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SENATE BILL NO. 1137

Senate Amendments in [] - February 3, 2023

Prefiled January 10, 2023

A BILL to amend and reenact §§ 58.1-811 and 58.1-816, as they are currently effective and as they may become effective, and 58.1-1744 and to amend the Code of Virginia by adding in Title 33.2 a chapter numbered 39, consisting of sections numbered 33.2-3900 through 33.2-3913, and by adding in Chapter 8 of Title 58.1 a section numbered 58.1-802.6, relating to Fredericksburg Area Transportation Authority; funding; recordation tax.

Patrons Prior to Engrossment—Senators McPike and Surovell

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-811 and 58.1-816, as they are currently effective and as they may become effective, and 58.1-1744 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 33.2 a chapter numbered 39, consisting of sections numbered 33.2-3900 through 33.2-3913, and by adding in Chapter 8 of Title 58.1 a section numbered 58.1-802.6 as follows:

CHAPTER 39.

FREDERICKSBURG AREA TRANSPORTATION AUTHORITY.

§ 33.2-3900. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Fredericksburg Area Transportation Authority established pursuant to § 33.2-3902.

"Fund" means the Fredericksburg Area Transportation Fund established pursuant to § 33.2-3901.

§ 33.2-3901. Fredericksburg Area Transportation Fund.

A. There is hereby created in the state treasury a special nonreverting fund for Planning District 16 to be known as the Fredericksburg Area Transportation Fund. The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to §§ 58.1-802.6 and 58.1-1744 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The moneys deposited in the Fund shall be used solely for (i) transportation purposes benefiting the localities comprising Planning District 16 and (ii) administrative and operating expenses as specified in subsection B of § 33.2-3906.

B. The amounts dedicated to the Fund shall be deposited monthly by the Comptroller into the Fund and thereafter distributed to the Authority as soon as practicable for use in accordance with this chapter. If the Authority determines that such moneys distributed to it exceed the amount required to meet the current needs and demands to fund transportation purposes pursuant to this chapter, the Authority may invest such excess moneys to the same extent and in the same manner as provided in subsection A of § 33.2-1525 for excess funds in the Transportation Trust Fund.

C. The amounts deposited into the Fund and the distribution and expenditure of such amounts shall not be used to calculate or reduce the share of federal, state, or local revenues otherwise available to participating localities. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.

D. After provision for the payment of administrative and operating expenses as specified in subsection B of § 33.2-3906, the revenues in the Fund shall be allocated as follows:

1. Fifty percent shall be retained by the Authority to be used for transportation-related purposes, including the provision of transit and mobility services, benefiting the localities comprising Planning District 16; and

2. Fifty percent shall be returned, proportionally, to each locality located in Planning District 16 to be used to improve local mobility, which may include construction, maintenance, or expansion of roads, sidewalks, trails, mobility services, or transit located in the locality.

E. Each locality's share of the revenues returned pursuant to subdivision D 2 shall be the total of the taxes dedicated to the Fund that are generated or attributable to the locality divided by the total of such taxes dedicated to the Fund. Each locality shall create a separate, special fund in which all revenues received pursuant to subdivision D 2 shall be deposited. Each locality shall annually provide to the

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59 Authority sufficient documentation, as required by the Authority, showing that the revenues distributed
60 under subdivision D 2 were used for the purposes set forth therein.

61 F. The projects and other transportation purposes supported by the revenues allocated under
62 subdivision D 1 shall be approved by the Authority. The Authority shall develop a prioritization process
63 based on an objective and quantifiable analysis that considers the benefits of projects relative to their
64 cost. Only projects evaluated using such process may be funded pursuant to subdivision D 1.

65 **§ 33.2-3902. Fredericksburg Area Transportation Authority created.**

66 The Fredericksburg Area Transportation Authority is hereby created as a body politic and as a
67 political subdivision of the Commonwealth. The Authority shall embrace each county, city, and town
68 located in Planning District 16, which is established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of
69 Title 15.2.

70 **§ 33.2-3903. Composition of Authority.**

71 A. The Authority shall consist of 10 members as follows:

72 1. The chief elected officer, or his designee, of the governing body of each of the counties embraced
73 by the Authority;

74 2. The chief elected officer, or his designee, of the City of Fredericksburg;

75 3. One member of the House of Delegates who resides in a county or city embraced by the
76 Authority, appointed by the Speaker of the House of Delegates, and one member of the Senate who
77 resides in a county or city embraced by the Authority, appointed by the Senate Committee on Rules;

78 4. A member of the Commonwealth Transportation Board who resides in a locality embraced by the
79 Authority and is appointed by the Governor; and

80 5. The following two persons serving ex officio as nonvoting members of the Authority: the Director
81 of the Department of Rail and Public Transportation, or his designee, and the Commissioner of
82 Highways, or his designee.

