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HOUSE BILL NO. 2164

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation
on February 5, 2009)

(Patron Prior to Substitute—Delegate Lohr)

A BILL to amend and reenact §§ 43-32, 43-33, 43-34, 46.2-633, 46.2-640, 46.2-1200, 46.2-1202, 46.2-1206, 46.2-1600, 46.2-1601, 55-417, 55-418, and 55-419 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 46.2-1202.1, 46.2-1202.2, and 46.2-1202.3, and to repeal §§ 46.2-1204 and 46.2-1208 of the Code of Virginia, relating to mechanics' liens and acquisition and disposal of abandoned vehicles.

Be it enacted by the General Assembly of Virginia:

1. That §§ 43-32, 43-33, 43-34, 46.2-633, 46.2-640, 46.2-1200, 46.2-1202, 46.2-1206, 46.2-1600, 46.2-1601, 55-417, 55-418, and 55-419 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-1202.1, 46.2-1202.2, and 46.2-1202.3 as follows:

§ 43-32. Lien of keeper of livery stable, marina, etc.

A. Every keeper of a livery stable, hangar, tie-down, *or* marina, ~~or garage~~, and every person pasturing or keeping any horses or other animals, ~~vehicles~~, boats, aircraft, or harness, shall have a lien upon such horses and other animals, ~~vehicles~~, boats, aircraft, and harness, for the amount which may be due him for the towing, storage, recovery, keeping, supporting, and care thereof, until such amount is paid.

B. In the case of any boat, *or* aircraft, ~~or vehicle~~ subject to a chattel mortgage, security agreement, deed of trust, or other instrument securing money, the keeper of the marina, hangar, *or* tie-down, ~~or garage~~ shall have a lien thereon for his reasonable charges for storage under this section not to exceed \$500 and for alteration and repair under § 43-33 not to exceed \$800. However, in the case of a storage lien, to obtain the priority for an amount in excess of \$300, the person asserting the lien shall make a reasonable attempt to notify any secured party of record at the ~~Department of Motor Vehicles~~ *or* the Department of Game and Inland Fisheries by telephonic means and shall give written notice by certified mail, return receipt requested, to any secured party of record at the ~~Department of Motor Vehicles~~ *or* the Department of Game and Inland Fisheries within seven business days of taking possession of the boat, *or* aircraft ~~or vehicle~~. If the secured party does not, within seven business days of receipt of the notice, take or refuse redelivery to it or its designee, the lienor shall be entitled to priority for the full amount of storage charges, not to exceed \$500. Notwithstanding a redelivery, the ~~vehicle~~ *or* watercraft shall be subject to subsection D.

C. In addition, any person furnishing services involving the towing and recovery of a boat, *or* aircraft ~~or vehicle~~, shall have a lien for all normal costs incident thereto, if the person asserting the lien gives written notice within seven days of receipt of the boat, *or* aircraft ~~or vehicle~~ by certified mail, return receipt requested, to all secured parties of record at the ~~Department of Motor Vehicles~~ *or* the Department of Game and Inland Fisheries.

D. In addition, any keeper shall be entitled to a lien against any proceeds remaining after the satisfaction of all prior security interests or liens, and may retain possession of such property until such charges are paid.

E. Any lien created under this section shall not extend to any personal property which is not attached to ~~or~~ considered to be necessary for the proper operation of any motor vehicle, and it shall be the duty of any keeper of such personal property to return it to the owner if the owner claims the items prior to auction.

F. For the purposes of this section, in the case of a truck or combination of vehicles, the owner ~~or~~ in the case of a rented or leased vehicle, the lessee of the truck ~~or~~ tractor truck shall be liable for the costs of the towing, recovery, and storage of the cargo and of any trailer or semitrailer in the combination. Nothing in this subsection, however, shall bar the owner of the truck ~~or~~ tractor truck from subsequently seeking to recover from the owner of any trailer, semitrailer, or cargo all or any portion of these towing, recovery, and storage costs.

§ 43-33. Lien of mechanic for repairs.

Every mechanic, who shall alter or repair any article of personal property, *except motor vehicles as defined in § 46.2-100*, at the request of the owner of such property, shall have a lien thereon for his just and reasonable charges therefor and may retain possession of such property until such charges are paid.

And every mechanic, who shall make necessary alterations or repairs on any article of personal property which from its character requires the making of ordinary repairs thereto as a reasonable incident to its reasonable and customary use, at the request of any person legally in possession thereof

60 under a reservation of title contract, chattel mortgage, deed of trust, or other instrument securing money,
61 the person so in possession having authority to use such property, shall have a lien thereon for his just
62 and reasonable charges therefor to the extent of \$800. In addition, such mechanic shall be entitled to a
63 lien against the proceeds, if any, remaining after the satisfaction of all prior security interests or liens,
64 and may retain possession of such property until such charges are paid. In any action to enforce the lien
65 hereby given all persons having an interest in the property sought to be subjected shall be made parties
66 defendant.

67 If the owner of the property held by the mechanic shall desire to obtain possession thereof, he shall
68 make the mechanic defendant in proceeding in the county or municipal court to recover the property.

69 The owner may give a bond payable to the court, in a penalty of the amount equal to the lien
70 claimed by the mechanic and court costs, with security to be approved by the clerk, and conditioned for
71 the performance of the final judgment of the court on the trial of the proceeding, and with a further
72 condition to the effect that, if upon the hearing, the judgment of the court be that the lien of the
73 mechanic on such property, or any part thereof, be enforced, judgment may thereupon be entered against
74 the obligors on such bond for the amount due the mechanic and court costs, if assessed against the
75 owner, without further or other proceedings against them thereon. Upon giving of the bond, the property
76 shall be delivered to the owner.

77 § 43-34. Enforcement of liens acquired under §§ 43-31 through 43-33 and of liens of bailees.

