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**HOUSE BILL NO. 1110**

Offered January 11, 2012

Prefiled January 11, 2012

A *BILL to amend and reenact §§ 8.01-126, 54.1-517.4, 55-225.8, 55-225.10, 55-225.12, 55-225.13, 55-225.14, 55-243, 55-248.4, 55-248.5, 55-248.7:2, and 55-248.34:1 of the Code of Virginia, relating to landlord and tenant law; dwelling units.*

Patron—Greason

Referred to Committee on General Laws

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

1. That §§ 8.01-126, 54.1-517.4, 55-225.8, 55-225.10, 55-225.12, 55-225.13, 55-225.14, 55-243, 55-248.4, 55-248.5, 55-248.7:2 and 55-248.34:1 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-126. Summons for unlawful detainer issued by magistrate or 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 or a 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 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. *Notwithstanding any other rule of court or provision of law to the contrary, the plaintiff in an unlawful detainer case may submit an electronic or paper copy of the original lease, provided that the plaintiff provides an affidavit or sworn testimony that such electronic or paper copy of the lease is a true and accurate copy of the original lease.*

§ 54.1-517.4. Exemptions from licensure.

The provisions of this article shall not apply to:

1. An individual performing mold remediation in an area in which the mold contamination for the total project affects a total surface area of less than 10 square feet; or

2. An owner or the managing agent or employee of an owner performing mold inspections or mold remediation on the owner's residential property; ~~provided such property contains no more than four residential dwelling units.~~

§ 55-225.8. Definitions for residential dwelling units subject to this chapter.

As used in this chapter, the following definitions apply:

"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~~ financial obligations as a tenant under the rental agreement. *However, an authorized occupant shall be obligated to comply with all other terms and conditions of the rental agreement and applicable Virginia law.*

"Dwelling unit" or "residential 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, whether single family or multifamily, single family residence where one or more persons maintain a household, including, but not limited to,~~ a manufactured home. *Dwelling unit or residential dwelling unit shall not include:*

1. Residence at a public or private institution, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar services;

2. Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest;

3. Occupancy by a member of a fraternal or social organization in the portion of a structure

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59 *operated for the benefit of the organization;*

60 4. *Occupancy in a hotel, motel, vacation cottage, boardinghouse, or similar lodging held out for*  
61 *transients, provided occupancy in such lodging is subject to taxation as provided in § 58.1-3819;*

62 5. *Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a*  
63 *cooperative; and*

64 6. *Occupancy under a rental agreement covering premises used by the occupant primarily in*  
65 *connection with business, commercial, or agricultural purposes.*

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

68 "Interior of the dwelling unit" means the inside of the dwelling unit, consisting of interior walls,  
69 floor, and ceiling, that enclose the dwelling unit as conditioned space from the outside air.

70 "Landlord" means the owner or lessor of the dwelling unit or the building of which such dwelling  
71 unit is a part. "Landlord" also includes a managing agent of the premises who fails to disclose the name  
72 of such owner, lessor, or sublessor. Such managing agent shall be subject to the provisions of  
73 § 16.1-88.03.

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

76 "Mold remediation in accordance with professional standards" means mold remediation of that  
77 portion of the dwelling unit or premises affected by mold, or any personal property of the tenant  
78 affected by mold, performed consistent with guidance documents published by the United States  
79 Environmental Protection Agency, the U.S. Department of Housing and Urban Development, the  
80 American Conference of Governmental Industrial Hygienists (the Bioaerosols Manual), Standard  
81 Reference Guides of the Institute of Inspection, Cleaning and Restoration for Water Damage Restoration  
82 and Professional Mold Remediation, or any protocol for mold remediation prepared by an industrial  
83 hygienist consistent with said guidance documents.

84 "Notice" means notice given in writing by either regular mail or hand delivery, with the sender  
85 retaining sufficient proof of having given such notice, which may be either a United States postal  
86 certificate of mailing or a certificate of service confirming such mailing prepared by the sender.  
87 However, a person shall be deemed to have notice of a fact if he has actual knowledge of it, he has  
88 received a verbal notice of it, or from all of the facts and circumstances known to him at the time in  
89 question, he has reason to know it exists. A person "notifies" or "gives" a notice or notification to  
90 another by taking steps reasonably calculated to inform another person whether or not the other person  
91 actually comes to know of it. If notice is given that is not in writing, the person giving the notice has  
92 the burden of proof to show that the notice was given to the recipient of the notice.

