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SENATE BILL NO. 1094

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Counties, Cities and Towns
on February 13, 2009)

(Patron Prior to Substitute—Senator Locke)

A BILL to amend and reenact §§ 36-3, 36-49.1:1, 36-105, 48-5, 58.1-3965, and 58.1-3969 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 15.2-907.1, relating to derelict buildings and structures.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-958.1, 15.2-1115, 36-3, 36-49.1:1, 36-105, 48-5, 58.1-3965, and 58.1-3969 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-907.1 as follows:

§ 15.2-907.1. Authority to require removal, repair, etc., of buildings that are declared to be derelict.

Any locality that has a real estate tax abatement program in accordance with this section may, by ordinance, provide that:

1. The owners of property therein shall at such time or times as the governing body may prescribe submit a plan to demolish or renovate any building that has been declared a "derelict building." For purposes of this section, "derelict building" shall mean a residential or nonresidential building or structure, whether or not construction has been completed, that might endanger the public's health, safety, or welfare and for a continuous period in excess of six months, it has been (i) vacant, (ii) boarded up in accordance with the building code, and (iii) not lawfully connected to electric service from a utility service provider or not lawfully connected to any required water or sewer service from a utility service provider.

2. If a building qualifies as a derelict building pursuant to the ordinance, the locality shall notify the owner of the derelict building that the owner is required to submit to the locality a plan, within 90 days, to demolish or renovate the building to address the items that endanger the public's health, safety, or welfare as listed in a written notification provided by the locality. Such plan may be on a form developed by the locality and shall include a proposed time within which the plan will be commenced and completed. The plan may include one or more adjacent properties of the owner, whether or not all of such properties may have been declared derelict buildings. The plan shall be subject to approval by the locality. The locality shall deliver the written notice to the address listed on the real estate tax assessment records of the locality. Written notice sent by first-class mail, with the locality obtaining a U.S. Postal Service Certificate of Mailing shall constitute delivery pursuant to this section.

3. If a locality delivers written notice and the owner of the derelict building has not submitted a plan to the locality within 90 days as provided in subdivision 2, the locality may exercise such remedies as provided in this section or as otherwise provided by law.

4. The owner of a building may apply to the locality and request that such building be declared a derelict building for purposes of this section.

5. The locality, upon receipt of the plan to demolish or renovate the building, at the owner's request, shall meet with the owner submitting the plan and provide information to the owner on the land use and permitting requirements for demolition or renovation.

6. If the property owner's plan is to demolish the derelict building, the building permit application of such owner shall be expedited. If the owner has completed the demolition within 90 days of the date of the building permit issuance, the locality shall refund any building and demolition permit fees. This section shall not supersede any ordinance adopted pursuant to § 15.2-2306 relative to historic districts.

7. If the property owner's plan is to renovate the derelict building, and no rezoning is required for the owner's intended use of the property, the site plan or subdivision application and the building permit, as applicable, shall be expedited. The site plan or subdivision fees may be refunded, all or in part, but in no event shall the site plan or subdivision fees exceed the lesser of 50 percent of the standard fees established by the ordinance for site plan or subdivision applications for the proposed use of the property, or \$5,000 per property. The building permit fees may be refunded, all or in part, but in no event shall the building permit fees exceed the lesser of 50 percent of the standard fees established by the ordinance for building permit applications for the proposed use of the property, or \$5,000 per property.

8. Prior to commencement of a plan to demolish or renovate the derelict building, at the request of the property owner, the real estate assessor shall make an assessment of the property in its current derelict condition. On the building permit application, the owner shall declare the costs of demolition, or the costs of materials and labor to complete the renovation. At the request of the property owner, after demolition or renovation of the derelict building, the real estate assessor shall reflect the fair

60 market value of the demolition costs or the fair market value of the renovation improvements, and
61 reflect such value in the real estate tax assessment records. The real estate tax on an amount equal to
62 the costs of demolition or an amount equal to the increase in the fair market value of the renovations
63 shall be abated for a period of not less than 15 years, and is transferable with the property. The
64 abatement of taxes for demolition shall not apply if the structure demolished is a registered Virginia
65 landmark or is determined by the Department of Historic Resources to contribute to the significance of
66 a registered historic district. However, if the locality has an existing tax abatement program for less
67 than 15 years, as of July 1, 2009, the locality may provide for a tax abatement period of not less than
68 five years.

