

12105620D

HOUSE BILL NO. 1270

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 27, 2012)

(Patrons Prior to Substitute—Delegates Ward and Helsel)

A BILL to transfer certain property in the City of Hampton.

Whereas, by Deed from the Old Dominion Land Company, a corporation created by and existing under the laws of the State of Virginia, to The Board of Visitors of Virginia State School for Colored Deaf and Blind Children, a body corporate created by an act of the General Assembly of Virginia, approved March 12, 1906, which Deed was dated July 31, 1908, and recorded on September 16, 1908, in the Clerk's Office of the Circuit Court of Elizabeth City County (now the City of Hampton), Virginia, in Deed Book 49, page 390, the Old Dominion Land Company conveyed a tract of land containing 25.11 acres in Elizabeth City County to the school's Board of Visitors, as more particularly described in said Deed; and

Whereas, provisions in the 1908 Deed evidence that the 25.11 acres was given to the said school's Board of Visitors for the specific purpose of establishing and operating the school created by the General Assembly's act of March 12, 1906, on the donated 25.11 acres of land, which land is now located within the boundaries of the City of Hampton; and

Whereas, other provisions in the 1908 Deed provide that the said 25.11 acres of land was conveyed to the school's Board of Visitors "until such time as the said school shall cease to be conducted and maintained for the purposes set out in the said act of March 12th 1906," as amended, "with remainder [reverter] in and to such real estate to the party of the first part [i.e., Old Dominion Land Company], its successor and assigns," and that "in the event of the termination of the estate of the party of the second part [i.e., the estate held by the school's Board of Visitors - today, the Commonwealth of Virginia]" that "the said party of the second part or its successors, shall have the right [but not the obligation] to remove all structures, buildings and improvements" from the land; and

Whereas, over the years, the school's campus was expanded through the Commonwealth's purchase of a number of adjacent parcels of land, which resulted in the expansion of the campus to approximately 75 acres, bounded, in part, by Shell Road, Pine Lane, and Gloucester Street; and

Whereas, during the period of 2007-2010, legislation was adopted that provided for the closure of what had become known as the Hampton School for the Deaf, Blind and Multi-Disabled, also known as the Virginia School at Hampton, and which legislation also provided for the transfer of all the school's operations and students to the existing School for the Deaf and the Blind at Staunton; and

Whereas, the Hampton School for the Deaf, Blind and Multi-Disabled, also known as the Virginia School at Hampton, has been closed and its main front gates locked, thereby leaving a campus of many empty buildings that are not being put to a productive use; and

Whereas, by Deed from the Commonwealth of Virginia, Department of Education, as Grantor, to the City of Hampton, Virginia, as Grantee, dated December 22, 2010, and recorded December 29, 2010, in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia, as Instrument No. 100016560, the Commonwealth conveyed all of the properties comprising the campus of said school to the City of Hampton, with the exception, however, of the original 25.11-acre tract; and

Whereas, the Old Dominion Land Company was dissolved by Order of the Virginia State Corporation Commission, said Order being entered in its Judicial Order Book No. 37 (1948-1949), at page 371, which Order Book is on file at the Virginia State Library and Archives; and

Whereas, as a part of the process of winding up its affairs, and pursuant to a resolution adopted at a special meeting of stockholders of the Old Dominion Land Company held on October 29, 1947, the said Old Dominion Land Company granted, conveyed, quitclaimed and released, with Special Warranty of Title, unto J.M. Dozier, Jr., and D.C. Curtis, Trustees, "all unsold real estate or any rights or interests in any real estate or any real estate title to which might hereafter revert to the said corporation," which was accomplished by Deed dated December 8, 1948, and recorded April 16, 1952, in the Circuit Court (formerly Corporation Court) of the City of Newport News, Virginia, in Deed Book 273, page 218; and

Whereas, the Attorney General's Office has opined that the title originally acquired by the school's Board of Visitors (i.e., by the Commonwealth) was a fee simple determinable under which the Commonwealth's title terminated upon closure of the said school in Hampton, with title reverting to the Old Dominion Land Company, its successors and assigns, and that, even if the title did not automatically revert, it was subject to being divested through the exercise of a right of entry by the dissolved corporation's trustees, or by their successor substitute trustee or trustees, for a material breach of an express condition subsequent as set forth in the 1908 Deed, the conveyance in said 1908 Deed having been made on the condition that the school's Board of Visitors (i.e., the Commonwealth) conduct

