

LD3306112

HOUSE BILL NO. 552

Offered January 25, 1994

A BILL to amend and reenact §§ 8.01-241 and 8.01-242 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 8.01-241.1, relating to limitations on enforcement of deeds of trust, mortgages and liens for unpaid purchase money; certificate to be recorded.

Patrons—Davies and Almand; Senator: Reasor

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-241 and 8.01-242 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 8.01-241.1 as follows:

§ 8.01-241. Limitation of enforcement of deeds of trust, mortgages and liens for unpaid purchase money.

No deed of trust or mortgage heretofore or hereafter given to secure the payment of money, and no lien heretofore or hereafter reserved to secure the payment of unpaid purchase money, shall be enforced after twenty years from the time when the original obligation last maturing thereby secured shall have become due and payable according to its terms and without regard to any provision for the acceleration of such date; provided that the period of one year from the death of any party in interest shall be excluded from the computation of time. The limitations prescribed by this section may be extended by an endorsement to that effect, entered prior to the expiration of the limitation period prescribed herein ~~upon the margin of the page of the deed book of which the same is recorded, and when such endorsement is duly executed by the party in whom the beneficial title to the property so encumbered is at the time of such endorsement by the beneficial titleholder or his duly authorized attorney-in-fact, or agent, and attested by the clerk of the court upon a certificate recorded in the clerk's office in which such lien is recorded; the endorsement shall be held to. Recordation of the certificate shall extend the~~ limitations of the right to enforce the lien for twenty years from the date of ~~such endorsement~~ *the recordation of the certificate*. The clerk of the court shall index ~~such extension~~ *the certificate* in both names in the index of the deed book and on the general index in his office, and give reference to the book and page in which the original writing is recorded. Unless the deed or deeds executed pursuant to the foreclosure of any mortgage or to the execution of or sale under any deed of trust ~~be~~ is recorded in the county or city where the land is situated within one year after the time the right to enforce the mortgage or deed of trust shall have expired as hereinabove provided, such deed or deeds shall be void as to all purchasers for valuable consideration without notice and lien creditors who make any purchase of or acquire any lien on the land conveyed by any such deed prior to the time such deed is so recorded.

§ 8.01-241.1. Permissible form for certificate.

Any extension of the limitations of the right to enforce the lien of a deed of trust or mortgage shall conform substantially with the following form:

**CERTIFICATE OF EXTENSION OF LIMITATION OF
RIGHT TO ENFORCE DEED OF TRUST OR MORTGAGE**

Place of Record
Date of Deed of Trust/Mortgage
Deed BookPage

Name of Guarantor(s)
Name of Trustee(s)
Maker(s) of Note
Date of Note(s)

I/we, the beneficial title holder(s) of the property encumbered by the above mentioned deed of trust/mortgage, do hereby certify that the lien of the same is hereby extended twenty years from the date of my/our endorsement upon this certificate.

.....
Beneficial Titleholder/Attorney-in-Fact/Agent

Commonwealth of Virginia

INTRODUCED

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59 County/City of

60 Subscribed, sworn to and acknowledged before me by

61, this day of, 19...

62 My Commission expires:.....

63

64 Notary Public

65

66 § 8.01-242. Same; when no maturity date is given.

67 No deed of trust or mortgage given to secure the payment of money, and no lien reserved to secure

68 the payment of unpaid purchase money, in which no date is fixed for the maturity of the debt secured

69 by such deed of trust, mortgage, or lien, shall be enforced after twenty years from the date of the deed

70 of trust, mortgage, or other lien; provided that the period of one year from the death of any party in

71 interest shall be excluded from the computation of time, and provided further that the limitation may be

72 extended by ~~an endorsement~~ *recordation of a certificate* within the twenty-year period ~~upon the margin~~

73 ~~of the page of the deed book on which the instrument is recorded~~ in the manner set forth in § 8.01-241.