

2011 SESSION

INTRODUCED

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HB1920

11100648D

HOUSE BILL NO. 1920

Offered January 12, 2011

Prefiled January 11, 2011

A BILL to amend and reenact § 55-66.01 of the Code of Virginia, relating to recording assignment of deed of trust; prerequisite to sale.

Patron—Abbott

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 55-66.01 of the Code of Virginia is amended and reenacted as follows:

§ 55-66.01. Protection of assignees or transferees of debts secured by real estate; form of certificate of transfer.

A. Whenever a debt or other obligation secured by a deed of trust, mortgage or vendor's lien on real estate has been assigned, the assignor or the assignee, at its option, may cause the instrument of assignment to be recorded in the clerk's office of the circuit court where such deed of trust, mortgage or vendor's lien is recorded provided such instrument is otherwise in recordable form, or may cause a certificate of transfer signed by the assignor to be recorded in such clerk's office, and such instrument of assignment or certificate of transfer, upon recordation, shall operate as a notice of such assignment. The instrument of assignment or certificate of transfer shall be indexed in the name of the assignor and in the names of the obligor or maker, and the trustees, as applicable, all of whose names shall be set forth in such instrument or certificate. The certificate of transfer shall conform substantially to the following:

CERTIFICATE OF TRANSFER

Place of Record: Clerk's Office of the Circuit
Court of the of
....., Virginia

Date of [Deed of Trust/
Mortgage/Vendor's Lien]:
Deed Book

....., Page

Name of Obligor or Maker:

Names(s) of Trustee(s)

[if a Deed of Trust]:

Name of Original

Payee or Obligee:

Original Amount Secured

[if applicable]:

\$

The undersigned, the original payee or obligee [or the subsequent assignee] of the obligation secured by the above-mentioned [Deed of Trust/Mortgage/Vendor's Lien], hereby certifies that the obligations secured thereby have been assigned to

[If a credit line deed of trust, the name and address to which notice may be mailed or delivered to the Noteholder as provided by § 55-58.2 is as follows:

.....
.....]

Given under [my/our] hand(s) as of the
day of

(Assignor)

..... of

County/City of, to wit:

56 Subscribed, sworn to and acknowledged before me by
57 this day of 20.....
58 My Commission Expires:
59

60 Notary Public

61 For purposes of this statute, the word "assigned" shall include endorsed, pledged, hypothecated or
62 otherwise transferred. Nothing in this statute shall be deemed to invalidate any other form or notice of
63 assignment that may have been heretofore recorded. Nothing in this statute shall imply that recordation
64 of the instrument of assignment or a certificate of transfer is necessary in order to transfer to an assignee
65 the benefit of the security provided by the deed of trust, mortgage or vendor's lien.

66 *B. The trustee, or any substitute trustee, under any deed of trust or mortgage entered into on or after*
67 *July 1, 2011, shall not proceed with any sale of the property conveyed to him by the deed of trust or*
68 *mortgage at the request of a person who asserts that he is the holder of the obligation secured thereby*
69 *unless the land records of the locality in which the property is located contain a duly recorded*
70 *instrument evidencing the assignment of the secured obligation to such person.*