

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 36-106 of the Code of Virginia, relating to the Building Code; violations; penalty.

[H 2789]

Approved

Be it enacted by the General Assembly of Virginia:**1. That § 36-106 of the Code of Virginia is amended and reenacted as follows:**

§ 36-106. Violation a misdemeanor; civil penalty.

A. It shall be unlawful for any owner or any other person, firm or corporation, on or after the effective date of any Code provisions, to violate any such provisions. Any such violation shall be deemed a misdemeanor and any owner or any other person, firm or corporation convicted of such a violation shall be punished by a fine of not more than \$2,500. In addition, each day the violation continues after conviction or the court-ordered abatement period has expired shall constitute a separate offense. If the violation remains uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in order to comply with the Code. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within six months of the date of conviction. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense. Any person convicted of a second offense committed within less than five years after a first offense under this chapter shall be punished by a fine of not less than \$1,000 nor more than \$2,500. Any person convicted of a second offense committed within a period of five to ten years of a first offense under this chapter shall be punished by a fine of not less than \$500 nor more than \$2,500. Any person convicted of a third or subsequent offense involving the same property committed within ten years of an offense under this chapter after having been at least twice previously convicted shall be punished by confinement in jail for not more than ten days and a fine of not less than \$2,500 nor more than \$5,000, either or both. No portion of the fine imposed for such third or subsequent offense committed within ten years of an offense under this chapter shall be suspended.

B. Violations of any provision of the Building Code, adopted and promulgated pursuant to § 36-103, that results in a dwelling not being a safe, decent and sanitary dwelling, as defined in § 25.1-400, in a locality where the local governing body has taken official action to enforce such provisions, shall be deemed a misdemeanor and any owner or any other person, firm, or corporation convicted of such a violation shall be punished by a fine of not more than \$2,500. In addition, each day the violation continues after conviction or the expiration of the court-ordered abatement period shall constitute a separate offense. If the violation remains uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in order to comply with the Code. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within six months of the date of conviction. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense. Any person convicted of a second offense, committed within less than five years after a first offense under this chapter shall be punished by confinement in jail for not more than five days and a fine of not less than \$1,000 nor more than \$2,500, either or both. Provided, however, that the provision for confinement in jail shall not be applicable to any person, firm, or corporation, when such violation involves a multiple-family dwelling unit. Any person convicted of a second offense committed within a period of five to ten years of a first offense under this chapter shall be punished by a fine of not less than \$500 nor more than \$2,500. Any person convicted of a third or subsequent offense involving the same property, committed within 10 years of an offense under this chapter after having been at least twice previously convicted, shall be punished by confinement in jail for not more than 10 days and a fine of not less than \$2,500 nor more than \$5,000, either or both. No portion of the fine imposed for such third or subsequent offense committed within 10 years of an offense under this chapter shall be suspended.

B C. Any locality may adopt an ordinance which establishes a uniform schedule of civil penalties for violations of specified provisions of the Code which are not abated, or otherwise remedied through hazard control, promptly after receipt of notice of violation from the local enforcement officer.

This schedule of civil penalties shall be uniform for each type of specified violation, and the penalty for any one violation shall be a civil penalty of not more than \$100 for the initial summons and not more than \$150 for each additional summons. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative

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57 set of facts shall not be charged more frequently than once in any ten-day period, and a series of
58 specified violations arising from the same operative set of facts shall not result in civil penalties which
59 exceed a total of \$3,000. Designation of a particular Code violation for a civil penalty pursuant to this
60 section shall be in lieu of criminal sanctions, and except for any violation resulting in injury to persons,
61 such designation shall preclude the prosecution of a violation as a misdemeanor.

62 Any person summoned or issued a ticket for a scheduled violation may make an appearance in
63 person or in writing by mail to the department of finance or the treasurer of the locality prior to the date
64 fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the
65 civil penalty established for the offense charged. Such persons shall be informed of their right to stand
66 trial and that a signature to an admission of liability will have the same force and effect as a judgment
67 of court. As a condition of waiver of trial, admission of liability, and payment of a civil penalty, the
68 violator shall agree in writing to abate or remedy the violation within six months after the date of
69 payment of the civil penalty.

70 If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit
71 liability, the violation shall be tried in the general district court in the same manner and with the same
72 right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section,
73 it shall be the burden of the locality to show the liability of the violator by a preponderance of the
74 evidence. An admission of liability or finding of liability shall not be a criminal conviction for any
75 purpose.

76 If the violation concerns a residential unit, and if the violation remains uncorrected at the time of
77 assessment of the civil penalty, the court shall order the violator to abate, or otherwise remedy through
78 hazard control, the violation in order to comply with the Code. Except as otherwise provided by the
79 court for good cause shown, any such violator shall abate, or otherwise remedy through hazard control,
80 the violation within six months of the date of the assessment of the civil penalty.

81 *€ D.* Any owner or any other person, firm or corporation violating any Code provisions relating to
82 lead hazard controls that poses a hazard to the health of pregnant women and children under the age of
83 six years who occupy the premises shall, upon conviction, be guilty of a misdemeanor and shall be
84 subject to a fine of not more than \$2,500. If the court convicts pursuant to this subsection and sets a
85 time by which such hazard must be controlled, each day the hazard remains uncontrolled after the time
86 set for the lead hazard control has expired shall constitute a separate violation of the Uniform Statewide
87 Building Code.

88 The landlord shall maintain the painted surfaces of the dwelling unit in compliance with the
89 International Property Maintenance Code of the Uniform Statewide Building Code. The landlord's failure
90 to do so shall be enforceable in accordance with the Uniform Statewide Building Code and shall entitle
91 the tenant to terminate the rental agreement.

92 Termination of the rental agreement or any other action in retaliation against the tenant after written
93 notification of (i) a lead hazard in the dwelling unit or (ii) that a child of the tenant, who is an
94 authorized occupant in the dwelling unit, has an elevated blood lead level, shall constitute retaliatory
95 conduct in violation of § 55-248.39.