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HOUSE BILL NO. 1611

Offered January 12, 2011

Prefiled January 7, 2011

A BILL to amend and reenact §§ 8.01-286.1, 8.01-291 through 8.01-294, 8.01-296, 8.01-312, 8.01-315, 8.01-327, 15.2-922, 15.2-2119, 16.1-79.1, 36-99.5, 55-225.4, 55-248.6:1, 55-248.15:2, 55-248.16, 55-248.18, 55-248.24, 55-248.31:1, 55-248.38:3, and 58.1-486.2 of the Code of Virginia and to repeal the second enactment of Chapter 663 of the Acts of Assembly of 2009, relating to landlord and tenant law.

Patrons—Oder and Dance

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-286.1, 8.01-291 through 8.01-294, 8.01-296, 8.01-312, 8.01-315, 8.01-327, 15.2-922, 15.2-2119, 16.1-79.1, 36-99.5, 55-225.4, 55-248.6:1, 55-248.15:2, 55-248.16, 55-248.18, 55-248.24, 55-248.31:1, 55-248.38:3, and 58.1-486.2 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-286.1. Service of process; waiver, duty to save costs, request to waive, how served.

A. In an action pending in circuit court, the plaintiff may notify a defendant of the commencement of the action and request that the defendant waive service of process as provided in subsection B. Any person subject to service as set forth in § 8.01-296, 8.01-299, §§ 8.01-301 through 8.01-306 or § 8.01-320, with the exception of the Secretary of the Commonwealth and the Clerk of the State Corporation Commission, who receives actual notice of an action in the manner provided in this section, has a duty to avoid any unnecessary costs of serving process.

B. The notice and request shall incorporate the request for waiver and shall:

1. Be in writing and shall be addressed directly to the defendant, if an individual, or else to an officer, director or registered agent authorized by appointment or law to receive service of process of a defendant subject to service under § 8.01-299, §§ 8.01-301 through 8.01-306 or § 8.01-320;

2. Be dispatched through first-class mail or other reliable means;

3. Be accompanied by a copy of the motion for judgment, bill of complaint or other such initial pleading and identify the court in which it has been filed;

4. Inform the defendant, by means of a form provided by Executive Secretary of the Supreme Court, of the consequences of compliance and failure to comply with the request;

5. Set forth the date on which the request is sent;

6. Allow the defendant a reasonable time to return the waiver, which shall be no more than 30 days from the date on which the request is sent, or 60 days from that date if the defendant's address is outside the Commonwealth; and

7. Provide the defendant with an extra copy of the notice and request, as well as a prepaid means of compliance in writing.

If a defendant fails to comply with a request for waiver made by a plaintiff, the court shall impose the costs subsequently incurred in effecting service on the defendant unless good cause for the failure is shown.

C. A defendant that, before being served with process, timely returns a waiver so requested is not required to serve a grounds of defense or other responsive pleading to the motion for judgment or other initial pleading until 60 days after the date on which the request for waiver of service was sent, or 90 days after that date if the defendant's address was outside the Commonwealth.

D. When the plaintiff files a waiver of service with the court, the action shall proceed as if a notice and motion for judgment or other initial pleading had been served at the time of filing the waiver, and no proof of service shall be required.

E. The costs to be imposed on a defendant for failure to comply with a request to waive service of a summons shall include the costs subsequently incurred in effecting service under § 8.01-299, §§ 8.01-301 through 8.01-306 or § 8.01-320, together with the costs, including reasonable attorneys' fees, of any motion required to collect the costs of service. This provision does not apply to the Commissioner of the Department of Motor Vehicles, the Secretary of the Commonwealth or the Clerk of the State Corporation Commission.

F. A defendant who waives service of process pursuant to this section does not thereby waive any objection to the venue or to the jurisdiction of the court over the person of that defendant, or to any other defense or objection other than objections based on inadequacy of process or service of process.

G. If the parties agree to do so in writing, the provisions of this section for a waiver of service of process may be electronic. If electronic delivery is used, sufficient proof of the electronic delivery shall be retained, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery.

§ 8.01-291. Copies to be made.

~~The~~*Unless such process is otherwise transmitted electronically to the sheriff or private process server, the* clerk issuing any such process unless otherwise directed shall deliver or transmit therewith as many copies thereof as there are persons named therein on whom it is to be served.

§ 8.01-292. To whom process directed and where executed.

Process from any court, whether original, mesne, or final, may be directed to the sheriff of*, or a private process server,* and may be executed in, any county, city, or town in the Commonwealth.

§ 8.01-293. Authorization to serve process, capias or show cause order; execute writ of possession and levy upon property.

