

# Real Estate Law & Board Regulation w/Flood



**Dulles Area  
Association of REALTORS®**

The Association of Choice for Real Estate Professionals™

Virginia Real Estate Law & Board Regulations  
8 Classroom Hours  
Timed Syllabus

I. Contract Update .....	25 Minutes
II. Legislative Update.....	25 Minutes
BREAK.....	10 Minutes
III.CFPB Update.....	15 Minutes
IV. Real Estate License Law VREB Rules and Regulations Title 54.1 Chapter 21 of the Code of Virginia	
A. 18 VAC 135-20-155 - Grounds for disciplinary action.....	10 Minutes
Code of Virginia Title 54.1-2105	
1. Authority of the Virginia Real Estate Board	
a. provisions of the board – licenses to have violated or cooperated with others in violating the provisions of the Rules and Regulations of the Virginia Real Estate Board or 54.1 Chapter 21 of the Code of Virginia	
b. fine, suspend, revoke, deny renewal	
c. response to inquiries	
i. 18 VAC -135-20-240- 10 days to produce any documents, book, records	
ii. 18 VAC 135-20-250- 21 days to respond to an inquiry by the Board other than requested under 18 VAC 153-20-240	
B. 18 VAC 135-20-20--Necessity for license.....	10 Minutes
Code of Virginia Title 54.1-2106.1 – Licenses Required	
1. Sole Proprietor	
a. individuals name	
b. fictitious name	
2. Firms	
a. No business entity shall act or offer to act or advertise to act as a real estate form without a real estate firm license	
b. Separate license issued to firm	
c. Active members need broker license-partner, Associate, Manager of LLC, Corporation	
d. Name of firm and address	
3. Branch Office License – branch office license, Roster of Agents firm name, address, name of supervising broker on license.	
4. Licenses kept in main office, branch office license kept in branch office.	
C. Code of Virginia Title 54.1-2101 - Salesperson defined	

- Code of Virginia Title 54.1-2107 .....3 Minutes  
 Certain action to constitute real estate broker or salesperson.
1. Person, business entity who for compensation or valuable consideration, sell or offer to sell or buy or offer to buy or negotiate the purchase, exchange or lease, rent or offer for rent, negotiate leases or improvements must be licensed.
  2. Duties of Supervising Broker
- D. Code of Virginia Title 54.1-2101.1.....2 Minutes  
 Authority to prepare real estate contracts
1. May prepare contracts for sale, purchase, option, exchange, rental
  2. Cannot charge a separate fee for preparing the contracts
- E. 18 VAC 135-20-30- Qualifications for Licensure.....5 Minutes  
 Code of Virginia Title 54.1-2105.01  
 Educational requirements for all salespersons within one year of licensure
1. Post License Education Requirements
  2. Must complete 30 hours within first 12 months of licensure
  3. License expires 2 years on the last day of the month issued.
  4. Salesperson requirements
  5. Broker requirements
- F. 18 VAC 135-20-70.....5 Minutes  
 Activation or Transfer of License
1. Inactive to Active
    - a. requirements if inactive less than 3 years.
    - b. requirements if inactive more than 3 years.
  2. Requirements when transferring from one firm or sole proprietor to another
- BREAK.....10 Minutes
- G. 18 VAC 135-20-101.....5 Minutes  
 Qualifications for renewal of license
1. Salesperson
  2. Broker
  3. Firm – self audit Code of Virginia 54.1-2106.2
  4. Reinstatement of license
    - a. within 30 days of expiration
    - b. within one year of expiration
    - c. No reinstatement after one year of expiration.
- H. 18 VAC 135-20-170.....5 Minutes  
 Maintenance of License
1. Must keep at all times board informed of current name and home address
  2. Licenses kept by broker in main office available for public inspection
  3. Must notify board within 30 days of change
  4. Use of professional name
    - a. must be filed with board
    - b. must include licensee’s first or last name

- in professional name
- c. must not include any titles

- I. Code of Virginia Title 54.1-2103 exemptions from licensure.....5 Minutes
1. Owners or Employees of owners
  2. Attorney-in-fact
  3. Attorney at law in the performance of their duties to client
  4. Receiver, Trustee, Administrator, Executor or anyone under Court Order
  5. Corporations managing own property
  6. Existing Tenant of a residential dwelling who refers a prospective tenant to the owner of unit and is given a referral fee
  7. Auctioneer
  8. Salaried person employed by a licensed real estate broker for the purpose of property management provided. The employee may;
    - a. show units to prospective tenants if the employee is employed on the premises of such real estate
    - b. Provide prospective tenants with factual information about the lease of property
    - c. Accept application for lease
    - d. Accept security deposits and rentals
    - e. The salaried employee may NOT negotiate any leases on behalf of the owner or broker.

- J. Code of Virginia 2105.2.....3 Minutes
- Cease and desist orders for unlicensed activity
1. penalties – up to \$1,000 or amount of commission received from any transactions whichever is greater.
  2. Penalties collected paid to the Literary Fund after deduction of admin costs of the board

- K. 18 VAC 135-20-190.....22 Minutes
- Advertising by licensees
1. All advertising under the direct supervision of the Principal or supervision broker.
    - a. name of firm clearly and legibly displayed on all advertising
  2. On-Line Advertising
    - a. Website – if owned or controlled by licensee disclosures or link to disclosure required
    - b. Instant messages –
    - c. Banner Ads
  3. All on-line listings advertised must be kept current and consistent
    - a. consistent with the property description and actual status of listing
    - b. update in a timely manner material changes to the listing status when the licensee controls the online site
    - c. Make timely written requests for updates reflecting material changes to the listing status or property description when a third party online listing service controls the website displaying the information
    - d. date that the listing information shown was last updated
  4. Prohibited practices

- a. implying that property listed by a licensee's firm is for sale, exchange, rent or lease by the owner or by an unlicensed person
- b. Failing to include in all advertising that the owner of the property is a real estate licensee and is not using the services of a licensed real estate entity.
- c. Failing to include the firms licensed name on any sign displayed outside each place of business
- d. Failing to obtain the written consent of the seller, landlord, optionor or licensor prior to advertising a specific identifiable property
- e. Failing to identify the type of services offered when advertising by general description a property not listed by the party making the advertisement

L. 18 VAC 135-20-260.....10 Minutes

Unworthiness and Incompetence

- a. Obtaining a license by false or fraudulent representation
- b. Holding more than one license in Virginia (salespersons)
- c. Currently licensed salesperson and sitting for the salesperson's licensing examination
- d. Currently licensed broker and sitting for the licensing examination
- e. Having been convicted or found guilty of a misdemeanor drug distribution, physical injury, felony, pleading nolo contendere.
- f. Failing to inform board in writing within 30 days of conviction.
- g. Having had a license suspended, revoked or surrendered in connection with disciplinary action in any jurisdiction
- h. Having been found in violation of Fair Housing laws in any jurisdiction
- i. Failing to act as a real estate broker or salesperson in such a manner as to safeguard the interests of the public
- j. Engaging in improper, fraudulent, or dishonest conduct.

BREAK.....10 Minutes

M. 18 VAC 135-20-290.....5 Minutes

Improper Dealing

- 1. Entering into a brokerage relationship that does not contain a specific termination date or no mechanism for determining the termination date or not terminable by the client.
- 2. Offering property for sale or lease without the knowledge or consent of the owner
- 3. Placing a sign on any property without the consent of the owner
- 4. Advertising without including the name of the firm

N. 18 VAC 135-20-300.....10 Minutes

Misrepresentation/Omission

- 1. Bait and Switch
- 2. Failure to disclose in a timely manner all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee
- 3. Failure to disclose in a timely manner to the client all material facts related to the property or transaction

- failure to exercise ordinary care
- 4. Undisclosed Dual agency or representation
- 5. Failing to include the complete terms and conditions of the real estate transaction
- 6. Failing to identify all those holding any deposits.
- 7. Making false or misleading statements for the purpose of influencing the actions of the lender.
- 8. Making material misrepresentations or false promises.

BREAK.....10 Minutes

O. 18 VAC 135-20-310.....5 Minutes

Delivery of Instruments

- 1. Failing to make prompt delivery to each principal a complete and legible copies of all documents
- 2. Failing to provide in a timely manner to all principals written notice of any material changes
- 3. Failing to deliver to the parties a complete and accurate statement of receipts and disbursements of monies received. (settlement statements from a settlement agent fulfills this requirement)
- 4. Refusing without just cause to surrender to the rightful owner upon demand any document or instrument which the licensee possesses.

P. Code of Virginia Title 54.1-2112-2120.....10 Minutes

The Virginia Transaction Recovery Fund

- 1. Establishment of the fund and Minimum balance (\$400,000)
- 2. Paying into the fund- maximum contribution
- 3. Failing to pay when requested results in license suspension
- 4. Who can collect from the fund.
- 5. When can a claim be filed.
- 6. Limitations on recovery
  - a. Single claimant for single transaction
  - b. Multiple claimants for single transaction
  - c. All claimants for multiple transactions

BREAK.....10 Minutes

**AFTERNOON SESSION**

V. Virginia Residential Landlord and Tenant Act (VRLTA) Code of Virginia §55-248.2 et seq. [65 Minutes]

A. Purpose and Authority.....2 Minutes

- 1. Enacted in 1974
- 2. Supersedes all other local, county, or municipal ordinances or regulations concerning landlord and tenant relations and the leasing of residential property
- 3. Prohibits certain lease clauses
- 4. 4 key parts to VRLTA: (1) Landlord obligations; (2) tenant obligations; (3) landlord remedies; and (4) tenant remedies

B. Application.....3 Minutes

1. Applies to all single family and multi-family rental housing units in VA
2. Landlord who owns less than two single-family residential dwelling units may opt out of the VRLTA by so stating in a rental agreement with a tenant (changed as of July 1, 2017)
3. Prior to July 1, 2017, Act applied only to single family rental housing units if the landlord owned and rented more than 2 units
3. Does not apply to tenancies and occupancies that are not residential tenancies (i.e. public or private institution or campground) or occupancy in hotel or motel

C. Required Disclosures by Landlord.....8 Minutes

1. Mold §55-248.11:2
2. Military Air Installation §55-248.12:1
3. Defective Drywall §55-248.12:2
4. Methamphetamine §55-248.12:3
5. Lead Based Paint
6. Virginia Residential Property Disclosure Act (Flood Hazard Areas)

D. Landlord to Maintain Fit Premises §55-248.13.....10 Minutes

1. Comply with building and housing codes materially affecting health and safety
2. Make all repairs to put and keep the premises fit and habitable
3. Keep common areas in multifamily dwelling clean and structurally safe
4. Maintain in good and safe working order all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances, including elevators, supplied by landlord
5. Maintain premises in such a condition as to prevent the accumulation of moisture and the growth of mold and promptly remediate any mold
6. Provide and maintain appropriate receptacles for garbage
7. Supply running water and reasonable amounts of hot water and reasonable air conditioning (if provided) and heat in season
8. Maintain any carbon monoxide alarm that has been installed by the landlord
9. Locks and peepholes §55-248.13:1 - locality may issue ordinance requiring landlord who rents five or more dwelling units in any one multifamily building to install locks and peepholes
10. Landlord is only liable for the tenant's actual damages proximately caused by the landlord's failure to exercise ordinary care

E. Tenant to Maintain Dwelling Unit §55-248.16.....5 Minutes

1. Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety
2. Keep dwelling as clean and safe as the condition of the premises permit
3. Keep dwelling free from insects and pests and promptly notify the landlord of the existence of any insects or pests
4. Remove garbage
5. Keep all plumbing fixtures as clean as their condition permits
6. Use in a reasonable manner all utilities and all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances and keep all utility services paid for by the tenant on at all times during the lease
7. Do not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or permit any person to do so whether known by the tenant or not
8. Do not remove or tamper with a properly functioning smoke detector installed by the landlord
9. Do not remove or tamper with a properly functioning carbon monoxide detector installed by the landlord
10. Use reasonable efforts to maintain premises in such a condition as to prevent the accumulation of moisture and the growth of mold and to promptly notify landlord of any mold
11. Do not paint or make alterations without the prior written approval of the landlord
12. Be responsible for his/her conduct and the conduct of other persons on the premises
13. Abide by all reasonable rules and regulations imposed by the landlord

14. Be financially responsible for the added cost of treatment or extermination due to the tenant's unreasonable delay in reporting the existence of any insects or pests and be financially responsible for the cost of treatment or extermination due to the tenant's fault in failing to prevent infestation of any insects or pests

F. Security Deposits §55-248.15:1.....7 Minutes

1. Defined as “any refundable deposit of money that is furnished by a tenant to a landlord to secure the performance of the terms and conditions of a rental agreement, as a security for damages to the leased premises, or as a pet deposit.”
2. Landlord cannot demand a security deposit in excess of two month’s rent
3. Landlord must return deposit within 45 days after termination of the tenancy and delivery of possession
4. Any deductions to security deposit must be itemized by the landlord on a written notice given to the tenant along with the refunded amount
5. Landlord may withhold all or part of security deposit with cause (unpaid rent, late fees, damages excluding reasonable wear and tear)
6. During the tenancy landlord should notify tenant of any deductions to be made from the security deposit within 30 days of determination
6. Landlord can charge a fee for expediting the return of the security deposit if lease provides for and tenant request expedited return
7. After 2014 revision to VRLTA, landlords are no longer required to pay interest earned on security deposits

G. Access to the Premises §55-248.18.....3 Minutes

1. The tenant cannot unreasonably withhold consent to the landlord to enter the premises in order to inspect, make necessary or agreed repairs, alterations or improvements, supply necessary or agreed services or show the dwelling unit to prospective or actual purchasers or tenants
2. In the case of an emergency the landlord may enter the dwelling without consent of the tenant
3. Landlord cannot abuse the right of access or use it to harass the tenant

H. Breach.....15 Minutes

1. Noncompliance by Landlord §55-248.21
  - a. 21/30 Notice: If there is a breach by the landlord, the tenant may provide written notice of the breach to the landlord and state that the lease will terminate 30 days after receipt of the notice if the breach is not remedied by the landlord within 21 days
    - i. There must be a material noncompliance of the lease by the landlord or a violation that affects health and safety
    - ii. Tenant must notify landlord of breach in writing
    - iii. Notice must specify the acts and omissions constituting the breach
    - iv. Tenant must provide landlord 21 days to cure
    - v. Notice can state that if breach is not remedied within 21 days, the lease will terminate 30 days after receipt of notice
  - b. If the breach is remediable and the landlord remedies the breach, the lease will not terminate
  - c. If the landlord commits a breach which is not remediable, the tenant may provide the landlord with a written notice stating that the lease will terminate 30 days after receipt of the notice
  - d. If the landlord intentionally commits a subsequent breach of the same nature as a prior breach, the tenant may provide the landlord with a written notice stating that the lease will terminate 30 days after receipt of the notice
2. Noncompliance by Tenant §55-248.31



- a. 21/30 Notice: If there is a breach by the tenant, the landlord may provide written notice of the breach to the tenant and state that the lease will terminate 30 days after receipt of the notice if the breach is not remedied by the tenant within 21 days
    - i. There must be a material noncompliance of the lease by the tenant or a violation that affects health and safety
    - ii. Landlord must notify tenant of breach in writing
    - iii. Notice must specify the acts and omissions constituting the breach
    - iv. Landlord must provide the tenant 21 days to cure
    - v. Notice can state that if breach is not remedied within 21 days, the lease will terminate 30 days after receipt of notice
  - b. If the breach is remediable and the tenant remedies the breach, the lease will not terminate
  - c. If the tenant commits a breach which is not remediable, the landlord may provide the tenant with a written notice stating that the lease will terminate 30 days after receipt of the notice
  - d. If the tenant intentionally commits a subsequent breach of the same nature as a prior breach, the landlord may provide the tenant with a written notice stating that the lease will terminate 30 days after receipt of the notice
  - e. Illegal drug activity and other criminal acts - landlord may immediately terminate lease and proceed to obtain possession of premises without the necessity of waiting for a conviction
3. Barring Guest or Invitee of Tenants §55-248.31:01
- a. Guest or invitee of tenant may be barred from premises upon written notice served personally upon the guest or invitee for conduct on the premises which violates the lease or local, state or federal law
4. Fire or Casualty Damage § 55-248.24
- a. If the dwelling unit or premises are damaged or destroyed by fire or casualty either the tenant or the landlord may terminate the lease
  - b. Tenant may terminate the lease by vacating the premises and providing the landlord a written notice of his intention to terminate the lease within 14 days of vacating
  - c. Landlord may terminate the lease by giving the tenant 14 days' notice of the intention to terminate

I. Nonpayment of Rent §55-248.31(F) .....2 Minutes

- 1. If rent is unpaid and the tenant fails to pay rent within 5 days after written notice is served on the tenant notifying him/her of nonpayment of rent, the landlord may terminate the rental agreement and proceed to obtain possession of the premises

J. Early Termination of Rental Agreement by Military Personnel §55-248.21:1.....5 Minutes

- 1. Member of the armed forces or National Guard on full time duty or as a Civil Service technician may terminate lease if the member:
  - a. Has received permanent change of station orders to depart 35 miles or more from the dwelling;
  - b. Has received temporary duty orders in excess of three months duration to depart 35 miles or more from the dwelling;
  - c. Is discharged or released from active duty or from full-time duty or technician status; or
  - d. Is ordered to report to government supplied quarters

