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SENATE BILL NO. 999

Senate Amendments in [] — January 29, 2015

A BILL to amend and reenact § 58.1-803 of the Code of Virginia, relating to deeds of trust or mortgages; maximum tax.

Patron Prior to Engrossment—Senator Stuart

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-803 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-803. Deeds of trust or mortgages; maximum tax.

A. A recordation tax on deeds of trust or mortgages is hereby imposed at a rate of 25 cents on every \$100 or portion thereof of the amount of bonds or other obligations secured thereby. In the event of an open [,] credit line [~~or an open~~] or revolving deed of trust, the amount of the obligation for purposes of this section shall be the maximum obligation secured, regardless of the amount which that may be owed or outstanding at any one from time to time. In any case in which the amount which may be secured under a deed of trust or mortgage is not ascertainable, or in which the obligations described are not fully secured because they exceed the fair market value of the property conveyed, the tax shall be based upon the fair market value of the property conveyed, determined as of the date of the deed of trust or mortgage. The fair market value of the property shall include the value of any realty required by the terms of the deed of trust or mortgage to be constructed thereon.

B. On deeds of trust or mortgages upon the works and property of a railroad lying partly within the Commonwealth and partly without the Commonwealth, the tax shall be only upon such proportion of the amount of bonds, or other obligations secured thereby, as the number of miles of the line of such company in the Commonwealth bears to the whole number of miles of the line of such company conveyed by such deed of trust or mortgage.

Upon deeds of trust or mortgages conveying other property lying partly within the Commonwealth and partly without the Commonwealth the tax herein imposed shall be only upon such proportion of the debt secured as the value of the property located within the Commonwealth, or which may be brought into the Commonwealth, bears to the entire amount of property conveyed by such deed of trust or mortgage.

C. On deeds of trust or mortgages, which provide for an initial issue of bonds, to be followed thereafter by additional bonds, unlimited in amount, if such deed of trust or mortgage provides that as and when such additional bonds are issued a supplemental indenture shall be recorded in the office in which the original deed of trust or mortgage is first recorded, which supplement shall contain a statement as to the amount of the additional bonds to be issued, then the tax shall be paid upon the initial amount of bonds when the original deed of trust is recorded and thereafter on each additional amount of bonds when the supplemental indenture relating to such additional bonds is recorded.

On deeds of trust or mortgages which that are supplemental to ~~or~~, wrap around, or modify existing deeds of trust, ~~or which modify the terms of an existing debt with the same lender~~, on which the tax imposed hereunder has already been paid, the tax shall be paid only on that portion of the face amount of the bond or maximum obligation secured thereby which as supplemented, wrapped, or modified that is in addition to the amount of the existing debt maximum obligation secured by a the deed of trust or mortgage on which the tax has already been paid. Such tax shall be paid at the rates in subsection E that apply to amounts in excess of the maximum obligation secured by the deed of trust or mortgage on which the tax has already been paid. The instrument shall certify the maximum obligation secured by the deed of trust or mortgage on which the tax has already been paid. For purposes of such calculation, in the event of an open [,] credit line [~~or and open~~] or revolving deed of trust, the additional obligation secured by the supplemented, wrapped, or modified instrument shall be the amount by which the maximum obligation secured at the time such instrument is recorded, whether or not any such amount is actually owed or outstanding at that time, exceeds the maximum[amount obligation] of the existing debt secured at the time the original instrument was recorded, whether or not any such amount was actually owed or outstanding at that time.

D. On deeds of trust or mortgages, the purpose of which is to refinance an existing debt, which debt is secured by a deed of trust or mortgage on which the tax imposed hereunder has been paid, the tax shall be paid only on that portion of the amount of the bond or other obligation secured thereby determined in accordance with the following schedule:

On the first \$10 million of value as determined pursuant to this section, 18 cents (\$0.18) upon every

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59 \$100 or portion thereof;
60 On the next \$10 million of value as determined pursuant to this section, 16 cents (\$0.16) upon every
61 \$100 or portion thereof;
62 On the next \$10 million of value as determined pursuant to this section, 14 cents (\$0.14) upon every
63 \$100 or portion thereof;
64 On the next \$10 million of value as determined pursuant to this section, 12 cents (\$0.12) upon every
65 \$100 or portion thereof; and
66 On all over \$40 million of value as determined pursuant to this section, 10 cents (\$0.10) upon every
67 \$100 or portion thereof, incorporated into this section.
68 The instrument shall certify the deed book and page number of the recorded instrument on which the
69 tax for the original debt was paid. For purposes of this subsection, the term "value" means the portion
70 of the amount of the bond or other obligation secured by the property conveyed by the deed of trust.
71 E. The maximum tax on the recordation of any deed of trust or mortgage or on any indenture
72 supplemental thereto, other than instruments subject to subsection D, shall be determined in accordance
73 with the following schedule:
74 On the first \$10 million of value as determined pursuant to this section, 25 cents (\$0.25) upon every
75 \$100 or portion thereof;
76 On the next \$10 million of value as determined pursuant to this section, 22 cents (\$0.22) upon every
77 \$100 or portion thereof;
78 On the next \$10 million of value as determined pursuant to this section, 19 cents (\$0.19) upon every
79 \$100 or portion thereof;
80 On the next \$10 million of value as determined pursuant to this section, 16 cents (\$0.16) upon every
81 \$100 or portion thereof; and
82 On all over \$40 million of value as determined pursuant to this section, 13 cents (\$0.13) upon every
83 \$100 or portion thereof, incorporated into this section.