

SUBCOMMITTEE: SUBCOMMITTEE #4

HOUSE BILL NO. 2019

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on _____)

(Patron Prior to Substitute--Delegate Murphy)

A BILL to amend and reenact §§ 54.1-2350 and 55-519 of the Code of Virginia, relating to residential property; information on covenants; required disclosures; stormwater management facilities.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2350 and 55-519 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2350. Annual report; form to accompany resale certificates and disclosure packets.

In addition to the provisions of § 54.1-2349, the Board shall:

- 1. Administer the provisions of Chapter 29 (§ 55-528 et seq.) of Title 55;
- 2. Develop and disseminate an association annual report form for use in accordance with §§ 55-79.93:1, 55-504.1, and 55-516.1; and
- 3. Develop and disseminate a form to accompany resale certificates required pursuant to § 55-79.97 and association disclosure packets required pursuant to § 55-509.5, which form shall summarize the unique characteristics of common interest communities generally that may affect a prospective purchaser's decision to purchase a lot or unit located in a common interest community. The form shall include information on the following, which may or may not be applicable to a particular common interest community: (i) the obligation on the part of an owner to pay regular annual or special assessments to the association; (ii) the penalty for failure or refusal to pay such assessments; (iii) the purposes for which such assessments, if any, may be used, including for the construction or maintenance of stormwater management facilities; (iv) the importance the declaration of restrictive covenants or condominium instruments, as applicable, and other governing documents play in association living; (v) limitations on an owner's ability to rent his lot or unit; (vi) limitations on an owner's ability to park or store certain types of motor vehicles or boats within the common interest community; (vii) limitations on an owner's ability

27 to maintain an animal as a pet within the lot or unit, or in common areas or common elements; (viii)
28 architectural guidelines applicable to an owner's lot or unit; (ix) limitations on an owner's ability to operate
29 a business within a dwelling unit on a lot or within a unit; (x) the period or length of declarant control;
30 and (xi) that the purchase contract for a lot within an association is a legally binding document once it is
31 signed by the prospective purchaser where the purchaser has not elected to cancel the purchase contract
32 in accordance with law. The form shall also provide that (a) the purchaser remains responsible for his own
33 examination of the materials that constitute the resale certificate or disclosure packet and of any table of
34 contents that may be contained therein; (b) the purchaser shall carefully review the entire resale certificate
35 or disclosure packet; and (c) the contents of the resale certificate or disclosure packet shall control to the
36 extent that there are any inconsistencies between the form and the resale certificate or disclosure packet.

37 **§ 55-519. Required disclosures for buyer to beware; buyer to exercise necessary due**
38 **diligence.**

39 A. The owner of the residential real property shall furnish to a purchaser a residential property
40 disclosure statement for the buyer to beware of certain matters that may affect the buyer's decision to
41 purchase such real property. Such statement shall be provided by the Real Estate Board on its website.

42 B. The residential property disclosure statement provided by the Real Estate Board on its website
43 shall include the following:

44 1. The owner makes no representations or warranties as to the condition of the real property or any
45 improvements thereon, or with regard to any covenants and restrictions as may be recorded among the
46 land records affecting the real property or any improvements thereon, and purchasers are advised to
47 exercise whatever due diligence a particular purchaser deems necessary, including obtaining a home
48 inspection, as defined in § 54.1-500, in accordance with terms and conditions as may be contained in the
49 real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

50 2. The owner makes no representations with respect to any matters that may pertain to parcels
51 adjacent to the subject parcel, including zoning classification or permitted uses of adjacent parcels, and
52 that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary

53 with respect to adjacent parcels in accordance with terms and conditions as may be contained in the real
54 estate purchase contract, but in any event, prior to settlement pursuant to such contract;

55 3. The owner makes no representations to any matters that pertain to whether the provisions of any
56 historic district ordinance affect the property and purchasers are advised to exercise whatever due
57 diligence a particular purchaser deems necessary with respect to any historic district designated by the
58 locality pursuant to § 15.2-2306, including review of (i) any local ordinance creating such district, (ii) any
59 official map adopted by the locality depicting historic districts, and (iii) any materials available from the
60 locality that explain (a) any requirements to alter, reconstruct, renovate, restore, or demolish buildings or
61 signs in the local historic district and (b) the necessity of any local review board or governing body
62 approvals prior to doing any work on a property located in a local historic district, in accordance with
63 terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to
64 settlement pursuant to such contract;

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

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

78 6. The owner makes no representations with respect to whether the property is within a dam break
79 inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence

80 they deem necessary with respect to whether the property resides within a dam break inundation zone,
81 including a review of any map adopted by the locality depicting dam break inundation zones;

82 7. The owner makes no representations with respect to the presence of any stormwater detention
83 facilities located on the property, or the existence or recordation of any maintenance agreement for such
84 facilities, and purchasers are advised to exercise whatever due diligence they deem necessary to determine
85 the presence of any stormwater detention facilities on the property, or any maintenance agreement for
86 such facilities, such as contacting their settlement provider, consulting the locality in which the property
87 is located, or reviewing any survey of the property that may have been conducted, in accordance with
88 terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to
89 settlement pursuant to such contract;

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

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

99 10. The owner makes no representations with respect to whether the property is located in one or
100 more special flood hazard areas and purchasers are advised to exercise whatever due diligence they deem
101 necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the
102 property is located in one or more special flood hazard areas, (ii) review of any map depicting special
103 flood hazard areas, and (iii) whether flood insurance is required, in accordance with terms and conditions
104 as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to
105 such contract;

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

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

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

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