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HOUSE BILL NO. 763

Offered January 8, 2014

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A BILL to amend and reenact §§ 17.1-223, 17.1-227, 17.1-227.1, 17.1-249, 17.1-252, 55-48, 55-58 through 55-58.3, 55-106, and 58.1-811, as it is currently effective and as it may become effective, of the Code of Virginia, relating to form and effect of deeds and deeds of trust; recordation of deeds and deeds of trust.

Patron—Minchew

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 17.1-223, 17.1-227, 17.1-227.1, 17.1-249, 17.1-252, 55-48, 55-58 through 55-58.3, 55-106, and 58.1-811, as it is currently effective and as it may become effective, of the Code of Virginia are 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, *unless a cover sheet is submitted with the writing in accordance with § 17.1-227.1*, the clerk has the authority to reject any writing for filing or recordation unless (i) *each individual's* the surname only of any individual who is a party to such writing, where ~~it~~ such individual's name first appears in the writing, is underscored or written entirely in capital letters; (ii) each page of the instrument or writing is numbered, consecutively; (iii) ~~the Code section in the case of a writing described in § 58.1-801 or 58.1-807, the amount of the consideration and the actual value of the property conveyed is stated on the first page of the writing;~~ (iv) the Virginia or federal law under which any exemption from recordation taxes is claimed is clearly stated on the face of the writing; ~~(v) the names of all grantors and grantees are;~~ and (v) the name of each party to such writing under whose name the writing is to be indexed as grantor, grantee, or both is 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 the 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 that does not comply with this section and identified thereon as grantor, grantee, or both, as applicable.~~ Such writing, once recorded, shall may be returned to the any party to such writing who is identified therein as a grantee unless otherwise indicated clearly on the face of the writing, or any cover sheet, 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 *residential property containing* 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 *residential property containing* 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~~ writing that 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~~ recordation and spread on the deed books, it shall be deemed to be validly recorded for all purposes. Such books shall be indexed by ~~him~~ the clerk as provided by § 17.1-249 and carefully preserved. Upon admitting any such writing or other paper to

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59 record, the clerk shall endorse thereon the day and time of day of such recordation. More than one book
 60 may be used contemporaneously under the direction of the clerk for the recordation of the writings
 61 mentioned in this section whenever it may be necessary to use more than one book for the proper
 62 conduct of the business of his *the clerk's* office. ~~After being so recorded such writings may be delivered~~
 63 ~~to the party entitled to claim under the same.~~

64 **§ 17.1-227. Documents to be recorded in deed books; social security numbers.**

65 All deeds, deeds of trust, deeds of release, certificates of satisfaction or certificates of partial
 66 satisfaction, quitclaim deeds, homestead deeds, grants, transfers and mortgages of real estate, releases of
 67 such mortgages, powers of attorney to convey real estate, leases of real estate, notices of lis pendens and
 68 all contracts in reference to real estate, which have been acknowledged as required by law, and certified
 69 copies of final judgments or decrees of partition affecting the title or possession of real estate, any part
 70 of which is situated in the county or city in which it is sought to be recorded, and all other writings
 71 relating to or affecting real estate which are authorized to be recorded, shall, unless otherwise provided,
 72 be recorded in a book to be known as the deed book. All deeds, deeds of trust, deeds of release,
 73 quitclaim deeds, grants, transfers, and mortgages of real estate or any addendum or memorandum
 74 relating to any of these instruments submitted for recordation in the deed books of the appropriate office
 75 of the clerk of court shall be prepared according to the requirements for deeds *and deeds of trust* as set
 76 forth in §§ 55-48 and 55-58 ~~and shall include the names of all grantors and grantees in the first clause~~
 77 ~~of each such instrument as applicable.~~ The clerk may refuse to accept any instrument submitted for
 78 recordation that includes a ~~grantor's, grantee's or trustee's~~ social security number. However, the attorney
 79 or party who prepares or submits the instrument has responsibility for ensuring that the social security
 80 number is removed from the instrument prior to the instrument being submitted for recordation. Each
 81 instrument shall be indexed under all such names in accordance with the provisions of § 17.1-249.

