

HOUSE BILL NO. 1913

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice

on _____)

(Patron Prior to Substitute—Delegate Reaser)

A BILL to amend and reenact §§ 8.9A-502, 17.1-275, and 58.1-811, as it is currently effective and as it may become effective, of the Code of Virginia, relating to land records; recording and indexing fees.

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.9A-502, 17.1-275, and 58.1-811, as it is currently effective and as it may become effective, of the Code of Virginia are amended and reenacted as follows:

§ 8.9A-502. Contents of financing statement; record of mortgage as financing statement; time of filing financing statement.

(a) Sufficiency of financing statement. Subject to subsection (b), a financing statement is sufficient only if it:

(1) provides the name of the debtor;

(2) provides the name of the secured party or a representative of the secured party; and

(3) indicates the collateral covered by the financing statement.

(b) Real-property-related financing statements. Except as otherwise provided in § 8.9A-501 (b), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (a) and also:

(1) indicate that it covers this type of collateral;

(2) indicate that it is to be filed for record in the real property records;

(3) provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and

(4) if the debtor does not have an interest of record in the real property, provide the name of a record owner.

(c) Record of mortgage as financing statement. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(1) the record indicates the goods or accounts that it covers;

(2) the goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(3) the record satisfies the requirements for a financing statement in this section, but:

(A) the record need not indicate that it is to be filed in the real property records; and

(B) the record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom § 8.9A-503(a)(4) applies; and

(4) the record is duly recorded.

(d) Filing before security agreement or attachment. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

(e) Recording and indexing record of multipurpose commercial deed of trust or mortgage incorporating a financing statement. Where a multipurpose commercial deed of trust or mortgage that incorporates a financing statement as part of such deed of trust or mortgage and is identified on the first page as a "multipurpose commercial deed of trust," as described in subdivision A 2a of § 17.1-275, is recorded, no clerk of a circuit court shall keep the original document as he would with a financing statement only. Fees for recording and indexing such record of a multipurpose commercial deed of trust or mortgage as a financing statement shall be assessed pursuant to subdivision A 2a of § 17.1-275.

§ 17.1-275. Fees collected by clerks of circuit courts; generally.

A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the following fees:

1. [Repealed.]

2. For recording and indexing in the proper book any writing and all matters therewith, or for recording and indexing anything not otherwise provided for, \$18 for an instrument or document consisting of 10 or fewer pages or sheets; \$32 for an instrument or document consisting of 11 to 30 pages or sheets; and \$52 for an instrument or document consisting of 31 or more pages or sheets. Whenever any writing to be recorded includes plat or map sheets no larger than eight and one-half inches by 14 inches, such plat or map sheets shall be counted as ordinary pages for the purpose of computing the recording fee due pursuant to this section. A fee of \$17 per page or sheet shall be charged with respect to plat or map sheets larger than eight

and one-half inches by 14 inches. Only a single fee as authorized by this subdivision shall be charged for recording a certificate of satisfaction that releases the original deed of trust and any corrected or revised deeds of trust. Three dollars and fifty cents of the fee collected for recording and indexing shall be designated for use in preserving the permanent records of the circuit courts. The sum collected for this purpose shall be administered by The Library of Virginia in cooperation with the circuit court clerks.

2a. Where a commercial deed of trust or mortgage serves multiple purposes and contains two or more instruments that may serve independent legal purposes, no clerk shall assess separate fees for recording and indexing such document and instruments unless such person requests that such document or instruments be recorded and indexed in more than a single instance. A multipurpose commercial deed of trust or mortgage may include a commercial deed of trust or mortgage, a security agreement, an assignment of rents and leases, or any real-property-related financing statement pursuant to § 8.9A-502, including one that covers as-extracted collateral or timber to be cut or that is filed as a fixture filing and covers goods that are or are to become fixtures. A multipurpose commercial deed of trust or mortgage shall on the front page, either in capital letters or in language underscored, set forth the words "THIS IS A MULTIPURPOSE COMMERCIAL DEED OF TRUST." Such phrase shall convey notice to all parties, irrespective of how the instrument is recorded and indexed, that the instrument may serve independent legal purposes. For recording and indexing, such multipurpose commercial deed of trust or mortgage shall be \$200 for an instrument or document consisting of 10 or fewer pages or sheets, \$225 for an instrument or document consisting of 11 to 30 pages or sheets, and \$250 for an instrument consisting of 31 or more pages or sheets.