78 ~~Any Except motor vehicles as defined in § 46.2-100, any~~ person having a lien under §§ 43-31
79 through 43-33 and any bailee, except where otherwise provided, having a lien as such at common law
80 on personal property in his possession which he has no power to sell for the satisfaction of the lien, if
81 the debt for which the lien exists is not paid within 10 days after it is due and the value of the property
82 affected by the lien does not exceed \$7,500, may sell such property or so much thereof as may be
83 necessary, by public auction, for cash. The proceeds shall be applied to the satisfaction of the debt and
84 expenses of sale, and the surplus, if any, shall be paid within 30 days of the sale to any lienholder, and
85 then to the owner of the property. A seller who fails to remit the surplus as provided shall be liable to
86 the person entitled to the surplus in an amount equal to \$50 for each day beyond 30 days that the
87 failure continues.

88 Before making the sale, the seller shall advertise the time, place, and terms thereof in a public place.
89 In the case of property other than a motor vehicle required to be registered in Virginia having a value in
90 excess of \$600, 10 days' prior notice shall be given to any secured party who has filed a financing
91 statement against the property, and written notice shall be given to the owner as hereinafter provided. ~~If~~
92 ~~the property is a motor vehicle required by the motor vehicle laws of Virginia to be registered, the~~
93 ~~person having the lien shall ascertain from the Commissioner of the Department of Motor Vehicles~~
94 ~~whether the certificate of title of the motor vehicle shows a lien thereon. If the certificate of title shows~~
95 ~~a lien, the bailee proposing the sale of the motor vehicle shall notify the lienholder of record, by~~
96 ~~certified mail, at the address on the certificate of title of the time and place of the proposed sale 10 days~~
97 ~~prior thereto. If the name of the owner cannot be ascertained, the name of "John Doe" shall be~~
98 ~~substituted in any proceedings hereunder and no written notice as to him shall be required to be mailed.~~
99 ~~Whenever a vehicle is shown by the Department of Motor Vehicles records to be owned by a person~~
100 ~~who has indicated that he is on active military duty or service, the Department shall include such~~
101 ~~information in response to requests for vehicle information pursuant to the requirements of this chapter.~~

102 If the value of the property is more than \$7,500 but does not exceed \$15,000, the party having the
103 lien, after giving notice as herein provided, may apply by petition to any general district court of the
104 county or city wherein the property is, or, if the value of the property exceeds \$15,000, to the circuit
105 court of the county or city, for the sale of the property. If, on the hearing of the case on the petition, the
106 defense, if any made thereto, and such evidence as may be adduced by the parties respectively, the court
107 is satisfied that the debt and lien are established and the property should be sold to pay the debt, the
108 court shall order the sale to be made by the sheriff of the county or city. The sheriff shall make the
109 same and apply and dispose of the proceeds in the same manner as if the sale were made under a writ
110 of fieri facias.

111 If the owner of the property is a resident of this Commonwealth, any notice required by this section
112 may be served as provided in § 8.01-296 or, if the sale is to be made without resort to the courts, by
113 personal delivery or by certified or registered mail delivered to the present owner of the property to be
114 sold at his last known address at least 10 days prior to the date of sale. If he is a nonresident or if his
115 address is unknown, notice may be served by posting a copy thereof in three public places in the county
116 or city wherein the property is located. For purposes of this section, a public place means a premises
117 owned by the Commonwealth, a political subdivision thereof or an agency of either which is open to the
118 general public.

119 If the property is a motor vehicle (i) for which neither the owner nor any other lienholder or secured
120 party can be determined by the Department of Motor Vehicles through a diligent search of its records,
121 (ii) manufactured for a model year at least six years prior to the current model year, and (iii) having a

122 value of no more than \$3,000 as determined by the provisions of § 8.01-419.1, a person having a lien
123 on such vehicle may, after showing proof that the vehicle has been in his continuous custody for at least
124 30 days, apply for and receive from the Department of Motor Vehicles title or a nonrepairable certificate
125 to such vehicle, free of all liens and claims of ownership of others, and proceed to sell or otherwise
126 dispose of the vehicle.

127 Whenever a motor vehicle is sold hereunder, the Department of Motor Vehicles shall issue a
128 certificate of title and registration or a nonrepairable certificate to the purchaser thereof upon his
129 application containing the serial or motor number of the vehicle purchased together with an affidavit of
130 the lienholder that he has complied with the provisions hereof, or by the sheriff conducting a sale that
131 he has complied with said order.

132 Any garage keeper to whom a motor vehicle has been delivered pursuant to § 46.2-1209, 46.2-1213
133 or 46.2-1215 may after 30 days from the date of delivery proceed under this section, provided that
134 action has not been taken pursuant to such sections for the sale of such motor vehicle.

135 Notwithstanding any provisions to the contrary, any person having a lien under § 43-32 or 43-33
136 shall comply with the provisions of the federal Servicemembers Civil Relief Act (50 U.S.C. app. 501 et
137 seq.) when disposing of a vehicle owned by a member of the military duty or service.

138 § 46.2-633. Transfer of title by operation of law.

139 A. Except as otherwise provided in § 46.2-615 in the event of the transfer by operation of law of the
140 title or interest of an owner in and to a motor vehicle, trailer, or semitrailer registered under the
141 provisions of this chapter to anyone as legatee or distributee or as surviving joint owner or by an order
142 in bankruptcy or insolvency, execution sale, sales as provided for in § 43-34 § 46.2-1202.2, repossession
143 on default in the performing of the terms of a lease or executory sales contract or of any written
144 agreement ratified or incorporated in a decree or order of a court of record, or otherwise than by the
145 voluntary act of the person whose title or interest is so transferred, the transferee or his legal
146 representative shall apply to the Department for a certificate of title, giving the name and address of the
147 person entitled to it, and accompany his application with the registration card and certificate of title
148 previously issued for the motor vehicle, trailer, or semitrailer, if available, together with whatever
149 instruments or documents of authority, or certified copies of them, are required by law to evidence or
150 effect a transfer of title or interest in or to chattels in the case. The Department shall cancel the
151 registration of the motor vehicle, trailer, or semitrailer and issue a new certificate of title to the person
152 entitled to it.

