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SENATE BILL NO. 762

Offered January 14, 2015

Prefiled December 23, 2014

A *BILL to amend and reenact § 55-20.2 of the Code of Virginia, relating to tenancy by the entireties; property held in trust.*

Patron—Edwards

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 55-20.2 of the Code of Virginia is amended and reenacted as follows:****§ 55-20.2. Tenants by the entireties in real and personal property; certain trusts.**

A. Any husband and wife may own real or personal property as tenants by the entireties. Personal property may be owned as tenants by the entireties whether or not the personal property represents the proceeds of the sale of real property. An intent that the part of the one dying should belong to the other shall be manifest from a designation of a husband and wife as "tenants by the entireties" or "tenants by the entirety."

B. ~~Any~~ *Notwithstanding any contrary provision of § 64.2-747, any property of a husband and wife that is held by them as tenants by the entireties and conveyed to their joint revocable or irrevocable trusts, or to their separate revocable or irrevocable trusts, and any proceeds of the sale or disposition of such property, shall have the same immunity from the claims of their separate creditors as it would if it had remained a tenancy by the entirety, so long as (i) they remain husband and wife, (ii) it continues to be held in the trust or trusts, and (iii) it continues to be their property, including where both spouses are current beneficiaries of one trust that holds the entire property or each spouse is a current beneficiary of a separate trust and the two separate trusts together hold the entire property, whether or not other persons are also current or future beneficiaries of the trust or trusts. The immunity from the claims of separate creditors under this subsection may be waived as to any specific creditor, including any separate creditor of either spouse, or any specifically described property, including any former tenancy by the entireties property conveyed into trust, by the trustee acting under the express provision of a trust instrument or with the written consent of both the husband and the wife.*

2. That this act is declaratory of existing law.

INTRODUCED

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