

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 805

An Act to amend and reenact § 55-248.37 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; holdover tenancies with landlord's consent.

[H 2162]

Approved March 26, 2005

Be it enacted by the General Assembly of Virginia:

1. That § 55-248.37 of the Code of Virginia is amended and reenacted as follows:

§ 55-248.37. Periodic tenancy; holdover remedies.

A. The landlord or the tenant may terminate a week-to-week tenancy by serving a written notice on the other at least seven days prior to the next rent due date. The landlord or the tenant may terminate a month-to-month tenancy by serving a written notice on the other at least 30 days prior to the next rent due date.

B. If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and may also recover actual damages, reasonable ~~attorney's~~ attorneys' fees, and court costs, unless the tenant proves by a preponderance of the evidence that the failure of the tenant to vacate the dwelling unit as of the termination date was reasonable. The landlord may include in the rental agreement a liquidated damage penalty, not to exceed an amount equal to the per diem of the monthly rent, for each day the tenant remains in the dwelling unit after the termination date specified in the landlord's notice. If the landlord consents to the tenant's continued occupancy, § 55-248.7 applies.

C. *In the event of termination of a rental agreement and the tenant remains in possession with the agreement of the landlord either as a hold-over tenant or a month-to-month tenant and no new rental agreement is entered into, the terms of the terminated agreement shall remain in effect and govern the hold-over or month-to-month tenancy, except that the amount of rent shall be either as provided in the terminated rental agreement or the amount set forth in a written notice to the tenant, provided that such new rent amount shall not take effect until the next rent due date coming 30 days after the notice.*