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HOUSE BILL NO. 2188

Offered January 10, 2007

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A BILL to amend and reenact §§ 55-222, 55-248.4, and 55-248.15:2 of the Code of Virginia, relating to landlord termination of leases; update of the interest on security deposits.

Patron—Oder

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-222, 55-248.4, and 55-248.15:2 of the Code of Virginia are amended and reenacted as follows:

§ 55-222. Notice to terminate a tenancy; on whom served; when necessary.

A tenancy from year to year may be terminated by either party giving three months' notice, in writing, prior to the end of any year of the tenancy, of his intention to terminate the same. A tenancy from month to month may be terminated by either party giving 30 days' notice in writing, prior to the next rent due date, of his intention to terminate the same. ~~However, 120 days' written notice is required if the termination is~~ *In addition to the termination rights set forth above, and notwithstanding the terms of the lease, the landlord may terminate the lease due to rehabilitation or a change in the use of all or any part of a building containing at least four residential units, upon 120 days' prior written notice to the tenant.* Changes shall include but not be limited to conversion to hotel, motel, apartment hotel or other commercial use, planned unit development, rehabilitation, demolition or sale to a contract purchaser requiring an empty building. This 120-day notice requirement shall not be waived; however, a period of less than 120 days may be agreed upon by both the landlord and tenant in a written agreement separate from the rental agreement or lease executed after such notice is given and applicable only to the 120-day notice period. When such notice is to the tenant it may be served upon him or upon anyone holding under him the leased premises, or any part thereof. When it is by the tenant it may be served upon anyone who, at the time, owns the premises in whole or in part, or the agent of such owner, or according to the common law. This section shall not apply when, by special agreement, no notice is to be given; nor shall notice be necessary from or to a tenant whose term is to end at a certain time.

The written notice required by this section to terminate a tenancy shall not be contained in the rental agreement or lease, but shall be a separate writing.

§ 55-248.4. Definitions.

When used in this chapter, unless expressly stated otherwise:

"Action" means recoupment, counterclaim, set off, or other civil suit and any other proceeding in which rights are determined, including without limitation actions for possession, rent, unlawful detainer, unlawful entry, and distress for rent.

"Application fee" means any deposit of money, however denominated, including all money intended to be used as a security deposit under a rental agreement, or property, which is paid by a tenant to a landlord, lessor, or agent of a landlord for the purpose of being considered as a tenant for a dwelling unit.

"Assignment" means the transfer by any tenant of all interests created by a rental agreement.

"Authorized occupant" means a person entitled to occupy a dwelling unit with the consent of the landlord, but who has not signed the rental agreement and therefore does not have the rights and obligations as a tenant under the rental agreement.

"Building or housing code" means any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any structure or that part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

"Dwelling unit" means a structure or part of a structure that is used as a home or residence by one or more persons who maintain a household, including, but not limited to, a manufactured home.

"Facility" means something that is built, constructed, installed or established to perform some particular function.

"Good faith" means honesty in fact in the conduct of the transaction concerned.

"Guest or invitee" means a person, other than the tenant or person authorized by the landlord to occupy the premises, who has the permission of the tenant to visit but not to occupy the premises.

"Landlord" means the owner, lessor or sublessor of the dwelling unit or the building of which such dwelling unit is a part. "Landlord" also includes a managing agent of the premises who fails to disclose

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59 the name of such owner, lessor or sublessor. Such managing agent shall be subject to the provisions of
60 § 16.1-88.03.

61 "Managing agent" means a person authorized by the landlord to act on behalf of the landlord under a
62 management agreement.

63 "Natural person," wherever the chapter refers to an owner as a "natural person," includes co-owners
64 who are natural persons, either as tenants in common, joint tenants, tenants in partnership, tenants by the
65 entirety, trustees or beneficiaries of a trust, general partnerships, limited liability partnerships, registered
66 limited liability partnerships or limited liability companies, or any lawful combination of natural persons
67 permitted by law.

68 "Organization" means a corporation, government, governmental subdivision or agency, business trust,
69 estate, trust, partnership or association, two or more persons having a joint or common interest, or any
70 combination thereof, and any other legal or commercial entity.

71 "Owner" means one or more persons, jointly or severally, in whom is vested:

72 1. All or part of the legal title to the property, or

73 2. All or part of the beneficial ownership and a right to present use and enjoyment of the premises,
74 and the term includes a mortgagee in possession.

75 "Person" means any individual, group of individuals, corporation, partnership, business trust,
76 association or other legal entity, or any combination thereof.

77 "Premises" means a dwelling unit and the structure of which it is a part and facilities and
78 appurtenances therein and grounds, areas and facilities held out for the use of tenants generally or whose
79 use is promised to the tenant.

