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HOUSE BILL NO. 1342

Offered January 24, 2000

A BILL to amend and reenact § 55-248.11 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; security deposits.

Patrons—Drake, Albo, Bryant, Cantor, Hamilton, Hull, Jones, S.C., McClure, O'Brien, Scott, Suit, Watts and Williams

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 55-248.11 of the Code of Virginia is amended and reenacted as follows:

§ 55-248.11. Security deposits.

A. A landlord may not demand or receive security, however denominated, in an amount or value in excess of two months' periodic rent. *However, this shall not be construed to prevent a tenant or a third party on behalf of the tenant from paying more than two months as a security deposit if paid (i) to enable the tenant to qualify for tenancy when the tenant would otherwise be ineligible for tenancy or (ii) at the request of and for the convenience of the tenant or third party making the payment.*

Upon termination of the tenancy, such security, whether it is property or money, plus any accrued interest thereon, held by the landlord as security as hereinafter provided may be applied solely by the landlord (i) to the payment of accrued rent and the reasonable charges for late payment of rent specified in the written agreement; (ii) to the payment of the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with § 55-248.16, less reasonable wear and tear excepted; or (iii) to other damages or charges as provided in the rental agreement. The security, any accrued interest and any deductions, damages and charges shall be itemized by the landlord in a written notice given to the tenant, together with any amount due the tenant within thirty days after termination of the tenancy and delivery of possession.

Nothing in this section shall be construed by a court of law or otherwise as entitling the tenant, upon the termination of the tenancy, to an immediate credit against the tenant's delinquent rent account in the amount of the security deposit. The landlord shall apply the security deposit in accordance with this section within the thirty-day time period.

The landlord shall notify the tenant in writing of any deductions to be made from the tenant's security deposit during the course of the tenancy. Such notification shall be made within thirty days of the date of the determination of the deduction and shall itemize the reasons in the same manner as provided in subsection B. Such notification shall not be required for deductions made less than thirty days prior to the termination of the agreement.

In the event that damages to the premises exceed the amount of the security deposit and require the services of a third party contractor, the landlord shall give written notice to the tenant advising him of that fact within the thirty-day period. If notice is given as prescribed in this paragraph, the landlord shall have an additional fifteen-day period to provide an itemization of the damages and the cost of repair.

If the landlord willfully fails to comply with this section or if the landlord fails to return any security and interest required to be paid to the tenant under this chapter, the tenant may recover such security due him together with actual damages and reasonable attorney's fees.

This section ~~does~~ shall not preclude the landlord or tenant from recovering other damages to which he may be entitled under this chapter. The holder of the landlord's interest in the premises at the time of the termination of the tenancy, regardless of how the interest is acquired or transferred, is bound by this section and shall be required to return any security received by the original landlord and any accrued interest that is duly owed to the tenant, whether or not such security is transferred with the landlord's interest by law or equity, regardless of any contractual agreements between the original landlord and his successors in interest.

B. The landlord shall: (i) accrue interest at an annual rate equal to one percent below the Federal Reserve Board discount rate as of January 1 of each year, beginning January 1, 1995, on all property or money held as security; however, no interest shall be due and payable unless the security has been held by the landlord for a period exceeding thirteen months after the date of the rental agreement or after the date of any prior written or oral rental agreements with the same tenant, for continuous occupancy of the same dwelling unit, such security earning interest which begins accruing from the effective date of the rental agreement, and such interest shall be paid only upon termination of the tenancy, delivery of possession and return of the security deposit as provided in subsection A of this section; (ii) maintain

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HB1342

60 and itemize records for each tenant of all deductions from security deposits provided for under this
61 section which the landlord has made by reason of a tenant's noncompliance with § 55-248.16 during the
62 preceding two years; and (iii) permit a tenant or his authorized agent or attorney to inspect such tenant's
63 records of deductions at any time during normal business hours.

64 C. Upon request by the landlord to a tenant to vacate, or within five days after receipt of notice by
65 the landlord of the tenant's intent to vacate, the landlord shall make reasonable efforts to advise the
66 tenant of the tenant's right to be present at the landlord's inspection of the dwelling unit for the purpose
67 of determining the amount of security deposit to be returned. If the tenant desires to be present when the
68 landlord makes the inspection, he shall so advise the landlord in writing who, in turn, shall notify the
69 tenant of the time and date of the inspection, which must be made within seventy-two hours of
70 termination of occupancy. Upon completion of the inspection attended by the tenant, the landlord shall
71 furnish the tenant with an itemized list of damages to the dwelling unit known to exist at the time of the
72 inspection.

73 D. If the tenant has any assignee or sublessee, the landlord shall be entitled to hold security from
74 only one party in compliance with the foregoing provisions of this section.