

## 2007 SESSION

### HOUSE SUBSTITUTE

077203326

#### HOUSE BILL NO. 2244

#### AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice  
on January 26, 2007)

(Patron Prior to Substitute—Delegate Howell, A.T.)

*A BILL to amend and reenact § 8.01-126 of the Code of Virginia, relating to unlawful detainer actions; bad faith by tenant.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-126 of the Code of Virginia is amended and reenacted as follows:**

§ 8.01-126. Summons for unlawful detainer issued by magistrate, clerk or judge of a general district court.

A. In any case when possession of any house, land or tenement is unlawfully detained by the person in possession thereof, the landlord, his agent, attorney, or other person, entitled to the possession may present to a magistrate, clerk or judge of a general district court a statement under oath of the facts which authorize the removal of the tenant or other person in possession, describing such premises; and thereupon such magistrate, clerk or judge of a general district court shall issue his summons against the person or persons named in such affidavit. The process issued upon any such summons issued by a magistrate, clerk or judge may be served as provided in §§ 8.01-293 and 8.01-296 or § 8.01-299. When issued by a magistrate it may be returned to and the case heard and determined by the judge of a general district court. If the summons for unlawful detainer is filed to terminate a tenancy pursuant to the Virginia Residential Landlord Tenant Act (§ 55-248.2 et seq.), the initial hearing on such summons shall occur as soon as practicable, but not more than twenty-one days from the date of filing. If the case cannot be heard within twenty-one days from the date of filing, the initial hearing shall be held as soon as practicable. If the plaintiff requests that the initial hearing be set on a date later than twenty-one days from the date of filing, the initial hearing shall be set on a date the plaintiff is available that is also available for the court. Such summons shall be served at least ten days before the return day thereof.

B. *If the summons for unlawful detainer is filed to terminate a tenancy pursuant to the Virginia Residential Landlord Tenant Act (§ 55-248.2 et seq.), and the plaintiff files a sworn affidavit with the court stating (i) that the defendant has prior knowledge that he is unlawfully detaining the house, land or tenement, and (ii) that the defendant is continuing the unlawful detainer with the malicious and willful intent to injure the plaintiff, the initial hearing on the summons shall occur as soon as practicable, but not more than 15 days from the filing of the sworn affidavit.*

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