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## **Selected 2009 Virginia Statutory Changes**

### **HB 1845**

**Summary: Occasional remote access to land records; pilot program; fee.** Allows the clerk of the Circuit Court of Prince William County to establish a pilot program under which a daily fee is assessed for occasional remote access to land records by the general public. The clerk shall also assess a separate fee per image downloaded in an amount not to exceed the usual copying fee. The clerk shall make a report on the pilot program to the House and Senate Committees for Courts of Justice on or before September 30, 2012. The bill expires September 30, 2012. This bill is identical to [SB 935](#).

§ [17.1-276](#). Fee allowed for providing secure remote access to land records.

A. A clerk of the circuit court who provides secure remote access to land records pursuant to § [17.1-294](#) may charge a fee established by the clerk to cover the operational expenses of such electronic access, including, but not limited to, computer support, maintenance, enhancements, upgrades, replacements, and consulting services. A flat fee may be assessed for each subscriber, as defined in § [17.1-295](#), in an amount not to exceed \$50 per month. The fee shall be paid to the clerk's office and deposited by the clerk into a special nonreverting local fund to be used to cover operational expenses of such electronic access, as defined herein. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes to have remote access, in accordance with the security standards established by the Virginia Information Technologies Agency.

*B. The clerk of the Circuit Court of Prince William County may establish a pilot program under which the clerk assesses a daily fee for remote access to land records and a separate fee per image downloaded in an amount not to exceed the fee provided in subdivision A 8 of § [17.1-275](#). The clerk shall make a report on any such pilot program to the House Committee for Courts of Justice and the Senate Committee for Courts of Justice on or before September 30, 2012. The report shall provide a summary of the pilot program and include the level of participation, the costs of the program, and the revenues generated by the program.*

2. That the provisions of this act shall expire on September 30, 2012.

### **HB1887**

Summary:

**Cancellation of property insurance policy upon foreclosure.** Authorizes the cancellation of a policy insuring an owner-occupied dwelling on grounds that the property secured by the policy has been sold pursuant to foreclosure of a deed of trust encumbering the property.

1. That § [38.2-2114](#) of the Code of Virginia is amended and reenacted as follows:

§ [38.2-2114](#). Grounds and procedure for termination of policy; contents of notice; review by Commissioner; exceptions; immunity from liability.

A. Notwithstanding the provisions of § [38.2-2105](#), no policy or contract written to insure owner-occupied dwellings shall be canceled by an insurer unless written notice is mailed or delivered to the named insured at the address stated in the policy, and cancellation is for one of the following reasons:

1. Failure to pay the premium when due;
2. Conviction of a crime arising out of acts increasing the probability that a peril insured against will occur;
3. Discovery of fraud or material misrepresentation;
4. Willful or reckless acts or omissions increasing the probability that a peril insured against will occur as determined from a physical inspection of the insured premises; ~~or~~
5. Physical changes in the property which result in the property becoming uninsurable as determined from a physical inspection of the insured premises; *or*
6. *Foreclosure efforts by the secured party against the subject property covered by the policy that have resulted in the sale of the property by a trustee under a deed of trust as duly recorded in the land title records of the jurisdiction in which the property is located.*

[balance deleted]

**HB 2077**

Summary:

**Plats and site plans; period of validity.** Extends the period of validity for certain preliminary and recorded plats and final site plans, as well as certain other land use approvals, to July 1, 2014.

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 22 of Title 15.2 a section numbered [15.2-2209.1](#) as follows:

§ [15.2-2209.1](#). *Extension of approvals to address housing crisis.*

A. Notwithstanding the time limits for validity set out in § [15.2-2260](#) or [15.2-2261](#), or the provisions of subsection F of § [15.2-2260](#), any subdivision plat valid under § [15.2-2260](#) and outstanding as of January 1, 2009, and any recorded plat or final site plan valid under § [15.2-2261](#) and outstanding as of January 1, 2009, shall remain valid until July 1, 2014, or such later date provided for by the terms of the locality's approval, local ordinance, resolution or regulation, or for a longer period as agreed to by the locality. Any other plan or permit associated with such plat or site plan extended by this subsection shall likewise be extended for the same time period.

