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SENATE BILL NO. 195

Offered January 10, 2018

Prefiled January 1, 2018

A BILL to amend the Code of Virginia by adding in Title 55 a chapter numbered 14.1, consisting of sections numbered 55-252.1 through 55-252.7, relating to the Virginia Residential Rent-to-Own Real Estate Contracts Act; civil penalties..

Patron—Locke

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 55 a chapter numbered 14.1, consisting of sections numbered 55-252.1 through 55-252.7, as follows:

CHAPTER 14.1.

RESIDENTIAL RENT-TO-OWN REAL ESTATE CONTRACTS ACT.

§ 55-252.1. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Installment land contract" means a contract for the sale of real property under which the purchaser is to pay the sale price in multiple installments over a term of not less than 120 days, with the vendor to convey title to the purchaser upon payment of the final installment.

"Lease-option contract" means a contract that provides for a purchaser to lease real property and have an option to purchase the same property, with the purchaser paying separate consideration for the option.

"Option payment" means an amount paid by the purchaser in a lease-option contract in exchange for the right to purchase the subject premises at a specific price within a specified time.

"Purchaser" means a person who acquires any right or interest in real property, including a right to possession, legal title, equitable title, or option to purchase, through the installment land contract or lease-option contract, and who occupies or intends to occupy the property as his primary residence. A purchaser also means any person who becomes obligated on an installment land contract or lease-option contract as surety or guarantor for another purchaser.

"Record" means to properly present the writing that contains the contract terms for recording pursuant to § 55-106.

"Vendor" means a person who sells, or proposes to sell, real property under an installment land contract or lease-option contract.

§ 55-252.2. Requirements for installment land contracts.

A. An installment land contract shall be in writing. The writing shall clearly and conspicuously include the following:

1. The full names and the current mailing addresses of all parties to the contract;
2. A legal description of the subject premises, as well as its street address with the city, state, and ZIP code;
3. The most recent assessment of the value of the subject premises by the relevant property tax assessor, as well as the amount of property tax assessed to the property in the year preceding the transaction;
4. A statement disclosing any liens or encumbrances against the subject premises;
5. The contract sale price for the subject premises, which shall be stated as a precise, fixed amount in United States dollars;
6. A description and the amount of any charges or fees for services that are includable in the contract separate from the contract price;
7. The amount financed, which is the sum of the contract price and any and all separate charges and fees, other than interest, less any down payment;
8. The interest rate on the amount financed, which shall be computed as simple interest;
9. The amount of the total finance charge, if the contract is paid according to schedule;
10. The amount of the down payment and of all monthly installment payments;
11. A schedule showing the amounts and due dates of each payment;
12. The overall total of payments the purchaser is required to make to retire the obligation, if paid according to schedule;
13. Whether the vendor or the purchaser will be liable for payment of property taxes on the subject premises during the term of the contract;

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59 14. A statement that the vendor shall apply all payments received first to any outstanding installment
60 payments and last to late fees or other reasonable charges;

61 15. A statement that the vendor shall, at least once every three months throughout the term of the
62 contract, furnish a statement to the purchaser showing the total balance due, the amount of payments
63 received, and the amounts credited to principal and interest; and

64 16. The notarized signature of each party and date of each signature.

65 B. The purchaser shall have the right to prepay the contract at any time. No fee or penalty shall be
66 charged to a purchaser who prepays the contract. If requested, the vendor shall specify in writing the
67 correct payoff amount within one business day to the purchaser or any person designated by the
68 purchaser.

69 C. No vendor shall enter into an installment land contract without ensuring that all property taxes
70 on the subject premises incurred as of the contract date are paid no later than the time of the contract.

71 D. No vendor shall enter into an installment land contract if the amounts owed on the vendor's
72 obligations secured by the subject premises exceed the contract sale price. During the contract term, no
73 vendor shall allow the vendor's obligations secured by the subject premises to exceed the contract sale
74 price.

75 E. No installment land contract shall contain:

76 1. Any provision whereby the purchaser waives any right or protection under this chapter;

77 2. Any provision whereby the purchaser forfeits any interest under the contract other than in
78 accordance with § 55-252.4;

79 3. Any provision authorizing the vendor to accelerate amounts due under the contract, other than in
80 accordance with § 55-252.4;

81 4. Any provision whereby the purchaser becomes obligated to pay interest in an amount greater than
82 that permitted by § 6.2-303; or

83 5. Any provision that would be unlawful under § 55-248.9 if included in a residential rental
84 agreement.

85 F. The vendor shall record, or cause to be recorded, the installment land contract in the county or
86 city where the premises subject to the contract is located as soon as practicable after the contract is
87 executed, but in any event no later than five business days.

88 **§ 55-252.4. Procedures and remedies for default on installment land contracts.**

89 A. Any purchaser injured by a vendor's default in an installment land contract shall be entitled to
90 bring an action in a court of competent jurisdiction to enjoin further violations and to recover the
91 purchaser's actual damages, costs of suit, and reasonable attorney fees, as well as for specific
92 performance of the contract, rescission, or other equitable relief as the court may find appropriate in
93 the interests of justice.

94 B. When the purchaser of an installment land contract defaults in payment, the vendor may not
95 accelerate future payment or forfeit the purchaser's interest under the contract until after the expiration
96 of 60 days after written notice of the default has been served to the purchaser. The notice shall state
97 that the purchaser may cure the default and reinstate the contract by making all payments currently due
98 under the contract and by paying any fees or charges for which he is liable under the contract before
99 the contract is accelerated.

100 If a purchaser in default has failed to cure the delinquency and the period prescribed by the notice
101 has expired, then the vendor may accelerate the balance due under the contract.

