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**HOUSE BILL NO. 720**

Offered January 9, 2008

Prefiled January 8, 2008

A *BILL to amend and reenact §§ 8.01-27.1, 8.01-27.2, 8.01-129, 8.01-296, 55-225, 55-225.3, 55-248.4, 55-248.6:1, 55-248.9:1, 55-248.13, 55-248.15:2, 55-248.16, 55-248.18, 55-248.31, and 55-248.34:1 of the Code of Virginia, relating to landlord and tenant law; definitions; payment of rent; landlord remedies.*

\_\_\_\_\_  
 Patron—Oder

\_\_\_\_\_  
 Referred to Committee on General Laws

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

**1. That §§ 8.01-27.1, 8.01-27.2, 8.01-129, 8.01-296, 55-225, 55-225.3, 55-248.4, 55-248.6:1, 55-248.9:1, 55-248.13, 55-248.15:2, 55-248.16, 55-248.18, 55-248.31, and 55-248.34:1 of the Code of Virginia are amended and reenacted as follows:**

§ 8.01-27.1. Additional recovery in certain civil actions concerning checks.

A. ~~In~~ *Except as otherwise provided in Chapter 13 (§ 55-217 et seq.) or Chapter 13.2 (§ 55-248.2 et seq.) of Title 55, in any civil claim or action made or brought against the drawer of a check, draft or order, payment of which has been refused by the drawee depository because of lack of funds in or credit with such drawee depository, the holder or his agent shall be entitled to claim, in addition to the face amount of the check (i) legal interest from the date of the check, (ii) the protest or bad check return fee, if any, charged to the holder by his bank or other depository, (iii) a processing charge of \$3550, and (iv) reasonable attorney's fees if awarded by the court.*

B. ~~Any~~ *Except as otherwise provided in Chapter 13 (§ 55-217 et seq.) or Chapter 13.2 (§ 55-248.2 et seq.) of Title 55, any holder of a check, draft or order, payment of which has been refused by the drawee for insufficient funds or credit, who charges the drawer amounts in excess of those authorized in subsection A on account of payment being so refused shall, upon demand, be liable to the drawer for the lesser of (i) \$3550 plus the excess of the authorized amount or (ii) twice the amount charged in excess of the authorized amount.*

§ 8.01-27.2. Civil recovery for giving bad check.

~~In~~ *Except as otherwise provided in Chapter 13 (§ 55-217 et seq.) or Chapter 13.2 (§ 55-248.2 et seq.) of Title 55, in the event a check, draft or order, the payment of which has been refused by the drawee because of lack of funds in or credit with such drawee, is not paid in full within thirty days after receipt by the drawer of (i) written notice by registered, certified, or regular mail with the sender retaining an affidavit of service of mailing or other sufficient proof of mailing, which may be a U.S. Postal Certificate of Mailing or (ii) if for nonpayment of rent under § 55-225 or § 55-248.31, written notice in accordance therewith, from the payee that the check, draft or order has been returned unpaid, the payee may recover from the drawer in a civil action brought by the filing of a warrant in debt, the lesser of \$250 or three times the amount of the check, draft or order. The amount recovered as authorized by this section shall be in addition to the amounts authorized for recovery under § 8.01-27.1. No action may be initiated under this section if any action has been initiated under § 18.2-181. The drawer shall be obligated to pay the cost of service and the cost of mailing, as applicable.*

§ 8.01-129. Appeal from judgment of general district court.

An appeal shall lie from the judgment of a general district court, in any proceeding under this article, to the circuit court in the same manner and with like effect and upon like security as appeals taken under the provisions of § 16.1-106 et seq. except as specifically provided in this section. The appeal shall be taken within 10 days and the security approved by the court from which the appeal is taken. Notwithstanding the provisions of § 16.1-106 et seq. the bond shall be posted and the writ tax paid within 10 days of the date of the judgment. Unless otherwise specifically provided in the court's order, no writ of execution shall issue on a judgment for possession until the expiration of this 10-day period, except in cases of judgment of default (i) wherein the case arises out of a trustee's deed following foreclosure, ~~or~~ (ii) for the nonpayment of rent where the writ of execution shall issue immediately upon entry of judgment for possession, if requested by the plaintiff, or (iii) for immediate nonremediable terminations where the writ of execution shall issue immediately upon entry of judgment for possession, if requested by the plaintiff. When the appeal is taken by the defendant, he shall be required to give security also for all rent which has accrued and may accrue upon the premises, but for not more than one year's rent, and also for all damages that have accrued or may accrue from the unlawful use and occupation of the premises for a period not exceeding three months. Trial by jury shall be had upon

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59 application of any party.

