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SENATE BILL NO. 1210

Offered January 8, 2025

Prefiled January 8, 2025

A BILL to amend and reenact §§ 5.1-1.6, 55.1-703, and 55.1-714 of the Code of Virginia, relating to Virginia Residential Property Disclosure Act; required disclosures for buyer to beware; aircraft noise.

Patrons—Pekarsky and Srinivasan

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 5.1-1.6, 55.1-703, and 55.1-714 of the Code of Virginia are amended and reenacted as follows:

§ 5.1-1.6. Further powers and duties of Department; State Corporation Commission to administer Chapter 9.

A. The Department shall have the following powers and duties:

1. Administer the provisions of Chapters 1 (§ 5.1-1 et seq.), 3 (§ 5.1-31 et seq.), 5 (§ 5.1-51 et seq.) and 8.1 (§ 5.1-88.1 et seq.);

2. Plan for the development of a state aviation system;

3. Promote aviation in the Commonwealth in the interest of the public, including representing the interests of the Commonwealth before all tribunals, agencies, or offices, federal, state, and local, in any matter tending to affect any phase of Virginia aviation;

4. Register aircraft and license airports and landing areas; and

5. Provide assistance to cities, towns, counties, and other governmental subdivisions for the planning, development, construction, and operation of airports, landing fields, and other aviation facilities; and

6. Make available on its website Noise Exposure Maps developed by the U.S. Federal Aviation Administration for use in residential real property purchases.

B. The State Corporation Commission shall continue to administer Chapter 9 (§ 5.1-89 et seq.).

§ 55.1-703. Required disclosures for buyer to beware; buyer to exercise necessary due diligence.

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

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

1. The owner 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, or any conveyances of mineral rights, 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, a mold assessment conducted by a business that follows the guidelines provided by the U.S. Environmental Protection Agency, and a residential building energy analysis, as defined in § 54.1-1144, 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;

2. The owner makes no representation with respect to current lot lines or the ability to expand, improve, or add any structures on the property, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary, including obtaining a property survey and contacting the locality to determine zoning ordinances or lot coverage, height, or setback requirements on the property.

3. The owner 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;

4. The owner 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

1/28/25 10:23

59 in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

60 5. The owner makes no representations with respect to whether the property contains any resource  
61 protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act (§  
62 62.1-44.15:67 et seq.) adopted by the locality where the property is located pursuant to § 62.1-44.15:74, and  
63 purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to  
64 determine whether the provisions of any such ordinance affect the property, including review of any official  
65 map adopted by the locality depicting resource protection areas, in accordance with terms and conditions as  
66 may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such  
67 contract;

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

73 7. The owner makes no representations with respect to whether the property is within a dam break  
74 inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence they  
75 deem necessary with respect to whether the property resides within a dam break inundation zone, including a  
76 review of any map adopted by the locality depicting dam break inundation zones;

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

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

86 10. The owner makes no representations with respect to whether the property is located in one or more  
87 special flood hazard areas, and purchasers are advised to exercise whatever due diligence they deem  
88 necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the  
89 property is located in one or more special flood hazard areas, (ii) reviewing any map depicting special flood  
90 hazard areas, (iii) contacting the Federal Emergency Management Agency (FEMA) or visiting the website for  
91 FEMA's National Flood Insurance Program or the Virginia Flood Risk Information website operated by the  
92 Department of Conservation and Recreation, and (iv) determining whether flood insurance is required, in  
93 accordance with terms and conditions as may be contained in the real estate purchase contract, but in any  
94 event prior to settlement pursuant to such contract. A flood risk information form, pursuant to the provisions  
95 of subsection D, that provides additional information on flood risk and flood insurance is available for  
96 download by the Real Estate Board on its website;

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

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

109 13. The owner makes no representations with respect to whether the property is located on or near  
110 deposits of marine clays (marumsco soils), and purchasers are advised to exercise whatever due diligence a  
111 particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real  
112 estate purchase contract, including consulting public resources regarding local soil conditions and having the  
113 soil and structural conditions of the property analyzed by a qualified professional;

114 14. The owner makes no representations with respect to whether the property is located in a locality  
115 classified as Zone 1 or Zone 2 by the U.S. Environmental Protection Agency's (EPA) Map of Radon Zones,  
116 and purchasers are advised to exercise whatever due diligence they deem necessary to determine whether the  
117 property is located in such a zone, including (i) reviewing the EPA's Map of Radon Zones or visiting the  
118 EPA's radon information website; (ii) visiting the Virginia Department of Health's Indoor Radon Program  
119 website; (iii) visiting the National Radon Proficiency Program's website; (iv) visiting the National Radon

120 Safety Board's website that lists the Board's certified contractors; and (v) ordering a radon inspection, in  
121 accordance with the terms and conditions as may be contained in the real estate purchase contract, but in any  
122 event prior to settlement pursuant to such contract;

123 15. The owner makes no representations with respect to whether the property contains any pipe, pipe or  
124 plumbing fitting, fixture, solder, or flux that does not meet the federal Safe Drinking Water Act definition of  
125 "lead free" pursuant to 42 U.S.C. § 300g-6, and purchasers are advised to exercise whatever due diligence  
126 they deem necessary to determine whether the property contains any pipe, pipe or plumbing fitting, fixture,  
127 solder, or flux that does not meet the federal Safe Drinking Water Act definition of "lead free," in accordance  
128 with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to  
129 settlement pursuant to such contract;

