

SENATE BILL NO. 1327

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology

on _____)

(Patron Prior to Substitute--Senator McClellan)

A BILL to amend and reenact §§ 8.01-463, 36-139, 55.1-320, 55.1-321, and 55.1-1303 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-2223.5, relating to housing protections; foreclosures; manufactured housing.

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-463, 36-139, 55.1-320, 55.1-321, and 55.1-1303 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-2223.5 as follows:

§ 8.01-463. Enforcement of lien when judgment does not exceed \$25,000.

If the amount of the judgment does not exceed ~~twenty dollars~~ \$25,000, exclusive of interest and costs, no bill to enforce the lien, pursuant to § 8.01-462, thereof shall be entertained, ~~unless it appear that thirty days before the institution of the suit, the judgment debtor or his personal representative, and the owner of the real estate on which the judgment is a lien, or, in case of a nonresident, his agent or attorney, if he had one in this Commonwealth, had notice that the suit would be instituted, if the judgment was not paid within that time~~ if the real estate is the judgment debtor's primary residence.

§ 15.2-2223.5. Comprehensive plan shall address manufactured housing.

During an amendment of a locality's comprehensive plan after July 1, 2021, the locality shall incorporate into its comprehensive plan strategies to promote manufactured housing as a source of affordable housing. Such strategies may include (i) the preservation of existing manufactured housing communities, (ii) the creation of new manufactured home communities, and (iii) the creation of new manufactured home subdivisions.

§ 36-139. Powers and duties of Director.

27 The Director of the Department of Housing and Community Development shall have the following
28 responsibilities:

29 1. Collecting from the governmental subdivisions of the Commonwealth information relevant to
30 their planning and development activities, boundary changes, changes of forms and status of government,
31 intergovernmental agreements and arrangements, and such other information as he may deem necessary.

32 2. Making information available to communities, planning district commissions, service districts
33 and governmental subdivisions of the Commonwealth.

34 3. Providing professional and technical assistance to, and cooperating with, any planning agency,
35 planning district commission, service district, and governmental subdivision engaged in the preparation
36 of development plans and programs, service district plans, or consolidation agreements.

37 4. Assisting the Governor in the providing of such state financial aid as may be appropriated by
38 the General Assembly in accordance with § 15.2-4216.

39 5. Administering federal grant assistance programs, including funds from the Appalachian
40 Regional Commission, the Economic Development Administration and other such federal agencies,
41 directed at promoting the development of the Commonwealth's communities and regions.

42 6. Developing state community development policies, goals, plans and programs for the
43 consideration and adoption of the Board with the ultimate authority for adoption to rest with the Governor
44 and the General Assembly.

45 7. Developing a Consolidated Plan to guide the development and implementation of housing
46 programs and community development in the Commonwealth for the purpose of meeting the housing and
47 community development needs of the Commonwealth and, in particular, those of low-income and
48 moderate-income persons, families and communities.

49 8. Determining present and future housing requirements of the Commonwealth on an annual basis
50 and revising the Consolidated Plan, as necessary to coordinate the elements of housing production to
51 ensure the availability of housing where and when needed.

52 9. Assuming administrative coordination of the various state housing programs and cooperating
53 with the various state agencies in their programs as they relate to housing.

54 10. Establishing public information and educational programs relating to housing; devising and
55 administering programs to inform all citizens about housing and housing-related programs that are
56 available on all levels of government; designing and administering educational programs to prepare
57 families for home ownership and counseling them during their first years as homeowners; and promoting
58 educational programs to assist sponsors in the development of low and moderate income housing as well
59 as programs to lessen the problems of rental housing management.

60 11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

61 12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

62 13. Establishing and operating a Building Code Academy for the training of persons in the content,
63 application, and intent of specified subject areas of the building and fire prevention regulations
64 promulgated by the Board of Housing and Community Development.

65 14. Administering, in conjunction with the federal government, and promulgating any necessary
66 regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

67 15. Identifying and disseminating information to local governments about the availability and
68 utilization of federal and state resources.

69 16. Administering, with the cooperation of the Department of Health, state assistance programs
70 for public water supply systems.