B. Notwithstanding any other provision of this chapter, for any valid special exception, special use permit, or conditional use permit outstanding as of January 1, 2009, and related to new residential or commercial development, any deadline in the exception permit, or in the local zoning ordinance that requires the landowner or developer to commence the project or to incur significant expenses related to improvements for the project within a certain time, shall be extended until July 1, 2014, or longer as agreed to by the locality. The provisions of this subsection shall not apply to any requirement that a use authorized pursuant to a special exception, special use permit, conditional use permit, or other agreement or zoning action be terminated or ended by a certain date or within a set number of years.

C. Notwithstanding any other provision of this chapter, for any rezoning action approved pursuant to § [15.2-2297](#), [15.2-2298](#), or [15.2-2303](#), valid and outstanding as of January 1, 2009, and related to new residential or commercial development, any proffered condition that requires the landowner or developer to incur significant expenses upon an event related to a stage or level of development shall be extended until July 1, 2014, or longer as agreed to by the locality. However, the extensions in this subsection shall not apply (i) to land or right-of-way dedications pursuant to § [15.2-2297](#), [15.2-2298](#), or [15.2-2303](#), (ii) when completion of the event related to the stage or level of development has occurred, or (iii) to events required to occur on a specified date certain or within a specified time period. Any proffered condition included in a special exception, special use permit, or conditional use permit shall only be extended if it satisfies the provisions of this subsection.

D. The extension of validity provided in subsection A and the extension of certain deadlines as provided in subsection B shall not be effective unless any performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.

## **HB2135**

### **Summary:**

**Recordation taxes; basis.** Changes from a Class 2 to a Class 1 misdemeanor the criminal penalty for knowingly misrepresenting the consideration for the interest in property conveyed for purposes of recordation and grantor taxes. The bill also would provide a penalty equal to 100 percent of the tax due on the understatement of the

consideration in cases in which the understatement is false or fraudulent with the intent to evade a tax. The bill incorporates [HB 1823](#).

1. That § [58.1-812](#) of the Code of Virginia is amended and reenacted as follows:

§ [58.1-812](#). Payment prerequisite to recordation; exceptions; assessment and collection of tax; penalty for misrepresentation.

A. Except as otherwise provided in this chapter, no deed, deed of trust, contract or other instrument shall be admitted to record without the payment of the tax imposed thereon by law and the fee pursuant to § [58.1-817](#), as applicable. However, after payment of the tax imposed by this chapter, when an instrument is first offered for recordation, such instrument may thereafter be recorded in the office of any other clerk without the payment of any tax except any local recordation tax as provided in Article 1 (§ [58.1-3800](#) et seq.) of Chapter 38 of this title. Any instrument may also be recorded free of tax and fee in the office of the clerk where such instrument was originally recorded when the record containing such instrument has been destroyed.

B. The tax on every deed, deed of trust, contract or other instrument shall be determined and collected by the clerk in whose office the instrument is first offered for recordation. The clerk may ascertain the consideration of the deed or of the instrument, the actual value of the property conveyed, and the qualification of the deed or instrument for any exemption claimed by inquiry, affidavit, declaration or other extrinsic evidence acceptable to the clerk. The fee shall be \$1 on every recorded deed pursuant to § [58.1-817](#) and shall be collected by the clerk in whose office the deed is offered for recordation.

C. Any person who knowingly misrepresents *the consideration for the interest in property conveyed by a deed or other instrument or any of the other information requested by the clerk of court pursuant to this section shall be guilty of a Class-2 1 misdemeanor. If an understatement of the consideration is false or fraudulent with intent to evade a tax, a penalty equal to 100 percent of the tax due on the understatement shall be added to the amount of the tax due, plus interest on the tax at a rate determined in accordance with § [58.1-15](#) from the time the tax was required by law to be filed until paid.*

### **HB2291**

#### **Summary:**

**Release of deed of trust; assignment of penalty.** Prohibits settlement agents and real estate attorneys from facilitating an assignment, to any third party designated by them, of their client's right to the \$500 penalty levied on lenders that fail to timely deliver a certificate of satisfaction releasing a deed of trust. This bill is identical to [SB 888](#).

