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HOUSE BILL NO. 880

Offered January 13, 2010

Prefiled January 13, 2010

A BILL to amend and reenact §§ 15.2-907.1 and 36-3 of the Code of Virginia, relating to derelict buildings.

Patrons—BaCote, Abbott and Ward; Senator: Locke

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 15.2-907.1 and 36-3 of the Code of Virginia are amended and reenacted as follows:**

§ 15.2-907.1. Authority to require removal, repair, etc., of buildings that are declared to be derelict.

A. For purposes of this section, "derelict building" means:

1. A residential or nonresidential building or structure, whether or not construction has been completed, that might endanger the public's health, safety, or welfare and for a continuous period in excess of six months, has been (i) vacant, (ii) boarded up in accordance with the building code, and (iii) not lawfully connected to electric service from a utility service provider or not lawfully connected to any required water or sewer service from a utility service provider; or

2. A residential or nonresidential building or structure that has not been completed and approved for use or occupancy, and for which the construction permit has been revoked in accordance with the Uniform Statewide Building Code (§ 36-97 et seq.).

B. Any locality that has a real estate tax abatement program in accordance with this section may, by ordinance, provide that:

1. The owners of property therein shall at such time or times as the governing body may prescribe submit a plan to demolish or renovate any building that has been declared a "derelict building." For purposes of this section, "derelict building" shall mean a residential or nonresidential building or structure, whether or not construction has been completed, that might endanger the public's health, safety, or welfare and for a continuous period in excess of six months, it has been (i) vacant, (ii) boarded up in accordance with the building code, and (iii) not lawfully connected to electric service from a utility service provider or not lawfully connected to any required water or sewer service from a utility service provider.

2. If a building qualifies as a derelict building pursuant to the ordinance, the locality shall notify the owner of the derelict building that the owner is required to submit to the locality a plan, within 90 days, to demolish or renovate the building to address the items that endanger the public's health, safety, or welfare as listed in a written notification provided by the locality. Such plan may be on a form developed by the locality and shall include a proposed time within which the plan will be commenced and completed. The plan may include one or more adjacent properties of the owner, whether or not all of such properties may have been declared derelict buildings. The plan shall be subject to approval by the locality. The locality shall deliver the written notice to the address listed on the real estate tax assessment records of the locality. Written notice sent by first-class mail, with the locality obtaining a U.S. Postal Service Certificate of Mailing shall constitute delivery pursuant to this section.

3. If a locality delivers written notice and the owner of the derelict building has not submitted a plan to the locality within 90 days as provided in subdivision 2, the locality may exercise such remedies as provided in this section or as otherwise provided by law.

4. The owner of a building may apply to the locality and request that such building be declared a derelict building for purposes of this section.

5. The locality, upon receipt of the plan to demolish or renovate the building, at the owner's request, shall meet with the owner submitting the plan and provide information to the owner on the land use and permitting requirements for demolition or renovation.

6. If the property owner's plan is to demolish the derelict building, the building permit application of such owner shall be expedited. If the owner has completed the demolition within 90 days of the date of the building permit issuance, the locality shall refund any building and demolition permit fees. This section shall not supersede any ordinance adopted pursuant to § 15.2-2306 relative to historic districts.

7. If the property owner's plan is to renovate the derelict building, and no rezoning is required for the owner's intended use of the property, the site plan or subdivision application and the building permit, as applicable, shall be expedited. The site plan or subdivision fees may be refunded, all or in part, but in no event shall the site plan or subdivision fees exceed the lesser of 50 percent of the standard fees established by the ordinance for site plan or subdivision applications for the proposed use of the

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59 property, or \$5,000 per property. The building permit fees may be refunded, all or in part, but in no
60 event shall the building permit fees exceed the lesser of 50 percent of the standard fees established by
61 the ordinance for building permit applications for the proposed use of the property, or \$5,000 per
62 property.

63 8. Prior to commencement of a plan to demolish or renovate the derelict building, at the request of
64 the property owner, the real estate assessor shall make an assessment of the property in its current
65 derelict condition. On the building permit application, the owner shall declare the costs of demolition, or
66 the costs of materials and labor to complete the renovation. At the request of the property owner, after
67 demolition or renovation of the derelict building, the real estate assessor shall reflect the fair market
68 value of the demolition costs or the fair market value of the renovation improvements, and reflect such
69 value in the real estate tax assessment records. The real estate tax on an amount equal to the costs of
70 demolition or an amount equal to the increase in the fair market value of the renovations shall be abated
71 for a period of not less than 15 years, and is transferable with the property. The abatement of taxes for
72 demolition shall not apply if the structure demolished is a registered Virginia landmark or is determined
73 by the Department of Historic Resources to contribute to the significance of a registered historic district.
74 However, if the locality has an existing tax abatement program for less than 15 years, as of July 1,
75 2009, the locality may provide for a tax abatement period of not less than five years.