153 B. Notwithstanding the provisions of subsection A, if a title is presented from a state other than the
154 Commonwealth, the Department shall, upon presentation of the title and a form prescribed by the
155 Commissioner attesting to the lawful repossession of the vehicle and the intent to offer the vehicle for
156 sale in the Commonwealth, issue a new certificate of title to the person entitled to it and request the
157 state in which the vehicle is titled to cancel the title. Nothing in this subsection, however, shall be
158 construed to require the presentation of a title from a state other than the Commonwealth if the vehicle
159 is not required to be titled by the laws of that other state.

160 § 46.2-640. Priority of security interests shown on certificates of title.

161 The security interests, except security interests in motor vehicles, trailers and semitrailers which are
162 inventory held for sale and are perfected under §§ 8.9A-401 through 8.9A-527, shown upon such
163 certificates of title issued by the Department pursuant to applications for same shall have priority over
164 any other liens or security interests against such motor vehicle, trailer, or semitrailer, however created
165 and recorded. The foregoing provisions of this section shall not apply to liens for taxes as provided in
166 § 58.1-3942, liens of keepers of garages to the extent given by § 43-32 § 46.2-1202.1 and liens of
167 mechanics for repairs to the extent given by § 43-33 § 46.2-1202.2 if the requirements therefor exist,
168 provided the garage keeper or mechanic furnishes the holder of any recorded lien who may request it
169 with an itemized sworn statement of the storage charges, work done, and materials supplied for which
170 the lien is claimed.

171 § 46.2-1200. Definitions.

172 As used in this article:

173 "Abandoned motor vehicle" means a motor vehicle, trailer, or semitrailer or part of a motor vehicle,
174 trailer, or semitrailer that:

175 1. Is inoperable and is left unattended on public property, other than an interstate highway or primary
176 highway, for more than forty-eight hours in violation of a state law or local ordinance, or

177 2. Has remained illegally on public property for more than forty-eight hours, or

178 3.2. Has remained for more than forty-eight hours on private property without the consent of the
179 property's owner, regardless of whether it was brought onto the private property with the consent of the
180 owner or person in control of the private property, or

181 4.3. Is inoperable, left unattended, or both, on an interstate highway, or

182 5. Is inoperable, left unattended, or both, on the shoulder of a primary highway

183 "Inoperable abandoned motor vehicle" means an abandoned motor vehicle which is inoperable and
184 whose fair market value, as determined by the locality's official responsible for assessing motor vehicles
185 under § 58.1-3503, is less than the cost of its restoration to an operable condition, or

186 4. Has remained unclaimed in a garage for more than 10 days or for more than 10 days beyond the
187 period the motor vehicle was to remain on the premises pursuant to a contract, or

188 5. Has remained unclaimed in a self-service storage unit under the provisions of Chapter 23
189 (§ 55-416 et seq.) of Title 55.

190 "Garage" means any commercial parking place, motor vehicle storage facility, or establishment for
191 the servicing, repair, maintenance, or sale of motor vehicles whether or not the vehicle had been
192 brought to that location with the consent of the owner or person in control of the premises.

193 "Garage keeper" means the operator of a garage.

194 "Major component" shall have the meaning ascribed by § 46.2-1600.

195 "Scrap metal processor" means any person who is engaged in the business of processing motor
196 vehicles into scrap for remelting purposes who, from a fixed location, utilizes machinery and equipment
197 for processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and
198 whose principal product is metallic scrap.

199 "Vehicle removal certificate" means a transferable document issued by the Department for any
200 abandoned motor vehicle that authorizes the removal and destruction of the vehicle.

201 § 46.2-1202. Search for owner and secured party; notice.

202 Any locality or its authorized agent that takes an abandoned motor vehicle into custody shall, within
203 fifteen days, by registered or certified mail, return receipt requested, notify the owner of record of the
204 motor vehicle and all persons having security interests in the vehicle of record, that it has been taken
205 into custody. The notice shall (i) state the year, make, model, and serial number of the abandoned motor
206 vehicle; (ii) set forth the location of the facility where it is being held; and (iii) inform the owner and
207 any persons having security interests of their right to reclaim it within fifteen days after the date of the
208 notice after payment of all towing, preservation, and storage charges resulting from placing the vehicle
209 in custody. The notice shall state that the failure of the owner or persons having security interests to
210 reclaim the vehicle within the time provided shall constitute (i) a waiver by the owner and all persons
211 having any security interests of all right, title, and interest in the vehicle and (ii) consent to the sale of
212 the abandoned motor vehicle at a public auction.

213 If records of the Department contain no address for the owner or no address of any person shown by
214 the Department's records to have a security interest, or if the identity and addresses of the owner and all
215 persons having security interests cannot be determined with reasonable certainty, notice by publication
216 once in a newspaper of general circulation in the area where the motor vehicle was abandoned shall be
217 sufficient to meet all requirements of notice pursuant to this article as to any person who cannot be
218 notified pursuant to the foregoing provisions of this section. Notice by publication may contain multiple
219 listings of abandoned motor vehicles. Any notice of this kind shall be within the time requirements
220 prescribed by this section for notice by mail and shall have the same contents required for a notice by
221 mail.

222 The consequences of failure to reclaim an abandoned motor vehicle shall be as set forth in a notice
223 given in accordance with and pursuant to this section. A. Any person in possession of an abandoned
224 motor vehicle or a motor vehicle upon which a lien is being established under § 46.2-1202.1, shall
225 initiate with the Department, in a manner prescribed by the Commissioner, a search for the owner
226 and/or lienholder of record of the vehicle. A fee of \$25 shall be paid to the Department at the time of
227 application. Those fees shall be paid into the state treasury and set aside as a special, nonreverting
228 fund to be used to meet the expenses of the Department. A local government agency with a written
229 agreement with the Department shall be exempt from this fee.

