

**Alpha College of Real Estate**  
**2006 Updates from the Virginia General Assembly**

HB 211 Real Estate Board; educational requirements for licensure.

[M. Kirkland Cox](#) |

*Summary as introduced:*

**Real Estate Board; educational requirements for licensure.** Provides that as a condition of licensure as a real estate salesperson or broker, an applicant must have at a minimum a high school diploma or its equivalent. The bill also provides that it does not apply to any person holding a valid license as a real estate salesperson or broker issued by the Real Estate Board before July 1, 2006.

**Virginia Residential Disclosure and Disclaimer Forms Legislation**

[http://www.state.va.us/dpor/reb\\_consumer.htm](http://www.state.va.us/dpor/reb_consumer.htm)

**HB 1554 Residential Property Disclosure Act; seller of historic property to provide notice to purchaser.**

[Lionell Spruill, Sr.](#)

*Summary as passed House: (all summaries)*

**Virginia Residential Property Disclosure Act; Notice of historic district.** Provides that the disclosure and disclaimer forms required under the Virginia Residential Property Disclosure Act contain a notice to purchasers that the property is located in a historic district if the owner has knowledge of such designation. Otherwise, the notice shall advise purchasers to exercise whatever due diligence deemed necessary prior to settlement.

**HB 286 Residential Property Disclosure Act; disclosure of pending enforcement actions.**

[Daniel W. Marshall, III](#)

*Summary as passed House: (all summaries)*

**Virginia Residential Property Disclosure Act; disclosure of pending enforcement actions under the Uniform Statewide Building Code.** Provides that disclosure and disclaimer forms under the Virginia Residential Property Disclosure Act shall contain a notice to purchasers that the owner represents that there are no pending enforcement actions pursuant to the Uniform Statewide Building Code that affect the safe, decent, and sanitary living conditions of the property of which the owner has been notified by the locality.

**SB 670 Residential Property Disclosure Act; disclosure of resource protection areas.**

[Jay O'Brien](#)

*Summary as passed Senate: (all summaries)*

**Virginia Residential Property Disclosure Act; disclosure of resource protection areas.** Provides that the owner of residential real property makes no representation whether the property is located in any resource protection areas or other environmentally protected zones that are subject to governmental regulation. The bill requires the notice to advise purchasers to use whatever due diligence to determine if the property is located in such an area, including review of any official maps.

**Agency Disclosure 2007**

**HB 316 Real Estate Board; duties of licensees and limited service representatives.**

[David B. Albo](#) |

*Summary as passed: (all summaries)*

**Real Estate Board; duties of licensees; limited service agents.** Adds the definition of "limited service representative" to mean a licensee who acts for or represents a client with respect to real property containing from one to four residential units, pursuant to a brokerage agreement that provides that the limited service representative will not provide one or more of the duties set forth in subsection A 2 of §§ 54.1-2131, 54.1-2132, 54.1-2133, and 54.1-2134, inclusive. A limited service representative shall have the obligations set out in the brokerage agreement, except that a limited service representative shall provide the client, at the time of entering the brokerage agreement, copies of any and all disclosures required by federal or state law, or local disclosures expressly authorized by state law, and shall disclose to the client the following in writing: (i) the rights and obligations of the client under the Virginia Residential Property Disclosure Act (§ 55-517 et seq.); (ii) if the client is selling a condominium, the rights and obligations of the client to deliver to the purchasers, or to receive as purchaser, the condominium resale certificate required by §55-79.97; and (iii) if the client is selling a property subject to the Property Owners' Association Act (§55-508 et seq.), the rights and obligations of the client to deliver to the purchasers, or to receive as purchaser, the association disclosure packet required by § 55-512. A limited service representative may act as the agent of the client by so providing in the brokerage agreement. If the brokerage agreement does not so state, the limited service representative shall be deemed as acting as an independent contractor of the client. The bill also clarifies the obligations of licensees vis-à-vis their clients, whether the clients are a buyer, seller, landlord, or tenant. The bill also allows a common source information company to require, as a condition of participation in or use of such common source information, that a licensee providing information through such company disclose the nature of the brokerage relationship with the client of the licensee. **The bill requires the Real Estate Board to promulgate regulations to implement the provisions of this bill to be effective on July 1, 2007.** Further, the Real Estate Board is required to establish a continuing education

