

2018 Virginia General Assembly Session Overview
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General Overview

The 2018 General Assembly session adjourned sine die on March 10th. This was a “long session” lasting 60 days. Although time was compressed, the legislature considered more than 3,700 pieces of legislation. As is typically the case, only about one-third of the legislation introduced will ultimately be signed into law.

Although legislature considered a wide variety of bills, the most controversial topic this session was the biennial budget. Outgoing Governor Terry McAuliffe’s introduced budget included traditional Medicaid expansion, an expense that has been rejected for the past four years by both the Republican-controlled House and Senate. Due to the shifting political landscape in the House after the 2017 elections (in which 15 new Democratic delegates were elected, bringing Republican control to a razor-thin margin), House Republicans decided to advance their own Medicaid expansion plan. This plan included work requirements for participants as well as a controversial “bed tax” for hospitals. The Senate, however, remained steadfastly opposed to expansion. Because of this difference of positions, the House and Senate versions of the budget were more than \$600 million apart. Unable to resolve this discrepancy during the regular session, Governor Ralph Northam has called for a special session on April 11th to finalize the budget.

Other than the budget, some of the most high-profile topics for legislation included:

- Curbing the opioid crisis;
- Continuing COPN reform;
- Repealing the 2015 electric utility rate freeze;
- Funding for Northern Virginia’s Metro system;
- Raising the state’s felony threshold to \$500 from \$200;
- Instituting sanctuary city policies;
- Reforming the individual health insurance marketplace.

Issues of Importance to the Mortgage Lending Industry

Of the 3,700 or so bills introduced this Session, your lobbyists flagged about 25 bills of potential interest to the Virginia Mortgage Lenders Association. Most of these bills were of general interest to the mortgage lending industry, although several were of particular import to the VMLA. Below, [please click here](#) for a list of all the bills tracked for the VMLA this year, with a brief summary of each bill, as well as its final outcome. We have highlighted the most important bills in yellow, and will discuss those in greater detail below. If you would like any more information on a particular bill on this list, please visit: <http://lis.virginia.gov/cgi-bin/legp604.exe?181+men+BIL>

Bill	Patron	Summary	Status
HB311	Simon	<p>Unlawful detainer; foreclosure; legal title to real property foreclosed upon. Provides that, in the case of a summons for an unlawful detainer filed by a successor landlord following the foreclosure of a dwelling unit, the general district court shall determine whether there may be a valid issue as to the legal title to the real property if (i) such an issue is raised by a defendant to the case and (ii) the court determines such issue raised is a bona fide claim. The bill provides that, if the court finds that such an issue exists, the court shall dismiss the case without prejudice. The bill further provides that the general district court shall proceed with the unlawful detainer case if it finds that no such valid issue exists. The bill specifies that the general district court is not granted subject matter jurisdiction to determine legal title to real property pursuant to the contents of the bill. The bill adds unlawful detainer actions to the list of actions wherein another judgment between the same parties does not bar another such action from being brought.</p>	Signed by the Governor
HB321	Bourne	<p>Professions and occupations; real estate brokers and salespersons; cease and desist orders for unlicensed activity; civil penalty. Expands the enforcement options of the Real Estate Board (Board) by giving the Board direct authority to institute proceedings in equity to enjoin any person, partnership, corporation, or any other entity from engaging in unlicensed activity and certain other specifically enumerated unlawful acts. The bill provides that the Board may recover a civil penalty from such person, partnership, corporation, or any other entity of at least \$200 but not more than \$25,000 per violation, with each unlawful act constituting a separate violation. Current law provides that the Board may impose a civil penalty against any person engaging in unlicensed activity not to exceed \$1,000 for any real estate transaction or the compensation received from any such real estate transaction, whichever is higher.</p>	Dead

