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HOUSE BILL NO. 1415
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on General Laws
on _____)
(Patron Prior to Substitute—Delegate Schmidt)

A BILL to amend and reenact §§ 36-55.33:1 and 55.1-1203 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 36-55.33:3, relating to Virginia Housing Development Authority; homeowner's insurance; Virginia Residential Landlord and Tenant Act; certain pets.

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-55.33:1 and 55.1-1203 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 36-55.33:3 as follows:

§ 36-55.33:1. Mortgage loan terms and conditions.

A. All mortgage loans made by HDA pursuant to § 36-55.31 of this chapter shall be subject to the following terms and conditions:

1. The ratio of mortgage loan principal amount to total housing development costs and the amortization period of any mortgage loans made by HDA which are federally insured mortgages, in whole or in part, or which are otherwise assisted or aided, directly or indirectly, by the federal government, shall be governed by the rules and regulations provided in or pursuant to the federal government program under which the HDA mortgage loan or part thereof is insured, guaranteed, assisted or aided; but in no event shall such amortization period exceed 50 years.

2. A mortgage loan made by HDA may be prepaid to maturity after a period of years, and on such terms and conditions, as are determined by HDA in its rules and regulations or in the HDA resolution authorizing, or commitment for, such mortgage loan.

3. HDA shall have authority to establish and modify from time to time the interest rates at which it shall make mortgage loans and commitments therefor. Such interest rates shall be established by HDA in its sole discretion at the lowest level consistent with HDA's cost of operation and its responsibilities to the holders of its bonds, bond anticipation notes and other obligations. In addition to such interest charges, HDA may make and collect such fees and charges, including but not limited to reimbursement of HDA's financing costs, service charges, insurance premiums and mortgage insurance premiums, as HDA determines to be reasonable. No person shall, by way of defense or otherwise, avail himself of any of the provisions of Chapter 3 (§ 6.2-300 et seq.) of Title 6.2 to avoid or defeat the payment of any interest or fee which he shall have

32 contracted to pay on any loan or forbearance of money made, directly or indirectly, or assisted in any manner
33 by HDA under or pursuant to this chapter.

34 B. Mortgage loans made by HDA to housing sponsors to finance the ownership and operation of housing
35 developments and multifamily residential housing intended for occupancy by persons and families of low and
36 moderate income, pursuant to subdivision (10) of § 36-55.31, shall be subject to the following terms and
37 conditions in addition to those contained in subsection A of this section:

38 1. The amount disbursed with respect to an HDA mortgage loan to a limited profit housing sponsor shall
39 not exceed 95 percent of the total housing development costs and to a nonprofit housing sponsor shall not
40 exceed 100 percent of the total housing development costs. Subsequent to the disbursement of such amount,
41 additional amounts may be from time to time disbursed if the sum of the amount to be so disbursed and the
42 then outstanding principal balance of the HDA mortgage loan does not exceed 95 percent of the market value
43 of the housing development or residential housing as then determined by the Authority. The amortization
44 period of such an HDA mortgage loan shall be as determined by HDA in its rules and regulations or in the
45 HDA resolution authorizing, or commitment for, such mortgage loan; but in no event shall such amortization
46 period exceed 50 years.

47 2. The instrument evidencing any such HDA mortgage loan and the mortgage securing any such HDA
48 mortgage loan shall be in such form and contain such terms and conditions as shall be prescribed or approved
49 by HDA. The aforesaid mortgage and instrument evidencing an HDA mortgage loan may contain exculpatory
50 provisions relieving the housing sponsor or its principal or principals from personal liability if deemed
51 desirable by HDA.