71 17. Advising the Board on matters relating to policies and programs of the Virginia Housing Trust
72 Fund.

73 18. Designing and establishing program guidelines to meet the purposes of the Virginia Housing
74 Trust Fund and to carry out the policies and procedures established by the Board.

75 19. Preparing agreements and documents for loans and grants to be made from the Virginia
76 Housing Trust Fund; soliciting, receiving, reviewing and selecting the applications for which loans and
77 grants are to be made from such fund; directing the Virginia Housing Development Authority and the
78 Department as to the closing and disbursing of such loans and grants and as to the servicing and collection
79 of such loans; directing the Department as to the regulation and monitoring of the ownership, occupancy
80 and operation of the housing developments and residential housing financed or assisted by such loans and

81 grants; and providing direction and guidance to the Virginia Housing Development Authority as to the
82 investment of moneys in such fund.

83 20. Establishing and administering program guidelines for a statewide homeless intervention
84 program.

85 21. Administering 15 percent of the Low Income Home Energy Assistance Program (LIHEAP)
86 Block Grant and any contingency funds awarded and carry over funds, furnishing home weatherization
87 and associated services to low-income households within the Commonwealth in accordance with
88 applicable federal law and regulations.

89 22. Developing a strategy concerning the expansion of affordable, accessible housing for older
90 Virginians and Virginians with disabilities, including supportive services.

91 23. Serving as the Executive Director of the Commission on Local Government as prescribed in §
92 15.2-2901 and perform all other duties of that position as prescribed by law.

93 24. Developing a strategy, in consultation with the Virginia Housing Development Authority, for
94 the creation and implementation of housing programs and community development for the purpose of
95 meeting the housing needs of persons who have been released from federal, state, and local correctional
96 facilities into communities.

97 25. Administering the Private Activity Bonds program in Chapter 50 (§ 15.2-5000 et seq.) of Title
98 15.2 jointly with the Virginia Small Business Financing Authority and the Virginia Housing Development
99 Authority.

100 26. Developing a statement of tenant rights and responsibilities explaining in plain language the
101 rights and responsibilities of tenants under the Virginia Residential Landlord and Tenant Act (§ 55.1-1200
102 et seq.) and maintaining such statement on the Department's website. The Director shall also develop and
103 maintain on the Department's website a printable form to be signed by the parties to a written rental
104 agreement acknowledging that the tenant has received from the landlord the statement of tenant rights and
105 responsibilities as required by § 55.1-1204. The Director may at any time amend the statement of tenant
106 rights and responsibilities and such printable form as the Director deems necessary and appropriate. The
107 statement of tenant rights and responsibilities shall contain a plain language explanation of the rights and

108 responsibilities of tenants in at least 14-point type. The statement shall provide the telephone number and
109 website address for the statewide legal aid organization and direct tenants with questions about their rights
110 and responsibilities to contact such organization.

111 27. Developing a statement of tenant rights and responsibilities explaining in plain language the
112 rights and responsibilities of tenants under the Virginia Manufactured Home Lot Rental Act (§ 55.1-1300
113 et seq.) and maintaining such statement on the Department's website. The Director shall also develop and
114 maintain on the Department's website a printable form to be signed by the parties to a written rental
115 agreement acknowledging that the tenant has received from the landlord the statement of tenant rights and
116 responsibilities as required by § 55.1-1303. The Director may at any time amend the statement of tenant
117 rights and responsibilities and such printable form as the Director deems necessary and appropriate. The
118 statement of tenant rights and responsibilities shall contain a plain language explanation of the rights and
119 responsibilities in at least 14-point type. The statement shall provide the telephone number and website
120 address for the statewide legal aid organization and direct tenants with questions about their rights and
121 responsibilities to contact such organization.

122 28. Carrying out such other duties as may be necessary and convenient to the exercise of powers
123 granted to the Department.

