

14101558D

**SENATE BILL NO. 152**

Offered January 8, 2014

Prefiled December 31, 2013

*A BILL to amend and reenact §§ 55-518 and 55-519 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 55-519.5, relating to disclosure of presence of a dam.*

---

 Patron—Stuart
 

---

Referred to Committee for Courts of Justice

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

**1. That §§ 55-518 and 55-519 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 55-519.5 as follows:**

**§ 55-518. Exemptions.**

A. The following are specifically excluded from the provisions of this chapter:

1. Transfers pursuant to court order including, but not limited to, transfers ordered by a court in administration of an estate, transfers pursuant to a writ of execution, transfers by foreclosure sale or by a deed in lieu of a foreclosure, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance. Also, transfers by an assignment for the benefit of creditors pursuant to Chapter 9 (§ 55-156 et seq.) and transfers pursuant to escheats pursuant to Chapter 9 (§ 55-156 et seq.).

2. Transfers to a beneficiary of a deed of trust pursuant to a foreclosure sale or by a deed in lieu of foreclosure, or transfers by a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a foreclosure sale under a deed of trust or has acquired the real property by a deed in lieu of foreclosure.

3. Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

4. Transfers from one or more co-owners solely to one or more other co-owners.

5. Transfers made solely to any combination of a spouse or a person or persons in the lineal line of consanguinity of one or more of the transferors.

6. Transfers between spouses resulting from a decree of divorce or a property settlement stipulation pursuant to the provisions of Title 20.

7. Transfers made by virtue of the record owner's failure to pay any federal, state, or local taxes.

8. Transfers to or from any governmental entity or public or quasi-public housing authority or agency.

9. Transfers involving the first sale of a dwelling; provided, that this exemption shall not apply to the disclosures required by § §§ 55-519.1 and 55-519.5.

B. Notwithstanding the provisions of subdivision 9 of this section, the builder of a new dwelling shall disclose in writing to the purchaser thereof all known material defects which would constitute a violation of any applicable building code. In addition, for property that is located wholly or partially in any locality comprising Planning District 15, the builder or owner, if the builder is not the owner of the property, shall disclose in writing whether the builder or owner has any knowledge of (i) whether mining operations have previously been conducted on the property or (ii) the presence of abandoned mines, shafts, or pits, if any. The disclosures required by this subsection shall be made by a builder or owner (i) when selling a completed dwelling, before acceptance of the purchase contract or (ii) when selling a dwelling before or during its construction, after issuance of a certificate of occupancy. Such disclosure shall not abrogate any warranty or any other contractual obligations the builder or owner may have to the purchaser. The disclosure required by this subsection may be made on the disclosure form described in § 55-519. If no defects are known by the builder to exist, no written disclosure is required by this subsection.

**§ 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

INTRODUCED

SB152

59 Statewide Building Code (§ 36-97 et seq.) that affect the safe, decent, sanitary living conditions of the  
60 property of which the owner has been notified in writing by the locality, except as disclosed on the  
61 disclosure statement, nor any pending violation of the local zoning ordinance that the violator has not  
62 abated or remedied under the zoning ordinance, within a time period set out in the written notice of  
63 violation from the locality or established by a court of competent jurisdiction, except as disclosed on the  
64 disclosure statement.

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

67 1. The owner makes no representations or warranties as to the condition of the real property or any  
68 improvements thereon, and purchasers are advised to exercise whatever due diligence a particular  
69 purchaser deems necessary including obtaining a certified home inspection, as defined in § 54.1-500, in  
70 accordance with terms and conditions as may be contained in the real estate purchase contract, but in  
71 any event, prior to settlement on a parcel of residential real property;

72 2. The owner makes no representations with respect to any matters that may pertain to parcels  
73 adjacent to the subject parcel and that purchasers are advised to exercise whatever due diligence a  
74 particular purchaser deems necessary with respect to adjacent parcels in accordance with terms and  
75 conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement  
76 on a parcel of residential real property;

77 3. The owner makes no representations to any matters that pertain to whether the provisions of any  
78 historic district ordinance affect the property and purchasers are advised to exercise whatever due  
79 diligence a particular purchaser deems necessary with respect to any historic district designated by the  
80 locality pursuant to § 15.2-2306, including review of any local ordinance creating such district or any  
81 official map adopted by the locality depicting historic districts, in accordance with terms and conditions  
82 as may be contained in the real estate purchase contract, but in any event, prior to settlement on a parcel  
83 of residential real property;

84 4. The owner makes no representations with respect to whether the property contains any resource  
85 protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act  
86 (§ 62.1-44.15:67 et seq.) adopted by the locality where the property is located pursuant to §  
87 62.1-44.15:74 and that purchasers are advised to exercise whatever due diligence a particular purchaser  
88 deems necessary to determine whether the provisions of any such ordinance affect the property,  
89 including review of any official map adopted by the locality depicting resource protection areas, in  
90 accordance with terms and conditions as may be contained in the real estate purchase contract, but in  
91 any event, prior to settlement on a parcel of residential real property;

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

97 6. The owner makes no representations with respect to whether the property is within a dam break  
98 inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence  
99 they deem necessary with respect to whether the property resides within a dam break inundation zone,  
100 including a review of any map adopted by the locality depicting dam break inundation zones; *however,*  
101 *first sellers of residential property shall comply with provisions of § 55-519.5;*

102 7. The owner makes no representations with respect to the presence of any stormwater detention  
103 facilities located on the property and purchasers are advised to exercise whatever due diligence they  
104 deem necessary to determine the presence of any stormwater detention facilities on the property, in  
105 accordance with terms and conditions as may be contained in the real estate purchase contract, but in  
106 any event, prior to settlement pursuant to that contract;

107 8. The owner makes no representations with respect to the presence of any wastewater system,  
108 including the type or size thereof or associated maintenance responsibilities related thereto, located on  
109 the property and purchasers are advised to exercise whatever due diligence they deem necessary to  
110 determine the presence of any wastewater system on the property, in accordance with terms and  
111 conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement  
112 pursuant to that contract; and

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

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

118 **§ 55-519.5. Required disclosure of presence of dam.**

119 *The first seller of a residential property located wholly or partially in a dam break inundation zone,*  
120 *as defined in § 10.1-604, shall disclose in writing to any prospective purchaser or lessee of the property*

**121** *that the subject property is located in a dam break inundation zone and that the failure of the*  
**122** *impounding structure may represent a threat to public safety.*

**INTRODUCED**

SB152