**Alpha College of Real Estate**  
**2006 Updates from the Virginia General Assembly**

curriculum of not less than two hours and, as of July 1, 2007, every applicant for re-licensure as an active salesperson or broker shall complete at a minimum one two-hour continuing education course on the amendments to the real estate agency laws prior to each renewal or reinstatement of his license. If the licensee submits a notarized affidavit to the Real Estate Board which certifies that he does not practice residential real estate and shall not do so during the licensing term, training in limited service agency shall not be required. **The bill has a delayed effective date of July 1, 2007.**

**Landlord and Tenant Laws**

**HB 244 Leased or rented property; authority of sheriff to store & sell personal property removed there from.**  
**Stephen C. Shannon**

*Summary as introduced:*

**Property; authority of sheriffs to store and sell personal property removed from certain leased or rented premises.** Includes commercial property that has been leased or rented within the scope of the statute that allows a landlord, pursuant to an action of unlawful detainer or ejectment and after proper notice, to remove and place the personal property of the tenant into the public way.

**HB 320 Residential Landlord and Tenant Act; noncompliance of rental agreement, landlord to recover damages.**

**David B. Albo** |

*Summary as passed House: (all summaries)*

**Virginia Residential Landlord and Tenant Act; noncompliance with rental agreement; recovery of damages by landlord.** Allows a landlord to seek the award of costs or attorney's fees under § 8.01-27.1 and other civil recovery under § 8.01-27.2 as a part of other damages requested and an unlawful detainer action. Under current law the landlord would be required to seek such damages separately.

**HB 889 Lead-based paint maintenance; immunity from liability statute.**

**Terry G. Kilgore**

*Summary as passed: (all summaries)*

**Civil remedies; immunity from lead-based paint poisoning.** Defines "lead-based paint maintenance" under the immunity from liability statute for lead-based paint poisoning. The bill grants immunity to the owner or agent of residential property if the owner or agent who is responsible for lead-based paint maintenance discloses to the lessee the presence of any known lead-based paint and/or lead-based paint hazards about which the owner has actual knowledge. Such disclosure requirements continue through the tenancy if new information arises. Prior to the case in chief, the bill allows a hearing on responsive pleadings that assert such immunity.

**SB 450 Lead poisoning; lead hazard control or identification of child being poisoned thereof.**

**Benjamin J. Lambert III**

*Summary as passed Senate: (all summaries)*

**Abatement of lead hazards; disclosure of lead risks or the identification of a child as having an elevated blood-lead level; retaliation deemed noncompliance; civil penalty.** Establishes the two essential lead program elements relating to lead poisoning prevention that are lacking in Virginia but are required by federal agencies for the 2006 grant cycle. The bill provides an enforcement mechanism for control of lead hazards and protections from termination of the rental agreement or other retaliatory action after written notification of (i) a lead hazard in the dwelling unit or (ii) that a child of the tenant, who is an authorized occupant in the dwelling unit, has an elevated blood lead level. The bill also requires the landlord to maintain the painted surfaces of the dwelling unit in compliance with the Property Maintenance Code and the Uniform Statewide Building Code and provides that the failure to do so will entitle the tenant to terminate the rental agreement. This bill is a recommendation of the Joint Subcommittee to Study Lead Poisoning Prevention (SJR 380), 2005.

**HB 907 Residential Landlord and Tenant Act; confidentiality of tenant records.**

**G. Glenn Oder**

*Summary as passed House: (all summaries)*

**Virginia Residential Landlord and Tenant Act; confidentiality of tenant records; interest on security deposits.** Adds two exceptions to a landlord's holding a tenant's records confidential, which exceptions are for information requested (i) pursuant to a subpoena in a civil case and (ii) by a contract purchaser of the landlord's property, provided the contract purchaser agrees in writing to maintain the confidentiality of such records. The bill also sets out the rate of interest to be paid on security deposits for the years 2004, 2005, and 2006. The bill also contains technical amendments.