102 If the total of principal and finance charges due on the date of acceleration amounts to less than 75
103 percent of the contract sale price, then the vendor shall sell the subject premises in a commercially
104 reasonable manner and recover any amounts owed under the contract from the sale proceeds. The
105 vendor shall promptly remit any remaining proceeds to the purchaser. The purchaser shall not be liable
106 for any remaining balance due under the contract after the property has been sold. The person who
107 buys the subject premises in the sale shall become entitled to possession of the premises on a date
108 specified in a written notice, served to the purchaser, which shall not be less than 30 days from the time
109 of service.

110 If the total of principal and finance charges due on the date of acceleration amounts to 75 percent
111 or more of the contract sale price, then the vendor may declare a forfeiture by serving written notice of
112 forfeiture to the purchaser. The notice shall specify the date for quitting the subject premises, which
113 shall not be less than 30 days from the time of service. The purchaser shall not be liable for any
114 remaining balance due under the contract after a forfeiture has been declared.

115 **§ 55-252.4. Requirements for lease-option contracts.**

116 A. A lease-option contract shall be in writing. The writing shall clearly and conspicuously include
117 the following:

118 1. The full names and current mailing addresses of all parties to the contract;

119 2. A legal description of the subject premises, as well as its street address with city, state, and ZIP
120 code;

121 3. That the contract is a lease-option contract under which the vendor shall remain the owner of the
122 subject premises and a landlord subject to all rights and obligations under the Virginia Residential
123 Landlord and Tenant Act (§ 55-248.2 et seq.), and the purchaser shall not be the owner of the subject
124 premises but shall remain a tenant of the vendor, subject to all rights and obligations under the Virginia
125 Residential Landlord and Tenant Act, unless and until the subject premises are sold;

126 4. The term of the rental agreement and the amount of periodic rent due;

127 5. The most recent assessment of the value of the subject premises by the relevant property tax
128 assessor, as well as the amount of property tax assigned to the property in the year preceding the
129 transaction;

130 6. A statement disclosing any liens or encumbrances against the subject premises;

131 7. The contract sale price for the subject premises, which shall be stated as a precise fixed amount
132 in United States dollars;

133 8. A description and the amount of any charges or fees for services that are includable in the
134 contract separate from the contract price;

135 9. The amount of the option payment and the deadline by which the option payment is required to be
136 paid. If the option payment is payable in multiple installments, the schedule of payments;

137 10. The residual amount of the contract sale price that is required to be paid after the option
138 payment has been made;

139 11. The total amount that the purchaser is required to pay to complete the purchase of the property
140 under the term of the contract, including the combined amount of the option, contract sale price, and all
141 rent payments coming due over the term of the contract;

142 12. The amount that may be paid to extend the option, if any, and the duration of any such
143 extension; and

144 13. The notarized signature of each party and date of each signature.

145 B. The purchaser shall have the right to exercise the option at any time before the option expires. No
146 fee or penalty shall be charged to a purchaser who exercises the option at an earlier time than
147 anticipated under the contract.

148 C. A vendor shall not enter into a lease-option contract without ensuring that all property taxes on
149 the subject premises incurred as of the contract date are paid no later than the time of the contract. A
150 vendor shall not fail to ensure that all property taxes on the subject premises remain current throughout
151 the term of the lease and option.

152 D. A vendor shall not enter into a lease-option contract if the amounts owed on the vendor's
153 obligations secured by the subject premises exceed the contract sale price. During the contract term, the
154 vendor shall not allow the vendor's obligations secured by the subject premises to exceed the contract
155 sale price.

156 E. No lease-option contract shall contain:

157 1. Any provision whereby the purchaser waives any right or protection under this chapter or under
158 the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.);

159 2. Any provision obligating the purchaser to make repairs or improvements to the subject premises
160 or to pay the cost of any such repairs or improvements;

161 3. Any provision whereby the purchaser forfeits an unexpired option to purchase after any portion of
162 the option payment has been made;

163 4. Any provision authorizing the vendor to accelerate amounts due under the contract; or

164 5. Any provision prohibited in a rental agreement under § 55-248.9.

165 **§ 55-252.5. Procedure and remedies for default on lease-option contracts.**

166 A. Any purchaser injured by a vendor's default in a lease-option contract shall be entitled to bring
167 an action in a court of competent jurisdiction to enjoin further violations and to recover the purchaser's
168 actual damages, costs of suit, and reasonable attorney fees, as well as for specific performance of the
169 contract, rescission, or other equitable relief as the court may find appropriate in the interests of justice.

170 B. When the purchaser in a lease-option contract defaults in the payment of rent or other
171 requirements under the lease, the vendor may serve notice in accordance with § 55-248.31, except that
172 if the default is in the payment of rent or other monetary charges only, then the landlord may terminate
173 the lease and recover possession of the premises only if the delinquent obligation remains outstanding
174 more than 30 days after written notice is served upon the purchaser, notifying him of the nonpayment
175 and the amount of the delinquency, and of the vendor's intention to terminate the lease if the default is
176 not timely cured.

177 A purchaser's default on the lease shall not affect the purchaser's right to exercise the option if any
178 portion of the option payment has been made.

179 **§ 55-252.7. Application of the Virginia Consumer Protection Act; civil penalties.**

180 A. A violation of this chapter by a vendor constitutes a fraudulent act or practice by a supplier in
181 connection with a consumer transaction for purposes of applying the Virginia Consumer Protection Act

182 (*§ 59.1-196 et seq.*).

183 *B. A consumer injured by a violation of this chapter shall have the right to bring a civil action*
184 *under the Virginia Consumer Protection Act (§ 59.1-196 et seq.) for any remedies authorized by*
185 *§ 59.1-204.*