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HOUSE BILL NO. 1638

Offered January 11, 2017

Prefiled January 4, 2017

A *BILL to amend and reenact §§ 55-248.7:2, 55-248.9, and 55-248.18 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 55-248.11:01 and 55-248.21:3, relating to the Virginia Residential Landlord and Tenant Act; insurance; early termination of rental agreement.*

Patron—Leftwich (By Request)

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-248.7:2, 55-248.9, and 55-248.18 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 55-248.11:01 and 55-248.21:3 as follows:

§ 55-248.7:2. Landlord may obtain certain insurance for tenant.

A. Damage Insurance. A landlord may require as a condition of tenancy that a tenant have commercial insurance coverage as specified in the rental agreement to secure the performance by the tenant of the terms and conditions of the rental agreement and pay for the cost of premiums for such insurance coverage obtained by the landlord, generally known as "damage insurance." As provided in § 55-248.4, such payments shall not be deemed a security deposit, but shall be rent. However, as provided in § 55-248.9, the landlord cannot require a tenant to (i) pay both security deposits and the cost of damage insurance premiums; if the total amount of any security deposits and damage insurance premiums exceeds the amount of two months' periodic rent or (ii) agree to a waiver of subrogation. The landlord shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for damage insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement. Where a landlord obtains damage insurance coverage on behalf of a tenant, the insurance policy shall provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of such insurance coverage and may recover administrative or other fees associated with administration of a damage insurance policy, including a tenant opting out of the insurance coverage provided by the landlord pursuant to this subsection. If a landlord obtains damage insurance for his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance policy or certificate evidencing the coverage being provided and upon request of the tenant make available a copy of the insurance policy.

B. Renter's Insurance. A landlord may require as a condition of tenancy that a tenant have renter's insurance as specified in the rental agreement that is a combination multi-peril policy containing fire, miscellaneous property, and personal liability coverage insuring personal property located in residential units not occupied by the owner. A landlord may require a tenant to pay for the cost of premiums for such insurance obtained by the landlord, to provide such coverage for the tenant as part of rent or as otherwise provided herein. As provided in § 55-248.4, such payments shall not be deemed a security deposit, but shall be rent. If the landlord requires that such premiums be paid prior to the commencement of the tenancy, the total amount of all security deposits and insurance premiums for damage insurance and renter's insurance shall not exceed the amount of two months' periodic rent. Otherwise, the landlord may add a monthly amount as additional rent to recover the costs of such insurance coverage. The landlord shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for renter's insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement.

C. Where a landlord obtains renter's insurance coverage on behalf of a tenant, the insurance policy shall provide coverage for the tenant as an insured. *However, no such policy shall include a provision for the waiver of subrogation.* The landlord shall recover from the tenant the actual costs of such insurance coverage and may recover administrative or other fees associated with the administration of a renter's insurance program, including a tenant opting out of the insurance coverage provided to the tenant pursuant to this subsection. If a landlord obtains renter's insurance for his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance policy prepared by the insurer or certificate evidencing the coverage being provided and upon request of the tenant make available a copy of the insurance policy.

D. Nothing in this section shall be construed to prohibit the landlord from recovering from the tenant

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59 as part of the rent, the tenant's prorated share of the actual costs of other insurance coverages provided
60 by the landlord relative to the premises, or the tenant's prorated share of a self-insurance program held
61 in an escrow account by the landlord, including the landlord's administrative or other fees associated
62 with the administration of such coverages. The landlord may apply such funds held in escrow to pay
63 claims pursuant to the landlord's self-insurance plan.

64 **§ 55-248.9. Prohibited provisions in rental agreements.**

65 A. A rental agreement shall not contain provisions that the tenant:

66 1. Agrees to waive or forego rights or remedies under this chapter;
67 2. Agrees to waive or forego rights or remedies pertaining to the 120-day conversion or rehabilitation
68 notice required in the Condominium Act (§ 55-79.39 et seq.), the Virginia Real Estate Cooperative Act
69 (§ 55-424 et seq.) or Chapter 13 (§ 55-217 et seq.), except where the tenant is on a month-to-month
70 lease pursuant to § 55-222;

71 3. Authorizes any person to confess judgment on a claim arising out of the rental agreement;

72 4. Agrees to pay the landlord's attorney's fees except as provided in this chapter;

73 5. Agrees to the exculpation or limitation of any liability of the landlord to the tenant arising under
74 law or to indemnify the landlord for that liability or the costs connected therewith;

75 6. Agrees as a condition of tenancy in public housing to a prohibition or restriction of any lawful
76 possession of a firearm within individual dwelling units unless required by federal law or regulation; or

77 7. Agrees to both the payment of a security deposit and the provision of a bond or commercial
78 insurance policy purchased by the tenant to secure the performance of the terms and conditions of a
79 rental agreement, if the total of the security deposit and the bond or insurance premium exceeds the
80 amount of two months' periodic rent; or

81 8. Agrees as a condition of tenancy to a waiver of subrogation for damage or renter's insurance as
82 provided in § 55-248.7:2.