2b. A multipurpose commercial deed of trust or mortgage shall be recorded and indexed in the clerk's land records in the same manner as a single purpose deed of trust or mortgage. Such recordation and indexing shall be effective for all independent legal purposes set forth in the multipurpose commercial deed of trust or mortgage.

2c. A multipurpose commercial deed of trust or mortgage may be satisfied by a satisfaction or release recorded and indexed in the clerk's land records in the same manner that a satisfaction or release is recorded or indexed for a single purpose deed of trust or mortgage. Such recordation and indexing shall be effective to satisfy or release the lien of all independent legal purposes set forth in the multipurpose commercial deed of trust or mortgage.

3. For appointing and qualifying any personal representative, committee, trustee, guardian, or other

89 fiduciary, in addition to any fees for recording allowed by this section, \$20 for estates not exceeding \$50,000,
90 \$25 for estates not exceeding \$100,000 and \$30 for estates exceeding \$100,000. No fee shall be charged for
91 estates of \$5,000 or less.

92 4. For entering and granting and for issuing any license, other than a marriage license or a hunting and
93 fishing license, and administering an oath when necessary, \$10.

94 5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths or
95 affidavits, indexing and recording, \$10. For recording an order to celebrate the rites of marriage pursuant to §
96 20-25, \$25 to be paid by the petitioner.

97 6. For making out any bond, other than those under § 17.1-267 or subdivision A 4, administering all
98 necessary oaths and writing proper affidavits, \$3.

99 7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee shall
100 be \$15 in cases not exceeding \$500 and \$25 in all other cases.

101 8. For making out a copy of any paper, record, or electronic record to go out of the office, which is not
102 otherwise specifically provided for herein, a fee of \$0.50 for each page or, if an electronic record, each image.
103 From such fees, the clerk shall reimburse the locality the costs of making out the copies and pay the
104 remaining fees directly to the Commonwealth. The funds to recoup the cost of making out the copies shall be
105 deposited with the county or city treasurer or Director of Finance, and the governing body shall budget and
106 appropriate such funds to be used to support the cost of copies pursuant to this subdivision. For purposes of
107 this section, the costs of making out the copies authorized under this section shall include costs included in
108 the lease and maintenance agreements for the equipment and the technology needed to operate electronic
109 systems in the clerk's office used to make out the copies, but shall not include salaries or related benefits. The
110 costs of copies shall otherwise be determined in accordance with § 2.2-3704. However, there shall be no
111 charge to the recipient of a final order or decree to send an attested copy to such party.

112 9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying it, the
113 clerk shall charge \$2 and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk
114 shall charge an additional \$0.50.

115 10. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et
116 seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee of
117 \$150 for each felony conviction and each felony disposition under § 18.2-251 which shall be taxed as costs to

the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund.

11. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251, which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund as provided in § 17.1-275.8.

12. Upon the defendant's being required to successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic in lieu of a finding of guilty, the court shall charge the defendant fees and costs as if he had been convicted.

13. In all civil actions that include one or more claims for the award of monetary damages the clerk's fee chargeable to the plaintiff shall be \$100 in cases seeking recovery not exceeding \$49,999; \$200 in cases seeking recovery exceeding \$49,999, but not exceeding \$100,000; \$250 in cases seeking recovery exceeding \$100,000, but not exceeding \$500,000; and \$300 in cases seeking recovery exceeding \$500,000. Ten dollars of each such fee shall be apportioned to the Courts Technology Fund established under § 17.1-132. A fee of \$25 shall be paid by the plaintiff at the time of instituting a condemnation case, in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of a counterclaim or a claim impleading a third-party defendant. The fees prescribed above shall be collected upon the filing of papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed in the Supreme Court of Virginia.

