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HOUSE BILL NO. 856

Offered January 10, 2018

Prefiled January 9, 2018

A *BILL to amend and reenact § 8.01-129 of the Code of Virginia, relating to unlawful detainer; execution of writ of possession.*

Patrons—Peace, Campbell and Kilgore

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 8.01-129 of the Code of Virginia is amended and reenacted as follows:****§ 8.01-129. Appeal from judgment of general district court.**

A. 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. except as specifically provided in this section. The appeal shall be taken within 10 days and the security approved by the court from which the appeal is taken. Notwithstanding the provisions of § 16.1-106 et seq., the bond shall be posted and the writ tax paid within 10 days of the date of the judgment.

B. 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 10-day period, except in cases of judgment (i) of default; (ii) wherein the case arises out of a trustee's deed following foreclosure; (iii) for the nonpayment of rent where the writ of execution shall issue immediately upon entry of judgment for possession, if requested by the plaintiff; or (iv) for immediate nonremediable terminations where the writ of execution shall issue immediately upon entry of judgment for possession, if requested by the plaintiff. In cases where the court's order permits immediate processing of a writ of execution in order to schedule an eviction date, in no case shall such eviction be executed (a) until expiration of the tenant's 10-day appeal period or (b) if the tenant perfects an appeal pursuant to this section. *In any unlawful detainer case filed under § 8.01-126, if a judge grants the plaintiff a judgment for possession of the premises, upon request of the plaintiff, the judge shall further order that the writ issue immediately upon entry of judgment for possession. In such case, the clerk shall deliver the writ to the sheriff, who shall then, at least 72 hours prior to execution of such writ, serve notice of intent to execute the writ, including the date and time of eviction, as provided in § 8.01-470. In no case, however, shall the sheriff evict and remove the defendant from the dwelling unit prior to the expiration of the defendant's 10-day appeal period. If the defendant perfects an appeal, the sheriff shall return the writ to the clerk who issued it.*

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.

INTRODUCED

HB856