83 B. A provision prohibited by subsection A included in a rental agreement is unenforceable. If a
84 landlord brings an action to enforce any of the prohibited provisions, the tenant may recover actual
85 damages sustained by him and reasonable attorney's attorney fees.

86 **§ 55-248.11:01. Standard rental agreement to be posted online.**

87 A landlord shall post a copy of any standard rental agreement, including addenda thereto, on the
88 landlord's public website, if any.

89 **§ 55-248.18. Access; consent; correction of nonemergency conditions; relocation of tenant.**

90 A. The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit
91 in order to inspect the premises, make necessary or agreed repairs, decorations, alterations or
92 improvements, supply necessary or agreed services or exhibit the dwelling unit to prospective or actual
93 purchasers, mortgagees, tenants, workmen or contractors. If, upon inspection of a dwelling unit during
94 the term of a tenancy, the landlord determines there is a violation by the tenant of § 55-248.16 or the
95 rental agreement materially affecting health and safety that can be remedied by repair, replacement of a
96 damaged item or cleaning in accordance with § 55-248.32, the landlord may make such repairs and
97 send the tenant an invoice for payment. If, upon inspection of the dwelling unit during the term of a
98 tenancy, the landlord discovers a violation of the rental agreement, this chapter, or other applicable law,
99 the landlord may send a written notice of termination pursuant to § 55-248.31. If the rental agreement so
100 provides and if a tenant without reasonable justification declines to permit the landlord or managing
101 agent to exhibit the dwelling unit for sale or lease, the landlord may recover damages, costs, and
102 reasonable attorney fees against such tenant.

103 The landlord may enter the dwelling unit without consent of the tenant in case of emergency. The
104 landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency
105 or if it is impractical to do so, the landlord shall give the tenant notice of his intent to enter and may
106 enter only at reasonable times. Unless impractical to do so, the landlord shall give the tenant at least
107 24-hours' notice of routine maintenance to be performed that has not been requested by the tenant. If the
108 tenant makes a request for maintenance, the landlord is ~~not required to provide notice to the tenant~~ shall
109 ~~contact the tenant by telephone or electronic mail as provided by the tenant to arrange a time as may~~
110 ~~be mutually agreed upon by the landlord and tenant to remedy the condition for which the request for~~
111 ~~maintenance was made. If, however, there exists a signed agreement between the landlord and tenant~~
112 ~~whereby the tenant has consented to the landlord's entering into the dwelling unit to conduct routine~~
113 ~~maintenance or nonemergency repairs without notice, then no additional notice is required.~~

114 B. Upon the sole determination by the landlord of the existence of a nonemergency property
115 condition in the dwelling unit that requires the tenant to temporarily vacate the dwelling unit in order
116 for the landlord to properly remedy such property condition, the landlord may, upon at least 30 days'
117 written notice to the tenant, require the tenant to temporarily vacate the dwelling unit for a period not to
118 exceed 30 days to a comparable dwelling unit, as selected by the landlord, and at no expense or cost to
119 the tenant. The landlord and tenant may agree for the tenant to temporarily vacate the dwelling unit in
120 less than 30 days. 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. If the landlord properly remedies the nonemergency property condition within the 30-day period, nothing herein shall be construed to entitle the tenant to terminate the rental agreement. 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, 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.

E. Upon written request of the tenant, the landlord shall install a carbon monoxide alarm in the tenant's dwelling unit within 90 days of such request and may charge the tenant a reasonable fee to recover the costs of such installation. The landlord's installation of a carbon monoxide alarm shall be in compliance with the Uniform Statewide Building Code.

§ 55-248.21:3. Early termination by surviving spouse.

A. Any tenant who is the surviving spouse of a tenant may terminate such tenant's obligations under a rental agreement if notice of the death of the decedent tenant is given to the landlord within 60 days of the date of death.

B. A tenant who qualifies to terminate such tenant's obligations under a rental agreement pursuant to subsection A shall do so by serving on the landlord a written notice of termination to be effective on a date stated therein, such date to be not less than 30 days after the first date on which the next rental payment is due and payable after the date on which the written notice is given. When the tenant serves the termination notice on the landlord, the tenant shall also provide the landlord with a copy of the death certificate of the decedent tenant.

C. The rent shall be payable at such time as would otherwise have been required by the terms of the rental agreement through the effective date of the termination as provided in subsection B.

D. The landlord may not charge any liquidated damages.

E. The surviving spouse's obligations as a tenant under § 55-248.16 shall continue through the effective date of the termination as provided in subsection B.