13a. For the filing of any petition seeking court approval of a settlement where no action has yet been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the time of filing the petition.

14. In addition to the fees chargeable for civil actions, for the costs of proceedings for judgments by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered or certified mail; (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the amount of the confessed judgment; (iii) for the sheriff for serving each copy of the order entering judgment, \$12; and (iv) for docketing the judgment and issuing executions thereon, the same fees as prescribed in subdivision A 17.

147 15. For qualifying notaries public, including the making out of the bond and any copies thereof,
148 administering the necessary oaths, and entering the order, \$10.

149 16. For each habeas corpus proceeding, the clerk shall receive \$10 for all services required thereunder.
150 This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

151 17. For docketing and indexing a judgment from any other court of the Commonwealth, for docketing and
152 indexing a judgment in the new name of a judgment debtor pursuant to the provisions of § 8.01-451, but not
153 when incident to a divorce, for noting and filing the assignment of a judgment pursuant to § 8.01-452, a fee of
154 \$5; and for issuing an abstract of any recorded judgment, when proper to do so, a fee of \$5; and for filing,
155 docketing, indexing and mailing notice of a foreign judgment, a fee of \$20.

156 18. For all services rendered by the clerk in any court proceeding for which no specific fee is provided by
157 law, the clerk shall charge \$10, to be paid by the party filing said papers at the time of filing; however, this
158 subdivision shall not be applicable in a divorce cause prior to and including the entry of a decree of divorce
159 from the bond of matrimony.

160 19, 20. [Repealed.]

161 21. For making the endorsements on a forthcoming bond and recording the matters relating to such bond
162 pursuant to the provisions of § 8.01-529, \$1.

163 22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or 57-15, \$10.

164 23. For preparation and issuance of a subpoena duces tecum, \$5.

165 24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name, \$20;
166 however, this subdivision shall not be applicable in cases where the change of name is incident to a divorce.

167 25. For providing court records or documents on microfilm, per frame, \$0.50.

168 26. In all divorce and separate maintenance proceedings, and all civil actions that do not include one or
169 more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be \$60, \$10
170 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132 to be paid by the
171 plaintiff at the time of instituting the suit, which shall include the furnishing of a duly certified copy of the
172 final decree. The fees prescribed by this subdivision shall be charged upon the filing of a counterclaim or a
173 claim impleading a third-party defendant. However, no fee shall be charged for (i) the filing of a cross-claim
174 or setoff in any pending suit or (ii) the filing of a counterclaim or any other responsive pleading in any
175 annulment, divorce, or separate maintenance proceeding. In divorce cases, when there is a merger of a

divorce of separation a mensa et thoro into a decree of divorce a vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of both such decrees.

27. For the acceptance of credit or debit cards in lieu of money to collect and secure all fees, including filing fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect from the person presenting such credit or debit card a reasonable convenience fee for the processing of such credit or debit card. Such convenience fee shall not exceed four percent of the amount paid for the transaction or a flat fee of \$2 per transaction. The clerk may set a lower convenience fee for electronic filing of civil or criminal proceedings pursuant to § 17.1-258.3. Nothing herein shall be construed to prohibit the clerk from outsourcing the processing of credit and debit card transactions to a third-party private vendor engaged by the clerk. Convenience fees shall be used to cover operational expenses as defined in § 17.1-295.

28. For the return of any check unpaid by the financial institution on which it was drawn or notice is received from the credit or debit card issuer that payment will not be made for any reason, the clerk may collect a fee of \$50 or 10 percent of the amount of the payment, whichever is greater.