93 "Readily accessible" means areas within the interior of the dwelling unit available for observation at  
94 the time of the move-in inspection that do not require removal of materials, personal property,  
95 equipment, or similar items.

96 "Tenant" means a person entitled *only under the terms of* a rental agreement to occupy a dwelling  
97 unit to the exclusion of others. Tenant shall not include (i) an authorized occupant, (ii) a guest or  
98 invitee, or (iii) any person who guarantees or cosigns the payment of the financial obligations of a rental  
99 agreement but has no right to occupy a dwelling unit.

100 "Visible evidence of mold" means the existence of mold in the dwelling unit that is visible to the  
101 naked eye by the landlord or tenant in areas within the interior of the dwelling unit readily accessible at  
102 the time of the move-in inspection.

103 For any term not expressly defined herein, terms shall have the same meaning as those defined in  
104 § 55-248.4.

105 § 55-225.10. Notice to tenant in event of foreclosure.

106 A. The landlord of a dwelling unit subject to the Virginia Residential Landlord and Tenant Act  
107 (§ 55-248.2 *et seq.*) shall give written notice to the tenant or any prospective tenant of such dwelling  
108 unit that the landlord has received a notice of a mortgage default, ~~notice of~~ mortgage acceleration, or  
109 ~~notice of~~ foreclosure sale relative to the loan on the dwelling unit within five business days after written  
110 notice from the lender is received by the landlord. This requirement shall not apply (i) to any managing  
111 agent who does not receive a copy of such written notice from the lender or (ii) if the tenant or  
112 prospective tenant provides a copy of the written notice from the lender to the landlord or the managing  
113 agent.

114 B. If the landlord fails to provide the notice required by this section, the tenant shall have the right  
115 to terminate the rental agreement upon written notice to the landlord at least five business days prior to  
116 the effective date of termination. If the tenant terminates the rental agreement, the landlord shall make  
117 disposition of the tenant's security deposit in accordance with law or the provisions of the rental  
118 agreement, whichever is applicable.

119 C. If the landlord has a dwelling unit available for rent, the landlord shall disclose in writing to any  
120 prospective tenant, at the time of offering such dwelling unit for rent, whether he has received any

notice of mortgage default, notice of mortgage acceleration, or notice of foreclosure sale relative to the loan on the dwelling unit. This requirement shall not apply to any managing agent who does not receive a copy of such written notice from the lender dwelling unit is foreclosed upon and the tenant (i) is occupying the dwelling unit under a bona fide lease with the owner and (ii) the tenant is in compliance with all of the terms and conditions of the lease agreement, including payment of rent, the tenant may continue to remain in the dwelling unit as a tenant, provided the tenant remains in compliance with all of the terms and conditions of the lease agreement, including payment of rent, unless and until such time as the purchaser gives the tenant a written notice at least 90 days prior to the date of termination of the lease agreement. If no written notice is given by the purchaser to the tenant, the lease agreement shall terminate according to the terms of the lease agreement until such time as the 90-day notice is given.

§ 55-225.12. Tenant's assertion; rent escrow; dwelling units.

A. The tenant may assert that there exists upon the leased premises dwelling unit, a condition or conditions which constitute a material noncompliance by the landlord with the rental agreement or with provisions of law, or which if not promptly corrected, will constitute a fire hazard or serious threat to the life, health or safety of occupants thereof, including but not limited to, a lack of heat or hot or cold running water, except if the tenant is responsible for payment of the utility charge and where the lack of such heat or hot or cold running water is the direct result of the tenant's failure to pay the utility charge; or a lack of light, electricity or adequate sewage disposal facilities; or an infestation of rodents, except if the property is a one-family dwelling; or the existence of paint containing lead pigment on surfaces within the dwelling, provided that the landlord has notice of such paint. The tenant may file such an assertion in a general district court wherein the premises dwelling unit is located by a declaration setting forth such assertion and asking for one or more forms of relief as provided for in subsection C.

