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Both Houses





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Signed by the
Governor



by Laura Farley, Deputy General Counsel

The 2016 General Assembly session saw over 2,000 bills introduced in the House and Senate. Of those, about one-third of those bills ultimately passed both houses and were signed into law by Governor Terry McAuliffe. Unless otherwise noted, all of these provisions take effect on July 1, 2016.

2016
NEW
LAWS

VIRGINIA ASSOCIATION OF REALTORS® (VAR) BILLS:

These bills were initiatives that VAR worked with patrons to get passed into law.



AGENCY (HB567)

This bill clarifies several portions of the licensing law. Under the new law, the Virginia Real Estate Board (VREB) can apply deferred judgments and allow licensees to complete educational or other remedial steps for minor violations without those violations going on their permanent records. The VREB may also grant exemptions or waive or reduce the number of continuing education hours an individual licensee must take in cases of certified illness or undue hardship.

Several portions of the agency law were clarified, including the distinctions between what is required in residential transactions and commercial transactions. Commercial agents do not need to provide a Disclosure of Brokerage Relationship and are exempted from the portion of the license law that covers licensees engaged to manage real estate.

In addition to distinguishing between commercial and residential transaction this legislation also clarifies that the act of merely showing properties does not require a written brokerage agreement. Finally, the bill clarifies that there is no independent civil cause of action created by the licensing statute.

POA/CONDO (HB684)

Both the Property Owners' Association Act (POA) and the Condominium Act (COA) were amended. Many of the amendments were to mirror provisions of the two statutes, such as mirroring the POA to the COA in regards to a buyer being able to get out of a contract when the disclosure package is not available. The law now clearly defines who the purchasers' and sellers' designated agents are for the purpose of delivering the disclosure packet; that delivery must be made to the party or agent, not someone else in their office, unless agreed to in the contract; and that for properties with more than one association, the deadline to terminate a contract does not start running until the last set of documents or certificates is delivered. Additionally, the law increases the timeframe in which associations can back-charge sellers for the cost of packets from 45-days to 60-days, to satisfy concerns regarding delayed closings due to TILA/RESPA Integrated Disclosure Rule.

Other provisions in the law deal with rentals in common interest communities. There are further limitations on the fees that POAs and COAs can charge to renters or owners who want to rent their property; a prohibition on associations evicting tenants; and the law now requires POAs and COAs to recognize the agency relationship between an owner and a real estate licensee when provided with written documentation of the relationship. POAs and COAs were requiring owners to provide a formal power of attorney designating a real estate licensee as their agent; under the new law, any written authorization is all that can be required.

HOME INSPECTOR LICENSING (HB741/SB453)

Under this legislation, all Virginia home inspectors will need to be licensed by July 1, 2017. This delayed implementation date allows Virginia Department of Professional and Occupational Regulation (DPOR) to create the regulations that will govern home inspectors. Currently, Virginia has a voluntary certification program, which allows home inspectors to become certified by the Board for Asbestos, Lead, and Home Inspectors (ALHI Board). Any home inspector who holds an unexpired certificate on June 30, 2017 will be issued a license and will not need to go through the initial application process. For home inspectors who wish to perform inspections on new construction homes, the ALHI Board will issue a license with a new residential endorsement once they have completed the required training module.

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VIRGINIA ASSOCIATION OF REALTORS® SUPPORTED BILLS:

VAR will often support legislation that is not an initiative brought forward by the VAR Public Policy Committee. This section includes several examples of bills that VAR supported as they worked their way through the General Assembly.



VIRGINIA RESIDENTIAL PROPERTY DISCLOSURE ACT (HB746, HB1246)

Three sections of the Virginia Residential Property Disclosure Act were updated. The first statement, which deals with the condition of the real property and any improvements, was updated to add that the seller makes no representations or warranties with regard to any covenants and restrictions that may be recorded in the land records. Additionally, that section was amended to remove “certified” before home inspection, so that the buyer is now advised to obtain a home inspection. This change was made in anticipation of the requirement that all home inspectors be licensed starting July 1, 2017. The second statement, which advises the purchaser that the seller is making no representations with respect to the parcels adjacent to the subject parcel, has been amended to include that the seller is not making any representations about any zoning classification or permitted uses of adjacent parcels. The final change made to the Residential Property Disclosure Act is in the eighth statement, which deals with wastewater systems. This section now says that the purchaser should exercise whatever due diligence they deem necessary regarding the costs associated with maintaining, repairing, or inspecting any wastewater system, including any costs or requirements related to the pump-out of septic tanks.



GO ONLINE

See the VARealtor.com website for additional new law resources.

MILITARY - TAX EXEMPTIONS (HB421, HB1203, SB99, SB366)

There were a number of bills that expanded and clarified the law which exempts the real property of disabled veterans and spouses of individuals killed in action. Under the clarification, manufactured homes, whether or not on wheels and whether or not the veteran or spouse owns the land the manufactured home sits on are tax exempt. If the land the manufactured home sits on is not owned by the veteran or spouse, the manufactured home is exempt from taxes, but the land is not.

LANDLORD TENANT (HB711, HB735, HB1011)

Both the Virginia Landlord Tenant Act (“Common Law”) and the Virginia Residential Landlord Tenant Act (VRLTA) were amended by several bills. One major change to both the Common Law and VRLTA is in instances where a court has issued an order granting an individual possession of the premises to the exclusion of one or more co-tenants or authorized occupants. This generally happens in instances of domestic abuse where a tenant has allegedly abused a significant other, who may or may not be on the lease. If the victim is not on the lease, the new law sets out a mechanism for landlords to either have the victim become a tenant or the victim must move out of the property. The law also holds the non-tenant victim liable for failing to vacate and allows the landlord to file an unlawful detainer and evict any person residing in the dwelling unit.

Several provisions within the VRLTA had minor, but essential, clarifications added. For example, the section that requires the landlord to pay for remediation of mold within the unit has been updated to indicate that the landlord must also pay for relocating the tenant. The definition of single-family

residence has been updated to specifically include condominium units, since the previous definition referenced having “direct access to a street or thoroughfare” which could exclude condominium units. Additionally, language was added to the provision requiring the landlord to conduct a move-in inspection clarifying that all items listed on the report did not necessarily need to be remedied; only those defects required by statute to be repaired needed to be addressed. Finally, the provision that prohibits tenants from removing or tampering with properly functioning carbon monoxide alarms now requires tenants to maintain such alarms in accordance with the standards established in the Uniform Statewide Building Code.

The section dealing with tenant records was also updated to add the landlord’s collection agency to the list of exemptions from the confidentiality provisions. Two other changes were made to this section. Tenants may request a copy of their tenant records either hard copy or electronically and, if the lease provides, a landlord may charge the tenant for actual costs of providing more than one copy of the records.

The final changes to the VRLTA come from the section dealing with access and inspections. If, during an inspection of the dwelling unit, a landlord determines that there is a violation of tenant’s contractual or statutory responsibility to maintain the dwelling unit that materially affects health and safety which can be remedied by repair, replacement of a damaged item or cleaning, the landlord can take the necessary action and send the tenant an invoice for payment. Further, the law now specifies that if the lease provides and the tenant, without reasonable justification, prohibits the landlord or managing agent to show the unit for lease or sale, the landlord may recover damages, costs, and reasonable attorneys’ fees.