

# VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

## CHAPTER 491

*An Act to amend and reenact §§ 10.1-603.17, 15.2-2224, 15.2-2235, 15.2-2241, 15.2-2258, 15.2-2283, 15.2-2284, and 55-519 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 10.1-603.19:1, 10.1-606.2, 10.1-606.3, 10.1-606.4, 15.2-2243.1, and 15.2-2295.2, and to repeal § 10.1-606.1 of the Code of Virginia, relating to the establishment of dam break inundation zone requirements.*

[H 837]

Approved March 8, 2008

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 10.1-603.17, 15.2-2224, 15.2-2235, 15.2-2241, 15.2-2258, 15.2-2283, 15.2-2284, and 55-519 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 10.1-603.19:1, 10.1-606.2, 10.1-606.3, 10.1-606.4, 15.2-2243.1, and 15.2-2295.2 as follows:**

§ 10.1-603.17. Dam Safety, Flood Prevention and Protection Assistance Fund established.

The Dam Safety, Flood Prevention and Protection Assistance Fund is hereby established and set apart as a permanent and nonreverting fund. The Fund shall consist of any moneys appropriated by the General Assembly, funds returned by localities or other public or private sources in the form of interest and repayment of loan principal, deposits pursuant to §§ 15.2-2243.1 and 38.2-401.1, all income from the investment of moneys held in the Fund, and any other sums designated for deposit in the Fund from any source public or private, including without limitation any federal grants, and awards or other forms of assistance received by the Commonwealth that are eligible for deposit in the Fund under federal law. Any moneys remaining in the Fund at the end of the biennium including any appropriated funds and all principal interest accrued, interest and payments shall not revert to the general fund.

§ 10.1-603.19:1. *Payments from a developer or subdivider.*

A. *The Authority shall administer and manage deposits made to the Fund pursuant to § 15.2-2243.1 in accordance with a memorandum of agreement with the Director. From funds deposited pursuant to this section the Authority may charge an administrative fee, which shall be determined in consultation with the Director. The Director is authorized to expend these deposits to allow a dam owner to make the necessary upgrades to an impounding structure made necessary by a proposed development or subdivision in a dam break inundation zone.*

B. *Fifty percent of any funds held pursuant to subsection A shall be provided to the owner upon receipt of an alteration permit from the Virginia Soil and Water Conservation Board. The remaining funds shall be provided to the owner upon completion of the necessary upgrades and receipt of a regular operation and maintenance certificate from the Board. The owner shall post a bond or other financial guarantee payable to the Fund conditioned on completion of the stages of necessary upgrades prior to any release of payment to the owner. Such bond or other financial guarantee shall be released within 60 days of the receipt of a regular operation and maintenance certificate by the dam owner.*

C. *Interest generated pursuant to these deposits shall remain in the Fund and may be utilized for the purposes set out in § 10.1-603.19.*

§ 10.1-606.2. *Mapping of dam break inundation zones.*

A. *An owner of an impounding structure shall prepare a map of the dam break inundation zone for the impounding structure in accordance with criteria set out in the Virginia Impounding Structure Regulations (4VAC 50-20). Existing maps prepared by the locality in accordance with these regulations may be used for this purpose.*

B. *All maps prepared in accordance with subsection A shall be filed with the Department of Conservation and Recreation and with the offices with plat and plan approval authority or zoning responsibilities as designated by the locality for each locality in which the dam break inundation zone resides.*

C. *Owners of impounding structures may be eligible for matching grants of up to 50 percent from the Dam Safety, Flood Prevention and Protection Assistance Fund and other sources of funding available to the Director to assist in the development of dam break inundation zone maps and for conducting incremental damage assessments in accordance with the Virginia Impounding Structure Regulations.*

D. *All properties identified within the dam break inundation zone shall be incorporated by the owner into the dam safety emergency action plan of that impounding structure so as to ensure the proper notification of persons downstream and other affected persons or property owners in the event of an emergency condition at the impounding structure.*