1. That § [55-66.3](#) of the Code of Virginia is amended and reenacted as follows:

§ [55-66.3](#). Release of deed of trust or other lien.

A. 1. Except as provided in Article 2.1 of this chapter, after full or partial payment or satisfaction has been made of a debt secured by a mortgage, deed of trust, vendor's lien, or other lien, or any one or more obligations representing at least 25 percent of the total amount secured by such lien, but less than the total number of the obligations so secured, or the debt secured is evidenced by two or more separate written obligations sufficiently described in the instrument creating the lien, has been fully paid, the lien creditor shall issue a certificate of satisfaction or certificate of partial satisfaction in a form sufficient for recordation reflecting such payment and release of lien. This requirement shall apply to a credit line deed of trust prepared pursuant to § [55-58.2](#) only when the obligor or the settlement agent has paid the debt in full and requested that the instrument be released.

If the lien creditor receives notice from a settlement agent at the address identified in its payoff statement requesting that the certificate be sent to such settlement agent, the lien creditor shall provide the certificate, within 90 days after receipt of such notice, to the settlement agent at the address specified in the notice received from the settlement agent.

If the notice is not received from a settlement agent, the lien creditor shall deliver, within 90 days after such payment, the certificate to the appropriate clerk's office with the necessary fee for recording by certified mail, return receipt requested, or when there is written proof of receipt from the clerk's office, by hand delivery or by courier hand delivery.

If the lien creditor has already delivered the certificate to the clerk's office by the time it receives notice from the settlement agent, the lien creditor shall deliver a copy of the certificate to the settlement agent within 90 days of the receipt of the notice at the address for notification set forth in the payoff statement.

If the lien creditor has not, within 90 days after payment, either provided the certificate of satisfaction to the settlement agent or delivered it to the clerk's office with the necessary fee for filing, the lien creditor shall forfeit \$500 to the lien obligor. No settlement agent or attorney may take an assignment of the right to the \$500 penalty *or facilitate such an assignment to any third party designated by the settlement agent or attorney*. Following the 90-day period, if the amount forfeited is not paid within 10 business days after written demand for payment is sent to the lien creditor by certified mail at the address for notification set forth in the payoff statement, the lien creditor shall pay any court costs and reasonable attorney's fees incurred by the obligor in collecting the forfeiture.

2. If the note, bond or other evidence of debt secured by such mortgage, deed of trust, vendor's lien or other lien referred to in subdivision 1 or any interest therein, has been assigned or transferred to a party other than the original lien creditor, the subsequent holder shall be subject to the same requirements as a lien creditor for failure to comply with this subsection, as set forth in subdivision 1.

## **HB 2568**

**Summary: Consumer Real Estate Settlement Protection Act; disclosures.** Expands the disclosure that is required to be included in certain real estate purchase contracts to include statements that (i) the provisions of the Consumer Real Estate Settlement Protection Act may not be varied by agreement and rights conferred by the Act may not be waived and (ii) the seller may not require the use of a particular settlement agent as a condition of the sale of the property. The measure also makes technical changes to the required disclosure regarding the choice of settlement agent.

That § [6.1-2.22](#) of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered [6.1-2.21:1](#) as follows:

§ [6.1-2.21:1](#). *Choice of settlement agent.*

*A purchaser or borrower in a transaction related to real estate in the Commonwealth shall have the right to select the settlement agent to provide escrow, closing, or settlement services in connection with the transaction. The seller in such a transaction may not require the use of a particular settlement agent as a condition of the sale of the property.*

§ [6.1-2.22](#). Disclosure.

