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HOUSE BILL NO. 745

Offered January 23, 1998

A BILL to amend and reenact § 3.1-796.75 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 3.1-796.75:1, relating to veterinary liens.

Patron—Jackson

Referred to Committee on Agriculture

Be it enacted by the General Assembly of Virginia:

1. That § 3.1-796.75 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 3.1-796.75:1 as follows:

§ 3.1-796.75. Procedure for animals left unclaimed with boarding establishment after notice; lien; sale.

Any animal not claimed by its owner from a licensed veterinarian or boarding establishment within fourteen days after a letter of notice has been sent to the owner, by the veterinarian or boarding establishment, may be sold by the veterinarian or boarding establishment. The animal may be sold at public or private sale for fair compensation to a person capable of providing care consistent with this chapter. Any expense incurred by the veterinarian or boarding establishment becomes a lien on the animal and the proceeds of the sale shall first discharge this lien. Any balance of the proceeds shall be paid to the owner. If the owner cannot be found within the next ensuing thirty days, the balance shall be paid to the state treasury. If no purchaser is found, the animal may be offered for adoption or euthanized.

§ 3.1-796.75:1. Definitions; procedure for lien by veterinarian after notice; lien; disposal.

A. As used in this section, unless the context clearly requires a different meaning:

"Dispose" means to sell by public or private sale, give away, turn over to an animal shelter, humane society or pound, or disposal by any of the methods by which pounds and animal shelters may dispose of animals. The procedures that pounds and shelters must follow regarding confinement prior to disposal, however, shall not be required.

"Owner" means any individual, corporation, partnership, limited liability company, joint venture, trust or other legal entity that owns an animal subject to a lien arising under this section.

"Veterinarian" means any individual licensed to practice veterinary medicine in the Commonwealth or who is exempt from licensure pursuant to § 54.1-3801 (ii) or (iii) or any corporation, partnership, limited liability company, joint venture or other legal entity out of which any individual, licensed to practice veterinary medicine in the Commonwealth or who is exempt from licensure pursuant to § 54.1-3801 (ii) or (iii), provides veterinary services to the public.

"Veterinary services" means the provision of veterinary medical care and treatment, surgery, vaccines, antisera, antibiotics, food, board or other services to or on behalf of any animal.

B. Every veterinarian shall have a lien on each animal to which they render veterinary services and the veterinarian shall have the right to possess and retain the animal until all sums for such veterinary services are paid. The amount of the lien arising under this section shall include (i) any interest accrued on the principal balance of the veterinary services rendered from the date the lien is perfected until the principal balance is paid and (ii) the costs associated with perfecting and executing the lien. The applicable interest rate under this subsection shall be the greater of the judgment rate of interest as provided in § 6.1-330.54 or the rate of interest to which the veterinarian and owner have agreed.

C. If the charges due for any veterinary services rendered are not paid within fourteen days after the demand therefor on the owner or if the animal is not picked up within fourteen days after the demand therefor on the owner, the veterinarian may dispose of the animal. Any demand for payment of charges or to pick up an animal shall be made in person or by registered or certified mail, return receipt requested, and addressed to the owner at the owner's last known address. The fourteen-day period begins on the date the demand is postmarked or the date the demand is communicated in person and shall be noted on the animal's medical record.

D. On the day on which the animal is disposed of, the owner shall be notified in person, by telephone, facsimile or by registered or certified mail, return receipt requested, at the owner's last known address, of the date and method of disposal.

E. The disposal of an animal as provided in this section shall not relieve the owner or owner's agent of any financial obligations incurred for the provision of veterinary services or any expenses incurred in making the demand for payment thereof.

F. The giving of notice to the owner as provided in subsections C and D shall relieve the

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60 veterinarian who disposes of such animal of any liability for such disposal.

61 G. Failure of any owner to receive the demand provided for in subsection C by registered or
62 certified mail shall not render the veterinarian liable to the owner for the disposal of the animal.

63 H. Any lien arising under this section shall remain valid even though the veterinarian does not
64 possess the animal, provided that on or before sixty days after the veterinary services were rendered, the
65 veterinarian perfects the lien by recording a verified notice of the lien upon such animal in any one of
66 the following: (i) the office of the clerk of the circuit court for the city or county in which the
67 veterinarian understands the animal is principally located, (ii) the circuit court for the city or county in
68 which the veterinarian understands the owner resides, or (iii) the office of the clerk of the State
69 Corporation Commission.

70 I. Any notice of lien filed pursuant to subsection H shall contain the following information:

- 71 1. The veterinarian's name;
- 72 2. The veterinarian's business address;
- 73 3. The date the veterinary services were rendered;
- 74 4. The amount of the principal balance of the veterinary services rendered;
- 75 5. A description of the animal or animals subject to lien;
- 76 6. The veterinarian's understanding as to the name of the owner;
- 77 7. The veterinarian's understanding as to the last known address of the owner's residence, if known;
- 78 and

79 8. The veterinarian's understanding as to where the animal is principally located.

80 J. For possessory liens arising under this section, no legal proceedings shall be necessary for
81 enforcing such liens other than compliance with the requirements set forth in subsections B through D.
82 Any non-possessory lien perfected pursuant to subsections H and I may be enforced in the same manner
83 prescribed for security interests by Part V (§ 8.9-501 et seq.) of the Uniform Commercial Code. No
84 action to enforce a lien perfected pursuant to subsections H and I shall be initiated later than one year
85 after the date the last veterinary services were rendered.

86 K. A possessory lien arising under this section shall have priority over all other liens, security
87 interests or other encumbrances covering the animal subject to such lien. An non-possessory lien
88 perfected pursuant to subsections H and I shall have priority over all other liens, security interests or
89 other encumbrances covering the animal subject to such lien that are filed after the lien arising under
90 this section is perfected.

91 L. If proper notice of a non-possessory lien arising under this section has not been filed, the lien
92 shall terminate 180 days after the last veterinary services were rendered. If notice of the lien has been
93 filed and an action to enforce the lien has not been initiated, the lien shall terminate one year after the
94 notice was filed.

95 M. When any animal is sold to satisfy a lien arising under this section, any surplus realized from the
96 sale after payment of the charges and any expenses incurred in making the demand for payment thereof
97 in connection with the sale shall be paid to the owner.