VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 749

An Act to amend and reenact §§ 54.1-2105.1, 55.1-700, 55.1-709, and 55.1-714 of the Code of Virginia, relating to the Virginia Residential Property Disclosure Act; Real Estate Board; disclosure statement.

[H 838]

Approved April 6, 2020

Be it enacted by the General Assembly of Virginia:
1. That §§ 54.1-2105.1, 55.1-700, 55.1-709, and 55.1-714 of the Code of Virginia are amended and reenacted as follows:
§ 54.1-2105.1. Other powers and duties of the Real Estate Board.
In addition to the provisions of §§ 54.1-2105.01 through 54.1-2105.04, the Board shall:
1. Develop a residential property disclosure statement form for use in accordance with the provisions of the Virginia Residential Property Disclosure Act (§ 55.1-700 et seq.) and maintain such statement on its website. The Board shall also develop and maintain on its website a one-page form to be signed by the parties acknowledging that the purchaser has been advised ~~to review~~ *of the disclosures listed in* the residential property disclosure statement *located* on the Board's website; and
2. Inform licensed brokers, in a manner deemed appropriate by the Board, of the broker's ability to designate an agent pursuant to § 54.1-2109 in the event of the broker's death or disability.
§ 55.1-700. Definitions.
As used in this chapter, unless the context requires a different meaning:
"Electronic delivery," for purposes of delivery of the disclosures required by this chapter, means sending the required disclosures via the Internet, provided that the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery.
"Notification" means a statement ~~of the availability~~ *acknowledging that the purchaser has been advised* of any disclosures required by this chapter on the Real Estate Board's website or delivery of any such disclosures to the purchaser.
"Ratification" means the full execution of a real estate purchase contract by all parties.
"Real estate contract" means a contract for the sale, exchange, or lease with the option to buy of residential real estate subject to this chapter.
§ 55.1-709. Time for disclosure; termination of contract.
A. The owner of residential real property subject to this chapter shall provide notification to the purchaser of any disclosures required by this chapter prior to the ratification of a real estate purchase contract or otherwise be subject to the provisions of subsection B. The disclosures required by this chapter shall be provided by the Real Estate Board on its website. *The disclosures shall be current as of the date of delivery. Nothing herein shall be construed to require the seller to provide subsequent delivery of additional disclosures if a transaction pursuant to a ratified real estate contract proceeds to settlement after the effective date of legislation amending any of the disclosures under this chapter, provided that the correct disclosures were delivered under the law in effect at the time of delivery.*
B. If the disclosures required by this chapter are delivered to the purchaser after ratification of the real estate purchase contract, the purchaser's sole remedy shall be to terminate the real estate purchase contract upon or prior to the earliest of (i) three days after delivery of the disclosure statement in person or by electronic delivery; (ii) five days after the postmark if the disclosure statement is deposited in the United States mail, postage prepaid, and properly addressed to the purchaser; (iii) settlement upon purchase of the property; (iv) occupancy of the property by the purchaser; (v) the purchaser's making written application to a lender for a mortgage loan where such application contains a disclosure that the right of termination shall end upon the application for the mortgage loan; or (vi) the execution by the purchaser after receiving the disclosure statement required by this chapter of a written waiver of the purchaser's right of termination under this chapter contained in a writing separate from the real estate purchase contract. In order to terminate a real estate purchase contract when permitted by this chapter, the purchaser must, within the times required by this chapter, give written notice to the owner by one of the following methods:
1. Hand delivery;
2. United States mail, postage prepaid, provided that the sender retains sufficient proof of mailing, which may be a certificate of service prepared by the sender confirming such mailing;
3. Electronic delivery; or
4. Overnight delivery using a commercial service or the United States Postal Service.
If the purchaser terminates a real estate purchase contract in compliance with this chapter, the termination shall be without penalty to the purchaser, and any deposit shall be promptly returned to the

purchaser.

C. Notwithstanding the provisions of subsection B of § 55.1-713, no purchaser of residential real property located in a noise zone designated on the official zoning map of the locality as having a day-night average sound level of less than 65 decibels shall have the right to terminate a real estate purchase contract pursuant to this section for failure of the property owner to timely provide any disclosure required by this chapter.

§ 55.1-714. Real Estate Board to develop form; when effective.

An owner shall be required to make disclosures required by this chapter for real property subject to a real estate purchase contract that is fully executed by all parties. The Real Estate Board shall develop the form for signature by the parties ~~advising~~ *stating that* the purchaser ~~to review~~ *has been advised of* the *disclosures listed in the* residential property disclosure statement *located* on the Board's website in accordance with § 54.1-2105.1. The Board may at any time amend the residential property disclosure statement and the form for signature by the parties as the Board deems necessary and appropriate.