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HOUSE BILL NO. 44

Offered January 13, 2010

Prefiled December 18, 2009

A BILL to amend the Code of Virginia by adding a section numbered 38.2-2105.1, relating to fire insurance policies; coverage for damage resulting from Chinese drywall.

Patron—Oder

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 38.2-2105.1 as follows:**

§ 38.2-2105.1. Discrimination based on presence of Chinese drywall prohibited.

A. As used in this section, "Chinese drywall" means drywall, or similar building material composed of dried gypsum-based plaster, that was manufactured in the People's Republic of China and was imported into the United States in 2004 or thereafter.

B. Any provision of a fire or homeowners insurance policy or contract on an owner-occupied dwelling that limits or excludes coverage for loss or damage to property arising out the discharge, dispersal, seepage, migration, release, or escape of a pollutant, including any solid, liquid, gaseous, or thermal irritant or contaminant shall not be construed in a manner that limits or excludes coverage for property damage, including corrosion of copper and other metals in home components such as air conditioners, exposed wiring, plumbing, and electronics, resulting from sulfur dioxide, hydrogen sulfide, carbon disulfide, or other sulfur compounds released into the dwelling from Chinese drywall used as a building material in the insured dwelling, or for the removal and replacement of Chinese drywall that is releasing such compounds into the dwelling.

C. Any provision of a fire or homeowners insurance policy or contract on an owner-occupied dwelling that limits or excludes coverage for property damage to property arising out of (i) defective materials, construction, or design, or (ii) deterioration of the insured property, shall not be construed in a manner that limits or excludes coverage for property damage, including corrosion of copper and other metals in home components such as air conditioners, exposed wiring, plumbing, and electronics, resulting from sulfur dioxide, hydrogen sulfide, carbon disulfide, or other sulfur compounds released into the dwelling from Chinese drywall used as a building material in the insured dwelling, or for the removal and replacement of Chinese drywall that is releasing such compounds into the dwelling.

D. Any provision of a fire or homeowners insurance policy or contract on an owner-occupied dwelling that limits or excludes coverage for loss or damage to property occurring while the insured dwelling is vacant or unoccupied beyond a stated period shall not be construed in a manner that limits or excludes coverage for property damage incurred if the dwelling is vacant or unoccupied beyond such a period because (i) the dwelling is undergoing repairs, renovation, replacement, or reconstruction in order to remove or replace Chinese drywall that had been installed within the dwelling, or to repair or replace components of the dwelling damaged as a result of the release of sulfur dioxide, hydrogen sulfide, carbon disulfide, or other sulfur compounds into the dwelling from Chinese drywall that had been installed within the dwelling or (ii) occupancy of the dwelling is found to pose a substantial risk to human health as a result of the release of sulfur dioxide, hydrogen sulfide, carbon disulfide, or other sulfur compounds into the dwelling from Chinese drywall that had been installed therein.

2. That an emergency exists and this act is in force from its passage.

INTRODUCED

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