A. The following persons are authorized to serve process:

1. The sheriff within such territorial bounds as described in § 8.01-295; ~~or~~

2. Any person of age 18 years or older and who is not a party or otherwise interested in the subject matter in controversy. However, in any case in which custody or visitation of a minor child or children is at issue and a summons is issued for the attendance and testimony of a teacher or other school personnel who is not a party to the proceeding, if such summons is served on school property, it shall be served only by a sheriff or his deputy*; or*

3. A private process server. For purposes of this section, "private process server" means any person of age 18 years or older and who is not a party or otherwise interested in the subject matter in controversy, and who charges a fee for service of process. A private process server may charge an additional fee not to exceed $10 for service of electronic process as otherwise provided by law.

Whenever in this Code the term "officer" or "sheriff" is used to refer to persons authorized to make, return or do any other act relating to service of process, such term shall be deemed to refer to any person authorized by this section to serve process.

B. Notwithstanding any other provision of law (i) only a sheriff or high constable may execute an order or writ of possession for personal, real or mixed property, including an order or writ of possession arising out of an action in unlawful entry and detainer or ejectment; (ii) any sheriff, high constable or law-enforcement officer as defined in § 9.1-101 of the Code of Virginia may serve any capias or show cause order; and (iii) only a sheriff, the high constable for the City of Norfolk or Virginia Beach or a treasurer may levy upon property.

§ 8.01-294. Sheriff to get from clerk's office process and other papers; return of papers; effect of late return.

Every sheriff who attends a court shall, every day when the clerk's office is open for business, go to such office and receive all process, and other papers to be served by him, and give receipts therefor, unless he has received notice from a regular employee of the clerk's office that there are no such papers requiring service and shall return all papers within 72 hours of service, except when such returns would be due on a Saturday, Sunday, or legal holiday. In such case, the return is due on the next day following such Saturday, Sunday, or legal holiday.

However, a sheriff or private process server may receive process directly from a plaintiff or plaintiff's attorney in an electronic format for any civil action filed pursuant to § 16.1-79.1 on a uniform court form established by the Executive Secretary of the Supreme Court and print such process for service on such parties for whom service is proper. The sheriff or private process server shall make return of service as otherwise provided by law. The sheriff or private process server may charge an additional fee to the plaintiff or plaintiff's attorney not to exceed $10 for such electronic process.

Failure to make return of service of process by anyone authorized to serve process under § 8.01-293 within the time specified in this section shall not invalidate any service of process or any judgment based thereon. In the event a late return prejudices a party or interferes with the court's administration of a case, the court may, in its discretion, continue the case, require additional or substitute service of process, or take such other action or enter such order as the court deems appropriate under the circumstances.

§ 8.01-296. Manner of serving process upon natural persons.

Subject to the provisions of § 8.01-286.1, in any action at law or in equity or any other civil proceeding in any court, process, for which no particular mode of service is prescribed, may be served upon natural persons as follows:

1. By delivering a copy thereof in writing to the party in person; or

2. By substituted service in the following manner:

a. If the party to be served is not found at his usual place of abode, by delivering a copy of such process and giving information of its purport to any person found there, who is a member of his family, other than a temporary sojourner or guest, and who is of the age of 16 years or older; or

b. If such service cannot be effected under subdivision 2 a, then by posting a copy of such process at the front door or at such other door as appears to be the main entrance of such place of abode, provided that not less than 10 days before judgment by default may be entered, the party causing service or his attorney or agent mails to the party served a copy of such process and thereafter files in the office of the clerk of the court a certificate of such mailing. In any civil action brought in a general district court, the mailing of the application for a warrant in debt or affidavit for summons in unlawful detainer or other civil pleading or a copy of such pleading, whether yet issued by the court or not, which contains the date, time and place of the return, prior to or after filing such pleading in the general district court, shall satisfy the mailing requirements of this section. In any civil action brought in a circuit court, the mailing of a copy of the pleadings with a notice that the proceedings are pending in the court indicated and that upon the expiration of 10 days after the giving of the notice and the expiration of the statutory period within which to respond, without further notice, the entry of a judgment by default as prayed for in the pleadings may be requested, shall satisfy the mailing requirements of this section and any notice requirement of the Rules of Court. Any judgment by default entered after July 1, 1989, upon posted service in which proceedings a copy of the pleadings was mailed as provided for in this section prior to July 1, 1989, is validated.

c. The person executing such service shall note the manner and the date of such service on the original and the copy of the process so delivered or posted under this subdivision and shall effect the return of process as provided in §§ 8.01-294 and 8.01-325.

3. If service cannot be effected under subdivisions 1 and 2, then by order of publication in appropriate cases under the provisions of §§ 8.01-316 through 8.01-320.

4. The landlord or his duly authorized agent or representative may serve notices required by the rental agreement or by law upon the tenant or occupant under a rental agreement that is within the purview of Chapter 13 (§ 55-217 et seq.) of Title 55.