82 **§ 17.1-227.1. Use of cover sheets on deeds or other instruments by circuit court clerks.**

83 A. Circuit court clerks may require that any deed or other instrument conveying or relating to an
 84 interest in real property be ~~filed~~ *submitted for recordation* with a cover sheet detailing the information
 85 contained in the deed or other instrument necessary for the clerk to properly index such instrument. The
 86 cover sheet shall be developed in conjunction with the *Office of the Executive Secretary of the* Supreme
 87 Court of Virginia. ~~The attorney or party who prepares or submits the cover sheet on any deed or other~~
 88 ~~instrument conveying or relating to an interest in real property for recordation has the responsibility for~~
 89 ~~ensuring the accuracy of the information contained in the cover sheet and shall include the following~~
 90 ~~information: (i) the name of each party to be indexed as grantor and the name of each party to be~~
 91 ~~indexed as grantee and, in the case of any individual grantor or grantee, the surname of each individual~~
 92 ~~identified as such; (ii) in the case of a deed or other instrument described in § 58.1-801 or 58.1-807,~~
 93 ~~the amount of the consideration and the actual value of the property conveyed; (iii) the Virginia or~~
 94 ~~federal law under which any exemption from recordation taxes is claimed; (iv) if required under~~
 95 ~~§ 17.1-252, the tax map reference number or numbers, or the parcel identification number (PIN) or~~
 96 ~~numbers, of the affected parcel or parcels; and (v) the name and current address of the person to whom~~
 97 ~~the instrument should be returned after recordation.~~

98 B. In any clerk's office that does not require a cover sheet, *the attorney or other party presenting a*
 99 *deed or other instrument conveying or relating to an interest in real property may submit a cover sheet*
 100 *with such deed or other instrument containing all of the information required under subsection A, and*
 101 *in such case the deed or other instrument need not contain the information otherwise required to be*
 102 *included under subsection A of § 17.1-223, except that each page thereof shall be numbered as provided*
 103 *in subsection A of § 17.1-223.*

104 C. *The attorney or other party who prepares the cover sheet submitted with any deed or other*
 105 *instrument conveying or relating to an interest in real property for recordation has the responsibility for*
 106 *ensuring the accuracy of the information contained in the cover sheet, and the clerk may rely on the*
 107 *information provided therein. However, the clerk may review the deed or other instrument to confirm the*
 108 *accuracy of the information provided in the cover sheet, and, in the event of any conflict or*
 109 *inconsistency, the terms of the deed or other instrument shall control.*

110 The cover sheet *may be recorded with the deed or other instrument with which it is submitted, but it*
 111 *shall not be included as a page for determining the amount of any applicable filing fees pursuant to*
 112 *subdivision A 2 of § 17.1-275, nor shall the cover sheet and the cover sheet shall be provided only for*
 113 *information purposes to facilitate the recordation of the deed or other instrument with which it is*
 114 *submitted. Accordingly, the cover sheet shall not be construed to convey title to any interest in real*
 115 *property or, purport to be a document in the chain of title conveying any interest in real property, or be*
 116 *considered a part of, or affect the interpretation of, the deed or other instrument with which it is*
 117 *submitted, regardless of whether the clerk records the cover sheet with such instrument.*

118 **§ 17.1-249. General indexes for clerks' offices; daily index.**

119 A. There shall be kept in every clerk's office modern, family name or ledgerized alphabetical
 120 key-table general indexes to all deed books, miscellaneous liens, will books, judgment dockets and court

order books. The clerk shall enter daily, either in such general indexes or in the daily index to instruments admitted to record, every deed, corrected or amended deed, deed of release, deed of trust, contract of sale, or any addendum, *modification*, or memorandum relating to any of these instruments, indexing each instrument in the names of all parties ~~listed~~ *identified* in the first clause of each instrument *as grantor, grantee, or both*, as required by §§ ~~55-48 and 55-58~~. Any clerk, deputy clerk, or employee of any clerk who so indexes any such instrument shall index any name appearing in the first clause of the original instrument, unless the instrument is submitted for recordation with a § 17.1-223, or *identified in the cover sheet as grantor, grantee, or both*, pursuant to § 17.1-227.1, in which case, the instrument may be indexed by the information contained in the cover sheet. The clerk shall comply with the provisions of § ~~17.1-223~~ *as applicable*.

