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HOUSE BILL NO. 2287

Offered January 8, 2019

A BILL to amend and reenact §§ 55-2, 55-57, 55-76, 55-77, 55-79, and 58.1-807 of the Code of Virginia, relating to lease agreements; requirements; emergency.

Patrons—Leftwich, Garrett and Murphy

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-2, 55-57, 55-76, 55-77, 55-79, and 58.1-807 of the Code of Virginia are amended and reenacted as follows:

§ 55-2. When deed or will necessary to convey estate; no parol partition or gift valid.

A. No estate of inheritance or freehold ~~or for a term of more than five years~~ in lands shall be conveyed unless by deed or will, nor shall any voluntary partition of lands by coparceners, having such an estate therein, be made, except by deed; nor shall any right to a conveyance of any such estate or term in land accrue to the donee of the land or those claiming under him, under a gift or promise of gift of the same not in writing, although such gift or promise be followed by possession thereunder and improvement of the land by the donee or those claiming under him.

B. Any lease agreement or other written document conveying a non-freehold estate in land, which was entered into before, and which remains in effect as of, the effective date of this subsection, or which is entered into after the effective date of this subsection, shall not be invalid, unenforceable, or subject to repudiation by the parties to such agreement on account of, or otherwise affected by, the fact that the conveyance of the estate was not in the form of a deed.

§ 55-57. Form of a lease.

A deed of lease may be made in the following form, or to the same effect: "This deed lease, made the ____ day of _____, in the year _____, between (herein insert the names of parties), witnesseth: that the said _____ ~~doth~~ does (or do) demise unto the said _____, his personal representative and assigns, all (here describe the property) from the ____ day of _____, for the term of _____, thence ensuing, yielding therefor during the said term the rent of (here state the rent and mode of payment). Witness the following signature and seal (or signatures and seals)."

§ 55-76. Of lessee "to pay the rent" and "to pay the taxes."

In a deed of lease a covenant by the lessee "to pay the rent" shall have the effect of a covenant that the rent reserved by the deed lease shall be paid to the lessor, or those entitled under him, in the manner therein mentioned; and a covenant by him "to pay the taxes" shall have the effect of a covenant that all the taxes, levies, and assessments upon the demised premises, or upon the lessor on account thereof, shall be paid by the lessee or those claiming under him.

§ 55-77. "That he will not assign, etc.," and "that he will leave the premises in good repair."

In a deed of lease a covenant by the lessee that "he will not assign without leave" shall have the same effect as a covenant that the lessee will not, during the term, assign, transfer or set over the premises, or any part thereof, to any person without the consent, in writing, of the lessor, his representative or assigns. And a covenant by him that "he will leave the premises in good repair" shall, subject to the qualifications of § 55-226, have the same effect as a covenant that the demised premises will, at the expiration or other sooner determination of the term, be peaceably surrendered and yielded up unto the lessor, his representatives or assigns, in good and substantial repair and condition, reasonable wear and tear excepted.

§ 55-79. Effect of provision for reentry by lessor.

If in a deed of lease it be is provided that "the lessor may reenter for default of ____ days in the payment of rent, or for the breach of covenants," it shall have the effect of an agreement that if the rent reserved, or any part thereof, be unpaid for such number of days after the day on which it ought to have been paid, or if any of the other covenants on the part of the lessee, his personal representative or assigns be broken, then, in either of such cases, the lessor, or those entitled in his place at any time afterwards, into and upon the demised premises, or any part thereof, in the name of the whole, may reenter, and the same again have, repossess and enjoy, as of his or their former estate.

§ 58.1-807. Contracts generally; leases.

A. Except as hereinafter provided, on every contract or memorandum thereof relating to real or personal property admitted to record, a recordation tax is hereby levied at the rate of 25 cents on every \$100 or fraction thereof of the consideration or value contracted for.

B. The recordation of a deed of lease for a term of years, or assignment of the lessee's interest

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59 therein, or memorandum thereof, shall be taxed according to the provisions of this section, unless
60 provided otherwise in § 58.1-809 or unless the annual rental, multiplied by the term for which the lease
61 runs, or remainder thereof, equals or exceeds the actual value of the property leased. In such cases the
62 tax for recording the deed of lease shall be based upon the actual value of the property at the date of
63 lease, including the value of any realty required by the terms of the lease to be constructed thereon by
64 the lessor.

65 C. The recordation of an assignment of the lessor's interest in a lease, or memorandum thereof, shall
66 be taxed according to the provisions of this section, unless the assignment of the lessor's interest in the
67 lease is to provide additional security for an obligation of the lessor on which the tax has been
68 previously paid, or the assignment of the lessor's interest is made to the person who owns the property
69 which is subject to the lease. In such cases there shall be no tax for recording the lessor's assignment of
70 the lease.

71 D. Notwithstanding the other provisions of this section, the tax on the recordation of leases of oil
72 and gas rights shall be \$25. The tax on the recordation of leases of coal and other mineral rights shall
73 be \$50.

74 E. Notwithstanding the other provisions of this section, the tax on the recordation of leases of
75 outdoor advertising signs owned by a person engaged in the business of outdoor advertising licensed by
76 the Virginia Department of Transportation pursuant to § 33.2-1209 shall be \$25.

77 F. Notwithstanding the other provisions of this section, the tax on the recordation of a lease of a
78 communications tower or a communications tower site shall be \$75; the tax on the recordation of each
79 lease to affix any communications equipment or antenna to any such tower or other structure shall be
80 \$15.

81 **2. That an emergency exists and this act is in force from its passage.**