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**HOUSE BILL NO. 858**

Offered January 8, 2020

Prefiled January 7, 2020

*A BILL to amend and reenact § 55.1-703 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 55.1-708.1, 55.1-708.2, and 55.1-1219.1, relating to Virginia Residential Property Disclosure Act and Virginia Residential Landlord and Tenant Act; required disclosures; impounding structures, dams, flood hazard areas, and stormwater management facilities.*

Patrons—Convirs-Fowler, Carroll Foy, Davis and Keam

Referred to Committee on General Laws

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

**1. That § 55.1-703 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 55.1-708.1, 55.1-708.2, and 55.1-1219.1 as follows:**

**§ 55.1-703. Required disclosures for buyer to beware; buyer to exercise necessary due diligence.**

A. The owner of the residential real property shall furnish to a purchaser a residential property disclosure statement for the buyer to beware of certain matters that may affect the buyer's decision to purchase such real property. Such statement shall be provided by the Real Estate Board on its website.

B. The residential property disclosure statement provided by the Real Estate Board on its website shall include the following:

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, or any conveyances of mineral rights, 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 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 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 (i) any local ordinance creating such district, (ii) any official map adopted by the locality depicting historic districts, and (iii) any materials available from the locality that explain (a) any requirements to alter, reconstruct, renovate, restore, or demolish buildings or signs in the local historic district and (b) the necessity of any local review board or governing body approvals prior to doing any work on a property located in a local historic district, 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 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 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,

INTRODUCED

HB858

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

60 7. The owner makes no representations with respect to the presence of any stormwater detention  
61 facilities located on the property, or the existence or recordation of any maintenance agreement for such  
62 facilities, and purchasers are advised to exercise whatever due diligence they deem necessary to  
63 determine the presence of any stormwater detention facilities on the property, or any maintenance  
64 agreement for such facilities, such as contacting their settlement provider, consulting the locality in  
65 which the property is located, or reviewing any survey of the property that may have been conducted, in  
66 accordance with terms and conditions as may be contained in the real estate purchase contract, but in  
67 any event prior to settlement pursuant to such contract condition or regulatory status of any impounding  
68 structure or dam on the property or under the ownership of the common interest community that the  
69 owner of the property is required to join, and purchasers are advised to exercise whatever due diligence  
70 a particular purchaser deems necessary to determine the condition, regulatory status, or cost of required  
71 maintenance and operation of, or other relevant information pertaining to, the impounding structure or  
72 dam, including contacting the Virginia Department of Conservation and Recreation or a licensed  
73 professional engineer;

74 8. The owner makes no representations with respect to the presence of any wastewater system,  
75 including the type or size of the wastewater system or associated maintenance responsibilities related to  
76 the wastewater system, located on the property, and purchasers are advised to exercise whatever due  
77 diligence they deem necessary to determine the presence of any wastewater system on the property and  
78 the costs associated with maintaining, repairing, or inspecting any wastewater system, including any  
79 costs or requirements related to the pump-out of septic tanks, in accordance with terms and conditions as  
80 may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to  
81 such contract;

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

84 10. The owner makes no representations with respect to whether the property is located in one or  
85 more special flood hazard areas, and purchasers are advised to exercise whatever due diligence they  
86 deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether  
87 the property is located in one or more special flood hazard areas, (ii) reviewing any map depicting  
88 special flood hazard areas, (iii) contacting the Federal Emergency Management Agency (FEMA) or  
89 visiting the website for FEMA's National Flood Insurance Program or for the Virginia Department of  
90 Conservation and Recreation's Flood Risk Information System, and (iv) determining whether flood  
91 insurance is required, in accordance with terms and conditions as may be contained in the real estate  
92 purchase contract, but in any event prior to settlement pursuant to such contract;

93 11. The owner makes no representations with respect to whether the property is subject to one or  
94 more conservation or other easements, and purchasers are advised to exercise whatever due diligence a  
95 particular purchaser deems necessary in accordance with terms and conditions as may be contained in  
96 the real estate purchase contract, but in any event prior to settlement pursuant to such contract; and

97 12. 11. The owner makes no representations with respect to whether the property is subject to a  
98 community development authority approved by a local governing body pursuant to Article 6  
99 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2, and purchasers are advised to exercise whatever due  
100 diligence a particular purchaser deems necessary in accordance with terms and conditions as may be  
101 contained in the real estate purchase contract, including determining whether a copy of the resolution or  
102 ordinance has been recorded in the land records of the circuit court for the locality in which the  
103 community development authority district is located for each tax parcel included in the district pursuant  
104 to § 15.2-5157, but in any event prior to settlement pursuant to such contract.

105 C. The residential property disclosure statement shall be delivered in accordance with § 55.1-709.

106 **§ 55.1-708.1. Required disclosures; special flood hazard areas.**

107 *Notwithstanding the exemptions in § 55.1-702, if the owner of residential real property has actual*  
108 *knowledge that the property is located in one or more special flood hazard areas, the owner shall*  
109 *provide to a prospective purchaser a written disclosure that states such information. Such disclosure*  
110 *shall be provided to the purchaser on a form provided by the Real Estate Board on its website and*  
111 *otherwise in accordance with this chapter.*

112 **§ 55.1-708.2. Required disclosures; stormwater management facilities.**

113 *Notwithstanding the exemptions in § 55.1-702, the owner of any residential real property upon which*  
114 *a stormwater management facility is located shall provide to a prospective purchaser a written*  
115 *disclosure that includes specifications, requirements, and a schedule of audits of such facility. Such*  
116 *disclosure shall be provided to the purchaser on a form provided by the Real Estate Board on its*  
117 *website and otherwise in accordance with this chapter.*

118 **§ 55.1-1219.1. Required disclosures for properties located in special flood hazard areas; remedy for**  
119 **nondisclosure.**

120 A. If the landlord of a dwelling unit has actual knowledge that the dwelling unit is on property that

121 is located in a special flood hazard area, the landlord shall provide to a prospective tenant a written  
122 disclosure that states such information. Such disclosure shall be provided prior to the execution by the  
123 tenant of a written lease agreement or, in the case of an oral lease agreement, prior to occupancy by  
124 the tenant.

125 B. Any tenant who is not provided the disclosure required by subsection A may terminate the lease  
126 agreement at any time within 60 days of discovery that the property is located in a special flood hazard  
127 area by providing written notice to the landlord in accordance with the lease or as required by law.  
128 Such termination shall be effective as of (i) 15 days after the date of the mailing of the notice or (ii) the  
129 date through which rent has been paid, whichever is later. In no event, however, shall the effective date  
130 of the termination exceed one month from the date of mailing. Termination of the lease agreement shall  
131 be the exclusive remedy for the failure to comply with the disclosure provisions required by this section  
132 and shall not affect any rights or duties of the landlord or tenant arising under this chapter, other  
133 applicable law, or the rental agreement.