

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 701

An Act to amend the Code of Virginia by adding a section numbered 15.1-11.2:1, relating to authority of localities to remove, repair, or secure buildings and other structures.

[H 316]

Approved April 10, 1994

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.1-11.2:1 as follows:

§ 15.1-11.2:1. Authority to require removal, repair, etc., of buildings and other structures harboring illegal drug use.

A. As used in this section:

"Affidavit" means the affidavit prepared by a locality in accordance with subdivision B 1 a hereof.

"Controlled substance" means illegally obtained controlled substances or marijuana, as defined in § 54.1-3401.

"Corrective action" means the taking of steps which are reasonably expected to be effective to abate drug blight on real property, such as removal, repair or securing of any building, wall or other structure.

"Drug blight" means a condition existing on real property which tends to endanger the public health or safety of residents of a locality and is caused by the regular presence on the property of persons under the influence of controlled substances or the regular use of the property for the purpose of illegally possessing, manufacturing or distributing controlled substances.

"Owner" means the record owner of real property.

"Property" means real property.

B. The governing body of any county, city or town may, by ordinance, provide that:

1. The locality may undertake corrective action with respect to property in accordance with the procedures described herein:

a. The locality shall execute an affidavit, citing this section, to the effect that (i) drug blight exists on the property and in the manner described therein; (ii) the locality has used diligence without effect to abate the drug blight; and (iii) the drug blight constitutes a present threat to the public's health, safety or welfare.

b. The locality shall then send a notice to the owner of the property, to be sent by regular mail to the last address listed for the owner on the locality's assessment records for the property, together with a copy of such affidavit, advising that (i) the owner has up to thirty days from the date thereof to undertake corrective action to abate the drug blight described in such affidavit and (ii) the locality will, if requested to do so, assist the owner in determining and coordinating the appropriate corrective action to abate the drug blight described in such affidavit.

c. If no corrective action is undertaken during such thirty-day period, the locality shall send by regular mail an additional notice to the owner of the property, at the address stated in the preceding subdivision, stating the date on which the locality may commence corrective action to abate the drug blight on the property, which date shall be no earlier than fifteen days after the date of mailing of the notice. Such additional notice shall also reasonably describe the corrective action contemplated to be taken by the locality. Upon receipt of such notice, the owner shall have a right, upon reasonable notice to the locality, to seek equitable relief, and the locality shall initiate no corrective action while a proper petition for relief is pending before a court of competent jurisdiction.

2. If the locality undertakes corrective action with respect to the property after complying with the provisions of subdivision B 1, the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes and levies are collected.

3. Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1.

C. If the owner of such property takes timely corrective action pursuant to such ordinance, the locality shall deem the drug blight abated, shall close the proceeding without any charge or cost to the owner and shall promptly provide written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding shall not bar the locality from initiating a subsequent proceeding if the drug blight recurs.

D. Nothing in this section shall be construed to abridge or waive any rights or remedies of an owner of property at law or in equity.