83 All members of the Authority shall serve terms coincident with their terms of office. Vacancies shall
84 be filled in the same manner as the original appointment. If a member of the Authority who represents a
85 locality as provided in subdivision 1 or 2 is unable to attend a meeting of the Authority, he may
86 designate another current elected official of such governing body to attend such meeting of the
87 Authority. Such designation shall be for the purposes of one meeting and shall be submitted in writing
88 or electronically to the chairman of the Authority at least 48 hours prior to the affected meeting.

89 B. The Authority shall elect a chairman and vice-chairman from among its voting membership. The
90 Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the financial
91 accounts of the Authority, and the cost of such audit shall be borne by the Authority.

92 **§ 33.2-3904. Staff.**

93 The Authority may employ a chief executive officer and such staff as it shall determine to be
94 necessary to carry out its duties and responsibilities under this chapter. No such person shall
95 contemporaneously serve as a member of the Authority. The Department of Transportation and the
96 Department of Rail and Public Transportation shall make their employees available to assist the
97 Authority, upon request.

98 **§ 33.2-3905. Decisions of the Authority.**

99 A majority of voting members of the Authority shall constitute a quorum. Vacancies shall not be
100 considered in the establishment of a quorum. Decisions of the Authority shall require an affirmative vote
101 of those present and voting whose votes represent at least four-fifths of the population embraced by the
102 Authority; however, no motion to fund a specific facility or service shall fail because of this population
103 criterion if such facility or service is not located or to be located or provided or to be provided within
104 the county or city whose chief elected officer's or elected official's, or its respective designee's, sole
105 negative vote caused the facility or service to fail to meet the population criterion. The population of
106 counties and cities embraced by the Authority shall be the population as determined by the most
107 recently preceding decennial census, except that on July 1 of the fifth year following such census, the
108 population of each county and city shall be adjusted, based on population estimates made by the
109 Weldon Cooper Center for Public Service of the University of Virginia.

110 **§ 33.2-3906. Annual budget and allocation of expenses.**

111 A. The Authority shall adopt an annual budget and develop a funding plan to be supported by the
112 revenues allocated under subdivision D 1 of § 33.2-3901 and shall provide for such development and
113 adoption in its bylaws. The funding plan shall provide for the expenditure of funds for transportation
114 purposes over a four-to-six-year period and shall align with the Statewide Transportation Plan
115 established pursuant to § 33.2-353, the long-range transportation plan of Planning District 16, or the
116 long-range transportation plans of participating localities as much as possible. The Authority shall
117 solicit public comment on its budget and funding plan by posting a summary of such budget and funding
118 plan on its website and holding a public hearing. Such public hearing shall be advertised on the
119 Authority's website and in a newspaper of general circulation in Planning District 16.

120 B. The administrative and operating expenses of the Authority shall be provided in an annual budget

adopted by the Authority and, to the extent funds for such expenses are not provided from other sources, shall be paid from the Fund. Such budget shall be limited solely to the administrative and operating expenses of the Authority and shall not include any funds for construction or acquisition of transportation facilities or the maintenance or performance of any transportation service.

C. Members may be reimbursed for all reasonable and necessary expenses as provided in §§ 2.2-2813 and 2.2-2825, if approved by the Authority. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

§ 33.2-3907. Authority to issue bonds.

The Authority may issue bonds and other evidences of debt as may be authorized by this section or other law. The provisions of Article 5 (§ 33.2-1920 et seq.) of Chapter 19 shall apply, mutatis mutandis, to the issuance of such bonds or other debt. The Authority may issue bonds or other debt in such amounts as it deems appropriate. The bonds may be supported by any funds available.

§ 33.2-3908. Powers of the Authority.

