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HOUSE BILL NO. 1133

Offered January 9, 2008

Prefiled January 9, 2008

A *BILL to amend and reenact §§ 8.01-241 and 8.01-241.1 of the Code of Virginia, relating to enforcement of deed of trust or mortgage; 10 years.*

Patron—Fralin

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 8.01-241 and 8.01-241.1 of the Code of Virginia are amended and reenacted 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~~10 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 the recordation of a certificate in the form provided in § 8.01-241.1 prior to the expiration of the limitation period prescribed herein in the clerk's office in which such lien is recorded and executed either by the party in whom the beneficial title to the property so encumbered is vested at the time of such recordation or by his duly authorized attorney-in-fact, or agent. Recordation of the certificate shall extend the limitations of the right to enforce the lien for ~~twenty~~10 years from the date of the recordation of the certificate. The clerk of the court shall index the certificate in both names in the index of the deed book 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 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 Book Book Page

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 do hereby certify that the lien of the same is hereby extended ~~twenty~~10 years from the date of my/our endorsement upon this certificate.

.....

Beneficial Titleholder/Attorney-in-Fact/Agent
Commonwealth of Virginia
County/City of :

Subscribed, sworn to and acknowledged before me by
....., this day of, 20 ...

My Commission expires:

Notary Public

INTRODUCED

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