52 3. With respect to any such HDA mortgage loan made to a limited profit housing sponsor, HDA may
53 require that such limited profit housing sponsor not make distributions in any one year with respect to the
54 housing development or multifamily residential housing financed by such HDA mortgage loan in excess of
55 such percentage of such limited profit housing sponsor's equity in the housing development or multifamily
56 residential housing as may be determined by HDA in its rules and regulations or in the HDA resolution
57 authorizing, or commitment for such mortgage loan. None of the partners, principals, stockholders or holders
58 of a beneficial interest in such limited profit housing sponsor shall earn, accept or receive a return in any one
59 year with respect to the housing development or multifamily residential housing financed by such HDA
60 mortgage loan greater than his applicable proportion of any such percentage of such limited profit housing

61 sponsor's equity in the housing development or multifamily residential housing as may be determined by
62 HDA in its rules and regulations or in the HDA resolution authorizing, or commitment for, such mortgage
63 loan. The right to any such limited distribution or return may be cumulative to the extent provided by HDA in
64 its rules and regulations or in the HDA resolution authorizing, or commitment for, such mortgage loan. For
65 the purpose of this section, the terms "distribution" and "return" are intended to mean payments on account of
66 the housing development or multifamily residential housing financed by such HDA mortgage loan resulting
67 from the operation thereof. Any payment to a person or entity who is a partner, principal, stockholder or
68 holder of a beneficial interest in such limited profit housing sponsor shall not be deemed a "distribution" or
69 "return" to such person or entity if the funds with which such payment is made are funds paid or contributed
70 to such limited profit housing sponsor by persons or entities purchasing a beneficial interest in such limited
71 profit housing sponsor. At or after the completion of construction, rehabilitation or improvement of the
72 housing development or multifamily residential housing financed by such HDA mortgage loan, such limited
73 profit housing sponsor's equity in the housing development or multifamily residential housing shall be
74 established in the manner provided by HDA in its rules and regulations or in the HDA resolution authorizing,
75 or commitment for such mortgage loan. Such equity shall be determined by HDA, at its option, as either (i)
76 the difference between the total housing development costs as to the housing development or multifamily
77 residential housing and the final principal amount of such HDA mortgage loan, or (ii) the difference between
78 the fair market value of such housing development and the final principal amount of such HDA mortgage
79 loan. HDA may thereafter from time to time adjust such equity to be equal to the difference, as of the date of
80 adjustment, between the fair market value of such housing development and the outstanding principal balance
81 of such HDA mortgage loan. HDA may review and regulate a proposed retirement of any capital investment
82 in, or redemption of any stock of, such limited profit housing sponsor in the manner provided by HDA in its
83 rules and regulations or in the HDA resolution authorizing, or commitment for, such mortgage loan.

84 4. With respect to any such HDA mortgage loan, HDA may require the housing sponsor and other parties
85 related to the housing development or multifamily residential housing financed by such HDA mortgage loan
86 to execute such agreements, assurances, guarantees and certifications as HDA shall determine to be necessary
87 including, without limitation, agreements between HDA and such housing sponsor and its partners, principals
88 or stockholders to limitations established by HDA as to rentals and other charges, profits, fees, the use and
89 disposition of the real property constituting the site of or relating to the housing development or multifamily

90 residential housing and other property of such housing sponsor, and the use and disposition of franchises of
91 such housing sponsor to the extent more restrictive limitations are not provided by the law under which such
92 housing sponsor is incorporated or organized.

93 5. As a condition of any such HDA mortgage loan, HDA shall have the power to supervise the housing
94 sponsor in accordance with the provisions of § 36-55.34:1 at all times during which such HDA mortgage loan
95 is outstanding and thereafter as necessary to preserve the federal tax exemption of the notes or bonds issued
96 by HDA to finance such HDA mortgage loan.

97 6. *As a condition of any such HDA mortgage loan, any housing sponsor financing the ownership and*
98 *operation of multifamily residential housing shall require the housing development to authorize occupants to*
99 *own or otherwise maintain at least one pet within the occupant's dwelling unit in accordance with the*
100 *provisions of §36-55.33:3.*

101 C. Mortgage loans made by HDA to persons and families of low and moderate income to finance the
102 purchase or refinancing of single-family residential housing, pursuant to subdivision (11) of § 36-55.31, shall
103 be subject to the following terms and conditions in addition to those contained in subsection A of this section:

104 1. The amount disbursed with respect to such HDA mortgage loan shall not exceed 100 percent of the
105 sales price or market value of the single-family residential housing, as determined or approved by or on
106 behalf of HDA. HDA may also disburse additional amounts to finance such closing costs and fees as it may
107 deem necessary or appropriate, and all such disbursements and financings of closing costs and fees
108 subsequent to the enactment of this chapter are hereby validated. The amortization period of such an HDA
109 mortgage loan shall be as determined by HDA in its rules and regulations or in the HDA resolution
110 authorizing, or commitment for, such mortgage loan; but in no event shall such amortization period exceed
111 50 years. If during the term of the HDA mortgage loan (i) the outstanding principal balance of the HDA
112 mortgage loan is expected to increase to an amount in excess of the original principal balance or (ii) the
113 amount of monthly payments on the HDA mortgage loan will or may be adjusted, HDA shall so notify the
114 applicants prior to the execution of the HDA mortgage loan. Such notice shall describe the terms and
115 conditions under which the outstanding principal balance or the amount of monthly payments, or both, may
116 be so increased or adjusted, and such notice shall be signed by the applicants.

117 2. Such an HDA mortgage loan shall be made only after a determination that such a mortgage loan is not
118 otherwise available from private lenders upon reasonably equivalent terms and conditions, and the HDA
119 resolution authorizing, or commitment for, such mortgage loan shall contain such a determination.

120 3. The instrument evidencing any such HDA mortgage loan and the mortgage securing any such HDA
121 mortgage loan shall be in such form and contain such terms and conditions as shall be prescribed or approved
122 by HDA. With respect to any such HDA mortgage loan, HDA may require the person or family of low or
123 moderate income to execute such agreements, assurances, guarantees and certifications as HDA shall
124 determine to be necessary including, without limitation, agreements between HDA and such person or family
125 of low or moderate income relating to the use, occupancy, maintenance and sale of the single-family
126 residential housing financed by such HDA mortgage loan and the payment, prepayment and assignment of
127 such HDA mortgage loan.

128 D. Mortgage loans made by HDA to housing sponsors or persons or families of low or moderate income
129 to finance the construction, rehabilitation, preservation or improvement of housing developments or
130 residential housing intended, upon completion of such construction, rehabilitation, preservation or
131 improvement, for ownership or occupancy by persons and families of low and moderate income, pursuant to
132 subdivision (12) of § 36-55.31 of this chapter, shall be subject to the following terms and conditions in
133 addition to those contained in subsection A of this section:

134 1. The amount disbursed with respect to such an HDA mortgage loan to a limited profit housing sponsor
135 shall not exceed 95 percent of the total housing development costs and to a nonprofit housing sponsor or a
136 person or family of low or moderate income shall not exceed 100 percent of the total housing development
137 costs. Subsequent to the disbursement of such amount, additional amounts may be from time to time
138 disbursed if the sum of the amount to be so disbursed and the then outstanding principal balance of the HDA
139 mortgage loan does not exceed 95 percent of the market value of the housing development or residential
140 housing as then determined by the Authority. Without regard as to whether HDA intends to remain the lender
141 in respect to such mortgage loan throughout the amortization period thereof, the amortization period of such
142 an HDA mortgage loan shall be as determined by HDA in its rules and regulations or in the HDA resolution
143 authorizing, or commitment for, such mortgage loan.

144 2. In considering any application for such an HDA mortgage loan, HDA shall give first priority to
145 applications relating to housing developments or residential housing which are or will be well-planned and
146 well-designed, and also shall give consideration to:

147 a. The comparative need for housing for persons and families of low and moderate income in the area
148 proposed to be served by the housing development or residential housing;

149 b. The ability of the applicant to construct, rehabilitate or improve and market or operate, manage and
150 maintain the housing development or residential housing;

151 c. The existence of zoning or other regulations to protect adequately the housing development or
152 residential housing against detrimental future uses which could cause undue depreciation in the value of the
153 housing development or residential housing;

154 d. The availability of adequate parks, recreational areas, utilities, schools, transportation and parking; and

155 e. The existence of statewide housing plans.