A. The Authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at its pleasure;

3. To procure insurance, participate in insurance plans, and provide self-insurance; however, the purchase of insurance, participation in an insurance plan, or the creation of a self-insurance plan by the Authority shall not be deemed a waiver or relinquishment of any sovereign immunity to which the Authority or its officers, directors, employees, or agents are otherwise entitled;

4. To establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Authority's affairs;

5. To apply for and accept money, materials, contributions, grants, or other financial assistance from the United States and agencies or instrumentalities thereof, the Commonwealth and any political subdivision, agency, or instrumentality of the Commonwealth, and any legitimate private source;

6. To acquire real and personal property or any interest therein by purchase, lease, gift, or otherwise for purposes consistent with this chapter and to hold, encumber, sell, or otherwise dispose of such land or interest for purposes consistent with this chapter;

7. To acquire by purchase, lease, contract, or otherwise highways, bridges, or tunnels and to construct the same by purchase, lease, contract, or otherwise;

8. In consultation with the Commonwealth Transportation Board for projects that encompass a state highway, and with each city or county in which the facility or any part thereof is or is to be located, to repair, expand, enlarge, construct, reconstruct, or renovate any or all highways, bridges, and tunnels within Planning District 16 and to acquire any real or personal property needed for any such purpose;

9. To enter into agreements or leases with public or private entities for the operation and maintenance of bridges, transit and rail facilities, and highways;

10. To make and execute contracts, deeds, mortgages, leases, and all other instruments and agreements necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter;

11. To the extent funds are made or become available to the Authority to do so, to employ employees, agents, advisors, and consultants, including without limitation attorneys, financial advisers, engineers, and other technical advisers, and the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation;

12. To exercise the powers of a locality pursuant to § 33.2-269; and

13. To the extent not inconsistent with the other provisions of this chapter, and without limiting or restricting the powers otherwise given the Authority, to exercise all of the powers given to transportation district commissions by § 33.2-1919.

B. The Authority shall comply with the provisions governing localities contained in § 15.2-2108.23.

§ 33.2-3909. Additional powers of the Authority.

Notwithstanding any contrary provision of this title and in accordance with all applicable federal statutes and requirements, the Authority shall control and operate and may impose and collect tolls in amounts established by the Authority for the use of any new or improved highway, bridge, or tunnel, to increase capacity on such facility or to address congestion within Planning District 16, constructed by the Authority (i) with federal, state, or local funds; (ii) solely with revenues of the Authority; or (iii) with revenues under the control of the Authority. The amount of any such toll may be varied from facility to facility, by lane, by congestion levels, by day of the week, by time of day, by type or size of vehicle, by number of axles, or by any similar combination thereof or any other factor the Authority may deem proper, and a reduced rate may be established for commuters as defined by the Authority. All such tolls shall be used for programs and projects that are reasonably related to or benefit the users of

the new or improved highway, bridge, or tunnel, including for the debt service and other costs of bonds whose proceeds are used for construction or improvement of such highway, bridge, or tunnel.

Any tolls imposed by the Authority shall be collected by an electronic toll system that, to the extent possible, shall not impede the traffic flow of the facility or prohibit a toll facility from retaining means of nonautomated toll collection in some lanes of the facility. For all facilities tolled by the Authority, there shall be signs erected prior to the point of toll collection that clearly state how the majority of the toll revenue is being spent by the Authority to benefit the users of the facility.

§ 33.2-3910. Authority a responsible public entity under Public-Private Transportation Act of 1995.

The Authority is a responsible public entity as defined in § 33.2-1800 and shall be regulated in accordance with the terms of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) and regulations and guidelines adopted pursuant thereto.

§ 33.2-3911. Continuing responsibilities of the Commonwealth Transportation Board and the Department of Transportation.

Except as otherwise explicitly provided in this chapter, until such time as the Authority and the Department of Transportation, or the Authority and the Commonwealth Transportation Board, agree otherwise in writing, the Commonwealth Transportation Board shall allocate funding to and the Department of Transportation shall perform or cause to be performed all maintenance and operation of the bridges and roadways and shall perform such other required services and activities with respect to such bridges and roadways as were being performed on July 1, 2023.

§ 33.2-3912. Continued responsibilities for local transit funding.

No locality embraced by the Authority shall reduce its local funding for public transit by more than 50 percent of what it appropriated for public transit as of July 1, 2022. Starting in fiscal year 2025, the amount required to be provided by a locality pursuant to this section shall be adjusted annually based on the greater of (i) the change in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the previous year, or (ii) zero.

§ 33.2-3913. Use of revenues by the Authority.

Notwithstanding any other provision of this chapter, all moneys received by the Authority shall be used by the Authority solely for the benefit of those counties, cities, and towns that are embraced by the Authority, and such moneys shall be used by the Authority in a manner that is consistent with the purposes stated in this chapter.

§ 58.1-802.6. Fredericksburg Area transportation improvement fee.