All contracts involving the purchase of real estate containing not more than four residential dwelling units shall include in bold face, ten-point type the following language:

Choice of Settlement Agent: ~~You have~~ *Virginia's Consumer Real Estate Settlement Protection Act provides that the purchaser or borrower has the right to select a the settlement agent to handle the closing of this transaction. The settlement agent's role in closing ~~you~~ this transaction involves the coordination of numerous administrative and clerical functions relating to the collection of documents and the collection and disbursement of funds required to carry out the terms of the contract between the parties. If part of the purchase price is financed, ~~you~~ the lender for the purchaser will instruct the settlement agent as to the signing and recording of loan documents and the disbursement of loan proceeds. No settlement agent can provide legal advice to any party to the transaction except a settlement agent who is engaged in the private practice of law in Virginia and who has been retained or engaged by a party to the transaction for the purpose of providing legal services to that party.*

*Variation by agreement: The provisions of the Consumer Real Estate Settlement Protection Act may not be varied by agreement, and rights conferred by this chapter may not be waived. The seller may not require the use of a particular settlement agent as a condition of the sale of the property.*

Escrow, closing and settlement service guidelines: The Virginia State Bar issues guidelines to help settlement agents avoid and prevent the unauthorized practice of law in

connection with furnishing escrow, settlement or closing services. As a party to a real estate transaction, ~~you are the purchaser or borrower~~ is entitled to receive a copy of these guidelines from ~~your~~ his settlement agent, upon request, in accordance with the provisions of the Consumer Real Estate Settlement Protection Act.

That § [6.1-2.22](#) of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered [6.1-2.21:1](#) as follows:

§ [6.1-2.21:1](#). *Choice of settlement agent.*

*A purchaser or borrower in a transaction related to real estate in the Commonwealth shall have the right to select the settlement agent to provide escrow, closing, or settlement services in connection with the transaction. The seller in such a transaction may not require the use of a particular settlement agent as a condition of the sale of the property.*

§ [6.1-2.22](#). Disclosure.

All contracts involving the purchase of real estate containing not more than four residential dwelling units shall include in bold face, ten-point type the following language:

Choice of Settlement Agent: ~~You have~~ *Virginia's Consumer Real Estate Settlement Protection Act provides that the purchaser or borrower has the right to select a the settlement agent to handle the closing of this transaction. The settlement agent's role in closing ~~your~~ this transaction involves the coordination of numerous administrative and clerical functions relating to the collection of documents and the collection and disbursement of funds required to carry out the terms of the contract between the parties. If part of the purchase price is financed, ~~your~~ the lender for the purchaser will instruct the settlement agent as to the signing and recording of loan documents and the disbursement of loan proceeds. No settlement agent can provide legal advice to any party to the transaction except a settlement agent who is engaged in the private practice of law in Virginia and who has been retained or engaged by a party to the transaction for the purpose of providing legal services to that party.*

*Variation by agreement: The provisions of the Consumer Real Estate Settlement Protection Act may not be varied by agreement, and rights conferred by this chapter may not be waived. The seller may not require the use of a particular settlement agent as a condition of the sale of the property.*

Escrow, closing and settlement service guidelines: The Virginia State Bar issues guidelines to help settlement agents avoid and prevent the unauthorized practice of law in connection with furnishing escrow, settlement or closing services. As a party to a real estate transaction, ~~you are the purchaser or borrower~~ is entitled to receive a copy of these guidelines from ~~your~~ his settlement agent, upon request, in accordance with the provisions of the Consumer Real Estate Settlement Protection Act.

## **SB 833**

**Summary: Notaries public.** Provides that equipment, security, and technological standards for electronic notarization shall be developed by the Secretary of the Commonwealth with the assistance of the Virginia Information Technologies Agency. The process for developing and maintaining such standards shall be exempt from the Administrative Process Act. In addition, the bill requires that applicants submit a registration form for registering and being commissioned as an electronic notary public, which shall include certification of compliance to the Secretary of the Commonwealth with the aforementioned electronic notary standards developed. Furthermore, the bill provides that a notary's electronic signature and seal shall conform to the developed standards for electronic notarization. This bill contains an emergency clause.

