

2019 New Laws Summary

I. Intro

The 2019 General Assembly Session ran from January 9, 2019 to February 23, 2019 and over 3,100 bills were introduced. After Virginia REALTORS® reviewed all of the legislation that was introduced, the Public Policy Committee took active positions on 138 bills and actively monitored another 96 for any potential impacts on you or your clients.

All six of the Virginia REALTORS® bills passed. Of the 92 bills we supported, 71 passed both chambers. More importantly, 20 of the 21 bills that the Public Policy Committee opposed were defeated. Another 25 bills were amended to remove concerns or defeated in the legislative process.

We've now sorted through those 3,128 bills and have identified the ones that you need to know below.

Below, laws are broken out by topic. For each law, you'll see a header with a general description of the law, followed by information that will help you learn more, and then a summary of each bill. Here's what you'll see:

- The subject
- HB and/or SB with numbers in parentheses. This is the House Bill number or Senate Bill number as it was introduced. Often the same legislation will be introduced in both the house and the senate as a strategic move to give the law two chances to pass.
- "Chapter" and a 4-digit number in parentheses. Once a bill passes both houses and is signed by the Governor, it's officially an "Act of the Assembly Chapter." All of the Acts of the Assembly Chapters are in numerical order, based on when they passed both houses and were signed by the governor. In the materials below, the Chapter is a hyperlink that will take you to the text of the legislation, where you can see the exact change being made to the law.
- In some, you'll see "(VAR)" that means this law was a part of the Virginia REALTORS® Legislative Package. The Virginia REALTORS® Legislative Package is the set of bills that Virginia REALTORS® helps draft and lobby in support of.
- Finally, the effective date of the law. This is the date that legislation has, or will, become law. In Virginia, the default is for all legislation to become law on July 1, but the General Assembly can move that date earlier or later, if there are special circumstances.

II. Licensing Laws

A. Consumer Protection Act (HB2218) ([Chapter 0521](#)) (VAR) (Effective 7/1/19)

This law adds unlicensed real estate activity to Virginia Consumer Protect Act to allow for greater consumer protection against this illegal activity. Under the Consumer Protection Act, entities such as local government attorneys or individual citizens could bring civil action against people participating in unlicensed activity.

B. Unlicensed Assistants (HB2352/SB1061) ([Chapter 0395](#)) (VAR) (Effective 7/1/19)

This law clarifies that a real estate licensee can hire an unlicensed assistant as an employee or as an independent contractor. This legislation also allows the Virginia Real Estate Board to define what duties an unlicensed assistant can legally undertake, regardless of whether they are an independent contractor or an employee.

C. Business Continuity (HB2352/SB1061) ([Chapter 0395](#)) (VAR) (Effective 7/1/19)

These laws update the section of the law that governs the death or disability of a broker. The law lays out a list of five categories of people that VREB will grant approval to conduct real estate brokerage services for 180 days – without a broker’s license – to wrap up the business of a broker who is deceased or disabled. Previously, the list allowed the VREB to appoint an employee of the broker. Now, the law allows for an employee or an independent contractor affiliated with the broker to be appointed. This will allow brokers greater flexibility when creating a business continuity plan.

D. VREB Fees ([Chapter 0697](#)) (Effective 7/1/22)

This law requires all regulatory boards at DPOR to refund excess revenue and reduce license fees after any two-year period when the board shows unspent and unencumbered revenue in excess of \$100,000 or 20% of the total expenses for that board in the last two years, whichever is greater. This ensures that regulatory boards are not over charging licensees.

III. Common Interest Communities

A. Incomplete Packets (HB2385/SB1580) ([Chapter 0364](#)) (VAR) (Effective 7/1/19)

These laws clarify that the delivery of an “incomplete” packet in a Property Owners Association (POA) or resale certificate in a Condo Owners Association (COA) begins the three-day termination right for the buyer. This standard will provide more certainty to both buyers and sellers by giving both parties a concrete deadline.

