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**HOUSE BILL NO. 790**

Offered January 13, 2010

Prefiled January 12, 2010

*A BILL to amend and reenact § 15.2-908 of the Code of Virginia, relating to removal of defacement from structures.*

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Patron—Villanueva

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Referred to Committee on Counties, Cities and Towns

**Be it enacted by the General Assembly of Virginia:****1. That § 15.2-908 of the Code of Virginia is amended and reenacted as follows:**

§ 15.2-908. Authority of localities to remove or repair the defacement of buildings, walls, fences and other structures.

A. Any locality may by ordinance undertake or contract for the removal or repair of the defacement of any public building, wall, fence or other structure or any private building, wall, fence or other structure where such defacement is visible from any public right-of-way. The ordinance may provide that whenever the property owner, after reasonable notice, fails to remove or repair the defacement, the locality may have such defacement removed or repaired by its agents or employees. Such agents or employees shall have any and all immunity normally provided to an employee of the locality. For purposes of this section, the term "defacement" means the unauthorized application by any means of any writing, painting, drawing, etching, scratching, or marking of an inscription, word, mark, figure, or design of any type.

If the defacement occurs on a public or private building, wall, fence, or other structure ~~located on an unoccupied property~~, and the locality, through its own agents or employees, removes or repairs the defacement after complying with the notice provisions of this section, the actual cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected. No lien shall be chargeable to the owners of such property unless the locality shall have given a minimum of 15 days notice to the property owner prior to the removal of the defacement.

Every charge authorized by this section with which the owner of any such property shall have been assessed and that remains unpaid shall constitute a lien against such property, ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive and release such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

B. The court may order any person convicted of unlawfully defacing property described in subsection A to pay full or partial restitution to the locality for costs incurred by the locality in removing or repairing the defacement if the locality has adopted an ordinance pursuant to this section.

C. An order of restitution pursuant to this section shall be docketed as provided in § 8.01-446 when so ordered by the court or upon written request of the locality and may be enforced by the locality in the same manner as a judgment in a civil action.

INTRODUCED

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