5. A sheriff or private process server may serve process electronically on a registered agent or other person who has agreed to accept service. If electronic delivery is used, the sheriff or private process server shall retain sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sheriff or private process server confirming the electronic delivery. The sheriff or private process server may charge an additional fee not to exceed $10 for such electronic service.

§ 8.01-312. Effect of service on statutory agent; duties of such agent.

A. Service of process on the statutory agent shall have the same legal force and validity as if served within the Commonwealth personally upon the person for whom it is intended.

Provided that such agent shall forthwith send by registered or certified mail, with return receipt requested, a copy of the process to the person named therein and for whom the statutory agent is receiving the process.

Provided further that the statutory agent shall file an affidavit of compliance with this section with the papers in the action; this filing shall be made in the office of the clerk of the court in which the action is pending.

B. Unless otherwise provided by § 8.01-313 and subject to the provisions of § 8.01-316, the address for the mailing of the process required by this section shall be that as provided by the party seeking service.

C. If the statutory agent provides for electronic service, the service of process may be served on the statutory agent electronically. If electronic delivery is used, sufficient proof of the electronic delivery shall be retained, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery. The statutory agent may charge an additional fee not to exceed $10 for such electronic service.

§ 8.01-315. Notice to be mailed defendant when service accepted by another.

No judgment shall be rendered upon, or by virtue of, any instrument in writing authorizing the acceptance of service of process by another on behalf of any person who is obligated upon such instrument, when such service is accepted as therein authorized, unless the person accepting service shall have made and filed with the court an affidavit showing that he mailed or caused to be mailed to the defendant at his last known post-office address at least ten days before such judgment is to be rendered a notice stating the time when and place where the entry of such judgment would be requested. *Any affidavit filed pursuant to this section may be filed electronically. If electronic delivery is used, sufficient proof of the electronic delivery shall be retained, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery.*

§ 8.01-327. Acceptance of service of process.

Service of process may be accepted by the person for whom it is intended by signing the proof of service and indicating the jurisdiction and state in which it was accepted. However, service of process in

divorce or annulment actions may be accepted only as provided in § 20-99.1:1. *Any acceptance of service of process may be accepted electronically. If electronic delivery is used, sufficient proof of the electronic delivery shall be retained, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery.*

§ 15.2-922. Smoke detectors in certain buildings.

Any locality, notwithstanding any contrary provision of law, general or special, may by ordinance require that smoke detectors be installed in the following structures or buildings: (i) any building containing one or more dwelling units, (ii) any hotel or motel regularly used or offered for, or intended to be used to provide overnight sleeping accommodations for one or more persons, and (iii) rooming houses regularly used, offered for, or intended to be used to provide overnight sleeping accommodations. Smoke detectors installed pursuant to this section shall be installed in conformance with the provisions of the Uniform Statewide Building Code~~.~~ *(§ 36-97 et seq.) and any locality with an ordinance shall follow a uniform set of standards for maintenance of smoke detectors established in the Uniform Statewide Building Code*. The ordinance shall allow the type of smoke detector to be either battery operated or AC powered units. Such ordinance shall require that the owner of any unit which is rented or leased, at the beginning of each tenancy and at least annually thereafter, shall furnish the tenant with a certificate that all required smoke detectors are present, have been inspected, and are in good working order. Except for smoke detectors located in hallways, stairwells, and other public or common areas of multifamily buildings, interim testing, repair, and maintenance of smoke detectors in rented or leased units shall be the responsibility of the tenant; however, the owner shall be obligated to service, repair, or replace any malfunctioning smoke detectors within five days of receipt of written notice from the tenant that such smoke detector is in need of service, repair, or replacement.

§ 15.2-2119. Fees and charges for water, sewer, and other municipal services.

For *water,* sewer, *and other municipal* service provided by localities, fees and charges may be charged to and collected from: (i) any person contracting for the same; (ii) the owner, lessee or tenant, or some or all of them who use or occupy any real estate (a) which directly or indirectly is or has been connected with the sewage disposal system and (b) from or on which sewage or industrial wastes originate or have originated and have directly or indirectly entered or will enter the sewage disposal system; or (iii) any user of a municipality's water or sewer system with respect to combined sanitary and storm water sewer systems where the user is a resident of the municipality and the purpose of any such fee or charge is related to the control of combined sewer overflow discharges from such systems. Such fees and charges shall be practicable and equitable and payable as directed by the respective locality operating or providing for the operation of the water or sewer system.

Such fees and charges, being in the nature of use or service charges, shall, as nearly as the governing body deems practicable and equitable, be uniform for the same type, class and amount of use or service of the sewage disposal system, and may be based or computed either on the consumption of water on or in connection with the real estate, making due allowances for commercial use of water, or on the number and kind of water outlets on or in connection with the real estate or on the number and kind of plumbing or sewage fixtures or facilities on or in connection with the real estate or on the number or average number of persons residing or working on or otherwise connected or identified with the real estate or any other factors determining the type, class and amount of use or service of the sewage disposal system, or any combination of such factors, or on such other basis as the governing body may determine. Such fees and charges shall be due and payable at such time as the governing body may determine, and the governing body may require the same to be paid in advance for periods of not more than six months. The revenue derived from any or all of such fees and charges is hereby declared to be revenue of such sewage disposal system.

