

VIRGINIA RESIDENTIAL PROPERTY DISCLOSURE ACT
SECTIONS 55-518 AND 55-519

§ 55-518. Exemptions. -- A. The following are specifically excluded from the provisions of this chapter:

1. Transfers pursuant to court order including, but not limited to, transfers ordered by a court in administration of an estate, transfers pursuant to a writ of execution, transfers by foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.
2. Transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default; transfers by a trustee under a deed of trust pursuant to a foreclosure sale, or transfers by a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a foreclosure sale under a deed of trust or has acquired the real property by a deed in lieu of foreclosure.
3. Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.
4. Transfers from one or more co-owners solely to one or more other co-owners.
5. Transfers made solely to any combination of a spouse or a person or persons in the lineal line of consanguinity of one or more of the transferors.
6. Transfers between spouses resulting from a decree of divorce or a property settlement stipulation pursuant to the provisions of Title 20.
7. Transfers made by virtue of the record owner's failure to pay any federal, state, or local taxes.
8. Transfers to or from any governmental entity or public or quasi-public housing authority or agency.
9. Transfers involving the first sale of a dwelling.

B. Notwithstanding the provisions of subdivision 9 of this section, the builder of a new dwelling shall disclose in writing to the purchaser thereof all known material defects which would constitute a violation of any applicable building code. The disclosure required by this subsection shall be made by a builder (i) when selling a completed dwelling, before acceptance of the purchase contract or (ii) when selling a dwelling before or during its construction, after issuance of a certificate of occupancy. Such disclosure shall not abrogate any warranty or any other contractual obligations the builder may have to the purchaser. The disclosure required by this subsection may be made on the disclosure form described in § 55-519. The builder may not satisfy the requirements of this subsection by the use of the disclaimer statement described in § 55-519. If no defects are known by the builder to exist, no written disclosure is required by this subsection.

§ 55-519. Required disclosures. A. With regard to transfers described in § 55-517 of this chapter, the owner of the residential real property shall furnish to the purchaser one of the following:

1. A residential property disclaimer statement in a form provided by the Real Estate Board stating that the owner makes no representations or warranties as to the condition of the real property or any improvements thereon, and that the purchaser will be receiving the real property "as is," that is, with all defects which may exist, if any, except as otherwise provided in the real estate purchase contract; or
2. A residential property disclosure statement disclosing those items contained in a form provided by the Real Estate Board to implement the provisions of this chapter and to list items which are required to be disclosed relative to the physical condition of the property. Such disclosure form may include defects of which the owner has actual knowledge regarding: i) the water and sewer systems, including the source of household water, water treatment system, and sprinkler system; (ii) insulation; (iii) structural systems, including roof, walls, floors, foundation and any basement; (iv) plumbing, electrical, heating and air conditioning systems; (v) wood-destroying insect infestation; (vi) land use matters; (vii) hazardous or regulated materials, including asbestos, lead-based paint, radon and underground storage tanks; and (viii) other material defects known to the owner. The disclosure form shall contain a notice to prospective purchasers and owners that the prospective purchaser and the owner may wish to obtain professional advice or inspections of the property and (b) that information is available at the Department of Environmental Quality which identifies confirmed releases or discharges of oil which may affect the property. The disclosure form shall also contain a notice to purchasers that the information contained in the disclosure is the representations of the owner and is not the representations of the broker or salesperson, if any. The owner shall not be required to undertake or provide any independent investigation or inspection of the property in order to make the disclosures required by this chapter.

B. The disclosure and disclaimer forms shall contain a notice to purchasers that regardless of whether the owner proceeds under subdivision 1 or 2 of subsection A, the owner makes no representations with respect to any matters which may pertain to parcels adjacent to the subject parcel. Further, such notice shall advise purchasers 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 on a parcel of residential real property.

C. The disclosure and disclaimer forms shall contain a notice to purchasers that whether the owner proceeds under subdivision 1 or 2 of subsection A, purchasers should exercise whatever due diligence they deem necessary with respect to information on any sexual offenders registered under Chapter 23 (§19.2-387 et seq.) of Title 19.2, including how to obtain such information.

Comments continued from the front:
