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SENATE BILL NO. 102

Offered January 11, 2012

Prefiled January 9, 2012

A *BILL to amend and reenact § 15.2-5139 of the Code of Virginia, relating to water and waste authorities; liens.*

Patron—Edwards

Referred to Committee on Local Government**Be it enacted by the General Assembly of Virginia:****1. That § 15.2-5139 of the Code of Virginia is amended and reenacted as follows:**

§ 15.2-5139. Lien for charges.

A. There shall be a lien upon real estate for the amount of any fees, rents or other charges by an authority to the owner or lessee or tenant of the real estate for the use and services of any system of the authority by or in connection with the real estate from the time when the fees, rents or charges are due, and for the interest which may accrue thereon. Such lien shall rank on a parity with liens for unpaid real estate taxes. An authority may contract with a locality to collect amounts due on properly recorded utility liens in the same manner as unpaid real estate taxes due the locality. A lien for delinquent rates or charges applicable to three or fewer months may be placed by an authority if the authority or its billing and collection agent (i) has advised the owner of such real estate *in a written agreement, signed by both the authority or its agent and the owner*, at the time of initiating service to a lessee or tenant of such real estate that a lien will be placed on the real estate if the lessee or tenant fails to pay any fees, rents or other charges when due for services rendered to the lessee or tenant; (ii) has mailed to the owner of the real estate a duplicate copy of the final bill rendered to the lessee or tenant at the time of rendering the final bill to such lessee or tenant; and (iii) employs the same collection efforts and practices to collect amounts due the authority from a lessee or a tenant as are employed with respect to collection of such amounts due from customers who are owners of the real estate for which service is provided.

However, prior to recording any lien on the owner's property, the authority shall provide the property owner with 30 days' written notification to allow the property owner a reasonable opportunity to pay the amount of the lien and avoid the recordation of a lien against the property. If the property owner fails to pay the amount of the former tenant's obligations within the 30-day period, the authority may record a lien in the amount of such outstanding obligations against the property owner. Upon payment of any outstanding amounts due by a former tenant of the property owner, the property owner shall be entitled to receive any refunds and shall be subrogated against the former tenant in place of the authority in the amount paid by the property owner. The authority shall execute all documents necessary to perfect such subrogation in favor of the property owner. Unless a lien has been recorded against the property owner, the authority shall not deny service to a new tenant requesting service at a particular property address based upon the fact that a former tenant has not paid any outstanding fees and charges charged for the use and services in the name of the former tenant. In addition, the authority shall provide information relative to a former tenant or current tenant to the property owner upon request of the property owner with the written notification to the property owner as otherwise provided herein. If the property owner provides the authority a request to be notified of a tenant's delinquent water bill and provides an email address, the authority shall send the property owner notice when a tenant's water bill has become 15 days delinquent.

B. The lien shall not bind or affect a subsequent bona fide purchaser of the real estate for valuable consideration without actual notice of the lien until the amount of such fees, rents and charges is entered in a judgment lien book in the office where deeds may be recorded in the locality in which the real estate or a part thereof is located. The clerk in whose office deeds may be recorded shall make and index the entries therein upon certification by the authority, for which he shall be entitled to a fee of two dollars per entry, to be paid by the authority and added to the amount of the lien. The authority shall give the owner of the real estate notice in writing that it has made such certification to the clerk.

C. The lien on any real estate may be discharged by the payment to the authority of the total lien amount, and the interest which has accrued to the date of the payment. The authority shall deliver a certificate thereof to the person making the payment. Upon presentation of such certificate, the clerk having the record of the lien shall mark the entry of the lien satisfied, for which he shall be entitled to a fee of one dollar.

INTRODUCED

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