76 9. Notwithstanding the provisions of this section, the locality may proceed to make repairs and
77 secure the building under § 15.2-906, or the locality may proceed to abate or remove a nuisance under
78 § 15.2-900. In addition, the locality may exercise such remedies as may exist under the Uniform
79 Statewide Building Code and may exercise such other remedies available under general and special law.

80 § 36-3. Definitions.

81 The following terms, when used or referred to in this chapter, shall have the following respective
82 meanings, unless a different meaning clearly appears from the context:

83 "Area of operation" means an area that (i) in the case of a housing authority of a city, shall be
84 coextensive with the territorial boundaries of the city; (ii) in the case of a housing authority of a county,
85 shall include all of the county, except that portion which lies within the territorial boundaries of (a) any
86 city, and (b) any town that has created a housing authority pursuant to this chapter; (iii) in the case of a
87 housing authority of a town, shall be coextensive with the territorial boundaries of the town as herein
88 defined.

89 "Authority" or "housing authority" means any of the political subdivisions created by § 36-4.

90 "Blighted area" means any area that endangers the public health, safety or welfare; or any area that is
91 detrimental to the public health, safety, or welfare because commercial, industrial, or residential
92 structures or improvements are dilapidated, or deteriorated or because such structures or improvements
93 violate minimum health and safety standards. This definition includes, without limitation, areas
94 previously designated as blighted areas pursuant to the provisions of Chapter 1 (§ 36-1 et seq.) of this
95 title.

96 "Blighted property" means (i) any individual commercial, industrial, or ~~or~~ (ii) any residential structure
97 or improvement that endangers the public's health, safety, or welfare because the structure or
98 improvement upon the property is dilapidated, deteriorated, or violates minimum health and safety
99 standards, ~~or~~ (iii) any structure or improvement previously designated as blighted pursuant to
100 § 36-49.1:1, under the process for determination of "spot blight," or (iv) any structure for which a
101 construction permit was not obtained or for which the construction permit has been revoked in
102 accordance with the Uniform Statewide Building Code (§ 36-97 et seq.).

103 "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an
104 authority pursuant to this chapter.

105 "City" means the same as that term is defined in § 15.2-102.

106 "Clerk" means the clerk or secretary of the city or the clerk of the county, as the case may be, or the
107 officer charged with the duties customarily imposed on such clerk.

108 "Conservation area" means an area, designated by an authority that is in a state of deterioration and
109 in the early stages of becoming a blighted area, as defined in this section, or any area previously
110 designated as a conservation area pursuant to this chapter.

111 "County" means the same as that term is defined in § 15.2-102.

112 "Derelict building" means the same as that term as defined in § 15.2-907.1 or as the term "derelict
113 structure" defined in § 36-152.

114 "Farm structure" means the same as that term is defined in § 36-97.

115 "Farmers of low income" means persons of low income who derive their principal income from
116 operating or working on a farm.

117 "Federal government" means the United States of America, the United States Department of Housing
118 and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United
119 States of America.

120 "Governing body" means, in the case of a city or town, the council (including both branches where

there are two), and in the case of a county, the board of supervisors or other governing body.

"Housing project," means any work or undertaking: (i) to demolish, clear or remove buildings from any slum area; such work or undertaking may embrace the adoption of such area to public purposes, including parks or other recreational or community purposes; or (ii) to provide decent, safe and sanitary urban or rural dwellings, apartments or other living accommodations for persons of low and moderate income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, welfare or other purposes; or (iii) to accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures or improvements, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

"Locality" means the same as that term is defined in § 15.2-102.

"Obligee of the authority" or "obligee" means any bondholder, trustee or trustees for any bondholders, or lessor demising to the authority property used in connection with a project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the authority.

"Persons of low income" means persons or families determined by the authority to lack the amount of income which is necessary to enable them to live in decent, safe and sanitary dwellings.

"Persons of moderate income" means persons or families determined by the authority to lack the amount of income necessary to obtain affordable housing.

"Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

"Redevelopment area" means an area (including slum areas), designated by an authority, that is in a state of blight that meets the criteria of a blighted area as defined in this section; or any area previously designated as a redevelopment area pursuant to this chapter.

"Slum" means any area where dwellings predominate that, by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities, or any combination of these factors, is detrimental to safety, health, or morals.

"Spot blight" means a structure or improvement that is a blighted property as defined in this section.

"Spot blight abatement plan" means the written plan prepared by the owner or owners of record of the real property to address spot blight. If the owner or owners of record of the real property fail to respond as provided in § 36-49.1:1, the locality or the authority can prepare a spot blight abatement plan to address the spot blight with respect to an individual commercial, industrial, or residential structure or improvement, but may only implement such plan in accordance with the provisions of § 36-49.1:1.

"Town" means the same as that term is defined in § 15.2-102.