Outline of Real Property Issues for the House General Laws Committee

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1. Title 54.1 of the Code of Virginia-Professional Licensing Laws.

a. Professions Regulated Include Wide Variety: Everything from real estate licensees to professional wrestling, and everything in between.

b. Focusing on housing related professions, real estate licensees are regulated under Title 54.1, Chapter 21. The General Laws Committee considers legislation relating to real estate licensing.

(i) Difference between a real estate licensee and a Realtor. The Realtor Code of Ethics.

(ii) Real Estate Licensing Law/Real Estate Board Regulations.

(iii) Virginia Real Estate Transaction Recovery Fund.

(iv) Virginia Real Estate Agency Law.

(v) The Virginia Real Estate Board.

(vi) The Virginia Fair Housing Board.

c. The General Laws Committee also considers legislation relating to Home Inspectors, Contractors and Real Estate Appraisers.

2. Title 55-The Substantive Real Estate Statutes.

a. Title 55 of the Code of Virginia has not been comprehensively revised since 1950. Currently, the Virginia Code Commission is recodifying Title 55 into Title 55.1. This is a three-year effort. You should see Code Commission legislation in the 2019 General Assembly.

b. Sales Transactions. The General Laws Committee considers legislation relating to the nuts and bolts of a real estate sales transaction including the Virginia Residential Property Disclosure Act. The legal aspects of sales transactions are usually sent to the Courts of Justice Committee.

c. Condos and Property Owner’s Associations. The General Laws Committee considers legislation relating to Common Interest Communities, Condos and POAs, which can be complex, and you will receive a separate briefing on these issues.

d. Landlord Tenant.

(i) The General Laws Committee is the primary decision-maker on landlord tenant law.

(ii)There are currently two landlord tenant acts: the Virginia Residential Landlord Tenant Act (VRLTA) and the Virginia Landlord Tenant Act (VLTA). The Virginia Code Commission is revising Title 55 as I mentioned earlier with a goal of having one residential act, one commercial act and a manufactured housing lot rental act. In order for the Code Commission to complete it work, the two residential acts must be identical in terms of substance.

(iii) Your Chairman has HB 857 this session to make the substantive changes so that the two residential acts will be identical and the Code Commission can proceed with its work.

(iv) As you can imagine, like many issues, there often two sides on landlord tenant issues, the landlord’s side and the tenant’s side. You will see me, Martin Johnson from the Realtors, Brian Gordon from the apartment folks, or Andrew Clark from the Homebuilders, articulating the landlord’s view. You will see Christie Marra or Eric Dunn from the Poverty Law Center articulating the tenant’s view. One of the roles of lobbyists is to try to build consensus on good public policy before we bring issues to committees for a vote. We can assure you that a good faith effort is being made by all stakeholders before the bills get to you for a decision. This is generally true with most constituent and interest groups.

(v) Landlord tenant legal issues, like the procedures of an unlawful detainer, are usually sent to the Courts of Justice Committee, not the General Laws Committee.

3. Title 36-Housing.

a. The Fair Housing Law. The General Laws Committee considers legislation on the fair housing law.

(i) There is a Federal Fair Housing Act passed by Congress in 1968 and the Fair Housing Amendments Act in 1988. The FFHA allows states and localities to have their own fair housing laws provided they are substantially equivalent.

(ii) The Virginia Fair Housing Law was passed by the 1990 General Assembly and tweaked by the 1991 General Assembly.

(iii) The 2017 General Assembly passed legislation dealing with assistance animals, the first comprehensive such law in the US. Assistance animals under the fair housing laws are different from service animals. There are a lot of technicalities in all of this.

(iv) This Session, the General Laws Committee will consider legislation to expand the protections of the Virginia Fair Housing Law to protect gender identity and sexual preference. You will also consider legislation to require private landlords to accept Section 8 tenants or be in violation of the fair housing law.

b. The Building Code and Fire Code. The General Laws Committee considers legislation on the Building Code (Title 36) and Fire Code (Title 27).

i) The International Building Code Officials adopt the International Building Code (IBC) for all 50 states to consider.

(ii) The Virginia Department of Housing and Community Development (DCHC) is home to the Division of Building & Fire Regulation. Cindy Davis is the Director.

(iii) DHCD hosts the “Building Code Workgroup” which considers the updates from the IBC over a three-year period on of the code update cycle. The Building Code Workgroup considers thousands of pages of proposals of changes to the building and fire codes and makes recommendations to the DHCD Board (which is appointed by the Governor). The DCHD board adopts the amendments to the Uniform Statewide Building Code and the Statewide Fire Prevention Code, which are then submitted as regulations to the Governor for approval.

c. The General Assembly traditionally does not legislate the building or fire codes in the Code of Virginia but leaves that level of specificity to the DCHD Board to address in the Uniform Statewide Building Code and the Statewide Fire Prevention Code.

d. Title 36 issues also include Manufactured Housing and the Housing Authorities Act.

4. Questions?