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HOUSE BILL NO. 896

House Amendments in [] — February 12, 1996

A BILL to amend and reenact § 55-248.35 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; landlord remedies after termination.

Patrons—Croshaw, Albo, Almand, Hull, Ingram, Jackson, Stump and Woodrum

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 55-248.35 of the Code of Virginia is amended and reenacted as follows:**

§ 55-248.35. Remedy after termination.

If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement ~~and~~, reasonable attorney's fees as provided in § 55-248.31, *and the cost of service of any notice [under § 55-225 or § 55-248.31] or process by a sheriff or private process server [which cost shall not exceed the amount authorized by § 55-248.31:1]*, which claims may be enforced, without limitation, by the institution of an action for unlawful entry or detainer. Actual damages for breach of the rental agreement may include a claim for such rent as would have accrued until the expiration of the term thereof or until a tenancy pursuant to a new rental agreement commences, whichever first occurs; provided that nothing herein contained shall diminish the duty of the landlord to mitigate actual damages for breach of the rental agreement. In obtaining post-possession judgments for actual damages as defined herein, the landlord shall not be required to seek a judgment for accelerated rent through the end of the term of the tenancy.

In any unlawful detainer action brought by the landlord, this section shall not be construed to prevent the landlord from being granted by the court a simultaneous judgment for money due and for possession of the premises without a credit for any security deposit. Upon the tenant vacating the premises either voluntarily or by a writ of possession, security deposits shall be credited to the tenants' account by the landlord in accordance with the requirements of § 55-248.11.

ENGROSSED

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