

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 55.1-1245, as it is currently effective and as it shall become effective, of the*  
 3 *Code of Virginia, relating to Virginia Residential Landlord and Tenant Act; landlord remedies;*  
 4 *noncompliance with rental agreement; mandatory waiting period.*

5 [S 48]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That § 55.1-1245, as it is currently effective and as it shall become effective, of the Code of Virginia is**  
 9 **amended and reenacted as follows:**10 **§ 55.1-1245. (Effective until the later of July 1, 2028, or seven years after the COVID-19 pandemic**  
 11 **state of emergency expires) Noncompliance with rental agreement; monetary penalty.**12 A. Except as otherwise provided in this chapter, if there is a material noncompliance by the tenant with  
 13 the rental agreement or a violation of § 55.1-1227 materially affecting health and safety, the landlord may  
 14 serve a written notice on the tenant specifying the acts and omissions constituting the breach and stating that  
 15 the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if the breach is  
 16 not remedied in 21 days and that the rental agreement shall terminate as provided in the notice.17 B. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant  
 18 adequately remedies the breach prior to the date specified in the notice, the rental agreement shall not  
 19 terminate.20 C. If the tenant commits a breach that is not remediable, the landlord may serve a written notice on the  
 21 tenant specifying the acts and omissions constituting the breach and stating that the rental agreement will  
 22 terminate upon a date not less than 30 days after receipt of the notice. Notwithstanding anything to the  
 23 contrary, when a breach of the tenant's obligations under this chapter or the rental agreement involves or  
 24 constitutes a criminal or a willful act that is not remediable and that poses a threat to health or safety, the  
 25 landlord may terminate the rental agreement immediately and proceed to obtain possession of the premises.  
 26 For purposes of this subsection, any illegal drug activity involving a controlled substance, as used or defined  
 27 by the Drug Control Act (§ 54.1-3400 et seq.), or any activity that involves or constitutes a criminal or willful  
 28 act that also poses a threat to health and safety, by the tenant, an authorized occupant, or a guest or invitee of  
 29 the tenant shall constitute an immediate nonremediable violation for which the landlord may proceed to  
 30 terminate the tenancy without the necessity of waiting for a conviction of any criminal offense that may arise  
 31 out of the same actions. In order to obtain an order of possession from a court of competent jurisdiction  
 32 terminating the tenancy for illegal drug activity or for any other activity that involves or constitutes a criminal  
 33 or willful act that also poses a threat to health and safety, the landlord shall prove any such violations by a  
 34 preponderance of the evidence. However, where the illegal drug activity or any activity that involves or  
 35 constitutes a criminal or willful act that also poses a threat to health and safety is engaged in by an authorized  
 36 occupant or a guest or invitee of the tenant, the tenant shall be presumed to have knowledge of such activities  
 37 unless the presumption is rebutted by a preponderance of the evidence. The initial hearing on the landlord's  
 38 action for immediate possession of the premises shall be held within 15 calendar days from the date of  
 39 service on the tenant; however, the court shall order an earlier hearing when emergency conditions are  
 40 alleged to exist upon the premises that constitute an immediate threat to the health or safety of the other  
 41 tenants. After the initial hearing, if the matter is scheduled for a subsequent hearing or for a contested trial,  
 42 the court, to the extent practicable, shall order that the matter be given priority on the court's docket. Such  
 43 subsequent hearing or contested trial shall be heard no later than 30 calendar days from the date of service on  
 44 the tenant. During the interim period between the date of the initial hearing and the date of any subsequent  
 45 hearing or contested trial, the court may afford any further remedy or relief as is necessary to protect the  
 46 interests of parties to the proceeding or the interests of any other tenant residing on the premises. Failure by  
 47 the court to hold either of the hearings within the time limits set out in this section shall not be a basis for  
 48 dismissal of the case.49 D. If the tenant is a victim of family abuse as defined in § 16.1-228 that occurred in the dwelling unit or  
 50 on the premises and the perpetrator is barred from the dwelling unit pursuant to § 55.1-1246 on the basis of  
 51 information provided by the tenant to the landlord, or by a protective order from a court of competent  
 52 jurisdiction pursuant to § 16.1-253.1 or 16.1-279.1 or subsection B of § 20-103, the lease shall not terminate  
 53 solely due to an act of family abuse against the tenant. However, these provisions shall not be applicable if (i)  
 54 the tenant fails to provide written documentation corroborating the tenant's status as a victim of family abuse  
 55 and the exclusion from the dwelling unit of the perpetrator no later than 21 days from the alleged offense or  
 56 (ii) the perpetrator returns to the dwelling unit or the premises, in violation of a bar notice, and the tenant fails

