



# THE LEGISLATIVE LINE

## *The Legislative Update from VPAR*

Number 1

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The more things change, the more they stay the same. With two full weeks in the books (and 44 days to go), the 2018 General Assembly session sometimes has felt like déjà vu all over again.

In the House of Delegates, the new balance between the chastened GOP majority and rejuvenated Democratic caucus is not translating into waves of Democratic bills clearing the subcommittees and heading for the House floor.

Because big-ticket issues like the state budget, Medicaid expansion and repealing the 2015 electric utility rate freeze probably will not be decided until late in the session, these early weeks have been dominated by many bills' early deaths.

As many of the freshmen in the House learned the hard way this week, even seemingly benign bills can go down in a flash if lawmakers see a flaw, whether it is a legal technicality, an unintended consequence or a similar law that already exists.

And more seasoned lawmakers have not shied away from telling the recent arrivals that, even though they may be new, the Capitol's perennial policy debates are not.

MEANWHILE...the REALTOR® legislative agenda has garnered significant traction in the past few days. 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>

**SB 758 (Sen. Glen Sturtevant, R-10<sup>th</sup>, Midlothian)**

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

- The legislation defines 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."*
- 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-37<sup>th</sup>, Fairfax Station)**

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

***Reported 8-0 on January 25<sup>th</sup> from the Housing Subcommittee of the House General Laws Committee***

**SB 528 (Sen. Monty Mason, D-1<sup>st</sup>, Williamsburg)**

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

***Passed the Senate on January 26<sup>th</sup> by a 39-0 vote; moves on to the House***

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-62<sup>nd</sup>, Hopewell)**

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

***Reported 8-0 on January 25<sup>th</sup> from the Housing Subcommittee of the House General Laws Committee***

**SB 514 (Sen. and REALTOR® Dave Suetterlein, R-19<sup>th</sup>, Roanoke)**

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

***Passed the Senate on January 26<sup>th</sup> by a 39-0 vote; moves on to the House***

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, this legislation allocates 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-37<sup>th</sup>, Fairfax Station)  
<http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+HB923+pdf>  
**Reported 8-0 on January 25<sup>th</sup> from the Housing Subcommittee of the House General Laws 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-97<sup>th</sup>, Mechanicsville)  
<http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+HB855+pdf>  
**Referred to the Housing Subcommittee (Subcommittee #2) of the House General Laws Committee**  
SB 197 (Sen. Mamie Locke, D-2<sup>nd</sup>, Hampton)  
<http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+SB197+pdf>  
**Passed the Senate on January 26<sup>th</sup> by a 39-0 vote; moves on to the House**

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-81<sup>st</sup>, Virginia Beach)  
<http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+HB824+pdf>  
**Referred to the Housing Subcommittee (Subcommittee #2) of the House General Laws Committee**

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-53<sup>rd</sup>, Falls Church)**

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

**Reported 8-0 from the Courts of Justice Subcommittee #2 on January 17<sup>th</sup>**

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.

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