60 § 8.01-296. Manner of serving process upon natural persons.

61 Subject to the provisions of § 8.01-286.1, in any action at law or in equity or any other civil  
62 proceeding in any court, process, for which no particular mode of service is prescribed, may be served  
63 upon natural persons as follows:

64 1. By delivering a copy thereof in writing to the party in person; or

65 2. By substituted service in the following manner:

66 a. If the party to be served is not found at his usual place of abode, by delivering a copy of such  
67 process and giving information of its purport to any person found there, who is a member of his family,  
68 other than a temporary sojourner or guest, and who is of the age of 16 years or older; or

69 b. If such service cannot be effected under subdivision 2 a, then by posting a copy of such process at  
70 the front door or at such other door as appears to be the main entrance of such place of abode, provided  
71 that not less than 10 days before judgment by default may be entered, the party causing service or his  
72 attorney or agent mails to the party served a copy of such process and thereafter files in the office of  
73 the clerk of the court a certificate of such mailing. In any civil action brought in a general district court,  
74 the mailing of the application for a warrant in debt or affidavit for summons in unlawful detainer or  
75 other civil pleading or a copy of such pleading, whether yet issued by the court or not, which contains  
76 the date, time and place of the return, prior to or after filing such pleading in the general district court,  
77 shall satisfy the mailing requirements of this section. In any civil action brought in a circuit court, the  
78 mailing of a copy of the pleadings with a notice that the proceedings are pending in the court indicated  
79 and that upon the expiration of 10 days after the giving of the notice and the expiration of the statutory  
80 period within which to respond, without further notice, the entry of a judgment by default as prayed for  
81 in the pleadings may be requested, shall satisfy the mailing requirements of this section and any notice  
82 requirement of the Rules of Court. Any judgment by default entered after July 1, 1989, upon posted  
83 service in which proceedings a copy of the pleadings was mailed as provided for in this section prior to  
84 July 1, 1989, is validated.

85 c. The person executing such service shall note the manner and the date of such service on the  
86 original and the copy of the process so delivered or posted under this subdivision and shall effect the  
87 return of process as provided in §§ 8.01-294 and 8.01-325.

88 3. If service cannot be effected under subdivisions 1 and 2, then by order of publication in  
89 appropriate cases under the provisions of §§ 8.01-316 through 8.01-320.

90 4. *The landlord or his duly authorized agent or representative may serve notices required by the*  
91 *rental agreement or by law upon the tenant or occupant under a rental agreement that is within the*  
92 *purview of Chapter 13 (§ 55-217 et seq.) of Title 55.*

93 § 55-225. Failure to pay certain rents after five days' notice forfeits right of possession.

94 If any tenant or lessee of premises in a city or town, or in any subdivision of suburban and other  
95 lands divided into building lots for residential purposes, or of premises anywhere used for residential  
96 purposes, and not for farming or agriculture, being in default in the payment of rent, shall so continue  
97 for five days after notice, in writing, requiring possession of the premises or the payment of rent, such  
98 tenant or lessee shall thereby forfeit his right to the possession. In such case the possession of the  
99 defendant may, at the option of the landlord or lessor, be deemed unlawful, and he may proceed to  
100 recover in the same manner provided by Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01.

101 *Nothing, however, shall be construed to prohibit a landlord from seeking an award of costs or*  
102 *attorney's fees under § 8.01-27.1 or civil recovery under § 8.01-27.2 as part of the damages requested*  
103 *on an unlawful detainer action filed pursuant to § 8.01-126 provided the landlord has given notice,*  
104 *which notice may be included in a five-day termination notice provided in accordance with this section.*

105 § 55-225.3. Landlord to maintain dwelling unit.

