

LD5587749

## SENATE BILL NO. 708

Senate Amendments in [ ] — January 26, 1995

A *BILL to amend Chapter 646 of the Acts of Assembly of 1968, which provided a charter for the Town of Herndon in the County of Fairfax, by adding sections numbered 2.3, 2.4 and 2.5, relating to regulating the use and occupancy of buildings; abatement of blight; penalties.*

Patrons—Waddell; Delegate: Callahan

Referred to the Committee on Local Government

**Be it enacted by the General Assembly of Virginia:**

**1. That Chapter 646 of the Acts of Assembly of 1968 is amended by adding sections numbered 2.3, 2.4 and 2.5 as follows:**

§ 2.3. *Light, ventilation, sanitation and use and occupancy of buildings; inspection warrants.*

A. *The town of Herndon may regulate the light, ventilation, sanitation and use and occupancy of buildings heretofore or hereafter constructed, altered, remodeled or improved, and the sanitation of the premises surrounding such buildings.*

B. *In regulating use and occupancy of such buildings, the town, among other powers, may by ordinance limit, restrict, lower, or control the number of people who may reside in or occupy a building or dwelling unit, to discourage or eliminate neighborhood blight caused by excessive occupancy [ , as defined by the Virginia Uniform Statewide Building Code ] .*

C. *"Neighborhood blight" means a legislative finding by [ ordinance of ] the town council of unhealthful, dangerous, or harmful conditions in a residential site or residential area of the town, caused by neglect, lack of maintenance, residential overcrowding of land, or illegal activity of owners or occupants of the residential structures.*

D. *The town may provide that the violation of an ordinance adopted under this section constitutes a Class 3 misdemeanor and may enforce this section by suit in equity.*

E. *In exercising the powers granted by this section, the town may inspect buildings according to (i) the procedures set out in §§ 19.2-393 through 19.2-397 of the Code of Virginia, with necessary changes for administrative enforcement, or (ii) general law of this state for criminal enforcement.*

§ 2.4 *Inspection of residential units.*

Upon an affirmative finding of the need to protect the public health, welfare, and safety of its citizens, the town of Herndon may provide by ordinance for the issuance of certificates of compliance with current building regulations for existing residential rental buildings located in areas of the town subject to neighborhood blight as defined in § 2.3 of this charter, designated by the town council, after inspections of such building upon a termination of the tenancies or when such rental property is sold. [ Such certificate of compliance shall be issued in accordance with the administrative provisions of the Virginia Uniform Statewide Building Code. ]

§ 2.5 *Authority to require removal, repair, etc., of buildings and other structures contributing to neighborhood blight.*

A. *As used in this section:*

"Affidavit" means the affidavit prepared by the town in accordance with subdivision B 1 a hereof.

"Corrective action" means the taking of steps which are reasonably expected to be effective to abate neighborhood blight on real property, such as removal, repair or securing of any building, wall or other structure.

"Neighborhood blight" is defined in § 2.3 of this charter.

"Owner" means the record owner of the real property.

"Property" means real property.

B. *The council for the town of Herndon may, by ordinance, provide that:*

1. *The town may undertake corrective action with respect to property in accordance with the procedures described herein:*

a. *The mayor or town manager shall execute an affidavit, citing this section, to the effect that (i) neighborhood blight exists on the property and in the manner described therein, (ii) the town has used diligence without effect to abate the neighborhood blight, [ and ] (iii) the neighborhood blight constitutes a present threat to the public's health, safety or welfare [ and (iv) efforts to enforce the Virginia Uniform Statewide Building Code with respect to the property have proved unsuccessful ] .*

b. *The town shall then send a notice to the owner of the property, to be sent by certified or regular mail to the last address listed for the owner on the town's assessment records for the property, together with a copy of such affidavit, advising that (i) the owner has up to thirty days from the date thereof to*

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60 undertake corrective action to abate the neighborhood blight described in such affidavit and (ii) the  
61 town will, if requested to do so, assist the owner in determining and coordinating the appropriate  
62 corrective action to abate the neighborhood blight described in such affidavit.

63 c. If no corrective action is undertaken during such thirty-day period, the town shall send by  
64 certified or regular mail an additional notice to the owner of the property, at the address stated in the  
65 preceding subdivision, stating the date on which the town may commence corrective action to abate the  
66 neighborhood blight on the property, which date shall be no earlier than fifteen days after the date of  
67 mailing of the notice. Such additional notice shall also reasonably describe the corrective action  
68 contemplated to be taken by the town. Upon receipt of such notice, the owner shall have a right, upon  
69 reasonable notice to the town, to seek equitable relief within ninety days following receipt of the notice,  
70 and the town shall initiate no corrective action while a proper petition for relief is pending before a  
71 court of competent jurisdiction.

72 2. If the town undertakes corrective action with respect to the property after complying with the  
73 provisions of subdivision B 1, the costs and expenses thereof shall be chargeable to and paid by the  
74 owner of such property and may be collected by the town as taxes and levies are collected.

75 3. Every charge authorized by this section with which the owner of any such property has been  
76 assessed and which remains unpaid shall constitute a lien against such property with the same priority  
77 as liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3  
78 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1 of the Code of Virginia.

79 C. If the owner of such property takes timely corrective action pursuant to such notice, the town  
80 shall deem the neighborhood blight abated, shall close the proceeding without any charge or cost to the  
81 owner and shall promptly provide written notice to the owner that the proceeding has been terminated  
82 satisfactorily. The closing of a proceeding shall not bar the town from initiating a subsequent  
83 proceeding if the neighborhood blight recurs.

84 D. Nothing in this section shall be construed to abridge or waive any rights or remedies of an owner  
85 of property at law or in equity.

86 **2. That an emergency exists and this act is in force from its passage.**