130 16. The owner makes no representations with respect to the existence of defective drywall on the property,  
131 and purchasers are advised to exercise whatever due diligence they deem necessary to determine whether  
132 there is defective drywall on the property, in accordance with terms and conditions as may be contained in the  
133 real estate purchase contract, but in any event prior to settlement pursuant to such contract. For purposes of  
134 this subdivision, "defective drywall" means the same as that term is defined in § 36-156.1; and

135 17. The owner makes no representation with respect to the condition or regulatory status of any  
136 impounding structure or dam on the property or under the ownership of the common interest community that  
137 the owner of the property is required to join, and purchasers are advised to exercise whatever due diligence a  
138 particular purchaser deems necessary to determine the condition, regulatory status, cost of required  
139 maintenance and operation, or other relevant information pertaining to the impounding structure or dam,  
140 including contacting the Department of Conservation and Recreation or a licensed professional engineer; and

141 18. *The owner makes no representations with respect to whether the property is located in or near an*  
142 *airport noise overlay zone, and purchasers are advised to exercise whatever due diligence they deem*  
143 *necessary to determine whether the property is located in or near such a zone, including (i) reviewing Noise*  
144 *Exposure Maps developed by the U.S. Federal Aviation Administration, (ii) visiting the Department of*  
145 *Aviation's website where such maps are accessible, and (iii) reviewing local ordinances and zoning maps that*  
146 *have adopted such zones as described in § 15.2-2295.*

147 C. The residential property disclosure statement shall be delivered in accordance with § 55.1-709.

148 D. The Real Estate Board shall make available on its website a flood risk information form. Such form  
149 shall be substantially as follows:

150 Flood Risk Information Form

151 The purpose of this information form is to provide property owners and potential property owners with  
152 information regarding flood risk. This information form does not determine whether a property owner will be  
153 required to purchase a flood insurance policy. That determination is made by the lender providing a loan for  
154 the property at the lender's discretion.

155 Mortgage lenders are mandated under the Flood Disaster Protection Act of 1973 and the National Flood  
156 Insurance Reform Act of 1994 to require the purchase of flood insurance by property owners who acquire  
157 loans from federally regulated, supervised, or insured financial institutions for the acquisition or improvement  
158 of land, facilities, or structures located within or to be located within a Special Flood Hazard Area. A Special  
159 Flood Hazard Area (SFHA) is a high-risk area defined as any land that would be inundated by a flood, also  
160 known as a base flood, having a one percent chance of occurring in a given year. The lender reviews the  
161 current National Flood Insurance Program (NFIP) maps for the community in which the property is located to  
162 determine its location relative to the published SFHA and completes the Standard Flood Hazard  
163 Determination Form (SFHDF), created by the Federal Emergency Management Agency (FEMA). If the  
164 lender determines that the structure is indeed located within a SFHA and the community is participating in  
165 the NFIP, the borrower is then notified that flood insurance will be required as a condition of receiving the  
166 loan. A similar review and notification are completed whenever a loan is sold on the secondary loan market  
167 or when the lender completes a routine review of its mortgage portfolio.

168 Properties that are not located in a SFHA can still flood. Flood damage is not generally covered by a  
169 standard home insurance policy. It is prudent to consider purchasing flood insurance even when flood  
170 insurance is not required by a lender. Properties not located in a SFHA may be eligible for a low-cost  
171 preferred risk flood insurance policy. Property owners and buyers are encouraged to consult with their  
172 insurance agent about flood insurance.

173 What is a flood? A flood is a general and temporary condition of partial or complete inundation of two or  
174 more acres of normally dry land area or of two or more properties, at least one of which is the policyholder's  
175 property, from (i) overflow of inland or tidal waters, (ii) unusual and rapid accumulation or runoff of surface  
176 waters from any source, (iii) mudflow, or (iv) collapse or subsidence of land along the shore of a lake or  
177 similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding  
178 anticipated cyclical levels that result in a flood.

179 FEMA is required to update Flood Maps every five years. Flood zones for this property may change due  
180 to periodic map updates. To determine what flood zone or zones a property is located in a buyer can visit the

181 website for FEMA's National Flood Insurance Program or the Virginia Department of Conservation and  
182 Recreation's Flood Risk Information System website.

183 **§ 55.1-714. Real Estate Board to develop form; when effective.**

184 An owner shall be required to make disclosures required by this chapter for real property subject to a real  
185 estate purchase contract that is fully executed by all parties. The Real Estate Board shall develop the form for  
186 signature by the parties stating that the purchaser has been advised of the disclosures listed in the residential  
187 property disclosure statement located on the Board's website in accordance with § 54.1-2105.1. The Board  
188 may at any time amend the residential property disclosure statement and the form for signature by the parties  
189 as the Board deems necessary and appropriate. *The Board shall include on such form the website address*  
190 *where Noise Exposure Maps developed by the U.S. Federal Aviation Administration are available on the*  
191 *Department of Aviation's website in accordance with subdivision A 6 of § 5.1-1.6.*

192 **2. That the Department of Aviation shall establish on or before September 1, 2025, a website address**  
193 **that provides members of the general public access to Noise Exposure Maps developed by the U.S.**  
194 **Federal Aviation Administration.**