B. A deed of trust made to one or more trustees to secure the payment of an indebtedness, and any certificate of satisfaction or certificate of partial satisfaction, assignment, loan modification agreement, substitution of trustees or similar instrument subsequently recorded with respect to such deed, shall be sufficiently indexed if the clerk enters in the appropriate places in the general index to deeds provided for in subsection A the names of the grantor and the name of the beneficiary or, in lieu of the name of the beneficiary, the first listed trustee as grantee. The beneficiary need not be named in the first clause of the deed as a condition of recordation.

C. A deed made by a person in a representative capacity, or by devisees or coparceners, shall be indexed in the names of the grantors and grantees and the name of the former record title owner listed in the first clause of the instrument.

D. The general indexes of civil causes shall be sufficiently kept if the clerk indexes such causes under the short style or title thereof, except that in multiple suits brought under § 58.1-3968, the names of all of the defendants disclosed by the pleadings shall be entered in the general index or book.

E. Every deed of conveyance of real estate in which a vendor's lien is reserved shall be ~~double~~ indexed *twice* so as to show not only the conveyance from the grantor to the grantee in the instrument, but also the reservation of the lien as if it were a grant of the ~~same~~ *such* lien from the grantee to the grantor by a separate instrument and the fact of the lien shall be noted in the index.

F. All deed books, miscellaneous liens, will books, judgment dockets, and court order books shall be numbered or otherwise adequately designated and the clerk upon the delivery of any writing to him for record required by law to be recorded shall duly index it upon the general index in the manner hereinbefore required. When the writing has been actually transcribed on the book, the clerk shall add to the general index the number of the book in which, and the page on which, the writing is recorded.

G. The clerk on receipt of any such writing for record may immediately index it in a book to be known as the "daily index of instruments admitted to record" and within 90 days after its admission to record the clerk shall index all such writings indexed in the daily index in the appropriate general index as hereinbefore provided. The daily index book shall, at all times, be kept in the office of the clerk and conveniently available for examination by the public. During the period permitted for transfer from the daily index to the general index, indexing in the daily index shall be a sufficient compliance with the requirements of this section as to indexing.

H. The judge of any circuit court may make such orders as he deems advisable as to the time and method of indexing the order books in the clerk's office of the court and may dispense with a general index for order books of the court.

I. The clerk may maintain his indexes on computer, word processor, microfilm, microfiche, or other micrographic medium and, in addition, may maintain his grantor and grantee indexes on paper.

§ 17.1-252. Indexing by tax map reference number.

Circuit court clerks in those localities with a unique parcel identification system shall require that any deed or other instrument conveying or relating to an interest in real property bear, on the first page of the deed or other instrument, *or state in the cover sheet submitted with the deed or other instrument*, the tax map reference number or numbers, or the parcel identification number (PIN) or numbers, of the affected parcel or parcels. Upon admitting the deed or other instrument to record, the clerk may, in addition to any other indexing required by law, index the deed or other instrument by the tax map reference number or numbers or by the parcel identification number or numbers.

§ 55-48. Form of a deed.

Every deed, *and* corrected or amended deed, ~~deed of release, or memorandum or addendum to any of these instruments, including those with vendor's liens~~, shall name in the first clause each grantor and each grantee under whose names the instrument is to be indexed as required by § ~~17.1-249~~ and may be made in the following form, or to the same effect: "This deed, made the day of, in the year, between (here insert names of parties as grantors or grantees), witnesseth: that in consideration of (here state the consideration, *nominal or actual*), the said ~~doth~~ *does* (or do) grant (*or grant and convey*) unto the said, all (here describe the property *or interest therein to be conveyed*, including the name of the city or county in which the property is located, and

insert covenants or any other provisions). Witness the following signature and seal (or signatures and seals)." If the grantor or grantee is a trust, the first clause of the deed shall also contain the names of the trust's trustees serving at the time the deed was made.

§ 55-58. Form of deed of trust to secure debts, etc.