B. Home Based Businesses (HB1853/SB1537) ([Chapter 0002](#)) (Effective 7/1/19)

This law states that if a locality (city, town, county) classifies home-based childcare as an accessory or ancillary residential use in its zoning ordinance, then it is a residential use unless expressly prohibited or restricted by the Condo or Property Owner’s Association’s declaration or bylaws. This means that in localities with this zoning ordinance, Associations must specifically address home-based childcare businesses in their governing documents in order to prohibit them.

IV. Disclosure

A. Mineral Rights (SB1292) ([Chapter 0504](#)) (VAR) (Effective 7/1/19)

This law adds “mineral rights” to the Residential Property Disclosure Statement buyer beware form that each potential buyer receives in a real estate transaction. This notice will encourage buyers to perform due diligence regarding mineral rights associated with the property.

B. Special Flood Hazard Area (SB1292) ([Chapter 0504](#)) (VAR) (Effective 7/1/19)

The Residential Property Disclosure Act was updated to include information on where a purchaser should look for information regarding special flood hazard areas. The RPDA is now clearer on where the buyer should search for information on flood hazard areas.

C. Stormwater Detention Maintenance Agreements (HB2019) ([Chapter 0390](#)) (Effective 7/1/19)

This law amends the Residential Property Disclosure Act provision regarding stormwater detention facilities to add language that says the purchaser should check with their settlement provider, check with the locality, or review a survey to determine whether there is a stormwater detention facility or a maintenance agreement. The law also requires the Common Interest Community Board to update the mandatory cover sheet that goes with all condo resale certificates or property owner's association disclosure packets to state the purposes of any special assessments, including if the special assessment is for the construction or maintenance of stormwater management facilities.

If you are working with a buyer, this new language provides where the buyer should look for information on a stormwater detention facility, and, if the property is in a common interest community, whether any special assessment is to build or maintain a stormwater management facility.

V. Health Insurance

A. Multi-member LLC (HB2719/SB1475) ([Chapter 0383](#)) (VAR) (Effective 7/1/19)

This law allows multi-member LLCs to access the small group health insurance market to obtain better and less expensive health insurance coverage. This law will greatly benefit Virginia REALTORS® and other Virginia small businesses by expanding on a law that passed last year.

VI. Business Related

A. Fictitious Name Certificates (HB1925) ([Chapter 0464](#)) (Effective 1/1/2020)

While this bill contains a technical correction to a bill from a previous General Assembly session, the law it is amending is effective January 1, 2020. As of 1/1/2020, individuals and businesses using a fictitious name will have to file with the State Corporation Commission, not the clerk of court for each locality the business will operate in. Anyone who has registered with a clerk of court prior to January 1, 2020 does not have to re-register with the State Corporation Commission.

B. [Distracted Driving \(SB1768\) \(Chapter 0849\) \(Effective 7/1/19\)](#)

This law makes it illegal to hold a cell phone in your hand while driving in a highway work zone. This means that you must use hands free technology while driving on the highway if you are in a work zone and must take a call.

C. [Website Accessibility \(HB2296\) \(Vetoed\)](#)

While this particular legislation was vetoed by the Governor and is not becoming law, there is relevant case law that you should be aware of. Courts have recently held that if an individual or company is sued under the Americans with Disability Act for not having an accessible website, if that person brings their website up to the Web Content Accessibility Guidelines (WCAG) 2.0 while the lawsuit is pending, the case must be dismissed. At this time there are no legal requirements or standards, but WCAG 2.0 is the current industry standard for website accessibility. If you are planning to redesign your website, you should consider making it WCAG 2.0 compliant.

D. [Telephone Privacy Protection \(HB2600/SB1041\) \(Chapter 0256\) \(Effective 7/1/19\)](#)

These bills add two definitions to the Virginia Telephone Privacy Protection Act (TPPA). The TPPA now defines a "seller" as any person on whose behalf or for whose benefit a telephone solicitation call offering or advertising the person's property, goods, or services is made or initiated. The "responsible person" means either or both a telephone solicitor or a seller if the telephone solicitation call offering or advertising the seller's property, goods, or services is presumed to have been made or initiated on behalf of or for the benefit of the seller.