B. Prior to the granting of any relief, the tenant shall show to the satisfaction of the court that:

1. Prior to the commencement of the action the landlord was served a written notice by the tenant of the conditions described in subsection A, or was notified of such conditions by a violation or condemnation notice from an appropriate state or municipal agency, and that the landlord has refused, or having a reasonable opportunity to do so, has failed to remedy the same. For the purposes of this subsection, what period of time shall be deemed to be unreasonable delay is left to the discretion of the court except that there shall be a rebuttable presumption that a period in excess of 30 days from receipt of the notification by the landlord is unreasonable;

2. The tenant has paid into court the amount of rent called for under the rental agreement, within five days of the date due thereunder, unless or until such amount is modified by subsequent order of the court under this chapter; and

3. It shall be sufficient answer or rejoinder to such a declaration if the landlord establishes to the satisfaction of the court that the conditions alleged by the tenant do not in fact exist, or such conditions have been removed or remedied, or such conditions have been caused by the tenant or members of his family or his or their invitees or licensees, or the tenant has unreasonably refused entry to the landlord to the premises dwelling unit for the purpose of correcting such conditions.

C. Any court shall make findings of fact on the issues before it and shall issue any order that may be required. Such an order may include, but is not limited to, any one or more of the following:

1. Terminating the rental agreement or ordering the premises dwelling unit surrendered to the landlord;

2. Ordering all moneys already accumulated in escrow disbursed to the landlord or to the tenant in accordance with this chapter;

3. Ordering that the escrow be continued until the conditions causing the complaint are remedied;

4. Ordering that the amount of rent, whether paid into the escrow account or paid to the landlord, be abated as determined by the court in such an amount as may be equitable to represent the existence of the condition or conditions found by the court to exist. In all cases where the court deems that the tenant is entitled to relief under this chapter, the burden shall be upon the landlord to show cause why there should not be an abatement of rent;

5. Ordering any amount of moneys accumulated in escrow disbursed to the tenant where the landlord refuses to make repairs after a reasonable time or to the landlord or to a contractor chosen by the landlord in order to make repairs or to otherwise remedy the condition. In either case, the court shall in its order insure that moneys thus disbursed will be in fact used for the purpose of making repairs or effecting a remedy;

6. Referring any matter before the court to the proper state or municipal agency for investigation and report and granting a continuance of the action or complaint pending receipt of such investigation and report. When such a continuance is granted, the tenant shall deposit with the court rent payments within five days of the date due under the rental agreement, subject to any abatement under this section, which become due during the period of the continuance, to be held by the court pending its further order;

182 7. In the court's discretion, ordering escrow funds disbursed to pay a mortgage on the property *upon*  
183 *which the dwelling unit is located* in order to stay a foreclosure; or

184 8. In the court's discretion, ordering escrow funds disbursed to pay a creditor to prevent or satisfy a  
185 bill to enforce a mechanic's or materialman's lien.

186 Notwithstanding any provision of this subsection, where an escrow account is established by the  
187 court and the condition or conditions are not fully remedied within six months of the establishment of  
188 such account, and the landlord has not made reasonable attempts to remedy the condition, the court shall  
189 award all moneys accumulated in escrow to the tenant. In such event, the escrow shall not be  
190 terminated, but shall begin upon a new six-month period with the same result if, at the end thereof, the  
191 condition or conditions have not been remedied.

192 D. The initial hearing on the tenant's assertion filed pursuant to subsection A shall be held within 15  
193 calendar days from the date of service of process on the landlord as ~~authorized by § 55-248.12~~, except  
194 that the court shall order an earlier hearing where emergency conditions are alleged to exist upon the  
195 premises, such as failure of heat in winter, lack of adequate sewage facilities or any other condition  
196 which constitutes an immediate threat to the health or safety of the inhabitants of the ~~leased premises~~  
197 *dwelling unit*. The court, on motion of either party or on its own motion, may hold hearings subsequent  
198 to the initial proceeding in order to further determine the rights and obligations of the parties.  
199 Distribution of escrow moneys may only occur by order of the court after a hearing of which both  
200 parties are given notice as required by law or upon motion of both the landlord and tenant or upon  
201 certification by the appropriate inspector that the work required by the court to be done has been  
202 satisfactorily completed. ~~If the tenant proceeds under this subsection, he may not proceed under any~~  
203 ~~section of Article 4 (§ 55-248.21 et seq.) of Chapter 13-2 as to that breach.~~

204 § 55-225.13. Noncompliance by landlord in the rental of a dwelling unit.

