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**HOUSE BILL NO. 502**

Offered January 9, 2002

Prefiled January 8, 2002

*A BILL to amend and reenact § 55-248.4 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 55-248.7:1, relating to the Virginia Residential Landlord and Tenant Act; definitions; prepaid rent.*

Patrons—Drake, Athey and Purkey

Referred to Committee on General Laws

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

**1. That § 55-248.4 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 55-248.7:1 as follows:**

§ 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 fee" means any 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, lessor, or agent of a landlord for the purpose of being considered as a tenant for a dwelling unit.

"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 under a rental agreement with a tenant.

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

"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, including, but not limited to, a manufactured home.

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

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

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

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

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

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

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

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

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

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

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

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59 use is promised to the tenant.

60 "Rent" means all money ~~or property~~, other than a security deposit, owed *or paid* to the landlord  
61 under the rental agreement, *including prepaid rent and nonrefundable pet fees.*

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

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

69 "Security deposit" means any *refundable* deposit of money ~~or property, whether termed security~~  
70 ~~deposit or "prepaid rent," however denominated, which~~ that is furnished by a tenant to a landlord to  
71 secure the performance *of the terms and conditions of a rental agreement* ~~any part of a written or oral~~  
72 ~~rental agreement~~, as a security for damages to the leased premises, or as a pet deposit. However, such  
73 money or property shall be deemed an application fee until the effective date of the rental agreement.  
74 *Security deposit shall not include, however, a bond or commercial insurance policy purchased by a*  
75 *tenant to secure the performance of the terms and conditions of a rental agreement.*

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

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

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

86 "Utility" means a service such as light, power, electricity, gas, or water provided by a public service  
87 corporation.

88 § 55-248.7:1. *Prepaid rent; maintenance of escrow account.*

89 *A landlord may accept prepaid rent from a tenant. If a landlord receives prepaid rent, it shall be*  
90 *placed in a separate escrow account in a federally insured depository in Virginia by the end of the fifth*  
91 *business day following receipt and shall remain in the account until such time as the prepaid rent*  
92 *becomes due. Unless the landlord has otherwise become entitled to receive any portion of the prepaid*  
93 *rent, it shall not be removed from the escrow account required by this section without the written*  
94 *consent of the tenant.*