

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 55-226.2 of the Code of Virginia, relating to the landlord and tenant*  
3 *law; energy submetering, etc.; local government fees.*

4 [H 614]  
5 Approved6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 55-226.2 of the Code of Virginia is amended and reenacted as follows:**8 **§ 55-226.2. Energy submetering, energy allocation equipment, sewer and water submetering**  
9 **equipment, ratio utility billings systems; local government fees.**10 A. Energy submetering equipment, energy allocation equipment, water and sewer submetering  
11 equipment, or a ratio utility billing system may be used in a commercial or residential building or  
12 campground if clearly stated in the rental agreement or lease for the leased premises or dwelling unit.  
13 All energy submetering equipment and energy allocation equipment shall meet the requirements and  
14 standards established and enforced by the State Corporation Commission pursuant to § 56-245.3.15 B. If energy submetering equipment, water and sewer submetering equipment, or energy allocation  
16 equipment is used in any building or campground, the owner, manager, or operator of the building or  
17 campground shall bill the tenant for electricity, natural gas or water and sewer for the same billing  
18 period as the utility serving the building or campground, unless the rental agreement or lease expressly  
19 provides otherwise. The owner, manager, or operator of the building or campground may charge and  
20 collect from the tenant additional service charges, including, but not limited to, monthly billing fees,  
21 account set-up fees or account move-out fees, to cover the actual costs of administrative expenses and  
22 billing charged to the building or campground owner, manager, or operator by a third-party provider of  
23 such services, provided that such charges are agreed to by the building or campground owner and the  
24 tenant in the rental agreement or lease. The building or campground owner may require the tenant to  
25 pay a late charge of up to \$5 if the tenant fails to make payment when due, which shall not be less than  
26 15 days following the date of mailing or delivery of the bill sent pursuant to this section.27 C. If a ratio utility billing system is used in any building or campground, in lieu of increasing the  
28 rent, the owner, manager, or operator of the building or campground may employ such a program that  
29 utilizes a mathematical formula for allocating, among the tenants in a building or campground, the  
30 actual or anticipated water, sewer, electrical, or natural gas billings billed to the building or campground  
31 owner from a third-party provider of the utility service. The owner, manager, or operator of the building  
32 or campground may charge and collect from the tenant additional service charges, including but not  
33 limited to monthly billing fees, account set-up fees, or account move-out fees, to cover the actual costs  
34 of administrative expenses and billings charged to the building or campground owner, manager, or  
35 operator by a third-party provider of such services, provided that such charges are agreed to by the  
36 building or campground owner and the tenant in the rental agreement or lease. The building or  
37 campground owner may require the tenant to pay a late charge of up to \$5 if the tenant fails to make  
38 payment when due, which shall not be less than 15 days following the date of mailing or delivery of the  
39 bill sent pursuant to this section. The late charge shall be deemed rent as defined in § 55-248.4 if a ratio  
40 utility billing system is used in a residential multifamily dwelling unit subject to the Virginia Residential  
41 Landlord and Tenant Act (§ 55-248.2 et seq.).42 D. Energy allocation equipment shall be tested periodically by the owner, operator or manager of the  
43 building or campground. Upon the request by a tenant, the owner shall test the energy allocation  
44 equipment without charge. The test conducted without charge to the tenant shall not be conducted more  
45 frequently than once in a 24-month period for the same tenant. The tenant or his designated  
46 representative may be present during the testing of the energy allocation equipment. A written report of  
47 the results of the test shall be made to the tenant within 10 working days after the completion of the  
48 test.49 E. The owner of any building or campground shall maintain adequate records regarding energy  
50 submetering equipment, water and sewer submetering equipment, energy allocation equipment, or a ratio  
51 utility billing system. A tenant may inspect and copy the records for the leased premises during  
52 reasonable business hours at a convenient location within the building or campground. The owner of the  
53 building or campground may impose and collect a reasonable charge for copying documents, reflecting  
54 the actual costs of materials and labor for copying, prior to providing copies of the records to the tenant.55 F. Notwithstanding any enforcement action undertaken by the State Corporation Commission  
56 pursuant to its authority under § 56-245.3, tenants and owners shall retain any private right of action

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57 resulting from any breach of the rental agreement or lease terms required by this section or § 56-245.3,  
 58 if applicable, to the same extent as such actions may be maintained for breach of other terms of the  
 59 rental agreement or lease under Chapter 13 (§ 55-217 et seq.) or Chapter 13.2 (§ 55-248.2 et seq.) of  
 60 this title, if applicable. The use of energy submetering equipment, water and sewer submetering  
 61 equipment, energy allocation equipment, or a ratio utility billing system is not within the jurisdiction of  
 62 the Department of Agriculture and Consumer Services under Chapter 56 (§ 3.2-5600 et seq.) of Title  
 63 3.2.

64 *G. In lieu of increasing the rent, the owner, manager, or operator of a commercial or residential  
 building or campground may employ a program that utilizes a mathematical formula for allocating the  
 actual or anticipated local government fees billed to the building or campground owner among the  
 tenants in such building or campground if clearly stated in the rental agreement or lease for the leased  
 premises or dwelling unit. Permitted allocation methods may include formulas based upon square  
 footage, occupancy, number of bedrooms, or some other specific method agreed to by the building or  
 campground owner and the tenant in the rental agreement or lease. Such owner, manager, or operator  
 of a commercial or residential building or campground may also charge and collect from each tenant  
 additional service charges, including monthly billing fees, account set-up fees, or account move-out fees,  
 to cover the actual costs of administrative expenses for administration of such a program. If the  
 building is residential and is subject to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et  
 seq.), such local government fees and administrative expenses shall be deemed to be rent as defined in  
 § 55-248.4.*

77 *H. As used in this section:*

78 "Building" means all of the individual units served through the same utility-owned meter within a  
 79 commercial or residential building that is defined in subsection A of § 56-245.2 as an apartment building  
 80 or house, office building or shopping center.

81 "Campground" means the same as that term is defined in § 35.1-1.

82 "Campsites" means the same as that term is defined in § 35.1-1.

83 "Energy allocation equipment" has the same meaning ascribed to such term in subsection A of  
 84 § 56-245.2.

85 "Energy submetering equipment" has the same meaning ascribed to "submetering equipment" in  
 86 subsection A of § 56-245.2.

87 *"Local government fees" means any local government charges or fees assessed against a commercial  
 88 or residential building or campground, including stormwater, recycling, trash collection, elevator testing,  
 89 fire or life safety testing, or residential rental inspection programs.*

90 "Ratio utility billing system" means a program that utilizes a mathematical formula for allocating,  
 91 among the tenants in a building or campground, the actual or anticipated water, sewer, electrical, or  
 92 natural gas billings billed to the building or campground owner from a third-party provider of the utility  
 93 service. Permitted allocation methods may include formulas based upon square footage, occupancy,  
 94 number of bedrooms, or some other specific method agreed to by the building or campground owner  
 95 and the tenant in the rental agreement or lease.

96 "Water and sewer submetering equipment" means equipment used to measure actual water or sewer  
 97 usage in any dwelling unit or nonresidential rental unit, as defined in subsection A of § 56-245.2 or  
 98 campsite, when such equipment is not owned or controlled by the utility or other provider of water or  
 99 sewer service that provides service to the building in which the dwelling unit or nonresidential rental  
 100 unit is located or campground where the campsite is located.