205 Except as provided in this chapter, *for the rental of a dwelling unit*, if there is a material  
206 noncompliance by the landlord with the rental agreement ~~or a noncompliance with any provision of this~~  
207 ~~chapter~~, materially affecting health and safety, the tenant may serve a written notice on the landlord  
208 specifying the acts and omissions constituting the breach and stating that the rental agreement will  
209 terminate upon a date not less than 30 days after receipt of the notice if such breach is not remedied in  
210 21 days.

211 If the landlord commits a breach which is not remediable, the tenant may serve a written notice on  
212 the landlord specifying the acts and omissions constituting the breach and stating that the rental  
213 agreement will terminate upon a date not less than 30 days after receipt of the notice.

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

220 If the breach is remediable by repairs and the landlord adequately remedies the breach prior to the  
221 date specified in the notice, the rental agreement will not terminate. The tenant may not terminate for a  
222 condition caused by the deliberate or negligent act or omission of the tenant, a member of his family or  
223 other person on the premises with his consent whether known by the tenant or not. In addition, the  
224 tenant may recover damages and obtain injunctive relief for noncompliance by the landlord with the  
225 provisions of the rental agreement or of this chapter. The tenant shall be entitled to recover reasonable  
226 attorney fees unless the landlord proves by a preponderance of the evidence that the landlord's actions  
227 were reasonable under the circumstances.

228 § 55-225.14. Rent escrow required for continuance of tenant's case in the rental of a dwelling unit.

229 A. Where a landlord has filed an unlawful detainer action seeking possession of the ~~premises as~~  
230 ~~provided by this chapter~~ *dwelling unit* and the tenant seeks to obtain a continuance of the action or to  
231 set it for a contested trial, the court shall, upon request of the landlord, order the tenant to pay an  
232 amount equal to the rent that is due as of the initial court date into the court escrow account prior to  
233 granting the tenant's request for a delayed court date. However, if the tenant asserts a good faith  
234 defense, and the court so finds, the court shall not require the rent to be escrowed. If the landlord  
235 requests a continuance, or to set the case for a contested trial, the court shall not require the rent to be  
236 escrowed.

237 B. If the court finds that the tenant has not asserted a good faith defense, the tenant shall be required  
238 to pay an amount determined by the court to be proper into the court escrow account in order for the  
239 case to be continued or set for contested trial. To meet the ends of justice, however, the court may grant  
240 the tenant a continuance of no more than one week to make full payment of the court-ordered amount  
241 into the court escrow account. If the tenant fails to pay the entire amount ordered, the court shall, upon  
242 request of the landlord, enter judgment for the landlord and enter an order of possession of the ~~premises~~  
243 *dwelling unit*.

C. The court shall further order that should the tenant fail to pay future rents due under the rental agreement into the court escrow account, the court shall, upon the request of the landlord, enter judgment for the landlord and enter an order of possession of the ~~premises~~ *dwelling unit*.

D. Upon motion of the landlord, the court may disburse the moneys held in the court escrow account to the landlord for payment of his mortgage or other expenses relating to the dwelling unit.

E. Except as provided in subsection D, no rent required to be escrowed under this section shall be disbursed within 10 days of the date of the judgment unless otherwise agreed to by the parties. If an appeal is taken by the plaintiff, the rent held in escrow shall be transmitted to the clerk of the circuit court to be held in such court escrow account pending the outcome of the appeal.

§ 55-243. How judgment of forfeiture prevented.

A. If ~~any~~*Any* party having right or claim to such lands shall, at any time before the trial in such ejectment, ~~or at or before the first court return date in an action of unlawful detainer seeking possession of a residential dwelling based upon a default in rent,~~ pay or tender to the party entitled to such rent, or to his attorney in the cause, or pay into court, all the rent and arrears, along with any reasonable attorney fees and late charges contracted for in a written rental agreement, interest and costs, all further proceedings in the ejectment ~~or unlawful detainer shall cease.~~ If the person claiming the land shall, upon bill filed as aforesaid, be relieved in equity, he shall hold the land as before the proceedings began, without a new lease or conveyance. If the parties dispute the amount of rent and other charges owed, the court shall take evidence on the issue and make orders for the tender, payment or refund of any appropriate amounts.

B. In cases of unlawful detainer for the nonpayment of rent of a tenant from a rental dwelling unit, the tenant may present to the court a redemption tender for payment of all rent due and owing as of the return date, including late charges, attorney fees, and court costs, at or before the first return date on an action for unlawful detainer. For purposes of this section, "redemption tender" means a written commitment to pay all rent due and owing as of the return date, including late charges, attorney fees, and court costs, by a local government or nonprofit entity within 10 days of said return date.