69 9. Notwithstanding the provisions of this section, the locality may proceed to make repairs and
70 secure the building under § 15.2-906, or the locality may proceed to abate or remove a nuisance under
71 § 15.2-900. In addition, the locality may exercise such remedies as may exist under the Uniform
72 Statewide Building Code and may exercise such other remedies available under general and special
73 law.

74 § 36-3. Definitions.

75 The following terms, when used or referred to in this chapter, shall have the following respective
76 meanings, unless a different meaning clearly appears from the context:

77 "Area of operation" means an area that (i) in the case of a housing authority of a city, shall be
78 coextensive with the territorial boundaries of the city; (ii) in the case of a housing authority of a county,
79 shall include all of the county, except that portion which lies within the territorial boundaries of (a) any
80 city, and (b) any town that has created a housing authority pursuant to this chapter; (iii) in the case of a
81 housing authority of a town, shall be coextensive with the territorial boundaries of the town as herein
82 defined.

83 "Authority" or "housing authority" means any of the political subdivisions created by § 36-4.

84 "Blighted area" means any area that endangers the public health, safety or welfare; or any area that is
85 detrimental to the public health, safety, or welfare because commercial, industrial, or residential
86 structures or improvements are dilapidated, or deteriorated or because such structures or improvements
87 violate minimum health and safety standards. This definition includes, without limitation, areas
88 previously designated as blighted areas pursuant to the provisions of Chapter 1 (§ 36-1 et seq.) of this
89 title.

90 "Blighted property" means any individual commercial, industrial, or residential structure or
91 improvement that endangers the public's health, safety, or welfare because the structure or improvement
92 upon the property is dilapidated, deteriorated, or violates minimum health and safety standards, or any
93 structure or improvement previously designated as blighted pursuant to § 36-49.1:1, under the process
94 for determination of "spot blight."

95 "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an
96 authority pursuant to this chapter.

97 "City" means the same as that term is defined in § 15.2-102.

98 "Clerk" means the clerk or secretary of the city or the clerk of the county, as the case may be, or the
99 officer charged with the duties customarily imposed on such clerk.

100 "Conservation area" means an area, designated by an authority that is in a state of deterioration and
101 in the early stages of becoming a blighted area, as defined in this section, or any area previously
102 designated as a conservation area pursuant to this chapter.

103 "County" means the same as that term is defined in § 15.2-102.

104 "*Derelict building*" means the same as that term as defined in § 15.2-907.1 or in § 36-152.

105 "Farmers of low income" means persons of low income who derive their principal income from
106 operating or working on a farm.

107 "Farm structure" means the same as that term is defined in § 36-97.

108 "Federal government" means the United States of America, the United States Department of Housing
109 and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United
110 States of America.

111 "Governing body" means, in the case of a city or town, the council (including both branches where
112 there are two), and in the case of a county, the board of supervisors or other governing body.

113 "Housing project," means any work or undertaking: (i) to demolish, clear or remove buildings from
114 any slum area; such work or undertaking may embrace the adoption of such area to public purposes,
115 including parks or other recreational or community purposes; or (ii) to provide decent, safe and sanitary
116 urban or rural dwellings, apartments or other living accommodations for persons of low and moderate
117 income; such work or undertaking may include buildings, land, equipment, facilities and other real or
118 personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service,
119 parks, site preparation, gardening, administrative, community, health, recreational, welfare or other
120 purposes; or (iii) to accomplish a combination of the foregoing. The term "housing project" also may be
121 applied to the planning of the buildings and improvements, the acquisition of property, the demolition of

122 existing structures or improvements, the construction, reconstruction, alteration and repair of the
123 improvements and all other work in connection therewith.

124 "Locality" means the same as that term is defined in § 15.2-102.

