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SENATE BILL NO. 142

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance
on February 23, 2022)

(Patron Prior to Substitute—Senator Edwards)

A BILL to amend and reenact § 58.1-3970.1 of the Code of Virginia, relating to delinquent tax lands; disposition.

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3970.1 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3970.1. Appointment of special commissioner to execute title to certain real estate with delinquent taxes or liens to localities.

A. 1. Except as provided in subsection B, in any proceedings under this article for the sale of a parcel or parcels of real estate ~~which~~ that meet all of the following: (i) each parcel has delinquent real estate taxes or the locality has a lien against the parcel for removal, repair, or securing of a building or structure; removal of trash, garbage, refuse, *or* litter; or the cutting of grass, weeds, or other foreign growth; (ii) each parcel has an assessed value of \$75,000 or less; and (iii) (a) such taxes and liens, together, including penalty and accumulated interest, exceed 50 percent of the assessed value of the parcel ~~or~~, (b) such taxes alone exceed 25 percent of the assessed value of the parcel, *or* (c) *for parcels containing a structure that is a derelict building, as that term is defined in § 15.2-907.1, such taxes and liens, together, including penalty and accumulated interest, exceed 10 percent of the assessed value of the parcel*, the locality may petition the circuit court to appoint a special commissioner to execute the necessary deed or deeds to convey the real estate ~~to the locality in lieu of the sale at public auction, in lieu of the sale at public auction, to the locality, to the locality's land bank entity, or to an existing nonprofit entity designated by the locality to carry out the functions of a land bank entity pursuant to § 15.2-7512.~~ After notice as required by this article, service of process, and upon answer filed by the owner or other parties in interest to the bill in equity, the court shall allow the parties to present evidence and arguments, *ore tenus*, prior to the appointment of the special commissioner. Any surplusage accruing to a locality, *land bank entity, or existing nonprofit entity* as a result of the sale of the parcel or parcels after the receipt of the deed shall be payable to the beneficiaries of any liens against the property and to the former owner, his heirs or assigns in accordance with § 58.1-3967. No deficiency shall be charged against the owner after conveyance to the locality, *land bank entity, or existing nonprofit entity*.

2. A land bank entity or existing nonprofit entity receiving any parcel pursuant to this section shall either (i) sell the property to a third party in an arms-length transaction or, if the land bank entity or existing nonprofit entity develops the property before selling it, make such sale within a reasonable period of time after completing such development or (ii) if the land bank entity or existing nonprofit entity does not intend to sell the property, pay to the beneficiaries of any liens against the property and to the former owner, his heirs or assigns any amount of surplusage, if any, that would result if the property were sold and the proceeds distributed in accordance with § 58.1-3967. For purposes of this section, "existing nonprofit entity" and "land bank entity" have the same meaning as those terms are defined in § 15.2-7500.

B. For a parcel or parcels of real estate in a locality with a score of 100 or higher on the fiscal stress index, as published by the Department of Housing and Community Development in July 2020, all of the provisions of subsection A shall apply except (i) that the percentage of taxes and liens, together, including penalty and accumulated interest, and the percentage of taxes alone set forth in ~~clause clauses~~ (iii) (a) and (b) of subsection A shall exceed 35 percent and 15 percent, respectively, of the assessed value of the parcel or parcels or (ii) that the percentage of taxes and liens, together, including penalty and accumulated interest, and the percentage of taxes alone set forth in ~~clause clauses~~ (iii) (a) and (b) of subsection A shall exceed 20 percent and 10 percent, respectively, of the assessed value of the parcel or parcels, and each parcel has an assessed value of \$150,000 or less, provided that under this clause the property is not an occupied dwelling, and the locality enters into an agreement for sale of the parcel to a nonprofit organization to renovate or construct a single-family dwelling on the parcel for sale to a person or persons to reside in the dwelling whose income is below the area median income.

C. For sales by a nonprofit organization pursuant to subsection B, such sales may include either (i) both the land and the structural improvements on a property or (ii) only the structural improvements of a property and not the land the structural improvements are located on. A sale of only the structural improvements is permissible only if (a) the structural improvements are subject to a ground lease with a community land trust, as that term is defined in § 55.1-1200; (b) the structural improvements are subject to a ground lease that has a term of at least 90 years; and (c) the community land trust retains a

60 preemptive option to purchase such structural improvements at a price determined by a formula that is
61 designed to ensure that the improvements remain affordable in perpetuity to low-income and
62 moderate-income families earning less than 120 percent of the area median income, adjusted for family
63 size.