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SENATE BILL NO. 1170

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on February 2, 2009)

(Patron Prior to Substitute—Senator Watkins)

A BILL to amend and reenact § 6.1-430 of the Code of Virginia, relating to the Mortgage Lender and Broker Act; authority of Attorney General.

Be it enacted by the General Assembly of Virginia:

1. That § 6.1-430 of the Code of Virginia is amended and reenacted as follows:

§ 6.1-430. Authority of the Attorney General; referral by Commission to Attorney General.

A. If the Commission determines that a mortgage lender or broker licensed under this chapter is in violation, or has violated, any provision of Articles 3 (§ 6.1-330.53 et seq.) through 12 (§ 6.1-330.80 et seq.) of Chapter 7.3 of this title or, § 6.1-422 or § 6.1-422.1, the Commission may refer the information to the Attorney General and may request that the Attorney General investigate such violations. In the case of such referral, the Attorney General is hereby authorized to seek to enjoin violations of such laws. The circuit court having jurisdiction may enjoin such violations notwithstanding the existence of an adequate remedy at law.

Upon such referral of the Commission, the Attorney General may also seek, and the circuit court may order or decree damages and such other relief allowed by law, including restitution to the extent available to borrowers under applicable law. Persons entitled to any relief as authorized by this section shall be identified by order of the court within 180 days from the date of the order permanently enjoining the unlawful act or practice.

In any action brought by the Attorney General by virtue of the authority granted in this provision, the Attorney General shall be entitled to seek attorney's fees and costs.

B. The Attorney General shall be authorized to bring an action to enjoin violations of the Real Estate Settlement Procedures Act of 1974 (RESPA), 12 U.S.C. § 2601 et seq., to the extent authorized by §§ 8 and 16 of RESPA, 12 U.S.C. §§ 2607 and 2614.