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HOUSE BILL NO. 491

Offered January 11, 2012

Prefiled January 10, 2012

A *BILL to amend the Code of Virginia by adding a section numbered 15.2-907.2, relating to receivership of derelict and blighted buildings.*

Patrons—Dance, Marshall, D.W., Carr, McClellan, McQuinn, Morrissey and Spruill

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 15.2-907.2 as follows:**

§ 15.2-907.2. Authority of locality to be appointed to act as a receiver to repair derelict and blighted buildings in certain limited circumstances.

A. Any locality that has adopted an ordinance pursuant to § 15.2-907.1 may petition the circuit court for the appointment of the locality to act as a receiver to repair real property that contains residential dwelling units only in accordance with all of the following:

1. The locality has properly declared the subject property to be a derelict structure in compliance with the provisions of § 15.2-907.1;

2. The property owners are in noncompliance with the provisions of § 15.2-907.1;

3. The locality has properly declared the subject property to be blighted in compliance with the provisions of § 36-49.1:1 for spot blight abatement, and the subject property is itself blighted;

4. The property owners are in noncompliance with the provisions of § 36-49.1:1 requiring abatement of the blighted condition of the property;

5. The locality has made bona fide efforts to ensure compliance by the property owners of the subject property with the requirements of §§ 15.2-907.1 and 36-49.1:1;

6. The repairs to the subject property are necessary to bring the subject property into compliance with the provisions of the Uniform Statewide Building Code;

7. The repairs to the subject property necessary to satisfy the requirements of subdivision 6 shall not result in a change of use for zoning purposes of the subject property;

8. Upon appointment by the circuit court to serve as a receiver, the locality shall have the authority to contract for all reasonable repairs necessary to bring the property into compliance with the provisions of the Uniform Statewide Building Code, subject to all applicable requirements of state and local procurement laws. Such repairs shall be made in a time period established by the court, but in no event shall a receivership exceed two years;

9. Notwithstanding any other provision of law, the provisions of this section are subject to the requirements of the Servicemembers Civil Relief Act, (50 U.S.C. App. §§ 501-596 (19 Dec 2003)), et. seq.; and

10. Notwithstanding any other provisions of law, the subject property shall be eligible for any real estate abatement programs that exist in the locality.

B. A petition by the locality to be appointed to act as a receiver shall include affirmative statements that the locality has satisfied each of the requirements of this section and further state that the locality has recorded a memorandum of lis pendens simultaneously with the filing of said petition. The costs of the receivership, along with reasonable attorney fees, incurred by the locality as receiver shall constitute a lien in favor of the locality against the subject property in accordance with the provisions of § 58.1-3340, and shall be on par with and collectible in the same manner as delinquent real estate taxes owed to the locality. The judicial proceedings herein shall be held in accordance with the requirements, statutory or arising at common law, relative to effecting the sale of real estate by a creditor's bill in equity to subject real estate to the lien of a judgment creditor.

C. The locality appointed to be a receiver may enforce the receiver's lien by a sale of the property at public auction, but only upon application for and entry of an order of sale by the circuit court. The court shall appoint a special commissioner to conduct the sale, and an attorney employed by the locality may serve as special commissioner. Such sale shall be upon order of the court entered after notice as required by the Rules of the Supreme Court of Virginia and following publication of notice of the sale once a week for four consecutive weeks in a newspaper of general circulation. Following such public auction, the special commissioner shall file an accounting with the court and seek confirmation of the sale. Upon confirmation, the special commissioner shall be authorized to execute a deed conveying title, which shall pass free and clear to the purchaser at public auction. Following such sale, the former owner or owners, or any heirs, assignees, devisees, or successors in interest to the property shall be

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59 *entitled to the surplus received in excess of the receiver's lien, taxes, penalties, interest, reasonable*
60 *attorney fees, costs, and any recorded liens chargeable against the property. At any time prior to*
61 *confirmation of the sale provided for herein, the owner shall have the right to redeem the property, as*
62 *provided for in subsection D. The character of the title acquired by the purchaser of the property at*
63 *public auction shall be governed by the principles and rules applicable to the titles of purchases at*
64 *judicial sales of real estate generally.*

65 *D. The owner of any property subject to receivership may redeem the property at any time prior to*
66 *the expiration of the two-year period or prior to confirmation of sale at public auction by paying the*
67 *receiver's lien in full and the taxes, penalties, interest, reasonable attorney fees, costs, and any recorded*
68 *liens chargeable against the property. Partial payment shall not be sufficient to redeem the property and*
69 *shall not operate to suspend the receivership.*

70 *E. In lieu of appointment of a receiver, the circuit court shall permit repair by a property owner or*
71 *a person with an interest in the property secured by a deed of trust properly recorded upon the*
72 *following conditions:*

73 *1. Demonstration of the ability to complete the repair within a reasonable amount of time to be*
74 *determined by the court; and*

75 *2. Entry of a court order setting forth a schedule for such repair.*

76 **2. That nothing in this act shall be construed to supersede the provisions of § 1-219.1 of the Code**
77 **of Virginia.**