156 3. With respect to any such HDA mortgage loan, HDA may require the housing sponsor, person or family
157 of low or moderate income, contractors, architects, marketing agents, management agents and other parties
158 related to the housing development or residential housing financed by such HDA mortgage loan to execute
159 such agreements, assurances, guarantees and certifications as HDA shall determine to be necessary including,
160 without limitation, agreements between HDA and such housing sponsor and its partners, principals or
161 stockholders or such person or family of low or moderate income to limitations established by HDA as to
162 rentals and other charges, profits, fees, the use and disposition of the real property constituting the site of or
163 relating to the housing development or residential housing and other property of such housing sponsor, and
164 the use and disposition of franchises of such housing sponsor to the extent more restrictive limitations are not
165 provided by the law under which such housing sponsor is incorporated or organized. HDA shall require the
166 housing sponsor or person or family of low or moderate income receiving such HDA mortgage loan, or the
167 construction contractor, or both, to furnish such assurances of completion of the construction, rehabilitation
168 or improvement as determined by HDA in its rules and regulations or in the HDA resolution authorizing, or
169 commitment for, such mortgage loan.

170 4. As a condition of any such HDA mortgage loan to a housing sponsor, HDA shall have the power to
171 supervise such housing sponsor in accordance with the provisions of § 36-55.34:1 at all times during which
172 such HDA mortgage loan is outstanding and thereafter as necessary to preserve the federal tax exemption of
173 the notes or bonds issued by HDA to finance such HDA mortgage loan.

174 5. With respect to any such HDA mortgage loan, the provisions of subdivisions 2 and 3 of subsection B of
175 this section shall be applicable.

176 E. Mortgage loans made by HDA pursuant to subdivision 13 of § 36-55.31 to finance the construction,
177 rehabilitation, preservation or improvement, or ownership and operation, of economically mixed projects or

178 portions thereof and, if any such project is within a revitalization area designated in or pursuant to
179 § 36-55.30:2, any nonhousing buildings that are incidental to such project or are determined by such
180 governing body of the city or county to be necessary or appropriate for the revitalization of such area or for
181 the industrial, commercial or other economic development of such area shall be subject to the following terms
182 and conditions in addition to those contained in subsection A of this section:

183 1. The principal amount of such an HDA mortgage loan shall not exceed 95 percent of the total housing
184 development costs, and the amortization period of such an HDA mortgage loan shall be as determined by
185 HDA in its rules and regulations or in the HDA resolution authorizing, or in the commitment for, such
186 mortgage loan; but in no event shall such amortization period exceed 50 years.

187 2. Such an HDA mortgage loan shall be made only if the provisions of § 36-55.30:2 are satisfied.

188 3. The instrument evidencing any such HDA mortgage loan and the mortgage securing any such HDA
189 mortgage loan shall be in such form and contain such terms and conditions as shall be prescribed or approved
190 by HDA. The aforesaid mortgage and instrument evidencing an HDA mortgage loan may contain exculpatory
191 provisions relieving a housing sponsor, if any, or its principal or principals from personal liability if deemed
192 desirable by HDA.

193 4. The nonhousing buildings shall be financed by such an HDA mortgage loan only if the HDA shall
194 receive a certification from the housing sponsor that a mortgage loan for the financing of such nonhousing
195 buildings is not otherwise available from private lenders upon reasonably equivalent terms and conditions.

196 **§ 36-55.33:3. Mortgage loan terms and conditions; common household pets.**

197 *A. As used in this section:*

198 *"Multifamily residential housing" does not include medical and related facilities for the residence and*
199 *care of the aged.*

200 *"Pet" means an animal that has been adapted or tamed to live in intimate association with or for the*
201 *pleasure of people, including dogs, cats, birds, rabbits, hamsters, and reptiles, and that is not a service dog,*
202 *as defined in § 51.5-40.1, or an assistance animal, as defined in § 36-96.1:1.*

203 *B. Any mortgage loans made by HDA to housing sponsors to finance the ownership and operation of*
204 *multifamily residential housing pursuant to subsection B of § 36-55.33:1 shall, as a condition of such loan,*
205 *require the housing development to authorize occupants to own or otherwise maintain at least one pet within*
206 *the occupant's dwelling unit, subject to local ordinances. Such housing development may establish policies*
207 *relating to the health, safety, and general welfare of occupants, provided that no such policy shall result in a*

208 *ban on an occupant's ability to maintain at least one pet within the occupant's dwelling unit. No such policy*
209 *may restrict the keeping of a pet based on the pet's breed or mix of breeds or establish a weight limit of less*
210 *than 65 pounds per animal.*

