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HOUSE BILL NO. 2175

Offered January 9, 2019

Prefiled January 8, 2019

A BILL to amend and reenact § 55-519 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 55-248.12:4 and 55-519.5, relating to the Virginia Residential Property Disclosure Act; Virginia Residential Landlord and Tenant Act; disclosure of special flood hazard area to prospective purchaser or renter.

Patrons—Convirs-Fowler and Davis; Senator: Spruill

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 55-519 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 55-248.12:4 and 55-519.5, as follows:

§ 55-248.12:4. Required disclosures for properties located in special flood hazard areas; remedy for nondisclosure.

A. If the landlord of a residential dwelling unit has actual knowledge that such residential dwelling unit is on property that is located in a special flood hazard area, the landlord shall provide to a prospective tenant a written disclosure that the property is located in a special flood hazard area. Such disclosure shall be provided prior to the execution by the tenant of a written lease agreement or, in the case of an oral lease agreement, prior to occupancy by the tenant.

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

§ 55-519. 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 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 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 (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

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59 protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act
60 (§ 62.1-44.15:67 et seq.) adopted by the locality where the property is located pursuant to §
61 62.1-44.15:74 and that purchasers are advised to exercise whatever due diligence a particular purchaser
62 deems necessary to determine whether the provisions of any such ordinance affect the property,
63 including review of any official map adopted by the locality depicting resource protection areas, in
64 accordance with terms and conditions as may be contained in the real estate purchase contract, but in
65 any event, prior to settlement pursuant to such contract;

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

71 6. The owner makes no representations with respect to whether the property is within a dam break
72 inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence
73 they deem necessary with respect to whether the property resides within a dam break inundation zone,
74 including a review of any map adopted by the locality depicting dam break inundation zones;

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

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

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

90 10. The owner makes no representations with respect to whether the property is located in one or
91 more special flood hazard areas and purchasers are advised to exercise whatever due diligence they
92 deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether
93 the property is located in one or more special flood hazard areas, (ii) review of any map depicting
94 special flood hazard areas, and (iii) whether flood insurance is required, 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 such contract;

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

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

109 C. The residential property disclosure statement shall be delivered in accordance with § 55-520.

110 **§ 55-519.5. Required disclosures; special flood hazard areas.**

111 *Notwithstanding the exemptions in § 55-518, if the owner of a residential real property has actual*
112 *knowledge that the property is located in one or more special flood hazard areas, the owner shall*
113 *provide to a prospective purchaser a written disclosure that so states. Such disclosure shall be provided*
114 *to the purchaser on a form provided by the Real Estate Board on its website and otherwise in*
115 *accordance with this chapter.*