125 "Obligee of the authority" or "obligee" means any bondholder, trustee or trustees for any
126 bondholders, or lessor demising to the authority property used in connection with a project, or any
127 assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is
128 a party to any contract with the authority.

129 "Persons of low income" means persons or families determined by the authority to lack the amount
130 of income which is necessary to enable them to live in decent, safe and sanitary dwellings.

131 "Persons of moderate income" means persons or families determined by the authority to lack the
132 amount of income necessary to obtain affordable housing.

133 "Real property" means all lands, including improvements and fixtures thereon, and property of any
134 nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or
135 equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and
136 the indebtedness secured by such liens.

137 "Redevelopment area" means an area (including slum areas), designated by an authority, that is in a
138 state of blight that meets the criteria of a blighted area as defined in this section; or any area previously
139 designated as a redevelopment area pursuant to this chapter.

140 "Slum" means any area where dwellings predominate that, by reason of dilapidation, overcrowding,
141 lack of ventilation, light or sanitary facilities, or any combination of these factors, is detrimental to
142 safety, health, or morals.

143 "Spot blight" means a structure or improvement that is a blighted property as defined in this section.

144 "Spot blight abatement plan" means the written plan prepared by the owner or owners of record of
145 the real property to address spot blight. If the owner or owners of record of the real property fail to
146 respond as provided in § 36-49.1:1, the locality or the authority can prepare a spot blight abatement plan
147 to address the spot blight with respect to an individual commercial, industrial, or residential structure or
148 improvement, but may only implement such plan in accordance with the provisions of § 36-49.1:1.

149 "Town" means the same as that term is defined in § 15.2-102.

150 § 36-49.1:1. Spot blight abatement authorized; procedure.

151 A. Notwithstanding any other provision of this chapter, an authority, or any locality, shall have the
152 power to acquire or repair any blighted property, as defined in § 36-3, whether inside or outside of a
153 conservation or redevelopment area, by purchase or through the exercise of the power of eminent
154 domain provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, and, further, shall have the power to
155 hold, clear, repair, manage or dispose of such property for purposes consistent with this chapter. In
156 addition, the authority and locality shall have the power to recover the costs of any repair or disposal of
157 such property from the owner or owners of record, determined in accordance with subsection B of
158 § 36-27. This power shall be exercised only in accordance with the procedures set forth in this section.

159 B. The chief executive or designee of the locality or authority shall make a preliminary determination
160 that a property is blighted in accordance with this chapter. It shall send notice to the owner or owners of
161 record determined in accordance with subsection B of § 36-27, specifying the reasons why the property
162 is blighted. The owner or owners of record shall have 30 days from the date the notice is sent in which
163 to respond in writing with a spot blight abatement plan to address the blight within a reasonable time.

164 C. If the owner or owners of record fail to respond within the 30-day period with a written spot
165 blight abatement plan that is acceptable to the chief executive of the agency, authority or locality, the
166 agency, authority or locality (i) may request the local planning commission to conduct a public hearing
167 and make findings and recommendations that shall be reported to the governing body of the locality to
168 declare the property as blighted, which declaration shall be by ordinance adopted by the governing
169 body concerning the repair or other disposition of the property in question and (ii) in the event a public
170 hearing is scheduled, shall prepare a written spot blight abatement plan for the repair or other disposition
171 of the property.

172 D. No spot blight abatement plan shall be effective until notice has been sent to the property owner
173 or owners of record in accordance with subsection B of § 36-27 and an ordinance has been adopted by
174 the local governing body. *Written notice to the property owner shall be sent by regular mail to the last
175 address listed for the owner on the locality's assessment records for the property, together with a copy
176 of such spot blight abatement plan prepared by the agency, authority, or locality. If the repair or other
177 disposition of the property is approved, the authority, agency, or locality may carry out the approved
178 plan to repair or acquire and dispose of the property in accordance with the approved plan, the
179 provisions of this section, and the applicable law. Not less than three weeks prior to the date of the
180 public hearing before the planning commission, the commission shall provide by regular and certified
181 mail, notice of such hearing to (i) the owner of the blighted property or the agent designated by him for
182 receipt of service of notices concerning the payment of real estate taxes within the locality; (ii) the*

