

## 2015 Legislative Update — Commercial Real Estate

Bills	Description	Last Action	Date
HB 1424	<p><b>Water or sewer systems; delinquent payment of rates and charges.</b>  <i>Repeals a provision of the Virginia Water and Waste Authorities Act that limits a landlord's liability for a tenant's separately metered sewer or water charges to three delinquent billing periods of no more than 90 days in total. The provision being repealed also prohibits a water or sewer authority from refusing service to the affected premises, or other premises of the landlord, on account of the delinquency as long as the landlord has paid the charges for which he is liable. This bill is identical to SB 969.</i></p>	Approved by the Governor	03/17/15
HB 1452	<p><b>Landlord and tenant law; who may recover rent and possession.</b>  <i>Adds an employee who has proper written authorization by a manager, general partner, or trustee of a family trust to sign pleadings as the agent of the business entity to obtain a judgment for possession or for rent or damages.</i></p>	Approved by the Governor	03/16/15
HB 1493	<p><b>Enticing persons to dwelling house to commit certain crimes; penalty.</b>  <i>Provides that a person who commits certain specified crimes, including capital murder, first and second degree murder, murder of a pregnant woman, abduction with intent to extort money or for immoral purposes, aggravated malicious wounding, robbery, rape, forcible sodomy, or object sexual penetration, within a dwelling house and who, with the intent to commit such crime, enticed, solicited, requested, or otherwise caused the victim to enter the dwelling house is guilty of a separate and distinct Class 6 felony.</i></p>	Approved by the Governor	03/23/15
HB 1642	<p><b>Virginia Residential Property Disclosure Act; representations related to special flood hazard zones.</b>  <i>Requires the owner's representation to a prospective purchaser of residential property under the Virginia Residential Property Disclosure Act that the owner makes no representations with respect to whether the property is located in one or more special flood hazard areas and purchasers are advised to exercise whatever due diligence they deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) review of any map depicting special flood hazard areas, and (iii) whether flood insurance is required, 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. The bill contains technical amendments. This bill is identical to <b>SB 775</b>.</i></p>	Approved by the Governor	03/17/15

Bills	Description	Last Action	Date
HB 1965	<p><b>Department of Professional and Occupational Regulation; Virginia Real Estate Transaction Recovery Fund.</b></p> <p><i>Clarifies the eligibility requirements for citizens to make a claim under either the Virginia Contractor Transaction Recovery Fund or the Virginia Real Estate Transaction Recovery Fund and conforms the provisions of the Virginia Real Estate Transaction Recovery Fund to the provisions of the Virginia Contractor Transaction Recovery Fund. The bill contains technical amendments.</i></p>	Approved by the Governor	03/23/15
HB 2100	<p><b>Condominium and Property Owners' Association Acts; allowable charges; rental of units.</b></p> <p><i>Conforms the Condominium Act to the Property Owners' Association Act with regard to the prohibition on a unit owners' association's charging any fees not expressly authorized by law or in the declaration. The bill also (i) provides that an association may not limit or prohibit an owner from renting his unit or lot and may not charge fees for any rental or other processing fee in excess of \$50 as a condition of approval of the rental, (ii) sets new rules for providing association disclosure documents electronically, and (iii) requires an association to maintain a website link for 90 days if the disclosure packet is provided electronically by that link. The bill contains technical amendments.</i></p>	Approved by the Governor	03/17/15
SB 775	<p><b>Virginia Residential Property Disclosure Act; representations related to special flood hazard zones.</b></p> <p><i>Requires the owner's representation to a prospective purchaser of residential property under the Virginia Residential Property Disclosure Act that the owner makes no representations with respect to whether the property is located in one or more special flood hazard areas and purchasers are advised to exercise whatever due diligence they deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) review of any map depicting special flood hazard areas, and (iii) whether flood insurance is required, 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. The bill contains technical amendments.</i></p>	Approved by the Governor	03/10/15

Bills	Description	Last Action	Date
HB 1451	<p><b>Landlord and tenant laws.</b>  <i>Provides that in cases of a change in use, the 120-day termination notice shall not be waived, except in the case of a tenancy from month to month, which may be terminated by the landlord by giving the tenant 30 days' written notice prior to the next rent due date of the landlord's intention to terminate the tenancy. The bill, among other things, (i) allows an owner, manager, or operator of a commercial or residential building or campground to include water, sewer, electrical, natural gas, or other utilities in the amount of rent or additional rent as specified in the rental agreement or lease; (ii) prohibits a landlord from photocopying a U.S. government-issued identification under certain circumstances; (iii) allows a landlord and a tenant to agree in a rental agreement that the tenant pay prepaid rent; and (iv) allows a landlord or managing agent to enter into an agreement with a third-party service provider to maintain tenant records in electronic form or other medium. In such case, the landlord and managing agent shall not be liable in the event of a breach of the electronic data of such third-party service provider, except in the case of gross negligence or intentional act. The bill also provides that nothing shall be construed to require a landlord or managing agent to indemnify such third-party service provider. The bill contains technical amendments.</i></p>	Approved by the Governor	03/26/15
HB 1849	<p><b>Variances.</b>  <i>Changes the standard by which a board of zoning appeals shall grant an application for a variance by eliminating or altering several of the requirements.</i></p>	Approved by the Governor	03/26/15
SB 1257	<p><b>Cash proffers for residential construction; sunset date.</b>  <i>Removes the July 1, 2017, expiration date of a current law that delays the payment of certain per-dwelling-unit cash proffers until after the final inspection of the subject property and prior to the issuance of any certificate of occupancy. The removal of the sunset date also extends existing provisions protecting a right to delayed payment of cash proffers and allowing a court to award fees and costs to a party that prevails in a legal challenge to a conflicting ordinance. In addition, the bill repeals the July 1, 2017, expiration date of a 2009 act of assembly that lowered the cap on the administrative costs a locality could charge a developer for the dedication of a public right-of-way from 25 percent to 10 percent of the estimated construction cost. This bill incorporates <b>SB 726</b> and <b>SB 1065</b>.</i></p>	Approved by the Governor	03/19/15

