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SENATE BILL NO. 744

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on February 23, 2013)

(Patron Prior to Substitute—Senator Black)

A BILL to amend and reenact § 15.2-906 of the Code of Virginia, relating to the demolition or removal of derelict structures.

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-906 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-906. Authority to require removal, repair, etc., of buildings and other structures.

Any locality may, by ordinance, provide that:

1. The owners of property therein, shall at such time or times as the governing body may prescribe, remove, repair or secure any building, wall or any other structure that might endanger the public health or safety of other residents of such locality;

2. The locality through its own agents or employees may remove, repair or secure any building, wall or any other structure that might endanger the public health or safety of other residents of such locality, if the owner and lienholder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair, or secure the building, wall or other structure. For purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, reasonable notice includes a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published once a week for two successive weeks in a newspaper having general circulation in the locality. No action shall be taken by the locality to remove, repair, or secure any building, wall, or other structure for at least 30 days following the later of the return of the receipt or newspaper publication, except that the locality may take action to prevent unauthorized access to the building within seven days of such notice if the structure is deemed to pose a significant threat to public safety and such fact is stated in the notice;

3. In the event the locality, through its own agents or employees, removes, repairs, or secures any building, wall, or any other structure 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 may be collected by the locality as taxes are collected;

4. Every charge authorized by this section or § 15.2-900 with which the owner of any such property has been assessed and that remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed; and

5. Notwithstanding the foregoing, with the written consent of the property owner, a locality may, through its agents or employees, demolish or remove a derelict nonresidential building or structure, provided that such building or structure is neither located within or determined to be a contributing property within a state or local historic district nor individually designated in the Virginia Landmarks Register. The property owner's written consent shall identify whether the property is subject to a first lien evidenced by a recorded deed of trust and, if so, shall document the property owner's best reasonable efforts to obtain the consent of the trustee identified in that first lien evidenced by a recorded deed of trust as may be required under the terms and conditions of that recorded deed of trust. The costs of such demolition or removal shall constitute a lien against such property. In the event the consent of the trustee identified in that first lien evidenced by a recorded deed of trust is obtained, such lien shall rank on a parity with liens for unpaid local taxes and be enforceable in the same manner as provided in subdivision 4. In the event the consent of the trustee identified in that first lien evidenced by a recorded deed of trust is not obtained, such lien shall be subordinate to that first lien evidenced by a recorded deed of trust but shall otherwise be subject to subdivision 4; and

6. A locality may prescribe civil penalties, not to exceed a total of \$1,000, for violations of any ordinance adopted pursuant to this section.