

HOUSE BILL NO. 803

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on _____)

(Patron Prior to Substitute—Delegate Carr)

A BILL to amend the Code of Virginia by adding a section numbered 55.1-304.1, relating to repairs or maintenance of property; entering adjoining property; petition for entry.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 55.1-304.1 as follows:

§ 55.1-304.1. Repairs or maintenance of property; entering adjoining property; petition for entry.

When an owner of real property seeks to repair or maintain the exterior of a structure that he owns and the structure is so situated that it is impossible to perform the repairs or maintenance without entering adjoining property and permission to enter the adjoining property has been denied, or unreasonable conditions have been placed upon the entry, the owner seeking to make the repairs or maintenance may petition the circuit court for a right of entry to the adjoining property for the purpose of performing the repairs or maintenance. The petition and affidavits, if any, shall state (i) the specific repairs or maintenance the owner seeks to make to such structure, (ii) what efforts were made by the owner to obtain permission to access the adjoining property for the purpose of conducting such repairs or maintenance, (iii) any reason that conducting such repairs or maintenance without entering the adjoining property is impossible, (iv) the date on which entry is sought, (v) who or what service provider will be accessing the adjoining property to perform such repairs or maintenance, and (vi) proof that such service provider is properly licensed and insured. Upon a finding that an owner has made a good faith effort to obtain permission to enter the adjoining property, provided that a copy of the petition has been properly served on the adjoining property owner in accordance with Article 4 (§ 8.01-296 et seq.) of Chapter 8 of Title 8.01, and after a hearing, such right of entry may be granted by the court upon such terms as justice requires, including a requirement that the petitioning owner file a bond. No such entry shall be deemed a trespass. The petitioning owner shall be required to return the adjoining property to its previous condition and shall be liable to the adjoining owner or his lessee for actual damages occurring as a result of the entry.

29 2. That the Office of the Executive Secretary of the Supreme Court of Virginia shall promulgate a form
30 in accordance with the provisions of this act.