60 and forever maintain on the 25.11-acre tract of land the school as comprehended by the said 1906 Act
61 of the General Assembly "for the sole and specific uses of said school only"; and

62 Whereas, the Trustees named in said December 8, 1948, Deed are both deceased, which will
63 necessitate the appointment of a substitute trustee or substitute trustees; and

64 Whereas, the original 25.11-acre portion of the school's campus, the title to which has reverted, needs
65 to be returned to a productive use that will require the administration and disposition of the said 25.11
66 acres, more or less, by a substitute trustee or substitute trustees in a manner that complies with the
67 December 8, 1948, Deed from the Old Dominion Land Company; and

68 Whereas, (i) for purposes of establishing of record in the City of Hampton Circuit Court that the
69 Hampton School for the Deaf, Blind and Multi-Disabled has been permanently closed; (ii) for purposes
70 of evidencing by recorded instrument that the Commonwealth considers that title to said 25.11-acre,
71 more or less, tract of land has reverted and that any interest or claims of the Commonwealth have been
72 granted, conveyed, released, and quitclaimed to a duly appointed substitute trustee or substitute trustees
73 as successor or successors in interest to the trustees named in the said Deed from the Old Dominion
74 Land Company (which is now a dissolved Virginia corporation), dated December 8, 1948, and recorded
75 April 16, 1952; (iii) to minimize or eliminate any need for a suit to quiet title; and (iv) to otherwise
76 facilitate the subsequent transfer of title to the 25.11 acres, more or less, by the substitute trustee or
77 substitute trustees, the Department of General Services, on behalf of the Commonwealth and its
78 Department of Education, should have the authority to grant, convey, remise, and quitclaim, without
79 warranty, unto any successor trustee or successor trustees appointed under the said December 8, 1948,
80 Deed from the Old Dominion Land Company, all of the Commonwealth's right, title, and interest, if
81 any, in and to, and to release any claims upon, the said 25.11-acre, more or less, tract of land conveyed
82 to the Commonwealth (i.e., to The Board of Visitors of Virginia State School for Colored Deaf and
83 Blind Children) by the said July 31, 1908, Deed; now, therefore,

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

85 1. *§ 1. That the Department of General Services, on behalf of the Department of Education and the*
86 *Commonwealth of Virginia, with the approval of the Governor, is hereby authorized to grant, convey,*
87 *remise, and quitclaim, without warranty, unto the substitute trustee or to those substitute trustees duly*
88 *appointed in accordance with applicable law to act in the place and stead of the two now deceased*
89 *trustees (J.M. Dozier, Jr., and D.C. Curtis) named in that certain Deed from the Old Dominion Land*
90 *Company, dated December 8, 1948, and recorded April 16, 1952, in the Circuit Court (formerly*
91 *Corporation Court) of the City of Newport News, Virginia, in Deed Book 273, page 218, all of the*
92 *Commonwealth's right, title, and interest, if any, in and to, and to release any claims upon, that certain*
93 *25.11-acre, more or less, tract of land, as described in that certain Deed from the Old Dominion Land*
94 *Company to The Board of Visitors of Virginia State School for Colored Deaf and Blind Children, dated*
95 *July 31, 1908, and recorded September 16, 1908, in the Clerk's Office of the Circuit Court of Elizabeth*
96 *City County (now the City of Hampton), Virginia, in Deed Book 49, page 390, or as may be more*
97 *particularly described by a current survey thereof. The form of the instrument (i.e., quitclaim deed) shall*
98 *be approved by the Office of the Attorney General. It is recognized that this is not a conveyance of*
99 *surplus property. There shall be no requirement for the payment of any monetary consideration in*
100 *connection with any quitclaim deed made pursuant to this Act, and neither the Commonwealth nor its*
101 *Department of General Services shall have any obligation to see to the disposition of said tract of land*
102 *or to the application of any proceeds that may be obtained from any sale thereof.*

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