106 A. The landlord shall:

107 1. Comply with the requirements of applicable building and housing codes materially affecting health  
108 and safety;

109 2. Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable  
110 condition;

111 3. Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating,  
112 ventilating, air-conditioning and other facilities and appliances, including elevators, supplied or required  
113 to be supplied by him;

114 4. Supply running water and reasonable amounts of hot water at all times and reasonable air  
115 conditioning if provided and heat in season except where the dwelling unit is so constructed that heat,  
116 air conditioning or hot water is generated by an installation within the exclusive control of the tenant or  
117 supplied by a direct public utility connection.

118 B. *The landlord shall perform the duties imposed by subsection A in accordance with law; however,*  
119 *the landlord shall be liable only for the tenant's actual damages proximately caused by the landlord's*  
120 *failure to exercise ordinary care.*

121 C. If the duty imposed by subdivision A 1 is greater than any duty imposed by any other subdivision  
122 of that subsection, the landlord's duty shall be determined by reference to subdivision A 1.

123 C.D. The landlord and tenant may agree in writing that the tenant perform the landlord's duties  
124 specified in subdivisions A 2, 3 and 4 and also specified repairs, maintenance tasks, alterations and  
125 remodeling, but only if the transaction is entered into in good faith and not for the purpose of evading  
126 the obligations of the landlord.

127 § 55-248.4. Definitions.

128 When used in this chapter, unless expressly stated otherwise:

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

132 "Application fee" means any *nonrefundable fee, which is paid by a tenant to a landlord for the*  
133 *purpose of being considered as a tenant for a dwelling unit. An application fee shall not exceed \$50,*  
134 *exclusive of any actual out-of-pocket expenses paid by the landlord to a third party performing*  
135 *background, credit, or other pre-occupancy checks on the applicant. However, where an application is*  
136 *being made for a dwelling unit which is a public housing unit or other housing unit subject to*  
137 *regulation by the Department of Housing and Urban Development, an application fee shall not exceed*  
138 *\$32, exclusive of any actual out-of-pocket expenses paid to a third party by the landlord performing*  
139 *background, credit, or other pre-occupancy checks on the applicant.*

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

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

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

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

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

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

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

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

159 "Landlord" means the owner, lessor or sublessor of the dwelling unit or the building of which such  
160 dwelling unit is a part. "Landlord" also includes a managing agent of the premises who fails to disclose  
161 the name of such owner, lessor or sublessor. Such managing agent shall be subject to the provisions of  
162 § 16.1-88.03.

163 "Managing agent" means a person authorized by the landlord to act on behalf of the landlord under  
164 an agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

223 *"Tenant records" means all information, including financial, maintenance, and other records about a*  
224 *tenant or prospective tenant, whether such information is in written or electronic form or other medium.*

225 "Utility" means electricity, natural gas, water and sewer provided by a public service corporation or  
226 such other person providing utility services as permitted under § 56-1.2. If the rental agreement so  
227 provides, a landlord may use submetering equipment or energy allocation equipment as defined in  
228 § 56-245.2, or a ratio utility billing system as defined in § 55-226.2.

229 *"Written notice" means notice, including any representation of words, letters, symbols, numbers, or*  
230 *figures, whether (i) printed in or inscribed on a tangible medium or (ii) stored in an electronic form or*  
231 *other medium, retrievable in a perceivable form, and regardless of whether an electronic signature*  
232 *authorized by Chapter 42.1 (§ 59.1-479 et seq.) of Title 59.1 is affixed. The landlord may, in accordance*  
233 *with a written agreement, delegate to a managing agent or other third party the responsibility of*  
234 *providing any written notice required by this chapter .*

235 § 55-248.6:1. Application fees.