29. For all services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, or 17.1-275.4, in an adoption proceeding, a fee of \$20, in addition to the fee imposed under § 63.2-1246, to be paid by the petitioner or petitioners. For each petition for adoption filed pursuant to § 63.2-1201, except those filed pursuant to subdivisions 4 and 5 of § 63.2-1210, an additional \$50 filing fee as required under § 63.2-1201 shall be deposited in the Virginia Birth Father Registry Fund pursuant to § 63.2-1249.

30. For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the same amount as the fee for the original license.

31. For the filing of any petition as provided in §§ 33.2-1023, 33.2-1024, and 33.2-1027, a fee of \$5 to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in § 33.2-1021, as well as for any order of the court relating thereto, the clerk shall charge the same fee as for recording a deed as provided for in this section, to be paid by the party upon whose request such certificate is recorded or order is entered.

32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme Court, including all papers necessary to be copied and other services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9,

205 a fee of \$20.

206 33. [Repealed.]

207 34. For filings, etc., under the Uniform Federal Lien Registration Act (§ 55.1-653 et seq.), the fees shall
208 be as prescribed in that Act.

209 35. [Repealed.]

210 36. For recordation of certificate and registration of names of nonresident owners in accordance with §
211 59.1-74, a fee of \$10.

212 37. For maintaining the information required under the Overhead High Voltage Line Safety Act (§
213 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

214 38. For lodging, indexing, and preserving a will in accordance with § 64.2-409, a fee of \$5.

215 39. For filing a financing statement in accordance with § 8.9A-505, the fee shall be as prescribed under §
216 8.9A-525.

217 40. For filing a termination statement in accordance with § 8.9A-513, the fee shall be as prescribed under
218 § 8.9A-525.

219 41. For filing assignment of security interest in accordance with § 8.9A-514, the fee shall be as prescribed
220 under § 8.9A-525.

221 42. For filing a petition as provided in §§ 64.2-2001 and 64.2-2013, the fee shall be \$10.

222 43. For issuing any execution, and recording the return thereof, a fee of \$1.50.

223 44. For the preparation and issuance of a summons for interrogation by an execution creditor, a fee of \$5.
224 If there is no outstanding execution, and one is requested herewith, the clerk shall be allowed an additional
225 fee of \$1.50, in accordance with subdivision A 44.

226 B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if
227 applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for courthouse construction, renovation
228 or maintenance.

229 C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if
230 applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for services provided for the poor,
231 without charge, by a nonprofit legal aid program.

232 D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if
233 applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for public law libraries.

E. All fees collected pursuant to subdivision A 27 and § 17.1-276 shall be deposited by the clerk into a special revenue fund held by the clerk, which will restrict the funds to their statutory purpose.

F. The provisions of this section shall control the fees charged by clerks of circuit courts for the services above described.

§ 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. 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. 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. 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. 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;

263 10. To a partnership or limited liability company, when the grantors are entitled to receive not less than 50
264 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer
265 to a limited liability company is not a precursor to a transfer of control of the assets of the company to avoid
266 recordation taxes;

267 11. From a partnership or limited liability company, when the grantees are entitled to receive not less than
268 50 percent of the profits and surplus of such partnership or limited liability company, provided that the
269 transfer from a limited liability company is not subsequent to a transfer of control of the assets of the
270 company to avoid recordation taxes;

271 12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of the
272 trust are the same persons, regardless of whether other beneficiaries may also be named in the trust
273 instrument, when no consideration has passed between the grantor and the beneficiaries;

274 13. When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal Revenue
275 Code that is organized and operated primarily to acquire land and purchase materials to erect or rehabilitate
276 low-cost homes on such land, which homes are sold at cost to persons who otherwise would be unable to
277 afford to buy a home through conventional means;

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

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

282 B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:

283 1. Given by an incorporated college or other incorporated institution of learning not conducted for profit;

284 2. Given by the trustee or trustees of a church or religious body or given by an incorporated church or
285 religious body, or given by a corporation mentioned in § 57-16.1;