**HB 1258 Towing & Recovery Operators, Board of; regulation of towing storage, and recovery of vehicles.**

**Timothy D. Hugo**

**Alpha College of Real Estate**  
**2006 Updates from the Virginia General Assembly**

*Summary as passed House: (all summaries)*

**Tow trucks; towing and recovery operators; local-option regulations; regulation by Board for Towing and Recovery Operators; civil penalty.** Allows a mechanic's lien for "towing, storage, and recovery" in addition to the present "keeping, supporting, and care"; increases the present three-day limit for garage keepers to obtain vehicle data from the DMV and provides written notice to the owner of the stored vehicle to a seven-day limit; raises the so-called "junk car" threshold from the present \$5,000 to \$7,500; and increases from \$25 per day to \$50 per day the amount owed for storage if a vehicle is towed, unclaimed, and sold.

The bill also revises the procedures by which towing and storage companies may seek to recover their fees and charges for towing away and storing immobilized and abandoned vehicles.

In addition, it provides that local towing regulations can be no less restrictive than those imposed by the new Board for Towing and Recovery Operators. The measure also expands localities' ability to regulate "trespass tows" by ordinance and provides that, in the event a vehicle is towed from one locality to be stored in another, the ordinances of the locality from which the vehicle was towed shall apply.

The bill also provides for the so-called "secondary tow." When a vehicle is towed as the result of a police-towing request, the owner of the towing and recovery business, upon presentation of a written request from the owner of the vehicle and payment in full for all towing, recovery, and storage charges, shall release the vehicle for the purpose of inspecting or towing the vehicle to another location for repair, storage, or disposal. As for payment, all towing and recovery businesses shall accept cash, insurance company check, certified check, money order, at least one of two commonly used, nationally recognized credit cards, or any additional methods of payment approved by the Board.

The bill also requires that signs used to provide notice that a trespassing vehicle will be towed include at least the nonemergency telephone number of the local law-enforcement agency or the telephone number of the towing and recovery business authorized to perform the tows. The bill also prohibits local requirements that towing and recovery businesses provide service as repair facilities, body shops, or filling stations. Under this measure, localities would be authorized by ordinance to require photographic evidence to justify "trespass tows," posting of signs providing notice of where towed vehicles may be reclaimed and the name and telephone number of the local consumer affairs office, and obtaining the so-called "second signature" from the property owner agent prior to tows. The bill additionally prohibits certain relationships between towing and recovery businesses and the agents of property owners from whose property trespassing vehicles are towed. The maximum allowable hookup and initial towing fee for trespass tows of passenger cars would be increased from \$85 to \$125, unless local ordinance sets a different limit, and the amount of additional fees for late night, weekend, and holiday tows would be raised from \$10 to \$25 not to exceed \$50. The bill allows local governments, by ordinance, to (i) prohibit storage charges for periods of time when owners cannot reclaim their vehicles because the towing and recovery business is closed and (ii) place caps on the charges that these businesses may impose and requires that any such limits be subject to "periodic and timely" adjustments. Local towing and advisory boards would be required to consist of an equal number of representatives of local law-enforcement agencies and representatives of towing and recovery operators, plus one "civilian" and would have to meet at least once per year at the call of the chairman, who is to be chosen annually by a majority vote of the board.

Finally the bill establishes a new Board for Towing and Recovery Operators to license and regulate the towing and recovery industry and tow truck drivers. This bill is the same as SB 134.

**HB 1536 Residential Landlord and Tenant Act; property of deceased tenants.**

**Terrie L. Suit**

*Summary as passed: (all summaries)*

**Virginia Residential Landlord and Tenant Act; property of deceased tenants.** Authorizes the landlord to dispose of the property of a deceased tenant provided the landlord gives at least 10 days written notice to the contact person authorized by the tenant in the rental agreement or to the estate of the tenant in accordance with law.

**SB 118 Landlord and tenant; not to be evicted for certain disturbances that occur on leased premises.**

**Janet D. Howell**

*Summary as passed Senate: (all summaries)*

**Landlord and tenant duties and responsibilities; evictions; domestic violence.** Provides that a tenant may not be evicted because of family abuse against the tenant that occurs on the leased premises where the perpetrator has been barred from the dwelling unit or subjected to a protective order if the tenant makes certain timely notifications to the landlord.

