VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 400

An Act to amend and reenact §§ 43-13.2 and 43-13.3 of the Code of Virginia, relating to the 120-day mechanic's lien affidavit used in residential real estate closings.

[H 1615]

Approved March 16, 2003

Be it enacted by the General Assembly of Virginia:

1. That §§ 43-13.2 and 43-13.3 of the Code of Virginia are amended and reenacted as follows:

§ 43-13.2. When an affidavit or a signed statement of payment required of owner prior to sale.

A person who is both the owner of a one- or two-family residential dwelling unit and either a developer of such property, a contractor in connection with the development or improvement of such property or a contractor or subcontractor furnishing labor or material in connection with the development or improvement of such property shall, at the time of settlement on the sale of such property, provide the purchaser with an affidavit *or a signed statement attested to by a witness* stating either (i) that all persons performing labor or furnishing materials in connection with the improvements on such property and with whom such owner is in privity of contract have been paid in full or (ii) the name, address and amount payable or claimed to be payable to any person so performing labor or furnishing materials and with whom such owner is in privity of contract. Willful failure to provide such statement or any willful material misrepresentation with respect to such a statement which causes a monetary loss to a financial institution, title company, contractor, subcontractor, supplier, owner, mechanics' lien agent or any other person or institution shall be punishable as a Class 5 felony.

§ 43-13.3. An affidavit or a signed statement of payment required of owner prior to sale or refinance; penalty.

Any person who is the owner of a one-~~family~~ or two-family residential dwelling unit not included within the scope of § 43-13.2 shall, at the time of settlement on the sale of such property, provide the purchaser, or lender in the case of a permanent loan or refinance, with an affidavit *or a signed statement attested to by a witness* stating either (i) that all persons performing labor or furnishing materials in connection with any improvements on such property within 120 days prior to the date of settlement and with whom such owner is in privity of contract have been paid in full, or (ii) the name, address and amount payable or claimed to be payable to any person so performing labor or furnishing materials and with whom such owner is in privity of contract. Any willful material misrepresentation in the affidavit *or signed statement attested to by a witness* which causes a monetary loss to any financial institution, title company, or purchaser shall be punishable as a Class 3 misdemeanor.