Bills	Description	Last Action	Date
HB 1828	<p><b>Land preservation tax credit.</b>  <i>Makes several changes to the land preservation tax credit by (i) reducing the maximum amount of tax credits that may be issued in each calendar year from \$100 million to \$75 million beginning in 2015; (ii) with the exception of credits issued for fee simple interest donations, reducing the maximum amount of the land preservation tax credit that may be claimed in any year from \$100,000 in taxable year 2014 to \$20,000 in taxable years 2015 and 2016 and \$50,000 for each taxable year thereafter; (iii) requiring that a complete application for the tax credit with regard to a conveyance be filed with the Department of Taxation by December 31 of the year following the calendar year of the conveyance; and (iv) prohibiting the Department of Taxation from issuing any tax credit for a donation from any allocation or pool of tax credits attributable to a calendar year prior to the year in which the complete tax credit application for the donation was filed. This bill is identical to <b>SB 1019</b>.</i></p>	Approved by the Governor	03/17/15
HB 1867	<p><b>Virginia Residential Landlord and Tenant Act; visible mold remediation.</b> <i>Provides that where there is visible evidence of mold in a dwelling unit, the landlord shall promptly remediate the mold conditions in accordance with the requirements for visible mold remediation and reinspect the dwelling unit to confirm that there is no longer any visible evidence of mold in the dwelling unit. The bill requires the landlord to make available to the tenant copies of any available written information related to the remediation of mold.</i></p>	Approved by the Governor	03/17/15
HB 1905	<p><b>Landlord and tenant law; retaliatory conduct by landlord.</b>  <i>Removes the requirement in the Virginia Residential Landlord and Tenant Act that the court determine that the "primary" reason for a landlord taking an action for possession or termination of a rental agreement is retaliation. The tenant continues to have the burden of proving retaliatory intent. The bill also adds in landlord and tenant law a provision prohibiting retaliatory conduct by the landlord.</i></p>	Approved by the Governor	03/23/15
SB 1008	<p><b>Condominium and Property Owners' Association Acts; statement of unit and lot owner rights.</b>  <i>Provides that every unit owner under the Virginia Condominium Act and every lot owner under the Property Owners' Association Act who is a member in good standing of the unit owners' association or property owners' association has the right (i) of access to all books and records kept by or on behalf of the association, (ii) to cast a vote on any matter requiring a vote by the association's membership in proportion to the unit or lot owner's ownership interest, (iii) to have notice of any meeting of the executive organ or board of directors and to record and participate in such meeting, (iv) to have notice of any proceeding conducted against the unit or lot owner to enforce any rule or regulation of the association and the opportunity to be heard and represented by counsel at such proceeding, and (v) to serve on the executive organ or board of directors if duly elected.</i></p>	Approved by the Governor	03/17/15

Bills	Description	Last Action	Date
HB 1835	<p><b>Virginia Public Procurement Act (VPPA); methods of procurement; job order contracting and cooperative procurement.</b> <i>Clarifies that small purchase procedures include the procurement of non-transportation-related construction and that any such procedures shall not waive compliance with the Uniform State Building Code. The bill adds independent agencies of the Commonwealth to the definition of public body under the VPPA. The bill also increases contract amounts for job order contracting and provides that (i) order splitting with the intent of keeping a job order under the maximum dollar amounts prescribed is prohibited; (ii) no public body shall issue or use a job order, under a job order contract, solely for the purpose of receiving professional architectural or engineering services that constitute the practice of architecture or the practice of engineering as those terms are defined in § 54.1-400; however, professional architectural or engineering services may be included on a job order where such professional services are (a) incidental and directly related to the job, (b) do not exceed \$25,000 per job order, and (c) do not exceed \$75,000 per contract term; and (iii) job order contracting shall not be used for construction, maintenance, or asset management services for a highway, bridge, tunnel, or overpass. The bill clarifies the provisions of the VPPA relating to cooperative procurement and requires that by October 1, 2017, the Department of Small Business and Supplier Diversity, public institutions of higher education having level 2 or 3 authority under the Restructured Higher Education Financial and Administrative Operations Act of 2005, any state agency utilizing job order contracting, and the Virginia Association of Counties, the Virginia Municipal League, and the Virginia Association of Governmental Purchasing, on behalf of local public bodies, working cooperatively, report their respective experiences and findings relating to the appropriateness and effectiveness of job order contracting in general, the job order project cost limitations as added by this bill, and the architectural and professional engineering term contract limits to the Chairmen of the House Committee on General Laws and the Senate Committee on General Laws and Technology. The bill also requires, for construction projects in excess of \$2 million, that a public body, including public institutions of higher education, provide its justification for use of any procurement method other than competitive sealed bidding to the Director of the Department of General Services. The bill requires the State Corporation Commission (SCC) to develop a process for the administrative review of its procurement decisions that is consistent with the Constitution of Virginia. The bill further provides that its provisions shall not apply to any solicitation issued or contract awarded before July 1, 2015, except that the provisions of subsection B of § 2.2-4303.2, as added by the bill, shall apply to any renewal of a job order contract. The bill contains numerous technical amendments and is a recommendation of the General Laws Special Joint Subcommittee Studying the Virginia Public Procurement Act. This bill is identical to <b>SB 1371</b>.</i></p>	Approved by the Governor	04/30/15