

20107122D

## HOUSE BILL NO. 788

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws  
on January 30, 2020)

(Patron Prior to Substitute—Delegate Bagby)

A BILL to amend and reenact §§ 55.1-300 and 58.1-810 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 55.1-300.1, relating to restrictive covenants, deeds of reformation.

Be it enacted by the General Assembly of Virginia:

1. That §§ 55.1-300 and 58.1-810 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 55.1-300.1 as follows:

**§ 55.1-300. Form of a deed.**

Every deed and corrected or amended deed 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 \_\_\_\_\_ 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 (or signatures)."

No deed recorded on or after July 1, 2020, shall contain a reference to the specific portion of a restrictive covenant purporting to restrict the ownership or use of the property as prohibited by subsection A of § 36-96.6. The clerk may refuse to accept any deed submitted for recordation that references the specific portion of any such restrictive covenant. The attorney who prepares or submits a deed for recordation has the responsibility of ensuring that the specific portion of such a restrictive covenant is not specifically referenced in the deed prior to such deed being submitted for recordation. A deed may include a general provision that states that such deed is subject to any and all covenants and restrictions of record; however, such provision shall not apply to the specific portion of a restrictive covenant purporting to restrict the ownership or use of the property as prohibited by subsection A of § 36-96.6. Any deed that is recorded in the land records on or after July 1, 2020, that mistakenly contains such a restrictive covenant shall nevertheless constitute a valid transfer of real property.

**§ 55.1-300.1. Certificate of Release of Certain Prohibited Covenants.**

Any restrictive covenant prohibited by subsection A of § 36-96.6 may be released by the owner of real property subject to such covenant by recording a Certificate of Release of Certain Prohibited Covenants. The real property owner may record such certificate (i) prior to recordation of a deed conveying real property to a purchaser or (ii) when such real property owner discovers that such prohibited covenant exists and chooses to affirmatively release the same. Such certificate may be prepared without assistance of an attorney, but shall conform substantially to the following Certificate of Release of Certain Prohibited Covenants form:

**"CERTIFICATE OF RELEASE OF CERTAIN PROHIBITED COVENANTS**

Place of Record: \_\_\_\_\_

Date of Instrument containing prohibited covenant(s): \_\_\_\_\_

Instrument Type: \_\_\_\_\_

Deed Book \_\_\_\_\_ Page \_\_\_\_\_ or Plat Book \_\_\_\_\_ Page \_\_\_\_\_

Name(s) of Grantor(s): \_\_\_\_\_

Name(s) of Current Owner(s): \_\_\_\_\_

Real Property Description: \_\_\_\_\_

Brief Description of Prohibited Covenant: \_\_\_\_\_

The covenant contained in the above-mentioned instrument is released from the above-described real property to the extent that it contains terms purporting to restrict the ownership or use of the property as prohibited by subsection A of § 36-96.6.

The undersigned is/are the legal owner(s) of the property described herein.

Given under my/our hand(s) this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

\_\_\_\_\_

(Current Owners)

Commonwealth of Virginia,

County/City of \_\_\_\_\_ to wit:

Subscribed, sworn to, and acknowledged before me by \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

60     *My Commission Expires: \_\_\_\_\_*

61     \_\_\_\_\_  
62     *NOTARY PUBLIC*

63     *Notary Registration Number: \_\_\_\_\_*

64     *The clerk shall satisfy the requirements of § 17.1-228."*

65     **§ 58.1-810. What other deeds not taxable.**

66     When the tax has been paid at the time of the recordation of the original deed, no additional  
67 recordation tax shall be required for admitting to record:

68         1. A deed of confirmation;

69         2. A deed of correction;

70         3. A deed to which a husband and wife are the only parties;

71         4. A deed arising out of a contract to purchase real estate; if the tax already paid is less than a  
72 proper tax based upon the full amount of consideration or actual value of the property involved in the  
73 transaction, an additional tax shall be paid based on the difference between the full amount of such  
74 consideration or actual value and the amount on which the tax has been paid; ~~or~~

75         5. A notice of assignment of a note secured by a deed of trust or mortgage; *or*

76         6. A *Certificate of Release of Certain Prohibited Covenants* pursuant to § 55.1-300.1.