That §§ [47.1-7](#) and [47.1-16](#) of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered [47.1-6.1](#) as follows:

§ [47.1-6.1](#). *Standards for electronic notarization.*

*The Secretary of the Commonwealth shall develop standards for electronic notarization and the Virginia Information Technologies Agency shall provide assistance to the Secretary of the Commonwealth relating to the equipment, security, and technological aspects of the electronic notarization standards. The process for developing and maintaining such standards shall be exempt from the Administrative Process Act (§ [2.2-4000](#) et seq.).*

§ [47.1-7](#). Additional requirements for performing electronic notarial acts.

A. An applicant shall submit a registration form established by the Secretary for registering and being commissioned as an electronic notary public, which shall include:

1. The applicant's full legal and official notary names;
2. A description of the technology or technologies the registrant will use to create an electronic signature in performing official acts;
3. If the device used to create the registrant's electronic signature is issued or registered through a licensed authority, the name of that authority, the source of the license, the starting and expiration dates of the device's term of registration, and any revocations, annulments, or other premature terminations of any registered device of the registrant that were due to misuse or compromise of the device, with the date, cause, and nature of each termination explained in detail;~~and~~
4. *Certification of compliance to the Secretary of the Commonwealth with electronic notary standards developed in accordance with § [47.1-6.1](#); and*
- 4 5. The electronic mail address of the registrant.

B. The registration form shall (i) be signed by the applicant using the electronic signature described in the form; (ii) include any decrypting instructions, codes, keys, or software that allow the registration to be read; and (iii) be transmitted electronically to the Secretary.

C. Nothing herein shall be construed to prevent an electronic notary from using updated technology or technologies during the term of the commission; however, the electronic notary shall notify the Secretary electronically within 90 days of installation or use of such updated technology or technologies and provide a brief description thereof.

§ [47.1-16](#). Notarizations to show date of act, official signature and seal, etc.

A. Every notarization shall include the date upon which the notarial act was performed, and the county or city and state in which it was performed.

B. A notarial act shall be evidenced by a notarial certificate or electronic notarial certificate signed by a notary in a manner that attributes such signature to the notary public identified on the commission.

C. Upon every writing which is the subject of a notarial act, the notary shall, after his certificate, state the date of the expiration of his commission in substantially the following form:

"My commission expires the . . . . day of . . . . ., . . . ."

Near the notary's official signature on the notarial certificate of a paper document, the notary shall affix a sharp, legible, permanent, and photographically reproducible image of the official seal, or, to an electronic document, the notary shall attach an official electronic seal.

D. The notary shall attach the official electronic signature and seal to the electronic notarial certificate of an electronic document in a manner that is capable of independent verification and renders any subsequent changes or modifications to the electronic document evident.

E. A notary's electronic signature and seal shall conform to ~~generally accepted the~~ standards for ~~secure~~ electronic notarization *developed in accordance with* § [47.1-6.1](#).

2. That any document notarized electronically pursuant to the provisions of § [59.1-489](#) of the Code of Virginia that otherwise appears on its face to be properly notarized shall be presumed to have been notarized properly in accordance with the laws and regulations of the Commonwealth.

3. That an emergency exists and this act is in force from its passage.

**SB 855**

Summary:

**Uniform Power of Attorney Act (UPOAA).** Establishes in the Code of Virginia the Uniform Act that was adopted by the National Conference of Commissioners on Uniform State Laws in 2006. The Act consists of default rules that can be modified if the principal desires. Powers of attorney will be durable unless drafted to expire upon a specified date or event. The UPOAA addresses creation and use, good faith reliance, limitations of agent's powers, refusal to recognize, judicial review, notification of resignation, and other matters. The Act contains an optional statutory form. The bill contains a reenactment clause.

