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HOUSE BILL NO. 264

Offered January 13, 2010

Prefiled January 11, 2010

A *BILL to amend and reenact § 36-22.1 of the Code of Virginia, relating to housing authorities; no trespass policy.*

Patrons—Englin, Alexander, BaCote, Hope, McClellan, McQuinn, Morrissey, Spruill, Surovell, Torian, Toscano, Tyler, Ward and Watts

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 36-22.1 of the Code of Virginia is amended and reenacted as follows:**

§ 36-22.1. No trespass policy; barring individuals; hearing required; conveyance of streets.

A. Each housing authority shall adopt a written "no trespass" policy designed to protect the premises controlled by such authority and residents from nonresidents who enter the premises for unlawful purposes or without any lawful purpose. *The written "no trespass" policy shall include all of the terms and conditions of the policy, including provisions setting forth the specific requirements of this section. No informal policies or other provisions relating to the "no trespass" policy adopted by the authority that are not contained in the written "no trespass" policy shall be enforceable by the authority.*

B. *The authority shall provide a copy of the policy to a tenant at the time of execution of the lease. Thereafter, the authority shall deliver a copy of the policy to each resident annually. In addition, the authority shall post conspicuous signs on the premises informing residents and visitors of the terms of the policy.*

C. *Upon receipt of a citation for an alleged violation of the policy, the individual receiving the citation shall be entitled to a hearing before the chief executive officer of the authority or his designee, at which the individual shall be given the opportunity to present testimony, evidence, and witnesses on his behalf. The chief executive officer or his designee shall issue a written decision within 10 working days following the hearing. A "no trespass" or barment decision by the chief executive officer shall not become effective until written notice thereof is delivered or served on the individual found to be in violation of the policy. Such notice shall state the basis for the decision and include details about the appeal process specified in subsection E.*

D. *If an individual fails to attend the scheduled hearing without communicating good cause to the authority prior to the hearing, the chief executive officer or his designee may make a barment decision in the individual's absence, which shall become effective when written notice thereof is delivered or served on the individual found to be in violation of the policy. Such notice shall state the basis for the decision and include details about the appeal process specified in subsection E.*

E. *An individual may appeal a barment decision to the chairman of the commissioners. Such appeal shall be made in writing and delivered to the authority within 10 working days of the effective date of the barment. Within 30 days of receipt of the written notice of appeal, a barment appeal hearing shall be held by the chairman or another commissioner designated by the chairman. The individual appealing the barment decision shall be given the opportunity to present testimony, evidence, and witnesses on his behalf. The chairman or the commissioner designated by the chairman shall issue a written decision within 10 working days following the appeal hearing either upholding, reducing the duration or scope of, or vacating the barment decision. The appeal decision shall not become effective until written notice thereof is delivered or served on the individual.*

F. *An individual receiving a citation for a violation of the policy may waive the rights granted under this section. Any such waiver shall be in writing and delivered to the authority within 10 working days of the issuance of the citation. If so waived, the chief executive officer or his designee may make a barment decision, which shall become effective when written notice thereof is delivered or served on the individual found to be in violation of the policy. Such notice shall state the basis for the decision.*

G. *Every three years or such lesser period as may be stated in the policy, the authority shall review any "no trespass" or barment list to ensure its accuracy. The authority shall remove the name of any individual on the "no trespass" or barment list who has not violated the policy for a period of three years immediately following the "no trespass" or barment decision.*

H. *In adopting such policies, the authority shall determine whether to petition a locality or the Commonwealth to close to the public and convey to the authority any streets serving authority property. Neither a locality nor the Commonwealth shall be required to grant the conveyance.*

INTRODUCED

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