2. Tenant must serve landlord with written notice of termination to be effective not less than 30 days after the first date on which the next rental payment is due after the date on which the written notice is given
3. Termination date shall be no more than 60 days prior to the date of departure
4. Tenant shall furnish the landlord with a copy of the official notification of orders or a signed letter confirming the orders from the tenant's commanding officer
5. Landlord may not charge liquidated damages

- K. Notice to Tenant in Event of Foreclosure §55-225.10.....5 Minutes
1. Amended July 1, 2017, provides clarity for tenants in the event of foreclosure
  2. Landlord must notify prospective tenant of pending foreclosure
  3. Notice must be provided to tenant within five business days after notice of foreclosure is received by the landlord
  4. If landlord fails to notify tenant, tenant can terminate lease by providing written notice to landlord five business days prior to termination
  5. Foreclosure sale terminates the lease but tenant may remain in possession of the property on a month-to-month basis on the same terms as the terminated lease until the successor owner gives a notice of termination
  6. Upon foreclosure tenant can pay rent: (i) to the successor owner; (ii) to the managing agent of the owner or successor owner; or (iii) into a court escrow account

BREAK.....10 Minutes

VI. Service Members Civil Relief Act (SCRA) [10 Minutes]

- A. Federal law that went into effect in 2003 and replaced the old Soldiers' and Sailors' Civil Relief Act (1940)
- B. SCRA protects individuals entering, called to active duty or deployed service members
- C. The protection begins on the date of entering active duty and generally terminates within 30 to 90 days after the date of discharge from active duty
- D. Purpose of SCRA – to postpone or suspend certain civil obligations to enable service members to devote full attention to duty and relieve stress on the family members of the deployed service members
- E. Examples of obligations that service members are protected against:
  1. Outstanding credit card debt
  2. Mortgage payments
  3. Pending trials
  4. Taxes
  5. Terminations of lease
  6. Mortgage relief
  7. Protection from eviction
  8. 6 percent cap on interest rates (for credit obligations that were established prior to active duty)
  9. Stay of proceedings
  10. Reopening default judgments
- F. Provides a service member who receives permanent change of station orders or who is deployed to a new location for 90 days or more the right to terminate a housing lease (compare to VA law)
- G. Prevents service members from paying double taxation that can occur when they have a spouse who works and is taxed in a state other than the state in which they maintain permanent legal residence

VII. Building Codes [25 Minutes]

- A. Introduction.....3 Minutes

1. Virginia Uniform Statewide Building Code (USBC): regulations that must be complied with when constructing a new building, adding to an existing structure or maintaining an existing building
2. USBC consists of 3 parts:
  - a. VA Construction Code (2012)
  - b. VA Rehabilitation Code (2012)
  - c. VA Maintenance Code (2012)
3. USBC is enforced by building inspectors of local governments
4. VA Board of Housing and Community Development adopts and amends the USBC
5. USBC is available online at <http://www.dhcd.virginia.gov>

C. Light Requirements in Home.....3 Minutes

1. Habitable Spaces (spaces for living, sleeping, eating or cooking)
  - a. Must have at least one window of approved size directly to the outdoors
  - b. Minimum total glazed area for every habitable space must be 8% of the floor area of the room (glazed=glass surface area)
  - c. Windows facing walls less than 3 feet away extending above ceiling will not count
  - d. Exception: where light is provided through an adjoining room, the unobstructed opening to the adjoining room must be 8% of the floor area of the interior room but not less than 25 square feet
2. Common halls and stairways must be lighted at all times

D. Ventilation Requirements in Home.....5 Minutes

1. Habitable Spaces
  - a. Every habitable space shall have at least one operable window
  - b. Total operable area of the window shall be equal to at least 45% of the minimum glazed area
  - c. Exception: unobstructed opening to the adjoining room
2. Bathrooms
  - a. Ventilation requirements same as for habitable spaces
  - b. Except a window is not required when there is a mechanical ventilation system
  - c. Ventilation system must discharge to outdoors and not be recirculated
3. Cooking Facilities
  - a. Cooking is not permitted in any rooming unit or dormitory unless approved
  - b. Exceptions:
    - i. Where specifically approved by official
    - ii. Coffee pots and microwave ovens are not considered cooking appliances
4. Clothes Dryer Exhaust
  - a. Exhaust system must be independent of all other systems and must be exhausted outside
    - i. Exception: ductless systems

E. Occupancy Requirements.....4 Minutes

1. Living Rooms
  - a. Must be at least 120 square feet
2. Bedrooms
  - a. Must be at least 70 square feet
  - b. If occupied by more than one person, bedroom must have at least 50 square feet of floor area for each occupant (100 sq. ft. for 2 occupants, 150 sq. ft. for 3, etc.)
  - c. Shall not be the only means of access to other bedrooms or habitable spaces
  - d. Bedroom cannot serve as only exit from other habitable spaces
  - e. Kitchens and non-habitable spaces must not be used for sleeping purposes
  - f. Every bedroom must have access to bathroom without having to pass through another bedroom

- g. No requirement for a closet in bedroom
- h. Bedroom must have two means of exit with one leading directly to the exterior (i.e. window and door)

B. Relationship of Occupants.....2 Minutes

- 1. Local zoning ordinances regulate who may occupy a dwelling
- 2. Most local zoning ordinances permit a single-family dwelling to be occupied only by a family
- 2. Family is defined as a group of people living together consisting of:
  - a. One or more persons related by blood or marriage together with any number of natural, foster, step or adopted children, domestic servants, nurses and therapists and no more than two roomers or boarders;
  - b. No more than 4 unrelated person; or
  - c. Any group identified in §15.2-2291 of the Code of Virginia (assisted living facilities and group homes of 8 or fewer)
- 3. Zoning ordinances together with building codes are designed to prevent overcrowding which is a threat to public safety and the welfare of the occupants of the homes

H. Alterations/Renovations/Additions.....2 Minutes

- 1. Permit requirements
- 2. Un-permitted work
  - a. Buyer's concern
  - b. Safety issue
  - c. County enforcement

I. Zoning Complaints.....2 Minutes

- 1. Most common alleged zoning complaints:
  - a. Inoperable vehicles
  - b. Illegal signs
  - c. Residential overcrowding
  - d. Illegal businesses operated in residential district
  - e. Commercial vehicles parked on residential lots
  - f. Failure to obtain a zoning permit (in addition to building permit)
    - i. Sheds
    - ii. Decks
    - iii. Alterations
    - iv. Converting uses

J. Smoke Detectors and Carbon Monoxide Detectors.....4 Minutes

- 1. Smoke Detectors
  - a. VA requires smoke detectors in newly constructed homes
  - b. Residents are not required to have a specific type of smoke detector in their home
  - c. VA Code §15.2-922 permits a locality to establish an ordinance that requires that the smoke detectors be installed in the following structures or buildings:
    - i. any building containing one or more dwelling units,
    - ii. any hotel or motel, and
    - iii. rooming house
  - d. Smoke detectors installed pursuant to VA Code §15.2-922 shall be installed and maintained in conformance with the provisions of the Uniform Statewide Building Code
- 2. Guidelines for placement of smoke detectors:
  - a. In sleeping areas;
  - b. In every room in the path of the means of egress from the sleeping area to the door;
  - c. In each story within the sleeping unit, including basements
- 3. Guidelines for connecting smoke detectors
  - a. In new construction, smoke detectors should be hard wired

- b. In existing buildings, smoke detectors can be battery operated
- 4. Carbon Monoxide detectors are not required in VA

BREAK.....10 Minutes

VIII. Common Interest Community Law [10 Minutes]

- A. Common Interest Community Act.....2 Minutes
  - 1. Enacted in 2008 to regulate Common Interest Communities (CICs)
  - 2. Common Interest Communities (CICs) are communities with individually owned units/lots that have shared facilities and common areas and include membership in an association and an obligation to pay assessments (i.e. condominiums, timeshares, retirement communities, etc.)
  - 3. CICs are created through a set of legal documents drafted by the developer
  - 4. Act created the Office of the Common Interest Community Ombudsman and the Common Interest Community Board under DPOR
  - 5. Every association is required to have a formal complaint procedure in place
- B. Common Interest Community Board §54.1-2349.....3 Minutes
  - 1. Board consisting of 11 members
  - 2. Regulates common interest community managers as well as certain employees of licensed management firms
  - 3. Handles condominium and time-share project registrations
  - 4. homeowner, condominium and cooperative associations must file annual reports with Board
- C. Common Interest Community Ombudsman §55-530.....5 Minutes
  - 1. Office of Ombudsman is separate and distinct from the Board
  - 2. Responsibilities include offering assistance and information to association members regarding the rights and processes available to them
  - 3. Receives complaints from members (only after members have exhausted their association complaint procedures and appeals processes) regarding violations of CIC regulations
  - 4. Reviews complaints (Notices of Final Adverse Decisions) and provides a determination as to whether the decisions may be in conflict with the laws and regulations governing CICs
  - 5. Issues decisions that are legally non-binding and strictly limited to laws and regulations pertaining exclusively to CICs
  - 5. Ombudsman has authority to take action where complaint involves a violation of community interest laws or regulations (i.e. Condo Act, POA Act)
  - 6. Ombudsman does not have the authority to review complaints alleging violations of governing documents (Declaration, Bylaws, Covenants, etc.)
  - 7. Publishes an annual report available through DPOR

IX. The Virginia Property Owners' Association Act (POA Act) §55-508 et seq. [20 Minutes]

- A. Introduction.....5 Minutes
  - 1. Contract must state that the property is subject to POA Act if lot is within a development subject to POA Act
  - 2. Seller must obtain an association Disclosure Packet and provide it to the purchaser
  - 3. Purchaser may cancel the contract within three days after receiving the Disclosure Packet
  - 4. Purchaser has right to request an update of the Disclosure Packet
  - 5. Purchaser's right to receive the Disclosure Packet and right to cancel the contract are waived conclusively if not exercised before settlement

6. These provisions may not be waived by agreement and the rights conferred by the POA Act may not be waived

- B. Contents of Disclosure Packet.....5 Minutes
  - 1. Disclosure packet must include certain information §55-509.5(A)1-18
  - 2. See DPOR Virginia Property Owners Association Disclosure Packet Notice (Handout) – this is a one-page form that by law must accompany association disclosure packets §55-509.5(A)16
- C. Delivery Requirements.....2 Minutes
  - 1. Association has 14 days after receipt of written request to deliver disclosure packet as directed in the written request §55-509.5(A)
  - 2. Common Interest Community Board can assess a penalty of up to \$1,000 against an association for failure to deliver the Disclosure Packet within 14-day statutory period (new law effective July 1, 2017) §55-509.6(M)
- D. Purchaser’s Right to Cancel.....3 Minutes
  - The purchaser may cancel the contract:
    - 1. within three days after the date of the contract, if before the purchaser signs the contract, the purchaser receives the disclosure packet or is notified that it will not be available;
    - 2. within three days after receiving the disclosure packet or notice that the disclosure packet will not be available if it is hand delivered, delivered by electronic means, or delivered by an overnight delivery service, and a receipt obtained; or
    - 3. within six days after the postmark date if disclosure packet or notice that the disclosure packet will not be available is sent to the purchaser by US mail
    - 4. POA Act sets forth specific requirements for delivery of notice of cancellation §55-509.4(C)
- E. Fees.....4 Minutes
  - 1. Law allows preparer to assess reasonable fees but puts a cap the amount
  - 2. Fees are automatically adjusted every 5 years to account for inflation (next increase is 2018)
  - 3. Professionally managed associations §55-509.6
  - 4. Non-professionally managed associations §55-509.7
  - 5. See DPOR Maximum Allowable Fees (Handout)
- F. Exceptions to Disclosure Requirement §55-509.10. ....1 Minute

X. The Virginia Condominium Act (Condo Act) §§ 55-79.39 et seq. [20 Minutes]

- A. Introduction.....5 Minutes
  - 1. Contract must state that the property is subject to Condo Act if unit is within a development subject to Condo Act
  - 2. Seller must obtain an association Resale Certificate and provide it to the purchaser
  - 3. Purchaser may cancel the contract within three days after receiving the Resale Certificate
  - 4. Purchaser has right to request an update of the Resale Certificate
  - 5. Purchaser’s right to receive the Resale Certificate and right to cancel the contract are waived conclusively if not exercised before settlement
  - 6. Failure to receive a Resale Certificate does not excuse any failure to comply with the provisions of the condominium instruments, articles of incorporation, or rules or regulations
- B. Contents of Resale Certificate.....3 Minutes
  - 1. Resale Certificate must include certain information – see §55-79.97(C)1-18 (Handout)
- C. Delivery Requirements.....2 Minutes

1. Resale Certificate must be delivered within 14 days after receipt of written request and delivered in accordance in the written request §55-79.97(C)
2. Common Interest Community Board cannot assess the same penalty under the Condo Act as it can under the POA Act.

D. Purchaser's Right to Cancel.....3 Minutes

The purchaser may cancel the contract:

1. within three days after the date of the contract, if the purchaser receives the resale certificate or is notified that the resale certificate will not be available on or before the date that the purchaser signs the contract;
2. within three days after receiving the resale certificate or notice that the resale certificate will not be available if it is hand delivered, delivered by electronic means, or delivered by a commercial overnight delivery service, and a receipt obtained; or
3. within six days after the postmark date if the resale certificate or notice that the resale certificate will not be available is sent to the purchaser by US mail
4. Condo Act has specific requirements for delivery of notice of cancellation §55-79.97(C)

E. Fees.....3 Minutes

1. Law allows preparer to assess reasonable fees but puts a cap on the amount §55-79.97.1
2. Fees are automatically adjusted every 5 years to account for inflation (next increase is 2018)
3. No distinction between professionally managed vs. non-professionally managed associations
4. see DPOR Maximum Allowable Fees (Handout)

F. Exceptions to Resale Certificate Requirement §55-79.97(F). .....1 Minute

G. Rental of Units §55-79.87.....3 Minutes

Condo unit owners' association cannot:

1. Condition or prohibit the rental of a unit to a tenant by a unit owner or make an assessment or impose a charge unless expressly authorized by law;
2. Charge a rental fee, application fee, or other processing fee of any kind in excess of \$50 during the term of any lease;
3. Charge an annual or monthly rental fee or any other fee not expressly authorized by law;
4. Require the unit owner to use a lease or an addendum to the lease prepared by the unit owners' association;
5. Charge any deposit from the unit owner or the tenant of the unit owner; or
6. Have the authority to evict a tenant of any unit owner or to require any unit owner to execute a power of attorney authorizing the unit owners' association to evict

BREAK.....10 Minutes

XI. Disclosure Laws in Virginia [45 Minutes]

A. "Caveat Emptor" – Buyer Beware.....3 Minutes

1. Virginia is a buyer beware state
2. Seller is required to disclose very little information to purchaser
3. Purchaser is advised to conduct due diligence prior to purchasing property
4. Listing agents have a much broader disclosure obligation than their sellers

B. Agency Disclosures.....5 Minutes

1. Brokerage relationships

- a. Licensees must disclose brokerage relationships to unrepresented parties in writing
- b. Disclosure must be made upon having a substantive discussion about specific property with an actual or prospective buyer or seller who is not the client of the licensee and who is not represented by another licensee §54.1-2138

- c. Disclosure should at the earliest practical time
- 2. Dual agency
  - a. A dual agent is a licensee who has an agency relationship with both the buyer and seller (or the tenant and landlord) in the same transaction
  - b. Licensee must obtain informed written consent from both parties §54.1-2139
  - c. Dual agency disclosures must be made in writing and in a conspicuous manner (forms that are printed in bold lettering, all capitals, underlined)
  - d. Acceptance must be obtained before receiving or presenting an offer
- 3. Designated agency
  - a. Only the principal broker is the dual agent
  - b. Requires informed written consent from both parties
- 4. Standard disclosure forms are available
- 5. Failure to disclose brokerage relationships or dual agency can result in fines, suspension or even revocation of license

C. Licensee Disclosures.....7 Minutes

- 1. Material adverse facts
  - a. "A licensee engaged by a seller shall disclose to prospective buyers all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee" §54.1-2131(B)
  - b. "physical condition of the property" refer to the physical condition of the land and any improvements (not matters outside the boundaries of the land or relating to adjacent or other properties in proximity thereto)
  - c. Disclosure must be made in writing
  - d. Failure to disclose material adverse facts to buyer can result in fines, suspension or even revocation of license
  - e. Seller cannot bring a cause of action against a licensee for revealing this information as required by law
  - f. Example: Mold
    - i. Licensee must disclose unless mold has been remediated
    - ii. If mold is recurring and remediation does not work then licensee must disclose
- 2. Material facts related to the property or concerning the transaction
  - a. Licensees must disclose to their clients "material facts related to the property or concerning the transaction of which the licensee has actual knowledge" §54.1-2131(A)(6) and §54.1-2132(A)(6)
  - b. Listing and selling agents must disclose to their own clients
  - c. Broader in scope than listing agent's duty to disclose material adverse facts to buyer

D. Lead Based Paint.....5 Minutes

- 1. Federal law requires that the seller must disclose to purchaser the presence of lead-based paint and/or lead-based paint hazards and provide any records and reports that are available
- 2. Purchaser has 10 days to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards if the purchaser desires
- 3. Disclosure applies to all dwellings built prior to 1978
- 4. Penalties for failure to disclose
- 5. Sample Disclosure – Disclosure and Acknowledgment of Information on Lead-Based Paint and/or Lead Based Paint Hazards (Handout)
  - a. Seller must complete and initial and sign
  - b. Purchaser must initial and sign
  - c. Listing and selling agents must initial and sign

