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**HOUSE BILL NO. 2724**

Offered January 16, 2019

*A BILL to amend and reenact § 36-105.1:1 of the Code of Virginia, relating to the Uniform Statewide Building Code; rental inspection districts; inspection of residential rental dwelling units.*

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Patron—Helsel

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Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:****1. That § 36-105.1:1 of the Code of Virginia is amended and reenacted as follows:****§ 36-105.1:1. Rental inspections; rental inspection districts; exemptions; penalties.****A. For purposes of this section:**

"Dwelling unit" means a building or structure or part thereof that is used for a home or residence by one or more persons who maintain a household.

"Owner" means the person shown on the current real estate assessment books or current real estate assessment records.

"Residential rental dwelling unit" means a dwelling unit that is leased or rented to one or more tenants. However, a dwelling unit occupied in part by the owner thereof shall not be construed to be a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit which has its own cooking and sleeping areas, and a bathroom, unless otherwise provided in the zoning ordinance by the local governing body.

B. Localities may inspect residential rental dwelling units. The local governing body may adopt an ordinance to inspect residential rental dwelling units for compliance with the Building Code and to promote safe, decent and sanitary housing for its citizens, in accordance with the following:

1. Except as provided in subdivision B 3, the dwelling units shall be located in a rental inspection district established by the local governing body in accordance with this section, and

2. The rental inspection district is based upon a finding by the local governing body that (i) there is a need to protect the public health, safety and welfare of the occupants of dwelling units inside the designated rental inspection district; (ii) the residential rental dwelling units within the designated rental inspection district are either (a) blighted or in the process of deteriorating, or (b) the residential rental dwelling units are in the need of inspection by the building department to prevent deterioration, taking into account the number, age and condition of residential dwelling rental units inside the proposed rental inspection district; and (iii) the inspection of residential rental dwelling units inside the proposed rental inspection district is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the proposed rental inspection district. Nothing in this section shall be construed to authorize one or more locality-wide rental inspection districts and a local governing body shall limit the boundaries of the proposed rental inspection districts to such areas of the locality that meet the criteria set out in this subsection, or

3. An individual residential rental dwelling unit outside of a designated rental inspection district is made subject to the rental inspection ordinance based upon a separate finding for each individual dwelling unit by the local governing body that (i) there is a need to protect the public health, welfare and safety of the occupants of that individual dwelling unit; (ii) the individual dwelling unit is either (a) blighted or (b) in the process of deteriorating; or (iii) there is evidence of violations of the Building Code that affect the safe, decent and sanitary living conditions for tenants living in such individual dwelling unit.

For purposes of this section, the local governing body may designate a local government agency other than the building department to perform all or part of the duties contained in the enforcement authority granted to the building department by this section.

C. 1. Notification to owners of dwelling units. Before adopting a rental inspection ordinance and establishing a rental inspection district or an amendment to either, the governing body of the locality shall hold a public hearing on the proposed ordinance. Notice of the hearing shall be published once a week for two successive weeks in a newspaper published or having general circulation in the locality.

Upon adoption by the local governing body of a rental inspection ordinance, the building department shall make reasonable efforts to notify owners of residential rental dwelling units in the designated rental inspection district, or their designated managing agents, and to any individual dwelling units subject to the rental inspection ordinance, not located in a rental inspection district, of the adoption of such ordinance, and provide information and an explanation of the rental inspection ordinance and the responsibilities of the owner thereunder.

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59 2. Notification by owners of dwelling units to locality. The rental inspection ordinance may include a  
60 provision that requires the owners of dwelling units in a rental inspection district to notify the building  
61 department in writing if the dwelling unit of the owner is used for residential rental purposes. The  
62 building department may develop a form for such purposes. The rental inspection ordinance shall not  
63 include a registration requirement or a fee of any kind associated with the written notification pursuant  
64 to this subdivision. A rental inspection ordinance may not require that the written notification from the  
65 owner of a dwelling unit subject to a rental inspection ordinance be provided to the building department  
66 in less than 60 days after the adoption of a rental inspection ordinance. However, there shall be no  
67 penalty for the failure of an owner of a residential rental dwelling unit to comply with the provisions of  
68 this subsection, unless and until the building department provides personal or written notice to the  
69 property owner, as provided in this section. In any event, the sole penalty for the willful failure of an  
70 owner of a dwelling unit who is using the dwelling unit for residential rental purposes to comply with  
71 the written notification requirement shall be a civil penalty of up to \$50. For purposes of this  
72 subsection, notice sent by regular first class mail to the last known address of the owner as shown on  
73 the current real estate tax assessment books or current real estate tax assessment records shall be deemed  
74 compliance with this requirement.

