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## HOUSE BILL NO. 642

Offered January 22, 1998

*A BILL to amend and reenact §§ 8.01-129 and 16.1-106, as it is currently effective and as it may become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 55-248.35:1, relating to the Virginia Residential Landlord and Tenant Act; landlord remedies.*

Patrons—Cantor, Albo, Deeds, Diamonstein, Howell, Joannou, Kilgore, McClure, McDonnell, Rust, Tate, Watts and Williams; Senator: Watkins

Referred to Committee on General Laws

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

**1. That §§ 8.01-129 and 16.1-106, as it is currently effective and as it may become effective, of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 55-248.35:1 as follows:**

§ 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 or § 55-248.35:1 of the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.). The appeal shall be taken within ten 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 ten 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 ten-day period. 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 application of any party.

§ 16.1-106. (For effective date - See note) Appeals from courts not of record in civil cases.

From any order entered or judgment rendered in a court not of record in a civil case in which the matter in controversy is of greater value than fifty dollars, exclusive of interest, any attorney's fees contracted for in the instrument, and costs, or when the case involves the constitutionality or validity of a statute of the Commonwealth, or of an ordinance or bylaw of a municipal corporation, or of the enforcement of rights and privileges conferred by the Virginia Freedom of Information Act (§ 2.1-340 et seq.), or of a protective order pursuant to § 19.2-152.10, there shall be an appeal of right, if taken within ten days after such order or judgment, to a court of record, *except as specifically provided in § 55-248.35:1 of the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.)*. Such appeal shall be to a court of record having jurisdiction within the territory of the court from which the appeal is taken.

The court from which an appeal is sought may refuse to suspend the execution of a judgment which refuses, grants, modifies, or dissolves an injunction in a case brought pursuant to § 2.1-346 of the Virginia Freedom of Information Act. A protective order issued pursuant to § 19.2-152.10 shall remain in effect upon petition for or the pendency of an appeal or writ of error unless ordered suspended by the judge of a circuit court or so directed in a writ of supersedeas by the Court of Appeals or the Supreme Court.

§ 16.1-106. (Delayed effective date - See notes) Appeals from general district courts in civil cases.

From any order entered or judgment rendered in a general district court in a civil case in which the matter in controversy is of greater value than fifty dollars, exclusive of interest, any attorney's fees contracted for in the instrument, and costs, or when the case involves the constitutionality or validity of a statute of the Commonwealth, or of an ordinance or bylaw of a municipal corporation, or of the enforcement of rights and privileges conferred by the Virginia Freedom of Information Act (§ 2.1-340 et seq.), or of a protective order pursuant to § 19.2-152.10, there shall be an appeal of right, if taken within ten days after such order or judgment, to a court of record, *except as specifically provided in § 55-248.35:1 of the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.)*. Such appeal shall be to a court of record having jurisdiction within the territory of the court from which the appeal is taken.

The court from which an appeal is sought may refuse to suspend the execution of a judgment which refuses, grants, modifies, or dissolves an injunction in a case brought pursuant to § 2.1-346 of the

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61 in effect upon petition for or the pendency of an appeal or writ of error unless ordered suspended by the  
62 judge of a circuit court or so directed in a writ of supersedeas by the Court of Appeals or the Supreme  
63 Court.

64 § 55-248.35:1. *Appeal from judgment of general district court.*

65 *An appeal shall lie from the judgment of a general district court in any proceeding under this article*  
66 *to the circuit court in the same manner and with like effect and upon like security as appeals taken*  
67 *under the provisions of § 16.1-106 et seq., except as specifically provided in this section. If the judgment*  
68 *is by default, the appeal shall be taken within three days and the security approved by the court from*  
69 *which the appeal is taken. Otherwise, the appeal shall be taken within ten days and the security*  
70 *approved by the court from which the appeal is taken. Notwithstanding the provisions of § 16.1-106 et*  
71 *seq., the bond shall be posted and the writ tax paid within ten days of the date of judgment. Unless*  
72 *otherwise specifically provided in the court's order, no writ of execution shall issue on a judgment for*  
73 *possession until the expiration of the three- or ten-day period, as appropriate. When the appeal is taken*  
74 *by the defendant, he shall be required to give security also for the rent which has accrued and may*  
75 *accrue upon the premises, but not for more than one year's rent, and for damages that have accrued or*  
76 *may accrue from the unlawful use and occupation of the premises for a period not to exceed three*  
77 *months. Trial by jury shall be had upon application of any party.*