E. Virginia Residential Property Disclosure Act §55-517 et seq.....15 Minutes



1. Owner of the residential real property must furnish to a purchaser a residential property disclosure statement warning the buyer to beware of certain matters that may affect the buyer's decision to purchase real property
2. Act requires the owner of residential real property-whenver the property is to be sold or leased with an option to buy-to provide notification to the purchaser of any disclosures required by the Act and to refer the purchaser to the DPOR REB website for additional information
3. Application
  - a. Act applies to the sale, exchange, installment sale or lease with option to purchase of residential real property with 1 to 4 dwelling units
4. Exemptions from disclosure requirement §55-518
  - a. Transfers pursuant to a court order (including, but not limited to, transfers ordered by a court in administration of an estate, transfers by foreclosure sale and transfers by a trustee in bankruptcy)
  - b. Transfers to a beneficiary of a deed of trust pursuant to a foreclosure sale 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
  - c. Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust
  - d. Transfers among co-owners
  - e. Transfers between parents and grandparents and their children or grandchildren
  - f. Transfers between spouses resulting from a decree of divorce or a property settlement agreement
  - g. Transfers made by virtue of the owner's failure to pay any federal, state, or local taxes
  - h. Transfers to or from any governmental entity or public housing authority or agency
  - i. Transfers involving the first sale of a dwelling
5. Timing of the disclosure
  - a. Seller must provide the disclosure statement (signed by seller) to the purchaser prior to final ratification of the contract
  - b. If disclosure statement is not provided, there is a contingency created
6. Effect of failure to provide disclosure statement
  - a. If seller fails to provide the required disclosure statement, the contract may be terminated by the purchaser (sole remedy for purchaser)
  - b. If disclosure statement is not received prior to final ratification, purchaser can terminate the contract by delivering written notice to seller at or prior to the earliest of:
    - i. 3 days after delivery of the disclosure statement;
    - ii. 5 days after postmark;
    - iii. settlement;
    - iv. occupancy by the purchaser;
    - v. purchaser making written application for mortgage loan; or
    - vi. purchaser executing written waiver of the right to terminate after receipt of the disclosure statement
  - c. Purchaser no longer has the right to terminate after any 1 of these 6 occurrences
7. Change in circumstances §55-522
  - a. If information disclosed is subsequently rendered or discovered to be inaccurate, the inaccuracy does not constitute a violation of the disclosure requirement
  - b. Owner is required to disclose any material change in the disclosures
8. Owner Liability §55-521
  - a. Unless the owner is grossly negligent, willfully or negligently misrepresents information included in the disclosure statement, the owner is not responsible for any errors, inaccuracies or omissions in the disclosure statement
  - b. Purchaser can sue to recover damages if the owner misrepresents information
9. Disclosure Statement (Handout)
  - a. Seller must provide notification and buyer must acknowledge receipt of the notification

b. Note: DPOR modified the forms as of July 10, 2017 so that only the one-page acknowledgement form directing purchasers to the DPOR website is required to be signed by parties rather than the 3-page form that went into effect on July 1, 2017

10. Buyer Beware Disclosures (Handout)

The owner makes no representations with respect to:

- a. Condition
- b. Adjacent Parcels
- c. Historic District Ordinance(s)
- d. Resource Protection Areas
- e. Sexual Offenders
- f. Dam Break Inundation Zone(s)
- g. Storm Water Detention Facilities
- h. Wastewater System
- i. Solar Energy Collection Device(s)
- j. Special Flood Hazard Areas
- k. Conservation or Other Easements (effective July 1, 2017)
- l. Community Development Authority (effective July 1, 2017)

F. Pending Building Code or Zoning Ordinance Violations §55-519.2:1.....2 Minutes

- 1. Owner (who has actual knowledge) must disclose to purchaser any pending building code enforcement actions of which the owner has been notified in writing and any pending violations of the local zoning ordinance that have not been abated or remedied
- 2. Disclosure Statement for Pending Building Code or Zoning Ordinance Violations (Handout)

G. Defective Drywall (“Chinese Drywall”) §55-519.2.....2 Minutes

- 1. Owner (who has actual knowledge) must disclose to purchaser the presence of defective drywall
- 2. Defective drywall or Chinese drywall refers to drywall that contains sulfur gases that was imported from China between 2001 and 2007
- 3. Defective Drywall Disclosure Statement (Handout)

H. Methamphetamine Labs §55-519.4.....4 Minutes

- 1. Owner (who has actual knowledge) must disclose to purchaser that the property was previously used to manufacture methamphetamine and has not been cleaned up in accordance with state guidelines
- 2. Presence of materials used to manufacture methamphetamine can be extremely dangerous
- 3. Disclosure Statement for Residential Property Previously Used to Manufacture Methamphetamine (Handout)

I. Other Affirmative Disclosures.....2 Minutes

- 1. First Sale of a Dwelling §55-518(B) (Handout)
- 2. Properties Located in a Locality in Which a Military Air Installation is Located §55-519.1 (Handout)
- 3. Validity of Septic System Operating Permit §32.1-164.1:1(Handout)
- 4. Planning District 15 §55-518(B)

XII. Questions

[5 Minutes]

**Total Classroom Time (not including Seven 10 Minute Breaks).....405 Minutes**

Virginia Real Estate Law & Board Regulations  
8 Classroom Hours

- I. Contract Update
- II. Legislative Update
- III. CFPB Update
- IV. Real Estate License Law

A. Grounds for Disciplinary Action

**18 VAC 135-20-155. Grounds for disciplinary action.**

- **The board has the power to fine any licensee or certificate holder and to suspend or revoke any license or certificate** issued where the licensee or certificate holder has been found to have violated or cooperated with others in violating any provision of Title 54.1 of the Code of Virginia, or any regulation of the board.
- Any licensee failing to comply with the provisions the regulations of the Real Estate Board in performing any acts covered by §§ 54.1-2100 and 54.1- 2101 of the Code of Virginia **may be charged with a violation, regardless of whether those acts are in the licensee's personal capacity or in his capacity as a real estate licensee.**

**18 VAC 135-20-240. Provision of records to the board.**

- Unless otherwise specified by the board, a licensee of the Real Estate Board **shall produce to the board or any of its agents within 10 days of the request evidence of signature cards or bank records, any document, book, or record concerning any real estate transaction in which the licensee was involved**, or for which the licensee is required to maintain records for inspection and copying by the board or its agents. The board may extend such time frame upon a showing of extenuating circumstances prohibiting delivery within such 10-day period.

**18 VAC 135-20-250. Response to inquiry of the board.**

- A licensee must respond to an inquiry by the board, other than requested under 18 VAC 135-20- 240, or its agents within 21 days.

B. Necessity for License

**18 VAC 135-20-20. Necessity for license.**

Refer to § 54.1-2106.1 of the Code of Virginia.

**A. Sole proprietor (principal broker owner).**

**B. Sole proprietor (non-broker owner), partnership, association, limited liability company, or corporation.** Every sole proprietor (non-broker owner), partnership, association, limited liability company, or corporation must secure a real estate license for its firm before transacting real estate business. **This license is separate and distinct from the individual broker license required.** Each applicant for such license shall disclose, and the license shall be issued to, the name under which the applicant intends to do or does business and holds itself out to the public. Each applicant shall also disclose the business address of the firm. The board will consider the

application of any partnership, association, corporation or limited liability company only after the entity is authorized to conduct business in accordance with §§ 59.1-69 through 59.1-76 of the Code of Virginia.

**C. Each real estate firm is required to have a principal broker whose license is in good standing with the board in order to transact real estate business.**

**D. Branch office license.** If a real estate broker maintains more than one place of business within the state, **a branch office license shall be issued for each place of business maintained.**

C. Salesperson Defined

**§ 54.1-2101. Real estate salesperson defined.** "Real estate salesperson" means any person, or business entity of not more than two persons unless related by blood or marriage, who for compensation or valuable consideration is employed either directly or indirectly by, or affiliated as an independent contractor with, a real estate broker, to sell or offer to sell, or to buy or offer to buy, or to negotiate the purchase, sale or exchange of real estate, or to lease, rent or offer for rent any real estate, or to negotiate leases thereof, or of the improvements thereon.

**§ 54.1-2107. Certain action to constitute real estate broker or salesperson.** One act for compensation or valuable consideration of buying or selling real estate of or for another, or offering for another to buy or sell or exchange real estate, or leasing, or renting, or offering to rent real estate, except as specifically excepted in § 54.1-2103, shall constitute the person, firm, partnership, co-partnership, association or corporation, performing, offering or attempting to perform any of the acts enumerated above, a real estate broker or real estate salesperson.

D. Authority to prepare real estate contracts

**§ 54.1-2101.1. Preparation of real estate contracts by real estate licensees.** Notwithstanding any rule of court to the contrary, **any person licensed under this chapter may prepare written contracts for the sale, purchase, option, exchange, or rental of real estate** provided the preparation of such contracts is incidental to a real estate transaction in which the licensee (i) is involved and (ii) does not charge a separate fee for preparing the contracts.

E. Educational Requirements

**§ 54.1-2105.01. Educational requirements for all salespersons within one year of licensure.**

A. The Board shall establish guidelines for an educational curriculum of at least **30 hours of classroom, or correspondence or other distance learning, instruction, in specified areas, which shall be required of all salespersons within one year of issuance of a license by the Board.** Failure of a new licensee to complete the 30-hour curriculum within one year of obtaining a real estate salesperson's license shall result in the license being placed on inactive status by the Board until the curriculum has been completed.

**§ 54.1-2105.03. Continuing education; relicensure of brokers and salespersons.**

A. Board regulations shall include **educational requirements as a condition for relicensure** of brokers and salespersons to whom active licenses have been issued by the Board beyond those now specified by law as conditions for licensure.

1. **Brokers** to whom active licenses have been issued by the Board shall be required to satisfactorily complete courses of not less than **24 hours** of classroom or correspondence or other distance learning instruction during each licensing term.

2. **Salespersons** to whom active licenses have been issued by the Board shall be required to satisfactorily complete courses of not less than **16 hours** of classroom or correspondence or other distance learning instruction during each licensing term.

F. Activation or Transfer of License

**18 VAC 135-20-70. Activation or transfer of license.**

A. **Any inactive licensee may activate that license with a licensed real estate firm or sole proprietorship by completing an activate form prescribed by the board.** A licensee who submits an activate application to the board shall not conduct business with the real estate firm or sole proprietorship set forth in the application until the application is processed and the license is issued by the board. Continuing education pursuant to § 54.1-2105.03 of the Code of Virginia shall be completed within two years prior to activation of a license when the license has been inactive for more than 30 days. **Any licensee who has not been active with a licensed real estate firm or sole proprietorship for a period of greater than three years shall be required to meet the existing prelicense educational requirements.**

B. **Any licensee may transfer from one licensed real estate firm or sole proprietorship to another by completing and submitting to the board a transfer application** and the fee as set forth in 18VAC135-20-80. The transfer application shall include the signature of the new principal broker or supervising broker with signature authority who will be responsible for the licensee's real estate activities and shall be effective upon the principal broker or supervising broker's execution of the transfer application.

G. Qualifications for renewal of license

**18 VAC 135-20-101. Qualification for renewal; continuing education requirements.**

As a condition of renewal, and pursuant to § 54.1-2105.03 of the Code of Virginia, all active salespersons, resident or nonresident, except those called to active duty in the Armed Forces of the United States, shall be required to satisfactorily complete a course or courses of not less than a total of **16 classroom**, correspondence, or other distance learning instruction hours during each licensing term, except for salespersons who are renewing for the first time and are required to complete **30 hours of post-license education** regardless of whether their licenses are active or inactive. All active brokers, resident or nonresident, except those called to active duty in the Armed Forces of the United States, shall be required to satisfactorily complete a course or courses of not less than a total of **24 classroom**, correspondence, or other distance learning instruction hours during each licensing term. Active licensees called to active duty in the Armed Forces of the United States may complete these courses within six months of their release from active duty. **Inactive brokers and salespersons are not required to complete the continuing education course as a condition of renewal** (see 18VAC135-20-70, Activation or transfer of license).

**Licensees are responsible for retaining for three years and providing proof of continuing education.** Proof of course completion shall be made on a form prescribed by the board. Failure to provide documentation of completion as directed by the board will result in the license not being renewed and/or disciplinary action pursuant to this chapter.

**Instructors who are also licensees of the board may earn continuing education credit for teaching continuing education courses.**

Any continuing education credits completed by the licensee in excess of that required in the current license term that are **obtained in the six months immediately prior to the license expiration date shall carry over into the next two year renewal period.**

**18 VAC 135-20-140. Failure to renew; reinstatement required.**

A. Applicants for reinstatement who want to **activate their license must have completed the continuing education requirement** in order to reinstate and activate the license. Applicants for reinstatement of an **inactive license are not required** to complete the continuing education requirement for license reinstatement.

B. If the requirements for renewal of a license, including receipt of the fee by the board, are not completed by the licensee within 30 days of the expiration date noted on the license, a **reinstatement fee is required.**

C. A license may be reinstated for up to one year following the expiration date with payment of the reinstatement fee. **After one year, the license may not be reinstated under any circumstances and the applicant must meet all current educational and examination requirements and apply as a new applicant.**

D. A licensee may not perform activities defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia with an expired license. **Any real estate activity conducted subsequent to the expiration date may constitute unlicensed activity and be subject to prosecution** under Chapter 1 (§ 54.1-100 et seq.) of Title 54.1 of the Code of Virginia.

H. Maintenance of License

**18 VAC 135-20-170. Maintenance of licenses.**

A. Name and address.

1. **Salespersons and individual brokers shall at all times keep the board informed of their current name and home address.** Changes of name and address must be reported to the board in writing within 30 calendar days of such change. The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board of any change of address. A licensee may use a professional name other than a legal name if that professional name is filed with the board prior to its use. The professional name shall include the licensee's first or last name and shall not include any titles.

2. **Salespersons and brokers shall be issued a license only to the place of business of the sole proprietorship or firm with which the salesperson or broker is active.**

3. **Principal brokers must at all times keep the board informed of their current firm and branch office name and addresses** and changes of name and address must be reported to the board in writing within 30 calendar days of such change. **A physical address is required. A post office box will not be accepted.**

B. Discharge or termination of active status.

1. **When any salesperson or broker is discharged or in any way terminates his active status with a sole proprietorship or firm, it shall be the duty of the sole proprietor or principal broker to return the license to the board so that it is received within 10 calendar days of the date of termination or being notified of the status change.** The sole proprietor or principal broker shall indicate on the license the date of termination, and shall sign the license before returning it.

2. **When any principal broker is discharged or in any way terminates his active status with a firm, it shall be the duty of the firm to notify the board and return the license to the board within three business days of termination or being notified of the status change.** The firm shall indicate on the license the date of termination, and shall sign the license before returning it. See § 54.1-2109 of the Code of Virginia for termination relating to the death or disability of the principal broker.

## I. Exemptions from Licensure

### § 54.1-2103. Exemptions from chapter.

A. The provisions of this chapter shall not apply to:

1. Any person, partnership, association, corporation, entity, or their regular employees, who **as owner or lessor** perform any of the acts enumerated in §§ 54.1-2100 and 54.1-2101 with reference to property owned or leased by them, **where the acts are performed in the regular course of or incident to the management of the property and the investment therein.**

2. Any person acting without compensation **as attorney-in-fact** under a power of attorney issued by a property owner **solely for the purpose of authorizing the final performance required of such owner under a contract for the sale, lease, purchase, or exchange of real estate;**

3. Service rendered by an **attorney-at-law in the performance of his duties** as such;

4. A person acting as a **receiver, trustee in bankruptcy, administrator or executor, or any person selling real estate under order of any court;**

5. A **trustee acting under a trust agreement, deed of trust, or will**, or the regular salaried employees thereof;

6. Any **corporation managing rental housing when the officers, directors, and members in the ownership corporation** and the management corporation are the same and the management corporation manages no other property for other persons, partnerships, associations, or corporations;

7. Any **existing tenant of a residential dwelling unit who refers a prospective tenant to the owner** of the unit or to the owner's duly authorized agent or employee and for the referral receives, or is offered, a referral fee from the owner, agent or employee;

8. Any **auctioneer** licensed in accordance with Chapter 6 (§ 54.1-600 et seq.) of this title selling real estate at public auction when employed for such purpose by the owner of the real estate and provided the bidding at such auction is held open for no longer than forty-eight hours. An auctioneer shall not advertise that he is authorized to sell real estate. An auctioneer may advertise for sale at public auction any real estate when employed to do

so as herein provided, and may advertise that he is authorized to auction real estate at public auction;

9. Any person who is **licensed and is in good standing as a real estate broker or salesperson in another state**, and who assists a prospective purchaser, tenant, optionee, or licensee located in another state to purchase, lease, option, or license an interest in commercial real estate, as defined in § 55-526, in the Commonwealth. **Such real estate licensee from another state may be compensated by a real estate broker in the Commonwealth.** Nothing in this subdivision shall be construed to permit any person not licensed and in good standing as a real estate broker or salesperson in the Commonwealth to otherwise act as a real estate broker or salesperson under this chapter.

B. The provisions of this chapter shall not prohibit the selling of real estate (i) by an attorney-at-law in the performance of his duties as such, (ii) by a receiver, trustee in bankruptcy, administrator or executor, a special commissioner or any person selling real estate under order of court, or (iii) by a trustee acting under the trust agreement, deed of trust or will, or the regular salaried employees thereof.