236 Any landlord may require an application fee *and a separate application deposit*. If the applicant fails  
237 to rent the unit ~~applied for and the application fee exceeds \$32 for which application was made, from~~  
238 *the application deposit* the landlord shall refund to the applicant within 20 days after the applicant's  
239 failure to rent the unit or the landlord's rejection of the application all sums in excess of the landlord's  
240 actual expenses and damages together with an itemized list of said expenses and damages. If, however,  
241 the application fee or deposit was made by cash, certified check, cashier's check, or postal money order,  
242 such refund shall be made within 10 days of the applicant's failure to rent the unit if the failure to rent  
243 is due to the landlord's rejection of the application. If the landlord fails to comply with this section, the

244 applicant may recover as damages suffered by him that portion of the fee wrongfully withheld and  
245 reasonable attorney's fees.

246 § 55-248.9:1. Confidentiality of tenant records.

247 A. No landlord or managing agent shall release information about a tenant or prospective tenant in  
248 the possession of the landlord to a third party unless:

249 1. The tenant or prospective tenant has given prior written consent;

250 2. The information is a matter of public record as defined in § 2.2-3701;

251 3. The information is a summary of the tenant's rent payment record, including the amount of the  
252 tenant's periodic rent payment;

253 4. The information is a copy of a material noncompliance notice that has not been remedied or,  
254 termination notice given to the tenant under § 55-248.31 and the tenant did not remain in the premises  
255 thereafter;

256 5. The information is requested by a local, state, or federal law-enforcement or public safety official  
257 in the performance of his duties;

258 6. The information is requested pursuant to a subpoena in a civil case;

259 7. The information is requested by a contract purchaser of the landlord's property; provided the  
260 contract purchaser agrees in writing to maintain the confidentiality of such information; ~~or~~

261 8. *The information is requested by a lender of the landlord for financing or refinancing of the*  
262 *property;*

263 9. *The third party is the landlord's attorney; or*

264 10. The information is otherwise provided in the case of an emergency.

265 B. A tenant may designate a third party to receive duplicate copies of a summons that has been  
266 issued pursuant to § 8.01-126 and of written notices from the landlord relating to the tenancy. Where  
267 such a third party has been designated by the tenant, the landlord shall mail the duplicate copy of any  
268 summons issued pursuant to § 8.01-126 or notice to the designated third party at the same time the  
269 summons or notice is mailed to or served upon the tenant. Nothing in this subsection shall be construed  
270 to grant standing to any third party designated by the tenant to challenge actions of the landlord in  
271 which notice was mailed pursuant to this subsection. The failure of the landlord to give notice to a third  
272 party designated by the tenant shall not affect the validity of any judgment entered against the tenant.

273 § 55-248.13. Landlord to maintain fit premises.

274 A. The landlord shall:

275 1. Comply with the requirements of applicable building and housing codes materially affecting health  
276 and safety;

277 2. Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable  
278 condition;

279 3. Keep all common areas shared by two or more dwelling units of the premises in a clean and  
280 structurally safe condition;

281 4. Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating,  
282 ventilating, air-conditioning and other facilities and appliances, including elevators, supplied or required  
283 to be supplied by him;

284 5. Maintain the premises in such a condition as to prevent the accumulation of moisture and the  
285 growth of mold, and to promptly respond to any written notices from a tenant as provided in  
286 subdivision A § 9 of § 55-248.16;

287 6. Provide and maintain appropriate receptacles and conveniences, in common areas, for the  
288 collection, storage, and removal of ashes, garbage, rubbish and other waste incidental to the occupancy  
289 of two or more dwelling units and arrange for the removal of same; and

290 7. Supply running water and reasonable amounts of hot water at all times and reasonable air  
291 conditioning if provided and heat in season except where the dwelling unit is so constructed that heat,  
292 air conditioning or hot water is generated by an installation within the exclusive control of the tenant or  
293 supplied by a direct public utility connection.

294 B. The landlord shall perform the duties imposed by subsection A in accordance with law; however,  
295 the landlord shall only be liable for the tenant's actual damages proximately caused by the landlord's  
296 failure to exercise ordinary care.

297 C. If the duty imposed by subdivision 1 of subsection A is greater than any duty imposed by any  
298 other subdivision of that subsection, the landlord's duty shall be determined by reference to subdivision  
299 1 of subsection A.