§ 10.1-606.3. *Requirement for development in dam break inundation zones.*

A. For any development proposed within the boundaries of a dam break inundation zone that has been mapped in accordance with § 10.1-606.2, the locality shall, as part of a preliminary plan review pursuant to § 15.2-2260, or as part of a plan review pursuant to § 15.2-2259 if no preliminary review has been conducted, (i) review the dam break inundation zone map on file with the locality for the affected impounding structure, (ii) notify the dam owner, and (iii) within 10 days forward a request to the Department of Conservation and Recreation to make a determination of the potential impacts of the proposed development on the spillway design flood standards required of the dam. The Department shall notify the dam owner and the locality of its determination within 45 days of the receipt of the request. Upon receipt of the Department's determination, the locality shall complete the review in accordance with § 15.2-2259 or 15.2-2260. If a locality has not received a determination within 45 days of the Department's receipt of the request, the Department shall be deemed to have no comments, and the locality shall complete its review. Such inaction by the Department shall not affect the Board's authority to regulate the impounding structure in accordance with this article.

If the Department determines that the plan of development would change the spillway design flood standards of the impounding structure, the locality shall not permit development as defined in § 15.2-2201 or redevelopment in the dam break inundation zone unless the developer or subdivider agrees to alter the plan of development so that it does not alter the spillway design flood standard required of the impounding structure or he contributes payment to the necessary upgrades to the affected impounding structure pursuant to § 15.2-2243.1.

The developer or subdivider shall provide the dam owner and all affected localities with information necessary for the dam owner to update the dam break inundation zone map to reflect any new development within the dam break inundation zone following completion of the development.

The requirements of this subsection shall not apply to any development proposed downstream of a dam for which a dam break inundation zone map is not on file with the locality as of the time of the official submission of a development plan to the locality.

B. The locality is authorized to map the dam break inundation zone in accordance with criteria set out in the Virginia Impounding Structure Regulations (4VAC 50-20) and recover the costs of such mapping from the owner of an impounding structure for which a dam break inundation zone map is not on file with the locality and a map has not been prepared by the impounding structure owner.

C. This section shall not be construed to supersede or conflict with the authority granted to the Department of Mines, Minerals and Energy for the regulation of mineral extraction activities in the Commonwealth as set out in Title 45.1. Nothing in this section shall be interpreted to permit the impairment of a vested right in accordance with § 15.2-2307.

#### § 10.1-606.4. Notice to the public.

A. When applying to the Department for a permit under the Virginia Impounding Structure Regulations (4VAC 50-20) to construct a new impounding structure, the applicant shall provide localities that lie within the inundation zone with copies of the construction permit request and the dam break inundation zone map.

B. When submitting the application to the Department, the permit applicant shall publish a notice in a newspaper of general circulation in the affected localities summarizing the permit request and providing the address of locations where copies of the construction permit request and the dam break inundation zone map may be examined. The applicant shall provide copies of the published notice to the Department and to the local government offices with plat and plan approval authority or zoning responsibilities as designated by the locality.

C. The Department may hold, on behalf of the Virginia Soil and Water Conservation Board, a public hearing on safety issues associated with the construction permit application for the impounding structure.

D. The Department may require a permit applicant to provide other forms of reasonable notice, such as the placement of a sign on the proposed site, to ensure that affected parties have been informed.

E. The permit applicant shall send, by certified mail, to each property owner within the dam break inundation zone, a summary of the permit request and the addresses of locations where the map of the dam break inundation zone may be viewed. In the case of a condominium or cooperative, such information shall be sent to each property owner or the owners' association. The permit applicant may rely upon real estate assessment records to identify property owners. If requested by the Department, the applicant shall provide a list of the persons to whom notice has been sent.

