

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 54.1-2108.1 of the Code of Virginia, relating to the Real Estate Board;*
3 *protection of escrow funds by real estate licensee; required deposits.*

4 [H 1736]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 54.1-2108.1 of the Code of Virginia is amended and reenacted as follows:**8 **§ 54.1-2108.1. Protection of escrow funds, etc., held by a real estate broker in the event of**
9 **foreclosure of real property; required deposits.**

10 A. Notwithstanding any other provision of law:

11 1. If a licensed real estate broker or an agent of the licensee is holding escrow funds for the owner
12 of real property and such property is foreclosed upon by a lender, the licensee or an agent of the
13 licensee shall have the right to file an interpleader action pursuant to § 16.1-77.14 2. If there is in effect at the date of the foreclosure sale, a real estate purchase contract to buy the
15 property foreclosed upon and the real estate purchase contract provides that the earnest money deposit
16 held in escrow by a licensee shall be paid to a party to the contract in the event of a termination of the
17 real estate purchase contract, the foreclosure shall be deemed a termination of the real estate purchase
18 contract and the licensee or an agent of the licensee may, absent any default on the part of the
19 purchaser, disburse the earnest money deposit to the purchaser pursuant to such provisions of the real
20 estate purchase contract without further consent from, or notice to, the parties.21 3. If there is in effect at the date of the foreclosure sale, a tenant in a residential dwelling unit
22 foreclosed upon and the landlord is holding a security deposit of the tenant, the landlord shall handle the
23 security deposit in accordance with applicable law, which requires the holder of the landlord's interest in
24 the dwelling unit at the time of termination of tenancy to return any security deposit and any accrued
25 interest that is duly owed to the tenant, whether or not such security deposit is transferred with the
26 landlord's interest by law or equity, and regardless of any contractual agreements between the original
27 landlord and his successors in interest. Nothing herein shall be construed to prevent the landlord from
28 making lawful deductions from the security deposit in accordance with applicable law.

29 B. Notwithstanding any other provision of law:

30 1. Any prepaid rent paid more than one month prior to the rent due date to a real estate licensee
31 acting on behalf of a landlord client in connection with the lease shall be placed in an escrow account
32 by the end of the fifth business banking day following receipt, unless otherwise agreed to in writing by
33 the principals to a lease transaction. Any rent paid less than one month prior to the rent due date shall
34 be current rent and may be deposited into an operating account of the real estate licensee.35 2. Any security deposits paid to a real estate licensee acting on behalf of a landlord client in
36 connection with the lease shall be placed in an escrow account by the end of the fifth business banking
37 day following receipt, unless otherwise agreed to in writing by the principals to a lease transaction.38 3. Any application deposit as defined by § 55-248.4 paid by a prospective tenant for the purpose of
39 being considered as a tenant for a dwelling unit to a real estate licensee acting on behalf of a landlord
40 client shall be placed in escrow by the end of the fifth business banking day following approval of the
41 rental application by the landlord, unless otherwise agreed to in writing by the principals to a lease
42 transaction.43 4. Such funds shall remain in an escrow account until disbursed in accordance with the terms of the
44 lease, the property management agreement, or the applicable statutory provisions, as applicable.

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