300 D. The landlord and tenant may agree in writing that the tenant perform the landlord's duties  
301 specified in subdivisions 3, 6 and 7 of subsection A and also specified repairs, maintenance tasks,  
302 alterations and remodeling, but only if the transaction is entered into in good faith and not for the  
303 purpose of evading the obligations of the landlord, and if the agreement does not diminish or affect the  
304 obligation of the landlord to other tenants in the premises.

305 § 55-248.15:2. Schedule of interest rates on security deposits.

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

309 B. The rates are as follows:

310 1. July 1, 1975, through December 31, 1979, 3.0%.

311 2. January 1, 1980, through December 31, 1981, 4.0%.

312 3. January 1, 1982, through December 31, 1984, 4.5%.

313 4. January 1, 1985, through December 31, 1994, 5.0%.

314 5. January 1, 1995, through December 31, 1995, 4.75%.

315 6. January 1, 1996, through December 31, 1996, 5.25%.

316 7. January 1, 1997, through December 31, 1998, 5.0%.

317 8. January 1, 1999, through June 30, 1999, 4.5%.

318 9. July 1, 1999, through December 31, 1999, 3.5%.

319 10. January 1, 2000, through December 31, 2000, 4.0%.

320 11. January 1, 2001, through December 31, 2001, 5.0%.

321 12. January 1, 2002, through December 31, 2002, 0.25%.

322 13. January 1, 2003, through December 31, 2003, 0%.

323 14. January 1, 2004, through December 31, 2004, 1.0%.

324 15. January 1, 2005, through December 31, 2005, 2.25%.

325 16. January 1, 2006, through December 31, 2006, 4.25%.

326 17. January 1, 2007, through December 31, 2007, 5.25%.

327 18. *January 1, 2008, through December 31, 2008, 0.75%.*

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

329 § 55-248.16. Tenant to maintain dwelling unit.

330 A. In addition to the provisions of the rental agreement, the tenant shall:

331 1. Comply with all obligations primarily imposed upon tenants by applicable provisions of building  
332 and housing codes materially affecting health and safety;

333 2. Keep that part of the premises that he occupies and uses as clean and safe as the condition of the  
334 premises permit;

335 3. Remove from his dwelling unit all ashes, garbage, rubbish and other waste in a clean and safe  
336 manner and in the appropriate receptacles provided by the landlord pursuant to § 55-248.13, if such  
337 disposal is on the premises;

338 4. Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition  
339 permits;

340 5. Use in a reasonable manner all utilities and all electrical, plumbing, sanitary, heating, ventilating,  
341 air-conditioning and other facilities and appliances including elevators in the premises, and keep all  
342 utility services paid for by the tenant to the utility service provider or its agent on at all times during the  
343 term of the rental agreement;

344 6. Not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises  
345 or permit any person to do so whether known by the tenant or not;

346 7. Not remove or tamper with a properly functioning smoke detector, including removing any  
347 working batteries, so as to render the smoke detector inoperative;

348 8. *Not remove or tamper with a properly functioning carbon monoxide detector, including removing*  
349 *any working batteries, so as to render the carbon monoxide detector inoperative;*

350 9. Use reasonable efforts to maintain the dwelling unit and any other part of the premises that he  
351 occupies in such a condition as to prevent accumulation of moisture and the growth of mold, and to  
352 promptly notify the landlord in writing of any moisture accumulation that occurs or of any visible  
353 evidence of mold discovered by the tenant.

354 9-10. Be responsible for his conduct and the conduct of other persons on the premises with his  
355 consent whether known by the tenant or not, to ensure that his neighbors' peaceful enjoyment of the  
356 premises will not be disturbed; and

357 ~~10-11.~~ Abide by all reasonable rules and regulations imposed by the landlord pursuant to  
358 § 55-248.17.

359 B. If the duty imposed by subdivision 1 of subsection A is greater than any duty imposed by any  
360 other subdivision of that subsection, the tenant's duty shall be determined by reference to subdivision 1.

361 § 55-248.18. Access; consent; correction of nonemergency conditions; relocation of tenant.

