

1998 SESSION

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HB642EH1

HOUSE BILL NO. 642

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws)

(Patron Prior to Substitute—Delegate Cantor)

House Amendments in [] — February 17, 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, relating to [~~the Virginia Residential Landlord and Tenant Act; landlord remedies appeals from general district court~~] .

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 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.~~ through 16.1-118.1, except as specifically provided in this section. The appeal shall be taken within ten days and the security approved by the court from which the appeal is taken. *However, an appeal from a judgment [by default] for possession based on the nonpayment of rent shall be taken within five days, provided notice of the five-day appeal period is included in the written notice served on a tenant in accordance with § 55-248.31. When the notice required by this section is not provided, the appeal shall be taken within ten days.* Notwithstanding the provisions of §§ 16.1-106 ~~et seq.~~ through 16.1-118.1, 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 the five-day or~~ ten-day period, *as appropriate*. 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. 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 § 8.01-129*. 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) 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 § 8.01-129*. 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.

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