In addition to any other tax or fee imposed under the provisions of this chapter, a fee, delineated as the "Fredericksburg Area transportation improvement fee," is hereby imposed on each deed, instrument, or writing by which lands, tenements, or other realty located in a county or city in Planning District 16 is sold and is granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or any other person, by such purchaser's direction. The rate of the fee, when the consideration or value of the interest, whichever is greater, equals or exceeds \$100, shall be \$0.06 for each \$100 or fraction thereof, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or encumbrance.

The fee imposed by this section shall be paid by the grantor, or any person who signs on behalf of the grantor, of any deed, instrument, or writing subject to the fee imposed by this section; however, the grantor and grantee may arrange for the grantee to pay all or a portion of the fee. No such deed, instrument, or other writing shall be admitted to record unless certification of the clerk wherein first recorded has been affixed thereto that the fee imposed pursuant to this section has been paid.

Fees imposed by this section shall be collected by the clerk of the court and deposited into the state treasury as soon as practicable. Such fees shall then be deposited into the Fredericksburg Area Transportation Fund established in § 33.2-3901.

§ 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;

13. 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;

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

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

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;

5. Securing a loan made by an organization described in subdivision A 13;

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; or

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

C. The tax imposed by § 58.1-802 and the fee imposed by §§ 58.1-802.3, 58.1-802.4 and 58.1-802.5, and 58.1-802.6 shall not apply to any:

1. Transaction described in subdivisions A 6 through 12, 14, and 15;

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 subject to the fee under § 58.1-802.3 ~~or~~, 58.1-802.5, or 58.1-802.6; 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.

D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or grantors and a grantee or grantees when no consideration has passed between the parties. Such deed

shall state therein that it is a deed of gift.

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

F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-802.3, 58.1-802.5, 58.1-802.6, 58.1-807, 58.1-808, and 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural, or open space areas.

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

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

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

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

K. No recordation tax levied pursuant to this chapter shall be required for the recordation of any deed of distribution when no consideration has passed between the parties. Such deed shall state therein on the front page that it is a deed of distribution. As used in this subsection, "deed of distribution" means a deed conveying property from an estate or trust (i) to the original beneficiaries of a trust from the trustees holding title under a deed in trust; (ii) the purpose of which 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; (iii) that carries out the exercise of a power of appointment; or (iv) is pursuant to the exercise of the power under the Uniform Trust Decanting Act (§ 64.2-779.1 et seq.).

§ 58.1-811. (Contingent effective 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;

13. 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;

14. Pursuant to any deed of partition, or any combination of deeds simultaneously executed and having the effect of a deed of partition, among joint tenants, tenants in common, or coparceners; or

15. Pursuant to any deed transferring property pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation.

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;

5. Securing a loan made by an organization described in subdivision A 13;

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; or

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

C. The tax imposed by § 58.1-802 and the fee imposed by § 58.1-802.6 shall not apply to any:

1. Transaction described in subdivisions A 6 through 12, 14, and 15;

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 subject to the fee under § 58.1-802.6; 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.

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

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

F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-802.6, 58.1-807, 58.1-808, and 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural, or open space areas.

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

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

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

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

K. No recordation tax levied pursuant to this chapter shall be required for the recordation of any deed of distribution when no consideration has passed between the parties. Such deed shall state therein

on the front page that it is a deed of distribution. As used in this subsection, "deed of distribution" means a deed conveying property from an estate or trust (i) to the original beneficiaries of a trust from the trustees holding title under a deed in trust; (ii) the purpose of which 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; (iii) that carries out the exercise of a power of appointment; or (iv) is pursuant to the exercise of the power under the Uniform Trust Decanting Act (§ 64.2-779.1 et seq.).

§ 58.1-816. (Contingent expiration date, see Acts 2020, cc. 1241 and 1281) Distribution of recordation tax to cities and counties.