362 A. The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit  
363 in order to inspect the premises, make necessary or agreed repairs, decorations, alterations or  
364 improvements, supply necessary or agreed services or exhibit the dwelling unit to prospective or actual  
365 purchasers, mortgagees, tenants, workmen or contractors. The landlord may enter the dwelling unit  
366 without consent of the tenant in case of emergency. The landlord shall not abuse the right of access or

367 use it to harass the tenant. Except in case of emergency or if it is impractical to do so, the landlord shall  
 368 give the tenant notice of his intent to enter and may enter only at reasonable times. Unless impractical  
 369 to do so, the landlord shall give the tenant at least 24-hours' notice of routine maintenance to be  
 370 performed that has not been requested by the tenant.

371 B. Upon the sole determination by the landlord of the existence of a nonemergency property  
 372 condition in the dwelling unit that requires the tenant to temporarily vacate the dwelling unit in order  
 373 for the landlord to properly remedy such property condition, the landlord may, upon at least 30 days'  
 374 written notice to the tenant, require the tenant to temporarily vacate the dwelling unit for a period not to  
 375 exceed 30 days to a comparable dwelling unit, as selected by the landlord, and at no expense or cost to  
 376 the tenant. For purposes of this subsection, "nonemergency property condition" means (i) a condition in  
 377 the dwelling unit that, in the determination of the landlord, is necessary for the landlord to remedy in  
 378 order for the landlord to be in compliance with § 55-248.13; (ii) the condition does not need to be  
 379 remedied within a 24-hour period, with any condition that needs to be remedied within 24 hours being  
 380 defined as an "emergency condition"; and (iii) the condition can only be effectively remedied by the  
 381 temporary relocation of the tenant pursuant to the provisions of this subsection.

382 The tenant shall continue to be responsible for payment of rent under the rental agreement during the  
 383 period of any temporary relocation. The landlord shall pay all costs of repairs or remediation required to  
 384 address the property condition. Refusal of the tenant to cooperate with a temporary relocation pursuant  
 385 to this subsection shall be deemed a breach of the rental agreement, unless the tenant agrees to vacate  
 386 the unit and terminate the rental agreement within the 30-day notice period.

387 C. The landlord has no other right to access except by court order or that permitted by §§ 55-248.32  
 388 and 55-248.33 or if the tenant has abandoned or surrendered the premises.

389 D. The tenant may install, within the dwelling unit, new burglary prevention, including chain latch  
 390 devices approved by the landlord, *carbon monoxide detection devices*, and fire detection devices that the  
 391 tenant may believe necessary to ensure his safety, provided:

392 1. Installation does no permanent damage to any part of the dwelling unit.

393 2. A duplicate of all keys and instructions of how to operate all devices are given to the landlord.

394 3. Upon termination of the tenancy the tenant shall be responsible for payment to the landlord for  
 395 reasonable costs incurred for the removal of all such devices and repairs to all damaged areas.

396 § 55-248.31. Noncompliance with rental agreement; monetary penalty.

397 A. Except as provided in this chapter, if there is a material noncompliance by the tenant with the  
 398 rental agreement or a violation of § 55-248.16 materially affecting health and safety, the landlord may  
 399 serve a written notice on the tenant specifying the acts and omissions constituting the breach and stating  
 400 that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if  
 401 the breach is not remedied in 21 days, and that the rental agreement shall terminate as provided in the  
 402 notice.

403 B. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant  
 404 adequately remedies the breach prior to the date specified in the notice, the rental agreement shall not  
 405 terminate.