<http://leg1.state.va.us/cgi-bin/legp504.exe?091+ful+SB855ER>

**SB 938**

Summary:

**CRESPA; settlement agent registration.** Shifts the duty to register settlement agents from the Virginia State Bar to the appropriate licensing authorities that are responsible for regulating their particular settlement agents. The measure also allows the appropriate licensing authority to administratively terminate the registration of a settlement agent who fails to maintain a license, fails to renew his registration, or fails to comply with certain financial responsibility requirements.

<http://leg1.state.va.us/cgi-bin/legp504.exe?091+ful+SB938ER>

**SB 1157**

Summary: **Recordation and grantor taxes.** Changes from a Class 2 to a Class 1 misdemeanor the criminal penalty for knowingly misrepresenting the consideration for the interest in property conveyed for purposes of recordation and grantor taxes. The bill also would provide a penalty equal to 100 percent of the tax due on the understatement of the consideration in cases in which the understatement is fraudulent with the intent to evade a tax.

That § [58.1-812](#) of the Code of Virginia is amended and reenacted as follows:

§ [58.1-812](#). Payment prerequisite to recordation; exceptions; assessment and collection of tax; penalty for misrepresentation.

A. Except as otherwise provided in this chapter, no deed, deed of trust, contract or other instrument shall be admitted to record without the payment of the tax imposed thereon by law and the fee pursuant to § [58.1-817](#), as applicable. However, after payment of the tax imposed by this chapter, when an instrument is first offered for recordation, such instrument may thereafter be recorded in the office of any other clerk without the payment of any tax except any local recordation tax as provided in Article 1 (§ [58.1-3800](#) et seq.) of Chapter 38 of this title. Any instrument may also be recorded free of tax and fee in the office of the clerk where such instrument was originally recorded when the record containing such instrument has been destroyed.

B. The tax on every deed, deed of trust, contract or other instrument shall be determined and collected by the clerk in whose office the instrument is first offered for recordation. The clerk may ascertain the consideration of the deed or of the instrument, the actual value of the property conveyed, and the qualification of the deed or instrument for any exemption claimed by inquiry, affidavit, declaration or other extrinsic evidence acceptable to the clerk. The fee shall be \$1 on every recorded deed pursuant to § [58.1-817](#) and shall be collected by the clerk in whose office the deed is offered for recordation.

C. Any person who knowingly misrepresents *the consideration for the interest in property conveyed by a deed or other instrument* or any of the *other* information requested by the clerk of court pursuant to this section shall be guilty of a Class-2 *I* misdemeanor. *If an understatement of the consideration is false or fraudulent with intent to evade a tax, a penalty equal to 100 percent of the tax due on the understatement shall be added to the amount of the tax due, plus interest on the tax at a rate determined in accordance with § [58.1-15](#) from the time the tax was required by law to be filed until paid.*

### **Sb 1277**

**Summary: Land records; social security numbers.** Requires, beginning July 1, 2012, that land records posted via secure remote access to the Internet may contain only the last four digits of the social security number of any party.

That § [17.1-294](#) of the Code of Virginia is amended and reenacted as follows:

§ [17.1-294](#). Secure remote access to land records.

A. No circuit court clerk shall provide secure remote access to any land record that does not comply with the provisions of this section and the secure remote access standards developed by the Virginia Information Technologies Agency in consultation with the circuit court clerks, the Executive Secretary of the Supreme Court, the Compensation Board, and users of land and other court records.

B. 1. *Beginning July 1, 2012, any land record made available to subscribers via secure remote access may contain only the last four digits of the social security number of any party.*

~~The-2.~~ *However, the original land record maintained by the clerk may contain a social security number if otherwise provided by law, but that original record shall not be made available via secure remote access unless it complies with this section.*

~~2~~ 3. Except in cases where the original record is required by law to contain a social security number, the attorney or party who prepares or submits the land record for recordation has the responsibility for ensuring that the social security number has been removed from the writing prior to the instrument's being submitted for recordation.