The TPPA also now has a rebuttable presumption of liability for both the solicitor and the seller. This liability is joint and several – which means that either or both can be held responsible for the violation. The seller can rebut this presumption by showing clear and convincing evidence that he did not retain or request the telephone solicitor to make the calls on his behalf or for his benefit AND that the calls were made without the seller's knowledge or consent.

This means that you need to be very aware of who may be making telephone calls on your behalf, whether those calls fall under the TPPA, and if they do that the caller complies with the requirements of the TPPA.

E. [False Caller ID Information \(HB2170\) \(Chapter 0476\) \(Effective 7/1/19\)](#)

This law makes it a class 3 misdemeanor (fine up to \$500) to misrepresent the identity of the caller or caller's telephone number on the caller ID data that is transmitted to the person receiving the call. Subsequent violations are a class 2 misdemeanor (jail up to 6 months, fine up to \$1,000, or both). This law does not prohibit blocking caller ID information, just providing false information.

When making telephone calls in Virginia, you want to make sure that the caller ID information associated with the call is either correct, or blocked, so that the person receiving the call does not get false information.

F. [Employees \(HB2664/SB1696\) \(Chapter 0836\) \(Effective 1/1/2020\)](#)

If you have any employees (not independent contractors) that work for you, you must start providing a written statement each pay period with the required information. This written statement can be either a paystub or through an online accounting program. The written statement must show: the name and address of the employer, the number of hours worked during the pay period, the rate of pay, the gross wages earned by the employee during the pay period, and the amount of any deductions.

VII. [Property Management](#)

A. [Eviction Reduction](#)

After an April 2018 New York Times article highlighted the high eviction rates in Virginia, the Virginia REALTORS® took proactive steps, working with legislators and stakeholders through the Virginia Housing Commission process, to develop a package of initiatives to address high rates of evictions while protecting our members.

These bills passed the General Assembly with overwhelmingly bi-partisan support and have been signed into law by the Governor.

1. [Eviction Diversion Pilot Program \(HB2655/SB1450\) \(Chapter 0355\) \(Effective 7/1/2020\)](#)

In order to address the number of individuals being evicted in Virginia, a pilot eviction diversion program has been established in four localities: Danville, Hampton, Petersburg, and Richmond. The program essentially sets up a payment plan where the

tenant must pay any money owed over four-months, while continuing to pay their current rent. The program lays out who is eligible, what eligible tenants must do to participate in the program, and what happens if the tenant doesn't comply with the program.

2. Unlawful Detainer Appeal Bond (SB1626) ([Chapter 0785](#)) (Effective 7/1/19)

This law adds language to change the appeal bond in an unlawful detainer case. Previously, the law required the defendant (tenant) to put up an appeal bond that was everything currently owed, plus everything they would owe through the court date, which was often 6-12 months away. This effectively made it impossible for a tenant to appeal. Now, the tenant has to put up everything they currently owe, and then pay their monthly rent into the court as it becomes due. If the tenant misses a payment, the appeal is not perfected. If a payment is missed, the law provides for immediate relief for the plaintiff (property manager/landlord) without a further hearing.

3. Right of Redemption (HB1898/SB1445) ([Chapter 0028](#)) (Effective 7/1/19)

This law updates the tenant's right of redemption to allow a tenant to pay all money owed, including current rent, damages, late fees, costs of court, civil recover, attorneys' fees, and sheriff fees, at least two business days before the date of eviction has been scheduled. This allows tenants even more time to exercise their right of redemption and not face eviction.

4. Unlawful Detainer Hearings (HB1922/SB1627) ([Chapter 0132](#)) (Effective 7/1/19)

Currently, UD cases are supposed to be heard 21 days after filing or as soon thereafter as practicable. This would cap that by saying that "as soon thereafter" in no event means more than 30 days after filing. This would also require that the landlord present a copy of the termination notice to the judge to get an order of possession, which is already the practice in most courts. Instead of having a box to check on the face of the UD, this legislation would make amendment filings a matter of right when additional amounts become due after initial filing as opposed to filing additional UD cases. This means less paperwork and court costs for landlords and fewer UDs on the record of a tenant.

