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HOUSE BILL NO. 391

Offered January 9, 2008

Prefiled January 4, 2008

A BILL to amend and reenact § 36-105.1:1 of the Code of Virginia, relating to the Uniform Statewide Building Code; rental inspection districts.

Patron—Bulova

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 36-105.1:1 of the Code of Virginia is amended and reenacted as follows:

§ 36-105.1:1. Rental inspections; rental inspection districts; exemptions; penalties.

A. For purposes of this section:

"Dwelling unit" means a building or structure or part thereof that is used for a home or residence by one or more persons who maintain a household.

"Owner" means the person shown on the current real estate assessment books or current real estate assessment records.

"Residential rental dwelling unit" means a dwelling unit that is leased or rented to one or more tenants. However, a dwelling unit occupied in part by the owner thereof shall not be construed to be a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit which has its own cooking and sleeping areas, and a bathroom, unless otherwise provided in the zoning ordinance by the local governing body.

B. Localities may inspect residential rental dwelling units. The local governing body may adopt an ordinance to inspect residential rental dwelling units for compliance with the Building Code and to promote safe, decent and sanitary housing for its citizens, in accordance with the following:

1. Except as provided in subdivision B 3, the dwelling units shall be located in a rental inspection district established by the local governing body in accordance with this section, and

2. The rental inspection district is based upon a finding by the local governing body that (i) there is a need to protect the public health, safety and welfare of the occupants of dwelling units inside the designated rental inspection district; (ii) the residential rental dwelling units within the designated rental inspection district are either (a) blighted or in the process of deteriorating, or (b) the residential rental dwelling units are in the need of inspection by the building department to prevent deterioration, taking into account the number, age and condition of residential dwelling rental units inside the proposed rental inspection district; and (iii) the inspection of residential rental dwelling units inside the proposed rental inspection district is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the proposed rental inspection district. ~~Nothing~~*Except as provided in subsection C, nothing* in this section shall be construed to authorize a locality-wide rental inspection district and a local governing body shall limit the boundaries of the proposed rental inspection district to such areas of the locality that meet the criteria set out in this subsection, or

3. An individual residential rental dwelling unit outside of a designated rental inspection district is made subject to the rental inspection ordinance based upon a separate finding for each individual dwelling unit by the local governing body that (i) there is a need to protect the public health, welfare and safety of the occupants of that individual dwelling unit; (ii) the individual dwelling unit is either (a) blighted or (b) in the process of deteriorating; or (iii) there is evidence of violations of the Building Code that affect the safe, decent and sanitary living conditions for tenants living in such individual dwelling unit.

C. Any city or town with a land area of 10 square miles or less may create a localitywide inspection district provided the local governing body has made a finding that the homogeneous distribution of rental units makes establishment of separate inspection districts impractical.

For purposes of this section, the local governing body may designate a local government agency other than the building department to perform all or part of the duties contained in the enforcement authority granted to the building department by this section.

~~C.~~*D.* 1. Notification to owners of dwelling units. Before adopting a rental inspection ordinance and establishing a rental inspection district or an amendment to either, the governing body of the locality shall hold a public hearing on the proposed ordinance. Notice of the hearing shall be published once a week for two successive weeks in a newspaper published or having general circulation in the locality.

Upon adoption by the local governing body of a rental inspection ordinance, the building department shall make reasonable efforts to notify owners of residential rental dwelling units in the designated rental

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inspection district, or their designated managing agents, and to any individual dwelling units subject to the rental inspection ordinance, not located in a rental inspection district, of the adoption of such ordinance, and provide information and an explanation of the rental inspection ordinance and the responsibilities of the owner thereunder.