**SB 157 Courts Technology Fund; created, increase in certain fees.**

**Thomas K. Norment, Jr.**

**Alpha College of Real Estate**  
**2006 Updates from the Virginia General Assembly**

*Summary as passed Senate: (all summaries)*

**Courts Technology Fund; creation.** Creates a special non-reverting fund to be administered by the Supreme Court of Virginia funded by (i) a \$5 increase until December 31, 2006, on certain civil case filings and a \$10 increase thereafter on these and other civil case filings in the district and circuit courts, (ii) doubling the filing fee in the Court of Appeals and the Supreme Court to \$50, and (iii) a \$14 increase in the Supreme Court fee for a law license certificate and a certificate of qualification. Money in the Fund is to be allocated at the direction of the Supreme Court of Virginia to staff, advance, update, maintain, replace, repair and support the telecommunications and technology systems of the judicial system. Revenues raised in support of the Fund shall not be used to supplant current funding to the judicial branch. This bill is identical to HB 68.

**SB 427 Residential Landlord Tenant Act; confidentiality of tenant records.**

**Benjamin J. Lambert III**

*Summary as passed: (all summaries)*

**Virginia Residential Landlord Tenant Act; confidentiality of tenant records.** Authorizes a tenant to designate a third party to receive a duplicate copy of a summons in an unlawful detainer action and any other written notices from the landlord. The bill provides that it shall not be construed to grant standing to any third party designated by a tenant to challenge actions of the landlord for which notice was mailed. The bill also provides that the failure of the landlord to provide the copy to the designated third party does not affect the validity of any judgment entered against the tenant.

**Other Real Estate Laws**

**HB 93 Environmental site assessments; local government to adopt ordinances requiring.**

**Terrie L. Suit**

*Summary as passed: (all summaries)*

**Subdivision and zoning ordinances; environmental site assessments.** Allows localities to include in their subdivision or zoning ordinances provisions for requiring and considering Phase I environmental site assessments based on the anticipated use of the property proposed for the subdivision or development and Phase II environmental site assessments, if the locality deems such to be reasonably necessary, based on findings in the Phase I assessment. A reasonable fee may be charged for the review of such environmental assessments. Such ordinances may also include provisions for requiring disclosure and remediation of contamination and other adverse environmental conditions of the property prior to approval of subdivision and development plans. The bill also provides that the residential property disclosure statement provided by the owner of residential real property to a purchaser include disclosure of adverse environmental site conditions. This bill is identical to SB 224.

**HB 456 Private waste companies; requirements thereof.**

**Thomas Davis Rust**

*Summary as passed House: (all summaries)*

**Displacement of private waste companies.** Adds requirements to the procedures localities must follow before displacing private companies providing garbage, trash, or refuse collection services. Such requirements include making a written finding of at least one of the following: (i) adequate or sufficient privately-owned refuse collection and disposal services are not available; (ii) the use of privately-owned and operated services has substantially endangered the public health or created a public nuisance; (iii) privately-owned services, although available, are not able to provide needed services in a reasonable and cost-efficient manner; or (iv) displacement is necessary to provide for the development or operation of a regional system of refuse collection or disposal for two or more localities.

**HB 699 Housing Authorities Law; various changes to update provisions.**

**Terrie L. Suit**

*Summary as introduced:*

**Housing Authorities Law.** Makes various changes to the Housing Authorities Law to update its provisions. The bill adds several definitions including "blighted area," "blighted property," "conservation area," "redevelopment area," and "spot blight abatement plan." The bill also reconfirms that the elimination of blight in a redevelopment area, the prevention of blight in a conservation area, and the designation of individual properties as blighted pursuant to a spot blight abatement plan are public uses and purposes. In addition, the bill (i) updates referendum provisions; (ii) clarifies that written notice sent by certified mail to all record owners at their last known address as indicated in the records of the treasurer, current real estate tax records, or the records of any other officer responsible for collecting taxes prior to the use of eminent domain and spot blight abatement proceedings is required; (iii) clarifies that an owner in a proposed redevelopment or conservation area has the right to present testimony before the local governing body objecting to the designation of an area as a redevelopment or conservation area, and to acquisition of their property by negotiated purchase or the use of eminent domain; and (iv) clarifies that farm structures are generally exempt from the Housing Authorities Law and that the right to establish redevelopment or conservation areas and use the process of spot blight abatement shall not abrogate the right to farm as protected in § 3.1-22.28. The bill includes various technical amendments.