183 abutting property owners in each direction, including those property owners immediately across the
184 street or road from the property; and (iii) the representative neighborhood association, if any, for the
185 immediate area. The notice shall include the plan for the intended repair or other disposition of the
186 property. The notice of the public hearing shall be published at least twice, with not less than six days
187 elapsing between the first and second publication in a newspaper published or having general circulation
188 in the locality in which the property is located. The notice also shall be posted on the property. The
189 notice shall specify the time and place of the hearing at which persons affected may appear and present
190 their views, not less than six days nor more than 21 days after the second publication.

191 E. The planning commission shall determine whether:

192 1. The property is blighted;

193 2. The owner has failed to cure the blight or present a reasonable plan to do so;

194 3. The plan for the repair or other disposition of the property is in accordance with the locally
195 adopted comprehensive plan, zoning ordinances, and other applicable land use regulations; and

196 4. The property is located within an area listed on the National Register of Historic Places. In such
197 instances, the planning commission shall consult with the locally established architectural review board,
198 if any, regarding the proposed repair or other disposition of the property by the authority or governing
199 body.

200 F. The planning commission shall report its findings and recommendations concerning the property to
201 the governing body. The governing body, upon receipt of such findings and recommendations, may,
202 after an advertised public hearing, affirm, modify, or reject the planning commission's findings and
203 recommendations. If the repair or other disposition of the property is approved, the authority, agency or
204 locality may carry out the approved plan to repair or acquire and dispose of the property in accordance
205 with the approved plan, the provisions of this section, and applicable law.

206 GE. If the ordinance is adopted by the governing body of the locality, the locality shall have a lien
207 on all property so repaired or acquired under an approved spot blight abatement plan to recover the cost
208 of (i) improvements made by such locality to bring the blighted property into compliance with
209 applicable building codes and (ii) disposal, if any. The lien on such property shall bear interest at the
210 legal rate of interest established in § 6.1-330.53, beginning on the date the repairs are completed through
211 the date on which the lien is paid. The lien authorized by this subsection shall be filed in the circuit
212 court where the property is located and shall be subordinate to any prior liens of record *may be*
213 *recorded as a lien among the land records of the circuit court, which lien shall be treated in all*
214 *respects as a tax lien and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et*
215 *seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1.* The governing body may recover its costs
216 of repair from the owner or owners of record of the property when the repairs were made at such time
217 as the property is sold or disposed of by such owner or owners. If the property is acquired by the
218 governing body through eminent domain, the cost of repair may be recovered when the governing body
219 sells or disposes of the property. In either case, the costs of repair shall be recovered from the proceeds
220 of any such sale.

221 HF. Notwithstanding the other provisions of this section, unless otherwise provided for in Title 36, if
222 the blighted property is occupied for personal residential purposes, the governing body, in approving the
223 spot blight abatement plan, shall not acquire by eminent domain such property if it would result in a
224 displacement of the person or persons living in the premises. The provisions of this subsection shall not
225 apply to acquisitions, under an approved spot blight abatement plan, by any locality of property which
226 has been condemned for human habitation for more than one year. In addition, such locality exercising
227 the powers of eminent domain in accordance with Title 25.1, may provide for temporary relocation of
228 any person living in the blighted property provided the relocation is within the financial means of such
229 person.

230 IG. In lieu of the acquisition of blighted property by the exercise of eminent domain, and in lieu of
231 the exercise of other powers granted in subsections A through H, any locality may, by ordinance,
232 declare any blighted property as defined in § 36-3 to constitute a nuisance, and thereupon abate the
233 nuisance pursuant to § 15.2-900 or § 15.2-1115. Such ordinance shall be adopted only after written
234 notice by certified mail to the owner or owners at the last known address of such owner as shown on
235 the current real estate tax assessment books or current real estate tax assessment records. If the owner
236 does not abate or remove the nuisance and the locality abates or removes the nuisance at its expense,
237 the costs of the removal or abatement of the nuisance shall be a lien on the property and such lien shall
238 bear interest at the legal rate of interest established in § 6.1-330.53, beginning on the date the removal
239 or abatement is completed through the date on which the lien is paid.

240 JH. The provisions of this section shall be cumulative and shall be in addition to any remedies for
241 spot blight abatement that may be authorized by law.

242 § 36-105. Enforcement of Code; appeals from decisions of local department; inspection of buildings;
243 inspection warrants; inspection of elevators.

244 A. Enforcement generally. Enforcement of the provisions of the Building Code for construction and

245 rehabilitation shall be the responsibility of the local building department. There shall be established
 246 within each local building department a local board of Building Code appeals whose composition, duties
 247 and responsibilities shall be prescribed in the Building Code. Appeals from the local building department
 248 concerning application of the Building Code or refusal to grant a modification to the provisions of the
 249 Building Code shall first lie to the local board of Building Code appeals. No appeal to the State
 250 Building Code Technical Review Board shall lie prior to a final determination by the local board of
 251 Building Code appeals. Whenever a county or a municipality does not have such a building department
 252 or board of Building Code appeals, the local governing body shall enter into an agreement with the local
 253 governing body of another county or municipality or with some other agency, or a state agency
 254 approved by the Department for such enforcement and appeals resulting therefrom. For the purposes of
 255 this section, towns with a population of less than 3,500 may elect to administer and enforce the Building
 256 Code; however, where the town does not elect to administer and enforce the Building Code, the county
 257 in which the town is situated shall administer and enforce the Building Code for the town. In the event
 258 such town is situated in two or more counties, those counties shall administer and enforce the Building
 259 Code for that portion of the town which is situated within their respective boundaries. Fees may be
 260 levied by the local governing body in order to defray the cost of such enforcement and appeals.

261 B. New construction. Any building or structure may be inspected at any time before completion, and
 262 shall not be deemed in compliance until approved by the inspecting authority. Where the construction
 263 cost is less than \$2,500, however, the inspection may, in the discretion of the inspecting authority, be
 264 waived. A building official may issue an annual permit for any construction regulated by the Building
 265 Code. The building official shall coordinate all reports of inspections for compliance with the Building
 266 Code, with inspections of fire and health officials delegated such authority, prior to issuance of an
 267 occupancy permit.

268 C. Existing buildings and structures.

269 1. Inspections and enforcement of the Building Code. The local governing body may also inspect and
 270 enforce the provisions of the Building Code for existing buildings and structures, whether occupied or
 271 not. Such inspection and enforcement shall be carried out by an agency or department designated by the
 272 local governing body.

273 2. Complaints by tenants. However, upon a finding by the local building department, following a
 274 complaint by a tenant of a residential dwelling unit that is the subject of such complaint, that there may
 275 be a violation of the unsafe structures provisions of the Building Code, the local building department
 276 shall enforce such provisions.

277 3. Inspection warrants. If the local building department receives a complaint that a violation of the
 278 Building Code exists that is an immediate and imminent threat to the health or safety of *the owner,*
 279 *tenant, or occupants of any building or structure, or the owner, or occupant, or tenant of a residential*
 280 *dwelling unit or a nearby residential dwelling unitany nearby building or structure,* and the owner,
 281 *occupant, or tenant of the residential dwelling unitbuilding or structure* that is the subject of the
 282 complaint has refused to allow the local building official or his agent to have access to the subject
 283 *dwellingbuilding or structure,* the local building official or his agent may present sworn testimony to a
 284 magistrate or a court of competent jurisdiction and request that the magistrate or court grant the local
 285 building official or his agent an inspection warrant to enable the building official or his agent to enter
 286 the subject *dwellingbuilding or structure* for the purpose of determining whether violations of the
 287 Building Code exist. The local building official or his agent shall make a reasonable effort to obtain
 288 consent from the owner, *occupant, or tenant of the subject dwellingbuilding or structure* prior to seeking
 289 the issuance of an inspection warrant under this section.

290 4. Transfer of ownership. If the local building department has initiated an enforcement action against
 291 the owner of a building or structure and such owner subsequently transfers the ownership of the building
 292 or structure to an entity in which the owner holds an ownership interest greater than 50%, the pending
 293 enforcement action shall continue to be enforced against the owner.

294 D. Elevator inspections. The local governing body shall, however, inspect and enforce the Building
 295 Code for elevators, except for elevators in single- and two-family homes and townhouses. Such
 296 inspection shall be carried out by an agency or department designated by the local governing body.

297 § 48-5. Fines and costs; judgment of abatement.

298 Upon the trial of any such presentment the person or persons who have created, caused or permitted
 299 the continuation of ~~such~~ any nuisance, if found guilty, shall be *ordered to either abate said nuisance or*
 300 *to reimburse the locality for all costs of removal and abatement of said nuisance, if the locality has*
 301 *abated the nuisance pursuant to § 15.2-900, and further may be fined, in the discretion of the jury,* not
 302 more than ~~\$10,000~~ \$25,000, *in addition to other remedies available under the law; and upon such*
 303 *verdict the judgment of the court shall be for the amount of fine imposed and the costs of such*
 304 *proceeding, and also that such nuisance be forthwith removed and abated.*

305 § 58.1-3965. When land may be sold for delinquent taxes; notice of sale; owner's right of

306 redemption.

307 A. When any taxes on any real estate in a ~~county, city or town~~ *locality* are delinquent on December
 308 31 following the second anniversary of the date on which such taxes have become due, or, in the case
 309 of real property upon which is situated (i) any structure that has been condemned by the local building
 310 official pursuant to applicable law or ordinance;; (ii) *any nuisance as that term is defined in § 15.2-900;*
 311 *(iii) any derelict building as that term is defined in § 15.2-907.1; or (iv) any property that has been*
 312 *declared to be blighted as that term is defined in § 36-49.1:1,* the first anniversary of the date on which
 313 such taxes have become due, ~~or, in the case of real estate which is deemed abandoned as provided~~
 314 ~~herein, and the taxes on any real estate are delinquent on December 31 following the second anniversary~~
 315 ~~of the date on which such taxes have become due,~~ such real estate may be sold for the purpose of
 316 collecting all delinquent taxes on such property.

317 Upon a finding by the court, on real estate with an assessed value of ~~\$50,000~~ *\$100,000* or less in
 318 any ~~county, city or town~~ *locality*, that (i) any taxes on such real estate are delinquent on December 31
 319 following the ~~second~~ *first* anniversary of the date on which such taxes have become due ~~and (a) the land~~
 320 ~~or structure on it has been declared a nuisance by the local code official due to unresolved code~~
 321 ~~violations, (b) the owner of record of the property has failed to abate the nuisance after proper statutory~~
 322 ~~notice has been given by code enforcement officials, and (c) the locality has taken steps to abate the~~
 323 ~~nuisance conditions and placed a lien on the property for the cost of such abatement, and the lien has~~
 324 ~~remained unpaid; or (ii) any taxes on such real estate are delinquent on December 31 following the fifth~~
 325 ~~anniversary of the date on which such taxes have become due or (ii) there is a lien on such real estate~~
 326 ~~pursuant to § 15.2-900, 15.2-906, 15.2-907, 15.2-907.1, 15.2-908.1, or 36-49.1:1, which lien remains~~
 327 ~~unpaid on December 31 following the first anniversary of the date on which such lien was recorded,~~ the
 328 property shall be deemed ~~abandoned~~ and subject to sale by public auction pursuant to proper notice
 329 under this subsection.