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57 to promptly notify the landlord within 24 hours that the perpetrator has returned to the dwelling unit or the  
58 premises, unless the tenant proves by a preponderance of the evidence that the tenant had no actual  
59 knowledge that the perpetrator violated the bar notice, or it was not possible for the tenant to notify the  
60 landlord within 24 hours, in which case the tenant shall promptly notify the landlord, but in no event later  
61 than seven days. If the provisions of this subsection are not applicable, the tenant shall remain responsible for  
62 the acts of the other co-tenants, authorized occupants, or guests or invitees pursuant to § 55.1-1227 and is  
63 subject to termination of the tenancy pursuant to the lease and this chapter.

64 E. If the tenant has been served with a prior written notice that required the tenant to remedy a breach, and  
65 the tenant remedied such breach, where the tenant intentionally commits a subsequent breach of a like nature  
66 as the prior breach, the landlord may serve a written notice on the tenant specifying the acts and omissions  
67 constituting the subsequent breach, make reference to the prior breach of a like nature, and state that the  
68 rental agreement will terminate upon a date not less than 30 days after receipt of the notice.

69 F. If rent is unpaid when due, and the tenant fails to pay rent within ~~five~~ 14 days after written notice is  
70 served on him notifying the tenant of his nonpayment, and of the landlord's intention to terminate the rental  
71 agreement if the rent is not paid within the ~~five-day~~ 14-day period, the landlord may terminate the rental  
72 agreement and proceed to obtain possession of the premises as provided in § 55.1-1251. If a check for rent is  
73 delivered to the landlord drawn on an account with insufficient funds, or if an electronic funds transfer has  
74 been rejected because of insufficient funds or a stop-payment order has been placed in bad faith by the  
75 authorizing party, and the tenant fails to pay rent within ~~five~~ 14 days after written notice is served on him  
76 notifying the tenant of his nonpayment and of the landlord's intention to terminate the rental agreement if the  
77 rent is not paid by cash, cashier's check, certified check, or a completed electronic funds transfer within the  
78 ~~five-day~~ 14-day period, the landlord may terminate the rental agreement and proceed to obtain possession of  
79 the premises as provided in § 55.1-1251. Nothing shall be construed to prevent a landlord from seeking an  
80 award of costs or attorney fees under § 8.01-27.1 or civil recovery under § 8.01-27.2, as a part of other  
81 damages requested on the unlawful detainer filed pursuant to § 8.01-126, provided that the landlord has given  
82 notice in accordance with § 55.1-1202, which notice may be included in the ~~five-day~~ 14-day termination  
83 notice provided in accordance with this section.

84 G. If a public housing authority issues a notice of nonpayment of rent to a tenant, such public housing  
85 authority shall also provide to the tenant along with the notice of nonpayment written information printed on  
86 pink or orange paper explaining how the tenant may recertify the tenant's income, including how the tenant  
87 can, in accordance with federal law and policy, report changes in income, request a minimum rent hardship  
88 exemption, and file grievances. Such information shall be posted by the public housing authority in  
89 conspicuous locations in each public housing community under its authority.

90 H. Except as otherwise provided in this chapter, the landlord may recover damages and obtain injunctive  
91 relief for any noncompliance by the tenant with the rental agreement or § 55.1-1227. In the event of a breach  
92 of the rental agreement or noncompliance by the tenant, the landlord shall be entitled to recover from the  
93 tenant the following, regardless of whether a lawsuit is filed or an order is obtained from a court: (i) rent due  
94 and owing as contracted for in the rental agreement, (ii) other charges and fees as contracted for in the rental  
95 agreement, (iii) late charges contracted for in the rental agreement, (iv) reasonable attorney fees as contracted  
96 for in the rental agreement or as provided by law, (v) costs of the proceeding as contracted for in the rental  
97 agreement or as provided by law only if court action has been filed, and (vi) damages to the dwelling unit or  
98 premises as contracted for in the rental agreement.

