

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 8.01-128 of the Code of Virginia, relating to unlawful detainer; bifurcation;*
 3 *contested rent and damages.*

4 [H 845]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That § 8.01-128 of the Code of Virginia is amended and reenacted as follows:**

8 **§ 8.01-128. Verdict and judgment; damages.**

9 A. If it appears that the plaintiff was forcibly or unlawfully turned out of possession, or that it was
 10 unlawfully detained from him, the verdict or judgment shall be for the plaintiff for the premises, or such part
 11 thereof as may be found to have been so held or detained. The verdict or judgment shall also be for such
 12 damages as the plaintiff may prove to have been sustained by him by reason of such forcible or unlawful
 13 entry, or unlawful detention, of such premises, and such rent as he may prove to have been owing to him.

14 B. The plaintiff may, alternatively, receive a final, appealable judgment for possession of the property
 15 unlawfully entered or unlawfully detained and be issued an order of possession at the initial hearing on a
 16 summons for unlawful detainer, upon evidence presented by the plaintiff to the court. At the initial hearing,
 17 upon request of the plaintiff, the court shall bifurcate the unlawful detainer case and set a continuance date no
 18 later than 120 days from the date of the initial hearing to determine final rent and damages. *If, however, at the*
 19 *initial hearing the defendant contests the amount of rent and damages alleged to be due and owing to the*
 20 *plaintiff, the court shall not bifurcate the case.*

21 On such continuance date, the court shall permit amendment of the amount requested on the summons for
 22 unlawful detainer filed in court in accordance with the (i) notice of hearing to establish final rent and
 23 damages mailed to the last known address of the defendant and filed with the court at least 15 days prior to
 24 the continuance date as provided herein, (ii) evidence presented to the court, and (iii) amounts contracted for
 25 in the rental agreement. Nothing in this subsection shall preclude a defendant who appears in court at the
 26 initial court date from contesting an unlawful detainer action as otherwise provided by law.

27 If under this section an appeal is taken as to possession, the entire case shall be considered appealed. The
 28 plaintiff shall, in the instance of a continuance taken under this section, mail to the defendant at the
 29 defendant's last known address at least 15 days prior to the continuance date a notice advising (a) of the
 30 continuance date, (b) of the amounts of final rent and damages, and (c) that the plaintiff is seeking judgment
 31 for additional sums. A copy of such notice shall be filed with the court.

32 C. No verdict or judgment rendered under this section shall bar any separate concurrent or future action
 33 for any such damages or rent as may not be so claimed.

ENROLLED

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