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HOUSE BILL NO. 1456

Offered January 23, 2004

A BILL to amend and reenact §§ 15.2-906, 15.2-1115, 58.1-3965 and 58.1-3970.1 of the Code of Virginia, relating to nuisance abatement; tax delinquent properties.

Patron—Jones, D.C.

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-906, 15.2-1115, 58.1-3965 and 58.1-3970.1 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-906. Authority to require removal, repair, etc., of buildings and other structures.

Any locality may, by ordinance, provide that:

1. The owners of property therein, shall at such time or times as the governing body may prescribe, remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of such locality;

2. The locality through its own agents or employees may remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of such locality, if the owner and lien holder of such property after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure the building, wall or other structure. For purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, reasonable notice includes a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published once a week for two successive weeks in a newspaper having general circulation in the locality. No action shall be taken by the locality to remove, repair or secure any building, wall or other structure for at least 30 days following the later of the return of the receipt or newspaper publication;

3. In the event the locality, through its own agents or employees, removes, repairs or secures any building, wall or any other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected;

4. Every charge authorized by this section or § 15.2-900 with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed;

5. A locality may prescribe civil penalties, not to exceed a total of \$1,000, for violations of any ordinance adopted pursuant to this section.

§ 15.2-1115. Abatement or removal of nuisances.

A municipal corporation may compel the abatement or removal of all nuisances, including but not limited to the removal of weeds from private and public property and snow from sidewalks; the covering or removal of offensive, unwholesome, unsanitary or unhealthy substances allowed to accumulate in or on any place or premises; the filling in to the street level, fencing or protection by other means, of the portion of any lot adjacent to a street where the difference in level between the lot and the street constitutes a danger to life and limb; the raising or draining of grounds subject to be covered by stagnant water; and the razing or repair of all unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public. If after such reasonable notice as the municipal corporation may prescribe the owner or owners, occupant or occupants of the property or premises affected by the provisions of this section shall fail to abate or obviate the condition or nuisance, the municipal corporation may do so and charge and collect the cost thereof from the owner or owners, occupant or occupants of the property affected in any manner provided by law for the collection of state or local taxes.

Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3

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HB1456

59 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such
60 liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser
61 who is unrelated by blood or marriage to the owner and who has no business association with the
62 owner. All such liens shall remain a personal obligation of the owner of the property at the time the
63 liens were imposed.

64 § 58.1-3965. When land may be sold for delinquent taxes; notice of sale; owner's right of
65 redemption.

66 A. When any taxes on any real estate in a county, city or town are delinquent on December 31
67 following the second anniversary of the date on which such taxes have become due, or, in the case of
68 real property upon which is situated any structure that has been condemned by the local building official
69 pursuant to applicable law or ordinance, the first anniversary of the date on which such taxes have
70 become due, or, in the case of real estate which is deemed abandoned as provided herein, and the taxes
71 on any real estate are delinquent on December 31 following the ~~third~~ second anniversary of the date on
72 which such taxes have become due, such real estate may be sold for the purpose of collecting all
73 delinquent taxes on such property.

74 Upon a finding by the court, on real estate with an assessed value of \$20,000 \$50,000 or less in any
75 county, city or town, that (i) any taxes on such real estate are delinquent on December 31 following the
76 ~~third~~ second anniversary of the date on which such taxes have become due and (a) the land or structure
77 on it has been declared a nuisance by the local code official due to unresolved code violations, (b) the
78 owner of record of the property has failed to abate the nuisance after proper statutory notice has been
79 given by code enforcement officials, and (c) the locality has taken steps to abate the nuisance conditions
80 and placed a lien on the property for the cost of such abatement, and the lien has remained unpaid; or
81 (ii) any taxes on such real estate are delinquent on December 31 following the ~~seventh~~ fifth anniversary
82 of the date on which such taxes have become due, the property shall be deemed abandoned and subject
83 to sale by public auction pursuant to proper notice under this subsection.

84 The officer charged with the duty of collecting taxes for the locality wherein the real property lies
85 shall, at least 30 days prior to instituting any judicial proceeding pursuant to this section, send a notice
86 to (i) the last known address of the property owner as such owner and address appear in the records of
87 the treasurer, (ii) the property address if the property address is different from the owner's address and if
88 the real estate is listed with the post office by a numbered and named street address and (iii) the last
89 known address of any trustee under any deed of trust, mortgagee under any mortgage and any other lien
90 creditor, if such trustee, mortgagee or lien creditor is not otherwise made a party defendant under
91 § 58.1-3967, advising such property owner, trustee, mortgagee or other lien creditor of the delinquency
92 and the officer's intention to take action. Such officer shall also cause to be published at least once a list
93 of real estate which will be offered for sale under the provisions of this article in a newspaper of
94 general circulation in the locality, at least 30 days prior to the date on which judicial proceedings under
95 the provisions of this article are to be commenced.

