

THE LEGISLATIVE LINE

The Legislative Update from VPAR

Number 2

February 4, 2018



As the 2018 legislative calendar barrels towards Crossover, scheduled for February 13th, and marking the official half-way point of the Session, the pace and frenzy of recent days in Capitol Square have increased dramatically.

The New Faces (the 19 new legislators in this “Freshmen Class”) and the New Spaces (the smaller, tighter labyrinth of the Pocahontas Building...but hey, ANYWHERE is better than the petri dish known as the General Assembly Building!) now are feeling more comfortable.

Recent days have seen partisan squabbles on issues regarding future election procedures, sexual harassment training for members and staff of the House of Delegates, the bump-stock ban and license plates. Meanwhile, high-stakes issues regarding the state budget, Metro funding, electricity rates and Medicaid expansion remain top priorities, with ongoing negotiations that will be sure to run up to the last minute.

This Friday, February 9th, is the last day for committee action in both the House and the Senate before Crossover. It is sure to be an intense week that will hit a high-water mark in a scurry of legislative action.

MEANWHILE...the REALTOR® legislative agenda is ***MOVING FORWARD WITH SIGNIFICANT WINS*** 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>

Reported from the House General Laws Subcommittee #2 on February 1st on a vote of 6-0. On to the full House General Laws Committee.

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. The bill now goes to the House of Delegates.

- 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: Late last week, the legislation was 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>

Scheduled for a vote by the full House on February 5th on the uncontested calendar.

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. The bill now goes to the House of Delegates.

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>

Scheduled for a vote by the full House on February 5th on the uncontested calendar.

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. The bill now goes to the House of Delegates.

- 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>

Scheduled for a vote by the full House on February 5th on the uncontested calendar.

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 House General Laws Subcommittee #2 on February 1st on a vote of 6-0. On to the full House General Laws Committee.

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; moves on to the House of Delegates.

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>

Scheduled to be heard by the House General Laws Subcommittee #2 this week, on February 8th.

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. The bill now moves to the Senate.

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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