

16101605D

SENATE BILL NO. 560

Offered January 13, 2016

Prefiled January 13, 2016

A *BILL to amend and reenact §§ 55-59.2 and 55-63 of the Code of Virginia, relating to foreclosure advertisements; posted at courthouse and on circuit court website.*

Patron—Norment

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-59.2 and 55-63 of the Code of Virginia are amended and reenacted as follows:

§ 55-59.2. Advertisement required before sale by trustee.

A. Advertisement of sale by a trustee or trustees in execution of a deed of trust shall be *posted at the courthouse and on the website of the circuit court of the city or county in which the property to be sold is located. The clerk shall place a small, weekly notice* in a newspaper having a general circulation in the city or county wherein the property to be sold, or any portion thereof, lies ~~pursuant to~~ *stating the following provisions:*

~~1. "ALL PENDING FORECLOSURE SALES ARE POSTED ON THE CIRCUIT COURT WEBSITE, WHICH CAN BE FOUND AT _____ AND FURTHER POSTED AT THE COURTHOUSE."~~ Such notice shall be placed in that section of the newspaper where legal notices appear or where the type of property being sold is generally advertised for sale. The clerk may charge a trustee its proportional share of fees incurred by the clerk for placing such notice in a newspaper.

B. If the deed of trust itself provides for the number of publications of such newspaper advertisement, which may be done by using the words "advertisement required" or words of like purport followed by the number agreed upon, then no other or different advertisement shall be necessary, provided that, if such advertisement be inserted on a weekly basis it shall be published not less than once a week for two weeks and if such advertisement be inserted on a daily basis it shall be published not less than once a day for three days, which may be consecutive days, and in either case shall be subject to the provisions of § 55-63 in the same manner as if the method were set forth in the deed of trust the advertisement remains posted at the courthouse and on the website for the requisite period of time. Should the deed of trust provide for advertising on other than a weekly or daily basis either of the foregoing provisions shall be complied with in addition to those provided in such deed of trust. If the deed of trust does not provide for the number of publications of such advertisement, the trustee shall ensure that the advertisement is posted at the courthouse and on the website for at least four successive weeks. Any provision in a deed of trust requiring advertisement in a newspaper shall be satisfied by the clerk's notice required in subsection A.

C. Notwithstanding the provisions of the deed of trust, the sale shall be held on any day following the day of the last advertisement which is no earlier than eight days following the first day of advertisement nor more than ~~thirty~~ 30 days following the last day of advertisement.

~~2.~~ If the deed of trust does not provide for the number of publications of such newspaper advertisement, the trustee shall advertise once a week for four successive weeks; provided, however, that if the property or some portion thereof is located in a city or in a county immediately contiguous to a city, publication of the advertisement five different days, which may be consecutive days, shall be deemed adequate. The sale shall be held on any day following the day of the last advertisement which is no earlier than eight days following the first advertisement nor more than thirty days following the last advertisement.

B. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where the type of property being sold is generally advertised for sale.

C. D. In addition to the advertisement required by subsection A above, the trustee shall give such other further and different advertisement as the deed of trust may require and in addition may give such additional advertisement as he may deem appropriate.

~~D.~~ E. In the event of postponement of sale, which postponement shall be at the discretion of the trustee, advertisement of such postponed sale shall be in the same manner as the original advertisement of sale.

E. F. Failure to comply with the requirements for advertisement contained in this section shall, upon petition, render a sale of the property voidable by the court.

§ 55-63. Construction of deeds requiring notice by advertisement in newspaper.

(a) Whenever any deed of trust to secure debts or indemnify sureties contains a provision requiring

INTRODUCED

SB560

59 the giving of notice of sale thereunder for a specified number of days by advertisement in one or more
60 newspapers and such advertisement be published in a newspaper published daily or in a newspaper
61 published daily except Sunday, it shall be deemed a sufficient compliance with such provision if such (i)
62 notice be published in consecutive issues of such newspaper for the number of days specified, counting
63 both the day of the first publication and the day of the last publication and intervening Sundays, whether
64 or not such newspaper be published on Sunday. Both the first publication and the last publication may
65 be on Sunday in the newspaper is published weekly by the clerk and (ii) the advertisement for sale is
66 posted at the courthouse and on the website of the circuit court of the county or city in which the
67 property is located for the number of days specified, pursuant to § 55-59.2. The publication shall in all
68 other respects comply with the provisions of §§ 55-59.2 and 55-59.3.

69 (b) Whenever such deed of trust requires advertisement once a week for a specified number of
70 weeks, sale may be had on the day after the last advertisement appears or any day thereafter and all
71 sales made in conformity herewith prior to January 1, 1972, and otherwise valid, are hereby validated.