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HOUSE BILL NO. 2396

Offered January 13, 2025

Prefiled January 8, 2025

A BILL to amend and reenact §§ 47.1-11 and 55.1-903 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 15.2-962.1 and 47.1-9.1, relating to land records notification system; duties of real estate settlement agent; due diligence in ascertaining identity of seller.

Patron—Simon

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 47.1-11 and 55.1-903 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-962.1 and 47.1-9.1 as follows:

§ 15.2-962.1. Establishment of land records notification systems.

A. Localities shall establish a property alert notification system in the local land records office responsible for accepting documents for recording that allows a person to enroll real property owned by the person in the system.

1. A property alert notification system established under this section shall: (i) notify the enrolled owner of the recording of any document describing, affecting, or purporting to affect the enrolled property and (ii) in such notification, identify the nature of the document recorded, identify the subject property by address or tax identification number, and provide the recording information of such document.

2. Such system shall allow a property owner to elect to receive any notification provided under this section by mail or electronically.

3. There shall be no charge to a property owner for enrolling in the property alert notification system required by the section.

4. The locality may use mail, website, newspaper advertisement, or other media to provide property owners with education information on deed fraud and information about the property alert notification system established under this section.

B. A locality may supplement the property alert notification system by also establishing a document alert notification system that allows a notary public to enroll in the system.

1. A document alert notification system established under this section shall (i) notify the enrolled notary public of the recording of any document containing the name or registration number, if applicable, of the notary public and (ii) in such notification, identify the nature of the document recorded, identify the subject property by address or tax identification number, and provide the recording information of the document.

2. A locality may index or by other means create a searchable log that includes the following information for each document recorded in the land records: (i) information identifying real property described in or purported to be affected by the document; (ii) the name and registration number, if applicable, of any notarial officer described in or identified in the document; or (iii) the name of the person that submitted the document for recording.

3. A notary public may elect to receive any notification provided under this section by mail or electronically.

4. There shall be no charge to a notary public for enrolling in the document alert notification system.

5. The locality may use mail, website, newspaper advertisement, or other media to provide notaries public with education information on deed fraud and information about the document alert notification system established under this section.

C. The local land records office responsible for accepting and recording documents is not liable for a violation of this section. No person shall have a right or cause of action and a recording clerk is not liable with respect to the establishment, maintenance, or operation of a property alert or document alert notification system established under this section.

§ 47.1-9.1. Proof required to obtain seal.

Once issued his commission, a notary public shall present proof of the notary public's commission to a vendor or manufacturer for the purpose of obtaining a seal to affix on paper documents as required by § 47.1-16. The notary public and the manufacturer or vendor shall retain such proof for four years.

§ 47.1-11. Reference materials.

The Secretary shall prepare, from time to time, reference materials for notaries public and electronic notaries public which shall contain the provisions of this title and such other information as the Secretary shall deem useful, including trends related to real estate fraud and elder financial exploitation. Copies of the reference materials shall be made available to persons seeking appointment as notaries public and electronic

59 notaries public as well as to other interested persons. The Secretary may make the materials available in
60 digital format but shall provide written copies of the materials upon request.

61 **§ 55.1-903. Duty of settlement agent.**

62 *A. Prior to recordation of the deed, the deed of trust, or the mortgage or other documents required to be*
63 *recorded, the settlement agent shall exercise due diligence in ascertaining the identity of a seller of real*
64 *property subject to such deed, mortgage, or other document. Such due diligence includes obtaining*
65 *satisfactory evidence of identity as defined in § 47.1-2, requiring multiple forms of photo identification,*
66 *performing a title search, reviewing the land records, comparing signatures, performing a credit check, or*
67 *asking detailed property questions. The settlement agent shall sign an affidavit attesting to such due diligence*
68 *if requested by the clerk of the circuit court in which such document is to be recorded.*

69 *B. The settlement agent shall cause recordation of the deed, the deed of trust, or the mortgage or other*
70 *documents required to be recorded and shall cause disbursement of settlement proceeds within two business*
71 *days of settlement. A settlement agent may not disburse any or all loan funds or other funds coming into its*
72 *possession prior to the recordation of any instrument except (i) funds received that are overpayments to be*
73 *returned to the provider of such funds, (ii) funds necessary to effect the recordation of instruments, or (iii)*
74 *funds that the provider has by separate written instrument directed to be disbursed prior to recordation of any*
75 *instrument. Additionally, in any transaction involving the purchase or sale of an interest in residential real*
76 *property, the settlement agent shall provide notification to the purchaser of the availability of owner's title*
77 *insurance as required under § 38.2-4616.*

78 **2. That the provisions of this act shall become effective on January 1, 2026.**