C. The provisions of this chapter shall not apply to any **salaried person employed by a licensed real estate broker for and on behalf of the owner of any real estate or the improvements thereon which the licensed broker has contracted to manage for the owner if the actions of such salaried employee are limited to (i) exhibiting residential units on such real estate to prospective tenants, if the employee is employed on the premises of such real estate; (ii) providing prospective tenants with factual information about the lease of residential real estate; (iii) accepting applications for lease of such real estate; and (iv) accepting security deposits and rentals for such real estate.** Such deposits and rentals shall be made payable to the owner or the broker employed by such owner. The salaried employee shall not negotiate the amounts of such security deposits or rentals and shall not negotiate any leases on behalf of such owner or broker.

D. A licensee of the Board shall comply with the Board's regulations, notwithstanding the fact that the licensee would be otherwise exempt from licensure under subsection A. Nothing in this subsection shall be construed to require a person to be licensed in accordance with this chapter if he would be otherwise exempt from such licensure.

E. An attorney-at-law referring a client to a licensee shall not be entitled to receive any compensation from a listing firm or offered by a common source information company to cooperating brokers, unless the attorney is also licensed under this chapter as a real estate broker or salesperson.

## J. Cease and Desist

### § 54.1-2105.2. Cease and desist orders for unlicensed activity; civil penalty.

A. Notwithstanding any other provision of law, **the Board may issue an order requiring any person to cease and desist from acting as a real estate broker or salesperson when such person is not licensed by the Board in accordance with this chapter.** The order shall be effective upon its entry and shall become final unless such person files an appeal with the Board in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) within 21 days of the date of entry of the order.



**B. If the person fails to cease and desist the unlicensed activity after entry of an order in accordance with subsection A, the Board may refer the matter for enforcement pursuant to § 54.1-306.**

**C. Any person engaging in unlicensed activity shall be subject to further proceedings before the Board and the Board may impose a civil penalty not to exceed \$1,000 for any real estate transaction or the compensation received from any such real estate transaction, whichever is greater. Any penalties collected under this section shall be paid to the Literary Fund after deduction of the administrative costs of the Board in furtherance of this section.**

**K. Advertising by Licensees**

**18 VAC 135-20-190. Advertising by licensees.**

**A. All advertising must be under the direct supervision of the principal broker or supervising broker, in the name of the firm and, when applicable, comply with the disclosure required by § 54.1-2138.1 of the Code of Virginia. The firm's licensed name must be clearly and legibly displayed on all advertising.**

**B. Electronic media advertising.**

**1. Any electronic media advertising undertaken for the purpose of any licensed activity is subject to the provisions of this chapter.**

**2. All electronic media advertising that can be viewed or experienced as a separate unit (i.e., email messages and web pages) must contain disclosure that shall be viewable on the main page or is no more than one click away from the main page.**

**3. All electronic media listings advertised must be kept current and consistent as follows:**

**a. Electronic media listing information must be consistent with the property description and actual status of the listing. The licensee shall update in a timely manner material changes to the listing status authorized by the seller or property description when the licensee controls the electronic media site.**

**b. The licensee shall make timely written requests for updates reflecting material changes to the listing status or property descriptions when a third party electronic media listing service controls the website displaying the listing information.**

**D. Other advertising.**

**1. For sale and for lease signs placed on the property shall include but not be limited to the firm's name and the firm's primary or branch office telephone number.**

**2. Business cards shall include but not be limited to the licensee's name, the firm name, and contact information.**

**E. The following activities shall be prohibited:**

**1. Implying that property listed by a licensee's firm and advertised by the firm or licensee is for sale, exchange, rent or lease by the owner or by an unlicensed person;**

2. **Failing to include a notice in all advertising that the owner is a real estate licensee if the licensee owns or has any ownership interest in the property advertised;**
3. **Failing to include the firm's licensed name on any sign displayed outside each place of business;**
4. **Failing to obtain the written consent of the seller, landlord, optionor or licensor prior to advertising a specific identifiable property; and**
5. **Failing to identify the type of services offered when advertising by general description a property not listed by the party making the advertisement.**

L. Unworthiness and Incompetence

**18 VAC 135-20-260. Prohibited Acts.**

The following are prohibited acts:

1. Furnishing substantially **inaccurate or incomplete information to the board** in obtaining, renewing, reinstating, or maintaining a license;
2. **Holding more than one license as a real estate broker or salesperson in Virginia** except as provided in this chapter;
3. As a currently licensed real estate salesperson, **sitting for the licensing examination for a salesperson's license;**
4. As a currently licensed real estate **broker, sitting for a real estate licensing examination;**
5. **Signing an experience verification form without direct supervision or actual knowledge** of the applicant's activities as defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia or unreasonably refusing to sign an experience verification form;
6. Having been **convicted or found guilty regardless of the manner of adjudication in any jurisdiction of the United States of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony**, there being no appeal pending therefrom or the time for appeal having elapsed. Review of convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision;
7. **Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty regardless of adjudication of any convictions as stated in subdivision 6 of this section;**
8. **Having had a license as a real estate broker or real estate salesperson that was suspended, revoked, or surrendered** in connection with a disciplinary action or that has been the subject of discipline **in any jurisdiction;**
9. **Failing to inform the board** in writing within 30 days of a disciplinary action as stated in subdivision 8 of this section;
10. **Having been found in a court or an administrative body of competent jurisdiction to have violated the Virginia Fair Housing Act**, the Fair Housing Laws of any jurisdiction of the United States, including without limitation Title VIII of the 35

Civil Rights Act of 1968 (82 Stat. 73), or the Civil Rights Act of 1866 (14 Stat. 27), there being no appeal therefrom or the time for appeal having elapsed;

11. Actions constituting **failing to act as a real estate broker or salesperson in such a manner as to safeguard the interests of the public**, including but not limited to the following:

- a. A principal broker or supervising broker **failing to ensure proper supervision and accountability over the firm's day-to-day financial dealings**, escrow account or accounts, and daily operations;
- b. A broker **failing to disburse funds** from an escrow account according to the regulations or **failing to properly retain documents** relating to the basis for disbursement;
- c. A broker **failing to ensure the licensees for whom the broker has oversight responsibility hold active licenses** while practicing real estate;
- d. A broker **failing to provide accurate and timely reports to the board** about a licensee's compliance with the board's laws and regulations;
- e. A broker **failing to have signatory authority on all accounts**;
- f. A broker **failing to account for or remit any moneys** coming into a licensee's possession that belong to another;
- g. A licensee **failing to submit to the broker in a timely manner, all earnest money deposits, contracts, listing agreements, deeds of lease, or any other documents for which the broker has oversight responsibility**;
- h. A licensee **negotiating leases for a third party through an unlicensed firm** or without a principal broker;
- i. A licensee **operating an unlicensed firm or acting as a principal broker**;
- j. A licensee **practicing real estate with an inactive or expired license**;
- k. A licensee **knowingly providing the broker with an earnest money deposit check from an account with insufficient funds**;
- l. A licensee **allowing unsupervised access to a home without the owner's authorization**;
- m. A licensee **failing to inform the broker of a transaction**; and
- n. A licensee submitting unauthorized altered copies of a contract or contracts to the broker; and

12. Actions constituting **engaging in improper, fraudulent, or dishonest conduct**, including but not limited to the following:

- a. A licensee attempting to **divert commission** from the firm or sole proprietorship and direct payment to a licensee or an unlicensed individual who is not a party to the transaction;
- b. A licensee **fabricating or altering any document** with the intent to mislead;

- c. A licensee **signing any documents on a client's behalf without first obtaining a client's proper written permission** or authorization to sign said documents on his behalf;
- d. A licensee **making an earnest money deposit payable to himself** or negotiating the check without written authority;
- e. A licensee **misrepresenting ownership of a property**;
- f. A licensee **submitting copies of the same earnest money deposit check for inclusion with multiple offers**;
- g. A licensee **entering into agreements to be compensated for real estate services while his license is inactive**;
- h. A licensee **representing in offers he received the earnest money deposit when he has not or he knows the check is worthless**; and
- i. A licensee **misrepresenting who is holding the earnest money deposit**.

M. Improper Dealing

**18 VAC 135-20-290. Improper dealing.**

Actions constituting improper dealing include:

1. **Offering real property for sale or for lease without the knowledge and consent of the owner** or the owner's authorized representative, or on any terms other than those authorized by the owner or the owner's authorized representative;
2. **Placing a sign on any property without the consent of the owner** of the property or the owner's authorized representative; and
3. Causing any **advertisement for sale, rent, or lease to appear in any format or medium without including in the advertisement the name of the firm** or sole proprietorship.

N. Misrepresentation/Omission

**18 VAC 135-20-300. Misrepresentation/omission.**

Actions constituting misrepresentation or omission, or both, include:

1. Using "**bait and switch**" tactics by advertising or offering real property for sale or rent with the intent not to sell or rent at the price or terms advertised, unless the advertisement or offer clearly states that the property advertised is limited in specific quantity or for a specified time period and the licensee did in fact have at least that quantity for sale or rent at that price or terms at the time of advertising;
2. **Failure by a licensee representing a seller or landlord as a standard agent to disclose in a timely manner to a prospective purchaser or tenant all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee**;

3. **Failing as a licensee to tender promptly to the buyer and seller every written offer**, every written counteroffer, and every written rejection to purchase, option or lease obtained on the property involved;
4. **Failure by a licensee acting as an agent to disclose in a timely manner to the licensee's client all material facts related to the property** or concerning the transaction when the failure to so disclose would constitute failure by the licensee to exercise ordinary care as defined in the brokerage agreement;
5. Notwithstanding the provisions of subdivision 4 of this section, **a licensee acting as a dual representative shall not disclose to one client represented in the dual representation confidential information relating to the transaction obtained during the representation of another client in the same dual representation** unless otherwise provided by law;
6. **Failing to include the complete terms and conditions of the real estate transaction**, including but not limited to any lease, property management agreement or offer to purchase;
7. **Failing to include** in any application, lease, or offer to purchase **identification of all those holding any deposits**;
8. Knowingly making any **false statement or report**, or willfully misstating the value of any land, property, or security **for the purpose of influencing in any way the action of any lender** upon:
  - a. **Applications, advance discounts, purchase agreements, repurchase agreements, commitments or loans**;
  - b. **Changes in terms or extensions of time** for any of the items listed in this subdivision 8 whether by renewal, deferment of action, or other means **without the prior written consent of the principals to the transaction**;
  - c. **Acceptance, release, or substitution of security** for any of the items listed in subdivision 8 a of this section **without the prior written consent of the principals to the transaction**;
9. **Knowingly making any material misrepresentation**; and
10. **Making a false promise** through agents, salespersons, advertising, or other means.

O. Delivery of Instruments

**18 VAC 135-20-310. Improper delivery of instruments.**

Actions constituting improper delivery of instruments include:

1. **Failing to make prompt delivery to each principal to a transaction, complete and legible copies of any written disclosures** required by §§ 54.1-2138, 54.1-2139, 54.1-2139.01, and 54.1-2139.1 of the Code of Virginia, listings, lease, offers to purchase, counteroffers, addenda and ratified agreements, and other documentation required by the agreement;
2. **Failing to provide** in a timely manner to all principals to the transaction **written notice of any material changes to the transaction**;

**3. Failing to deliver to the seller and buyer, at the time a real estate transaction is completed, a complete and accurate statement of receipts and disbursements of moneys received by the licensee,** duly signed and certified by the principal or supervising broker or his authorized agent; provided, **however, if the transaction is closed by a settlement agent other than the licensee or his broker, and if the disbursement of moneys received by the licensee is disclosed on the applicable settlement statement,** the licensee shall not be required to provide the separate statement of receipts and disbursements; and

**4. Refusing or failing without just cause to surrender to the rightful owner, upon demand, any document or instrument which the licensee possesses.**

P. The Virginia Transaction Recovery Fund

**§ 54.1-2113. Establishment and maintenance of fund, duty of Director, assessments of regulants.**

**A. Each initial regulant at the time of licensure shall be assessed \$20,** which shall be specifically assigned to the fund. Initial payments may be incorporated in any application fee payment and transferred to the fund by the Director within 30 days.

**B. All assessments, except initial assessments, for the fund shall be deposited, within three work days after their receipt by the Director,** in one or more federally insured banks, savings and loan associations or savings banks located in the Commonwealth. Funds deposited in banks, savings and loan associations or savings banks, to the extent in excess of insurance afforded by the Federal Deposit Insurance Corporation or other federal insurance agency, shall be secured under 64 the Security for Public Deposits Act (§ 2.2-4400 et seq.). The deposit of these funds in federally insured banks, savings institutions or savings banks located in the Commonwealth shall not be considered investment of such funds for purposes of this section. Funds maintained by the Director may be invested in securities that are legal investments for fiduciaries under the provisions of § 64.2-1502. The Director shall maintain in his office an accurate record of all transactions involving the fund, which records shall be open for inspection and copying by the public during the normal business hours of the Director.

**C. The minimum balance of the fund shall be \$400,000.** Whenever the Director determines that the balance of the fund is or will be less than such minimum balance, the Director shall immediately inform the Board. At the same time, the Director may recommend that the Board transfer a fixed amount of interest earnings to the fund to bring the balance of the fund to the amount required by this subsection. Such transfer of interest shall be considered by the Board within 30 days of the notification of the Director.

**D. If available interest earnings are insufficient to bring the balance of the fund to the minimum amount required by this section, or if a transfer of available interest earnings to the fund has not occurred, the Board shall assess each regulant within 30 days of notification by the Director, a sum sufficient to bring the balance of the fund to the required minimum amount.** The Board may order an assessment of regulants at any time in addition to any required assessment. **No regulant shall be assessed a total amount of more than \$20 during any biennial license period** or part thereof, the biennial period expiring on June 30 of each even-numbered year. Assessments of regulants made pursuant to this subsection may be issued by the Board (i) after a determination made by it or (ii) at the time of license renewal.

**§ 54.1-2114. Recovery from fund generally.**

A. The **claimant shall not himself be** (i) a **regulant**, (ii) the **personal representative** of a regulant, (iii) the **spouse or child** of the regulant against whom the judgment was awarded or the personal representative of such spouse or child, or (iv) a **lending or financial institution** or any person whose business involves the construction or development of real property.

B. **Whenever any person is awarded a final judgment in any court of competent jurisdiction** in the Commonwealth of Virginia **against any individual or entity for improper or dishonest conduct** as defined in the act, and the improper or dishonest conduct occurred during a period when the **individual or entity was a regulant and occurred in connection with a transaction involving the sale, lease, or management of real property by the regulant** acting in the capacity of a real estate broker or real estate salesperson and not in the capacity of a principal, or on his own account, the person to whom such judgment was awarded may file a verified claim with the Director for a directive ordering payment from the fund of the amount unpaid upon the judgment, subject to the following conditions:

1. If any action is instituted against a regulant by any person, such **person shall serve a copy of the complaint upon the Board** by certified mail or the equivalent.
2. **A copy of any pleading or document filed subsequent to the initial service of process in the action against a regulant shall be provided to the Board.** The claimant shall submit such copies to the Board by certified mail, or the equivalent, upon his receipt of the pleading or document.
3. **A verified claim shall be filed with the Director no later than 12 months** after the date of entry of the final judgment from which no further right of appeal exists.
4. Prior to submitting a verified claim, the claimant shall:
  - a. **Conduct or make a reasonable attempt to conduct debtor's interrogatories to determine whether the judgment debtor has any assets**, including any listings held by the regulant and any commissions due thereby; and
  - b. **Take all legally available actions for the sale or application of any assets disclosed in the debtor's interrogatories.**
5. **If the judgment debtor has filed bankruptcy, the claimant shall file a claim with the proper bankruptcy court.** If no distribution is made, or the distribution ordered fails to satisfy the claim, the claimant may then file a claim with the Board. The verified claim shall be received by the Board within 12 months of the date of bankruptcy discharge or dismissal. In the event the judgment is silent as to the conduct of the regulant, the Board shall determine (i) whether the conduct of the regulant that gave rise to the claim was improper or dishonest as defined in § 54.1- 2112 and (ii) what amount, if any, such claimant is entitled to recover from the Fund.

C. The Department shall promptly consider the verified claim. **If it appears that a prima facie case has been made for payment of the claim, the Department shall provide the regulant with a notice offering the opportunity to be heard at an informal fact-finding conference** pursuant to § 2.2-4019 of the Administrative Process Act (§ 2.2-4000 et seq.). Such notice shall state that if the regulant does not request an informal fact-finding conference within 30 days, with three days added in instances where the notice is sent by mail, the Department shall present the claim to the Board with a recommendation to pay the verified claim.

**D. A claimant shall not be denied recovery from the Fund due to the fact that the order for judgment filed with the verified claim does not contain a specific finding of improper or dishonest conduct.** Any language in the order that supports the conclusion that the court found that the conduct of the regulant meets the definition of improper or dishonest conduct in § 54.1-2112 shall be used by the Board to determine eligibility for recovery from the Fund. To the extent the judgment order is silent as to the court's findings on the conduct of the regulant, the Board may determine whether the conduct of the regulant meets the definition of improper or dishonest conduct by substantial evidence in the verified claim.

**E. If the Board finds that there has been compliance with the statutory conditions to which reference is made in this section, the Board shall issue a directive ordering payment to the claimant from the fund the amount unpaid on the judgment,** subject to the limitations set forth in § 54.1-2116. The claimant shall be notified in writing of the findings of the Board. The Board's findings shall be considered a "case decision" and judicial review of these findings shall be in accordance with § 2.2-4025 of the Administrative Process Act (§ 2.2-4000 et seq.). Notwithstanding any other provision of law, the Board shall have the right to appeal a decision of any court which is contrary to any distribution recommended or authorized by it.