A deed of trust to secure debts or indemnify sureties may be in the following form, or to the same effect, and shall name in the first clause each (i) grantor, (ii) trustee, and, if applicable, (iii) grantee under whose names the deed of trust is to be indexed as required by § 17.1-249: "This deed, made the day of, in the year, between (the grantor), of the one part, and (the trustee), of the other part, witnesseth: that the said (the grantor) doth does (or do) grant (or grant and convey) unto the said (the trustee), the following property (here describe it): In trust to secure (here describe the debts to be secured or the sureties to be indemnified and insert covenants or any other provisions the parties may agree upon). Witness the following signature (or signatures and seals (or signature and seal))."

§ 55-58.1. Requirements for trustees.

(1) For the purposes of this article, the term "security trust" shall include a deed of trust, mortgage, bond or other instrument, entered into after the effective date of this article under which the title to real and personal property, or either of them, wholly situate in and including no property situate outside of the Commonwealth of Virginia, is conveyed, transferred, encumbered or pledged to secure the payment of money or the performance of an obligation; provided, however, that the provisions of this section shall not apply to supplements to existing security trust instruments now of record executed pursuant to the provisions of said existing security trust instruments. This section shall not apply to security trusts applying to property singly or jointly owned and situate partly in this Commonwealth and partly outside this Commonwealth or to property situate in this Commonwealth which, together with property situate outside this Commonwealth, is the security for the performance of an obligation.

(2) A. No person not a resident of this Commonwealth may be named or act, in person or by agent or attorney, as the trustee of a security trust deed of trust conveying property to secure the payment of money or the performance of an obligation, either individually or as one of several trustees, unless such person is a resident of the other or others of which are residents of this Commonwealth. No corporation, limited liability company, partnership, or other entity may be named or act as the trustee or as one of the trustees of a security trust unless it is chartered deed of trust conveying property to secure the payment of money or the performance of an obligation, unless it is organized under the laws of this the Commonwealth or of the United States of America, and unless its principal office is within this. However, the foregoing requirements shall not apply to any deed of trust conveying property lying partly within the Commonwealth and partly without the Commonwealth or to a deed of trust conveying property within the Commonwealth to secure bonds or obligations that are also secured by one or more deeds of trust or mortgages conveying property outside of the Commonwealth.

(3) No clerk shall admit any security trust for recordation which does not B. A deed of trust conveying property to secure the payment of money or the performance of an obligation shall state the full residence or business address of the trustee or trustees named therein, including street address and zip code, which address shall be valid for purposes of all notices under the deed of trust to the trustee. Such address of the trustee or trustees may be changed by amendment of the deed of trust or by a separate instrument executed by the trustee or trustees, or by the beneficiary of such deed of trust, stating the changed address and otherwise in recordable form, and recorded in the office of the clerk of the circuit court where the deed of trust was recorded.

C. Notwithstanding any other provisions of this section, if any security deed of trust is admitted by a clerk for recordation it shall be conclusively presumed that such security deed of trust complies with all the requirements of this section and it shall be deemed to be validly recorded.

(4) All deeds of trusts, mortgages, bonds or other instruments recorded by the clerk prior to January 1, 1999, without the residence or business address of the trustee or trustees named therein shall be valid for all purposes as if such address had been named therein, if such recordation be otherwise valid according to the law then in force; provided, that this section shall not affect any right or remedy of any third party which accrued after the recordation of said instrument or before July 1, 1960.

§ 55-58.2. Credit line deed of trust defined; relative priority of credit line deed of trust and other instruments of judgment.

A. For the purpose of this title, the term "credit section:

"Beneficiary" means the noteholder, lender, or other party or parties identified in the credit line deed of trust as secured thereby. In the case of a credit line deed of trust that identifies a party acting as agent for all of the lenders or parties secured by a credit line deed of trust, such agent shall be the beneficiary for purposes hereof.

"Credit line deed of trust" means any deed of trust, mortgage, bond, or other instrument, entered into after July 1, 1982, in which title to real property located in this the Commonwealth is conveyed, transferred, encumbered, or pledged to secure payment of money including advances, or other extensions

of credit, to be made in the future by the noteholder named in the credit line deed of trust.

