



THE LEGISLATIVE LINE

The Legislative Update from WAAR

Number 3

February 11, 2018

This past week was the last full week of the 2018 General Assembly session prior to Tuesday's "Crossover," the mid-point of session. After Wednesday, each chamber only is allowed to hear bills that originated in the other. The week leading up to Crossover always is very busy as the House and Senate work to finalize their respective bills.

Next week, the House and Senate also will be finalizing their respective versions of the budget. Your Legislative Consultant has reviewed the budget thoroughly, as well as the hundreds of budget amendments, and is keeping a close eye on a variety of appropriation and spending components including broadband funding, economic development, transportation, stormwater and water quality, distribution of the recordation tax, and more.

While we develop and advocate for a proactive agenda to advance the goals of all Virginia REALTORS®, from accepting rent with reservation to real estate team legislation to short-term rentals, we also work during session to defeat bills that would have a negative impact on Virginia's housing, real estate and business climate. Several bills were introduced that would have eliminated incentives with regard to RESPA and real estate closings; those bills all have been laid on the table for the year, and were opposed by VR, the Virginia Bankers Association, the Virginia Mortgage Bankers Association, the Virginia Mortgage Lenders Association, and the Home Builders Association of Virginia.

"Source of Income" bills also are gone for the year. Measures have failed in both the House and the Senate that would have added discrimination on the basis of a person's source of income to the list of unlawful discriminatory housing practices, placing real estate licensees at great risk for fair housing violations.

Of interest, a series of bills were introduced and subsequently defeated that would have prohibited discrimination in employment, housing, banking, etc., on the basis of sexual orientation or gender identity. Virginia REALTORS® provided comment that in support of specific fair housing policies and practices regardless of sexual orientation or gender identity.

MEANWHILE...the REALTOR® legislative agenda is
GAINING EVEN MORE TRACTION with UNANIMOUS VOTES!

Read below for more details. And stay tuned.
Look for the LEGISLATIVE LINE each week until adjournment.

1. Team Legislation – Delegate Chris Peace / Senator Glen Sturtevant

HB 862 (Del. Chris Peace, R-97th, Mechanicsville)

<http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+HB862+pdf>

Reported from the full House General Laws Committee on February 6th and is on the House floor.

SB 758 (Sen. Glen Sturtevant, R-10th, Midlothian)

<http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+SB758+pdf>

Passed the Senate 38-0 on February 1st and has been referred to the House General Laws Committee.

- The legislation originally defined a Real Estate Team as “*two or more real estate salespersons or brokers who engage in licensed real estate activities and who: (i) work together as a unit within the same brokerage firm; (ii) represent themselves to the public as working together as one unit; and (iii) designate themselves by a collective name.*” **NOTE: The legislation has been amended at VR’s request to read, “one or more real estate salespersons or brokers...” in order to accommodate a variety of business models used by our members. The bills ultimately will be conformed to be identical.**
- The legislation makes it clear that a Real Estate Team will have to obtain a business entity salesperson license. The requirement to obtain a Business Entity License already exists in the statute and DPOR believes that a Real Estate Team should already be obtaining a Business Entity License. This clarification in the statute allows consumers and other members of the general public to search on-line at DPOR for a Real Estate Team.
- The bill will require brokerage agreements (buyer’s and seller’s agreements) to include the name and contact information of the supervising broker. Consumers need to know, in all transactions, who the supervising broker is, should a problem arise.

2. Translation of Documents - Delegate David Bulova/Senator Monty Mason

HB 439 (Del. David Bulova, D-37th, Fairfax Station)

<http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+HB439+pdf>

Passed the House 99-0 on February 5th and has been referred to the Senate General Laws & Technology Committee.

SB 528 (Sen. Monty Mason, D-1st, Williamsburg)

<http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+SB528+pdf>

Passed the Senate on January 26th by a 39-0 vote; moves on to the House of Delegates.

Passed the Senate 39-0 on January 26th and has been referred to the House General Laws Committee.

This legislation would encourage real estate licensees to assist the growing diverse population in the Commonwealth by establishing statutory authority for a real estate licensee to refer a party to one or more translation services so the party can contract directly with a translation service of their choosing. The legislation would also make clear that the real estate licensee is not liable for any inaccuracies that may occur by the translator or translation service since all the real estate licensee is doing is advising the party of the availability of translation services.

3. Earnest Money Deposits; Broker and Post-Licensure Education – Delegate Riley Ingram / Senator Dave Suetterlein

HB 864 (Del. And REALTOR® Riley Ingram, R-62nd, Hopewell)

<http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+HB864+pdf>

Passed the full House 98-0 on February 5th and has been referred to the Senate General Laws & Technology Committee.

SB 514 (Sen. and REALTOR® Dave Suetterlein, R-19th, Roanoke)

<http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+SB514+pdf>

Passed the Senate on January 26th by a 39-0 vote and has been referred to the House General Laws Committee.