Water and sewer connection fees established by any locality shall be fair and reasonable. Such fees shall be reviewed by the locality periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

If the fees and charges charged for the use and services of the sewage disposal system by or in connection with any real estate are not paid when due, a penalty and interest shall at that time be owed as provided for by general law, and the owner, lessee or tenant, as the case may be, of such real estate shall, until such fees and charges are paid with such penalty and interest to the date of payment, cease to dispose of sewage or industrial waste originating from or on such real estate by discharge thereof directly or indirectly into the sewage disposal system. If such owner, lessee or tenant does not cease such disposal within two months thereafter, the locality or person supplying water for the use of such real estate shall cease supplying water thereto unless the health officers certify that shutting off the water will endanger the health of the occupants of the premises or the health of others.

Such fees and charges, and any penalty and interest thereon shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes. However, prior to recording a lien against the

property owner, the locality or service authority shall obtain a judgment in a court of competent jurisdiction against the lessee or tenant who contracted for such services for the amount of any delinquencies. After obtaining judgment against the lessee or tenant as contracting party and using reasonable efforts to collect on the judgment, if the locality or service authority is unable to collect the balance due on the money judgment, the locality or service authority shall provide the property owner with 30 days written notification to allow the property owner a reasonable opportunity to pay the amount of the lien and avoid the recordation of a lien against the property. If the property owner fails to pay the amount of the outstanding judgment within the 30-day period, the locality or the service authority may record a lien in the amount of the outstanding judgment against the property owner. Upon payment of the outstanding judgment, or any portion thereof, *or of any amounts of such fees and charges owed by the tenant but for which judgment has not been obtained,* the property owner shall be *entitled to receive any refunds and shall be* subrogated against the lessee or tenant in place of the locality or the service authority in the amount paid by the property owner. The locality or service authority shall execute all documents necessary to perfect such subrogation in favor of the property owner. Such amounts, plus reasonable attorney's or collection agency's fees which shall not exceed 20 percent of the delinquent tax bill, may be recovered by the locality by action at law or suit in equity. In any city with a population greater than 390,000, such fees and charges, along with delinquent water and sewer connection fees, and any penalty and interest thereon shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes. Such amounts, plus reasonable attorney's or collection agency's fees which shall not exceed 20 percent of the delinquent fee or charge, may be recovered by such city by action at law or suit in equity. *Unless a lien has been recorded against the property owner, the locality or service authority shall not deny service to a tenant requesting service at a particular property address based upon the fact that a previous tenant has not paid any outstanding fees and charges charged for the use and services in the name of the previous tenant. In addition, the locality or service authority shall provide information relative to a previous tenant or current tenant to the property owner upon request of the property owner.*

Notwithstanding any provision of law to the contrary, any town with a population between 11,000 and 14,000, with the concurrence of the affected county, which provides and operates sewer services outside its boundaries may provide sewer services to industrial and commercial users outside its boundaries and collect such compensation therefor as may be contracted for between the town and such user. Such town shall not thereby be obligated to provide sewer services to any other users outside its boundaries.

§ 16.1-79.1. Electronic filing of civil cases.

The general district courts shall accept case data in an electronic format for any civil action filed. The use of the electronic transfer shall be at the option of the plaintiff or the plaintiff's attorney, and if electronic transfer is utilized, the plaintiff or the plaintiff's attorney shall comply with the security and data configuration standards established by the Office of the Executive Secretary of the Supreme Court. If electronic transfer is utilized, the plaintiff or the plaintiff's attorney shall be responsible for filing with the clerk of the general district court the paper copies of any pleading for the proper processing of such civil actions as otherwise required by law*, unless electronic filing is made with the sheriff or private process server as otherwise provided by law*.

§ 36-99.5. Smoke detectors for the deaf and hearing-impaired.

Smoke detectors providing an effective intensity of not less than 100 candela to warn a deaf or hearing-impaired individual shall be provided, upon request by the occupant to the landlord or proprietor, to any deaf or hearing-impaired occupant of any of the following occupancies, regardless of when constructed:

1. All dormitory buildings arranged for the shelter and sleeping accommodations of more than twenty individuals;

2. All multiple-family dwellings having more than two dwelling units, including all dormitories, boarding and lodging houses arranged for shelter and sleeping accommodations of more than five individuals; or

3. All buildings arranged for use of one-family or two-family dwelling units.

A tenant shall be responsible for the maintenance and operation of the smoke detector in the tenant's unit.