230 The Department shall check: (i) its own records, (ii) the records of a nationally recognized crime
231 database, and (iii) records of a nationally recognized motor vehicle title database for owner and
232 lienholder information. If a vehicle has been reported as stolen, the Department shall notify the
233 appropriate law-enforcement agency of that fact. If a vehicle has been found to have been titled in
234 another jurisdiction, the Department shall notify the applicant of that jurisdiction. In cases of motor
235 vehicles titled in other jurisdictions, the Commissioner shall issue certificates of title on proof
236 satisfactory to the Commissioner that the persons required to be notified by registered or certified mail
237 have received actual notice fully containing the information required by this section.

238 B. If the Department confirms owner or lienholder information, the Department shall notify the
239 owner, at the last known address of record, and lienholder, at the last known address of record, of the
240 notice of interest in their vehicle, by certified mail, return receipt requested, and advise him to reclaim
241 and remove the vehicle within 15 days, or, if the vehicle is a manufactured home or a mobile home, 120
242 days, from the date of notice. Such notice, when sent in accordance with these requirements, shall be
243 sufficient regardless of whether or not it was ever received. Following the notice required in this
244 subsection, if the motor vehicle remains unclaimed, the owner and all persons having security interests

245 in the motor vehicle shall have waived all right, title, and interest in the motor vehicle.

246 Whenever a vehicle is shown by the Department's records to be owned by a person who has
247 indicated that he is on active military duty or service, the Department shall notify the requestor of such
248 information. Any person having an interest in such vehicle under the provisions of this article shall
249 comply with the provisions of the federal Servicemembers Civil Relief Act (50 U.S.C. app. 501 et seq.).

250 C. If records of the Department contain no address for the owner or no address of any person
251 shown by the Department's records to have a security interest, or if the identity and addresses of the
252 owner and all persons having security interests cannot be determined with reasonable certainty, the
253 person in possession of a motor vehicle with a lien established under § 46.2-1202.1 shall follow the
254 procedures set forth in § 46.2-1202.2 to obtain title to the vehicle. If the person is in possession of an
255 abandoned motor vehicle, and that person desires to obtain title to that vehicle, that person shall follow
256 the procedures set out in § 46.2-1202.3.

257 § 46.2-1202.1. Liens for storage and repair of motor vehicles, trailers, and semitrailers.

258 A. Every keeper of a garage, and every person having possession of any motor vehicles, trailers, or
259 semitrailers shall have a lien upon such motor vehicles, trailers, or semitrailers for the amount that may
260 be due him for the towing, storage, recovery, or repair thereof, and may retain possession of such
261 property until the lien created under this section is paid.

262 B. In the case of any motor vehicle subject to a chattel mortgage, security agreement, deed of trust,
263 or other instrument securing money, the keeper of the garage shall have a lien thereon for his
264 reasonable charges for storage under this section not to exceed \$500, and for alteration and repair
265 under this section not to exceed \$800. However, in the case of a storage lien, to obtain the priority for
266 an amount in excess of \$300, the person asserting the lien shall make a reasonable attempt to notify
267 any secured party of record at the Department of Motor Vehicles by telephonic means and shall give
268 written notice by certified mail, return receipt requested, to any secured party of record at the
269 Department of Motor Vehicles within seven business days of taking possession of the motor vehicle. If,
270 within seven business days of receipt of the notice, the secured party does not take or refuses delivery of
271 the motor vehicle to it or its designee, the lienor shall be entitled to priority for the full amount of
272 storage charges, not to exceed \$500. Notwithstanding a redelivery, the motor vehicle shall be subject to
273 subsection C.

274 C. In addition, any person furnishing services involving the towing and recovery of a motor vehicle
275 shall have a lien for all normal costs incident thereto, if the person asserting the lien gives written
276 notice within seven business days of receipt of the motor vehicle by certified mail, return receipt
277 requested, to all secured parties of record at the Department of Motor Vehicles.

278 D. In addition, any keeper shall be entitled to a lien against any proceeds remaining after the
279 satisfaction of all prior security interests or liens, and may retain possession of such property until the
280 charges are paid.

281 E. Any lien created under this section shall not extend to any personal property that is not attached
282 to or considered to be necessary for the proper operation of any motor vehicle, and it shall be the duty
283 of any keeper of such personal property to return it to the owner if the owner claims the items prior to
284 auction.

285 F. For the purposes of this section, in the case of a truck or combination of motor vehicles, the
286 owner or in the case of a rented or leased vehicle, the lessee of the truck or tractor truck shall be liable
287 for the costs of the towing, recovery, and storage of the cargo and of any trailer or semitrailer in the
288 combination. Nothing in this subsection, however, shall bar the owner of the truck or tractor truck from
289 subsequently seeking to recover from the owner of any trailer, semitrailer, or cargo all or any portion
290 of these towing, recovery, and storage costs.

291 If the owner of the motor vehicle held by the garage or mechanic desires to obtain possession
292 thereof, he shall make the garage or mechanic defendant in proceeding in the county or municipal court
293 to recover the property.

294 The owner may give a bond payable to the court, in an amount equal to the lien claimed by the
295 garage or mechanic and court costs, with security to be approved by the clerk. The bond shall be
296 conditioned for the performance of the final judgment of the court on the trial of the proceeding, and if
297 upon the hearing, the judgment of the court enforces the lien of the garage or mechanic or any part
298 thereof, judgment may be entered on such bond for the amount due the garage or mechanic and court
299 costs, if assessed, against the owner. Upon giving of the bond, the motor vehicle shall be delivered to
300 the owner.

301 § 46.2-1202.2. Enforcement of liens acquired under § 46.2-1202.1.

302 A. Any person having a lien under § 46.2-1202.1, if the debt for which the lien exists is not paid
303 within 10 days after it is due and the value of the property affected by the lien does not exceed \$10,000,
304 may sell such property or so much thereof as may be necessary, by public auction, for cash. The
305 proceeds shall be applied to the satisfaction of the debt and expenses of sale, and the surplus, if any,

306 shall be paid within 30 days of the sale to any lienholder, and then to the owner of the property. A
307 seller who fails to remit the surplus as provided shall be liable to the person entitled to the surplus in
308 an amount equal to \$50 for each day beyond 30 days that the failure continues.

