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## HOUSE BILL NO. 2408

Offered January 21, 1999

A *BILL to amend and reenact §§ 13.1-550 and 13.1-552 of the Code of Virginia, relating to professional corporations; transfer of shares to charitable remainder trusts.*

Patrons—Bryant, Bennett, Cantor, Clement, Hall, Jones, S.C., Landes, Rust and Woodrum

Referred to Committee on Corporations, Insurance and Banking

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 13.1-550 and 13.1-552 of the Code of Virginia are amended and reenacted as follows:**

§ 13.1-550. Transfer of shares.

A. No shareholder of a corporation organized under this chapter may sell or transfer his shares in such corporation except to said corporation or another individual who is eligible to be a shareholder of such corporation *or to a qualified charitable remainder trust as described in subsection B.* In the case of a corporation rendering the services of architects, professional engineers, land surveyors and certified landscape architects, or any combination thereof, no person who is not duly licensed or otherwise legally authorized to render one such service shall be eligible unless at least two-thirds of the remaining shares after the sale or transfer shall be held by persons duly licensed or otherwise legally authorized to perform one such service.

B. *As used in this section, "qualified charitable remainder trust" means a trust meeting the requirements of § 664 of the United States Internal Revenue Code of 1986, as amended, and which meets all of the following conditions:*

1. *Has one or more current income beneficiaries, all of which are eligible to be a shareholder in the corporation under § 13.1-544.*

2. *Has a trustee or independent special trustee who:*

a. *Is eligible to be a shareholder in the corporation under § 13.1-544; and*

b. *Has exclusive authority over the shares of the corporation while the shares are held in the trust.*

3. *Has one or more irrevocably designated charitable remaindermen, all of which must at all times be domiciled or maintain a local chapter in the Commonwealth of Virginia.*

4. *When transferring any assets during the term of the trust to charitable organizations, the distributions are made only to charitable organizations described in § 170 (c) of the Internal Revenue Code that are domiciled or maintain a local chapter in this Commonwealth.*

§ 13.1-552. Conversion into nonprofessional corporation; disposition of shares of deceased or disqualified shareholders.

(a) A corporation under this chapter shall have perpetual existence until dissolved in accordance with other provisions of this title.

(b) Whenever all shareholders of a corporation licensed under this chapter cease at any one time and for any reason to be licensed, certified or registered in the particular field of endeavor for which the corporation was organized, or by the vote of the holders of at least two-thirds of its outstanding capital stock exclusive of treasury stock, the corporation thereupon shall be treated as converted into, and shall operate henceforth solely as, a corporation under applicable provisions of this title, exclusive of this chapter, but may be reconverted upon removal of the disability or by the vote of the holders of at least two-thirds of its outstanding capital stock exclusive of treasury stock.

(c) Within one year following the date of death of a shareholder, or his disqualification as hereinbefore provided, all of the shares of such shareholders shall be transferred to, and acquired by, the corporation or persons qualified to own the shares, if the provisions of subsection (b) are inapplicable. If no other provision to accomplish this transfer and acquisition is in effect and carried out within this period, the corporation thereafter shall purchase and redeem all of the decedent shareholder's shares of stock at book value, determined as of the end of the month immediately preceding death or disqualification. The book value shall be determined from the books and records of the corporation in accordance with the generally accepted accounting principles on the accrual method of accounting. No subsequent adjustment of this book value, whether by the corporation itself, by federal income tax audit made and agreed to, or by a court decision which has become final, shall alter the redemption price. Nothing contained in this section shall prevent the parties involved from making any other arrangement or provision in the corporate articles, bylaws, or by contract to transfer the shares of a (i) deceased or disqualified shareholder, or (ii) *disqualified charitable remainder trust* to the corporation or to persons qualified to own the shares, whether made before or after (i) the death or disqualification of the shareholder, or (ii) *the disqualification of a charitable remainder trust*, provided that within the one-year

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HB2408

**60** period herein specified all the stock involved shall have been so transferred.