organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.*

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

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

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

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

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

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

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

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

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

97 F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-802.2, 58.1-807, 58.1-808, and  
98 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The  
99 Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy,  
100 where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of  
101 preserving wilderness, natural, or open space areas.

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

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

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

110 J. No recordation tax shall be required for the recordation of any transfer on death deed or any  
111 revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act  
112 (§ 64.2-621 et seq.) when no consideration has passed between the parties.

113 **§ 58.1-811. (Contingent effective date) Exemptions.**

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

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

119 2. To an incorporated church or religious body or to the trustee or trustees of any church or religious  
120 body, or a corporation mentioned in § 57-16.1, where such real estate is intended to be used exclusively

- 121 for religious purposes, or for the residence of the minister of any such church or religious body;
- 122 3. To the United States, the Commonwealth, or to any county, city, town, district, or other political
- 123 subdivision of the Commonwealth;
- 124 4. To the Virginia Division of the United Daughters of the Confederacy;
- 125 5. To any nonstock corporation organized exclusively for the purpose of owning or operating a
- 126 hospital or hospitals not for pecuniary profit;
- 127 6. To a corporation upon its organization by persons in control of the corporation in a transaction
- 128 which qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code as it
- 129 exists at the time of the conveyance;
- 130 7. From a corporation to its stockholders upon complete or partial liquidation of the corporation in a
- 131 transaction which qualifies for income tax treatment pursuant to § 331, 332, 333, or 337 of the Internal
- 132 Revenue Code as it exists at the time of liquidation;
- 133 8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited
- 134 liability company upon a merger or consolidation to which two or more such entities are parties, or in a
- 135 reorganization within the meaning of § 368(a)(1)(C) and (F) of the Internal Revenue Code as amended;
- 136 9. To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a
- 137 parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal
- 138 Revenue Code as amended;
- 139 10. To a partnership or limited liability company, when the grantors are entitled to receive not less
- 140 than 50 percent of the profits and surplus of such partnership or limited liability company, provided that
- 141 the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the
- 142 company to avoid recordation taxes;
- 143 11. From a partnership or limited liability company, when the grantees are entitled to receive not less
- 144 than 50 percent of the profits and surplus of such partnership or limited liability company, provided that
- 145 the transfer from a limited liability company is not subsequent to a transfer of control of the assets of
- 146 the company to avoid recordation taxes;
- 147 12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of
- 148 the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust
- 149 instrument, when no consideration has passed between the grantor and the beneficiaries; and to the
- 150 original beneficiaries of a trust from the trustees holding title under a deed in trust;
- 151 13. When the grantor is the personal representative of a decedent's estate or trustee under a will or
- 152 inter vivos trust of which the decedent was the settlor, other than a deed of trust conveying property to
- 153 secure the payment of money or the performance of an obligation, and the sole purpose of such transfer
- 154 is to comply with a devise or bequest in the decedent's will or to transfer title to one or more
- 155 beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust
- 156 instrument;
- 157 14. When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal
- 158 Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect
- 159 or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise
- 160 would be unable to afford to buy a home through conventional means;
- 161 15. Pursuant to any deed of partition, or any combination of deeds simultaneously executed and
- 162 having the effect of a deed of partition, among joint tenants, tenants in common, or coparceners; or
- 163 16. Pursuant to any deed transferring property pursuant to a decree of divorce or of separate
- 164 maintenance or pursuant to a written instrument incident to such divorce or separation.
- 165 B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:
- 166 1. Given by an incorporated college or other incorporated institution of learning not conducted for
- 167 profit;
- 168 2. Given by the trustee or trustees of a church or religious body or given by an incorporated church
- 169 or religious body, or given by a corporation mentioned in § 57-16.1;
- 170 3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or
- 171 operating a hospital or hospitals not for pecuniary profit;
- 172 4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a
- 173 debt payable to any other local governmental entity or political subdivision;
- 174 5. Securing a loan made by an organization described in subdivision A 14; ~~or~~
- 175 6. Securing a loan made by a county, city, or town, or an agency of such a locality, to a borrower
- 176 whose household income does not exceed 80 percent of the area median household income established
- 177 by the U.S. Department of Housing and Urban Development, for the purpose of erecting or
- 178 rehabilitating a home for such borrower, including the purchase of land for such home; *or*
- 179 7. *Given by any entity organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.*
- 180 C. The tax imposed by § 58.1-802 shall not apply to any:
- 181 1. Transaction described in subdivisions A 6 through 13, 15, and 16;

- 182 2. Instrument or writing given to secure a debt;
- 183 3. Deed conveying real estate from an incorporated college or other incorporated institution of  
184 learning not conducted for profit;
- 185 4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town,  
186 district, or other political subdivision thereof;
- 187 5. Conveyance of real estate to the Commonwealth or any county, city, town, district, or other  
188 political subdivision thereof, if such political unit is required by law to reimburse the parties taxable  
189 pursuant to § 58.1-802; or
- 190 6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an  
191 incorporated church or religious body, or from a corporation mentioned in § 57-16.1.
- 192 D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or  
193 grantors and a grantee or grantees when no consideration has passed between the parties. Such deed  
194 shall state therein that it is a deed of gift.
- 195 E. The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the  
196 Commonwealth, or any county, city, town, district, or other political subdivision of the Commonwealth.
- 197 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  
198 apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or  
199 (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of  
200 gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness,  
201 natural, or open space areas.
- 202 G. The words "trustee" or "trustees," as used in subdivisions A 2, B 2, and C 6, include the trustees  
203 mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.
- 204 H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual  
205 right, if the release is contained within a single deed that performs more than one function, and at least  
206 one of the other functions performed by the deed is subject to the recordation tax.
- 207 I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement,  
208 release, or other document recorded in connection with a concession pursuant to the Public-Private  
209 Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.
- 210 J. No recordation tax shall be required for the recordation of any transfer on death deed or any  
211 revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act  
212 (§ 64.2-621 et seq.) when no consideration has passed between the parties.