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SENATE BILL NO. 302

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 17, 2014)

(Patron Prior to Substitute—Senator McDougle)

A *BILL to amend and reenact § 18.2-216 of the Code of Virginia, relating to certain allegations against real estate licensees.*

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-216 of the Code of Virginia is amended and reenacted as follows:****§ 18.2-216. Untrue, deceptive or misleading advertising, inducements, writings or documents.**

A. Any person, firm, corporation or association who, with intent to sell or in anywise dispose of merchandise, securities, service or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates or places before the public, or causes, directly or indirectly to be made, published, disseminated, circulated or placed before the public, in a newspaper or other publications, or in the form of a book, notice, handbill, poster, blueprint, map, bill, tag, label, circular, pamphlet or letter or in any other way, an advertisement of any sort regarding merchandise, securities, service, land, lot or anything so offered to the public, which advertisement contains any promise, assertion, representation or statement of fact which is untrue, deceptive or misleading, or uses any other method, device or practice which is fraudulent, deceptive or misleading to induce the public to enter into any obligation, shall be guilty of a Class 1 misdemeanor.

The actions prohibited in this section, shall be construed as including (i) the advertising in any manner by any person of any goods, wares or merchandise as a bankrupt stock, receiver's stock or trustee's stock, if such stock contains any goods, wares or merchandise put therein subsequent to the date of the purchase by such advertiser of such stock, and if such advertisement of any such stock fail to set forth the fact that such stock contains other goods, wares or merchandise put therein, subsequent to the date of the purchase by such advertiser of such stock in type as large as the type used in any other part of such advertisement, including the caption of the same, it shall be a violation of this section; and (ii) the use of any writing or document which appears to be, but is not in fact a negotiable check, negotiable draft or other negotiable instrument unless the writing clearly and conspicuously, in at least 14-point bold type, bears the phrase "THIS IS NOT A CHECK" printed on its face.

B. *An allegation made by a plaintiff in a civil pleading that a defendant real estate licensee has violated this section shall be stated with particularity.*