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HOUSE BILL NO. 1401

Offered January 9, 2013

Prefiled December 17, 2012

A BILL to amend and reenact § 58.1-3965 of the Code of Virginia, relating to real property tax; sale of residence for delinquent taxes.

 Patron—Cole

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-3965 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-3965. When land may be sold for delinquent taxes; notice of sale; owner's right of redemption.**

A. When any taxes on any real estate in a locality, *except the sole dwelling of the taxpayer*, are delinquent on December 31 following the second anniversary of the date on which such taxes have become due, or, in the case of real property upon which is situated (i) any structure that has been condemned by the local building official pursuant to applicable law or ordinance; (ii) any nuisance as that term is defined in § 15.2-900; (iii) any derelict building as that term is defined in § 15.2-907.1; or (iv) any property that has been declared to be blighted as that term is defined in § 36-49.1:1, the first anniversary of the date on which such taxes have become due, such real estate may be sold for the purpose of collecting all delinquent taxes on such property.

Upon a finding by the court, on real estate with an assessed value of \$100,000 or less in any locality, *except the sole dwelling of the taxpayer*, that (i) any taxes on such real estate are delinquent on December 31 following the first anniversary of the date on which such taxes have become due or (ii) there is a lien on such real estate pursuant to § 15.2-900, 15.2-906, 15.2-907, 15.2-907.1, 15.2-908.1, or 36-49.1:1, which lien remains unpaid on December 31 following the first anniversary of the date on which such lien was recorded, the property shall be deemed subject to sale by public auction pursuant to proper notice under this subsection.

The officer charged with the duty of collecting taxes for the locality wherein the real property lies shall, at least 30 days prior to instituting any judicial proceeding pursuant to this section, send a notice to (i) the last known address of the property owner as such owner and address appear in the records of the treasurer, (ii) the property address if the property address is different from the owner's address and if the real estate is listed with the post office by a numbered and named street address and (iii) the last known address of any trustee under any deed of trust, mortgagee under any mortgage and any other lien creditor, if such trustee, mortgagee or lien creditor is not otherwise made a party defendant under § 58.1-3967, advising such property owner, trustee, mortgagee or other lien creditor of the delinquency and the officer's intention to take action. Such officer shall also cause to be published at least once a list of real estate which will be offered for sale under the provisions of this article in a newspaper of general circulation in the locality, at least 30 days prior to the date on which judicial proceedings under the provisions of this article are to be commenced.

The pro rata cost of such publication shall become a part of the tax and together with all other costs, including reasonable attorneys' fees set by the court and the costs of any title examination conducted in order to comply with the notice requirements imposed by this section, shall be collected if payment is made by the owner in redemption of the real property described therein whether or not court proceedings have been initiated. A notice substantially in the following form shall be sufficient:

Notice**Judicial Sale of Real Property**

On (date) proceedings will be commenced under the authority of §58.1-3965 et seq. of the Code of Virginia to sell the following parcels for payment of delinquent taxes:
(description of properties)

B. The owner of any property listed may redeem it at any time before the date of the sale by paying all accumulated taxes, penalties, reasonable attorneys' fees, interest and costs thereon, including the pro rata cost of publication hereunder. Partial payment of delinquent taxes, penalties, reasonable attorneys' fees, interest or costs shall not be sufficient to redeem the property, and shall not operate to suspend, invalidate or make moot any action for judicial sale brought pursuant to this article.

C. Notwithstanding the provisions of subsection B and of § 58.1-3954, the treasurer or other officer responsible for collecting taxes may suspend any action for sale of the property commenced pursuant to this article upon entering into an agreement with the owner of the real property for the payment of all

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59 delinquent amounts in installments over a period which is reasonable under the circumstances, but in no
60 event shall exceed 24 months. Any such agreement shall be secured by the lien of the locality pursuant
61 to § 58.1-3340.

62 D. During the pendency of any installment agreement permitted under subsection C, any proceeding
63 for a sale previously commenced shall not abate, but shall be continued on the docket of the court in
64 which such action is pending. It shall be the duty of the treasurer or other officer responsible for
65 collecting taxes to promptly notify the clerk of such court when obligations arising under such an
66 installment agreement have been fully satisfied. Upon the receipt of such notice, the clerk shall cause
67 the action to be stricken from the docket.

68 E. In the event the owner of the property or other responsible person defaults upon obligations
69 arising under an installment agreement permitted by subsection C, or during the term of any installment
70 agreement, defaults on any current obligation as it becomes due, such agreement shall be voidable by
71 the treasurer or other officer responsible for collecting taxes upon 15 days' written notice to the
72 signatories of such agreement irrespective of the amount remaining due. Any action for the sale
73 previously commenced pursuant to this article may proceed without any requirement that the notice or
74 advertisement required by subsection A, which had previously been made with respect to such property,
75 be repeated. No owner of property which has been the subject of a defaulted installment agreement shall
76 be eligible to enter into a second installment agreement with respect to the same property within three
77 years of such default.

78 F. Any corporate, partnership or limited liability officer, as those terms are defined in § 58.1-1813,
79 who willfully fails to pay any tax being enforced by this section, shall, in addition to other penalties
80 provided by law, be liable to a penalty of the amount of the tax not paid, to be assessed and collected in
81 the same manner as such taxes are assessed and collected.