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HOUSE BILL NO. 890

Offered January 11, 2012

Prefiled January 11, 2012

A *BILL to amend the Code of Virginia by adding a section numbered 55-59.1:2, relating to deed of trust foreclosure procedures; right to reinstate certain loans upon curing default.*

Patron—Alexander

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 55-59.1:2 as follows:****§ 55-59.1:2. Right of reinstatement.***A. Notwithstanding the provisions of any other law to the contrary:*

1. *The grantor, or anyone authorized to act on the grantor's behalf, under any first priority deed of trust securing a loan on residential real property that is the primary residence of the grantor shall have the right, at any time up to the date of the sale of the property under this chapter by the trustee under the deed of trust, to cure the default, de-accelerate, and reinstate the loan by performing all of the requirements specified in subdivision 2. The grantor may exercise the right to cure a default as to a particular loan and reinstate that loan under this section only once.*

2. To cure a default and reinstate a loan as described in subdivision 1, a grantor shall:

a. *Pay or tender to the beneficiary of the deed of trust, in the form of cash, cashier's check, or certified check, all sums that would have been due in the absence of the default, as of the time of payment or tender;*

b. *Perform any other obligation that the grantor would have been bound to perform in the absence of the default or the exercise of an acceleration clause, if any;*

c. *Pay or tender attorney fees lawfully incurred by the trustee and beneficiary in connection with the loan default;*

d. *Pay all contractual late charges, as provided for in the loan documents; and*

e. *Pay all other fees and costs lawfully incurred by the trustee and beneficiary in connection with the loan default, including title fees, inspection fees, and property maintenance costs.*

3. *To cure a default under this section, a grantor shall not be required to pay any charge, fee, or penalty attributable to the exercise of the right to cure a default except as described in subdivision 2.*

4. *Cure of a default reinstates the grantor to the same position as if the default had not occurred and shall nullify, as of the date of cure, any acceleration of any obligation under the loan, note, or deed of trust arising from the default.*

5. *The right to cure a default under this subsection is independent of any right or remedy under the common law, principles of equity, state or federal statute, or rule of court.*

B. *The requirements of this section shall apply only to mortgage lenders subject to the requirements of Chapter 16 (§ 6.2-1600 et seq.) of Title 6.2 and to any person described in subdivision 2, 3, 7, or 10 of § 6.2-1602.*

INTRODUCED

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