C. If the tenant presents a redemption tender to the court at the return date, the court shall continue the action for unlawful detainer for 10 days following the return date for payment to the landlord of all rent due and owing as of the return date, including late charges, attorney fees, and court costs and dismissal of the action upon such payment. Should the landlord not receive full payment of all rent due and owing as of the return date, including late charges, attorney fees, and court costs, within 10 days of the return date, the court shall, without further evidence, grant to the landlord judgment for all amounts due and immediate possession of the premises.

D. In cases of unlawful detainer, ~~the tenant may invoke the rights granted in this section no more than one time during any 12-month period of continuous residency in the rental dwelling unit a tenant may pay the landlord or his attorney, or pay into court all: (i) rent due and owing as of the court date, (ii) damages and other charges contracted for in the rental agreement, (iii) late charges contracted for in the rental agreement, (iv) reasonable attorney fees, and (v) costs of the proceeding, at which time the unlawful detainer proceeding shall be dismissed. A tenant may invoke the rights granted in this section no more than one time during any 12-month period of continuous residency in the dwelling unit.~~

§ 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 deposit" means any refundable 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 for the purpose of being considered as a tenant for a dwelling unit.

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

"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~~ *financial obligations as a tenant under the rental agreement. However, an authorized occupant shall be obligated to comply with all other terms and conditions of the rental agreement and applicable Virginia*

305 *law.*

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

310 "Commencement date of rental agreement" means the date upon which the tenant is entitled to  
311 occupy the dwelling unit as a tenant.

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

314 "Effective date of rental agreement" means the date upon which the rental agreement is signed by the  
315 landlord and the tenant obligating each party to the terms and conditions of the rental agreement.

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

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

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

321 "Interior of the dwelling unit" means the inside of the dwelling unit, consisting of interior walls,  
322 floor, and ceiling, that enclose the dwelling unit as conditioned space from the outside air.

323 "Landlord" means the owner, lessor or sublessor of the dwelling unit or the building of which such  
324 dwelling unit is a part. "Landlord" also includes a managing agent of the premises who fails to disclose  
325 the name of such owner, lessor or sublessor. Such managing agent shall be subject to the provisions of  
326 § 16.1-88.03. Landlord shall not, however, include a community land trust as defined in § 55-221.1.

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

329 "Mold remediation in accordance with professional standards" means mold remediation of that  
330 portion of the dwelling unit or premises affected by mold, or any personal property of the tenant  
331 affected by mold, performed consistent with guidance documents published by the United States  
332 Environmental Protection Agency, the U.S. Department of Housing and Urban Development, the  
333 American Conference of Governmental Industrial Hygienists (the Bioaerosols Manual), Standard  
334 Reference Guides of the Institute of Inspection, Cleaning and Restoration for Water Damage Restoration  
335 and Professional Mold Remediation, or any protocol for mold remediation prepared by an industrial  
336 hygienist consistent with said guidance documents.

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

342 "Notice" means notice given in writing by either regular mail or hand delivery, with the sender  
343 retaining sufficient proof of having given such notice, which may be either a United States postal  
344 certificate of mailing or a certificate of service confirming such mailing prepared by the sender.  
345 However, a person shall be deemed to have notice of a fact if he has actual knowledge of it, he has  
346 received a verbal notice of it, or from all of the facts and circumstances known to him at the time in  
347 question, he has reason to know it exists. A person "notifies" or "gives" a notice or notification to  
348 another by taking steps reasonably calculated to inform another person whether or not the other person  
349 actually comes to know of it. If notice is given that is not in writing, the person giving the notice has  
350 the burden of proof to show that the notice was given to the recipient of the notice.

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

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

- 355 1. All or part of the legal title to the property, or  
356 2. All or part of the beneficial ownership and a right to present use and enjoyment of the premises,  
357 and the term includes a mortgagee in possession.

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

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

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

"Readily accessible" means areas within the interior of the dwelling unit available for observation at the time of the move-in inspection that do not require removal of materials, personal property, equipment or similar items.

