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SENATE BILL NO. 1394

Offered January 11, 2023

Prefiled January 11, 2023

A BILL to amend and reenact § 15.2-901 of the Code of Virginia, relating to removal of trash and clutter from property; localities in Planning District 6.

Patron—Lewis

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-901 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-901. Locality may provide for removal or disposal of trash and clutter, cutting of grass, weeds, and running bamboo; penalty in certain counties; penalty.

A. Any locality may, by ordinance, provide that:

1. The owners of property therein shall, at such time or times as the governing body may prescribe, remove therefrom any and all trash, garbage, refuse, litter, clutter, except on land zoned for or in active farming operation, and other substances that might endanger the health or safety of other residents of such locality, or may, whenever the governing body deems it necessary, after reasonable notice, have such trash, garbage, refuse, litter, clutter, except on land zoned for or in active farming operation, and other like substances that might endanger the health of other residents of the locality removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected. For purposes of this section, "clutter" includes mechanical equipment, household furniture, containers, and similar items that may be detrimental to the well-being of a community when they are left in public view for an extended period or are allowed to accumulate. *However, in any locality located in Planning District 6, the provisions of this subdivision shall not be applicable to land zoned for agricultural use unless such lot is one acre or less and is located in area that is used for a residential purpose.*

2. Trash, garbage, refuse, litter, clutter, except on land zoned for or in active farming operation, and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the persons disposing of such matter or in authorized facilities provided for such purpose and in no other manner not authorized by law.

3. The owners of occupied or vacant developed or undeveloped property therein, including such property upon which buildings or other improvements are located, shall cut the grass, weeds, and other foreign growth, including running bamboo as defined in § 15.2-901.1, on such property or any part thereof at such time or times as the governing body shall prescribe, or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds, or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance adopted by any county shall have any force and effect within the corporate limits of any town. No such ordinance adopted by any county having a density of population of less than 500 per square mile shall have any force or effect except within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial, or industrial use. No such ordinance shall be applicable to land zoned for or in active farming operation. However, in any locality located in Planning District 6, no such ordinance shall be applicable to land zoned for agricultural use unless such lot is one acre or less in area and used for a residential purpose. In any locality within Planning District 23, such ordinance may also include provisions for cutting overgrown shrubs, trees, and other such vegetation.

4. The owners of any land, regardless of zoning classification, used for the interment of human remains shall cut the grass, weeds, and other foreign growth, including running bamboo as defined in § 15.2-901.1, on such property or any part thereof at such time or times as the governing body shall prescribe, or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds, or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance shall be applicable to land owned by an individual, family, property owners' association as defined in § 55.1-1800, or church.

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59 B. Every charge authorized by this section with which the owner of any such property shall have
60 been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity
61 with liens for unpaid local real estate taxes and enforceable in the same manner as provided in Articles
62 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive
63 such liens in order to facilitate the sale of the property. Such liens may be waived only as to a
64 purchaser who is unrelated by blood or marriage to the owner and who has no business association with
65 the owner. All such liens shall remain a personal obligation of the owner of the property at the time the
66 liens were imposed.

67 C. The governing body of any locality may by ordinance provide that violations of this section shall
68 be subject to a civil penalty, not to exceed \$50 for the first violation, or violations arising from the
69 same set of operative facts. The civil penalty for subsequent violations not arising from the same set of
70 operative facts within 12 months of the first violation shall not exceed \$200. Each business day during
71 which the same violation is found to have existed shall constitute a separate offense. In no event shall a
72 series of specified violations arising from the same set of operative facts result in civil penalties that
73 exceed a total of \$3,000 in a 12-month period.

74 D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be
75 in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The
76 governing body of any locality may, however, by ordinance provide that such violations shall be a Class
77 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant
78 for the same or similar violation, not arising from the same set of operative facts, within a 24-month
79 period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil
80 penalties for the same violation.