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SENATE BILL NO. 1391

Offered January 11, 2023

Prefiled January 11, 2023

A BILL to amend and reenact § 15.2-983 of the Code of Virginia, relating to short-term rental property; locality's ability to restrict property managed by a Virginia realtor.

Patron—Lewis

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:**1. That § 15.2-983 of the Code of Virginia is amended and reenacted as follows:****§ 15.2-983. Regulation of short-term rental property.**

A. As used in this section:

"Operator" means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee *other than a Virginia realtor*, or any other possessory capacity.

"Short-term rental" means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

"Virginia realtor" means a real estate salesperson licensed by the Real Estate Board who is also a member of the National Association of Realtors.

B. 1. Notwithstanding any other provision of law, general or special, any locality may, by ordinance, establish a short-term rental registry and require operators within the locality to register annually. The registration shall be ministerial in nature and shall require the operator to provide (i) the complete name of the operator ~~and~~; (ii) the address of each property in the locality offered for short-term rental by the operator; *and (iii) the name and phone number of any Virginia realtor contracted to manage such property, if applicable.* A locality may charge a reasonable fee for such registration related to the actual costs of establishing and maintaining the registry.

2. No ordinance shall require a person to register pursuant to this section if such person is (i) ~~licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee;~~ (ii) registered pursuant to the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.); ~~(iii) (ii)~~ licensed or registered with the Department of Health, related to the provision of room or space for lodging; or ~~(iv) (iii)~~ licensed or registered with the locality, related to the rental or management of real property, ~~including licensed real estate professionals~~, hotels, motels, campgrounds, and bed and breakfast establishments.

C. 1. If a locality adopts a registry ordinance pursuant to this section, such ordinance may include a penalty not to exceed \$500 per violation for an operator required to register who offers for short-term rental a property that is not registered with the locality. Such ordinance may provide that unless and until an operator pays the penalty and registers such property, the operator may not continue to offer such property for short-term rental. Upon repeated violations of a registry ordinance as it relates to a specific property, an operator may be prohibited from registering and offering that property for short-term rental.

2. Such ordinance may further provide that an operator required to register may be prohibited from offering a specific property for short-term rental in the locality upon multiple violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they relate to the short-term rental.

D. *Notwithstanding any other provision of law, general or special, no locality may enforce any ordinance related to a short-term rental property managed by a Virginia realtor that (i) prohibits short-term rentals; (ii) limits occupancy in a short-term rental property to less than what is allowed under the building code or local zoning regulations; (iii) limits the number of days in a calendar year for which a short-term rental property can be rented; (iv) requires an owner to occupy the short-term rental property as his primary residence for any number of days in a calendar year; (v) requires any type of remote monitoring device to be installed on the short-term rental property, including decibel, audio, or video; (vi) requires exterior or interior inspections of the short-term rental property pertaining to any items defined under the building code more frequently than every five years, unless a complaint has been filed with the locality or building authority; (vii) requires repairs, renovations, or updates to the structure of the short-term rental property that are greater than those required under the applicable building code; or (viii) requires an owner to add additional or otherwise alter existing parking spaces*

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59 *for the short-term rental property.*

60 ~~D.~~ E. Except as provided in this section, nothing herein shall be construed to prohibit, limit, or
61 otherwise supersede existing local authority to regulate the short-term rental of property through general
62 land use and zoning authority. Nothing in this section shall be construed to supersede or limit contracts
63 or agreements between or among individuals or private entities related to the use of real property,
64 including recorded declarations and covenants, the provisions of condominium instruments of a
65 condominium created pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.), the declaration
66 of a common interest community as defined in § 54.1-2345, the cooperative instruments of a cooperative
67 created pursuant to the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or any declaration of
68 a property owners' association created pursuant to the Property Owners' Association Act (§ 55.1-1800 et
69 seq.).

70 **2. That the provisions of this act shall apply to any short-term rental property managed by a**
71 **Virginia realtor and operating as such on or after January 1, 2023.**