

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 8.01-129 and 16.1-107 of the Code of Virginia, relating to requirements for*
 3 *appeals bond; indigent parties; appeal of unlawful detainer.*

4 [H 221]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 8.01-129 and 16.1-107 of the Code of Virginia are amended and reenacted as follows:**8 **§ 8.01-129. Appeal from judgment of general district court.**

9 A. An appeal shall lie from the judgment of a general district court, in any proceeding under this article, to
 10 the circuit court in the same manner and with like effect and upon like security as appeals taken under the
 11 provisions of § 16.1-106 et seq. except as specifically provided in this section. The appeal shall be taken
 12 within 10 days and the security approved by the court from which the appeal is taken. Notwithstanding the
 13 provisions of § 16.1-106 et seq., the bond shall be posted and the writ tax paid within 10 days of the date of
 14 the judgment.

15 B. In any unlawful detainer case filed under § 8.01-126, if a judge grants the plaintiff a judgment for
 16 possession of the premises, upon request of the plaintiff, the judge shall further order that the writ of eviction
 17 issue immediately upon entry of judgment for possession. In such case, the clerk shall deliver the writ of
 18 eviction to the sheriff, who shall then, at least 72 hours prior to execution of such writ, serve notice of intent
 19 to execute the writ, including the date and time of eviction, as provided in § 8.01-470. In no case, however,
 20 shall the sheriff evict the defendant from the dwelling unit prior to the expiration of the defendant's 10-day
 21 appeal period. If the defendant perfects an appeal, the sheriff shall return the writ to the clerk who issued it.

22 ~~When~~ *In accordance with the provisions of § 16.1-107, when the appeal is taken by the defendant, he shall*
 23 *be required to give security also for all rent which has accrued and may accrue upon the premises; but for not*
 24 *more than one year's rent; and also for all damages that have accrued or may accrue from the unlawful use*
 25 *and occupation of the premises for a period not exceeding three months give bond, in an amount and with*
 26 *sufficient surety approved by the judge or his clerk, or in an amount sufficient to satisfy the judgment of the*
 27 *court in which it was rendered, including an award of attorney fees, if any. No indigent defendant shall be*
 28 *required to post an appeal bond. Trial by jury shall be had upon application of any party. For the purposes of*
 29 *this subsection, "indigent" means that the defendant has been determined to be eligible for services and*
 30 *processes without fees or costs pursuant to §19.2-159.*

31 **§ 16.1-107. Requirements for appeal.**

32 A. No appeal shall be allowed unless and until the party applying for the same or someone for him shall
 33 give bond, in an amount and with sufficient surety approved by the judge or by his clerk if there is one, or in
 34 an amount sufficient to satisfy the judgment of the court in which it was rendered. Either such amount shall
 35 include the award of attorney fees, if any. Such bond shall be posted within 30 days from the date of
 36 judgment, except for an appeal from the judgment of a general district court on an unlawful detainer pursuant
 37 to § 8.01-129. However, no appeal bond shall be required of a plaintiff in a civil case where the defendant has
 38 not asserted a counterclaim, the Commonwealth or when an appeal is proper to protect the estate of a
 39 decedent, an infant, a convict, or an insane person, or the interest of a county, city, town or transportation
 40 district created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2. In a
 41 case where a defendant with indemnity coverage through a policy of liability insurance appeals, the bond
 42 required by this section shall not exceed the amount of the judgment that is covered by a policy of indemnity
 43 coverage.

44 B. ~~In all any civil cases, except trespass, ejectment, unlawful detainer against a former owner based upon~~
 45 ~~a foreclosure against that owner, or any action involving the recovering of rents, no indigent person shall be~~
 46 ~~required to post an appeal bond. In cases of unlawful detainer against a former owner based upon a~~
 47 ~~foreclosure against that owner, a person who has been determined to be indigent pursuant to the guidelines~~
 48 ~~set forth in § 19.2-159 shall post an appeal bond within 30 days from the date of judgment.~~

49 ~~C. Notwithstanding the provisions of subsection B, no indigent person shall be required to post a bond to~~
 50 ~~appeal any unlawful detainer action brought by a public housing authority case, no indigent defendant shall~~
 51 ~~be required to post an appeal bond. For the purposes of this subsection, "indigent" means that the defendant~~
 52 ~~has been determined to be indigent pursuant to the guidelines set forth in § 19.2-159.~~

53 ~~D. C.~~ In cases of unlawful detainer for a residential dwelling unit, notwithstanding the provisions of
 54 § 8.01-129, an appeal bond shall be posted by the defendant with payment into the general district court in the
 55 amount of outstanding rent, late charges, attorney fees, and any other charges or damages due, as contracted
 56 for in the rental agreement, and as amended on the unlawful detainer by the court. If such amount is not so

57 paid, any such appeal shall not be perfected as a matter of law. *No indigent defendant shall be required to*
58 *post such an appeal bond.* Upon perfection of an appeal, the defendant shall pay the rental amount as
59 contracted for in the rental agreement to the plaintiff on or before the fifth day of each month. If any such
60 rental payment is not so paid, upon written motion of the plaintiff with a copy of such written motion mailed
61 by regular mail to the tenant, the judge of the circuit court shall, without hearing, enter judgment for the
62 amount of outstanding rent, late charges, attorney fees, and any other charges or damages due as of that date,
63 subtracting any payments made by such tenant as reflected in the court accounts and on a written affidavit
64 submitted by the plaintiff, plaintiff's managing agent, or plaintiff's attorney with a copy of such affidavit
65 mailed by regular mail to the tenant, and an order of possession without further hearings or proceedings in
66 such court. Any funds held in a court account shall be released to the plaintiff without further hearing or
67 proceeding of the court unless the defendant has filed a motion to retain some or all of such funds and the
68 court, after a hearing, enters an order finding that the defendant is likely to succeed on the merits of a
69 counterclaim alleging money damages against the plaintiff, in which case funds shall be held by order of such
70 court.

71 ~~E. D.~~ If such bond is furnished by or on behalf of any party against whom judgment has been rendered for
72 money or property or both, the bond shall be conditioned for the performance and satisfaction of such
73 judgment or order as may be entered against such party on appeal, and for the payment of all costs and
74 damages which may be awarded against him in the appellate court. If the appeal is by a party against whom
75 there is no recovery except for costs, the bond shall be conditioned for the payment of such costs and
76 damages as may be awarded against him on the appeal.

77 ~~F. E.~~ In addition to the foregoing, any party applying for appeal shall, within 30 days from the date of the
78 judgment, pay to the clerk of the court from which the appeal is taken the amount of the writ tax of the court
79 to which the appeal is taken and costs as required by subdivision A 13 of § 17.1-275, including all fees for
80 service of process of the notice of appeal in the circuit court pursuant to § 16.1-112.

81 ~~G. F.~~ For purposes of this section, "indigent" means that the defendant has been determined to be indigent
82 pursuant to the guidelines set forth in § 19.2-159.