



# Advocacy in action

by Anthony Reedy

The Virginia REALTORS® government affairs team and the Public Policy Committee (PPC) sifted **through all of the bills and budget amendments** to scope out what may have an impact on our members and your clients.

**W**hen the 2017 Virginia General Assembly convened in Richmond on January 11th, legislators had the heavy task of considering thousands of pieces of legislation and, significantly, fixing a budget gap of \$1.26 billion. After 46 days and countless deliberations, they adjourned, passing nearly 1,800 bills and resolutions and amending the \$107 billion biennial budget. The Virginia REALTORS® government affairs team and the Public Policy Committee (PPC) sifted through all of the bills and budget amendments to scope out what may have an impact on our members and your clients. Ultimately the PPC concentrated the attention on about 200 pieces of legislation, either monitoring or recommending a position

of support, opposition, or amendment. The committee held meetings every week, where staff updated members on the progress of legislation and the political dynamics of the General Assembly.

This year's Virginia REALTORS® Legislative Agenda recommendations included nine bills touching on issues pertaining to property management, homeowner associations, and the Residential Disclosure Act. Fortunately, all nine pieces of legislation passed the General Assembly and were signed into law by Governor Terry McAuliffe.

The following are summaries of the nine successful bills of the Virginia REALTORS® Legislative Agenda.



**Engagement in advocacy from REALTOR® members is vital to our success in the legislature. This year, nearly 700 of you attended our Day-on-the Hill activities and sent more than 1,300 emails to legislators in support of our initiatives. The strength of the collective REALTOR® voice continues to ensure that we are a powerful advocate for your business, your clients, and our communities.**

## PROPERTY MANAGEMENT

**House Bill 1623 (Delegate David Yancey)**

**Senate Bill 991 (Senator Roslyn Dance)**

- Allows for an easier process for a property manager to transfer a security deposit to the owner and puts the common law in statute that a lease after foreclosure continues on a month-to-month basis

**House Bill 2281 (Delegate Jay Leftwich)**

**Senate Bill 966 (Senator Mark Obenshain)**

- Allows for a smoother transition for an existing tenant and a new owner following a foreclosure of a rental property.

- Allows the tenant to continue to pay rent to the: (i) new landlord, (ii) the property manager at the time of the foreclosure, or (iii) the courts, through an escrow account.

- Allows for the written property management agreement to continue in place following a foreclosure on a month-to-month basis until terminated by either the property manager or the new owner, unless a shorter period is provided for in the property management agreement.

- This legislation does not change Virginia Code Section 55-248.15:1 that places the responsibility on the landlord at the lease termination to make disposition of the tenant's security deposit, regardless of whether that landlord received the tenant's security deposit from a prior landlord.

## PROPERTY AND CONDO OWNERS ASSOCIATIONS

**House Bill 2045 (Delegate Jackson Miller)**

**House Bill 2271 (Delegate Danny Marshall) Senate Bill 1231 (Senator Bill Stanley) Senate Bill 1255 (Senator Bill DeSteph)**

- Associations cannot condition, limit or prohibit for sale signs other than limiting signs to those that are in compliance with the VREB regulations.

- Associations cannot require a formal power of attorney from a real estate licensee to represent their clients before the association and are required to accept a document from the real estate licensee signed by the owner that confirms representation.

- Adds that failure to deliver the association disclosure packet within the 14-day requirement subjects the association to up to \$1,000 fine imposed by the Common Interest Community Board.

## RESIDENTIAL DISCLOSURE ACT

**House Bill 2034 (Delegate Jackson Miller)**

- Renames the “red-flag” disclosure statement the “buyer to beware” statement.

- Adds the following buyer to beware statements:

- > Owner makes no representations with respect to underlying conservation or other easements.

- > Owner makes no representations with respect to an underlying community development authority.

- Allows for electronic delivery of the form to the potential purchaser

Another bill of importance to REALTORS® was one focused on short-term rental regulations (Senate Bill 1578, introduced by Senator Tommy Norment). With the prevalence of online home-sharing platforms like Airbnb and HomeAway, there has been growing interest amongst issue stakeholders over the impact - positive and negative - that the activity has on local communities. Some supporters see the practice as a property rights issue and as another cog in the wheel of the new “sharing” or “gig” economy. Local governments and travel industry advocates raise concerns over the proper collection of taxes and appropriate regulatory schemes to keep short-term rentals through home-sharing platforms on a level playing field with conventional services. Our particular concern was the potential increase of regulation on REALTORS® who do short-term rentals as part of their business. As real estate licensees under the Virginia Real Estate Board, you are already regulated by the state and operate under business licenses within localities.

