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HOUSE BILL NO. 1507

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 6, 2013)

(Patron Prior to Substitute—Delegate Lewis)

*A BILL to amend and reenact § 17.1-223 of the Code of Virginia, relating to recording deeds; statement of preparation.***Be it enacted by the General Assembly of Virginia:****1. That § 17.1-223 of the Code of Virginia is amended and reenacted as follows:****§ 17.1-223. Duty of clerk to record writings, etc., and make index.**

A. Every writing authorized by law to be recorded, with all certificates, plats, schedules or other papers thereto annexed or thereon endorsed, upon payment of fees for the same and the tax thereon, if any, shall, when admitted to record, be recorded by or under the direction of the clerk on such media as are prescribed by § 17.1-239. However, the clerk has the authority to reject any writing for filing or recordation unless (i) each individual's surname only, where it first appears in the writing, is underscored or written entirely in capital letters, (ii) each page of the instrument or writing is numbered, (iii) the Code section under which any exemption from recordation taxes is claimed is clearly stated on the face of the writing, (iv) the names of all grantors and grantees are listed as required by §§ 55-48 and 55-58, and if a cover sheet is used pursuant to § 17.1-227.1, that the names of all grantors and grantees on the face of such writing are the same on the cover sheet, and (v) the first page of the document bears an entry showing the name of either the person or entity who drafted the instrument, except that papers or documents prepared outside of the Commonwealth shall be recorded without such an entry. ~~The clerk has the authority to reject any deed for filing or recordation, except for deeds in which a public service company, railroad, or cable system operator is either a grantor or grantee, unless the deed states on the first page of the document that it was prepared by the owner of the real property or by an attorney licensed to practice law in the Commonwealth where such statement by an attorney shall include the name and Virginia State Bar number of the attorney who prepared the deed. However, it shall be sufficient that deeds prepared under the supervision of the Office of the Attorney General of Virginia so state without the name of an attorney or bar number.~~ Such writing, once recorded, shall be returned to the grantee unless otherwise indicated clearly on the face of the writing including an appropriate current address to which such writing shall be returned.

B. The attorney or party who prepares the writing for recordation shall ensure that the writing satisfies the requirements of subsection A and that (i) the social security number is removed from the writing prior to the instrument being submitted for recordation, (ii) a deed conveying not more than four residential dwelling units states on the first page of the document the name of the title insurance underwriter insuring such instrument or a statement that the existence of title insurance is unknown to the preparer, ~~and (iii) a deed conveying not more than four residential dwelling units states on the first page of the document that it was prepared by the owner of the real property or by an attorney licensed to practice law in the Commonwealth where such statement by an attorney shall include the name and Virginia State Bar number of the attorney who prepared the deed, provided, however, that clause (iii) shall not apply to deeds of trust or to deeds in which a public service company, railroad, or cable system operator is either a grantor or grantee, and it shall be sufficient for the purposes of clause (iii) that deeds prepared under the supervision of the Office of the Attorney General of Virginia so state without the name of an attorney or bar number.~~

C. A document which appears on its face to have been properly notarized in accordance with the Virginia Notary Act (§ 47.1-1 et seq.) shall be presumed to have been notarized properly and may be recorded by the clerk.

D. If the writing or deed is accepted for record and spread on the deed books, it shall be deemed to be validly recorded for all purposes. Such books shall be indexed by him as provided by § 17.1-249 and carefully preserved. Upon admitting any such writing or other paper to record the clerk shall endorse thereon the day and time of day of such recordation. More than one book may be used contemporaneously under the direction of the clerk for the recordation of the writings mentioned in this section whenever it may be necessary to use more than one book for the proper conduct of the business of his office. After being so recorded such writings may be delivered to the party entitled to claim under the same.