309 Before making the sale, the seller shall electronically post notice of his intent to auction the motor
310 vehicle in a manner prescribed by the Commissioner. The person having the lien shall ascertain from
311 the Department whether the certificate of title of the motor vehicle shows a lien thereon. If the
312 certificate of title shows a lien, the bailee proposing the sale of the motor vehicle shall notify the vehicle
313 owner and lienholder of record, by certified mail, at the address on the certificate of title of the time
314 and place of the proposed sale 10 days prior thereto. Whenever a motor vehicle is shown by the
315 Department's records to be owned by a person who has indicated that he is on active military duty or
316 service, the Department shall include such information in response to requests for vehicle information
317 pursuant to the requirements of this article.

318 Any person having a lien under the provisions of this article shall comply with the provisions of the
319 federal Servicemembers Civil Relief Act (50 U.S.C. app. 501 et seq.) when disposing of a vehicle owned
320 by a member of the military on active duty or service.

321 B. If the value of the property is more than \$10,000 but does not exceed \$15,000, the party having
322 the lien, after giving notice as herein provided, may apply by petition to any general district court of the
323 county or city wherein the property is, or, if the value of the property exceeds \$15,000, to the circuit
324 court of the county or city, for the sale of the property. If, on the hearing of the case on the petition,
325 the defense, if any made thereto, and such evidence as may be adduced by the parties respectively, the
326 court is satisfied that the debt and lien are established and the property should be sold to pay the debt,
327 the court shall order the sale to be made by the sheriff of the county or city. The sheriff shall make the
328 same and apply and dispose of the proceeds in the same manner as if the sale were made under a writ
329 of fieri facias.

330 Before making the sale, the sheriff shall electronically post notice of his intent to auction the motor
331 vehicle in a manner prescribed by the Commissioner who shall also ensure that written notice of intent
332 is provided in public locations throughout the Commonwealth.

333 If the property is a motor vehicle (i) for which neither the owner nor any other lienholder or secured
334 party can be determined by the Department through a diligent search of its records, (ii) manufactured
335 for a model year at least five years prior to the current model year, and (iii) having a value of no more
336 than \$5,000 as determined by the provisions of § 8.01-419.1, a person having a lien on such vehicle
337 may, after showing proof that the vehicle has been in his continuous custody for at least 30 days, apply
338 for and receive from the Department a title or a nonrepairable certificate to such vehicle, free of all
339 liens and claims of ownership of others, and proceed to sell or otherwise dispose of the vehicle.

340 Whenever a motor vehicle is sold hereunder, the Department shall issue a certificate of title and
341 registration or a nonrepairable certificate to the purchaser thereof upon his application containing the
342 vehicle identification number of the vehicle purchased together with an affidavit of the lienholder that he
343 has complied with the provisions hereof, or by the sheriff conducting a sale that he has complied with
344 said order.

345 Any garage keeper to whom a motor vehicle has been delivered pursuant to § 46.2-1209, 46.2-1213,
346 or 46.2-1215 may after 30 days from the date of delivery proceed under this section, provided that
347 action has not been taken pursuant to such sections for the sale of such motor vehicle.

348 § 46.2-1202.3. Vehicle Removal Certificates.

349 The person in possession of the abandoned motor vehicle shall obtain from the Department in a
350 manner prescribed by the Commissioner, a Vehicle Removal Certificate at no fee. The vehicle may be
351 sold or transferred to a licensee or a scrap metal processor, as defined in § 46.2-1600.

352 If the person in possession of the abandoned motor vehicle desires to obtain title to the vehicle, that
353 person shall post notice for at least 21 days of his intent to auction the motor vehicle. Postings of intent
354 shall be in an electronic manner prescribed by the Commissioner who shall also ensure that written
355 notice of intent is provided in public locations throughout the Commonwealth. If the Department
356 confirms a lien, the person proposing the sale of the motor vehicle shall notify the lienholder of record,
357 by certified mail, at the address on the certificate of title of the time and place of the proposed sale 10
358 days prior thereto. It shall be the responsibility of the person proposing the sale to maintain proof that
359 notice was properly mailed.

360 A purchaser of the motor vehicle may apply for a title upon payment of the applicable fees and
361 taxes, and by supplying the Department with the completed Vehicle Removal Certificate and the
362 transcript from the Department that indicates that the Department has no record of the abandoned
363 motor vehicle.

364 § 46.2-1206. Surrender of certificate of title, etc., where motor vehicle acquired for demolition;
365 records to be kept by demolisher or scrap metal processor.

366 No demolisher or scrap metal processor who purchases or otherwise acquires a motor vehicle for
367 wrecking, dismantling, or demolition shall be required to obtain a certificate of title for the motor

368 vehicle in his own name. After the motor vehicle has been demolished, processed, or changed so that it
 369 physically is no longer a motor vehicle, the demolisher or scrap metal processor shall surrender to the
 370 Department for cancellation the certificate of title, vehicle removal certificate, properly executed vehicle
 371 disposition history, or sales receipt from a foreign jurisdiction for the vehicle. The Department shall
 372 issue the appropriate forms and regulations governing for the surrender of sales receipts and, certificates
 373 of title, vehicle disposition histories, and vehicle removal certificates.

374 Demolishers and scrap metal processors shall keep accurate and complete records, in accordance
 375 with § 46.2-1608, of all motor vehicles purchased or received by them in the course of their business.
 376 These records shall contain the name and address of the person from whom each motor vehicle was
 377 purchased or received and the date on which purchases or receipts occurred. These records shall be open
 378 for inspection by the Department at any time during normal business hours. Demolishers and scrap
 379 metal processors shall also collect and verify:

380 1. The towing company's name and, if applicable, the license number issued to the towing company
 381 by the Virginia Board for Towing and Recovery Operators,

382 2. One of the ownership or possession documents set out in this section following verification of its
 383 accuracy, and

384 3. The driver's license of the person delivering the motor vehicle.