## § 55-248.15:1. Security deposits

A. A landlord may not demand or receive a security deposit, however denominated, in an amount or value in excess of two months' periodic rent. Upon termination of the tenancy, such security deposit, whether it is property or money held by the landlord as security as hereinafter provided may be applied solely by the landlord (i) to the payment of accrued rent and including the reasonable charges for late payment of rent specified in the rental agreement; (ii) to the payment of the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with § 55-248.16, less reasonable wear and tear; or (iii) to other damages or charges as provided in the rental agreement. The security deposit and any deductions, damages and charges shall be itemized by the landlord in a written notice given to the tenant, together with any amount due the tenant within 45 days after termination of the tenancy and delivery of possession.

Where there is more than one tenant subject to a rental agreement, unless otherwise agreed to in writing by each of the tenants, disposition of the security deposit shall be made with one check being payable to all such tenants and sent to a forwarding address provided by one of the tenants. The landlord shall make the security deposit disposition within the 45-day time period, but if no forwarding address is provided to the landlord, the landlord may continue to hold such security deposit in escrow. If a tenant fails to provide a forwarding address to the landlord to enable the landlord to make a refund of the security deposit, upon the expiration of one year from the date of the end of the 45-day time period, the landlord may remit such sum to the State Treasurer as unclaimed property on a form prescribed by the administrator that includes the name, social security number, if known, and the last known address of each tenant on the rental agreement. If the landlord or managing agent is a real estate licensee, compliance with this paragraph shall be deemed compliance with § 54.1-2108 and corresponding regulations of the Real Estate Board.

Nothing in this section shall be construed by a court of law or otherwise as entitling the tenant, upon the termination of the tenancy, to an immediate credit against the tenant's delinquent rent account in the amount of the security deposit. The landlord shall apply the security deposit in accordance with this section within the 45-day time period. However, provided the landlord has given prior written notice in accordance with this section, the landlord may withhold a reasonable portion of the security deposit to cover an amount of the balance due on the water, sewer, or other utility account that is an obligation of the tenant to a third-party provider under the rental agreement for the dwelling unit, and upon payment of such obligations the landlord shall provide written confirmation to the tenant within 10 days thereafter, along with payment to the tenant of any balance otherwise due to the tenant. In order to withhold such funds as part of the disposition of the security deposit, the landlord shall have so advised the tenant of his rights and obligations under this section in (a) a termination notice to the tenant in accordance with this chapter, (b) a vacating notice to the tenant in accordance with this section, or (c) a separate written notice to the tenant at least 15 days prior to the disposition of the security deposit. Any written notice to the tenant shall be given in accordance with § 55-248.6.

The tenant may provide the landlord with written confirmation of the payment of the final water,

sewer, or other utility bill for the dwelling unit, in which case the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period, or if the tenant provides such written confirmation after the expiration of the 45-day period, the landlord shall refund any remaining balance of the security deposit held to the tenant within 10 days following the receipt of such written confirmation provided by the tenant. If the landlord otherwise receives confirmation of payment of the final water, sewer, or other utility bill for the dwelling unit, the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period.

Nothing in this section shall be construed to prohibit the landlord from making the disposition of the security deposit prior to the 45-day period and charging an administrative fee to the tenant for such expedited processing, if the rental agreement so provides and the tenant requests expedited processing in a separate written document.

The landlord shall notify the tenant in writing of any deductions provided by this subsection to be made from the tenant's security deposit during the course of the tenancy. Such notification shall be made within 30 days of the date of the determination of the deduction and shall itemize the reasons in the same manner as provided in subsection B. Such notification shall not be required for deductions made less than 30 days prior to the termination of the rental agreement. If the landlord willfully fails to comply with this section, the court shall order the return of the security deposit to the tenant, together with actual damages and reasonable attorney fees, unless the tenant owes rent to the landlord, in which case, the court shall order an amount equal to the security deposit credited against the rent due to the landlord. In the event that damages to the premises exceed the amount of the security deposit and require the services of a third party contractor, the landlord shall give written notice to the tenant advising him of that fact within the 45-day period. If notice is given as prescribed in this paragraph, the landlord shall have an additional 15-day period to provide an itemization of the damages and the cost of repair. This section shall not preclude the landlord or tenant from recovering other damages to which he may be entitled under this chapter. The holder of the landlord's interest in the premises at the time of the termination of the tenancy, regardless of how the interest is acquired or transferred, is bound by this section and shall be required to return any security deposit received by the original landlord that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's interest by law or equity, regardless of any contractual agreements between the original landlord and his successors in interest.

B. The landlord shall:

1. Maintain and itemize records for each tenant of all deductions from security deposits provided for under this section which the landlord has made by reason of a tenant's noncompliance with § 55-248.16 during the preceding two years; and
2. Permit a tenant or his authorized agent or attorney to inspect such tenant's records of deductions at any time during normal business hours.

C. Upon request by the landlord to a tenant to vacate, or within five days after receipt of notice by the landlord of the tenant's intent to vacate, the landlord shall provide written notice to the tenant of the tenant's right to be present at the landlord's inspection of the dwelling unit for the purpose of determining the amount of security deposit to be returned. If the tenant desires to be present when the landlord makes the inspection, he shall so advise the landlord in writing who, in turn, shall notify the tenant of the time and date of the inspection, which must be made within

72 hours of delivery of possession. Following the move-out inspection, the landlord shall provide the tenant with a written security deposit disposition statement, including an itemized list of damages. If additional damages are discovered by the landlord after the security deposit disposition has been made, nothing herein shall be construed to preclude the landlord from recovery of such damages against the tenant, provided, however, that the tenant may present into evidence a copy of the move-out report to support the tenant's position that such additional damages did not exist at the time of the move-out inspection.

D. If the tenant has any assignee or sublessee, the landlord shall be entitled to hold a security deposit from only one party in compliance with the provisions of this section.

2000, cc. 760, 761;2001, c. 524;2003, c. 438;2007, c. 634;2010, c. 550;2013, c. 563;2014, c. 651; 2015, c. 596;2017, c. 730.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

## § 55-248.21. Noncompliance by landlord

Except as provided in this chapter, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with any provision of this chapter, materially affecting health and safety, the tenant may serve a written notice on the landlord specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if such breach is not remedied in 21 days.

If the landlord commits a breach which is not remediable, the tenant may serve a written notice on the landlord specifying the acts and omissions constituting the breach, and stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice.

If the landlord has been served with a prior written notice which required the landlord to remedy a breach, and the landlord remedied such breach, where the landlord intentionally commits a subsequent breach of a like nature as the prior breach, the tenant may serve a written notice on the landlord specifying the acts and omissions constituting the subsequent breach, make reference to the prior breach of a like nature, and state that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice.

If the breach is remediable by repairs and the landlord adequately remedies the breach prior to the date specified in the notice, the rental agreement will not terminate. The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of his family or other person on the premises with his consent whether known by the tenant or not. In addition, the tenant may recover damages and obtain injunctive relief for noncompliance by the landlord with the provisions of the rental agreement or of this chapter. The tenant shall be entitled to recover reasonable attorneys' fees unless the landlord proves by a preponderance of the evidence that the landlord's actions were reasonable under the circumstances. If the rental agreement is terminated due to the landlord's noncompliance, the landlord shall return the security deposit in accordance with § 55-248.15:1.

1974, c. 680; 1982, c. 260; 1987, c. 387; 2000, c. 760; 2003, c. 363.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

## § 55-248.31. Noncompliance with rental agreement; monetary penalty

A. Except as provided in this chapter, if there is a material noncompliance by the tenant with the rental agreement or a violation of § 55-248.16 materially affecting health and safety, the landlord may serve a written notice on the tenant specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if the breach is not remedied in 21 days, and that the rental agreement shall terminate as provided in the notice.

B. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach prior to the date specified in the notice, the rental agreement shall not terminate.

C. If the tenant commits a breach which is not remediable, the landlord may serve a written notice on the tenant specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice. Notwithstanding anything to the contrary contained elsewhere in this chapter, when a breach of the tenant's obligations under this chapter or the rental agreement involves or constitutes a criminal or a willful act, which is not remediable and which poses a threat to health or safety, the landlord may terminate the rental agreement immediately and proceed to obtain possession of the premises. For purposes of this subsection, any illegal drug activity involving a controlled substance, as used or defined by the Drug Control Act (§ 54.1-3400 et seq.), or any activity that involves or constitutes a criminal or willful act that also poses a threat to health and safety, by the tenant, the tenant's authorized occupants, or the tenant's guests or invitees shall constitute an immediate nonremediable violation for which the landlord may proceed to terminate the tenancy without the necessity of waiting for a conviction of any criminal offense that may arise out of the same actions. In order to obtain an order of possession from a court of competent jurisdiction terminating the tenancy for illegal drug activity or for any other activity that involves or constitutes a criminal or willful act that also poses a threat to health and safety, the landlord shall prove any such violations by a preponderance of the evidence. However, where the illegal drug activity or any activity that involves or constitutes a criminal or willful act that also poses a threat to health and safety is engaged in by a tenant's authorized occupants, or guests or invitees, the tenant shall be presumed to have knowledge of such activities unless the presumption is rebutted by a preponderance of the evidence. The initial hearing on the landlord's action for immediate possession of the premises shall be held within 15 calendar days from the date of service on the tenant; however, the court shall order an earlier hearing when emergency conditions are alleged to exist upon the premises which constitute an immediate threat to the health or safety of the other tenants. After the initial hearing, if the matter is scheduled for a subsequent hearing or for a contested trial, the court, to the extent practicable, shall order that the matter be given priority on the court's docket. Such subsequent hearing or contested trial shall be heard no later than 30 calendar days from the date of service on the tenant. During the interim period between the date of the initial hearing and the date of any subsequent hearing or contested trial, the court may afford any further remedy or relief as is necessary to protect the

interests of parties to the proceeding or the interests of any other tenant residing on the premises. Failure by the court to hold either of the hearings within the time limits set out herein shall not be a basis for dismissal of the case.

D. If the tenant is a victim of family abuse as defined in § 16.1-228 that occurred in the dwelling unit or on the premises and the perpetrator is barred from the dwelling unit pursuant to § 55-248.31:01 based upon information provided by the tenant to the landlord, or by a protective order from a court of competent jurisdiction pursuant to § 16.1-253.1, 16.1-279.1, or subsection B of § 20-103, the lease shall not terminate due solely to an act of family abuse against the tenant. However, these provisions shall not be applicable if (i) the tenant fails to provide written documentation corroborating the tenant's status as a victim of family abuse and the exclusion from the dwelling unit of the perpetrator no later than 21 days from the alleged offense or (ii) the perpetrator returns to the dwelling unit or the premises, in violation of a bar notice, and the tenant fails promptly to notify the landlord within 24 hours thereafter that the perpetrator has returned to the dwelling unit or the premises, unless the tenant proves by a preponderance of the evidence that the tenant had no actual knowledge that the perpetrator violated the bar notice, or it was not possible for the tenant to notify the landlord within 24 hours, in which case the tenant shall promptly notify the landlord, but in no event more than 7 days thereafter. If the provisions of this subsection are not applicable, the tenant shall remain responsible for the acts of the other co-tenants, authorized occupants or guests or invitees pursuant to § 55-248.16, and is subject to termination of the tenancy pursuant to the lease and this chapter.

E. If the tenant has been served with a prior written notice which required the tenant to remedy a breach, and the tenant remedied such breach, where the tenant intentionally commits a subsequent breach of a like nature as the prior breach, the landlord may serve a written notice on the tenant specifying the acts and omissions constituting the subsequent breach, make reference to the prior breach of a like nature, and state that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice.

F. If rent is unpaid when due, and the tenant fails to pay rent within five days after written notice is served on him notifying the tenant of his nonpayment, and of the landlord's intention to terminate the rental agreement if the rent is not paid within the five-day period, the landlord may terminate the rental agreement and proceed to obtain possession of the premises as provided in § 55-248.35. If a check for rent is delivered to the landlord drawn on an account with insufficient funds, or if an electronic funds transfer has been rejected because of insufficient funds or a stop-payment order has been placed in bad faith by the authorizing party, and the tenant fails to pay rent within five days after written notice is served on him notifying the tenant of his nonpayment and of the landlord's intention to terminate the rental agreement if the rent is not paid by cash, cashier's check, certified check, or a completed electronic funds transfer within the five-day period, the landlord may terminate the rental agreement and proceed to obtain possession of the premises as provided in § 55-248.35. Nothing shall be construed to prevent a landlord from seeking an award of costs or attorney fees under § 8.01-27.1 or civil recovery under § 8.01-27.2, as a part of other damages requested on the unlawful detainer filed pursuant to § 8.01-126, provided the landlord has given notice in accordance with § 55-248.6, which notice may be included in the five-day termination notice provided in accordance with this section.

G. Except as provided in this chapter, the landlord may recover damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or § 55-248.16. In the event of a breach of the rental agreement or noncompliance by the tenant, the landlord shall be

entitled to recover from the tenant the following, regardless of whether or not a lawsuit is filed or an order obtained from a court: (i) rent due and owing as contracted for in the rental agreement, (ii) other charges and fees as contracted for in the rental agreement, (iii) late charges contracted for in the rental agreement, (iv) reasonable attorney fees as contracted for in the rental agreement or as provided by law, (v) costs of the proceeding as contracted for in the rental agreement or as provided by law only if court action has been filed, and (vi) damages to the dwelling unit or premises as contracted for in the rental agreement.

H. In a case where a lawsuit is pending before the court upon a breach of the rental agreement or noncompliance by the tenant and the landlord prevails, the court shall award a money judgment to the landlord and against the tenant for the relief requested, which may include the following: (i) rent due and owing as of the court date as contracted for in the rental agreement; (ii) other charges and fees as contracted for in the rental agreement; (iii) late charges contracted for in the rental agreement; (iv) reasonable attorney fees as contracted for in the rental agreement or as provided by law, unless in any such action the tenant proves by a preponderance of the evidence that the tenant's failure to pay rent or vacate was reasonable; (v) costs of the proceeding as contracted for in the rental agreement or as provided by law; and (vi) damages to the dwelling unit or premises.

1974, c. 680; 1978, c. 378; 1980, c. 502; 1982, c. 260; 1984, c. 78; 1987, c. 387; 1988, c. 62; 1989, c. 301; 1995, c. 580; 2000, c. 760; 2003, c. 363; 2004, c. 232; 2005, cc. 808, 883; 2006, cc. 628, 717; 2007, c. 273; 2008, c. 489; 2013, c. 563; 2014, c. 813; 2017, c. 730.

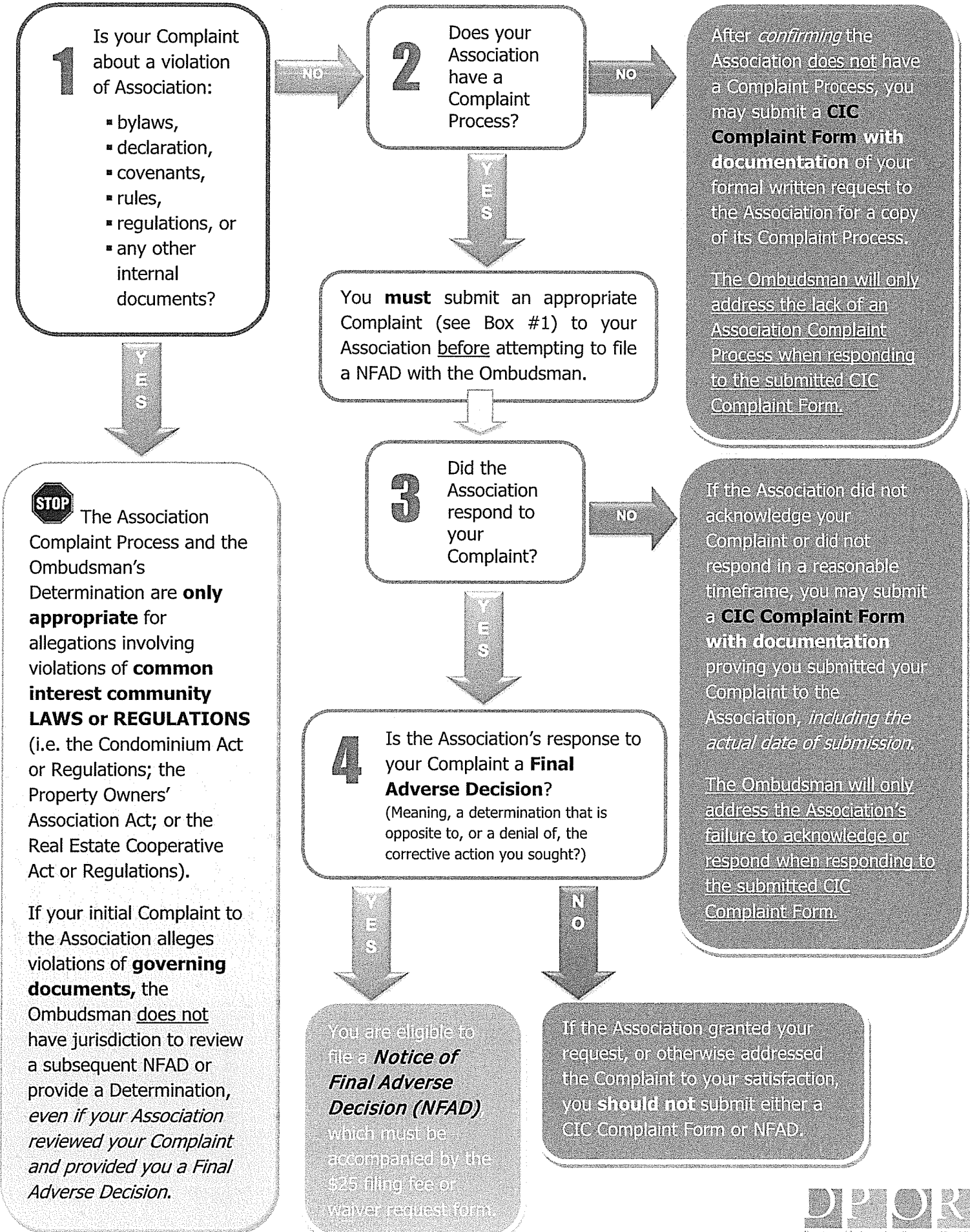
The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

# Occupancy Limitations Applied to Bedrooms:

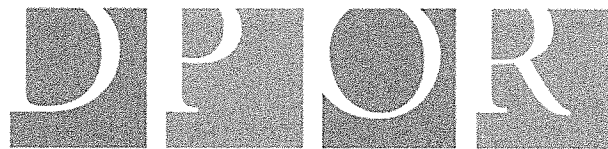
<b>Bedroom Size (Sq. Feet)</b>	<b>Maximum Number of Occupants per Room *</b>
<b>70</b>	<b>1</b>
<b>100</b>	<b>2</b>
<b>150</b>	<b>3</b>
<b>200</b>	<b>4</b>

*\*Number of Occupants includes Adults & Children*





Commonwealth of Virginia  
Department of Professional and Occupational Regulation  
Post Office Box 29570  
Richmond, Virginia 23242-0570  
(804) 367-8510  
[cic@dpor.virginia.gov](mailto:cic@dpor.virginia.gov)  
[www.dpor.virginia.gov](http://www.dpor.virginia.gov)



Department of Professional and Occupational Regulation

**Common Interest Community Board**

**VIRGINIA PROPERTY OWNERS' ASSOCIATION DISCLOSURE PACKET NOTICE**

The lot being purchased is in a development subject to the Virginia Property Owners' Association Act. Properties subject to the Act are considered "common interest communities" under the law. Upon accepting title to a lot within a common interest community, the purchaser's membership in the property owners' association (association) is mandatory and automatic.

