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HOUSE BILL NO. 1032

Offered January 10, 2018

Prefiled January 9, 2018

A BILL to amend and reenact § 55-525.12 of the Code of Virginia and to repeal § 55-525.13 of the Code of Virginia, relating to real estate settlements, prohibition against kickbacks, rebates, or other things of value.

Patrons—Convirs-Fowler and Gooditis

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 55-525.12 of the Code of Virginia is amended and reenacted as follows:

§ 55-525.12. Prohibition against payment or receipt of settlement services kickbacks, rebates, commissions, and other payments; penalty.

A. No person selling real property, or performing services as a real estate agent, attorney, lay settlement agent, or lender incident to any real estate settlement or sale, shall pay or receive, directly or indirectly, any kickback, rebate, commission, thing of value, or other payment pursuant to any agreement or understanding, oral or otherwise, that business incident to services required to complete a settlement be referred to any person. *The prohibition of this section shall apply to referrals made to any affiliated settlement service provider of any person selling real property or performing services as a real estate agent, attorney, lay settlement agent, or lender incident to any real estate settlement or sale.*

B. Nothing in this section shall be construed to prohibit:

1. Expenditures for bona fide advertising and marketing promotions otherwise permissible under the provisions of the Real Estate Settlement Procedures Act (12 U.S.C. § 2601 et seq.);

2. The provision of educational materials or classes, if such materials or classes are provided to a group of persons or entities pursuant to a bona fide marketing or educational effort;

3. The payment to any person of a bona fide salary or compensation or other payment for services actually performed for the business of the settlement service provider; or

4. An employer's payment to its own bona fide employees for referrals of mortgage loan or insurance business. An employer's payment to its own employees for the referral of insurance business shall be subject to the requirements of subdivision B 8 of § 38.2-1821.1.

C. No person shall be in violation of this section solely by reason of ownership in a settlement service provider, where such person receives returns on investments arising from the ownership interest, provided that such person discloses in writing to the consumer an ownership interest in those settlement services, including their ownership percentage in the settlement service provider pursuant to the requirements of § 55-525.13.

D. Any person who knowingly and willfully violates this section is guilty of a Class 3 misdemeanor. Any criminal charge brought under this section shall be by indictment pursuant to Chapter 14 (§ 19.2-216 et seq.) of Title 19.2.

2. That § 55-525.13 of the Code of Virginia is repealed.

INTRODUCED

HB1032