385 If the delivering vehicle does not possess a license number issued by the Virginia Board for Towing
 386 and Recovery Operators, the license plate number of the vehicle that delivered the motor vehicle or
 387 scrap shall also be collected and maintained.

388 In addition, a photocopy or electronic copy of the appropriate ownership document or a vehicle
 389 removal certificate presented by the customer shall be maintained. Ownership documents shall consist of
 390 either a motor vehicle title or a sales receipt from a foreign jurisdiction or a vehicle disposition history.
 391 These records shall be maintained in a permanent ledger in a manner acceptable to the Department at
 392 the place of business or at another readily accessible and secure location within the Commonwealth for
 393 at least five years. The personal identifying information contained within these records shall be
 394 protected from unauthorized disclosure through the ultimate destruction of the information. Disclosure of
 395 personal identifying information by anyone other than the Department is subject to the Driver's Privacy
 396 Protection Act (18 U.S.C. § 2721 et seq.).

397 If requested by a law-enforcement officer, a licensee shall make available, during regular business
 398 hours, a report of all the purchases of motor vehicles. Each report shall include the information set out
 399 in this chapter and be available electronically or in an agreed-upon format. Any person who violates
 400 any provision of this chapter or who falsifies any of the information required to be maintained by this
 401 article shall be guilty of a Class 3 misdemeanor for the first offense. Any licensee or scrap metal
 402 processor who is found guilty of second or subsequent violations shall be guilty of a Class 1
 403 misdemeanor. The Department shall also assess a civil penalty not to exceed \$500 for the first offense
 404 and \$1,000 for the second and subsequent offenses. Those penalties shall be paid into the state treasury
 405 and set aside as a special fund to be used to meet the expenses of the Department.

406 If the vehicle identification number has been altered, is missing, or appears to have been otherwise
 407 tampered with, the demolisher or scrap metal processor shall take no further action with regard to the
 408 vehicle except to safeguard it in its then-existing condition and shall promptly notify the Department.
 409 The Department shall, after an investigation has been made, notify the demolisher or scrap metal
 410 processor whether the motor vehicle can be freed from this limitation. In no event shall the motor
 411 vehicle be disassembled, demolished, processed, or otherwise modified or removed prior to authorization
 412 by the Department. If the vehicle is a motorcycle, the demolisher or scrap metal processor shall cause
 413 to be noted on the title or salvage certificate, certifying on the face of the document, in addition to the
 414 above requirements, the frame number of the motorcycle and motor number, if available.

415 § 46.2-1600. Definitions.

416 The following words, terms, and phrases when used in this chapter shall have the meaning ascribed
 417 to them in this section, except where the context indicates otherwise:

418 "Actual cash value," as applied to a vehicle, means the retail cash value of the vehicle prior to
 419 damage as determined, using recognized evaluation sources, either (i) by an insurance company
 420 responsible for paying a claim or (ii) if no insurance company is responsible therefor, by the
 421 Department.

422 "Current salvage value," as applied to a vehicle, means (i) the salvage value of the vehicle, as
 423 determined by the insurer responsible for paying the claim or (ii) if no insurance company is responsible
 424 therefor, 25 percent of the actual cash value.

425 "Demolisher" means any person whose business is to crush, flatten, or otherwise reduce a vehicle to
 426 a state where it can no longer be considered a vehicle.

427 "Diminished value compensation" means the amount of compensation that an insurance company
 428 pays to a third party vehicle owner, in addition to the cost of repairs, for the reduced value of a vehicle

429 due to damage.

430 "Independent appraisal firm" means any business providing cost estimates for the repair of damaged
431 motor vehicles for insurance purposes and having all required business licenses and zoning approvals.
432 This term shall not include insurance companies that provide the same service, nor shall any such entity
433 be a rebuilder or affiliated with a rebuilder.

434 "Late model vehicle" means the current-year model of a vehicle and the ~~six~~ *five* preceding model
435 years, or any vehicle whose actual cash value is determined to have been at least ~~\$7,500~~ *\$10,000* prior
436 to being damaged.

437 "Licensee" means any person who is licensed or is required to be licensed under this chapter.

438 "Major component" means any one of the following subassemblies of a motor vehicle: (i) front clip
439 assembly, consisting of the fenders, grille, hood, bumper, and related parts; (ii) engine; (iii) transmission;
440 (iv) rear clip assembly, consisting of the quarter panels, floor panels, trunk lid, bumper, and related
441 parts; (v) frame; (vi) air bags; and (vii) any door that displays a vehicle identification number.

442 "Nonrepairable certificate" means a document of ownership issued by the Department for any
443 nonrepairable vehicle upon surrender or cancellation of the vehicle's title and registration or salvage
444 certificate.

445 "Nonrepairable vehicle" means (i) any late model vehicle that has been damaged and whose
446 estimated cost of repair exceeds 90 percent of its actual cash value prior to damage, or (ii) any vehicle
447 which has been determined to be nonrepairable by its insurer or owner, and for which a nonrepairable
448 certificate has been issued or applied for, or (iii) any other vehicle which has been damaged, is
449 inoperable, and has no value except for use as parts and scrap metal.

450 "Rebuilder" means any person who acquires and repairs, for use on the public highways, two or
451 more salvage vehicles within a 12-month period.

452 "Rebuilt vehicle" means (i) any salvage vehicle that has been damaged as a result of collision, fire,
453 flood, accident, trespass, or any other occurrence and has been repaired and the estimated cost of repair
454 exceeded 75 percent of its actual cash value, for use on the public highways or (ii) any late model
455 vehicle which has been repaired and the estimated cost of repair exceeded 75 percent of its actual cash
456 value, excluding the cost to repair damage to the engine, transmission, or drive axle assembly.

457 "Repaired vehicle" means any salvage vehicle that has had repairs less than the amount necessary to
458 make it a rebuilt vehicle.

459 "Salvage certificate" means a document of ownership issued by the Department for any salvage
460 vehicle upon surrender or cancellation of the vehicle's title and registration.