HB439	Bulova	<p>Professions and occupations; Real Estate Board; licensees; translation of real estate documents. Provides that if a party to a real estate transaction requests translation of a contract or other real estate document from the English language to another language, a real estate licensee may assist such party in obtaining a translator or may refer such party to an electronic translation service and, in doing so, the licensee shall not be deemed to have breached any of his obligations as a real estate licensee or otherwise become liable for any inaccuracies in the translation..</p>	Signed by the Governor
HB570	Gooditis	<p>Real estate settlement agents. Establishes a presumption that any person who is authorized to act as a settlement agent is competent to handle settlements of federally backed mortgages secured by real estate in the Commonwealth. Lenders are prohibited from imposing any additional requirement as a condition of closing such mortgages. The measure also (i) provides that if a lender maintains a list of approved settlement agents, the list shall include any person qualified to act as a settlement agent and (ii) prohibits a lender from removing a person from such a list unless it has given the person notice of the reasons for the proposed removal and an opportunity to request a hearing. If a hearing is requested, it shall be conducted by the State Corporation Commission (SCC), and the lender shall not remove the person from its list unless the SCC finds that the removal is permitted.</p>	Dead
HB642	Hope	<p>Legal notices; online publications. Provides that, where any ordinance, resolution, notice, or advertisement is required by law to be published in a newspaper, such ordinance, resolution, notice, or advertisement may instead be published in an online publication. The bill further specifies the requirements for such online publication.</p>	Dead

HB728	Head	<p>Newspapers; legal notices and publications; requirements. Alters the requirements for newspapers that may be used for legal notices and publications by (i) changing the publication and circulation requirement from 24 consecutive weeks to at least 50 of the preceding 52 weeks; (ii) requiring that such a newspaper have both a general circulation in, as newly defined in the bill, and news coverage of the area in which such notice is required to be published; and (iii) requiring that such newspaper publish the United States Postal Service Statement of Ownership in such newspaper at least once per calendar year and maintain a copy of such form for inspection. The bill makes additional changes to the options available for allowing a newspaper to qualify as a newspaper that may be used for publishing such legal notices and publications.</p>	Dead
HB755	Leftwich	<p>Foreclosure; notice of sale when owner is deceased. Provides that when the owner of a property to be sold by a trustee pursuant to a deed of trust is deceased, the notice of the sale shall be delivered to the last known address of the deceased owner, any personal representative of the decedent's estate, and any heirs of the decedent as recorded in the land records where the property is located.</p>	Signed by the Governor
HB862	Peace	<p>Professions and occupations; real estate licenses; real estate teams. Requires real estate teams as defined in the bill to obtain a business entity license, meaning a real estate firm license or a business entity salesperson's license, from the Real Estate Board (the Board). The bill also expands the responsibilities of supervising brokers and requires that as a condition of the renewal of the license of a supervising broker of a branch office, such broker shall provide to the Board the name and license number of each real estate licensee affiliated with the branch office at the time of the renewal. The bill has a delayed effective date of January 1, 2019.</p>	Signed by the Governor

HB864	Ingram	<p>Real Estate Board; powers and duties; escrow funds; education. Establishes notice provisions and required procedures to be followed in the case of escrow funds held by a real estate broker in the event of termination of a real estate purchase contract. In addition, the bill requires that the curricula for new licensees of the Real Estate Board include real estate-related finance as one of the topics and requires the Board to establish guidelines for a post-license educational curriculum for real estate salespersons consisting of at least 30 hours of instruction to be completed within one year from the last day of the month in which the initial license was issued. The bill (i) adds to the criteria for broker licensure courses the requirement that at least two hours of instruction include an overview of broker supervision requirements under Virginia law and Board regulations, and (ii) provides for the Board to develop a form for signature by the parties to a real estate transaction that advises the purchaser to review the residential property disclosure statement on the Board's website. The bill also clarifies that the Board is required to make the disclosure form mandated by the Virginia Residential Property Disclosure Act (§ 55-517 et seq.) available on the Board's website. Provisions of the bill amending the curriculum and instruction requirements have a delayed effective date of January 1, 2019.</p>	Signed by the Governor
HB1028	Convirs-Fowler	<p>Real estate settlement; choice of settlement service provider. Provides that a purchaser or borrower in a transaction related to real estate in the Commonwealth shall have the right to select the settlement agent, mortgage lender or broker, and any other vendor associated with the financing or settlement of such real estate. Currently, such right is limited to the choice of settlement agent. The bill also prohibits the seller or any other party associated with a real estate transaction from requiring the use of, or offering anything of value for the use of, a particular mortgage lender or broker or any other vendor as a condition of the sale.</p>	Dead

