

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 55.1-1241 of the Code of Virginia, relating to Virginia Residential Landlord*  
 3 *and Tenant Act; noncompliance as defense to action for possession for nonpayment of rent.*

4 [S 373]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 55.1-1241 of the Code of Virginia is amended and reenacted as follows:**8 **§ 55.1-1241. Landlord's noncompliance as defense to action for possession for nonpayment of rent.**

9 A. In an action for possession based upon nonpayment of rent or in an action for rent by a landlord when  
 10 the tenant is in possession, the tenant may assert as a defense that there exists upon the leased premises a  
 11 condition that constitutes, or will constitute, a fire hazard or a serious threat to the life, health, or safety of the  
 12 occupants of the dwelling unit, including (i) a lack of heat, running water, light, electricity, or adequate  
 13 sewage disposal facilities; (ii) an infestation of rodents; or (iii) a condition that constitutes material  
 14 noncompliance on the part of the landlord with the rental agreement or provisions of law. ~~The assertion of~~  
 15 ~~any defense provided for in this section shall be conditioned upon the following:~~

16 ~~1. Prior~~ A tenant may assert a defense as provided for in this section if, prior to the commencement of the  
 17 action for rent or possession, the landlord or his agent refused or, having a reasonable opportunity to do so,  
 18 failed to remedy the condition for which he was served a written notice of the condition as defined in  
 19 § 55.1-1200 by the tenant or was notified of such condition by a violation or condemnation notice from an  
 20 appropriate state or local agency. For the purposes of this subsection, ~~what~~ the period of time shall be deemed  
 21 to be unreasonable delay is left to the discretion of the court, except that there shall be a rebuttable  
 22 presumption that a period in excess of 30 days from receipt of the notification by the landlord is  
 23 unreasonable; ~~and~~

24 ~~2. The tenant, if in possession, has paid into court the amount of rent found by the court to be due and~~  
 25 ~~unpaid, to be held by the court pending the issuance of an order under subsection C.~~

26 B. It shall be a sufficient answer to such a defense provided for in this section if the landlord establishes  
 27 that (i) the conditions alleged in the defense do not in fact exist; (ii) such conditions have been removed or  
 28 remedied; (iii) such conditions have been caused by the tenant, his guest or invitee, members of the family of  
 29 such tenant, or a guest or invitee of such family member; or (iv) the tenant has unreasonably refused entry to  
 30 the landlord to the premises for the purposes of correcting such conditions.

31 C. The court shall make findings of fact upon any defense raised under this section or the answer to any  
 32 defense and shall issue any order as may be required, including any one or more of the following:

33 1. Reducing rent in such amount as the court determines to be equitable to represent the existence of any  
 34 condition set forth in subsection A;

35 2. Terminating the rental agreement ~~or ordering the surrender of the premises to the landlord at the~~  
 36 ~~request of the tenant;~~ or

37 3. ~~Referring any matter before the court to the proper state or local agency for investigation and report and~~  
 38 ~~granting a continuance of the action or complaint pending receipt of such investigation and report. When such~~  
 39 ~~a continuance is granted, the tenant shall deposit with the court any rents that will become due during the~~  
 40 ~~period of continuance, to be held by the court pending its further order, or, in its discretion, the court may use~~  
 41 ~~such funds to (i) pay a mortgage on the property in order to stay a foreclosure, (ii) pay a creditor to prevent or~~  
 42 ~~satisfy a bill to enforce a mechanic's or materialman's lien, or (iii) remedy any condition set forth in~~  
 43 ~~subsection A that is found by the court to exist. Ordering the landlord to remedy the condition that resulted~~  
 44 ~~from the landlord's material noncompliance.~~

45 D. If it appears that the tenant has raised a defense under this section in bad faith or has caused the  
 46 violation or has unreasonably refused entry to the landlord for the purpose of correcting the condition giving  
 47 rise to the violation, the court may impose upon the tenant the reasonable costs of the landlord, including  
 48 court costs, the costs of repair where the court finds the tenant has caused the violation, and reasonable  
 49 attorney fees.

50 E. If the court finds that the tenant has successfully raised a defense under this section and enters  
 51 judgment for the tenant, the court, in its discretion, may impose upon the landlord the reasonable costs of the  
 52 tenant, including court costs, and reasonable attorney fees.

53 *F. Nothing in this section alters the right of a landlord to amend the amount requested at trial based on*  
 54 *all amounts due and owing on the trial date, including ongoing rent.*

ENROLLED

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