406 C. If the tenant commits a breach which is not remediable, the landlord may serve a written notice  
 407 on the tenant specifying the acts and omissions constituting the breach and stating that the rental  
 408 agreement will terminate upon a date not less than 30 days after receipt of the notice. Notwithstanding  
 409 anything to the contrary contained elsewhere in this chapter, when a breach of the tenant's obligations  
 410 under this chapter or the rental agreement involves or constitutes a criminal or a willful act, which is not  
 411 remediable and which poses a threat to health or safety, the landlord may terminate the rental agreement  
 412 immediately and proceed to obtain possession of the premises. For purposes of this subsection, any  
 413 illegal drug activity involving a controlled substance, as used or defined by the Drug Control Act  
 414 (§ 54.1-3400 et seq.), by the tenant, the tenant's authorized occupants, or the tenant's guests or invitees,  
 415 shall constitute an immediate nonremediable violation for which the landlord may proceed to terminate  
 416 the tenancy without the necessity of waiting for a conviction of any criminal offense that may arise out  
 417 of the same actions. In order to obtain an order of possession from a court of competent jurisdiction  
 418 terminating the tenancy for illegal drug activity or for any other action that involves or constitutes a  
 419 criminal or willful act, the landlord shall prove any such violations by a preponderance of the evidence.  
 420 However, where the illegal drug activity is engaged in by a tenant's authorized occupants, or guests or  
 421 invitees, the tenant shall be presumed to have knowledge of such illegal drug activity unless the  
 422 presumption is rebutted by a preponderance of the evidence. The initial hearing on the landlord's action  
 423 for immediate possession of the premises shall be held within 15 calendar days from the date of service  
 424 on the tenant; however, the court shall order an earlier hearing when emergency conditions are alleged  
 425 to exist upon the premises which constitute an immediate threat to the health or safety of the other  
 426 tenants. After the initial hearing, if the matter is scheduled for a subsequent hearing or for a contested  
 427 trial, the court, to the extent practicable, shall order that the matter be given priority on the court's

428 docket. Such subsequent hearing or contested trial shall be heard no later than 30 days from the date of  
429 service on the tenant. During the interim period between the date of the initial hearing and the date of  
430 any subsequent hearing or contested trial, the court may afford any further remedy or relief as is  
431 necessary to protect the interests of parties to the proceeding or the interests of any other tenant residing  
432 on the premises. Failure by the court to hold either of the hearings within the time limits set out herein  
433 shall not be a basis for dismissal of the case.

434 D. If the tenant is a victim of family abuse as defined in § 16.1-228 that occurred in the dwelling  
435 unit or on the premises and the perpetrator is barred from the dwelling unit pursuant to § 55-248.31:01  
436 based upon information provided by the tenant to the landlord, or by a protective order from a court of  
437 competent jurisdiction pursuant to § 16.1-253.1, 16.1-279.1, or subsection B of § 20-103, the lease shall  
438 not terminate due solely to an act of family abuse against the tenant. However, these provisions shall not  
439 be applicable if (i) the tenant fails to provide written documentation corroborating the tenant's status as a  
440 victim of family abuse and the exclusion from the dwelling unit of the perpetrator no later than 21 days  
441 from the alleged offense or (ii) the perpetrator returns to the dwelling unit or the premises, in violation  
442 of a bar notice, and the tenant fails promptly to notify the landlord within 24 hours thereafter that the  
443 perpetrator has returned to the dwelling unit or the premises, unless the tenant proves by a  
444 preponderance of the evidence that the tenant had no actual knowledge that the perpetrator violated the  
445 bar notice, or it was not possible for the tenant to notify the landlord within 24 hours, in which case the  
446 tenant shall promptly notify the landlord, but in no event more than 7 days thereafter. If the provisions  
447 of this subsection are not applicable, the tenant shall remain responsible for the acts of the other  
448 co-tenants, authorized occupants or guests or invitees pursuant to § 55-248.16, and is subject to  
449 termination of the tenancy pursuant to the lease and this chapter.

450 E. If the tenant has been served with a prior written notice which required the tenant to remedy a  
451 breach, and the tenant remedied such breach, where the tenant intentionally commits a subsequent  
452 breach of a like nature as the prior breach, the landlord may serve a written notice on the tenant  
453 specifying the acts and omissions constituting the subsequent breach, make reference to the prior breach  
454 of a like nature, and state that the rental agreement will terminate upon a date not less than 30 days  
455 after receipt of the notice.