#### § 15.2-2224. Surveys and studies to be made in preparation of plan; implementation of plan.

A. In the preparation of a comprehensive plan, the local planning commission shall survey and study such matters as the following:

1. Use of land, preservation of agricultural and forestal land, production of food and fiber, characteristics and conditions of existing development, trends of growth or changes, natural resources, historic areas, ground water, surface water, geologic factors, population factors, employment, environmental and economic factors, existing public facilities, drainage, flood control and flood damage prevention measures, dam break inundation zones and potential impacts to downstream properties to the extent that information concerning such information exists and is available to the local planning

*authority*, the transmission of electricity, road improvements, and any estimated cost thereof, transportation facilities, transportation improvements, and any cost thereof, the need for affordable housing in both the locality and planning district within which it is situated, and any other matters relating to the subject matter and general purposes of the comprehensive plan.

However, if a locality chooses not to survey and study historic areas, then the locality shall include historic areas in the comprehensive plan, if such areas are identified and surveyed by the Department of Historic Resources. Furthermore, if a locality chooses not to survey and study mineral resources, then the locality shall include mineral resources in the comprehensive plan, if such areas are identified and surveyed by the Department of Mines, Minerals and Energy. The requirement to study the production of food and fiber shall apply only to those plans adopted on or after January 1, 1981.

2. Probable future economic and population growth of the territory and requirements therefor.

B. The comprehensive plan shall recommend methods of implementation and shall include a current map of the area covered by the comprehensive plan. Unless otherwise required by this chapter, the methods of implementation may include but need not be limited to:

1. An official map;
2. A capital improvements program;
3. A subdivision ordinance;
4. A zoning ordinance and zoning district maps;
5. A mineral resource map; ~~and~~
6. A recreation and sports resource map; *and*
7. *A map of dam break inundation zones.*

§ 15.2-2235. Additions and modifications.

The governing body may by ordinance make, from time to time, other additions to or modifications of the official map by placing thereon the location of any proposed street, street widening, street vacation, waterway, *impounding structures and their dam break inundation zones*, or public area in accordance with the procedures applicable to the locality.

Prior to making any such additions or modifications to the official map, the governing body shall refer the additions or modifications to the local planning commission for its consideration. The commission shall take action on the proposed additions or modifications within sixty days and report its recommendations to the governing body.

Upon receipt of the report of the commission, the governing body shall hold a public hearing on the proposed addition or modification to the official map and shall give notice of the hearing in accordance with § 15.2-2204. All such reports of the commission, when delivered to the governing body, shall be available for public inspection.

Any ordinance embodying additions to or modifications of the official map shall be adopted by at least the vote required for original adoption of the official map. After the public hearing and the final passage of such ordinance, the additions or modifications shall become a part of the official map of the locality. All changes, additions or modifications of the official map shall be filed with the clerk of the court as provided in § 15.2-2234.

§ 15.2-2241. Mandatory provisions of a subdivision ordinance.

A subdivision ordinance shall include reasonable regulations and provisions that apply to or provide:

1. For plat details which shall meet the standard for plats as adopted under § 42.1-82 of the Virginia Public Records Act (§ 42.1-76 et seq.);

2. For the coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general area as to location, widths, grades and drainage, including, for ordinances and amendments thereto adopted on or after January 1, 1990, for the coordination of such streets with existing or planned streets in existing or future adjacent or contiguous to adjacent subdivisions;

3. For adequate provisions for drainage and flood control, *for adequate provisions related to the failure of impounding structures and impacts within dam break inundation zones*, and other public purposes, and for light and air, and for identifying soil characteristics;

4. For the extent to which and the manner in which streets shall be graded, graveled or otherwise improved and water and storm and sanitary sewer and other public utilities or other community facilities are to be installed;

5. For the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system or other improvement dedicated for public use, and maintained by the locality, the Commonwealth, or other public agency, and for the provision of other site-related improvements required by local ordinances for vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for storm water management facilities, financed or to be financed in whole or in part by private funds only if the owner or developer (i) certifies to the governing body that the construction costs have been paid to the person constructing such facilities; (ii) furnishes to the governing body a certified check or cash escrow

in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the governing body or its designated administrative agency, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (iii) furnishes to the governing body a bank or savings institution's letter of credit on certain designated funds satisfactory to the governing body or its designated administrative agency as to the bank or savings institution, the amount and the form. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed 25 percent of the estimated construction costs. "Such facilities," as used in this section, means those facilities specifically provided for in this section.

