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HOUSE BILL NO. 2320

Offered January 21, 2021

A BILL to amend and reenact § 55.1-703 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 55.1-708.2, relating to the Virginia Residential Property Disclosure Act; required disclosures; special flood hazard areas.

Patrons—Convirs-Fowler and Price

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 a section numbered 55.1-708.2 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, and a residential building energy analysis, as defined in § 54.1-1144, 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, including a review of any map adopted by the locality depicting dam break inundation zones;

7. The owner makes no representations with respect to the presence of any wastewater system,

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59 including the type or size of the wastewater system or associated maintenance responsibilities related to
60 the wastewater system, located on the property, and purchasers are advised to exercise whatever due
61 diligence they deem necessary to determine the presence of any wastewater system on the property and
62 the costs associated with maintaining, repairing, or inspecting any wastewater system, including any
63 costs or requirements related to the pump-out of septic tanks, in accordance with terms and conditions as
64 may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to
65 such contract;

66 8. The owner makes no representations with respect to any right to install or use solar energy
67 collection devices on the property;

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

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

81 11. The owner makes no representations with respect to whether the property is subject to a
82 community development authority approved by a local governing body pursuant to Article 6
83 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2, and purchasers are advised to exercise whatever due
84 diligence a particular purchaser deems necessary in accordance with terms and conditions as may be
85 contained in the real estate purchase contract, including determining whether a copy of the resolution or
86 ordinance has been recorded in the land records of the circuit court for the locality in which the
87 community development authority district is located for each tax parcel included in the district pursuant
88 to § 15.2-5157, but in any event prior to settlement pursuant to such contract;

89 12. The owner makes no representations with respect to whether the property is located on or
90 near deposits of marine clays (marumsco soils), and purchasers are advised to exercise whatever due
91 diligence a particular purchaser deems necessary in accordance with terms and conditions as may be
92 contained in the real estate purchase contract, including consulting public resources regarding local soil
93 conditions and having the soil and structural conditions of the property analyzed by a qualified
94 professional;

95 13. The owner makes no representations with respect to whether the property is located in a
96 locality classified as Zone 1 or Zone 2 by the U.S. Environmental Protection Agency's (EPA) Map of
97 Radon Zones, and purchasers are advised to exercise whatever due diligence they deem necessary to
98 determine whether the property is located in such a zone, including (i) reviewing the EPA's Map of
99 Radon Zones or visiting the EPA's radon information website; (ii) visiting the Virginia Department of
100 Health's Indoor Radon Program website; (iii) visiting the National Radon Proficiency Program's website;
101 (iv) visiting the National Radon Safety Board's website that lists the Board's certified contractors; and
102 (v) ordering a radon inspection, in accordance with the terms and conditions as may be contained in the
103 real estate purchase contract, but in any event prior to settlement pursuant to such contract;

104 14. The owner makes no representations with respect to whether the property contains any pipe,
105 pipe or plumbing fitting, fixture, solder, or flux that does not meet the federal Safe Drinking Water Act
106 definition of "lead free" pursuant to 42 U.S.C. § 300g-6, and purchasers are advised to exercise
107 whatever due diligence they deem necessary to determine whether the property contains any pipe, pipe
108 or plumbing fitting, fixture, solder, or flux that does not meet the federal Safe Drinking Water Act
109 definition of "lead free," in accordance with terms and conditions as may be contained in the real estate
110 purchase contract, but in any event prior to settlement pursuant to such contract;

111 15. The owner makes no representations with respect to the existence of defective drywall on the
112 property, and purchasers are advised to exercise whatever due diligence they deem necessary to
113 determine whether there is defective drywall on the property, in accordance with terms and conditions as
114 may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to
115 such contract. For purposes of this subdivision, "defective drywall" means the same as that term is
116 defined in § 36-156.1; and

117 16. The owner makes no representation with respect to the condition or regulatory status of any
118 impounding structure or dam on the property or under the ownership of the common interest community
119 that the owner of the property is required to join, and purchasers are advised to exercise whatever due
120 diligence a particular purchaser deems necessary to determine the condition, regulatory status, cost of

121 required maintenance and operation, or other relevant information pertaining to the impounding structure
122 or dam, including contacting the Department of Conservation and Recreation or a licensed professional
123 engineer.

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

125 **§ 55.1-708.2. Required disclosures; special flood hazard areas.**

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