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SENATE BILL NO. 1114

Senate Amendments in [] — February 5, 2007

A BILL to amend and reenact § 55-519 of the Code of Virginia, relating to the Virginia Residential Property Disclosure Act; required disclosures.

Patrons Prior to Engrossment—Senators Devolites Davis, Cuccinelli and O'Brien; Delegates: Albo, Callahan, Hugo, Marsden, Plum, Rust and Sickles

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 55-519 of the Code of Virginia is amended and reenacted as follows:**

§ 55-519. Required disclosures.

A. With regard to transfers described in § 55-517 of this chapter, the owner of the residential real property shall furnish to a purchaser one of the following:

1. Except with respect to the disclosures required by § 55-519.1, a residential property disclaimer statement in a form provided by the Real Estate Board stating that the owner makes no representations or warranties as to the condition of the real property or any improvements thereon, and that the purchaser will be receiving the real property "as is," that is, with all defects which may exist, if any, except as otherwise provided in the real estate purchase contract; or

2. A residential property disclosure statement disclosing those items contained in a form provided by the Real Estate Board to implement the provisions of this chapter and to list items which are required to be disclosed relative to the physical condition of the property. Such disclosure form may include defects of which the owner has actual knowledge regarding: (i) the water and sewer systems, including the source of household water, water treatment system, and sprinkler system; (ii) insulation; (iii) structural systems, including roof, walls, floors, foundation, and any basement; (iv) plumbing, electrical, heating and air conditioning systems; (v) wood-destroying insect infestation; (vi) land use matters; (vii) hazardous or regulated materials, including asbestos, lead-based paint, radon, and underground storage tanks or other adverse environmental site conditions; and (viii) other material defects known to the owner. The disclosure form shall contain a notice to prospective purchasers and owners (a) that the prospective purchaser and the owner may wish to obtain professional advice or inspections of the property and (b) that information is available at the Department of Environmental Quality which identifies confirmed releases or discharges of oil or other adverse environmental site conditions that may affect the property. The disclosure form shall also contain a notice to purchasers that the information contained in the disclosure is the representations of the owner and is not the representations of the broker or salesperson, if any. The owner shall not be required to undertake or provide any independent investigation or inspection of the property in order to make the disclosures required by this chapter.

B. The disclosure and disclaimer forms shall contain a notice to purchasers that regardless of whether the owner proceeds under subdivision A 1 or A 2, the owner makes no representations with respect to any matters which may pertain to parcels adjacent to the subject parcel. Further, such notice shall advise purchasers to exercise whatever due diligence a particular purchaser deems necessary with respect to adjacent parcels in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement on a parcel of residential real property.

C. The disclosure and disclaimer forms shall contain a notice to purchasers that regardless of whether the owner proceeds under subdivision A 1 or A 2, if property is located in a historic district designated by the locality pursuant to § 15.2-2306 and which the owner has knowledge of such designation, such fact shall be disclosed by the owner. Otherwise, the notice shall advise purchasers to exercise whatever due diligence a particular purchaser deems necessary to determine whether the provisions of any historic district ordinance affect the property, including review of any local ordinance creating such district or any official map adopted by the locality depicting historic districts, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement on a parcel of residential real property.

D. The disclosure and disclaimer forms shall contain a notice to purchasers that regardless of whether the owner proceeds under subdivision A 1 or A 2, the owner makes no representations with respect to whether the property contains any resource protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.) adopted by the locality where the property is located pursuant to § 10.1-2109. Further, such notice shall advise purchasers to exercise whatever due diligence a particular purchaser deems necessary to determine whether the provisions of any such ordinance affect the property, including review of any official map adopted by the locality depicting

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58 resource protection areas, in accordance with terms and conditions as may be contained in the real estate
59 purchase contract, but in any event, prior to settlement on a parcel of residential real property.

60 E. The disclosure and disclaimer forms shall contain a notice to purchasers that whether the owner
61 proceeds under subdivision A 1 or A 2, purchasers should exercise whatever due diligence they deem
62 necessary with respect to information on any sexual offenders registered under Chapter 23 (§ 19.2-387 et
63 seq.) of Title 19.2, including how to obtain such information.

64 F. The disclosure and disclaimer forms shall contain a notice to purchasers that whether the owner
65 proceeds under subdivision 1 or 2 of subsection A, the owner represents that there are no pending
66 enforcement actions (i) pursuant to the Uniform Statewide Building Code (§ 36-97 et seq.) that affect the
67 safe, decent, and sanitary living conditions of the property [~~or (ii) of any violation of the local zoning~~
68 ~~ordinance concerning the property~~] of which the owner has been notified in writing by the locality [*or*
69 *(ii) any pending violation of the local zoning ordinance which the violator has not abated or remedied*
70 *under the zoning ordinance, within a time period set out in the written notice of violation from the*
71 *locality or established by a court of competent jurisdiction*] .