Ownership in a common interest community carries with it certain benefits, rights, and responsibilities. Benefits may include the right to use common areas, which may include swimming pools, parks, playgrounds and other recreational facilities. Owners have rights to participate in governance of the community through the association. Owners have the responsibility, among other things, to comply with the restrictive covenants and rules that outline what owners may and may not be permitted to do on their lots. In order to finance the operation of the association, each owner is responsible for and obligated to pay periodic assessments, and if necessary, special assessments to ensure that the association's financial requirements are met.

Use of common areas, financial obligations of owners and other rights, responsibilities and benefits associated with ownership in a common interest community are subject to the provisions of governing documents that typically include a declaration, articles of incorporation, bylaws and rules and regulations. The governing documents may contain covenants that control what an owner may or may not do on the lots and common area. Some decisions are made by the association board of directors, while other decisions are reserved to a vote of association members.

Failure to comply with the governing documents may result in monetary penalties, suspension of certain privileges and legal action taken against the lot owner. Failure to pay assessments and/or mandatory fees may result in the association filing a lien and/or lawsuit against the lot owner, foreclosing the lien, and other actions permitted by the governing documents and the Property Owners' Association Act.

Governing documents and other information contained in the disclosure packet describe the basis for living in a common interest community. These documents and information are important and should be reviewed carefully prior to purchase. Pursuant to § 55-509.4 of the Code of Virginia:

- The contract to purchase a lot shall disclose that the lot is located in a common interest community governed by an association.
- The contract to purchase a lot in a common interest community governed by an association is a legally binding document.
- The purchaser may request an update of the disclosure packet.
- The purchaser may have the right to cancel the contract after receiving the disclosure packet or an update of the disclosure packet.

The Association Disclosure Packet must include the following:

- Association name, and if incorporated, the state of incorporation and the name and address of its registered agent in Virginia;
- A statement of any expenditures of funds approved by the association or the board of directors that shall require an assessment in addition to the regular assessment during the current year or the immediately succeeding fiscal year;
- A statement, including the amount of all assessments and any other mandatory fees or charges currently imposed by the association, together with any post-closing fee charged by the common interest community manager, if any, and associated with the purchase, disposition, and maintenance of the lot and to the right of use of common areas, and the status of the account
- A statement of whether there is any other entity or facility to which the lot owner may be liable for fees or charges;
- The current reserve study report or summary thereof, a statement of the status and amount of any reserve or replacement fund, and any portion of the fund allocated by the board of directors for a specified project;
- A copy of the association's current budget or a summary thereof prepared by the association, and a copy of its statement of income and expenses or statement of its financial position (balance sheet) for the last fiscal year for which such statement is available, including a statement of the balance due of any outstanding loans of the association;
- A statement of the nature and status of any pending suit or unpaid judgment to which the association is a party and that either could or would have a material impact on the association or its members or that relates to the lot being purchased;
- A statement setting forth what insurance coverage provided is for all lot owners by the association, including the fidelity bond maintained by the association, and what additional insurance would normally be secured by each individual lot owner;
- A statement that any improvement or alteration made to the lot, or uses made of the lot or common area assigned thereto, are or are not in violation of any of the declaration, bylaws, rules and regulations, architectural guidelines and articles of incorporation, if any, of the association;
- A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to place a sign on the owner's lot advertising the lot for sale;
- A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to display any flag on the owner's lot, including but not limited to reasonable restrictions as to the size, place, and manner of placement or display of such flag and the installation of any flagpole or similar structure necessary to display such flag;
- A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to install or use solar energy collection devices on the owner's property;
- A statement indicating any known project approvals currently in effect by secondary mortgage market agencies;
- Certification that the association has filed with the Common Interest Community Board the annual report required by §55-516.1 which certification shall indicate the filing number assigned by the Common Interest Community Board, and the expiration date of such filing;
- The current declaration, the association's articles of incorporation and bylaws, and any rules and regulations or architectural guidelines adopted by the association;
- The notice given to the lot owner by the association of any current or pending rule or architectural violation;
- Any approved minutes of the board of directors and association meetings for the six calendar months preceding the request for the disclosure packet; and
- The association complaint procedure required by 18 VAC 48-70-60 and pursuant to 18 VAC 48-70-40 and 18 VAC 48-70-50.

## MAXIMUM ALLOWABLE FEES

### POA Disclosure Packets & Condominium Association Resale Certificates

Virginia law caps the amount owners can be charged for information they must provide to potential purchasers about the home, common areas, and community association.

The Property Owners' Association Act calls the legally required information a **disclosure packet**, whereas the Condominium Act refers to similar content as a **resale certificate**. Because pulling together the materials involves time, effort, and resources, the law allows the preparer to assess **reasonable charges**, but sets a maximum amount for such fees.

**\*NOTE:** For Property Owners' Associations (POAs), the law distinguishes between communities that are professionally managed and those run by volunteer member-owners. *(The law does not make a similar distinction based on how condominiums are managed.)*

**Non-professionally managed POAs** are not subject to the CPI-adjusted fees, but rather are governed by § 55-509.7, which currently caps the fee for initial preparation of the disclosure packet at **\$100**, and limits charges for financial updates or inspections at **\$50**.

To account for inflation, the law automatically adjusts the maximum fees applicable to condominiums and professionally-managed POAs\* every five years, based on the U.S. Average Consumer Price Index (CPI). The General Assembly established the initial cap amounts in 2008 (displayed as stricken through), and directed the Common Interest Community Board to calculate the **first five-year adjustment (displayed in bold)**, effective January 1, 2013. The next mandatory CPI adjustment will occur in 2018.

**Preparers** of CONDOMINIUM RESALE CERTIFICATES or DISCLOSURE PACKETS FOR PROFESSIONALLY-MANAGED POAs\* are allowed to **charge no more than the following maximum fees** for *only* the following tasks:

- **\$109.31** ~~\$100~~ for **inspection** of the lot/unit *as necessary and authorized to prepare* the packet/certificate
- **\$163.97** ~~\$150~~ for **preparation and delivery** of the packet/certificate in **paper form** OR **\$136.64 total** ~~\$125~~ in **electronic form**
- **\$54.66** ~~\$50~~ for an additional fee to **expedite** the inspection, preparation, and delivery of the packet/certificate—but only if the preparer agrees to do so (*optional* at request of seller/agent)
- **\$27.33** ~~\$25~~ for an **additional copy** of the packet/certificate (*optional* at request of seller/agent)
- **Actual cost** for third-party commercial delivery service to **hand-deliver** or **overnight** the packet/certificate (*optional* at request of seller/agent)
- **\$54.66** ~~\$50~~ **post-closing fee** charged to the purchaser (*collected at settlement*) to update ownership records of the association
- **\$54.66** ~~\$50~~ for pre-settlement **updates** to the packet/certificate (*collected at settlement*)
- **\$109.31** ~~\$100~~ for **additional inspection** of the lot/unit *if authorized* by the association declaration (*optional* at request of purchaser/agent)

## § 55-79.97. Resale by purchaser; resale certificate; use of for sale sign in connection with resale; designation of authorized representative

A. In the event of any resale of a condominium unit by a unit owner other than the declarant, and subject to the provisions of subsection F and § 55-79.87 A, the unit owner shall disclose in the contract that (i) the unit is located within a development which is subject to the Condominium Act, (ii) the Act requires the seller to obtain from the unit owners' association a resale certificate and provide it to the purchaser, (iii) the purchaser may cancel the contract within three days after receiving the resale certificate or being notified that the resale certificate will not be available, (iv) if the purchaser has received the resale certificate, the purchaser has a right to request a resale certificate update or financial update in accordance with § 55-79.97:1, as appropriate, and (v) the right to receive the resale certificate and the right to cancel the contract are waived conclusively if not exercised before settlement.

For purposes of clause (iii), the resale certificate shall be deemed not to be available if (a) a current annual report has not been filed by the unit owners' association with either the State Corporation Commission pursuant to § 13.1-936 or the Common Interest Community Board pursuant to § 55-79.93:1, (b) the seller has made a written request to the unit owners' association that the resale certificate be provided and no such resale certificate has been received within 14 days in accordance with subsection C, or (c) written notice has been provided by the unit owners' association that a resale certificate is not available.

B. If the contract does not contain the disclosure required by subsection A, the purchaser's sole remedy is to cancel the contract prior to settlement.

C. The information contained in the resale certificate shall be current as of a date specified on the resale certificate. A resale certificate update or a financial update may be requested as provided in § 55-79.97:1, as appropriate. The purchaser may cancel the contract (i) within three days after the date of the contract, if the purchaser receives the resale certificate or is notified that the resale certificate will not be available on or before the date that the purchaser signs the contract; (ii) within three days after receiving the resale certificate if the resale certificate or notice that the resale certificate will not be available is hand delivered, delivered by electronic means, or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained; or (iii) within six days after the postmark date if the resale certificate or notice that the resale certificate will not be available is sent to the purchaser by United States mail. The purchaser may also cancel the contract at any time prior to settlement if the purchaser has not been notified that the resale certificate will not be available and the resale certificate is not delivered to the purchaser.

Notice of cancellation shall be provided to the unit owner or his agent by one of the following methods:

a. Hand delivery;

b. United States mail, postage prepaid, provided the sender retains sufficient proof of mailing,

which may be either a United States postal certificate of mailing or a certificate of service prepared by the sender confirming such mailing;

c. Electronic means provided the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery; or

d. Overnight delivery using a commercial service or the United States Postal Service.

In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of cancellation. Such cancellation shall be without penalty, and the unit owner shall cause any deposit to be returned promptly to the purchaser.

A resale certificate shall include the following:

1. An appropriate statement pursuant to subsection H of § 55-79.84 which need not be notarized and, if applicable, an appropriate statement pursuant to § 55-79.85;
2. A statement of any expenditure of funds approved by the unit owners' association or the executive organ which shall require an assessment in addition to the regular assessment during the current or the immediately succeeding fiscal year;
3. A statement, including the amount, of all assessments and any other fees or charges currently imposed by the unit owners' association, together with any known post-closing fee charged by the common interest community manager, if any, and associated with the purchase, disposition and maintenance of the condominium unit and the use of the common elements, and the status of the account;
4. A statement whether there is any other entity or facility to which the unit owner may be liable for fees or other charges;
5. The current reserve study report or a summary thereof, a statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the executive organ;
6. A copy of the unit owners' association's current budget or a summary thereof prepared by the unit owners' association and a copy of the statement of its financial position (balance sheet) for the last fiscal year for which a statement is available, including a statement of the balance due of any outstanding loans of the unit owners' association;
7. A statement of the nature and status of any pending suits or unpaid judgments to which the unit owners' association is a party which either could or would have a material impact on the unit owners' association or the unit owners or which relates to the unit being purchased;
8. A statement setting forth what insurance coverage is provided for all unit owners by the unit owners' association, including the fidelity bond maintained by the unit owners' association, and what additional insurance coverage would normally be secured by each individual unit owner;
9. A statement that any improvements or alterations made to the unit, or the limited common elements assigned thereto, are or are not in violation of the condominium instruments;
10. A copy of the current bylaws, rules and regulations and architectural guidelines adopted by the unit owners' association and the amendments thereto;

11. A statement of whether the condominium or any portion thereof is located within a development subject to the Property Owners' Association Act (§ 55-508 et seq.) of Chapter 26 of this title;
12. A copy of the notice given to the unit owner by the unit owners' association of any current or pending rule or architectural violation;
13. A copy of any approved minutes of the executive organ and unit owners' association meetings for the six calendar months preceding the request for the resale certificate;
14. Certification that the unit owners' association has filed with the Common Interest Community Board the annual report required by § 55-79.93:1; which certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing;
15. A statement of any limitation on the number of persons who may occupy a unit as a dwelling;
16. A statement setting forth any restrictions, limitation or prohibition on the right of a unit owner to display the flag of the United States, including, but not limited to reasonable restrictions as to the size, time, place, and manner of placement or display of such flag;
17. A statement setting forth any restriction, limitation, or prohibition on the right of a unit owner to install or use solar energy collection devices on the unit owner's property; and
18. A statement indicating any known project approvals currently in effect issued by secondary mortgage market agencies.

Failure to receive a resale certificate shall not excuse any failure to comply with the provisions of the condominium instruments, articles of incorporation, or rules or regulations.

The resale certificate shall be delivered in accordance with the written request and instructions of the seller or the seller's authorized agent, including whether the resale certificate shall be delivered electronically or in hard copy, at the option of the seller or the seller's authorized agent, and shall specify the complete contact information for the parties to whom the resale certificate shall be delivered. The resale certificate shall be delivered within 14 days of receipt of such request. The resale certificate shall not, in and of itself, be deemed a security within the meaning of § 13.1-501.

D. The seller or the seller's authorized agent may request that the resale certificate be provided in hard copy or in electronic form. A unit owners' association or common interest community manager may provide the resale certificate electronically; however, the seller or the seller's authorized agent shall have the right to request that the resale certificate be provided in hard copy. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the resale certificate in person at the principal place of business of the unit owners' association. If the seller or the seller's authorized agent requests that the resale certificate be provided in electronic format, neither the unit owners' association nor its common interest community manager may require the seller or the seller's authorized agent to pay any fees to use the provider's electronic network or system. The resale certificate shall not be delivered in hard copy if the requester has requested delivery of such resale certificate electronically. If the resale certificate is provided electronically by a website link, the preparer shall not cause the website link to expire within the subsequent 90-day period. The preparer shall not charge another fee



during the subsequent 12-month period, except that the preparer may charge an update fee for a financial update or for an inspection as provided in § 55-79.97:1. If the seller or the seller's authorized agent asks that the resale certificate be provided in electronic format, the seller or the seller's authorized agent may request that an electronic copy be provided to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. If so requested, the unit owners' association or its common interest community manager may require the seller or the seller's authorized agent to pay the fee specified in § 55-79.97:1. Regardless of whether the resale certificate is delivered in paper form or electronically, the preparer of the resale certificate shall provide such resale certificate directly to the persons designated by the requester to the addresses or, if applicable, the email addresses provided by the requester.

E. Subject to the provisions of § 55-79.87, but notwithstanding any other provisions of this chapter, the provisions and requirements of this section shall apply to any such resale of a condominium unit created under the provisions of the Horizontal Property Act (§ 55-79.1 et seq.).

F. The resale certificate required by this section need not be provided in the case of:

1. A disposition of a unit by gift;
2. A disposition of a unit pursuant to court order if the court so directs;
3. A disposition of a unit by foreclosure or deed in lieu of foreclosure; or
4. A disposition of a unit by a sale at auction, when the resale certificate was made available as part of the auction package for prospective purchasers prior to the auction.

G. In any transaction in which a resale certificate is required and a trustee acts as the seller in the sale or resale of a unit, the trustee shall obtain the resale certificate from the unit owners' association and provide the resale certificate to the purchaser.

H. For purposes of this chapter:

"Delivery" means that the resale certificate is delivered to the purchaser or purchaser's authorized agent by one of the methods specified in this section.