80 "*Processing fee for payment of rent with bad check*" means the processing fee specified in the rental
81 agreement, not to exceed \$50, assessed by a landlord against a tenant for payment of rent with a check
82 drawn by the tenant on which payment has been refused by the payor bank because the drawer had no
83 account or insufficient funds.

84 "Rent" means all money, other than a security deposit, owed or paid to the landlord under the rental
85 agreement, including prepaid rent paid more than one month in advance of the rent due date.

86 "Rental agreement" or "lease agreement" means all agreements, written or oral, and valid rules and
87 regulations adopted under § 55-248.17 embodying the terms and conditions concerning the use and
88 occupancy of a dwelling unit and premises.

89 "Rental application" means the written application or similar document used by a landlord to
90 determine if a prospective tenant is qualified to become a tenant of a dwelling unit. A landlord may
91 charge an application fee as provided in this chapter and may request a prospective tenant to provide
92 information that will enable the landlord to make such determination. The landlord may photocopy each
93 applicant's driver's license or other similar photo identification, containing either the applicant's social
94 security number or control number issued by the Department of Motor Vehicles pursuant to § 46.2-342.
95 The landlord may require that each applicant provide a social security number issued by the U.S. Social
96 Security Administration or an individual taxpayer identification number issued by the U.S. Internal
97 Revenue Service, for the purpose of determining whether each applicant is eligible to become a tenant in
98 the landlord's dwelling unit.

99 "Roomer" means a person occupying a dwelling unit that lacks a major bathroom or kitchen facility,
100 in a structure where one or more major facilities are used in common by occupants of the dwelling unit
101 and other dwelling units. Major facility in the case of a bathroom means toilet, and either a bath or
102 shower, and in the case of a kitchen means refrigerator, stove or sink.

103 "Security deposit" means any refundable deposit of money that is furnished by a tenant to a landlord
104 to secure the performance of the terms and conditions of a rental agreement, as a security for damages
105 to the leased premises, or as a pet deposit. However, such money shall be deemed an application fee
106 until the effective date of the rental agreement. Security deposit shall not include a commercial
107 insurance policy purchased by a landlord on behalf of a tenant to secure the performance by the tenant
108 of the terms and conditions of a rental agreement, generally known as damage insurance. Further,
109 security deposit shall not include a commercial insurance policy purchased by a landlord to provide
110 property and casualty insurance coverage for a tenant, generally known as renter's insurance.

111 "Single-family residence" means a structure, other than a multi-family residential structure,
112 maintained and used as a single dwelling unit or any dwelling unit which has direct access to a street or
113 thoroughfare and shares neither heating facilities, hot water equipment nor any other essential facility or
114 service with any other dwelling unit.

115 "Sublease" means the transfer by any tenant of any but not all interests created by a rental
116 agreement.

117 "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion
118 of others and shall include roomer. Tenant shall not include (i) an authorized occupant, (ii) a guest or
119 invitee, or (iii) any person who guarantees or cosigns the payment of the financial obligations of a rental
120 agreement but has no right to occupy a dwelling unit.

"Utility" means electricity, natural gas, water and sewer provided by a public service corporation or such other person providing utility services as permitted under § 56-1.2. If the rental agreement so provides, a landlord may use submetering equipment or energy allocation equipment as defined in § 56-245.2, or a ratio utility billing system as defined in § 55-226.2.

§ 55-248.15:2. Schedule of interest rates on security deposits.

A. The interest rate established by § 55-248.15:1 varies annually with the annual rate being equal to one percentage point below the Federal Reserve Board discount rate as of January 1 of each year. The purpose of this section is to set out the interest rates applicable under this chapter.

B. The rates are as follows:

1. July 1, 1975, through December 31, 1979, 3.0%.
2. January 1, 1980, through December 31, 1981, 4.0%.
3. January 1, 1982, through December 31, 1984, 4.5%.
4. January 1, 1985, through December 31, 1994, 5.0%.
5. January 1, 1995, through December 31, 1995, 4.75%.
6. January 1, 1996, through December 31, 1996, 5.25%.
7. January 1, 1997, through December 31, 1998, 5.0%.
8. January 1, 1999, through June 30, 1999, 4.5%.
9. July 1, 1999, through December 31, 1999, 3.5%.
10. January 1, 2000, through December 31, 2000, 4.0%.
11. January 1, 2001, through December 31, 2001, 5.0%.
12. January 1, 2002, through December 31, 2002, 0.25%.
13. January 1, 2003, through December 31, 2003, 0%.
14. January 1, 2004, through December 31, 2004, 1.0%.
15. January 1, 2005, through December 31, 2005, 2.25%.
16. January 1, 2006, through December 31, 2006, 4.25%.
17. *January 1, 2007, through December 31, 2007, [____].*

Thereafter, the interest rate shall be determined in accordance with subsection B of § 55-248.15:1.