**Alpha College of Real Estate**  
**2006 Updates from the Virginia General Assembly**

**SB 373 Development rights; localities provide for transfer thereof from parcel located in locality.**

[John C. Watkins](#) | [R. Edward Houck](#)

*Summary as introduced:*

**Transfer of development rights.** Allows localities to provide for the transfer of development rights from a parcel of property located in the locality to another parcel of property located elsewhere in the locality.

**SB 358 Real estate tax; exemption in redevelopment or conservation areas, etc.**

[John S. Edwards](#)

*Summary as passed: (all summaries)*

**Real property tax exemption in redevelopment or conservation areas or rehabilitation districts.** Authorizes local governing bodies to provide for the partial exemption from taxation of (i) new structures located in redevelopment or conservation areas or rehabilitation districts and (ii) other improvements to real estate located in redevelopment or conservation areas or rehabilitation districts. The partial exemption would be a percentage of the increase in assessed value as a result of the new structure or improvement or an amount not to exceed 50 percent of the construction cost of such structure or improvement. The local governing body would be allowed to establish criteria for qualifying real estate including, but not limited to, the square footage for new structures. The bill is contingent on a constitutional amendment authorizing the exemption.

**SB 273 Affordable dwelling unit ordinance; Arlington County permitting certain densities in comp. plan.**

[Mary Margaret Whipple](#)

*Summary as passed Senate: (all summaries)*

**Arlington County Affordable Dwelling Unit ordinance; permitting certain densities in the comprehensive plan.**

Authorizes Arlington County to provide in its comprehensive plan for the physical development within the County for densities of development ranging between a floor area ratio (FAR) of 1.0 (1.0 FAR) and a floor area ratio of 10.0 (10.0 FAR) or greater in some or all parts of the county. The bill authorizes the County to establish affordable housing contributions from developers as a condition of the governing body's approval of a special exception application for residential, commercial, or mixed-use projects with a density equal to or greater than 1.0 FAR. Under the bill, the provisions of the ordinance would allow the developer to provide on-site Affordable Dwelling Units, off-site Affordable Dwelling Units, or a cash contribution to the County's affordable housing fund in lieu of providing the units.

**HB 78 Zoning ordinance; reconstruction/restoration of involuntarily damaged or destroyed nonconformities.**

[Terrie L. Suit](#) |

*Summary as passed: (all summaries)*

**Reconstruction and restoration of certain damaged or destroyed nonconformities.** Provides that if a building is damaged or destroyed by a natural disaster, the zoning ordinance may require that such building be repaired, rebuilt or replaced to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance. If such building cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so.

*Full text:*

**HB 94 Eminent domain; definition of public uses.**

[Terrie L. Suit](#) |

*Summary as passed House: (all summaries)*

**Eminent domain; definition of public uses.** Provides a definition of public uses as embracing only the ownership, possession, occupation, and enjoyment of land by the public or public agencies, and public corporations and public service companies. The bill states that public benefits or potential public benefits including economic development or private development, an increase in the tax base, tax revenues, employment, or general economic health and welfare shall not be considered when determining whether a use constitutes a public use.

**HB 1021 Zoning ordinances; findings of board of appeals on questions of fact are presumptively correct.**

[Robert Hurt](#)

*Summary as passed House: (all summaries)*

**Board of zoning appeals decisions.** Provides that the findings and conclusions of the board of zoning appeals on questions of fact are presumptively correct. The bill also directs the circuit court to hear any arguments on questions of law de novo.

**HB 1236 Fair Housing Law; removes exemption of single-family house from certain section.**

[Kenneth R. Melvin](#) |

**Alpha College of Real Estate**  
**2006 Updates from the Virginia General Assembly**

*Summary as passed House: [\(all summaries\)](#)*

**Exemptions to the Virginia Fair Housing Law.** Removes exemption of single family-house from the Fair Housing Law section relating to restrictive covenants. Section 36-96.6 states in pertinent part that any restrictive covenants based on race, color, religion, national origin, sex, elderliness, familial status or handicap are void and against Virginia public policy. Incorporates HB 696.