To protect you from additional regulation, the Virginia REALTORS® successfully worked with stakeholders and legislators on consensus language to exempt those entities already licensed by the state or locality from some of the new rules. This means, as a REALTOR® who manages short-term rentals, you will be exempt from some of the new regulations being placed on non-real estate licensees who enter the short-term rental market. 🏡



# New laws

by Laura Farley

In addition to the bills that were part of the Virginia REALTORS® 2017 Legislative Agenda, there were a number of other bills introduced this year that impact real estate transactions and homeownership in Virginia. Here's a summary of a few new laws that will have broad impacts.

## PROPERTY MANAGEMENT

### HOUSE BILL 1811

clarifies procedures related to unlawful detainer actions. Courts must allow amendment of the amount requested in accordance with the evidence presented and with the terms of the lease. Courts may issue a writ of possession at the initial hearing, and, at the request of the plaintiff, bifurcate the process with a hearing on the final rent and damages no more than 120 days later. On the subsequent hearing date, the court must allow an amendment of the amount requested in the initial filing. Additionally, if the court permits an immediate processing of a writ of possession to schedule an eviction, the eviction cannot occur before the end of the tenant's 10-day appeal period, or at all if the tenant perfects an appeal.

### HOUSE BILL 1869

adds a requirement to the tenant obligations section of the VRLTA (Virginia Residential Landlord Tenant Act) that if the tenant unreasonably delays in reporting the existence of any insects or pests, the tenant is financially responsible for the added cost of treatment or extermination, and if the tenant fails to prevent infestation of insects or pests in the area he occupies, he is financially responsible for the cost of treatment or extermination.

### HOUSE BILL 2033

is the omnibus Landlord-Tenant bill that changes existing landlord-tenant law. The common law has been restructured to more closely mirror the VRLTA and now contains many of the same provisions. Watch for a change from the Code Commission in Virginia Code § 55, Chapters 13 and 13.2. Another change is that VRLTA now applies to all occupancy in any single-family residence and any multifamily dwelling unit located in Virginia unless exempted. There are

two exemptions: landlords that own no more than two single-family residential units in their own name subject to a rental agreement (the existing threshold) where the rental agreement includes a provision opting out; and where occupancy is under a contract of sale if the occupant is the purchaser. This means that rather than the VRLTA being an "opt in" for landlords that own fewer properties than the trigger number, it is now an "opt out" law. For pre-settlement occupancies, the provisions of the VRLTA do not apply, but the provisions of the common law do. Check out additional Virginia REALTORS® resources on the new [virginiarealtors.org](http://virginiarealtors.org) site.

### SENATE BILL 1189

restructures the provisions regarding water and sewer services provided to tenants from services provided to owners. Localities can no longer waive a required written authorization by an owner for water or sewer services provided to a tenant, but a copy of the lease is acceptable authorization. Localities cannot place a lien on the property when a tenant has delinquent fees for water or sewer charges until the locality has made reasonable collection efforts, spelling out what those reasonable efforts are. If the locality does not require a security deposit from a tenant to obtain water or sewer, it waives its lien rights against the property owner.

### SENATE BILL 1228

creates definitions of assistance animal, major life activities, and physical or mental impairment. It also establishes the rights and responsibilities of individuals with assistance animals in dwelling units. The law now clearly lays out the interactive process for requesting and responding to reasonable accommodations, as well as what documentation may be requested and who the documentation should come from. Check out the Virginia REALTORS® Legal Video on Assistance Animals.

## PROPERTY AND CONDO OWNERS ASSOCIATIONS

### HOUSE BILL 1475

adds language to the required one-page form that must accompany the disclosure packet stating that the purchase contract for a lot within an association is a legally binding document once it is signed by the purchaser where the purchaser has not elected to cancel the contract in accordance with the law.

### HOUSE BILL 1554

clarifies that if the declaration is silent on how it can be amended, it may be amended by a two-thirds vote of the owners.

## RESIDENTIAL SALES

### SENATE BILL 1037

adds language to the historic district portion of the Residential Property Disclosure Act to tell buyers to review any materials available from the locality that explain any requirements to alter, reconstruct, renovate, restore, or demolish buildings or signs in the historic district, and the necessity of any local review board or governing body approvals prior to doing any work.

### HOUSE BILL 2035 AND SENATE BILL 870

change the law that allows clerks of court to charge \$5 per document for documents electronically recorded in the land records, switching to charging the fee for documents filed by paper. This law originally charged \$5 per electronic filing to cover the costs of setting up the electronic systems. Now that the systems are established and a majority of transactions have electronic recording of documents, the fee has been shifted to paper filings to cover the human resource costs of digitizing these documents.