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SENATE BILL NO. 311

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact § 38.2-4616 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 54.1-2138.2 and 55.1-706.1, relating to real property; title insurance and duty to disclose ownership interest and lis pendens.

Patron—Ebbin

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-4616 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 54.1-2138.2 and 55.1-706.1 as follows:

§ 38.2-4616. Notification to buyers of the availability of owner's title insurance.

A. In connection with any transaction involving the purchase or sale of an interest in residential real property in this the Commonwealth, the settlement agent as defined in § 55.1-900, before the disbursement of any funds, shall obtain from the purchaser a statement in writing that he has been notified by the settlement agent that the purchaser may wish to obtain owner's title insurance coverage including affirmative mechanics' lien coverage, if available, and of the general nature of such insurance coverage in accordance with the standards of the American Land Title Association, and that the purchaser does or does not desire such coverage or desires coverage not consistent with the standards of the American Land Title Association. The written notification shall include that (i) includes language that the value of subsequent improvements to the property may not be covered; and (ii) substantially complies with the following shall be deemed in compliance with this written notification requirement:

NOTICE OF AVAILABILITY OF OWNER'S TITLE INSURANCE

(AS REQUIRED BY § 38.2-4616 OF THE CODE OF VIRGINIA)

YOU MAY WISH TO OBTAIN TITLE INSURANCE COVERAGE, INCLUDING AFFIRMATIVE COVERAGE FOR MECHANICS' LIENS. TITLE INSURANCE WILL INSURE YOU AGAINST LOSS OR DAMAGE RESULTING FROM DEFECTS IN THE TITLE AND PAY DEFENSE COSTS IN THE EVENT OF A CHALLENGE TO YOUR TITLE. "DEFECTS IN TITLE" MAY INCLUDE:

LIENS OR CLAIMS ASSERTED BY OTHERS INCLUDING CREDITORS OF PRIOR OWNERS;
PHYSICAL OR LEGAL ENCROACHMENTS ON YOUR PROPERTY;
OWNERSHIP INTERESTS VESTED IN OTHERS SUCH AS MISSING OR UNKNOWN HEIRS OF PRIOR OWNERS; and
MECHANICS' LIENS WHICH ARE FILED BY CONTRACTORS AND SUPPLIERS WHO HAVE FURNISHED LABOR AND MATERIALS FOR YOUR PROPERTY. THESE LIENS MAY BE FILED AFTER CLOSING.

PLEASE BE ADVISED THAT THE VALUE OF SUBSEQUENT IMPROVEMENTS TO THE PROPERTY MAY NOT BE COVERED.

UNLESS YOU REQUEST OTHERWISE, AN AMERICAN LAND TITLE ASSOCIATION (ALTA) HOMEOWNER'S POLICY WITH ENHANCED COVERAGES WILL BE ISSUED WHENEVER POSSIBLE. PLEASE ASK FOR A CHART COMPARING THE STANDARD AND ENHANCED OWNER'S POLICY COVERAGES.

[] I DESIRE ALTA HOMEOWNER'S TITLE INSURANCE.

[] I DO NOT DESIRE TITLE INSURANCE OR I DESIRE TITLE INSURANCE NOT CONSISTENT WITH ALTA STANDARDS.

I ACKNOWLEDGE THAT I HAVE BEEN NOTIFIED THAT I MAY WISH TO OBTAIN OWNER'S TITLE INSURANCE COVERAGE INCLUDING AFFIRMATIVE MECHANICS' LIENS COVERAGE, IF AVAILABLE, AND THAT I HAVE BEEN NOTIFIED OF THE GENERAL NATURE OF SUCH COVERAGE AND THAT I HAVE CHOSEN THE INSURANCE OPTION AS INDICATED ABOVE.

PURCHASER'S SIGNATURE _____

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*IF THE PROPERTY DOES NOT MEET THE FOLLOWING CRITERIA, THE ALTA STANDARD OWNER'S POLICY MAY BE ISSUED IN LIEU OF THE ALTA HOMEOWNER'S POLICY:

THE PROPERTY TO BE INSURED MUST BE PLATTED AND THE PLAT MUST BE RECORDED, CONTAIN 25 ACRES OR LESS, AND HAVE A VALID STREET ADDRESS.

THE PROPERTY MUST HAVE VEHICULAR AND PEDESTRIAN ACCESS BASED UPON A LEGAL RIGHT.

INTRODUCED

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59 B. The failure of a settlement agent to provide the information requested by this section shall not of
60 itself be deemed to create a cause of action that would not otherwise exist.

61 **§ 54.1-2138.2. Duty to disclose ownership interest in specific real property.**

62 *If a licensee knows or should have known that he, any member of his family, his firm, any member*
63 *of his firm, or any entity in which he has an ownership interest is acquiring or attempting to acquire or*
64 *is selling or leasing real property through purchase, sale, or lease and the licensee is a party to the*
65 *transaction, the licensee must disclose in writing that he is a licensee and that he, any member of his*
66 *family, his firm, any member of his firm, or any entity in which he has an ownership interest has or will*
67 *have an ownership interest to the other parties to the transaction. This disclosure shall be made to the*
68 *purchaser, seller, lessor, or lessee upon having substantive discussions about specific real property.*

69 **§ 55.1-706.1. Required disclosures; lis pendens.**

70 *Notwithstanding the exemptions in § 55.1-702, if the owner of a residential dwelling unit has actual*
71 *knowledge of a lis pendens filed against such dwelling unit pursuant to § 8.01-268, such owner shall*
72 *provide to a prospective purchaser a written disclosure that so states. Such disclosure shall be provided*
73 *to the purchaser on a form provided by the Real Estate Board on its website and otherwise in*
74 *accordance with this chapter.*