99 I. In a case where a lawsuit is pending before the court upon a breach of the rental agreement or  
100 noncompliance by the tenant and the landlord prevails, the court shall award a money judgment to the  
101 landlord and against the tenant for the relief requested, which may include the following: (i) rent due and  
102 owing as of the court date as contracted for in the rental agreement; (ii) other charges and fees as contracted  
103 for in the rental agreement; (iii) late charges contracted for in the rental agreement; (iv) reasonable attorney  
104 fees as contracted for in the rental agreement or as provided by law, unless in any such action the tenant  
105 proves by a preponderance of the evidence that the tenant's failure to pay rent or vacate was reasonable; (v)  
106 costs of the proceeding as contracted for in the rental agreement or as provided by law; and (vi) damages to  
107 the dwelling unit or premises.

108 J. 1. A landlord who owns more than four rental dwelling units or more than a 10 percent interest in more  
109 than four rental dwelling units, whether individually or through a business entity, in the Commonwealth, shall  
110 not take any adverse action, as defined in 15 U.S.C. § 1681a(k), against an applicant for tenancy based solely  
111 on payment history or an eviction for nonpayment of rent that occurred during the period beginning on March  
112 12, 2020, and ending 30 days after the expiration or revocation of any state of emergency declared by the  
113 Governor related to the COVID-19 pandemic.

114 2. If such a landlord denies an applicant for tenancy, then the landlord shall provide to the applicant  
115 written notice of the denial and of the applicant's right to assert that his failure to qualify was based upon  
116 payment history or an eviction based on nonpayment of rent that occurred during the period beginning on  
117 March 12, 2020, and ending 30 days after the expiration or revocation of any state of emergency related to  
118 the COVID-19 pandemic. The written notice of denial shall include the statewide legal aid telephone number

119 and website address and shall inform the applicant that he must assert his right to challenge the denial within  
 120 seven days of the postmark date. If the landlord does not receive a response from the applicant within seven  
 121 days of the postmark date, the landlord may proceed. If, in addition to the written notice, the landlord  
 122 provides notice to the applicant by electronic or telephonic means using an email address, telephone number,  
 123 or other contact information provided by the applicant informing the applicant of his denial and right to assert  
 124 that his failure to qualify was based upon payment history or an eviction based on nonpayment of rent that  
 125 occurred during the period beginning on March 12, 2020, and ending 30 days after the expiration or  
 126 revocation of any state of emergency related to the COVID-19 pandemic and the tenant does not make such  
 127 assertion that the failure to qualify was the result of such payment history or eviction prior to the close of  
 128 business on the next business day, the landlord may proceed. The landlord must be able to validate the date  
 129 and time that any communication sent by electronic or telephonic means was sent to the applicant. If a  
 130 landlord does receive a response from the applicant asserting such a right, and the landlord relied upon a  
 131 consumer or tenant screening report, the landlord shall make a good faith effort to contact the generator of the  
 132 report to ascertain whether such determination was due solely to the applicant for tenancy's payment history  
 133 or an eviction for nonpayment that occurred during the period beginning on March 12, 2020, and ending 30  
 134 days after the expiration or revocation of any state of emergency declared by the Governor related to the  
 135 COVID-19 pandemic. If the landlord does not receive a response from the generator of the report within three  
 136 business days of requesting the information, the landlord may proceed with using the information from the  
 137 report without additional action.

138 3. If such a landlord does not comply with the provisions of this subsection, the applicant for tenancy may  
 139 recover statutory damages of \$1,000, along with attorney fees.

140 **§ 55.1-1245. (Effective the later of July 1, 2028, or seven years after the COVID-19 pandemic state**  
 141 **of emergency expires) Noncompliance with rental agreement; monetary penalty.**

142 A. Except as otherwise provided in this chapter, if there is a material noncompliance by the tenant with  
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147 B. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant  
 148 adequately remedies the breach prior to the date specified in the notice, the rental agreement shall not  
 149 terminate.

150 C. If the tenant commits a breach that is not remediable, the landlord may serve a written notice on the  
 151 tenant specifying the acts and omissions constituting the breach and stating that the rental agreement will  
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