124 **§ 55.1-320. How deed of trust construed; duties, rights, etc., of parties.**

125 Every deed of trust to secure debts or indemnify sureties is in the nature of a contract and shall be
126 construed according to its terms to the extent not in conflict with the requirements of law. Unless the deed
127 of trust provides otherwise, it shall be construed to impose and confer upon the parties and beneficiaries
128 the following duties, rights, and obligations in like manner as if the same were expressly provided for by
129 such deed of trust:

130 1. The deed shall be construed as given to secure the performance of each of the covenants entered
131 into by the grantor as well as the payment of the primary obligation.

132 2. The grantor shall be deemed to covenant that he will pay all taxes, levies, assessments, and
133 charges upon the property, including the fees and charges of such agents or attorneys as the trustee may

134 deem advisable to employ at any time for the purpose of the trust, so long as any obligation upon the
135 grantor under the deed of trust remains undischarged.

136 3. The grantor shall be deemed to covenant that he will keep the improvements on the property in
137 tenable condition, whether such improvements were on the property when the deed of trust was given
138 or were placed there at a later time.

139 4. The grantor shall be deemed to covenant that no waste shall be committed or suffered upon the
140 property.

141 5. The grantor shall be deemed to covenant that in the event of his failure to meet any obligations
142 imposed upon him, then the trustee or any beneficiary may, at his option, satisfy such obligations. The
143 money so advanced, with interest as provided in the deed of trust, shall be a part of the debt secured by
144 the deed of trust, in the event of sale to be paid next after the expenses of executing the trust, and shall be
145 otherwise recoverable from the grantor as a debt. In addition, to the extent not otherwise covered, the
146 grantor shall be deemed to covenant that amount advanced or incurred by the trustee or any beneficiary
147 under a deed of trust (i) with respect to an obligation secured by a lien or encumbrance prior to the lien of
148 the deed of trust or (ii) for the protection of the lien secured by the deed of trust, together with interest as
149 provided in the deed of trust, shall be a part of the debt secured by the deed of trust, to be paid next after
150 expenses of executing the trust.

151 6. A covenant to pay interest shall be deemed a covenant to pay interest on the principal balance
152 as such rate may vary or be modified from time to time by the parties under the original instruments or
153 agreements or a written agreement of modification, whether or not recorded, and all the interest on the
154 principal secured by the deed of trust shall be on an equal priority with the principal debt secured by the
155 deed of trust, in the event of sale to be paid next after the expenses of executing the trust.

156 Any covenant, otherwise authorized by law, that the lender shall be entitled to share in the gross
157 income or the net income, or the gross rent or revenues, or net rents or revenues of the property, or in any
158 portion of the proceeds or appreciation upon sale or appraisal or similar event, shall be on an equal priority
159 with the principal debt secured by the deed of trust, in the event of sale to be paid next after the expenses

160 of executing the trust, and shall be specified in the recorded deed of trust or other recorded document in
161 order to be notice of record as against subsequent parties.

162 7. In the event of default in the payment of the debt secured, or any part thereof, at maturity, or in
163 the payment of interest when due, or of the breach of any of the covenants entered into or imposed upon
164 the grantor, then at the request of any beneficiary the trustee shall forthwith declare all the debts and
165 obligations secured by the deed of trust at once due and payable and may take possession of the property
166 and proceed to sell the same at auction at the premises or in the front of the circuit court building or at
167 such other place in the county or city in which the property or the greater part thereof lies, or in the
168 corporate limits of any city surrounded by or contiguous to such county, or in the case of annexed land, in
169 the county of which the land was formerly a part, as the trustee may select upon such terms and conditions
170 as the trustee may deem best.

171 8. If the sale is upon credit terms, the deferred purchase money shall bear interest from the day of
172 sale and shall be secured by a deed of trust upon the property contemporaneous with the trustee's deed to
173 the purchaser.

174 9. The party secured by the deed of trust, or the holders of greater than 50 percent of the monetary
175 obligations secured thereby, shall have the right and power to appoint one or more substitute trustees for
176 any reason and, regardless of whether such right and power is expressly granted in such deed of trust, by
177 executing and acknowledging an instrument designating and appointing a substitute. When the instrument
178 of appointment has been executed, the substitute trustee named therein shall be vested with all the powers,
179 rights, authority, and duties vested in the trustee in the original deed of trust. The instrument of
180 appointment shall be recorded in the office of the clerk in which the original deed of trust is recorded prior
181 to or at the time of recordation of any instrument in which a power, right, authority, or duty conferred by
182 the original deed of trust is exercised.