2. Notification by owners of dwelling units to locality. The rental inspection ordinance may include a provision that requires the owners of dwelling units in a rental inspection district to notify the building department in writing if the dwelling unit of the owner is used for residential rental purposes. The building department may develop a form for such purposes. The rental inspection ordinance shall not include a registration requirement or a fee of any kind associated with the written notification pursuant to this subdivision. A rental inspection ordinance may not require that the written notification from the owner of a dwelling unit subject to a rental inspection ordinance be provided to the building department in less than 60 days after the adoption of a rental inspection ordinance. However, there shall be no penalty for the failure of an owner of a residential rental dwelling unit to comply with the provisions of this subsection, unless and until the building department provides personal or written notice to the property owner, as provided in this section. In any event, the sole penalty for the willful failure of an owner of a dwelling unit who is using the dwelling unit for residential rental purposes to comply with the written notification requirement shall be a civil penalty of up to $50. For purposes of this subsection, notice sent by regular first class mail to the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed compliance with this requirement.

~~D.~~*E.* Initial inspection of dwelling units when rental inspection district is established. Upon establishment of a rental inspection district in accordance with this section, the building department may, in conjunction with the written notifications as provided for in subsection ~~C~~*D,* proceed to inspect dwelling units in the designated rental inspection district to determine if the dwelling units are being used as a residential rental property and for compliance with the provisions of the Building Code that affect the safe, decent and sanitary living conditions for the tenants of such property.

~~E.~~*F.* Provisions for initial and periodic inspections of multifamily dwelling units. If a multifamily development has more than 10 dwelling units, in the initial and periodic inspections, the building department shall inspect only a sampling of dwelling units, of not less than two and not more than 10 percent of the dwelling units, of a multifamily development, which includes all of the multifamily buildings which are part of that multifamily development. In no event, however, shall the building department charge a fee authorized by this section for inspection of more than 10 dwelling units. If the building department determines upon inspection of the sampling of dwelling units that there are violations of the Building Code that affect the safe, decent and sanitary living conditions for the tenants of such multifamily development, the building department may inspect as many dwelling units as necessary to enforce the Building Code, in which case, the fee shall be based upon a charge per dwelling unit inspected, as otherwise provided in subsection ~~H~~*I*.

~~F.~~*G.* 1. Follow-up inspections. Upon the initial or periodic inspection of a residential rental dwelling unit subject to a rental inspection ordinance, the building department has the authority under the Building Code to require the owner of the dwelling unit to submit to such follow-up inspections of the dwelling unit as the building department deems necessary, until such time as the dwelling unit is brought into compliance with the provisions of the Building Code that affect the safe, decent and sanitary living conditions for the tenants.

2. Periodic inspections. Except as provided in subdivision ~~F~~*G* 1, following the initial inspection of a residential rental dwelling unit subject to a rental inspection ordinance, the building department may inspect any residential rental dwelling unit in a rental inspection district, that is not otherwise exempted in accordance with this section, no more than once each calendar year.

~~G.~~*H.* Exemptions from rental inspection ordinance. Upon the initial or periodic inspection of a residential rental dwelling unit subject to a rental inspection ordinance for compliance with the Building Code, provided that there are no violations of the Building Code that affect the safe, decent and sanitary living conditions for the tenants of such residential rental dwelling unit, the building department shall provide, to the owner of such residential rental dwelling unit, an exemption from the rental inspection ordinance for a minimum of four years. Upon the sale of a residential rental dwelling unit, the building department may perform a periodic inspection as provided in subdivision ~~F~~*G* 2, subsequent to such sale. If a residential rental dwelling unit has been issued a certificate of occupancy within the last four years, an exemption shall be granted for a minimum period of four years from the date of the issuance of the certificate of occupancy by the building department. If the residential rental dwelling unit becomes in violation of the Building Code during the exemption period, the building department may revoke the exemption previously granted under this section.

~~H.~~*I.* A local governing body may establish a fee schedule for enforcement of the Building Code, which includes a per dwelling unit fee for the initial inspections, follow-up inspections and periodic inspections under this section.

~~I.~~*J.* The provisions of this section shall not, in any way, alter the rights and obligations of landlords and tenants pursuant to the applicable provisions of Chapter 13 (§ 55-217 et seq.) or Chapter 13.2 (§ 55-248.2 et seq.) of Title 55.

~~J.~~*K.* The provisions of this section shall not alter the duties or responsibilities of the local building department under § 36-105 to enforce the Building Code.

~~K.~~*L.* Unless otherwise provided in this section, penalties for violation of this section shall be the same as the penalties provided in the Building Code.

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