"Purchaser's authorized agent" means any person designated by such purchaser in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

"Receives, received, or receiving" the resale certificate means that the purchaser or purchaser's authorized agent has received the resale certificate by one of the methods specified in this section.

"Seller's authorized agent" means a person designated by such seller in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

I. Unless otherwise provided in the ratified real estate contract or other writing, delivery to the purchaser's authorized agent shall require delivery to such agent and not to a person other than such agent. Delivery of the resale certificate may be made by the unit owner or the seller's authorized agent.



J. If the unit is governed by more than one association, the purchaser's right of cancellation may be exercised within the required time frames following delivery of the last resale certificate or disclosure packet.

K. Except as expressly authorized in this chapter or in the condominium instruments or as otherwise provided by law, no unit owners' association shall:

1. Require the use of any for sale sign that is (i) a unit owners' association sign or (ii) a real estate sign that does not comply with the requirements of the Virginia Real Estate Board. A unit owners' association may, however, prohibit the placement of signs in the common elements and establish reasonable rules and regulations that regulate (a) the number of real estate signs to be located on real property upon which the owner has a separate ownership interest or a right of exclusive possession, so long as at least one real estate sign is permitted; (b) the geographical location of real estate signs on real property in which the owner has a separate ownership interest or a right of exclusive possession, so long as the location of the real estate signs complies with the requirements of the Virginia Real Estate Board; (c) the manner in which real estate signs are affixed to real property; and (d) the period of time after settlement when the real estate signs on such real property shall be removed; or

2. Require any unit owner to execute a formal power of attorney if the unit owner designates a person licensed under the provisions of § 54.1-2106.1 as the unit owner's authorized representative, and the unit owners' association shall recognize such representation without a formal power of attorney, provided that the unit owners' association is given a written authorization signed by the unit owner designating such representative. Notwithstanding the foregoing, the requirements of § 55-79.77 and the condominium instruments shall be satisfied before any such representative may exercise a vote on behalf of a unit owner as a proxy.

1974, c. 416; 1975, c. 415; 1978, cc. 234, 290; 1983, c. 60; 1984, cc. 29, 103; 1990, c. 662; 1991, c. 497; 1994, c. 172; 1997, c. 222; 1998, cc. 32, 454, 463; 1999, c. 263; 2001, c. 556; 2002, cc. 459, 509; 2005, c. 415; 2007, cc. 696, 712, 854, 910; 2008, cc. 851, 871; 2011, c. 334; 2013, cc. 357, 492; 2014, c. 216; 2015, c. 277; 2016, c. 471; 2017, cc. 393, 406.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

# SALE: DISCLOSURE AND ACKNOWLEDGMENT OF INFORMATION ON LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS

For the sale of the Property at: \_\_\_\_\_

## Lead Warning Statement

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

## Seller's Disclosure (initial)

\_\_\_\_\_/\_\_\_\_\_  
(a) Presence of lead-based paint and/or lead-based paint hazard (check one below):  
 Known lead-based paint and/or lead-based paint hazards are present in the housing (explain):  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_  
 Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

\_\_\_\_\_/\_\_\_\_\_  
(b) Records and Reports available to the seller (check one below):

Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below):

Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

## Purchaser's Acknowledgment (initial)

\_\_\_\_\_/\_\_\_\_\_  
(c) Purchaser has received and had an opportunity to review copies of all information listed above.

\_\_\_\_\_/\_\_\_\_\_  
(d) Purchaser has received the pamphlet *Protect Your Family From Lead in Your Home*.

\_\_\_\_\_/\_\_\_\_\_  
(e) Purchaser has (check one below):

Received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint or lead-based paint hazards; or

Waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

## Sales Associates' Acknowledgments (initial)

\_\_\_\_\_/\_\_\_\_\_  
(f) Listing and Selling Sales Associates are aware of their duty to ensure compliance with 42 U.S.C. 4852d. These Associates have informed the Seller of the Sellers' obligations under this law as evidenced by Seller and Purchaser having completed this form.

## Certification of Accuracy

The undersigned have reviewed the information above and certify that to the best of their knowledge the information they have provided is true and accurate.

**SELLER:**

\_\_\_\_\_/\_\_\_\_\_  
Date Signature

\_\_\_\_\_/\_\_\_\_\_  
Date Signature

\_\_\_\_\_/\_\_\_\_\_  
Date Signature of Listing Associate

**PURCHASER:**

\_\_\_\_\_/\_\_\_\_\_  
Date Signature

\_\_\_\_\_/\_\_\_\_\_  
Date Signature

\_\_\_\_\_/\_\_\_\_\_  
Date Signature of Selling Associate



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# Virginia Residential Property Disclosure Act (Flood hazard areas)(HB1642/SB775) \*

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- Owner makes no representations with respect to whether his property is located in one or more special flood hazard areas and purchasers are advised to exercise whatever due diligence they deem necessary including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) review of any map depicting special flood hazard areas, and (iii) whether flood insurance is required, 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.
- § 55-519. Required disclosures

## **VREB Educational Requirements (HB2295)**

Requires curricula for brokers and salespersons who are new licensees of the Real Estate Board and continuing education curricula for salespersons to include information on flood hazard areas and the National Flood Insurance Program beginning on January 1, 2016.

§ 54.1-2105.01 - Educational requirements for all salespersons within one year of licensure

## **Virginia Residential Property Disclosure Act (Flood hazard areas)(HB1642/SB775)**

- Owner makes no representations with respect to whether his property is located in one or more special flood hazard areas and purchasers are advised to exercise whatever due diligence they deem necessary including
  - (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas,
  - (ii) review of any map depicting special flood hazard areas, and
  - (iii) whether flood insurance is required, 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.
- § [55-519](#). Required disclosures
- Refer your client to an insurance agent familiar with flood insurance.
- Official National Flood Insurance Protection Site (NFIP):  
[https://www.floodsmart.gov/floodsmart/?cid=Search\\_BingYahoo\\_FEMABrand\\_c\\_by\\_e\\_national%20flood%20insurance%20program](https://www.floodsmart.gov/floodsmart/?cid=Search_BingYahoo_FEMABrand_c_by_e_national%20flood%20insurance%20program)
- FEMA's Flood Map Service Center is one resource available if your client is looking for a flood map: <https://msc.fema.gov/portal>

**RESIDENTIAL PROPERTY DISCLOSURE STATEMENT**

**NOTICE TO SELLER AND PURCHASER**

The Virginia Residential Property Disclosure Act (§ 55-517 et seq. of the *Code of Virginia*) requires the owner of certain residential real property, whenever the property is to be sold or leased with an option to buy, to furnish this form to the purchaser and to refer the purchaser to a Virginia Real Estate Board website for additional information.

Certain transfers of residential property are excluded from this requirement (see § 55-518).

Property Address/

Legal Description: \_\_\_\_\_

The owner makes no representations with respect to the matters set forth and described at the RESIDENTIAL PROPERTY DISCLOSURES web page. The purchaser is advised to consult the website ([http://www.dpor.virginia.gov/News/Residential\\_Property\\_Disclosures/](http://www.dpor.virginia.gov/News/Residential_Property_Disclosures/)) for important information about the real property.

The undersigned owner(s) represents that there are no pending enforcement actions pursuant to the Uniform Statewide Building Code (§ 36-97 et seq.) that affect the safe, decent, and sanitary living conditions of the real property described above of which the owner has been notified in writing by the locality, nor any pending violation of the local zoning ordinance which the violator has not abated or remedied under the zoning ordinance, within a time period set out in the written notice of violation from the locality or established by a court of competent jurisdiction, except as disclosed on this statement.

The owner(s) acknowledge having carefully examined this statement and further acknowledge that they have been informed of rights and obligations under the Virginia Residential Property Disclosure Act.

\_\_\_\_\_  
Owner    Date      Owner    Date

The purchaser(s) acknowledge receipt of a copy of this disclosure statement and further acknowledge that they have been informed of their rights and obligations under the Virginia Residential Property Disclosure Act.

\_\_\_\_\_  
Purchaser    Date      Purchaser    Date



## RESIDENTIAL PROPERTY DISCLOSURE STATEMENT ACKNOWLEDGEMENT BY SELLER AND PURCHASER

The Virginia Residential Property Disclosure Act (§ 55-517 et seq. of the *Code of Virginia*) requires the owner of certain residential real property—whenever the property is to be sold or leased with an option to buy—to provide notification to the purchaser of any disclosures required by the Act and to refer the purchaser to the Real Estate Board website referenced below for additional information.  
Certain transfers of residential property are excluded from this requirement (see § 55-518).

PROPERTY ADDRESS/  
LEGAL DESCRIPTION: \_\_\_\_\_

The purchaser is advised to consult the RESIDENTIAL PROPERTY DISCLOSURE STATEMENT webpage ([http://www.dpor.virginia.gov/Consumers/Residential\\_Property\\_Disclosures](http://www.dpor.virginia.gov/Consumers/Residential_Property_Disclosures)) for important information about disclosures required by law that may affect the buyer's decision to purchase the real property described above.

**The owner(s) hereby provides notification** as required under the Virginia Residential Property Disclosure Act (§ 55-517 et seq. of the *Code of Virginia*) and, if represented by a real estate licensee as provided in § 55-523, further acknowledges having been informed of the rights and obligations under the Act.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**The purchaser(s) hereby acknowledges receipt of notification** of disclosures as required under the Virginia Residential Property Disclosure Act (§ 55-517 et seq. of the *Code of Virginia*). In addition, if the purchaser is (i) represented by a real estate licensee or (ii) not represented by a real estate licensee but the owner is so represented as provided in § 55-523, the purchaser further acknowledges having been informed of the rights and obligations under the Act.

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## RESIDENTIAL PROPERTY DISCLOSURE STATEMENT

### NOTICE TO SELLER AND PURCHASER OF BUYER BEWARE DISCLOSURES

The Virginia Residential Property Disclosure Act (§ 55-517 et seq. of the ) governs the information owners must disclose to prospective purchasers of residential real property. Certain residential property transfers are excluded from the requirements ( § 55-518).

- 1. CONDITION:** The owner(s) of the residential real property 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 the 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. ADJACENT PARCELS:** The owner(s) 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. HISTORIC DISTRICT ORDINANCES(S):** The owner(s) 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. RESOURCE PROTECTION AREAS:** The owner(s) 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. SEXUAL OFFENDERS:** The owner(s) 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. **DAM BREAK INUNDATION ZONE(S):** The owner(s) makes no representations with respect to whether the property is within a dam break inundation zone and purchasers are advised 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. **STORMWATER DETENTION FACILITIES:** The owner(s) makes no representations with respect to the presence of any stormwater detention facilities located on the property, or any maintenance agreement for such facilities, and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any stormwater detention facilities on the property, or any maintenance agreement for such facilities, 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.
8. **WASTEWATER SYSTEM:** The owner(s) makes no representations with respect to the presence of any wastewater system, including the type or size thereof or associated maintenance responsibilities related thereto, located on the property and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any wastewater system on the property and the costs associated with maintaining, repairing, or inspecting any wastewater system, including any costs or requirements related to the pump-out of septic tanks, 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.
9. **SOLAR ENERGY COLLECTION DEVICE(S):** The owner(s) makes no representations with respect to any right to install or use solar energy collection devices on the property.
10. **SPECIAL FLOOD HAZARD AREAS:** The owner(s) makes no representations with respect to whether the property is located in one or more special flood hazard areas and purchasers are advised to exercise whatever due diligence they deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) review of any map depicting special flood hazard areas, and (iii) whether flood insurance is required, 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.
11. **CONSERVATION OR OTHER EASEMENTS:** The owner(s) makes no representations with respect to whether the property is subject to one or more conservation or other easements and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary 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.
12. **COMMUNITY DEVELOPMENT AUTHORITY:** The owner(s) makes no representations with respect to whether the property is subject to a community development authority approved by a local governing body pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2 and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, including determining whether a copy of the resolution or ordinance has been recorded in the land records of the circuit court for the locality in which the community development authority district is located for each tax parcel included in the district pursuant to § 15.2-5157, but in any event, prior to settlement pursuant to such contract.



## AFFIRMATIVE WRITTEN DISCLOSURE REQUIREMENTS

SELLERS AND BUYERS MAY NEED TO COMPLETE ONE OR MORE OF THE FOLLOWING WRITTEN DISCLOSURES\*

FORMS for residential transactions that require affirmative written disclosures, in accordance with the Virginia Residential Property Disclosure Act (§ 55-517 et seq. of the \_\_\_\_\_), are available at [http://www.dpor.virginia.gov/Consumers/Residential\\_Property\\_Disclosures/](http://www.dpor.virginia.gov/Consumers/Residential_Property_Disclosures/).

**FIRST SALE OF A DWELLING:** Transfers involving the first sale of a dwelling are exempt from the disclosure requirements of the Act, except § 55-518.B requires that the builder shall disclose in writing to the purchaser all known material defects which would constitute a violation of any applicable building code. (If no defects are known by the builder to exist, no written disclosure is required.)

**PLANNING DISTRICT 15:** For property that is located wholly or partially in any locality comprising Planning District 15, § 55-518.B states that the builder or owner shall disclose in writing any knowledge of (i) whether mining operations have previously been conducted on the property or (ii) the presence of any abandoned mines, shafts, or pits.

**MILITARY AIR INSTALLATION:** § 55-519.1 contains a disclosure requirement for properties located in any locality in which there is a military air installation.

**DEFECTIVE DRYWALL:** § 55-519.2 contains a disclosure requirement for properties with defective drywall.

**PENDING BUILDING CODE OR ZONING ORDINANCE VIOLATIONS:** § 55-519.2:1 contains a disclosure requirement for properties with pending building code or zoning ordinance violations.

**PROPERTIES PREVIOUSLY USED TO MANUFACTURE METHAMPHETAMINE:** § 55-519.4 contains a disclosure requirement for properties previously used to manufacture methamphetamine.

**SEPTIC SYSTEM OPERATING PERMITS:** § 32.1-164.1:1 contains a disclosure requirement regarding the validity of septic system operating permits.

**SEE ALSO** the *Virginia Condominium Act* (§ 55-79.39 et seq.), the *Virginia Real Estate Cooperative Act* (§ 55-424 et seq.), and the *Virginia Property Owners' Association Act* (§ 55-508 et seq.).

**\*NOTE:** This information is provided as a resource and does not constitute legal advice. The respective Virginia Code sections should be consulted before taking any action based on this information, which is intended solely to provide an abridged overview of disclosure requirements and **may not be applicable to all transactions.**

The entire Code of Virginia is accessible online and searchable at <http://law.lis.virginia.gov/vacode>. You should retain the services of an attorney if you need legal advice or representation.



## DISCLOSURE STATEMENT FOR PENDING BUILDING CODE OR ZONING ORDINANCE VIOLATIONS

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### NOTICE TO PROSPECTIVE PURCHASER

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The *Code of Virginia* (§ 55-519.2:1) requires the owner of residential real property who has **actual knowledge** of **(1)** any pending enforcement actions pursuant to the Uniform Statewide Building Code (§ 36-97 et seq.) that affect the safe, decent, sanitary living conditions of the property of which the owner has been notified in writing by the locality, or **(2)** any pending violation of the local zoning ordinance that the violator has not abated or remedied under the zoning ordinance, *within a time period set out in the written notice of violation* from the locality or established by a court of competent jurisdiction, the owner shall provide a written disclosure of that fact to the prospective purchaser.

Accordingly, you are advised that the property briefly described as:

---

**Property Address/ Legal Description**

Is known by the Owner to have a:

- pending building code enforcement action** as described above, of which the Owner has been notified in writing by the locality, or
- pending violation of the local zoning ordinance** that has not been abated or remedied within the time period set out in the written notice of violation.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Date

The purchaser(s) acknowledge receipt of a copy of this disclosure statement.

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Date

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Date

**DEFECTIVE DRYWALL DISCLOSURE STATEMENT**

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**NOTICE TO PROSPECTIVE PURCHASER**

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The *Code of Virginia* (§ 55-519.2) requires the owner of residential real property who has actual knowledge that the property contains DEFECTIVE DRYWALL\* to provide a written disclosure of that fact to the prospective purchaser.

Accordingly, you are advised that the property briefly described as:

**Property Address/  
Legal Description:** \_\_\_\_\_

Is known by the Owner to contain Defective Drywall.

\_\_\_\_\_  
Owner                                      Date

\_\_\_\_\_  
Owner                                      Date

The purchaser(s) acknowledge receipt of a copy of this disclosure statement.

\_\_\_\_\_  
Purchaser                                      Date

\_\_\_\_\_  
Purchaser                                      Date

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\* "Defective drywall" means drywall or similar building material composed of dried gypsum-based plaster that (i) contains elemental sulfur exceeding 10 parts per million as has been found in some drywall manufactured in the People's Republic of China and imported into the United States between 2004 and 2007 and, when exposed to heat, humidity, or both, releases elevated levels of hydrogen sulfide gas into the air or (ii) has been designated by the U.S. Consumer Product Safety Commission as a product with a product defect that constitutes a substantial product hazard within the meaning of § 15 (a)(2) of the Consumer Product Safety Act (15 U.S.C. § 2064(a)(2)). [§ 36-156.1 of the *Code of Virginia*]

**DISCLOSURE STATEMENT FOR RESIDENTIAL PROPERTY  
PREVIOUSLY USED TO MANUFACTURE METHAMPHETAMINE**

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**NOTICE TO PROSPECTIVE PURCHASER**

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The *Code of Virginia* (§ 55-519.4) requires the owner of residential real property who has actual knowledge that the property was **(1)** previously used to manufacture methamphetamine **and** **(2)** has **not** been cleaned up in accordance with state guidelines\* established pursuant to § 32.1-11.7 to provide a written disclosure of that fact to the prospective purchaser.

