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## SENATE BILL NO. 509

Senate Amendments in [ ] — January 26, 2004

*A BILL to amend and reenact §§ 6.1-2.25 and 6.1-2.27 of the Code of Virginia, relating to summonses and subpoenas; orders have force and effect of circuit court decrees.*

Patrons Prior to Engrossment—Senator Mims; Delegate: Reese

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That §§ 6.1-2.25 and 6.1-2.27 of the Code of Virginia are amended and reenacted as follows:****§ 6.1-2.25. Rules and regulations.**

Except as provided in § 6.1-2.26, the appropriate licensing authority may issue *summonses, subpoenas*, rules, regulations, and orders, including educational requirements, consistent with and necessary to carry out the provisions of this chapter. A title insurance company domiciled in ~~this the~~ Commonwealth or acting in the capacity of a settlement agent pursuant to this chapter shall account for funds held and income derived from escrow, closing, or settlement services in accordance with the applicable instructions of, and the accounting practices and procedures manuals adopted by, the National Association of Insurance Commissioners when filing the annual statements and reports required under Chapter 13 (§ 38.2-1300 et seq.) of Title 38.2.

**§ 6.1-2.27. Penalties and liabilities.**

A. If the appropriate licensing authority determines that the settlement agent licensed by it or any of its other licensees has violated this chapter, or any regulation or order promulgated thereunder, after notice and opportunity to be heard, the appropriate licensing authority may order one or more of the following:

1. A penalty not exceeding \$5,000 for each violation;
2. Revocation or suspension of the applicable licenses [ , *or restraining order requiring such person to cease and desist from engaging in such act or practice* ] ; and
3. Restitution to be made by the person violating this chapter in the amount of any actual, direct financial loss.

B. In addition to the authority given in subsection A, and pursuant to § 12.1-13, the Commission, after determining that any person who does not hold a license from the appropriate licensing authority has violated this chapter or any regulation or order promulgated thereunder, may order one or more of the following:

1. A penalty not exceeding \$5,000 for each violation;
2. A temporary or permanent injunction, or restraining order requiring such person to cease and desist from engaging in such act or practice;
3. Restitution to be made by the person violating this chapter in the amount of any actual, direct financial loss.

C. Nothing in this section shall affect the right of the appropriate licensing authority to impose any other penalties provided by law or regulation. Notwithstanding any provision contained in this section to the contrary, as to that portion of any complaint by a party to the real estate transaction arising under this chapter or any regulation or order promulgated thereunder relating to the unauthorized practice of law, the Virginia State Bar, after complying with applicable law and regulation relating to unauthorized practice of law complaints and concluding the activity was not authorized by statute or regulation, may refer that portion of such complaint to the Attorney General of Virginia or a Commonwealth's Attorney who shall have the power, in addition to any other powers conferred on him by law, to seek the issuance of a temporary or permanent injunction or restraining order against any person so violating this chapter or any regulation or order promulgated thereunder.

D. *A final order of the licensing authority imposing a penalty or ordering restitution may be recorded, enforced, and satisfied as orders or decrees of a circuit court upon certification of such order by the licensing authority.*

ENGROSSED

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