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**HOUSE BILL NO. 1736**

Offered January 9, 2013

Prefiled January 8, 2013

*A BILL to amend and reenact § 54.1-2108.1 of the Code of Virginia, relating to the Real Estate Board; protection of escrow funds by real estate licensee; payments made under a rental agreement.*

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Patron—Farrell

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Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:****1. That § 54.1-2108.1 of the Code of Virginia is amended and reenacted as follows:****§ 54.1-2108.1. Protection of escrow funds, etc., held by a real estate broker in the event of foreclosure of real property.**

Notwithstanding any other provision of law:

1. If a licensed real estate broker or an agent of the licensee is holding escrow funds for the owner of real property and such property is foreclosed upon by a lender, the licensee or an agent of the licensee shall have the right to file an interpleader action pursuant to § 16.1-77.

2. If there is in effect at the date of the foreclosure sale, a real estate purchase contract to buy the property foreclosed upon and the real estate purchase contract provides that the earnest money deposit held in escrow by a licensee shall be paid to a party to the contract in the event of a termination of the real estate purchase contract, the foreclosure shall be deemed a termination of the real estate purchase contract and the licensee or an agent of the licensee may, absent any default on the part of the purchaser, disburse the earnest money deposit to the purchaser pursuant to such provisions of the real estate purchase contract without further consent from, or notice to, the parties.

3. If there is in effect at the date of the foreclosure sale, a tenant in a residential dwelling unit foreclosed upon and the landlord is holding a security deposit of the tenant, the landlord shall handle the security deposit in accordance with applicable law, which requires the holder of the landlord's interest in the dwelling unit at the time of termination of tenancy to return any security deposit and any accrued interest that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's interest by law or equity, and regardless of any contractual agreements between the original landlord and his successors in interest. Nothing herein shall be construed to prevent the landlord from making lawful deductions from the security deposit in accordance with applicable law.

4. *For any landlord-tenant relationship within the purview of the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.), any prepaid rent paid more than one month prior to the due date and all security deposits paid to a licensed broker in connection with the lease shall be placed in an escrow account by the end of the fifth business banking day following receipt, unless otherwise agreed to in writing by the principals to the lease transaction. The funds shall remain in the escrow account until disbursed in accordance with the terms of the lease or the property management agreement, as applicable. Any application deposit as defined in § 55-248.4 paid by a prospective tenant for the purpose of being considered as a tenant for a dwelling unit to a real estate licensee acting on behalf of the landlord shall be placed in escrow by the end of the fifth business banking day following approval of the rental application by the landlord.*

INTRODUCED

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