461 "Salvage dealer" means any person who acquires any vehicle for the purpose of reselling any parts
462 thereof.

463 "Salvage pool" means any person providing a storage service for salvage vehicles or nonrepairable
464 vehicles who either displays the vehicles for resale or solicits bids for the sale of salvage vehicles or
465 nonrepairable vehicles, but this definition shall not apply to an insurance company which stores and
466 displays fewer than 100 salvage vehicles and nonrepairable vehicles in one location; however, any two
467 or more insurance companies who display salvage and nonrepairable vehicles for resale, using the same
468 facilities, shall be considered a salvage pool.

469 "Salvage vehicle" means (i) any late model vehicle which has been (a) acquired by an insurance
470 company as a part of the claims process other than a stolen vehicle or (b) damaged as a result of
471 collision, fire, flood, accident, trespass, or any other occurrence to such an extent that its estimated cost
472 of repair, excluding charges for towing, storage, and temporary replacement/rental vehicle or payment
473 for diminished value compensation, would exceed its actual cash value less its current salvage value; (ii)
474 any recovered stolen vehicle acquired by an insurance company as a part of the claims process, whose
475 estimated cost of repair exceeds 75 percent of its actual cash value; or (iii) any other vehicle which is
476 determined to be a salvage vehicle by its owner or an insurance company by applying for a salvage
477 certificate for the vehicle, provided that such vehicle is not a nonrepairable vehicle.

478 "Scrap metal processor" means any person who is engaged in the business of processing vehicles into
479 scrap for remelting purposes who, from a fixed location, utilizes machinery and equipment for
480 processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose
481 principal product is metallic scrap.

482 "Vehicle removal operator" means any person who acquires a vehicle for the purpose of reselling it
483 to a demolisher, scrap metal processor, or salvage dealer.

484 § 46.2-1601. Licensing of dealers of salvage vehicles; fees.

485 It shall be unlawful for any person to engage in business in the Commonwealth as a demolisher,
486 rebuilder, salvage dealer, salvage pool, or vehicle removal operator without first acquiring a license
487 issued by the Commissioner for each such business at each location. The fee for the first such license
488 issued or renewed under this chapter shall be \$100 per license year or part thereof. The fee for each
489 additional license issued or renewed under this chapter for the same location shall be \$25 per license
490 year or part thereof. However, no fee shall be charged for supplemental locations of a business located

491 within 500 yards of the licensed location. No license shall be issued or renewed for any person unless
 492 (i) the licensed business contains at least 600 square feet of enclosed space, ~~and~~ (ii) the licensed
 493 business is shown to be in compliance with all applicable zoning ordinances, and (iii) effective October
 494 1, 2009, all new applicants, and effective with the next renewal of a license after October 1, 2009, the
 495 applicant must (a) certify to the Commissioner that the licensed business is permitted under a Virginia
 496 Pollutant Discharge Elimination System individual or general permit issued by the State Water Control
 497 Board for discharges of storm water associated with industrial activity and provides the permit
 498 number(s) from such permit(s) or (b) certify to the Commissioner that the licensed business is otherwise
 499 exempt from such permitting requirements. Nothing in this section shall authorize any person to act as a
 500 motor vehicle dealer or salesperson without being licensed under Chapter 15 of this title and meeting all
 501 requirements imposed by such chapter.

502 The Commissioner may offer an optional multiyear license for any license set forth in this section.
 503 When such option is offered and chosen by the licensee, all fees due at the time of licensing shall be
 504 multiplied by the number of years for which the license will be issued.

505 On due notice and hearing, the Commissioner may suspend or revoke any license issued under this
 506 chapter for any violation of any provision of this chapter or a violation of § 46.2-1074 or § 46.2-1075.
 507 Suspension or revocation shall only be imposed on the specific business found to be in violation.

508 § 55-417. Definitions.

509 As used in this chapter, unless the context clearly requires otherwise:

510 1. "Self-service storage facility" means any real property designed and used for renting or leasing
 511 individual storage spaces, other than storage spaces which are leased or rented as an incident to the lease
 512 or rental of residential property or dwelling units, to which the occupants thereof have access for storing
 513 or removing their personal property. No occupant shall use a self-service storage facility for residential
 514 purposes.

515 2. "Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility, his
 516 agent, or any other person authorized to manage the facility or to receive rent from any occupant under
 517 a rental agreement.

518 The owner of a self-service storage facility is not a warehouseman as defined in § 8.7-102, unless the
 519 owner issues a warehouse receipt, bill of lading, or other document of title for the personal property
 520 stored, in which event, the owner and the occupant are subject to the provisions of Title 8.7 dealing
 521 with warehousemen.

522 3. "Occupant" means a person, his sublessee, successor, or assign, entitled to the use of a leased
 523 space at a self-service storage facility under a rental agreement.

524 4. "Rental agreement" means any agreement or lease that establishes or modifies the terms,
 525 conditions, or rules concerning the use and occupancy of a self-service storage facility.

526 5. "Leased space" means the individual storage space at the self-service facility which is leased or
 527 rented to an occupant pursuant to a rental agreement.

528 6. "Personal property" means movable property, not affixed to land and includes, but is not limited
 529 to, goods, wares, merchandise, ~~motor vehicles~~, and household items and furnishings.

530 7. "Default" means the failure to perform on time any obligation or duty set forth in the rental
 531 agreement or this chapter.

532 8. "Last known address" means that address provided by the occupant in the rental agreement or the
 533 address provided by the occupant in a subsequent written notice of a change of address.

534 § 55-418. Lien.

535 A. The owner shall have a lien on all personal property stored within each leased space for rent,
 536 labor, or other charges, and for expenses reasonably incurred in its sale pursuant to this chapter. Such
 537 lien shall attach as of the date the personal property is stored within each leased space, and, to the
 538 extent the property remains stored within such leased space, as hereinafter provided, shall be superior to
 539 any other existing liens or security interests to the extent of \$250 or, if the leased space is a
 540 climate-controlled facility, \$500. In addition, such lien shall extend to the proceeds, if any, remaining
 541 after the satisfaction of any perfected liens and the owner may retain possession of such proceeds until
 542 the balance, if any, of such charges is paid.

