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HOUSE BILL NO. 1744

Offered January 9, 2013

Prefiled January 8, 2013

A BILL to amend and reenact §§ 15.2-901 and 15.2-1115 of the Code of Virginia, relating to cutting of grass; nuisance abatement.

Patrons—BaCote, Carr, Dance, Filler-Corn, Helsel, Hope, James, McQuinn, Sickles, Toscano, Tyler, Ward, Ware, O. and Watts

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

**1. That §§ 15.2-901 and 15.2-1115 of the Code of Virginia are amended and reenacted as follows:
§ 15.2-901. Locality may provide for removal or disposal of trash, cutting of grass and weeds; penalty in certain counties; penalty.**

A. Any locality may, by ordinance, provide that:

1. The owners of property therein shall, at such time or times as the governing body may prescribe, remove therefrom any and all trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of such locality; or may, whenever the governing body deems it necessary, after reasonable notice, have such trash, garbage, refuse, litter and other like substances which might endanger the health of other residents of the locality, removed by its own agents or employees, in which event the 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;

2. Trash, garbage, refuse, litter and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the persons disposing of such matter or in authorized facilities provided for such purpose and in no other manner not authorized by law;

3. The owners of vacant developed or undeveloped property therein, including such property upon which buildings or other improvements are located, shall cut the grass, weeds and other foreign growth on such property or any part thereof at such time or times as the governing body shall prescribe; or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. *For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice.* In the Counties of James City and Prince George, the Cities of Colonial Heights, Hopewell, Newport News, Williamsburg, and Winchester, and the Towns of Ashland and Chincoteague, and in a locality within Planning District 8, an ordinance adopted pursuant to this subdivision may also apply to owners of occupied property therein. No such ordinance adopted by any county shall have any force and effect within the corporate limits of any town. No such ordinance adopted by any county having a density of population of less than 500 per square mile shall have any force or effect except within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial or industrial use.

B. Every charge authorized by this section with which the owner of any such property shall have been assessed and which 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 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.

C. The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, not to exceed \$50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period.

D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class

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58 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant
59 for the same or similar violation, not arising from the same set of operative facts, within a 24-month
60 period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil
61 penalties for the same violation.

62 **§ 15.2-1115. Abatement or removal of nuisances.**

63 A. A municipal corporation may compel the abatement or removal of all nuisances, including but not
64 limited to the removal of weeds from private and public property and snow from sidewalks; the
65 covering or removal of offensive, unwholesome, unsanitary or unhealthy substances allowed to
66 accumulate in or on any place or premises; the filling in to the street level, fencing or protection by
67 other means, of the portion of any lot adjacent to a street where the difference in level between the lot
68 and the street constitutes a danger to life and limb; the raising or draining of grounds subject to be
69 covered by stagnant water; and the razing or repair of all unsafe, dangerous or unsanitary public or
70 private buildings, walls or structures which constitute a menace to the health and safety of the occupants
71 thereof or the public. If after such reasonable notice as the municipal corporation may prescribe the
72 owner or owners, occupant or occupants of the property or premises affected by the provisions of this
73 section shall fail to abate or obviate the condition or nuisance, the municipal corporation may do so and
74 charge and collect the cost thereof from the owner or owners, occupant or occupants of the property
75 affected in any manner provided by law for the collection of state or local taxes. *For purposes of this*
76 *subsection, one written notice per incident or per growing season to the owner of record of the subject*
77 *property shall be considered reasonable notice.*

78 B. Every charge authorized by this section in excess of \$200 which has been assessed against the
79 owner of any such property and which remains unpaid shall constitute a lien against such property. Such
80 liens shall have the same priority as other unpaid local taxes and shall be enforceable in the same
81 manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of
82 Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may
83 be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no
84 business association with the owner. All such liens shall remain a personal obligation of the owner of
85 the property at the time the liens were imposed.