HB1032	Convirs-Fowler	Real estate settlements, prohibition against kickbacks, rebates, or other things of value. Subjects any affiliated settlement service provider of any person selling real property or performing services as a real estate agent, attorney, lay settlement agent, or lender to the prohibition against paying or receiving kickbacks, rebates, or other things of value pursuant to services required to complete a real estate settlement being referred to any person.	Dead
HB1408	Bourne	Virginia Fair Housing Law; unlawful discriminatory housing practices. Adds discrimination on the basis of a person's source of income to the list of unlawful discriminatory housing practices. The bill defines "source of income" as any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity.	Dead
HB1453	Ware	Real estate appraisers; evaluations. Changes the definition of "evaluation" from an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real property to an opinion of the market value of real property or real estate that may be utilized in connection with a real estate-related financial transaction where an appraisal by a state-certified or state-licensed appraiser is not required by the state or federal financial institution's regulatory agency engaging in, contracting for, or regulating such real estate-related financial transaction or regulating the financial institution or lender engaged in or about to engage in such real estate-related financial transaction. The bill requires that an evaluation meet the format requirements of the federal Interagency Appraisal and Evaluation Guidelines, include sufficient information in clear and understandable language to allow a person to understand the opinion of the market value of real property or real estate, and contain the statement: "This is not an appraisal performed in accordance with the Uniform Standards of Professional Appraisal Practice."	On the way to the Governor
HB1506	Bell, Richard P.	Appraisal management companies; clarifies definition, state-licensed appraisers.	Signed by the Governor

SB11	Petersen	<p>State Corporation Commission; members. Increases the number of members of the State Corporation Commission from three to five. The measure requires that one of the new members be initially elected during the 2019 Session of the General Assembly and the other new member be initially elected during the 2021 Session. The measure also requires that persons elected to fill these two new positions be found, based on previous vocation, employment, or affiliation, to be qualified as a representative of the interests of the consumers of the Commonwealth.</p>	Dead
SB195	Locke	<p>Virginia Residential Rent-to-Own Real Estate Contracts Act; civil penalties. Creates the Virginia Residential Rent-to-Own Real Estate Contracts Act that establishes contract requirements and prohibitions for installment land contracts and lease-option contracts as defined in the bill. Under the bill, a violation by a person who sells, or proposes to sell, real property under an installment land contract or lease-option contract constitutes a fraudulent act or practice for purposes of applying the Virginia Consumer Protection Act.</p>	Dead (Housing Commission bill)
SB280	Petersen	<p>Lease-option real estate contracts; requirements of the owner; default. Establishes contract provisions for when an owner of real property enters into a contract with a purchaser to lease the real property and the contract includes an option to purchase the same property. The bill directs that whenever an owner enters into such contract, he shall (i) ensure that the contract is in writing and recorded, (ii) disclose in the contract all liens on the property at the time of the signing of the contract, and (iii) satisfy any outstanding tax obligations on the property prior to the signing of the contract. If the purchaser defaults, including by nonpayment, the owner shall give written notice of the grounds for default to the purchaser, and the purchaser shall have 30 days to cure the default in order to maintain his right to purchase.</p>	Dead
SB422	Chafin	<p>Foreclosure; notice of sale when owner is deceased. Provides that when the owner of a property to be sold by a trustee pursuant to a deed of trust is deceased, the notice of the sale shall be delivered to the last known address of the deceased owner, any personal representative of the decedent's estate, and any heirs of the decedent as recorded in the land records where the property is located.</p>	Signed by the Governor

