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HOUSE BILL NO. 2370

Offered January 20, 1997

A BILL to amend and reenact § 15.1-11.3 of the Code of Virginia, relating to removal or repair of certain structures or vessels; civil penalty.

Patrons—Behm; Senator: Williams

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That § 15.1-11.3 of the Code of Virginia is amended and reenacted as follows:

§ 15.1-11.3. Authority to require removal, repair, etc., of wharves, piers, pilings, bulkheads, vessels or abandoned, obstructing or hazardous property; civil penalty.

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

1. That the owners of property therein shall at such time or times as the governing body may prescribe, remove, repair or secure any vessel which has been abandoned or is in danger of sinking or any wharf, pier, piling, bulkhead or any other structure or vessel which might endanger the public health or safety of other persons, or which might constitute an obstruction or hazard to the lawful use of the waters within or adjoining such county, city or town, and if. If such property is deemed to be abandoned, the governing body may designate and empower an official to ascertain the lawful owner of such property and to have the owner repair, remove or secure such property;

2. That the governing body of such county, city or town, through its own agents or employees, may remove, repair or secure any vessel which has been abandoned or is in danger of sinking or any wharf, pier, piling, bulkhead, or other structure or vessel which might endanger the public health or safety of other persons or which might constitute a hazard or obstruction to the lawful use of the waters within such county, city or town, wherein the owner of such property, after reasonable notice and reasonable time to do so, has failed to remove, repair or secure such wharf, pier, piling, bulkhead or other structure or vessel;

3. That in the event the governing body of such county, city or town, through its own agents or employees removes, repairs or secures any wharf, pier, piling, bulkhead or other structure or vessel after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and to the extent applicable may be collected by the county, city or town as taxes and levies are collected;

4. That if the identity or whereabouts of the lawful owner is unknown or not able to be ascertained after a reasonable search and after lawful notice has been made to the last known address of any known owner, the governing body of such county, city or town through its own agents or employees, may repair such wharf, pier, piling, bulkhead or other structure or boat vessel or remove such property after giving notice by publication once each week for two weeks in a newspaper of general circulation in the area where such property is located;

5. That every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid, to the extent applicable, shall constitute a lien against such the owner's real property, and such lien shall be recorded in the judgment lien docket book in the circuit court of such county, city or town. Such lien may also be released reduced to a personal judgment against the owner.

6. That without limiting the remedies which may be obtained under this section, any person who violates any provision of an ordinance adopted pursuant to this section shall, upon such finding by an appropriate circuit or general district court, be assessed a civil penalty not to exceed \$25,000 for each day of the violation; however, prior to assessing the penalty, the court may grant the violating party a specific period of time in which to come into compliance with the ordinance. Such civil penalty may, at the discretion of the court assessing it, be directed to be paid into the treasury of the county, city or town in which the violation occurred for the purpose of abating environmental damage to, or restoring, state-owned bottomlands therein, in such a manner as the court may, by order, direct.

INTRODUCED

HB2370