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HOUSE BILL NO. 2162

Offered January 11, 2023

Prefiled January 11, 2023

A BILL to amend and reenact §§ 58.1-811, as it is currently effective and as it may become effective, and 58.1-3607 of the Code of Virginia relating to tax exemptions; Confederacy organizations.

Patron—Scott, D.L.

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-811, as it is currently effective and as it may become effective, and 58.1-3607 of the Code of Virginia are amended and reenacted as follows:

§ 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. 5. 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. 6. 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. 7. 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. 8. 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. 9. 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. 10. 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. 11. 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;~~

~~13. 12. 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;~~

~~14. 13. When it is a deed of partition, or any combination of deeds simultaneously executed and having the effect of a deed of partition, among joint tenants, tenants in common, or coparceners; or~~

~~15. 14. When it is a deed transferring property pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation.~~

INTRODUCED

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- 59 B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:
60 1. Given by an incorporated college or other incorporated institution of learning not conducted for
61 profit;
62 2. Given by the trustee or trustees of a church or religious body or given by an incorporated church
63 or religious body, or given by a corporation mentioned in § 57-16.1;
64 3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or
65 operating a hospital or hospitals not for pecuniary profit;
66 4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a
67 debt payable to any other local governmental entity or political subdivision;
68 5. Securing a loan made by an organization described in subdivision A 43 12;
69 6. Securing a loan made by a county, city, or town, or an agency of such a locality, to a borrower
70 whose household income does not exceed 80 percent of the area median household income established
71 by the U.S. Department of Housing and Urban Development, for the purpose of erecting or
72 rehabilitating a home for such borrower, including the purchase of land for such home; or
73 7. Given by any entity organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.
74 C. The tax imposed by § 58.1-802 and the fee imposed by §§ 58.1-802.3, 58.1-802.4 and 58.1-802.5
75 shall not apply to any:
76 1. Transaction described in subdivisions A 6 5 through 42 11, 44 13, and 45 14;
77 2. Instrument or writing given to secure a debt;
78 3. Deed conveying real estate from an incorporated college or other incorporated institution of
79 learning not conducted for profit;
80 4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town,
81 district, or other political subdivision thereof;
82 5. Conveyance of real estate to the Commonwealth or any county, city, town, district, or other
83 political subdivision thereof, if such political unit is required by law to reimburse the parties taxable
84 pursuant to § 58.1-802 or subject to the fee under § 58.1-802.3 or 58.1-802.5; or
85 6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an
86 incorporated church or religious body, or from a corporation mentioned in § 57-16.1.
87 D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or
88 grantors and a grantee or grantees when no consideration has passed between the parties. Such deed
89 shall state therein that it is a deed of gift.
90 E. The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the
91 Commonwealth, or any county, city, town, district, or other political subdivision of the Commonwealth.
92 F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-802.3, 58.1-802.5, 58.1-807, 58.1-808,
93 and 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The
94 Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy,
95 where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of
96 preserving wilderness, natural, or open space areas.
97 G. The words "trustee" or "trustees," as used in subdivisions A 2, B 2, and C 6, include the trustees
98 mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.
99 H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual
100 right, if the release is contained within a single deed that performs more than one function, and at least
101 one of the other functions performed by the deed is subject to the recordation tax.
102 I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement,
103 release, or other document recorded in connection with a concession pursuant to the Public-Private
104 Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.
105 J. No recordation tax shall be required for the recordation of any transfer on death deed or any
106 revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act
107 (§ 64.2-621 et seq.) when no consideration has passed between the parties.
108 K. No recordation tax levied pursuant to this chapter shall be required for the recordation of any
109 deed of distribution when no consideration has passed between the parties. Such deed shall state therein
110 on the front page that it is a deed of distribution. As used in this subsection, "deed of distribution"
111 means a deed conveying property from an estate or trust (i) to the original beneficiaries of a trust from
112 the trustees holding title under a deed in trust, (ii) the purpose of which is to comply with a devise or
113 bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the
114 settlor in accordance with a dispositive provision in the trust instrument, (iii) that carries out the
115 exercise of a power of appointment, or (iv) that is pursuant to the exercise of the power under the
116 Uniform Trust Decanting Act (§ 64.2-779.1 et seq.).
117 **§ 58.1-811. (Contingent effective date) Exemptions.**
118 A. The taxes imposed by §§ 58.1-801 and 58.1-807 shall not apply to any deed conveying real estate
119 or lease of real estate:
120 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.~~ 5. 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.~~ 6. 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.~~ 7. 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.~~ 8. 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.~~ 9. 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.~~ 10. 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.~~ 11. 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;

~~13.~~ 12. 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;

~~14.~~ 13. Pursuant to any deed of partition, or any combination of deeds simultaneously executed and having the effect of a deed of partition, among joint tenants, tenants in common, or coparceners; or

~~15.~~ 14. Pursuant to any deed transferring property pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation.