96 The pro rata cost of such publication shall become a part of the tax and together with all other costs,
97 including reasonable attorneys' fees set by the court and the costs of any title examination conducted in
98 order to comply with the notice requirements imposed by this section, shall be collected if payment is
99 made by the owner in redemption of the real property described therein whether or not court
100 proceedings have been initiated. A notice substantially in the following form shall be sufficient:

101 Notice

102 Judicial Sale of Real Property

103 On (date) proceedings will be commenced under the authority of § 58.1-3965 et seq.
104 of the Code of Virginia to sell the following parcels for payment of delinquent taxes:
105 (description of properties)

106 B. The owner of any property listed may redeem it at any time before the date of the sale by paying
107 all accumulated taxes, penalties, reasonable attorneys' fees, interest and costs thereon, including the pro
108 rata cost of publication hereunder. Partial payment of delinquent taxes, penalties, reasonable attorneys'
109 fees, interest or costs shall not be sufficient to redeem the property, and shall not operate to suspend,
110 invalidate or make moot any action for judicial sale brought pursuant to this article.

111 C. Notwithstanding the provisions of subsection B and of § 58.1-3954, the treasurer or other officer
112 responsible for collecting taxes may suspend any action for sale of the property commenced pursuant to
113 this article upon entering into an agreement with the owner of the real property for the payment of all
114 delinquent amounts in installments over a period which is reasonable under the circumstances, but in no
115 event shall exceed 24 months. Any such agreement shall be secured by the lien of the locality pursuant
116 to § 58.1-3340.

117 D. During the pendency of any installment agreement permitted under subsection C, any proceeding
118 for a sale previously commenced shall not abate, but shall be continued on the docket of the court in
119 which such action is pending. It shall be the duty of the treasurer or other officer responsible for
120 collecting taxes to promptly notify the clerk of such court when obligations arising under such an

installment agreement have been fully satisfied. Upon the receipt of such notice, the clerk shall cause the action to be stricken from the docket.

E. In the event the owner of the property or other responsible person defaults upon obligations arising under an installment agreement permitted by subsection C, or during the term of any installment agreement, defaults on any current obligation as it becomes due, such agreement shall be voidable by the treasurer or other officer responsible for collecting taxes upon 15 days' written notice to the signatories of such agreement irrespective of the amount remaining due. Any action for the sale previously commenced pursuant to this article may proceed without any requirement that the notice or advertisement required by subsection A, which had previously been made with respect to such property, be repeated. No owner of property which has been the subject of a defaulted installment agreement shall be eligible to enter into a second installment agreement with respect to the same property within three years of such default.

F. Any corporate, partnership or limited liability officer, as those terms are defined in § 58.1-1813, who willfully fails to pay any tax being enforced by this section, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax not paid, to be assessed and collected in the same manner as such taxes are assessed and collected.

§ 58.1-3970.1. Appointment of special commissioner to execute title to certain real estate with delinquent taxes or liens to localities.

In any proceedings under this article for the sale of a parcel or parcels of real estate which meet all of the following: (i) each parcel has delinquent real estate taxes or the locality has a lien against the parcel for removal, repair or securing of a building or structure; removal of trash, garbage, refuse, litter; or the cutting of grass, weeds or other foreign growth, (ii) each parcel has an assessed value of \$20,000 \$50,000 or less, and (iii) such taxes and liens, together, including penalty and accumulated interest, exceed 50 percent of the assessed value of the parcel or such taxes alone exceed 25 percent of the assessed value of the parcel, the locality may petition the circuit court to appoint a special commissioner to execute the necessary deed or deeds to convey the real estate to the locality in lieu of the sale at public auction. After notice as required by this article, service of process, and upon answer filed by the owner or other parties in interest to the bill in equity, the court shall allow the parties to present evidence and arguments, ore tenus, prior to the appointment of the special commissioner. Any surplusage accruing to a locality as a result of the sale of the parcel or parcels after the receipt of the deed shall be payable to the beneficiaries of any liens against the property and to the former owner, his heirs or assigns in accordance with § 58.1-3967. No deficiency shall be charged against the owner after conveyance to the locality.