2. B. A credit line deed of trust shall set forth on the front page thereof, either in capital letters or in language underscored, the words "THIS IS A CREDIT LINE DEED OF TRUST." Such phrase shall convey notice to all parties that the noteholder named therein and the grantors and other borrowers identified therein have an agreement whereby the noteholder may make or contemplates making advances or other extensions of credit are to be made or are contemplated to be made from time to time against the security described in the credit line deed of trust. Such credit line deed of trust shall specify therein the maximum aggregate amount of principal to be secured at any one time.

3. C. From the date and actual time of the recording of a credit line deed of trust, the lien thereof shall have priority (i) as to all other deeds, conveyances, or other instruments, or contracts in writing, which are unrecorded as of such date and time of recording and of which the noteholder beneficiary has no knowledge or notice and (ii) as to judgment liens subsequently docketed, except as provided in subsection 4 of this section D. Such priority shall extend to any advances or other extensions of credit made following the recordation of the credit line deed of trust. Amounts outstanding, together with interest thereon, and other items provided by § 55-59, shall continue to have priority until paid or curtailed. Mechanics' liens created under Title 43 shall continue to enjoy the same priority as created by that title. Purchase money security interests in goods and fixtures shall have the same priority as provided in Subpart 3 (§§ 8.9A-317 et seq.) of Part 3 of Title 8.9A.

4. D. Notwithstanding the provisions of subsections 1, 2 A, B, and 3 of this section C, if a judgment creditor gives written notice to the noteholder beneficiary of record at the address indicated in the credit line deed of trust, such credit line deed of trust shall have no priority as to such judgment for any advances or extensions of credit made under such credit line deed of trust from the day following receipt of that notice except those which have been unconditionally and irrevocably committed prior to such date.

5. E. In addition to the language specified in subsection 4 of this section B, the credit line deed of trust shall set forth the name of the noteholder secured beneficiary and the address at which communications may be mailed or delivered to him the beneficiary. Such name or address may be changed or modified by duly recorded instrument executed by the noteholder beneficiary only. If the note or indebtedness secured by the credit line deed of trust is assigned or transferred, the name and address of the new noteholder beneficiary may be set forth in the certificate of transfer provided by § 55-66.01. Such original name or address, or if changed, such changed name or address, shall be the address for delivery of notices contemplated by this section. Receipt of notice at such address shall be deemed receipt by the noteholder beneficiary.

6. [Repealed.]

7. F. The grantor may require, at any time, a modification under the credit line deed of trust, whereby any priority over subsequently recorded deeds of trust is surrendered as to future advances or other extensions of credit, which advances or extensions of credit are in the discretion of the party secured by the credit line deed of trust.

8. G. Notwithstanding the provisions of subsections 1, 2 A, B, and 3 of this section C, if a deed of trust under this section is a subordinate mortgage, as defined in subsection A of § 55-58.3, upon the recording of a refinance mortgage, as defined in subsection A of § 55-58.3, the credit line deed of trust shall retain the same subordinate position with respect to the refinance mortgage as it had with the prior mortgage, as defined in subsection A of § 55-58.3, provided that the refinance mortgage complies with the requirements of § 55-58.3.

§ 55-58.3. Priority of refinance mortgage over subordinate mortgage.

A. As used in this section:

"Prior mortgage" means a mortgage, deed of trust, or other instrument encumbering or conveying an interest in residential real estate containing not more than one dwelling unit to secure a financing.

"Refinance mortgage" means the a mortgage, deed of trust, or other instrument creating a security encumbering or conveying an interest in residential real estate given containing not more than one dwelling unit to secure a refinancing.

"Refinancing" means the replacement of a loan secured by a prior mortgage with a new loan secured by a refinance mortgage, deed of trust or other instrument and the payment in full of the debt owed under the original loan secured by the prior mortgage.

"Subordinate mortgage" means a mortgage or deed of trust securing an original principal amount not exceeding \$150,000, encumbering or conveying an interest in residential real estate containing not more than one dwelling unit that is subordinate in priority (i) under subdivision A 1 of § 55-96 to a mortgage, deed of trust or other security interest in real estate (otherwise known as the prior mortgage); or (ii) as a result of a previous refinancing.