183 10. A trustee shall not sell the property secured by the deed of trust without receiving an affidavit
184 signed by the party that provided the notice required by § 55.1-321 confirming the notice was sent to the
185 owner, with a copy of such notice attached to the affidavit. Prior to commencing a foreclosure sale, the

186 trustee shall provide copies of such affidavit and notice, with any personal financial information
187 redacted, to each potential bidder.

188 **§ 55.1-321. Notices required before sale by trustee to owners, lienors, etc.; if note lost.**

189 A. In addition to the advertisement required by § 55.1-322, the trustee or the party secured shall
190 give written notice of the time, date, and place of any proposed sale in execution of a deed of trust, and
191 such notice shall include either (i) the instrument number or deed book and page numbers of the instrument
192 of appointment filed pursuant to § 55.1-320, or (ii) a copy of the executed and notarized appointment of
193 substitute trustee by personal delivery or by mail to (a) the present owner of the property to be sold at his
194 last known address as such owner and address appear in the records of the party secured; (b) any
195 subordinate lienholder who holds a note against the property secured by a deed of trust recorded at least
196 30 days prior to the proposed sale and whose address is recorded with the deed of trust; (c) any assignee
197 of such a note secured by a deed of trust, provided that the assignment and address of assignee are likewise
198 recorded at least 30 days prior to the proposed sale; (d) any condominium unit owners' association that
199 has filed a lien pursuant to § 55.1-1966; (e) any property owners' association that has filed a lien pursuant
200 to § 55.1-1833; and (f) any proprietary lessees' association that has filed a lien pursuant to § 55.1-2148.
201 Written notice shall be given pursuant to clauses (d), (e), and (f) only if the lien is recorded at least 30
202 days prior to the proposed sale. If the secured party has received notification that the owner of the property
203 to be sold is deceased, the notice required by clause (a) shall be given to (1) the last known address of
204 such owner as such address appears in the records of the party secured; (2) any personal representative of
205 the deceased's estate whose appointment is recorded among the records of the circuit court where the
206 property is located, at the address of the personal representative that appears in such records; and (3) any
207 heirs of the deceased who are listed on the list of heirs recorded among the records of the circuit court
208 where the property is located, at the addresses of the heirs that appear in such records. Mailing of a copy
209 of the advertisement or a notice containing the same information to the owner by certified or registered
210 mail no less than ~~14~~ 60 days prior to such sale and to lienholders, the property owners' association or
211 proprietary lessees' association, their assigns, and the condominium unit owners' association, at the address
212 noted in the memorandum of lien, by ordinary mail no less than ~~14~~ 60 days prior to such sale shall be a

213 sufficient compliance with the requirement of notice. The written notice of proposed sale when given as
214 provided in this subsection shall be deemed an effective exercise of any right of acceleration contained in
215 such deed of trust or otherwise possessed by the party secured relative to the indebtedness secured. The
216 inadvertent failure to give notice as required by this subsection shall not impose liability on either the
217 trustee or the secured party. The foreclosure sale cannot go forward unless the trustee has proof that the
218 notice has been sent.

219 B. If a note or other evidence of indebtedness secured by a deed of trust is lost or for any reason
220 cannot be produced and the beneficiary submits to the trustee an affidavit to that effect, the trustee may
221 nonetheless proceed to sale, provided that the beneficiary has given written notice to the person required
222 to pay the instrument that the instrument is unavailable and a request for sale will be made of the trustee
223 upon expiration of ~~14~~ 60 days from the date of mailing of the notice. The notice shall be sent by certified
224 mail, return receipt requested, to the last known address of the person required to pay the instrument as
225 reflected in the records of the beneficiary and shall include the name and mailing address of the trustee.
226 The notice shall further advise the person required to pay the instrument that if he believes he may be
227 subject to a claim by a person other than the beneficiary to enforce the instrument, he may petition the
228 circuit court of the county or city where the property or some part thereof lies for an order requiring the
229 beneficiary to provide adequate protection against any such claim. If deemed appropriate by the court, the
230 court may condition the sale on a finding that the person required to pay the instrument is adequately
231 protected against loss that might occur by reason of a claim by another person to enforce the instrument.
232 Adequate protection may be provided by any reasonable means. If the trustee proceeds to sale, the fact
233 that the instrument is lost or cannot be produced shall not affect the authority of the trustee to sell or the
234 validity of the sale.