SB655	McPike	Appraisal management companies; cap on fees; disclosure. Caps the markup that an appraisal management company adds to the cost of an appraisal conducted by an independent appraiser at 20 percent. The bill also requires the appraisal management company to fully disclose to the client the actual fee that is charged for the services provided by the appraisal management company.	Dead
SB758	Sturtevant	Professions and occupations; real estate licenses; real estate teams. Requires real estate teams as defined in the bill to obtain a business entity license, meaning a real estate firm license or a business entity salesperson's license, from the Real Estate Board (the Board). The bill also expands the responsibilities of supervising brokers and requires that as a condition of the renewal of the license of a supervising broker of a branch office, such broker shall provide to the Board the name and license number of each real estate licensee affiliated with the branch office at the time of the renewal. The bill has a delayed effective date of January 1, 2019.	Signed by the Governor

Issues of Importance to the Virginia Mortgage Lenders Association

Of all the bills tracked for the VMLA this Session, the following were the most important:

- **HB570** (Gooditis): This bill would have established a presumption that any person who is authorized to act as a settlement agent is competent to handle settlements of federally backed mortgages secured by real estate in the Commonwealth. Lenders would have been prohibited from imposing any additional requirement as a condition of closing such mortgages. The measure would have also (i) provided that if a lender maintains a list of approved settlement agents, the list shall include any person qualified to act as a settlement agent and (ii) prohibited a lender from removing a person from such a list unless it has given the person notice of the reasons for the proposed removal and an opportunity to request a hearing. If a hearing is requested, it would have been conducted by the State Corporation Commission (SCC), and the lender shall not remove the person from its list unless the SCC finds that the removal is permitted.
 - **We lobbied hard against this bill. We worked with the Realtors, Homebuilders and Bankers to meet with the patron (who is one of the new freshman Democrats). We even brought Joe Face (Commissioner of the Bureau of Financial Institutions) to meet with her. In the end, Del. Gooditis decided that there were too many issues to solve during Session and agreed to strike her bill.**
- **HB1028** (Convirs-Fowler): Provides that a purchaser or borrower in a transaction related to real estate in the Commonwealth shall have the right to select the settlement agent, mortgage lender or broker, and any other vendor associated with the financing or

settlement of such real estate. Currently, such right is limited to the choice of settlement agent. The bill also prohibits the seller or any other party associated with a real estate transaction from requiring the use of, or offering anything of value for the use of, a particular mortgage lender or broker or any other vendor as a condition of the sale.

- **We lobbied hard against this bill as well. We worked with the Realtors, Homebuilders and Bankers to meet with the patron (who is another one of the new freshman Democrats). She amended the bill several times, hoping to keep the vehicle alive. In the end, despite our urging to strike the bill and meet with the stakeholders outside of Session to resolve some of her concerns, Del. Convors-Fowler decided to present her bill to the committee. We had several members of the VMLA Legislative Committee on hand to testify in opposition. Our opposition, coupled with efforts from the Realtors, Homebuilders and Bankers, swayed the committee to have the bill “continued” (or killed) for the year.**
- **HB1032 (Convors-Fowler):** Subjects any affiliated settlement service provider of any person selling real property or performing services as a real estate agent, attorney, lay settlement agent, or lender to the prohibition against paying or receiving kickbacks, rebates, or other things of value pursuant to services required to complete a real estate settlement being referred to any person.
 - **Again, we lobbied hard against this bill, which had the same patron as the last bill. On this one, Del. Convors-Fowler agreed to strike the bill rather than have it heard in committee.**
- **SB655 (McPike):** Caps the markup that an appraisal management company adds to the cost of an appraisal conducted by an independent appraiser at 20 percent. The bill also requires the appraisal management company to fully disclose to the client the actual fee that is charged for the services provided by the appraisal management company.
 - **This bill was a continuation of an effort started by Senator Wagner in 2017, which we also successfully defeated. This bill was put in at the request of one of Senator McPike’s constituents, who in an independent appraiser. Members of the VMLA Legislative Committee joined the Bankers and the Real Estate Valuation Association in a meeting with Senator McPike early on during Session to express our concerns. As a result of this meeting, Sen. McPike agreed to strike the bill.**

This was another good Session for the VMLA! If you have any questions/comments, please feel free to reach out to Katie Payne: 804-420-6492 or kpayne@williamsmullen.com.