B. Upon the refinancing of a prior mortgage encumbering or conveying an interest in real estate containing not more than one dwelling unit, a subordinate mortgage shall retain the same subordinate

position with respect to a refinance mortgage as the subordinate mortgage had with the prior mortgage, provided that:

1. Such refinance mortgage states on the first page thereof in bold or capitalized letters: "THIS IS A REFINANCE OF A (DEED OF TRUST, MORTGAGE OR OTHER SECURITY INTEREST) RECORDED IN THE CLERK'S OFFICE, CIRCUIT COURT OF (NAME OF COUNTY OR CITY), VIRGINIA, IN DEED BOOK _____, PAGE _____, IN THE ORIGINAL PRINCIPAL AMOUNT OF _____, AND WITH THE OUTSTANDING PRINCIPAL BALANCE WHICH IS _____.";

2. The principal amount secured by such refinance mortgage does not exceed the outstanding principal balance secured by the prior mortgage plus \$5,000; and

3. The interest rate is stated in the refinance mortgage at the time it is recorded and does not exceed the interest rate set forth in the prior mortgage.

C. The priorities among two or more subordinate mortgages shall be governed by subdivision A 1 of § 55-96.

D. The provisions of subsection B shall not apply to a subordinate mortgage securing a promissory note payable to any county, city or town or any agency, authority or political subdivision of the Commonwealth if such subordinate mortgage is financed pursuant to an affordable dwelling unit ordinance adopted pursuant to § 15.2-2304 or 15.2-2305, or pursuant to any program authorized by federal or state law or local ordinance or resolution, for (i) low- and moderate-income persons or households or (ii) improvements to residential potable water supplies and sanitary sewage disposal systems made to address an existing or potential public health hazard, and which mortgage, if recorded on or after July 1, 2003, states on the first page thereof in bold or capitalized letters: "THIS (DEED OF TRUST, MORTGAGE OR OTHER SECURITY INTEREST) SHALL NOT, WITHOUT THE CONSENT OF THE SECURED PARTY HEREUNDER, BE SUBORDINATED UPON THE REFINANCING OF ANY PRIOR MORTGAGE."

§ 55-106. When and where writings admitted to record.

Except when it is otherwise provided, the circuit court of any county or city, or the clerk of any such court, or his duly qualified deputy, in his office, shall admit to record any such writing as to any person whose name is signed thereto with an original signature, ~~except as provided in § 55-113~~, when it shall have been acknowledged by him, or proved by two witnesses as to him in such court, or before such clerk, or his duly qualified deputy, in his office, or the manner prescribed in Articles 2 (§ 55-113 et seq.), 2.1 (§ 55-118.1 et seq.), and 3 (§ 55-119 et seq.) of this chapter. When such writing is signed by a person acting on behalf of another, or in any representative capacity, the signature of such representative may be acknowledged or proved in the same manner.

§ 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; and to the original beneficiaries of a trust from the trustees holding title under a deed in trust;

13. When the grantor is the personal representative of a decedent's estate or trustee under a will or inter vivos trust of which the decedent was the settlor, other than a ~~security trust defined in § 55-58.1 deed of trust conveying property to secure the payment of money or the performance of an obligation,~~ and the sole purpose of such transfer 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; or

14. 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.

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; or

5. Securing a loan made by an organization described in subdivision A 14.

C. The tax imposed by § 58.1-802 and the fee imposed by § 58.1-802.2 shall not apply to any:

1. Transaction described in subdivisions A 6 through 13;

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 § 58.1-802.2; 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, 58.1-802.2, 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 ~~subdivision~~ subdivisions A 2, ~~subdivision~~ B 2, and ~~subdivision~~ 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 (§ 56-556 et seq.) or similar federal law.

428 J. No recordation tax shall be required for the recordation of any transfer on death deed or any
429 revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act
430 (§ 64.2-621 et seq.) when no consideration has passed between the parties.