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;

5. Securing a loan made by an organization described in subdivision A ~~13~~ 12;

6. Securing a loan made by a county, city, or town, or an agency of such a locality, to a borrower whose household income does not exceed 80 percent of the area median household income established by the U.S. Department of Housing and Urban Development, for the purpose of erecting or rehabilitating a home for such borrower, including the purchase of land for such home; or

7. Given by any entity organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.

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

1. Transaction described in subdivisions A ~~6~~ 5 through ~~12~~ 11, ~~14~~ 13, and ~~15~~ 14;

2. Instrument or writing given to secure a debt;

3. Deed conveying real estate from an incorporated college or other incorporated institution of

182 learning not conducted for profit;

183 4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town,
184 district, or other political subdivision thereof;

185 5. Conveyance of real estate to the Commonwealth or any county, city, town, district, or other
186 political subdivision thereof, if such political unit is required by law to reimburse the parties taxable
187 pursuant to § 58.1-802; or

188 6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an
189 incorporated church or religious body, or from a corporation mentioned in § 57-16.1.

190 D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or
191 grantors and a grantee or grantees when no consideration has passed between the parties. Such deed
192 shall state therein that it is a deed of gift.

193 E. The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the
194 Commonwealth, or any county, city, town, district, or other political subdivision of the Commonwealth.

195 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
196 apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or
197 (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of
198 gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness,
199 natural, or open space areas.

200 G. The words "trustee" or "trustees," as used in subdivisions A 2, B 2, and C 6, include the trustees
201 mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

202 H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual
203 right, if the release is contained within a single deed that performs more than one function, and at least
204 one of the other functions performed by the deed is subject to the recordation tax.

205 I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement,
206 release, or other document recorded in connection with a concession pursuant to the Public-Private
207 Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.

208 J. No recordation tax shall be required for the recordation of any transfer on death deed or any
209 revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act
210 (§ 64.2-621 et seq.) when no consideration has passed between the parties.

211 K. No recordation tax levied pursuant to this chapter shall be required for the recordation of any
212 deed of distribution when no consideration has passed between the parties. Such deed shall state therein
213 on the front page that it is a deed of distribution. As used in this subsection, "deed of distribution"
214 means a deed conveying property from an estate or trust (i) to the original beneficiaries of a trust from
215 the trustees holding title under a deed in trust; (ii) the purpose of which is to comply with a devise or
216 bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the
217 settlor in accordance with a dispositive provision in the trust instrument; (iii) that carries out the
218 exercise of a power of appointment; or (iv) that is pursuant to the exercise of the power under the
219 Uniform Trust Decanting Act (§ 64.2-779.1 et seq.).

220 **§ 58.1-3607. Property exempt from taxation by designation.**

221 A. Pursuant to the authority granted in Article X, Section 6 (a) (6) of the Constitution of Virginia to
222 exempt property from taxation by designation, and notwithstanding the provisions of § 58.1-3651, the
223 real and personal property of the following organizations, corporations and associations shall be exempt
224 from taxation:

225 1. Property of the Association for the Preservation of Virginia Antiquities, the Association for the
226 Preservation of Petersburg Antiquities, Historic Richmond Foundation, the Confederate Memorial
227 Literary Society, the Mount Vernon Ladies' Association of the Union, the Virginia Historical Society,
228 the Thomas Jefferson Memorial Foundation, Incorporated, the Patrick Henry Memorial Foundation,
229 Incorporated, the Stonewall Jackson Memorial, Incorporated, George Washington's Fredericksburg
230 Foundation, Home Demonstration Clubs, 4-H Clubs, the Future Farmers of America, Incorporated, the
231 posts of the American Legion, posts of United Spanish War Veterans, branches of the Fleet Reserve
232 Association, posts of Veterans of Foreign Wars, posts of the Disabled American Veterans, Veterans of
233 World War I, USA, Incorporated, the Society of the Cincinnati in the State of Virginia, the Manassas
234 Battlefield Confederate Park, Incorporated, the Robert E. Lee Memorial Foundation, Incorporated, the
235 Virginia Division of the United Daughters of the Confederacy, the General Organization of the United
236 Daughters of the Confederacy, the Memorial Foundation of the Germanna Colonies in Virginia,
237 Incorporated, the Lynchburg Fine Arts Centers, Incorporated, Norfolk Historic Foundation, National
238 Trust for Historic Preservation in the United States, Historic Alexandria Foundation, and the Lynchburg
239 Historical Foundation.

240 2. Property of Colonial Williamsburg, Incorporated, used for museum, historical, municipal,
241 benevolent or charitable purposes, as long as such corporation continues to be organized and operated
242 not for profit.

243 3. Property owned by the Virginia Home (previously Virginia Home for Incurables), incorporated by

244 Chapter 533 of the Acts of Assembly of 1893-4, approved March 1, 1894.

245 4. The property owned by the Waterford Foundation, Incorporated, so long as it continues to be a
246 nonprofit corporation to encourage and assist in restoration work in Waterford and to stimulate the
247 revival of local arts and crafts.

248 5. Property of Historic Fredericksburg, Incorporated, and of the Clarke County Historical Association,
249 used by such organizations for historical, benevolent or charitable purposes, as long as such corporation
250 continues to be organized and operated not for profit.

251 6. Property of the Westmoreland Davis Foundation, Inc., so long as it continues to be a nonprofit
252 corporation.

253 7. Property owned by the Women's Home Incorporated, in Arlington County and used for the
254 rehabilitation of women with substance abuse, so long as it continues to be operated not for profit.

255 B. Property designated to be exempt from taxation in subsection A which was exempt on July 1,
256 1971, shall continue to be exempt under the rules of statutory construction applicable to exempt property
257 prior to such date.