75 D. Initial inspection of dwelling units when rental inspection district is established. Upon  
76 establishment of a rental inspection district in accordance with this section, the building department may,  
77 in conjunction with the written notifications as provided for in subsection C, proceed to inspect dwelling  
78 units in the designated rental inspection district to determine if the dwelling units are being used as a  
79 residential rental property and for compliance with the provisions of the Building Code that affect the  
80 safe, decent and sanitary living conditions for the tenants of such property. *The building department may*  
81 *choose to delay the initial inspection of the dwelling units until the first time the units become vacant on*  
82 *or after the establishment of the district, unless an earlier inspection is requested by the owner or a*  
83 *tenant.*

84 E. Provisions for initial and periodic inspections of multifamily dwelling units. If a multifamily  
85 development has more than 10 dwelling units, in the initial and periodic inspections, the building  
86 department shall inspect only a sampling of dwelling units, of not less than two and not more than 10  
87 percent of the dwelling units, of a multifamily development, which includes all of the multifamily  
88 buildings which are part of that multifamily development. In no event, however, shall the building  
89 department charge a fee authorized by this section for inspection of more than 10 dwelling units. If the  
90 building department determines upon inspection of the sampling of dwelling units that there are  
91 violations of the Building Code that affect the safe, decent and sanitary living conditions for the tenants  
92 of such multifamily development, the building department may inspect as many dwelling units as  
93 necessary to enforce the Building Code, in which case, the fee shall be based upon a charge per  
94 dwelling unit inspected, as otherwise provided in subsection H.

95 F. 1. Follow-up inspections. Upon the initial or periodic inspection of a residential rental dwelling  
96 unit subject to a rental inspection ordinance, the building department has the authority under the  
97 Building Code to require the owner of the dwelling unit to submit to such follow-up inspections of the  
98 dwelling unit as the building department deems necessary, until such time as the dwelling unit is  
99 brought into compliance with the provisions of the Building Code that affect the safe, decent and  
100 sanitary living conditions for the tenants.

101 2. Periodic inspections. Except as provided in subdivision F 1, following the initial inspection of a  
102 residential rental dwelling unit subject to a rental inspection ordinance, the building department may  
103 inspect any residential rental dwelling unit in a rental inspection district, that is not otherwise exempted  
104 in accordance with this section, no more than once each calendar year.

105 G. Exemptions from rental inspection ordinance.

106 1. Upon the initial or periodic inspection of a residential rental dwelling unit subject to a rental  
107 inspection ordinance for compliance with the Building Code, provided that there are no violations of the  
108 Building Code that affect the safe, decent and sanitary living conditions for the tenants of such  
109 residential rental dwelling unit, the building department shall provide, to the owner of such residential  
110 rental dwelling unit, an exemption from the rental inspection ordinance for a minimum of four years.  
111 Upon the sale of a residential rental dwelling unit, the building department may perform a periodic  
112 inspection as provided in subdivision F 2, subsequent to such sale. If a residential rental dwelling unit  
113 has been issued a certificate of occupancy within the last four years, an exemption shall be granted for a  
114 minimum period of four years from the date of the issuance of the certificate of occupancy by the  
115 building department. If the residential rental dwelling unit becomes in violation of the Building Code  
116 during the exemption period, the building department may revoke the exemption previously granted  
117 under this section.

118 2. The local governing body may exempt a residential rental unit otherwise subject to a rental  
119 inspection ordinance provided such unit is managed by (i) any person licensed under the provisions of  
120 § 54.1-2106.1; (ii) any (a) property manager or (b) managing agent of a landlord as defined in §

55-248.4; (iii) any owner of a publicly traded entity that manages its own multifamily residential rental units; or (iv) any owner or managing agent who, in the determination of the local governing body, has achieved a satisfactory designation as a professional property manager.

H. A local governing body may establish a fee schedule for enforcement of the Building Code, which includes a per dwelling unit fee for the initial inspections, follow-up inspections and periodic inspections under this section.

I. The provisions of this section shall not, in any way, alter the rights and obligations of landlords and tenants pursuant to the applicable provisions of Chapter 13 (§ 55-217 et seq.) or Chapter 13.2 (§ 55-248.2 et seq.) of Title 55.

J. The provisions of this section shall not alter the duties or responsibilities of the local building department under § 36-105 to enforce the Building Code.

K. Unless otherwise provided in this section, penalties for violation of this section shall be the same as the penalties provided in the Building Code.