C. Nothing in this section shall be construed to prohibit access to any original document as provided by law.

D. The clerk of the circuit court of any jurisdiction shall be immune from suit arising from any acts or omissions relating to providing secure remote access to land records pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct.

2. That any clerk of a circuit court may engage a vendor to redact social security numbers from all land records made available via secure remote access pursuant to § [17.1-294](#) of the Code of Virginia, using a software redaction system, for records beginning January 1, 1935, to the date of redaction, and that the redaction shall be completed on or before July 1, 2012.

### **SB 1291**

**Summary: Limitation on enforcement of deed of trust or mortgage.** Provides a transition period for mortgages and deeds of trust for which enforcement rights may have been cut off as a result of 2008 legislation that reduced the time in which a deed of trust or mortgage may be enforced from 20 years to 10 years after the maturity of the underlying obligation. The measure provides that if the secured obligation became due and payable between July 1, 1988, and July 1, 2000, the instrument may be enforced until July 1, 2010. If the instrument is not enforced by that date, its enforcement will be time barred unless the beneficiary of the deed of trust or mortgage has extended the limitations period, for 10 additional years, by filing a certificate in the circuit court. The measure addresses obligations that matured within the 20 years preceding the effective date of the 2008 legislation and for which the beneficiary's ability to extend its limitation period was curtailed. However, the bill shall have no effect on the rights of a person who (i) acquired an interest in the real property securing such deed of trust or mortgage between July 1, 2008, and the date of enactment of this subsection and (ii) would otherwise have priority over or take free of such deed of trust or mortgage under the laws of the Commonwealth at that time. This bill contains an emergency clause.

That § [8.01-241](#) of the Code of Virginia is amended and reenacted as follows:

§ [8.01-241](#). Limitation of enforcement of deeds of trust, mortgages and liens for unpaid purchase money.

A. No deed of trust or mortgage heretofore or hereafter given to secure the payment of money, and no lien heretofore or hereafter reserved to secure the payment of unpaid purchase money, shall be enforced after 10 years from the time when the original obligation last maturing thereby secured shall have become due and payable according to its terms and without regard to any provision for the acceleration of such date; provided that the period of one year from the death of any party in interest shall be excluded from the computation of time.

*B. Notwithstanding the limitations prescribed by subsection A, a deed of trust or mortgage given, and a lien reserved to secure the payment of money, for which the original obligation last maturing thereby secured became due and payable according to its terms between July 1, 1988, and July 1, 2000, without regard to any provision for the acceleration of the date such obligation became due and payable, shall not be enforced after July 1, 2010. However, the provisions of this subsection shall have no effect on the rights of a person who (i) acquired an interest in the real property securing such deed of trust or mortgage between July 1, 2008, and the date of enactment of this subsection and (ii) would otherwise have priority over or take free of such deed of trust or mortgage under the laws of the Commonwealth at that time.*

C. The limitations prescribed by this section may be extended by the recordation of a certificate in the form provided in § [8.01-241.1](#) prior to the expiration of the limitation period prescribed herein in the clerk's office in which such lien is recorded and executed either by the party in whom the beneficial title to the property so encumbered is vested at the time of such recordation or by his duly authorized attorney-in-fact, or agent. Recordation of the certificate shall extend the limitations of the right to enforce the lien for 10 years from the date of the recordation of the certificate. The clerk of the court shall index the certificate in both names in the index of the deed book and give reference to the book and page in which the original writing is recorded. Unless the deed or deeds executed pursuant to the foreclosure of any mortgage or to the execution of or sale under any deed of trust is recorded in the county or city where the land is situated within one year after the time the right to enforce the mortgage or deed of trust shall have expired as hereinabove provided, such deed or deeds shall be void as to all purchasers for valuable consideration without notice and lien creditors who make any purchase of or acquire any lien on the land conveyed by any such deed prior to the time such deed is so recorded.

2. That an emergency exists and this act is effective retroactively to July 1, 2008.