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

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

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

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

"Security deposit" means any refundable deposit of money that is furnished by a tenant to a landlord to secure the performance of the terms and conditions of a rental agreement, as a security for damages to the leased premises, or as a pet deposit. However, such money shall be deemed an application deposit until the commencement date of the rental agreement. Security deposit shall not include a damage insurance policy or renter's insurance policy as those terms are defined in § 55-248.7:2 purchased by a landlord to provide coverage for a tenant.

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

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

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

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

"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.

"Visible evidence of mold" means the existence of mold in the dwelling unit that is visible to the naked eye by the landlord or tenant in areas within the interior of the dwelling unit readily accessible at the time of the move-in inspection.

"Written notice" means notice given in accordance with § 55-248.6, including any representation of words, letters, symbols, numbers, or figures, whether (i) printed in or inscribed on a tangible medium or (ii) stored in an electronic form or other medium, retrievable in a perceivable form, and regardless of whether an electronic signature authorized by Chapter 42.1 (§ 59.1-479 et seq.) of Title 59.1 is affixed. The landlord may, in accordance with a written agreement, delegate to a managing agent or other third party the responsibility of providing any written notice required by this chapter.

§ 55-248.5. Exemptions; exception to exemption.

A. Except as specifically made applicable by § 55-248.21:1, the following conditions are not governed by this chapter:

1. Residence at a public or private institution, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious or similar services;

2. Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest;

3. Occupancy by a member of a fraternal or social organization in the portion of a structure operated

428 for the benefit of the organization;

429 4. Occupancy in a hotel, motel, vacation cottage, boardinghouse, or similar lodging held out for  
430 transients, ~~unless let continuously to one occupant for more than thirty days, including provided~~  
431 occupancy in a *such* lodging is subject to taxation as provided in § 58.1-3819;

432 5. Occupancy by an employee of a landlord whose right to occupancy is conditioned upon  
433 employment in and about the premises or an ex-employee whose occupancy continues less than sixty  
434 days;

435 6. Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;

436 7. Occupancy under a rental agreement covering premises used by the occupant primarily in  
437 connection with business, commercial or agricultural purposes;

438 8. Occupancy in a public housing unit or other housing unit subject to regulation by the Department  
439 of Housing and Urban Development where such regulation is inconsistent with this chapter;

440 9. Occupancy by a tenant who pays no rent; and

441 10. Occupancy in single-family residences where the owner(s) are natural persons or their estates  
442 who own in their own name no more than ten single-family residences subject to a rental agreement; or  
443 in the case of condominium units or single-family residences located in any city or in any county having  
444 either the urban county executive form or county manager plan of government, no more than four.

445 B. Notwithstanding the provisions of subsection A, the landlord may specifically provide for the  
446 applicability of the provisions of this chapter in the rental agreement.

447 § 55-248.7:2. Landlord may obtain certain insurance for tenant.

448 A. Damage Insurance. A landlord may require as a condition of tenancy that a tenant have  
449 commercial insurance coverage as specified in the rental agreement to secure the performance by the  
450 tenant of the terms and conditions of the rental agreement and pay for the cost of premiums for such  
451 insurance coverage obtained by the landlord, generally known as "damage insurance." As provided in  
452 § 55-248.4, such payments shall not be deemed a security deposit, but shall be rent. However, as  
453 provided in § 55-248.9, the landlord cannot require a tenant to pay both security deposits and the cost of  
454 damage insurance premiums, if the total amount of any security deposits and damage insurance  
455 premiums exceeds the amount of two months' periodic rent. The landlord shall notify a tenant in writing  
456 that the tenant has the right to obtain a separate policy from the landlord's policy for damage insurance.  
457 If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of  
458 such coverage and shall maintain such coverage at all times during the term of the rental agreement.  
459 Where a landlord obtains damage insurance coverage on behalf of a tenant, the insurance policy shall  
460 provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs  
461 of such insurance coverage and may recover administrative or other fees associated with administration  
462 of a damage insurance policy, including a tenant opting out of the insurance coverage provided by the  
463 landlord pursuant to this subsection. If a landlord obtains damage insurance for his tenants, the landlord  
464 shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance  
465 policy or certificate evidencing the coverage being provided and upon request of the tenant make  
466 available a copy of the insurance policy.