A. Effective October 1, 1993, \$20 million of the taxes imposed under §§ 58.1-801 through 58.1-809 that are actually paid into the state treasury, shall be distributed among the counties and cities of the Commonwealth, except for counties and cities located in Planning District 8, in the manner provided in subsection B. Effective July 1, 1994, such annual distribution shall increase to \$40 million. Effective July 1, 2020, such annual distribution shall be \$20 million. *Effective July 1, 2023, such annual distribution shall be \$55 million.*

B. Subject to any transfer required under § 58.1-816.1, (i) \$20 million of the state taxes distributable under this section shall be deposited annually into the ~~fund~~ *Fund* established pursuant to § 33.2-2600.1, ~~and~~ (ii) *\$15 million of the state taxes distributable under this section shall be deposited annually into the Fund established pursuant to § 33.2-3901, and* (iii) the remaining amount of state taxes distributable under this section shall be apportioned and distributed quarterly to each county or city, except for those counties or cities located in a transportation district in Hampton Roads created pursuant to § 33.2-1903 or located in Planning District 16, by the Comptroller by multiplying the amount to be distributed by a fraction in which the numerator is the amount of the taxes imposed under §§ 58.1-801 through 58.1-809 and actually paid into the state treasury which are attributable to deeds and other instruments recorded in the county or city and the denominator is the amount of taxes imposed under §§ 58.1-801 through 58.1-809 actually paid into the state treasury. All distributions pursuant to clause ~~(ii)~~ *(iii)* shall be made on a quarterly basis within 30 days of the end of the quarter. Such quarterly distribution shall equal one quarter of the annual distribution amount set forth in subsection A available after the distribution required by ~~clause~~ *clauses* (i) and (ii). Each clerk of the court shall certify to the Comptroller, within 15 days after the end of the quarter, all amounts collected under §§ 58.1-801 through 58.1-809 and actually paid into the state treasury ~~which~~ *that* are attributable to deeds and other instruments recorded in such county or city.

C. All moneys distributed pursuant to clause (i) of subsection B shall be used in accordance with § 33.2- 2600.1. *All moneys distributed pursuant to clause (ii) of subsection B shall be used in accordance with § 33.2-3901.* All moneys distributed to counties and cities pursuant to clause ~~(ii)~~ *(iii)* of subsection B shall be used for (i) transportation purposes, including, without limitation, construction, administration, operation, improvement, maintenance, and financing of transportation facilities, or (ii) public education.

As used in this section, the term "transportation facilities" shall include all transportation-related facilities, including but not limited to all highway systems, public transportation or mass transit systems as defined in § 33.2-100, airports as defined in § 5.1-1, and port facilities as defined in § 62.1-140. Such term shall be liberally construed for purposes of this section.

D. If any revenues distributed to a county or city under clause ~~(ii)~~ *(iii)* of subsection B are applied or expended for any transportation facilities under the control and jurisdiction of any state agency, board, commission, or authority, such transportation facilities shall be constructed, operated, administered, improved, and maintained in accordance with laws, rules, regulations, policies, and procedures governing such state agency, board, commission, or authority; however, in the event that these revenues, or a portion thereof, are expended for improving or constructing highways in a county that is subject to the provisions of § 33.2-338, such expenditures shall be undertaken in the manner prescribed in that statute.

E. In the case of any distribution to a county or city in which an office sharing agreement pursuant to §§ 15.2-1637 and 15.2-3822 is in effect, the Comptroller shall divide the distribution among the office sharing counties and cities. Each clerk of the court acting pursuant to an office sharing agreement shall certify to the Comptroller, within 15 days after the end of the quarter, all amounts collected under §§ 58.1-801 through 58.1-809 and actually paid into the state treasury ~~which~~ *that* are attributable to deeds and other instruments recorded on behalf of each county and city.

§ 58.1-816. (Contingent effective date, see Acts 2020, cc. 1241 and 1281) Distribution of recordation tax to cities and counties.

A. Effective October 1, 1993, \$20 million of the taxes imposed under §§ 58.1-801 through 58.1-809 that are actually paid into the state treasury, shall be distributed among the counties and cities of the Commonwealth, except for counties and cities located in Planning District 8, in the manner provided in subsection B. Effective July 1, 1994, such annual distribution shall increase to \$40 million. Effective July 1, 2020, such annual distribution shall be \$20 million. *Effective July 1, 2023, such annual*

distribution shall be \$55 million.

B. Subject to any transfer required under § 58.1-816.1, (i) \$15 million of the state taxes distributable under this section shall be deposited annually into the Fund established pursuant to § 33.2-3901 and (ii) the share of the state taxes distributable under this section among the counties and cities shall be apportioned and distributed quarterly to each county or city by the Comptroller by multiplying the amount to be distributed by a fraction in which the numerator is the amount of the taxes imposed under §§ 58.1-801 through 58.1-809 and actually paid into the state treasury ~~which~~ that are attributable to deeds and other instruments recorded in the county or city and the denominator is the amount of taxes imposed under §§ 58.1-801 through 58.1-809 actually paid into the state treasury. All distributions pursuant to this section shall be made on a quarterly basis within 30 days of the end of the quarter. Such quarterly distribution shall equal \$10 million. Each clerk of the court shall certify to the Comptroller, within 15 days after the end of the quarter, all amounts collected under §§ 58.1-801 through 58.1-809 and actually paid into the state treasury ~~which~~ that are attributable to deeds and other instruments recorded in such county or city.