Accordingly, you are advised that the property briefly described as:

**Property Address/  
Legal Description:** \_\_\_\_\_

Is known by the Owner to have been previously used to manufacture methamphetamine and has not been cleaned up in accordance with the guidelines established pursuant to § 32.1-11.7 of the *Code of Virginia*.

Owner	Date	Owner	Date
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The purchaser(s) acknowledge receipt of a copy of this disclosure statement.

Purchaser	Date	Purchaser	Date
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\* Pursuant to § 32.1-11.7, the Virginia Board of Health established *Guidelines for Cleanup of Residential Property Used to Manufacture Methamphetamine*.

Visit <http://www.vdh.virginia.gov/methguidelines> for a copy of the guidelines and more information about methamphetamine-related topics.



## DISCLOSURE STATEMENT FOR CERTAIN NEW DWELLINGS

### NOTICE TO PROSPECTIVE PURCHASER

The *Code of Virginia* (§ 55-518.B) requires the builder of a new dwelling to disclose in writing to the prospective purchaser **all known material defects which would constitute a violation of any applicable building code**. If no defects are known by the builder to exist, no written disclosure is required.

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 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**.

Such disclosure(s) shall be made (i) when selling a completed dwelling, before ratification of the real estate 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 other contractual obligations the builder or owner may have to the purchaser.

*The disclosure(s) required by § 55-518.B may be made on this form or in another written format.*

**Accordingly, you are advised that the new dwelling briefly described as:**

Property Address/ Legal Description

Is known by the Builder/Owner to have:

- material defect(s) constituting a building code violation** as described above, or
- prior history of mining operations or abandoned mines, shafts, or pits** (*and is located wholly or partially in Planning District 15*).

Owner

Date

Owner

Date

The purchaser(s) acknowledge receipt of a copy of this disclosure statement.

Purchaser

Date

Purchaser

Date

**REAL ESTATE TRANSFER DISCLOSURE FOR PROPERTIES LOCATED IN A LOCALITY  
IN WHICH A MILITARY AIR INSTALLATION IS LOCATED**

1. As of the date of this Disclosure, the undersigned property owner(s) represent that the real property described below is located in a Noise Zone and/or Accident Potential Zone (APZ), as shown or referenced on the Official Zoning Map designated by the locality in which the property is located.

\_\_\_\_\_ No (Please sign below)      \_\_\_\_\_ Yes (Please complete the information below)

2. The following are representations made by the property owner(s), as required by Section 55-519.1 of the Code of Virginia:

A. As of the date of this Disclosure the real property located at (Street Address, Locality and Zip Code) \_\_\_\_\_, \_\_\_\_\_, Virginia is located within the following Noise Zone and/or Accident Potential Zone (APZ), as shown or referenced on the Official Zoning Map of (Name of Locality) \_\_\_\_\_:

Noise Zone – (Initial One)

\_\_\_\_\_/\_\_\_\_\_ <65 dB DNL    \_\_\_\_/\_\_\_\_\_ 65-70 dB DNL    \_\_\_\_/\_\_\_\_\_ 70-75 dB DNL    \_\_\_\_/\_\_\_\_\_ >75 dB DNL

Accident Potential Zone (APZ) – (Initial One)

\_\_\_\_\_/\_\_\_\_\_ None (outside APZs)    \_\_\_\_/\_\_\_\_\_ APZ-2    \_\_\_\_/\_\_\_\_\_ APZ-1    \_\_\_\_/\_\_\_\_\_ Clear Zone

B. The abbreviation “DNL” refers to a day-night average sound level. The frequency of actual single noise events may vary over time depending on the operational needs of the military. **Single noise events may result in significantly higher noise levels than the average level(s) in any of the Noise Zones listed above.**

C. Noise Zones and Accident Potential Zones are subject to change. For this reason, it should not be assumed that the property will remain in the same Noise Zone and/or Accident Potential Zone.

Additional information may be obtained from the locality.

In the event the owner fails to provide the disclosure required by § 55-519.1, or the owner misrepresents, willfully or otherwise, the information required in such disclosure, except as result of information provided by an officer or employee of the locality in which the property is located, the purchaser may maintain an action to recover his actual damages suffered as the result of such violation. Notwithstanding the provisions of this disclosure, no purchaser of residential real property located in a noise zone designated on the official zoning map of the locality as having a day-night average sound level of less than 65 decibels shall have a right to maintain an action for damages pursuant to this section.

The owner(s) state that they reasonably believe the information contained herein is true and accurate and further acknowledge that they have been informed of their rights and obligations under the Virginia Residential Property Disclosure Act.

Owner \_\_\_\_\_ Date \_\_\_\_\_

Owner \_\_\_\_\_ Date \_\_\_\_\_

Purchaser(s) acknowledge receipt of a copy of this disclosure statement and further acknowledge that they have been informed of their rights and obligations under the Virginia Residential Property Disclosure Act.

Purchaser \_\_\_\_\_ Date \_\_\_\_\_

Purchaser \_\_\_\_\_ Date \_\_\_\_\_

11/18/10

**DISCLOSURE REGARDING VALIDITY OF SEPTIC SYSTEM OPERATING PERMIT**

PROPERTY ADDRESS/  
LEGAL DESCRIPTION: \_\_\_\_\_  
("Property")

OWNER(S): \_\_\_\_\_  
("Owner")

PURCHASER(S): \_\_\_\_\_  
("Purchaser")

The following disclosure ("Disclosure") is made specifically in accordance with and pursuant to the requirements of Section 32.1-164.1:1 of the Code of Virginia:

The onsite sewage system ("Septic System") which serves the Property is presently subject to certain repair and/or maintenance requirements ("Requirements") imposed by the State Board of Health ("Board")[, as further described below]. Owner has obtained a valid waiver ("Waiver") of such Requirements from the Board. **Such waiver is not transferable, and shall be null and void upon Settlement hereunder, and at such time the Purchaser shall be required to comply with the Board's regulatory requirements for additional treatment or pressure dosing before an operating permit for the Septic System may be reinstated.**

[The Requirements, as described in the Waiver, are as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_]

Pursuant to §32.1-164.1:1 of the Code of Virginia, the Owner is required to deliver the Disclosure to the Purchaser prior to the acceptance of a real estate purchase contract ("Contract") in respect to the Property. If the Disclosure is delivered to the Purchaser after the acceptance of the Contract, the Purchaser's sole remedy shall be to terminate the Contract at or prior to the earliest of the following: (i) three (3) days after delivery of the Disclosure in person; (ii) five (5) days after the postmark if the Disclosure is deposited in the United States mail, postage prepaid, and properly addressed to the Purchaser; (iii) settlement upon purchase of the Property; (iv) occupancy of the Property by the Purchaser; (v) the execution by the Purchaser of a written waiver of the Purchaser's right of termination under §32.1-164.1:1 of the Code of Virginia, contained in a writing separate from the Contract; or (vi) the Purchaser making written application to a lender for a mortgage loan where such application contains a disclosure that the right of termination shall end upon the application for the mortgage loan.

In order to terminate the Contract when permitted by §32.1-164.1:1 of the Code of Virginia, the Purchaser shall, within the time required, give written notice to the Owner either by hand delivery or by United States mail postage prepaid, and properly addressed to the Owner. If the Purchaser terminates the Contract in compliance with §32.1-164.1:1 of the Code of Virginia, the termination shall be without penalty to the Purchaser, and any deposit made by Purchaser to Owner or an escrow holder in connection with such Contract shall be promptly returned to the Purchaser. Any rights of the Purchaser to terminate the Contract provided by §32.1-164.1:1 of the Code of Virginia shall end if not exercised prior to the earlier of (i) the making of a written application to a lender for a mortgage loan where the application contains a disclosure that the right to terminate shall end upon the application for a mortgage loan or (ii) settlement or occupancy by the Purchaser, in the event of a sale of the Property, or occupancy of the Property, in the event of a lease with option to purchase.



The owner(s) acknowledge having carefully examined this statement and further acknowledge that they have been informed of their rights and obligations under §32.1-164.1:1 of the Code of Virginia.

\_\_\_\_\_  
Owner                                      Date                                      Owner                                      Date

The purchaser(s) acknowledge receipt of this statement and further acknowledge that they have been informed of their rights and obligations under §32.1-164.1:1 of the Code of Virginia.

\_\_\_\_\_  
Purchaser                                      Date                                      Purchaser                                      Date

3/08

# LEGISLATIVE MATTERS



An update on local, state and federal issues of interest to the real estate industry.

Dulles Area Association of REALTORS® Government Affairs Newsletter

Fall 2017

## VOTE WITH THE REALTOR® PARTY ON NOVEMBER 7<sup>TH</sup>!

On **Tuesday, November 7, 2017**, REALTORS® across Virginia will head to the polls to cast their votes. As one of only two states to hold major elections in 2017, much national attention and political energy will be focused on Virginia this year. The Virginia REALTORS® Political Action Committee (RPAC) announced its endorsements for local candidates running for the Virginia General Assembly. Visit <http://dullesarea.com/2017/09/18/rpac-2017-endorsements> to learn more about the RPAC endorsements.

The deadline to register to vote is Monday, October 16th. **Over 87% of Loudoun County REALTORS® are registered to vote!** Make sure that the REALTOR® Party can count on you to cast your ballot. To verify your registration and precinct information, visit the Virginia Department of Elections website by visiting <https://vote.elections.virginia.gov/VoterInformation>.



**Vote with the  
REALTOR® Party on  
November 7<sup>th</sup>!**

Virginia House of Delegates

Tag Greason (R-32)  
Randy Minchew (R-10)  
John Bell (D-87)  
David LaRock (R-33)

## IS YOUR CLIENT IN A FLOOD ZONE?

In early September, DAAR's Government Affairs Committee learned about the National Flood Insurance Program (NFIP) and flood plain regulations in Loudoun County. It is important for REALTORS® to understand this program, especially since flood plains affect nearly 800 properties in Loudoun County. **Millions of home and small business owners in more than 20,000 communities nationwide require flood insurance.** Without the NFIP, homeowners would not be able to obtain insurance to protect their property against flooding! Visit <https://msc.fema.gov/portal/advanceSearch> to find out if your client is in a flood zone. You can learn more about the NFIP at <https://www.nar.realtor/topics/national-flood-insurance-program-nfip>.

## DID YOU ANSWER THE CALL?



### Take Action and Be the Voice of REALTORS® on Capitol Hill!

- Text the word App to 30644 to get the REALTOR® Action Center mobile app.
- Text the word REALTOR to 30644 to get REALTOR® Party Mobile Alerts.

The timing of the GAC meeting was not an accident – it coincided with NAR's **Call for Action** urging reauthorization and reform of the NFIP. More than 121,000 REALTORS® from across the nation acted and spoke in a unified voice. DAAR's response rate to the Call for Action was 9.17%. This number is less than the Virginia rate of 10.18% and the national rate of 13.88%. **Did you answer the call and participate in the Call for Action?**

The NFIP was extended until December 8, 2017, and NAR will continue to urge a long-term reauthorization and reform bill. There may be another Call for Action on this issue or another that is important to the real estate industry. **Make sure you're ready to respond and sign up to receive automatic alerts about future Calls for Action!**

# REALTORS® Help Shape the Future of Loudoun County



As the county continues to work on revising its Comprehensive Development Plan, DAAR continues to make sure the **voice of REALTORS® is being heard**. “I think one of the big questions is, **are we able to accommodate the demand [for housing] for the next 5 to 25 years,**” asked Lars Henriksen, DAAR’s representative to the Stakeholders Committee of the Envision Loudoun process. Henriksen was selected to serve on the Stakeholder’s Housing Subcommittee, which was established to develop information and proposals for housing policies in the county.

Stakeholders will also consider future development in the transition policy area – the area between the eastern and western portions of Loudoun County. County staff presented Stakeholders with two options to ponder – stick with the current plan or allow modifications to include additional residential development. Henriksen and other Stakeholders questioned whether the county should simply stay with the status quo.

Stakeholders meet every other Monday from 6:00-9:00pm and their meetings are open to the public. REALTORS® can help shape the future of Loudoun County by attending these meetings or contacting Contact Lars Henriksen, DAAR Representative on Loudoun County’s Comprehensive Plan Stakeholders Committee via [Lars@c21Redwood.com](mailto:Lars@c21Redwood.com). For more information about the Comprehensive Plan and the Stakeholders Committee, visit <https://www.loudoun.gov/EnvisionLoudoun>.



**DAAR Advocacy.** DAAR continues to advocate on your behalf with Loudoun County Supervisors, Virginia General Assembly members, and members of the U.S Congress. We appreciate the support of DAAR members and count on your help to advance issues that matter to the real estate industry. Your assistance helps DAAR to have a very active and robust Government Affairs program and to ensure that the REALTORS® voice is being heard.

## UPCOMING EVENTS AND ADVOCACY OPPORTUNITIES

- October 2—Public Policy Forum: New Sign Rules in Loudoun County, DAAR
- October 11—Monthly DAAR Government Affairs Committee Meeting, DAAR (Guest speaker: Leesburg Town Council Member Ron Campbell)
- Bi-monthly—Comprehensive Plan Stakeholders, County Government Center (10/16, 10/30, 11/6, 11/20, 12/4, 12/18)
- October 16— Board of Supervisors 2017 Housing Summit, County Government Center
- October 19—Realtor Recharge! Featuring \$40 Headshots, Embassy Suites



- Do You Know DARPAC?
- Find out how to support the issues that matter most to your business.
- Visit <http://www.dullesarea.com/darpac/> to learn more!
- Support the issues that matter to your business. Support DARPAC!

## Elected Officials

### United States Congress

Congresswoman Barbara Comstock (R-10)  
Senator Tim Kaine (D)  
Senator Mark Warner (D)

### Governor of Virginia

Terry McAuliffe (D)

### Attorney General

Mark Herring (D)

### Virginia Senators

- Senator Dick Black (R-13)
- Senator Barbara Favola (D-31)
- Senator Jennifer Wexton (D-33)
- Senator Jill Vogel (R-27)

### Virginia House of Delegates

- Delegate Kathleen Murphy (D-34)
- Delegate Tag Greason (R-32)
- Delegate Jim LeMunyon (R-67)
- Delegate John Bell (D-87)
- Delegate Jennifer Boysko (D-86)
- Delegate David LaRock (R-33)
- Delegate Randy Minchew (R-10)

### Board of Supervisors

- Phyllis Randall, Chair, at-Large
- Ralph M. Buona, Vice Chair, Ashburn
- Suzanne M. Volpe, Algonkian
- Tony Buffington, Blue Ridge
- Ron Meyer, Broad Run
- Geary Higgins, Catoclin
- Matthew Letourneau, Dulles
- Kristen Umstattd, Leesburg
- Koran Saines, Sterling

## Contact Us

For questions or if you would like to get involved in DAAR’s legislative efforts:

Brenda Morton  
Government Affairs and  
Communications Manager  
(571) 291-9804  
[bmorton@dullesarea.com](mailto:bmorton@dullesarea.com)

Visit us on the web at  
[www.dullesarea.com](http://www.dullesarea.com)

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fiscal management. As a DAAR member, you know the impact local land use rules have on the real estate industry. DAAR's advocacy efforts help ensure that Loudoun County officials take the REALTORS® perspective into account during the drafting process.

Using talking points developed from DAAR's Legislative Agenda, DAAR members recommended that the Comprehensive Plan should:

- Serve as a guide for identifying an adequate supply of developable land;
- Encourage innovative land use policies;
- Encourage development of housing that is affordable; and
- Be frequently updated.

There is still time to make your REALTOR® voice heard. The County has developed an online engagement tool which will be available through July 12<sup>th</sup>. This tool mimics the experience of the workshops and includes interactive comment and mapping exercises. Visit <http://envision-loudoun.org/envision-the-future-online-input> to leave your comments.

The Comprehensive Plan Stakeholders Committee will resume working on the Comprehensive Plan in July. Lars Henriksen, DAAR's representative to the Committee, will join the other Stakeholders and meet on a regular basis through December to develop a draft Plan. Visit the Envision Loudoun site at [www.EnvisionLoudoun.org](http://www.EnvisionLoudoun.org) for more information about the initiative and Plan. Go to <http://dullesarea.com/wp-content/uploads/2017/06/Envision-the-Future-Workshops.docx> to view and download DAAR's Envision Loudoun Talking Points.



**Envision the Future of the Loudoun Silver Line Stations.** The Silver Line Comprehensive Plan will be incorporated into the Envision Loudoun process. This means that the Comprehensive Plan Stakeholders and the public will have input into the development plans for the areas around the future metro stations! Additionally, the County plans to have a new Airport

Noise Corridor study conducted. Results from the study will be used to determine the contours of the airport noise overlay area. Opponents of residential development around the Loudoun Gateway Station (Route 606) have used the current airport noise overlay as one reason to limit housing in that area. We will keep you posted on its progress.

**Real Estate Sign Placement – No New Rules, Yet.** County officials continue to work on updating Loudoun County's sign ordinance. This ordinance governs the number, size, placement, and duration of placement of temporary signs – including many real estate signs. DAAR staff is hard at work making sure that county officials understand the importance these signs have on the real estate industry and a REALTORS®' ability to market property. County staff anticipates revising the current draft proposal and submitting it to the Board of Supervisors in July or September. Visit <https://www.loudoun.gov/index.aspx?nid=3791> for the latest news about these rule changes.