330 The officer charged with the duty of collecting taxes for the locality wherein the real property lies
 331 shall, at least 30 days prior to instituting any judicial proceeding pursuant to this section, send a notice
 332 to (i) the last known address of the property owner as such owner and address appear in the records of
 333 the treasurer, (ii) the property address if the property address is different from the owner's address and if
 334 the real estate is listed with the post office by a numbered and named street address and (iii) the last
 335 known address of any trustee under any deed of trust, mortgagee under any mortgage and any other lien
 336 creditor, if such trustee, mortgagee or lien creditor is not otherwise made a party defendant under
 337 § 58.1-3967, advising such property owner, trustee, mortgagee or other lien creditor of the delinquency
 338 and the officer's intention to take action. Such officer shall also cause to be published at least once a list
 339 of real estate which will be offered for sale under the provisions of this article in a newspaper of
 340 general circulation in the locality, at least 30 days prior to the date on which judicial proceedings under
 341 the provisions of this article are to be commenced.

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

347 Notice

348 Judicial Sale of Real Property

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

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

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

363 D. During the pendency of any installment agreement permitted under subsection C, any proceeding
 364 for a sale previously commenced shall not abate, but shall be continued on the docket of the court in
 365 which such action is pending. It shall be the duty of the treasurer or other officer responsible for
 366 collecting taxes to promptly notify the clerk of such court when obligations arising under such an
 367 installment agreement have been fully satisfied. Upon the receipt of such notice, the clerk shall cause

368 the action to be stricken from the docket.

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

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

383 § 58.1-3969. Order of reference; appointment of special commissioner to make sale; costs; attorney
384 fees.

385 The court shall have the option, for good cause shown, to refer the case to a commissioner in
386 chancery for hearing and report, in which case, the order of reference shall be to a commissioner in
387 chancery or special master other than the attorney (or any attorney practicing in the same firm as the
388 attorney) employed to subject the real estate to the lien of any taxes. Upon (i) receipt of proper service
389 of process on all parties defendant, a written real estate title certificate and the written report of a
390 licensed real estate appraiser where there is no dispute as to title or value or, (ii) the receipt of the
391 report of the commissioner in chancery, or (iii) where the assessor for the locality files an affidavit with
392 the court of value and the value is averred to not exceed \$100,000, the court may appoint a special
393 commissioner to sell the properties and execute the necessary deeds when a sale is found necessary or
394 advisable and in doing so the appointee may be. The court may designate the attorney employed by the
395 governing body of the ~~county, city or town~~ locality to bring the suit. However, if the property is deemed
396 abandoned in accordance with § 58.1-3965, the court shall not be required to refer the case to the
397 commissioner in chancery.

398 The sale price achieved at a public auction shall be prima facie, but rebuttable, evidence of the value
399 of the property for purposes of the approval of the sale. If the attorney employed by the governing body
400 of the ~~county, city, district or town~~ locality be appointed a special commissioner to sell the land and
401 execute the deed and he has already given the bond hereinabove mentioned, no additional bond shall be
402 required of him as special commissioner unless the court regards the bond already given as insufficient
403 in amount. No fee or commission shall be allowed or paid to any attorney for acting under the order of
404 reference or as special commissioner, except as hereinafter provided, and the compensation contracted to
405 be paid any such attorney by the governing body, whether the employment was on a salary, commission
406 or other basis, shall be in full for all services rendered by him. The court shall allow as part of the
407 costs, to be paid into the treasury of the ~~county, city or town~~ locality, a reasonable sum to defray the
408 cost of its attorneys and the expenses of publication and appraisal necessary for the purpose of
409 instituting such suit and such fees and commissions, including fees for preparing and executing deeds, as
410 would be allowed if the suit were an ordinary lien creditor's suit. When the special commissioner is
411 other than the attorney employed by the ~~county, city or town~~ locality the court may allow him reasonable
412 fees for selling the land and executing the deed, payable out of the proceeds of sale.

413 In any case in which the attorney representing the ~~county, city or town~~ locality and the governing
414 body thereof have failed to reach an agreement as to a salary or commission or other basis as
415 compensation for the services of such attorney, the court in which any proceedings are brought under
416 this article may allow from the proceeds of the sale of any such real estate such fee as the court shall
417 deem reasonable and proper to the attorney representing any such ~~county, city or town~~ locality in such
418 proceeding.

419 2. That nothing in this act shall be construed to supercede the provisions of §1-219.1.