543 B. In the case of any ~~motor vehicle~~ or watercraft which is subject to a lien, previously recorded on
 544 the certificate of title, the owner, so long as the ~~motor vehicle~~ or watercraft remains stored within such
 545 leased space, shall have a lien on such ~~vehicle~~ or watercraft as provided for herein to the extent of \$250
 546 or \$500 if the leased space is a climate-controlled facility. In addition, such lien shall extend to the
 547 proceeds, if any, remaining after the satisfaction of any recorded liens and the owner may retain
 548 possession of such proceeds until the balance, if any, of such charges is paid.

549 C. The rental agreement shall contain a statement, in bold type, advising the occupant of the
 550 existence of such lien, and that the personal property stored within the leased space may be sold to
 551 satisfy the lien if the occupant is in default.

552 *D. In the case of any motor vehicle that is subject to a lien, previously recorded on the certificate of*
553 *title, the owner, so long as the motor vehicle remains stored within such leased space, shall have a lien*
554 *on such vehicle in accordance with § 46.2-1202.1.*

555 § 55-419. Enforcement of lien.

556 A. 1. If any occupant is in default under a rental agreement, the owner shall notify the occupant of
557 such default by regular mail at his last known address. If such default is not cured within ten days after
558 its occurrence, then the owner may proceed to enforce such lien by selling the contents of the occupant's
559 unit at public auction, for cash, and apply the proceeds to satisfaction of the lien, with the surplus, if
560 any, to be disbursed as hereinafter provided. Before conducting such a public auction, the owner shall
561 notify the occupant as prescribed in subsection C of this section and shall advertise the time, place, and
562 terms thereof in such manner as to give publicity thereto.

563 2. In the case of personal property having a fair market value in excess of \$1,000, and against which
564 a creditor has filed a financing statement in the name of the occupant at the State Corporation
565 Commission or in the city or county where the self-service storage facility is located or in the city or
566 county in Virginia shown as the last known address of the occupant, or if such personal property is a
567 ~~motor vehicle or~~ watercraft required by the laws of Virginia to be registered and the Department of
568 ~~Motor Vehicles or~~ Department of Game and Inland Fisheries shows a lien on the certificate of title, the
569 owner shall notify the lienholder of record, by certified mail, at the address on the financing statement
570 or certificate of title, at least 10 days prior thereto of the time and place of the proposed public auction.

571 If the owner of the personal property cannot be ascertained, the name of "John Doe" shall be
572 substituted in the proceedings hereunder and no written notice shall be required. Whenever a ~~motor~~
573 ~~vehicle or~~ watercraft is sold hereunder, the Department of ~~Motor Vehicles or~~ Department of Game and
574 Inland Fisheries shall issue a certificate of title and registration to the purchaser thereof upon his
575 application containing the serial or motor number of the ~~vehicle or~~ watercraft purchased, together with
576 an affidavit by the lienholder, or by the person conducting the public auction, evidencing compliance
577 with the provisions hereof.

578 B. Whenever the occupant is in default, the owner shall have the right to deny the occupant access to
579 the leased space.

580 C. After the occupant has been in default for a period of ten days, and before the owner can sell the
581 occupant's personal property in accordance with this chapter, the owner shall send a further notice of
582 default, by registered or certified mail, postage prepaid, to the occupant at his last known address. Such
583 notice of default shall include:

584 1. An itemized statement of the owner's claim, indicating the charges due on the date of the notice
585 and the date when the charges became due;

586 2. A demand for payment of the charges due within a specified time not less than twenty days after
587 the date of the notice;

588 3. A statement that the contents of the occupant's leased space are subject to the owner's lien;

589 4. A conspicuous statement that unless the claim is paid within the time stated, the contents of the
590 occupant's space will be sold at public auction at a specified time and place; and

591 5. The name, street address, and telephone number of the owner or his designated agent whom the
592 occupant may contact to respond to the notice.

593 D. At any time prior to the public auction pursuant to this section, the occupant may pay the amount
594 necessary to satisfy the lien and thereby redeem the personal property.

595 E. In the event of a public auction pursuant to this section, the owner may satisfy his lien from the
596 proceeds of the public auction, and shall hold the balance, if any, for delivery on demand to the
597 occupant or other lienholder referred to in this chapter. However, the owner shall not be obligated to
598 hold any balance for a lienholder of record notified pursuant to subdivision A 2, or any other lien
599 creditor, that fails to claim an interest in the balance within thirty days of the public auction. So long as
600 the owner complies with the provisions of this chapter, the owner's liability to the occupant under this
601 chapter shall be limited to the net proceeds received from the public auction of any personal property,
602 and as to other lienholders, shall be limited to the net proceeds received from the public auction of any
603 personal property covered by such superior lien.

604 F. Any public auction of the personal property shall be held at the self-service storage facility or at
605 the nearest suitable place to where the personal property is held or stored. An advertisement shall be
606 published in a newspaper of general circulation in the county, city or town in which the public auction
607 is to be held at least once prior to the public auction. The advertisement must state (i) the fact that it is
608 a public auction; (ii) the date, time and location of the public auction; and (iii) form of payment.

609 G. A purchaser in good faith of any personal property sold or otherwise disposed of pursuant to this
610 chapter takes such property free and clear of any rights of persons against whom the lien was valid.

611 H. Any notice made pursuant to this section shall be presumed delivered when it is deposited with
612 the United States Postal Service and properly addressed to the occupant's last known address with
613 postage prepaid.

- 614 *I. In the case of any motor vehicle, so long as the motor vehicle remains stored within such leased*
615 *space, the owner shall have a lien on such vehicle in accordance with § 46.2-1202.1.*
616 **2. That §§ 46.2-1204 and 46.2-1208 of the Code of Virginia are repealed.**
617 **3. That the provisions of this act shall become effective on October 1, 2009.**