235 C. When the written notice of proposed sale is given as provided in this section, there is a rebuttable
236 presumption that the lienholder has complied with any requirement to provide notice of default contained
237 in a deed of trust. Failure to comply with the requirements of notice contained in this section shall not
238 affect the validity of the sale, and a purchaser for value at such sale shall be under no duty to ascertain
239 whether such notice was validly given.

240 D. In the event of postponement of sale, which may be done in the discretion of the trustee, no new
241 or additional notice is required to be given pursuant to this section.

242 E. The notice to the owner in subdivisions A and B shall include the website address of the U.S.
243 Housing and Urban Development's (HUD) Office of Housing Counseling with a listing of HUD-certified
244 housing counseling agencies, the website address and telephone number of the statewide legal aid center,
245 and the following language, or language that is substantially similar, in at least 12-point type: "This is
246 NOT a notice to vacate the premises. You should consider contacting an attorney or your local legal aid
247 or housing counseling agency."

248 F. The notice to the owner in subdivisions A and B shall include the date of the last payment
249 received and the amount received; the total amount of principal, interest, costs, and fees due in arrears;
250 and the remaining total principal balance due on the instrument.

251 **§ 55.1-1303. Landlord's obligations.**

252 The landlord shall:

253 1. Comply with applicable laws governing health, zoning, safety, and other matters pertaining to
254 manufactured home parks;

255 2. Make all repairs and do whatever is necessary to put and keep the manufactured home park in a
256 fit and habitable condition, including maintaining in a clean and safe condition all facilities and common
257 areas provided by the landlord for use by the tenants of two or more manufactured home lots;

258 3. Maintain in good and working order and condition all electrical, plumbing, sanitary, heating,
259 ventilating, air conditioning, and other facilities and appliances supplied or required to be supplied by the
260 landlord;

261 4. Provide and maintain appropriate receptacles as a manufactured home park facility, except when
262 door-to-door garbage and waste pickup is available within the manufactured home park for the collection
263 and storage of garbage and other waste incidental to the occupancy of the manufactured home park, and
264 arrange for the removal of the garbage and other waste; ~~and~~

265 5. Provide reasonable access to electric, water, and sewage disposal connections for each
266 manufactured home lot. In the event of a planned disruption by the landlord in electric, water, or sewage

267 disposal services, the landlord shall give written notice to tenants no less than 48 hours prior to the planned
268 disruption in service; and

269 6. Provide a copy of any written rental agreement and the statement of tenant rights and
270 responsibilities to the tenant within one month of the effective date of the written rental agreement. The
271 failure of the landlord to deliver such a rental agreement and statement shall not affect the validity of the
272 agreement. However, the landlord shall not file or maintain an action against the tenant in a court of law
273 for any alleged lease violation until he has provided the tenant with the statement of tenant rights and
274 responsibilities.

275 **2. That the Department of Housing and Community Development shall convene a stakeholder group**
276 **consisting of landlords, property managers, and tenants, as well as attorneys knowledgeable in the**
277 **Virginia Manufactured Home Lot Rental Act (§ 55.1-1300 et seq. of the Code of Virginia) and other**
278 **applicable provisions of the Code of Virginia for the purposes of providing input into (i) the**
279 **development of the form to be developed by the Director of the Department of Housing and**
280 **Community Development for posting on its website pursuant to § 36-139 of the Code of Virginia, as**
281 **amended by this act, acknowledging that a tenant has received from the landlord the statement of**
282 **tenant rights and responsibilities and (ii) any updates to the statement of tenant rights and**
283 **responsibilities.**

284 **3. That the provisions of subsection E of § 55.1-321 of the Code of Virginia, as amended by this act,**
285 **shall become effective on October 1, 2021.**

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