A hotel or motel shall have available no fewer than one such smoke detector for each seventy units or portion thereof, except that this requirement shall not apply to any hotel or motel with fewer than thirty-five units. The proprietor of the hotel or motel shall post in a conspicuous place at the registration desk or counter a permanent sign stating the availability of smoke detectors for the hearing-impaired. Visual detectors shall be provided for all meeting rooms for which an advance request has been made.

The proprietor or landlord may require a refundable deposit for a smoke detector, not to exceed the original cost or replacement cost, whichever is greater, of the smoke detector. Rental fees shall not be

increased as compensation for this requirement.

Landlords shall notify hearing-impaired tenants of the availability of special smoke detectors; however, no landlord shall be civilly or criminally liable for failure to so notify. New tenants shall be asked, in writing, at the time of rental, whether visual smoke detectors will be needed.

Failure to comply with the provisions of this section within a reasonable time shall be punishable as a Class 3 misdemeanor.

This law shall have no effect upon existing local law or regulation which exceeds the provisions prescribed herein*; however any locality with an ordinance shall follow a uniform set of standards for maintenance of smoke detectors established in the Uniform Statewide Building Code (§ 36-97 et seq.).*

§ 55-225.4. Tenant to maintain dwelling unit.

A. In addition to the provisions of the rental agreement, the tenant shall:

1. Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;

2. Keep that part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;

3. Remove from his dwelling unit all ashes, garbage, rubbish and other waste in a clean and safe manner;

4. Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

5. Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances;

6. Not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or permit any person to do so whether known by the tenant or not;

7. Not remove or tamper with a properly functioning smoke detector, including removing any working batteries, so as to render the smoke detector inoperative*, and shall maintain such smoke detector in accordance with the uniform set of standards for maintenance of smoke detectors established in the Uniform Statewide Building Code (§ 36-97 et seq.)*;

8. Use reasonable efforts to maintain the dwelling unit and any other part of the premises that he occupies in such a condition as to prevent accumulation of moisture and the growth of mold and to promptly notify the landlord of any moisture accumulation that occurs or of any visible evidence of mold discovered by the tenant;

9*. Not paint or disturb painted surfaces, or make alterations in the dwelling unit, without the prior written approval of the landlord;*

10. Be responsible for his conduct and the conduct of other persons on the premises with his consent whether known by the tenant or not, to ensure that his neighbors' peaceful enjoyment of the premises will not be disturbed; and

~~10.~~*11.* Abide by all reasonable rules and regulations imposed by the landlord.

B. If the duty imposed by subdivision A 1 is greater than any duty imposed by any other subdivision of that subsection, the tenant's duty shall be determined by reference to subdivision A 1.

§ 55-248.6:1. Application fees.

Any landlord may require an application fee and a separate application deposit. If the applicant fails to rent the unit for which application was made, from the application deposit the landlord shall refund to the applicant within 20 days after the applicant's failure to rent the unit or the landlord's rejection of the application all sums in excess of the landlord's actual expenses and damages together with an itemized list of said expenses and damages. If, however, the application ~~fee~~ ~~or~~ deposit was made by cash, certified check, cashier's check, or postal money order, such refund shall be made within 10 days of the applicant's failure to rent the unit if the failure to rent is due to the landlord's rejection of the application. If the landlord fails to comply with this section, the applicant may recover as damages suffered by him that portion of the ~~fee~~ *application deposit* wrongfully withheld and reasonable ~~attorney's~~ *attorney* fees.

§ 55-248.15:2. Schedule of interest rates on security deposits.

A. The interest rate established by § 55-248.15:1 varies annually with the annual rate being equal to four percentage points below the Federal Reserve Board discount rate as of January 1 of each year. The purpose of this section is to set out the interest rates applicable under this chapter.

B. The rates are as follows:

1. July 1, 1975, through December 31, 1979, 3.0%.

2. January 1, 1980, through December 31, 1981, 4.0%.

3. January 1, 1982, through December 31, 1984, 4.5%.

4. January 1, 1985, through December 31, 1994, 5.0%.

5. January 1, 1995, through December 31, 1995, 4.75%.

6. January 1, 1996, through December 31, 1996, 5.25%.

7. January 1, 1997, through December 31, 1998, 5.0%.

8. January 1, 1999, through June 30, 1999, 4.5%.
9. July 1, 1999, through December 31, 1999, 3.5%.
10. January 1, 2000, through December 31, 2000, 4.0%.
11. January 1, 2001, through December 31, 2001, 5.0%.
12. January 1, 2002, through December 31, 2002, 0.25%.
13. January 1, 2003, through December 31, 2003, 0%.
14. January 1, 2004, through December 31, 2004, 1.0%.
15. January 1, 2005, through December 31, 2005, 2.25%.
16. January 1, 2006, through December 31, 2006, 4.25%.
17. January 1, 2007, through December 31, 2007, 5.25%.
18. January 1, 2008, through December 31, 2008, 0.75%.
19. January 1, 2009, through December 31, 2009, 0.00%.
20. January 1, 2010, through December 31, 2010, 0.00%.
21. January 2, 2011 through December 31, 2011, ——%.