467 B. Renter's Insurance. A landlord may require as a condition of tenancy that a tenant have renter's  
468 insurance as specified in the rental agreement that is a combination multi-peril policy containing fire,  
469 miscellaneous property, and personal liability coverage insuring personal property located in residential  
470 units not occupied by the owner. A landlord may require a tenant to pay for the cost of premiums for  
471 such insurance obtained by the landlord, to provide such coverage for the tenant as part of rent or as  
472 otherwise provided herein. As provided in § 55-248.4, such payments shall not be deemed a security  
473 deposit, but shall be rent. If the landlord requires that such premiums be paid prior to the  
474 commencement of the tenancy, the total amount of all security deposits and insurance premiums for  
475 damage insurance and renter's insurance shall not exceed the amount of two months' periodic rent.  
476 Otherwise, the landlord may add a monthly amount as additional rent to recover the costs of such  
477 insurance coverage. The landlord shall notify a tenant in writing that the tenant has the right to obtain a  
478 separate policy from the landlord's policy for renter's insurance. If a tenant elects to obtain a separate  
479 policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such  
480 coverage at all times during the term of the rental agreement.

481 C. Where a landlord obtains renter's insurance coverage on behalf of a tenant, the insurance policy  
482 shall provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual  
483 costs of such insurance coverage and may recover administrative or other fees associated with the  
484 administration of a renter's insurance ~~policy program~~, including a tenant opting out of the insurance  
485 coverage provided to the tenant pursuant to this subsection. If a landlord obtains renter's insurance for  
486 his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a  
487 summary of the insurance policy prepared by the insurer or certificate evidencing the coverage being  
488 provided and upon request of the tenant make available a copy of the insurance policy.

489 D. *Nothing in this section shall be construed to prohibit the landlord from recovering from the*



tenant the tenant's prorated share of the actual costs of other insurance coverages provided by the landlord relative to the premises, including the landlord's administrative or other fees associated with the administration of such coverages.

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

A. Provided the landlord has given written notice to the tenant that the rent will be accepted with reservation, the landlord may accept full *or partial* payment of all rent and receive an order of possession from a court of competent jurisdiction pursuant to an unlawful detainer action filed under Chapter 13 (§ 8.01-374 et seq.) of Title 8.01 *and proceed with eviction under § 55-248.38:2*. Such notice shall be included in a written termination notice given by the landlord to the tenant in accordance with § 55-248.31 or in a separate written notice given by the landlord to the tenant within five business days of receipt of the rent. Unless the landlord has given such notice in a termination notice in accordance with § 55-248.31, the landlord shall continue to give a separate written notice to the tenant within five business days of receipt of the rent that the landlord continues to accept the rent with reservation in accordance with this section until such time as the violation alleged in the termination notice has been remedied or the matter has been adjudicated in a court of competent jurisdiction. If the dwelling unit is a public housing unit or other housing unit subject to regulation by the Department of Housing and Urban Development, the landlord shall be deemed to have accepted rent with reservation pursuant to this subsection if the landlord gives the tenant the written notice required herein for the portion of the rent paid by the tenant.

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

C. However, the tenant may pay or present to the court a redemption tender for payment of all rent due and owing as of the return date, including late charges, attorney fees and court costs, at or before the first return date on an action for unlawful detainer. For purposes of this section, "redemption tender" means a written commitment to pay all rent due and owing as of the return date, including late charges, attorney fees, and court costs, by a local government or nonprofit entity within 10 days of said return date.

D. If the tenant presents a redemption tender to the court at the return date, the court shall continue the action for unlawful detainer for 10 days following the return date for payment to the landlord of all rent due and owing as of the return date, including late charges, attorney fees, and court costs and dismissal of the action upon such payment. Should the landlord not receive full payment of all rent due and owing as of the return date, including late charges, attorney fees, and court costs, within 10 days of the return date, the court shall, without further evidence, grant to the landlord judgment for all amounts due and immediate possession of the premises.

E. In cases of unlawful detainer, ~~the tenant may invoke the rights granted in this section no more than one time during any 12-month period in accordance with § 55-243 a tenant may pay the landlord or his attorney, or pay into court all: (i) rent due and owing as of the court date, (ii) damages and other charges contracted for in the rental agreement, (iii) late charges contracted for in the rental agreement, (iv) reasonable attorney fees, and (v) costs of the proceeding, at which time the unlawful detainer proceeding shall be dismissed. A tenant may invoke the rights granted in this section no more than one time during any 12-month period of continuous residency in the dwelling unit.~~

**2. That the provisions of subsection C of § 55-225.10 of this act shall expire on July 1, 2013.**