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HOUSE BILL NO. 1264

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on February 11, 2016)

(Patron Prior to Substitute—Delegate Robinson)

A BILL to amend and reenact § 55-519 of the Code of Virginia, relating to the Virginia Residential Property Disclosure Act; representations related to covenants and restrictions affecting the property.

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, 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 with respect to the matters set forth and described at a website maintained by the Real Estate Board and that the purchaser is advised to consult this website for important information about the real property; and

2. 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 that 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.

B. At the website referenced in subdivision A 1, the Real Estate Board shall include language providing notice to the purchaser that by delivering the residential property disclosure statement:

1. The owner makes no representations or warranties as to the condition of the real property or any improvements thereon, *or with regard to any covenants and restrictions as may be recorded among the land records affecting 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 pursuant to such contract;

2. The owner makes no representations with respect to any matters that may pertain to parcels adjacent to the subject parcel, *including zoning classification or permitted uses of adjacent parcels*, 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 pursuant to such contract;

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 pursuant to such contract;

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 (§ 62.1-44.15:67 et seq.) adopted by the locality where the property is located pursuant to § 62.1-44.15:74 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 pursuant to such contract;

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 such contract;

6. 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,

60 including a review of any map adopted by the locality depicting dam break inundation zones;

61 7. The owner makes no representations with respect to the presence of any stormwater detention
62 facilities located on the property, or any maintenance agreement for such facilities, and purchasers are
63 advised to exercise whatever due diligence they deem necessary to determine the presence of any
64 stormwater detention facilities on the property, or any maintenance agreement for such facilities, in
65 accordance with terms and conditions as may be contained in the real estate purchase contract, but in
66 any event, prior to settlement pursuant to such contract;

67 8. The owner makes no representations with respect to the presence of any wastewater system,
68 including the type or size thereof or associated maintenance responsibilities related thereto, located on
69 the property and purchasers are advised to exercise whatever due diligence they deem necessary to
70 determine the presence of any wastewater system on the property *and the costs associated with*
71 *maintaining, repairing, or inspecting any wastewater system, including any costs or requirements related*
72 *to the pump-out of septic tanks*, in accordance with terms and conditions as may be contained in the real
73 estate purchase contract, but in any event, prior to settlement pursuant to such contract;

74 9. The owner makes no representations with respect to any right to install or use solar energy
75 collection devices on the property; and

76 10. The owner makes no representations with respect to whether the property is located in one or
77 more special flood hazard areas and purchasers are advised to exercise whatever due diligence they
78 deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether
79 the property is located in one or more special flood hazard areas, (ii) review of any map depicting
80 special flood hazard areas, and (iii) whether flood insurance is required, in accordance with terms and
81 conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement
82 pursuant to such contract.

83 C. Any purchaser who is a party to a real estate purchase contract subject to this section may
84 provide in such contract that the disclosures provided on the Real Estate Board website be printed off
85 and provided to such purchaser.

86 **2. That the Housing Commission shall study the provisions of the Virginia Residential Property**
87 **Disclosure Act (§ 55-517 et seq. of the Code of Virginia) to determine whether the required**
88 **disclosures contained in such Act may be consolidated or otherwise addressed in a more**
89 **comprehensive way. The Housing Commission shall report its findings and any recommendations**
90 **for legislation to the Chairmen of the House Committee on General Laws and the Senate**
91 **Committee on General Laws and Technology by November 1, 2016.**