Thereafter, the interest rate shall be determined in accordance with subsection B of § 55-248.15:1.

§ 55-248.16. Tenant to maintain dwelling unit.

A. In addition to the provisions of the rental agreement, the tenant shall:

1. Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;

2. Keep that part of the dwelling unit and the part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;

3. Keep that part of the dwelling unit and the part of the premises that he occupies free from insects and pests, as those terms are defined in § 3.2-3900, and to promptly notify the landlord of the existence of any insects or pests;

4. Remove from his dwelling unit all ashes, garbage, rubbish and other waste in a clean and safe manner and in the appropriate receptacles provided by the landlord pursuant to § 55-248.13, if such disposal is on the premises;

5. Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

6. Use in a reasonable manner all utilities and all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances including elevators in the premises, and keep all utility services paid for by the tenant to the utility service provider or its agent on at all times during the term of the rental agreement;

7. Not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or permit any person to do so whether known by the tenant or not;

8. Not remove or tamper with a properly functioning smoke detector installed by the landlord, including removing any working batteries, so as to render the detector inoperative *and shall maintain the smoke detector in accordance with the uniform set of standards for maintenance of smoke detectors established in the Uniform Statewide Building Code (§ 36-97 et seq.)*;

9. Not remove or tamper with a properly functioning carbon monoxide detector installed by the landlord, including removing any working batteries, so as to render the carbon monoxide detector inoperative;

10. Use reasonable efforts to maintain the dwelling unit and any other part of the premises that he occupies in such a condition as to prevent accumulation of moisture and the growth of mold, and to promptly notify the landlord of any moisture accumulation that occurs or of any visible evidence of mold discovered by the tenant;

11. *Not paint or disturb painted surfaces or make alterations in the dwelling unit without the prior written approval of the landlord;*

12. Be responsible for his conduct and the conduct of other persons on the premises with his consent whether known by the tenant or not, to ensure that his neighbors' peaceful enjoyment of the premises will not be disturbed; and

~~12.~~*13.* Abide by all reasonable rules and regulations imposed by the landlord pursuant to § 55-248.17.

B. If the duty imposed by subdivision 1 of subsection A is greater than any duty imposed by any other subdivision of that subsection, the tenant's duty shall be determined by reference to subdivision 1.

§ 55-248.18. Access; consent; correction of nonemergency conditions; relocation of tenant.

A. The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen or contractors. The landlord may enter the dwelling unit without consent of the tenant in case of emergency. The landlord shall not abuse the right of access or

use it to harass the tenant. Except in case of emergency or if it is impractical to do so, the landlord shall give the tenant notice of his intent to enter and may enter only at reasonable times. Unless impractical to do so, the landlord shall give the tenant at least 24-hours' notice of routine maintenance to be performed that has not been requested by the tenant. If the tenant makes a request for maintenance, the landlord is not required to provide notice to the tenant.

B. Upon the sole determination by the landlord of the existence of a nonemergency property condition in the dwelling unit that requires the tenant to temporarily vacate the dwelling unit in order for the landlord to properly remedy such property condition, the landlord may, upon at least 30 days' written notice to the tenant, require the tenant to temporarily vacate the dwelling unit ~~for a period not to exceed 30 days~~ to a comparable dwelling unit, as selected by the landlord, and at no expense or cost to the tenant. For purposes of this subsection, "nonemergency property condition" means (i) a condition in the dwelling unit that, in the determination of the landlord, is necessary for the landlord to remedy in order for the landlord to be in compliance with § 55-248.13; (ii) the condition does not need to be remedied within a 24-hour period, with any condition that needs to be remedied within 24 hours being defined as an "emergency condition"; and (iii) the condition can only be effectively remedied by the temporary relocation of the tenant pursuant to the provisions of this subsection.

The tenant shall continue to be responsible for payment of rent under the rental agreement during the period of any temporary relocation. The landlord shall pay all costs of repairs or remediation required to address the property condition. Refusal of the tenant to cooperate with a temporary relocation pursuant to this subsection shall be deemed a breach of the rental agreement, unless the tenant agrees to vacate the unit and terminate the rental agreement within the 30-day notice period. *Further, nothing herein shall be construed to limit the landlord from taking legal action against the tenant for any noncompliance that occurs during the period of any temporary relocation pursuant to this section.*

C. The landlord has no other right to access except by court order or that permitted by §§ 55-248.32 and 55-248.33 or if the tenant has abandoned or surrendered the premises.