456 F. If rent is unpaid when due, and the tenant fails to pay rent within five days after written notice is  
457 served on him notifying the tenant of his nonpayment, and of the landlord's intention to terminate the  
458 rental agreement if the rent is not paid within the five-day period, the landlord may terminate the rental  
459 agreement and proceed to obtain possession of the premises as provided in § 55-248.35. If a check for  
460 rent is delivered to the landlord drawn on an account with insufficient funds and the tenant fails to pay  
461 rent within five days after written notice is served on him notifying the tenant of his nonpayment and of  
462 the landlord's intention to terminate the rental agreement if the rent is not paid by cash, cashier's check  
463 or certified check within the five-day period, the landlord may terminate the rental agreement and  
464 proceed to obtain possession of the premises as provided in § 55-248.35. Nothing shall be construed to  
465 prevent a landlord from seeking an award of costs or attorneys' fees under § 8.01-27.1 or civil recovery  
466 under § 8.01-27.2, as a part of other damages requested on the unlawful detainer filed pursuant to  
467 § 8.01-126, *provided the landlord has given notice in accordance with § 55-248.6, which notice may be*  
468 *included in the five-day termination notice provided in accordance with this section.*

469 G. Except as provided in this chapter, the landlord may recover damages and obtain injunctive relief  
470 for any noncompliance by the tenant with the rental agreement or § 55-248.16. The landlord shall be  
471 entitled to recover reasonable attorneys' fees unless the tenant proves by a preponderance of the evidence  
472 that the failure of the tenant to pay rent or vacate the premises was reasonable. If the rental agreement  
473 provides for the payment of reasonable attorneys' fees in the event of a breach of the agreement or  
474 noncompliance by the tenant, the landlord shall be entitled to recover and the court shall award  
475 reasonable attorneys' fees in any action based upon the tenancy in which the landlord prevails, including  
476 but not limited to actions for damages to the dwelling unit or premises, or additional rent, regardless of  
477 any previous action to obtain possession or rent, unless in any such action, the tenant proves by a  
478 preponderance of the evidence that the tenant's failure to pay rent or vacate was reasonable.

479 § 55-248.34:1. Landlord's acceptance of rent with reservation.

480 A. Provided the landlord has given written notice to the tenant that the rent will be accepted with  
481 reservation, the landlord may accept full payment of all rent and receive an order of possession from a  
482 court of competent jurisdiction pursuant to an unlawful detainer action filed under Chapter 13  
483 (§ 8.01-374 et seq.) of Title 8.01. Such notice shall be included in a *written* termination notice given by  
484 the landlord to the tenant in accordance with § 55-248.31 or in a separate written notice given by the  
485 landlord to the tenant within five business days of receipt of the rent. ~~The~~ *Unless the landlord has given*  
486 *such notice in a termination notice in accordance with § 55-248.31, the landlord shall continue to give a*  
487 *separate written notice to the tenant within five business days of receipt of the rent that the landlord*  
488 *continues to accept the rent with reservation in accordance with this section until such time as the*  
489 *violation alleged in the termination notice has been remedied or the matter has been adjudicated in a*



490 court of competent jurisdiction. *If the dwelling unit is a public housing unit or other housing unit subject*  
491 *to regulation by the Department of Housing and Urban Development, the landlord shall be deemed to*  
492 *have accepted rent with reservation pursuant to this subsection if the landlord gives the tenant the*  
493 *written notice required herein for the portion of the rent paid by the tenant.*

494 B. Subsequent to the entry of an order of possession by a court of competent jurisdiction but prior to  
495 eviction pursuant to § 55-248.38:2, the landlord may accept full payment of any money judgment, award  
496 of attorneys' fees and court costs, and proceed with eviction provided that the landlord has given the  
497 tenant written notice that any such payment would be accepted with reservation and would not constitute  
498 a waiver of the landlord's right to evict the tenant from the dwelling unit. Such notice shall be given in  
499 a separate written notice given by the landlord within five business days of receipt of payment of such  
500 money judgment, attorneys' fees and court costs. *If the dwelling unit is a public housing unit or other*  
501 *housing unit subject to regulation by the Department of Housing and Urban Development, the landlord*  
502 *shall be deemed to have accepted rent with reservation pursuant to this subsection if the landlord gives*  
503 *the tenant the written notice required herein for the portion of the rent paid by the tenant.*

504 C. However, the tenant may pay all rent, late charges, attorneys' fees and court costs at or before the  
505 first return date on an action for unlawful detainer, provided the tenant does not invoke such right more  
506 than once in a continuous 12-month period in accordance with § 55-243.