C. All moneys distributed pursuant to clause (i) of subsection B shall be used in accordance with § 33.2-3901. All moneys distributed to counties and cities pursuant to ~~this section~~ clause (ii) of subsection B shall be used for (i) transportation purposes, including, without limitation, construction, administration, operation, improvement, maintenance and financing of transportation facilities, or (ii) public education.

As used in this section, the term "transportation facilities" shall include all transportation-related facilities including, but not limited to, all highway systems, public transportation or mass transit systems as defined in § 33.2-100, airports as defined in § 5.1-1, and port facilities as defined in § 62.1-140. Such term shall be liberally construed for purposes of this section.

D. If any revenues distributed to a county or city under ~~clause (ii) of subsection B~~ are applied or expended for any transportation facilities under the control and jurisdiction of any state agency, board, commission or authority, such transportation facilities shall be constructed, operated, administered, improved and maintained in accordance with laws, rules, regulations, policies and procedures governing such state agency, board, commission or authority; however, in the event these revenues, or a portion thereof, are expended for improving or constructing highways in a county ~~which~~ that is subject to the provisions of § 33.2-338, such expenditures shall be undertaken in the manner prescribed in that statute.

E. In the case of any distribution to a county or city in which an office sharing agreement pursuant to §§ 15.2-1637 and 15.2-3822 is in effect, the Comptroller shall divide the distribution among the office sharing counties and cities. Each clerk of the court acting pursuant to an office sharing agreement shall certify to the Comptroller, within 15 days after the end of the quarter, all amounts collected under §§ 58.1-801 through 58.1-809 and actually paid into the state treasury ~~which~~ that are attributable to deeds and other instruments recorded on behalf of each county and city.

§ 58.1-1744. (For contingent expiration, see Acts 2020, cc. 1230 and 1275) Local transportation transient occupancy tax.

A. In addition to all other fees and taxes imposed under law, there is hereby imposed an additional transient occupancy tax at the rate of three percent of the amount of the charge for the occupancy of any room or space occupied in any county or city that is (i) a member of the Northern Virginia Transportation Authority and (ii) that is not described in § 58.1-1743 or subsection B.

B. In addition to all other fees and taxes imposed under law, there is hereby imposed an additional transient occupancy tax at the rate of one percent of the amount of the charge for the occupancy of any room or space occupied in any county or city that is a member of the Fredericksburg Area Transportation Authority.

C. 1. The tax imposed under this section shall be imposed only for the occupancy of any room or space that is suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes.

The tax imposed under this section shall be administered by the locality in which the room or space is located in the same manner as it administers the tax authorized by § 58.1-3819 or 58.1-3840, mutatis mutandis, except as herein provided. The revenue generated and collected from the tax shall be deposited by the local treasurer, *except that such revenues collected and generated pursuant to subsection B shall be deposited into the Fredericksburg Area Transportation Fund established in § 33.2-3901*

2. a. Two-thirds of the revenue collected pursuant to ~~this section~~ subsection A may be used only for public transportation purposes and the remaining revenue may be used for any transportation purpose.

b. One-half of the revenue collected pursuant to subsection B may be used only for public transportation purposes and the remaining revenue may be used for any transportation purpose.

2. That the provisions of this act that generate additional revenues for transportation shall expire on December 31 of any year in which the General Assembly, a locality located in Planning District 16, or the Fredericksburg Area Transportation Authority, as created by this act, appropriates or

551 transfers any of such additional revenue for any non-transportation-related purpose.
552 3. That the Fredericksburg Area Transportation Authority, as created by this act, shall evaluate
553 the governance structure of transit service in Planning District 16, including the evaluation of
554 establishing a transportation district pursuant to Chapter 19 (§ 33.2-1900 et seq.) of Title 33.2 of
555 the Code of Virginia, and report the results of such evaluation to the Governor and the General
556 Assembly no later than December 1, 2023.
557 [4. That the provisions of this act shall not become effective unless an appropriation effectuating
558 the purposes of this act is included in a general appropriation act passed in 2023 by the General
559 Assembly that becomes law.]