D. The tenant may install, within the dwelling unit, new burglary prevention, including chain latch devices approved by the landlord, carbon monoxide detection devices, and fire detection devices, that the tenant may believe necessary to ensure his safety, provided:

1. Installation does no permanent damage to any part of the dwelling unit.

2. A duplicate of all keys and instructions of how to operate all devices are given to the landlord.

3. Upon termination of the tenancy the tenant shall be responsible for payment to the landlord for reasonable costs incurred for the removal of all such devices and repairs to all damaged areas.

§ 55-248.24. Fire or casualty damage.

If the dwelling unit or premises are damaged or destroyed by fire or casualty to an extent that the tenant's enjoyment of the dwelling unit is substantially impaired or required repairs can only be accomplished if the tenant vacates the dwelling unit, either the tenant or the landlord may terminate the rental agreement. The tenant may terminate the rental agreement by vacating the premises and within 14 days thereafter, serve on the landlord a written notice of his intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or if continued occupancy is lawful, § 55-226 shall apply.

The landlord may terminate the rental agreement by giving the tenant ~~45~~ *14* days' notice of his intention to terminate the rental agreement based upon the landlord's determination that such damage requires the removal of the tenant and the use of the premises is substantially impaired, in which case the rental agreement terminates as of the expiration of the notice period.

If the rental agreement is terminated, the landlord shall return all security deposits in accordance with § 55-248.15:1 and prepaid rent, plus accrued interest, recoverable by law unless the landlord reasonably believes that the tenant, tenant's guests, invitees or authorized occupants were the cause of the damage or casualty, in which case the landlord shall account to the tenant for the security and prepaid rent, plus accrued interest based upon the damage or casualty. Accounting for rent in the event of termination or apportionment shall be made as of the date of the casualty.

§ 55-248.31:1. Sheriffs authorized to serve certain notices; fees therefor.

The sheriff of any county or city*, or a private process server*, upon request, may deliver any notice to a tenant on behalf of a landlord or lessor under the provisions of § 55-225 or § 55-248.31. For this service, the sheriff *or private process server* shall be allowed a fee not to exceed ~~twelve dollars~~ *$25*.

§ 55-248.38:3. Disposal of property of deceased tenants.

If a tenant, who is the sole occupant of the dwelling unit, dies, and there is no person authorized by order of the circuit court to handle probate matters for the deceased tenant, the landlord may dispose of the personal property left in the premises, or in a storage area provided by the landlord, provided the landlord has given at least 10 days' written notice to (i) the person identified in the rental application, lease agreement, or other landlord document as the authorized person to contact in the event of the death or emergency of the tenant or (ii) the tenant in accordance with § 55-248.6 if no such person is identified in the rental application, lease agreement, or other landlord document as the authorized contact

person. The notice given under clause (i) or (ii) shall include a statement that any items of personal property left in the premises would be treated as abandoned property and disposed of in accordance with the provisions of § 55-248.38:1~~, if not claimed within 30 days~~.

§ 58.1-486.2. Withholding tax on Virginia source income of nonresident owners.

A. For the privilege of doing business in the Commonwealth, a pass-through entity that has taxable income for the taxable year derived from or connected with Virginia sources, any portion of which is allocable to a nonresident owner, shall pay a withholding tax under this section, except as provided in subsection C.

B. 1. The amount of withholding tax payable by any pass-through entity under this article shall be equal to five percent of the nonresident owner's share of income from Virginia sources of all nonresident owners as determined under this chapter, which may lawfully be taxed by the Commonwealth and which is allocable to a nonresident owner.

2. When determining the amount of withholding tax due under this section, the pass-through entity may apply any tax credits allowable under the Code of Virginia to the pass-through entity that pass through to nonresident owners; provided that in no event may the application of any credit or credits reduce the tax liability of any nonresident owner under this article to less than zero.

C. Withholding shall not be required:

1. For any nonresident owner, other than a nonresident corporation, who is exempt from the tax imposed by this article. An owner shall be exempt from the tax imposed by this article only if the owner is, by reason of the owner's purpose or activities, exempt from paying federal income taxes on the owner's Virginia source income. The pass-through entity may rely on the written statement of the owner claiming to be exempt from the tax imposed by this article provided the pass-through entity discloses the name and federal taxpayer identification number for all such owners in its return for the taxable year filed under § 58.1-392;

2. For any nonresident owner that is a corporation that is exempt from the tax imposed by Article 10 (§ 58.1-400 et seq.). For purposes of this subdivision, a corporation is exempt from the tax imposed by Article 10 only if the corporation, by reason of its purpose or activities, is exempt from paying federal income taxes on the corporation's Virginia source income. The pass-through entity may rely on the written statement of the person claiming to be exempt from the tax imposed by Article 10 provided the pass-through entity discloses the name and federal taxpayer identification number for all such corporations in its return for the taxable year filed under § 58.1-392; ~~or~~