- This legislation would establish in statute a right for the real estate broker to give written notice to the parties and disburse an earnest money deposit in accordance with the clear terms of a real estate purchase contract.
- The legislation also gives a real estate broker an option to give written notice of intended disbursement, with a 15-day “protest period” for one of the parties to object in writing. If a party objects in writing, the likely option at that point would be to go to court.
- In addition, the bills allocate two (2) hours of the existing eight (8)-hour broker education hours to the requirements for broker supervision under the Code of Virginia and the Real Estate Board Regulations.
- This legislation also adds real estate finance to the existing curriculum for post-licensure education. Finally, this legislation makes a series of technical edits to various sections of the Real Estate Licensing Law.

**4. Condo Associations and Property Owners Associations - Delegate David Bulova
HB 923 (Del. David Bulova, D-37th, Fairfax Station)**

<http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+HB923+pdf>

Passed the full House 98-0 on February 5th and has been referred to the Senate General Laws & Technology Committee.

This legislation would require all Common Interest Communities (Condo and Property Owner Associations) to provide a short summary of important information contained in the resale certificate or disclosure packet, delivered at the same time as the Resale Certificate or Disclosure Packet. Much like the Residential Real Property Disclosure Statement, this summary will provide buyers with a summary of items that could affect their decision to purchase a home in a Common Interest Community, including:

- Annual dues
- Special assessments
- Rental restrictions
- Parking or vehicular restrictions
- Pet restrictions
- Architectural restrictions

5. Acceptance of Rent with Reservation – Delegate Chris Peace / Senator Mayme Locke

HB 855 (Del. Chris Peace, R-97th, Mechanicsville)

<http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+HB855+pdf>

Reported from the full House General Laws Committee on February 6th and is on the House floor.

SB 197 (Sen. Mamie Locke, D-2nd, Hampton)

<http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+SB197+pdf>

Passed the Senate on January 26th by a 39-0 vote and has been referred to the House General Laws Committee.

The current statute requires a landlord to give a notice of acceptance of rent with reservation in order to accept rental payments and still move forward with eviction. The current language of the statute is being interpreted different ways by different judges, so that landlords and tenants, property managers and lawyers don't know exactly how to handle these notices. The purpose of this legislation is to simply clarify the existing law removing the requirement for second notice for the time period between entry of an order of possession and prior to eviction, thus eliminating the confusion with the existing statutory language.

6. Lexington Short-Term Rental Ordinance – Delegate Barry Knight

HB 824 (Del. Barry Knight, R-81st, Virginia Beach)

<http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+HB824+pdf>

Reported from the House General Laws Committee 21-0 on February 8th and is on the House floor.

Earlier this year, the City of Lexington passed an ordinance to regulate short-term rentals that violates state law in a number of different ways. Among other items, the ordinance prohibits individuals from owning for than one rental property, requires BPOL taxes, requires a business license, etc. The purpose of this legislation is to require the City of Lexington to amend its ordinance to come into compliance with various provisions of state law. Every other locality in the Commonwealth that has adopted a short-term rental ordinance has complied with state law and the City of Lexington should be required to do the same thing.

7. Clarification of Supreme Court Case – Title – Delegate Marcus Simon

HB 311 (Del. Marcus Simon, D-53rd, Falls Church)

<http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+HB311+pdf>

Passed the House 98-0 on February 2nd and has been referred to the Senate Courts of Justice Committee.

A real property owner who buys a house at foreclosure sale, if the occupant does not move out, would file an unlawful detainer in the general district court. In the Parrish case, the occupant challenged the legal title of the successor owner and the Supreme Court ruled that such owner would have to try "sufficiency of legal title" in the circuit court since a general district court does not have jurisdiction to try legal title to real property. The Office of the Executive Secretary (OES) of the Virginia Supreme Court prepared a narrative in the general district court judge's manual to try to head off the potential of every unlawful detainer case getting derailed by assertion by a tenant or other occupant of insufficiency of legal title to real property. The purpose of this legislation is to put into statutory language the substance of the OES judge's manual narrative.

WAAR's General Assembly Delegation Contact Information

Del. Mike Mullin, D-93rd, Newport News
Del. Brenda Pogge, R-96th, Yorktown
Sen. Monty Mason, D-1st, Williamsburg
Sen. Tommy Norment, R-3rd, James City

(804) 698-1093 delmullin@house.virginia.gov
(804) 698-1096 DelBPogge@house.virginia.gov
(804) 698-7501 district01@senate.virginia.gov
(804) 698-7503 district03@senate.virginia.gov

For additional information or other details, please contact Susan Gaston, WAAR's
Legislative Consultant, at 757-871-1445, or by e-mail at
susan@gastongroup.com.