If a developer records a final plat which may be a section of a subdivision as shown on an approved preliminary plat and furnishes to the governing body a certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the Commonwealth, or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plat for a period of five years from the recordation date of the first section, or for such longer period as the local commission or other agent may, at the approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development, subject to the terms and conditions of this subsection and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded. In the event a governing body of a county, wherein the highway system is maintained by the Department of Transportation, has accepted the dedication of a road for public use and such road due to factors other than its quality of construction is not acceptable into the secondary system of state highways, then such governing body may, if so provided by its subdivision ordinance, require the subdivider or developer to furnish the county with a maintenance and indemnifying bond, with surety satisfactory to the governing body or its designated administrative agency, in an amount sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways. In lieu of such bond, the governing body or its designated administrative agency may accept a bank or savings institution's letter of credit on certain designated funds satisfactory to the governing body or its designated administrative agency as to the bank or savings institution, the amount and the form, or accept payment of a negotiated sum of money sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways and assume the subdivider's or developer's liability for maintenance of such road. "Maintenance of such road" as used in this section, means maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction of defects or damages and the removal of snow, water or debris, so as to keep such road reasonably open for public usage;

6. For conveyance of common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision. Once a developer conveys an easement that will permit electric, cable or telephone service to be furnished to a subdivision, the developer shall, within 30 days after written request by a cable television operator or telephone service provider, grant an easement to that cable television operator or telephone service provider for the purpose of providing cable television and communications services to that subdivision, which easement shall be geographically coextensive with the electric service easement, or if only a telephone or cable service easement has been granted, then geographically coextensive with that telephone or cable service easement; however, the developer and franchised cable television operator or telephone service provider may mutually agree on an alternate location for an easement. If the final subdivision plat is recorded and does not include conveyance of a common or shared easement as provided herein, the local planning commission or agent designated by the governing body to review and act on submitted subdivision plats shall not be responsible to enforce the requirements of this subdivision;

7. For monuments of specific types to be installed establishing street and property lines;

8. That unless a plat is filed for recordation within six months after final approval thereof or such longer period as may be approved by the governing body, such approval shall be withdrawn and the plat marked void and returned to the approving official; however, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the governing body or its designated administrative agency, or where the developer has furnished surety to the governing body or its designated administrative agency by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the governing body or its designated administrative agency, whichever is greater;

9. For the administration and enforcement of such ordinance, not inconsistent with provisions

contained in this chapter, and specifically for the imposition of reasonable fees and charges for the review of plats and plans, and for the inspection of facilities required by any such ordinance to be installed; such fees and charges shall in no instance exceed an amount commensurate with the services rendered taking into consideration the time, skill and administrator's expense involved. All such charges heretofore made are hereby validated;

10. For reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner in accordance with the provisions of § 15.2-2244; and

11. For the periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the governing body under this section in accordance with the provisions of § 15.2-2245.

*§ 15.2-2243.1. Payment by developer or subdivider.*

*A. If the Department of Conservation and Recreation determines that a plan of development proposed by a developer or subdivider is wholly or partially within a dam break inundation zone and would change the spillway design flood standards of an impounding structure pursuant to § 10.1-606.3, a locality shall require, prior to its final approval of a subdivision or development, that a developer or subdivider of land submit an engineering study in conformance with the Virginia Soil and Water Conservation Board's standards under the Virginia Dam Safety Act (§ 10.1-604 et seq.) and the Virginia Impounding Structure Regulations (4VAC 50-20). The study shall provide a contract-ready cost estimate for conducting the upgrades. The Department of Conservation and Recreation shall verify that the study conforms to the Board's standards. Following receipt of a study, the Department shall have 15 days to determine whether the study is complete. The Department shall notify the developer or subdivider of any specific deficiencies that cause the study to be determined to be incomplete. Following a determination that a submission is complete, the Department shall notify the developer or subdivider of its approval or denial within 45 days. Any decision shall be communicated in writing and shall state the reasons for any disapproval.*

