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SENATE BILL NO. 837

Offered January 12, 2011

Prefiled January 7, 2011

A *BILL to amend the Code of Virginia by adding a section numbered 55-59.5, relating to foreclosure; use of false record, document, or statement.*

Patrons—Petersen and McEachin; Delegate: Marshall, R.G.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 55-59.5 as follows:

§ 55-59.5. Foreclosure; use of false record, document, or statement; civil penalty; civil action.

A. Any person who knowingly makes, uses, or causes to be made or used a false or fraudulent record, document, or statement in support of any foreclosure upon property under this chapter shall be liable for a civil penalty of \$2,500 for each violation.

B. Any attorney for the Commonwealth for the county or city or any attorney for the county, city, or town in which an alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the local treasury.

C. The owner of the property subject to foreclosure may bring a civil action against a person who has violated this section. Upon proof of such violation, the owner shall be entitled to appropriate equitable relief and to recover such compensatory damages incurred as a result of the violation, as well as the statutory damages stated herein. If compensatory damages are awarded, a victim may also be awarded punitive damages.

D. A person violating this section shall be liable for reasonable attorney fees and costs of a civil action.

E. The civil penalty provisions of this section shall apply in addition to any applicable criminal penalties for forgery set forth in §§ 18.2-168 and 18.2-172 and perjury set forth in § 18.2-434 or any other applicable criminal penalty.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

INTRODUCED

SB837