

20106023D

## HOUSE BILL NO. 1623

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance  
on January 29, 2020)

(Patron Prior to Substitute—Delegate Plum)

A BILL to amend and reenact §§ 58.1-812 and 58.1-817 of the Code of Virginia, relating to fee for open-space preservation.

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-812 and 58.1-817 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-812. Payment prerequisite to recordation; exceptions; assessment and collection of tax; penalty for misrepresentation.

A. Except as otherwise provided in this chapter, no deed, deed of trust, contract or other instrument shall be admitted to record without the payment of the tax imposed thereon by law and the fee pursuant to § 58.1-817, as applicable. However, after payment of the tax imposed by this chapter, when an instrument is first offered for recordation, such instrument may thereafter be recorded in the office of any other clerk without the payment of any tax except any local recordation tax as provided in Article 1 (§ 58.1-3800 et seq.) of Chapter 38. Any instrument may also be recorded free of tax and fee in the office of the clerk where such instrument was originally recorded when the record containing such instrument has been destroyed.

B. The tax on every deed, deed of trust, contract or other instrument shall be determined and collected by the clerk in whose office the instrument is first offered for recordation. The clerk may ascertain the consideration of the deed or of the instrument, the actual value of the property conveyed, and the qualification of the deed or instrument for any exemption claimed by inquiry, affidavit, declaration or other extrinsic evidence acceptable to the clerk. The fee shall be \$4 \$3 on every recorded deed, deed of trust, contract, or other instrument pursuant to § 58.1-817 and shall be collected by the clerk in whose office the deed is offered for recordation.

C. Any person who knowingly misrepresents the consideration for the interest in property conveyed by a deed or other instrument or any of the other information requested by the clerk of court pursuant to this section shall be guilty of a Class 1 misdemeanor. If an understatement of the consideration is false or fraudulent with intent to evade a tax, a penalty equal to 100 percent of the tax due on the understatement shall be added to the amount of the tax due, plus interest on the tax at a rate determined in accordance with § 58.1-15 from the time the tax was required by law to be filed until paid.

D. Except as otherwise specifically provided, nothing contained in this chapter shall limit the right of the parties to any deed, deed of trust, contract, lease, or other instrument to allocate responsibility for the payment of the recordation taxes and fees imposed under this chapter among themselves in any manner they determine. A clerk who in good faith collects such taxes and fees upon recordation of a deed, deed of trust, contract, lease, or other instrument in reliance upon information provided by the person submitting such deed, deed of trust, contract, lease, or other instrument for recordation shall have no personal liability for any deficiency in the amount of such taxes or fees collected that is later determined to be due and payable.

§ 58.1-817. Fee for open-space preservation.

In addition to all other taxes and fees imposed by this chapter, beginning July 1, 2004 2020, there is hereby imposed a \$4 \$3 fee on every deed, deed of trust, contract, or other instrument admitted to record in those jurisdictions in which open-space easements are held by the Virginia Outdoors Foundation. The fee shall be collected as provided in § 58.1-812 and the clerk shall deposit all fees collected hereunder into a special fund within the state treasury which shall be created on the books of the Comptroller for this revenue. On a monthly basis, the Comptroller shall distribute all revenue collected from such fee to the Virginia Outdoors Foundation, which shall accept, hold, and administer such funds in accordance with its purpose and powers as set forth in Chapter 18 (§ 10.1-1800 et seq.) of Title 10.1.