*B. Following the completion of the engineering studies in accordance with subsection A, and prior to any development within the dam break inundation zone, a locality shall require that a developer or subdivider of land pay 50 percent of the contract-ready costs for necessary upgrades to an impounding structure attributable to the development or subdivision, together with administrative fees not to exceed one percent of the total amount of payment required or \$1,000, whichever is less. Necessary upgrades shall not include costs associated with routine operation, maintenance, and repair, nor shall necessary upgrades include repairs or upgrades to the impounding structure not made necessary by the proposed development or subdivision.*

*C. Where a payment under subsection B is required, such payment shall be made by the developer or subdivider in accordance with the following provisions:*

*1. A locality may elect to receive such payment. Upon receipt, payments shall be kept in a separate account by the locality for each individual improvement project until such time as they are expended for the improvement project; however, any funds not committed by the dam owner within six years of the time of deposit shall be refunded to the developer or subdivider. The locality may issue an extension of up to an additional four years for the use of the funds if the dam owner shows that sufficient progress is being made to justify the extension and the extension is approved by the Virginia Soil and Water Conservation Board prior to the expiration of the six-year period. Should the locality be unable to locate the developer or subdivider following a period of 12 months and the exercise of due diligence, the funds shall be deposited in the Dam Safety, Flood Prevention and Protection Assistance Fund for the provision of grants and loans. Any locality maintaining an account in accordance with this section may charge an administrative fee, not to exceed one percent of the total amount of payment received or \$1,000, whichever is less.*

*2. If the locality elects not to receive such payment, any payments shall be made to the Dam Safety, Flood Prevention and Protection Assistance Fund pursuant to § 10.1-603.19:1. The funds shall be held by the Virginia Resources Authority for each improvement project until such time as they are expended for the improvement project; however, any funds not committed by the dam owner within six years of the time of deposit shall be refunded to the developer or subdivider. The Board may issue an extension of up to an additional four years for the use of the funds if the dam owner shows that sufficient progress is being made. Should the Department of Conservation and Recreation be unable to locate the developer or subdivider following a period of 12 months and the exercise of due diligence, the funds shall be deposited in the Dam Safety, Flood Prevention and Protection Assistance Fund for the provision of grants and loans. The Virginia Resources Authority shall not have any liability for the completion of any project associated with the moneys they manage in the Dam Safety, Flood Prevention and Protection Assistance Fund.*

*D. No locality shall be required to assume financial responsibility for upgrades except as an owner of an impounding structure.*

*E. The owner of the impounding structure shall retain all liability associated with upgrades in accordance with § 10.1-613.4.*

§ 15.2-2258. Plat of proposed subdivision and site plans to be submitted for approval.

Whenever the owner or proprietor of any tract of land located within any territory to which a subdivision ordinance applies desires to subdivide the tract, he shall submit a plat of the proposed subdivision to the planning commission of the locality, or an agent designated by the governing body thereof for such purpose. When any part of the land proposed for subdivision lies in a drainage district such fact shall be set forth on the plat of the proposed subdivision. *When any part of the land proposed for subdivision lies in a mapped dam break inundation zone such fact shall be set forth on the plat of the proposed subdivision.* When any grave, object or structure marking a place of burial is located on the land proposed for subdivision, such grave, object or structure shall be identified on any plans or site plans required by this article. When the land involved lies wholly or partly within an area subject to the joint control of more than one locality, the plat shall be submitted to the planning commission or other designated agent of the locality in which the tract of land is located. Site plans or plans of development required by provision 8 of § 15.2-2286 shall also be subject to the provisions of §§ 15.2-2258 through 15.2-2261, mutatis mutandis.

§ 15.2-2283. Purpose of zoning ordinances.