286 3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or operating a
287 hospital or hospitals not for pecuniary profit;

288 4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a debt
289 payable to any other local governmental entity or political subdivision;

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

291 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 and the fee imposed by §§ 58.1-802.3, 58.1-802.4 and 58.1-802.5 shall not apply to any:

1. Transaction described in subdivisions A 6 through 12, 14, and 15;

2. Instrument or writing given to secure a debt;

3. Deed conveying real estate from an incorporated college or other incorporated institution of learning not conducted for profit;

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

5. Conveyance of real estate to the Commonwealth or any county, city, town, district, or other political subdivision thereof, if such political unit is required by law to reimburse the parties taxable pursuant to § 58.1-802 or subject to the fee under § 58.1-802.3 or 58.1-802.5; or

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

D. No recordation tax shall be required for the recordation of any deed of gift *or quitclaim deed* between a grantor or grantors and a grantee or grantees when no consideration has passed between the parties. Such deed shall state therein that it is a deed of gift *or quitclaim deed and shall show on its face that no consideration has passed.*

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

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, and 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural, or open space areas.

G. The words "trustee" or "trustees," as used in subdivisions A 2, B 2, and C 6, include the trustees

321 mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

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

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

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

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

339 **§ 58.1-811. (Contingent effective date) Exemptions.**

340 A. The taxes imposed by §§ 58.1-801 and 58.1-807 shall not apply to any deed conveying real estate or
341 lease of real estate:

342 1. To an incorporated college or other incorporated institution of learning not conducted for profit, where
343 such real estate is intended to be used for educational purposes and not as a source of revenue or profit;

344 2. To an incorporated church or religious body or to the trustee or trustees of any church or religious body,
345 or a corporation mentioned in § 57-16.1, where such real estate is intended to be used exclusively for
346 religious purposes, or for the residence of the minister of any such church or religious body;

347 3. To the United States, the Commonwealth, or to any county, city, town, district, or other political
348 subdivision of the Commonwealth;

349 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. 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. 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. 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. 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. 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. 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. 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. 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;

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

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

383 B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:

384 1. Given by an incorporated college or other incorporated institution of learning not conducted for profit;

385 2. Given by the trustee or trustees of a church or religious body or given by an incorporated church or
386 religious body, or given by a corporation mentioned in § 57-16.1;

387 3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or operating a
388 hospital or hospitals not for pecuniary profit;

389 4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a debt
390 payable to any other local governmental entity or political subdivision;

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

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

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

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

398 1. Transaction described in subdivisions A 6 through 12, 14, and 15;

399 2. Instrument or writing given to secure a debt;

400 3. Deed conveying real estate from an incorporated college or other incorporated institution of learning
401 not conducted for profit;

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

404 5. Conveyance of real estate to the Commonwealth or any county, city, town, district, or other political
405 subdivision thereof, if such political unit is required by law to reimburse the parties taxable pursuant to §
406 58.1-802; or

407 6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an

incorporated church or religious body, or from a corporation mentioned in § 57-16.1.

D. No recordation tax shall be required for the recordation of any deed of gift *or quitclaim deed* between a grantor or grantors and a grantee or grantees when no consideration has passed between the parties. Such deed shall state therein that it is a deed of gift *or quitclaim deed and shall show on its face that no consideration has passed.*

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

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

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

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

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

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

K. No recordation tax levied pursuant to this chapter shall be required for the recordation of any deed of distribution when no consideration has passed between the parties. Such deed shall state therein on the front page that it is a deed of distribution. As used in this subsection, "deed of distribution" means a deed conveying property from an estate or trust (i) to the original beneficiaries of a trust from the trustees holding title under a deed in trust; (ii) the purpose of which is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a

- 437** dispositive provision in the trust instrument; (iii) that carries out the exercise of a power of appointment; or
- 438** (iv) is pursuant to the exercise of the power under the Uniform Trust Decanting Act (§ 64.2-779.1 et seq.).