3. When compliance will cause undue hardship on the pass-through entity. However, no pass-through entity shall be exempt under this subdivision from complying with the withholding requirements of this section unless the Tax Commissioner, in his discretion, approves in writing the pass-through entity's written petition for exemption from the withholding requirements of this section based on undue hardship. The Tax Commissioner may prescribe the form and contents of such a petition and specify standards for when a pass-through entity will not be required to comply with the withholding requirements of this section due to undue hardship. The standards for undue hardship, determined by the Tax Commissioner in his discretion, shall take into account (among other relevant factors) the ability of a pass-through entity to comply at reasonable cost with the withholding requirements of this section and the cost to the Commonwealth of collecting the tax directly from a nonresident owner who does not voluntarily file a return and pay the amount of tax due under this chapter with respect to his allocable Virginia taxable income*; or*

4. For any nonresidential person of the Commonwealth who owns and leases four or fewer dwelling units in the Commonwealth. For the purposes of this subdivision, the term "person" shall mean the same as that term is defined in § 55-248.4.

D. 1. Each pass-through entity required to withhold tax under this section shall pay the amount required to be withheld to the Tax Commissioner at the same time that the return under Article 9 (§ 58.1-390.1 et seq.), if required, is to be filed.

2. An extension of time for filing the return under § 58.1-393.1 shall not extend the time for paying the amount of withholding tax due under this section. In cases of an extension of time for filing, the pass-through entity shall pay, by the due date specified in subsection A of § 58.1-392, at least 90 percent of the withholding tax due for the taxable year or 100 percent of the tax paid under this section for the prior taxable year, if that taxable year was a taxable year of 12 months and tax was paid under this section for that taxable year. The remaining portion of the tax due under this section, if any, shall be paid at the time the pass-through entity files the return required under § 58.1-392. If the balance due is paid by the last day of the extension period for filing such return and the amount of tax due with that return is 10 percent or less of the tax due under this section for the taxable year, no penalty shall be imposed with respect to the balance so remitted. In addition to interest, if the underestimation of the balance of tax due exceeds 10 percent of the actual tax liability, there shall be added to the tax as a penalty an amount equal to two percent per month of the balance of tax due for each month or fraction

thereof from the original due date for the filing of the withholding tax return to the date of payment. If the amount of withholding tax due under this section for the taxable year is less than the estimated withholding taxes paid for the taxable year by the pass-through entity, the excess shall be refunded to the pass-through entity or, at its election, established as a credit against withholding tax due under this section for the then current taxable year.

3. The Tax Commissioner may, if he believes it necessary for the protection of trust fund moneys due the Commonwealth, require any pass-through entity to pay over to the Tax Commissioner the tax deducted and withheld under this section at any earlier time or times.

E. 1. Each nonresident owner shall be allowed a credit for that owner's share of the tax withheld by the pass-through entity under this section; provided, that when the distribution is to a corporation taxable under Article 10 (§ 58.1-400 et seq.), the credit allowed by this subsection shall be applied against the corporation's liability for tax under this chapter.

2. A nonresident owner's share of any withholding tax paid by the pass-through entity shall be treated as distributed to such nonresident owner on the earlier of (i) the day on which such tax was paid to the Tax Commissioner by the pass-through entity or (ii) the last day of the taxable year for which such tax was paid by the pass-through entity.

F. 1. Every pass-through entity required to deduct and withhold tax under this section shall furnish to each nonresident owner a written statement, as prescribed by the Tax Commissioner, showing (i) the amount of its allocable Virginia taxable income, whether or not distributed for federal income tax purposes by such pass-through entity to such nonresident owner; (ii) the amount deducted and withheld as tax under this section; and (iii) such other information as the Tax Commissioner may require.

2. A copy of the written statements required by this subsection shall be filed with the Virginia return filed under § 58.1-392 by the pass-through entity for its taxable year to which the distribution relates. The written statement shall be furnished to each nonresident owner on or before the due date of the pass-through entity's return under § 58.1-392 for the taxable year, including extensions of time for filing such return, or a later date as may be allowed by the Tax Commissioner.

G. Every pass-through entity required to deduct and withhold tax under this section is hereby made liable for the payment of the tax due under this section for taxable years beginning on or after January 1, 2008. Any amount of tax withheld under this section shall be held in trust for the Tax Commissioner. No nonresident owner shall have a right of action against the pass-through entity in respect to any moneys withheld from such owner's distributive share and paid over to the Tax Commissioner in compliance with or in intended compliance with this section.

H. If any pass-through entity fails to deduct and withhold tax as required by this section, and thereafter the tax against which such tax may be credited is paid, the tax so required to be deducted and withheld under this section shall not be collected from the pass-through entity, but the pass-through entity shall not be relieved from liability for any penalties or interest or additions to tax otherwise applicable in respect of such failure to withhold.

2. That the second enactment of Chapter 663 of the 2009 Acts of Assembly is repealed.