

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 64.1-16.1 of the Code of Virginia, relating to exclusions from the*
 3 *augmented estate.*

4 [H 761]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 64.1-16.1 of the Code of Virginia is amended and reenacted as follows:**

8 § 64.1-16.1. Augmented estate; exclusions; valuation.

9 The augmented estate means the estate passing by testate or intestate succession, real and personal,
 10 after payment of allowances and exemptions elected under Article 5.1 (§ 64.1-151.1 et seq.) of Chapter
 11 6 of this title, funeral expenses, charges of administration which shall not include federal or state
 12 transfer taxes, and debts, and to which is added the sum of the following amounts:

13 1. The value of property, other than tangible personal property received by gift and the proceeds
 14 thereof, owned or acquired by the surviving spouse at the decedent's death, to the extent the property is
 15 derived from the decedent, by any means other than testate or intestate succession, without a full
 16 consideration in money or money's worth;

17 2. The value of property, other than tangible personal property received by gift and the proceeds
 18 thereof, derived by the surviving spouse from the decedent without a full consideration in money or
 19 money's worth, other than by testate or intestate succession, and transferred by the surviving spouse at
 20 any time during the marriage to a person other than the decedent, which would have been includable in
 21 the surviving spouse's augmented estate if the surviving spouse had predeceased the decedent; and

22 3. The value of property transferred to anyone other than a bona fide purchaser by the decedent at
 23 any time during the marriage to the surviving spouse, to or for the benefit of any person other than the
 24 surviving spouse, to the extent that the decedent did not receive adequate and full consideration in
 25 money or money's worth for the transfer, if the transfer is of any of the following types:

26 a. Any transfer under which the decedent retained for his life, for any period not ascertainable
 27 without reference to his death or for any period which does not in fact end before his death, the
 28 possession or enjoyment of, or right to income from, the property;

29 b. Any transfer to the extent that the decedent retained for his life, for any period not ascertainable
 30 without reference to his death or for any period which does not in fact end before his death, a power,
 31 either alone or in conjunction with any other person, to revoke or to consume, invade, or dispose of the
 32 principal for his own benefit;

33 c. Any transfer whereby property is held at the time of the decedent's death by the decedent and
 34 another with right of survivorship; or

35 d. Any transfer made to or for the benefit of a donee within the calendar year of the decedent's death
 36 or any of the five preceding calendar years to the extent that the aggregate value of the transfers to the
 37 donee exceeds \$10,000 in that calendar year.

38 Nothing herein shall cause to be included in the augmented estate (i) the value of any property
 39 transferred by the decedent during marriage with the written consent or joinder of the surviving spouse;
 40 (ii) the value of any property, its income or proceeds, received by the decedent by gift, will, or intestate
 41 succession before or during the marriage to the surviving spouse, from a person other than the surviving
 42 spouse to the extent such property, income, or proceeds were maintained by the decedent as separate
 43 property; or (iii) any transfer made to anyone other than the surviving spouse prior to January 1, 1991,
 44 to the extent that such transfer is irrevocable on that date.

45 Property is valued as of the decedent's death except that property transferred irrevocably during the
 46 lifetime of the decedent is valued as of the date the transferee came into possession or enjoyment if that
 47 occurs first. Life estates and remainder interests are valued in the manner prescribed in Article 2
 48 (§ 55-269.1 et seq.) of Chapter 15 of Title 55, and deferred payments and estates for years are
 49 discounted to present value using the interest rate specified in § 55-269.1. *The value of an insurance*
 50 *policy that is irrevocably transferred during the lifetime of a decedent is the cost of a comparable policy*
 51 *on the date of transfer or, if such a policy is not readily available, the policy's interpolated terminal*
 52 *reserve. The value of any premiums paid on an insurance policy owned by another person is the amount*
 53 *of the premiums only and not the insurance purchased or maintained with such premiums.*

54 As used in this section, the terms "estate" and "property" shall include insurance policies, retirement
 55 benefits exclusive of federal social security benefits, annuities, pension plans, deferred compensation
 56 arrangements, and employee benefit plans to the extent owned by, vested in, or subject to the control of

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57 the decedent on the date of his death or the date of an irrevocable transfer by him during his lifetime.