5. Written Leases (HB2054/SB1676) ([Chapter 0005](#)) (Effective 7/1/19)

This will require landlords to offer written leases to the tenant. If a written lease isn't provided, then tenancy will be governed under the rules of the Virginia Residential Landlord and Tenant Act.

6. Writs of Possession (HB2007/SB1448) ([Chapter 0700](#)) (Effective 7/1/19)

These bills require that non-executed writs of possession be returned to the court so they would be vacated as a matter of law. This would let future landlords know if a writ was executed or returned to the court when screening tenants in the future and give them a more accurate assessment.

Also, instead of having writs of possession being live for 12 months, the legislation would say that orders of possession are live for 6 months (180 days).

B. Other Property Management Bills

In addition to the eviction reduction bills, there were a number of other property management related bills.

1. Lease Agreements (HB2287/SB1422) ([Chapter 0011](#)) (Effective 2/13/19)

This bill was in response to a case "The Game Place vs. Fredericksburg" from 2018. It removes the requirement in the law that leases for more than five years must be in the form of a deed or will. The law states that any lease entered into before, and currently in effect, or any future lease shall not be invalid, unenforceable or subject to repudiation simply because the conveyance was not in the form of a deed.

2. Property Managers (HB2262) ([Chapter 0477](#)) (Effective 7/1/19)

This bill serves to further clarify that a property manager, acting under a property management agreement, has the authority to file pleadings, recover rent, or recover possession on behalf of the owner.

3. Tenant Attorney Fees (HB1923) ([Chapter 0324](#)) (Effective 7/1/19)

The Virginia Residential Landlord Tenant Act (VRLTA) has been updated to provide that if the tenant prevails under certain sections of the law, they are entitled to reasonable costs, including court costs and reasonable attorney fees.

4. Renter's Insurance (HB1660) ([Chapter 0386](#)) (Effective 7/1/19)

If the lease does not require a tenant to purchase renter's insurance, the landlord must provide a written notice to the tenant prior to lease ratification with some basic information. The law does note that failure to provide the notice does not affect the validity of the agreement. The Virginia REALTORS® Residential Lease (Form 200) does require a tenant to obtain renter's insurance, so when using this lease form the notice is not required.

VIII. Miscellaneous

A. Furloughed Individuals (SB1737) ([Chapter 0847](#)) (Effective 4/3/19)

This bill applies to individuals who were impacted by the federal government shutdown that began on December 22, 2018. It provides a 30 day stay on evictions and foreclosures for residential tenants, homeowners, and owners who rent to a residential tenant that was impacted by the government shut down. The bill provides detailed information of who is covered and what documentation must be provided to prove that the individual is eligible for this relief. The law is set to expire on September 30, 2019, so any individuals needing relief must act before then.

B. Broadband Pilot Program (HB2691) ([Chapter 0619](#)) (Effective 7/1/19)

This bill requires the State Corporation Commission to establish pilot programs to get broadband internet to under served areas of the Commonwealth. The bill lays out details for the program.

C. Radon List (HB1885) ([Chapter 0279](#)) (Effective 7/1/19)

The law now requires the Board of Health to make a publicly available list of persons who are nationally certified to offer screening, testing, or mitigation for radon. While this does not require a license or certification from Virginia, it will allow you and your clients to more easily identify people who can test for radon and remediate radon.

D. Surviving Spouse of Disabled Veteran (HB1655/SB1270) ([Chapter 0015](#))
(Effective 7/1/19)

In previous years, the surviving spouse of a disabled veteran (who died after 1/1/11) was allowed to receive the same real property tax exemption as the veteran as long as they did not remarry and stayed in the same home. Under the new law, there is no restriction on the surviving spouse staying in the same house beginning with the 2019 tax year. This means if you have clients who have remained in their home to maintain the tax exemption, even though it no longer meets their needs, that client is able to move.