Zoning ordinances shall be for the general purpose of promoting the health, safety or general welfare of the public and of further accomplishing the objectives of § 15.2-2200. To these ends, such ordinances shall be designed to give reasonable consideration to each of the following purposes, where applicable: (i) to provide for adequate light, air, convenience of access, and safety from fire, flood, *impounding structure failure*, crime and other dangers; (ii) to reduce or prevent congestion in the public streets; (iii) to facilitate the creation of a convenient, attractive and harmonious community; (iv) to facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements; (v) to protect against destruction of or encroachment upon historic areas; (vi) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, *impounding structure failure*, panic or other dangers; (vii) to encourage economic development activities that provide desirable employment and enlarge the tax base; (viii) to provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment; (ix) to protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities; (x) to promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated; and (xi) to provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard. Such ordinance may also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and ground water as defined in § 62.1-255.

§ 15.2-2284. Matters to be considered in drawing and applying zoning ordinances and districts.

Zoning ordinances and districts shall be drawn and applied with reasonable consideration for the existing use and character of property, the comprehensive plan, the suitability of property for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services, the conservation of natural resources, the preservation of flood plains, *the protection of life and property from impounding structure failures*, the preservation of agricultural and forestal land, the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the locality.

§ 15.2-2295.2. *Dam break inundation zones.*

*A locality may by ordinance require the modification of an application for zoning modification, a conditional use permit, or a special exception for the area of a development that is proposed within a mapped dam break inundation zone.*

§ 55-519. Required disclosures.

With regard to transfers described in § 55-517 of this chapter, the owner of the residential real property shall furnish to a purchaser a residential property disclosure statement in a form provided by the Real Estate Board stating that the owner makes the following representations as to the real property:

1. The owner makes no representations or warranties as to the condition of the real property or any improvements thereon, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary including obtaining a certified home inspection, as defined in § 54.1-500, 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;

2. The owner makes no representations with respect to any matters that may pertain to parcels adjacent to the subject parcel and that purchasers are advised 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;

3. The owner makes no representations to any matters that pertain to whether the provisions of any historic district ordinance affect the property and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to any historic district designated by the locality pursuant to § 15.2-2306, 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;

4. 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 and that purchasers are advised 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 resource protection areas, 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;

5. The owner makes no representations with respect to information on any sexual offenders registered under Chapter 23 (§ 19.2-387 et seq.) of Title 19.2 and that purchasers are advised to exercise whatever due diligence they deem necessary with respect to such information, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to that contract; and

6. The owner represents that there are no pending enforcement actions pursuant to the Uniform Statewide Building Code (§ 36-97 et seq.) that affect the safe, decent, sanitary living conditions of the property of which the owner has been notified in writing by the locality, except as disclosed on the disclosure statement, nor any pending violation of the local zoning ordinance which the violator has not abated or remedied under the zoning ordinance, within a time period set out in the written notice of violation from the locality or established by a court of competent jurisdiction, except as disclosed on the disclosure statement.

*7. The owner makes no representations with respect to whether the property is within a dam break inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence they deem necessary with respect to whether the property resides within a dam break inundation zone, including a review of any map adopted by the locality depicting dam break inundation zones.*

**2. That § 10.1-606.1 of the Code of Virginia is repealed.**

**3. That the provisions of this act amending or adding §§ 10.1-603.17, 10.1-603.19:1, 10.1-606.3, and 15.2-2243.1 shall become effective on July 1, 2009.**

**4. That the provisions of this act amending §§ 15.2-2224, 15.2-2241, 15.2-2283, and 15.2-2284 shall become effective on July 1, 2008, but the requirements of these sections shall not become mandatory upon localities until July 1, 2009.**

**5. That provisions of this act shall not affect those site plans or subdivision plans that are submitted prior to the effective date of this act.**

**6. That the provisions of this act shall not apply to any dams or refuse piles approved pursuant to § 45.1-222 or 45.1-225.1.**