211 *C. Nothing in this section shall be construed limit or otherwise affect applicable state or local law or*
212 *ordinance related to public health, animal control, animal cruelty, or reasonable accommodations.*

213 **§ 55.1-1203. Application; deposit, fee, and additional information.**

214 A. Any landlord may require a refundable application deposit in addition to a nonrefundable application
215 fee. If the applicant fails to rent the unit for which application was made, from the application deposit the
216 landlord shall refund to the applicant within 20 days after the applicant's failure to rent the unit or the
217 landlord's rejection of the application all sums in excess of the landlord's actual expenses and damages
218 together with an itemized list of such expenses and damages. If, however, the application deposit was made
219 by cash, certified check, cashier's check, or postal money order, such refund shall be made within 10 days of
220 the applicant's failure to rent the unit if the failure to rent is due to the landlord's rejection of the application.
221 If the landlord fails to comply with this section, the applicant may recover as damages suffered by him that
222 portion of the application deposit wrongfully withheld and reasonable attorney fees.

223 B. A landlord may request that a prospective tenant provide information that will enable the landlord to
224 determine whether each applicant may become a tenant. The landlord may photocopy each applicant's driver's
225 license or other similar photo identification, containing either the applicant's social security number or control
226 number issued by the Department of Motor Vehicles pursuant to § 46.2-342. However, a landlord shall not
227 photocopy a U.S. government-issued identification so long as to do so is a violation of 18 U.S.C. § 701. The
228 landlord may require, for the purpose of determining whether each applicant is eligible to become a tenant in
229 the landlord's dwelling unit, that each applicant provide a social security number issued by the U.S. Social
230 Security Administration or an individual taxpayer identification number issued by the U.S. Internal Revenue
231 Service.

232 C. An application fee shall not exceed \$50, exclusive of any actual out-of-pocket expenses paid by the
233 landlord to a third party performing background, credit, or other pre-occupancy checks on the applicant.
234 However, where an application is being made for a dwelling unit that is a public housing unit or other
235 housing unit subject to regulation by the U.S. Department of Housing and Urban Development, an
236 application fee shall not exceed \$32, exclusive of any actual out-of-pocket expenses paid to a third party by
237 the landlord performing background, credit, or other pre-occupancy checks on the applicant.

238 D. A landlord shall consider evidence of an applicant's status as a victim of family abuse, as defined in
239 § 16.1-228, to mitigate any adverse effect of an otherwise qualified applicant's low credit score. In order to
240 establish the applicant's status as a victim of family abuse, an applicant may submit to the landlord (i) a letter
241 from a sexual and domestic violence program, a housing counselor certified by the U.S. Department of
242 Housing and Urban Development, or an attorney representing the applicant; (ii) a law-enforcement incident
243 report; or (iii) a court order. If a landlord does not comply with this section, the applicant may recover actual
244 damages, including all amounts paid to the landlord as an application fee, application deposit, or
245 reimbursement for any of the landlord's out-of-pocket expenses that were charged to the prospective tenant,
246 along with attorney fees.

247 *E. A landlord shall provide a disclosure with any application containing a written copy of any terms and*
248 *conditions of the rental agreement regarding an applicant's ability to own or otherwise maintain a pet within*
249 *the dwelling unit. Such disclosure shall include any (i) restrictions based on animal species or breed; (ii)*
250 *restrictions based on animal weight; (iii) additional fees or deposits associated with owning or maintaining a*
251 *pet and whether such fees are refundable; (iv) vaccination requirements; (v) liability insurance requirements;*
252 *and (vi) additional conditions relating to owning or maintaining a pet in the dwelling unit. If such landlord*
253 *maintains a website regarding the property, such terms and conditions shall additionally be published to*
254 *such website. For the purpose of this subsection, "pet" means an animal that has been adapted or tamed to*
255 *live in intimate association with or for the pleasure of people, including dogs, cats, birds, rabbits, hamsters,*
256 *and reptiles, and that is not a service dog, as defined in § 51.5-40.1, or an assistance animal, as defined in*
257 *§ 36-96.1:1.*