431 **§ 58.1-811. (Contingent effective date) Exemptions.**

432 A. The taxes imposed by §§ 58.1-801 and 58.1-807 shall not apply to any deed conveying real estate
433 or lease of real estate:

434 1. To an incorporated college or other incorporated institution of learning not conducted for profit,
435 where such real estate is intended to be used for educational purposes and not as a source of revenue or
436 profit;

437 2. To an incorporated church or religious body or to the trustee or trustees of any church or religious
438 body, or a corporation mentioned in § 57-16.1, where such real estate is intended to be used exclusively
439 for religious purposes, or for the residence of the minister of any such church or religious body;

440 3. To the United States, the Commonwealth, or to any county, city, town, district or other political
441 subdivision of the Commonwealth;

442 4. To the Virginia Division of the United Daughters of the Confederacy;

443 5. To any nonstock corporation organized exclusively for the purpose of owning or operating a
444 hospital or hospitals not for pecuniary profit;

445 6. To a corporation upon its organization by persons in control of the corporation in a transaction
446 which qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code as it
447 exists at the time of the conveyance;

448 7. From a corporation to its stockholders upon complete or partial liquidation of the corporation in a
449 transaction which qualifies for income tax treatment pursuant to § 331, 332, 333, or 337 of the Internal
450 Revenue Code as it exists at the time of liquidation;

451 8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited
452 liability company upon a merger or consolidation to which two or more such entities are parties, or in a
453 reorganization within the meaning of § 368(a)(1)(C) and (F) of the Internal Revenue Code as amended;

454 9. To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a
455 parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal
456 Revenue Code as amended;

457 10. To a partnership or limited liability company, when the grantors are entitled to receive not less
458 than 50 percent of the profits and surplus of such partnership or limited liability company; provided that
459 the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the
460 company to avoid recordation taxes;

461 11. From a partnership or limited liability company, when the grantees are entitled to receive not less
462 than 50 percent of the profits and surplus of such partnership or limited liability company; provided that
463 the transfer from a limited liability company is not subsequent to a transfer of control of the assets of
464 the company to avoid recordation taxes;

465 12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of
466 the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust
467 instrument, when no consideration has passed between the grantor and the beneficiaries; and to the
468 original beneficiaries of a trust from the trustees holding title under a deed in trust;

469 13. When the grantor is the personal representative of a decedent's estate or trustee under a will or
470 inter vivos trust of which the decedent was the settlor, other than a ~~security trust defined in § 55-58.1~~
471 ~~deed of trust conveying property to secure the payment of money or the performance of an obligation,~~
472 and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to
473 transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive
474 provision in the trust instrument; or

475 14. When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal
476 Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect
477 or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise
478 would be unable to afford to buy a home through conventional means.

479 B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:

480 1. Given by an incorporated college or other incorporated institution of learning not conducted for
481 profit;

482 2. Given by the trustee or trustees of a church or religious body or given by an incorporated church
483 or religious body, or given by a corporation mentioned in § 57-16.1;

484 3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or
485 operating a hospital or hospitals not for pecuniary profit;

486 4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a
487 debt payable to any other local governmental entity or political subdivision; or

488 5. Securing a loan made by an organization described in subdivision A 14.

489 C. The tax imposed by § 58.1-802 shall not apply to any:

1. Transaction described in subdivisions A 6 through 13;
 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
 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, 58.1-807, 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 ~~subdivision~~ subdivisions A 2, ~~subdivision~~ B 2, and ~~subdivision~~ 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 (§ 56-556 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.
- 2. That the provisions of this act shall become effective on July 1, 2014, except that the provisions of this act amending §§ 17.1-223 and 17.1-227.1 of the Code of Virginia shall become effective on January 1, 2015.**
- 3. That by January 1, 2015, (i) the Office of the Executive Secretary of the Supreme Court of Virginia shall develop a nonelectronic, hard copy form of cover sheet, consistent with § 17.1-227.1 as amended by this act, for use by attorneys or other parties who choose to submit a cover sheet to those circuit court clerks who do not require cover sheets and (ii) those circuit court clerks who require cover sheets using a software program not provided by the Office of the Executive Secretary of the Supreme Court of Virginia shall revise such program to ensure that their cover sheets will include the information required by § 17.1-227.1.**