

SENATE BILL NO. 349

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology

on _____)

(Patron Prior to Substitute—Senator VanValkenburg)

A BILL to amend and reenact §§ 55.1-1200, 55.1-1203, 55.1-1204, 55.1-1204.1, 55.1-1208, 55.1-1212, 55.1-1226, and 55.1-1311 of the Code of Virginia, relating to Virginia Residential Landlord and Tenant Act; Manufactured Home Lot Rental Act; application disclosure, deposit, and fee; certain prohibitions; security deposits.

Be it enacted by the General Assembly of Virginia:

1. That §§ 55.1-1200, 55.1-1203, 55.1-1204, 55.1-1204.1, 55.1-1208, 55.1-1212, 55.1-1226, and 55.1-1311 of the Code of Virginia are amended and reenacted as follows:

§ 55.1-1200. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Action" means any recoupment, counterclaim, setoff, or other civil action and any other proceeding in which rights are determined, including actions for possession, rent, unlawful detainer, unlawful entry, and distress for rent.

"Administrative fee" means the amount charged to a tenant for the preparation and execution of a rental agreement.

"Application deposit" means any *optional and* refundable deposit of money, however denominated, ~~including all money intended to be used as a security deposit under a rental agreement, or property,~~ that is (i) paid by a *prospective* tenant to a landlord for ~~the purpose~~ *purposes* of being considered as a tenant for a dwelling unit *and securing such dwelling unit* and (ii) *applied toward the security deposit if the prospective tenant rents such dwelling unit.*

"Application fee" means any nonrefundable fee that is paid by a *prospective* tenant to a landlord or managing agent for the purpose of being considered as a tenant for a dwelling unit.

"Assignment" means the transfer by any tenant of all interests created by a rental agreement.

"Authorized occupant" means a person entitled to occupy a dwelling unit with the consent of the landlord, but who has not signed the rental agreement and therefore does not have the financial obligations as a tenant under the rental agreement.

"Building or housing code" means any law, ordinance, or governmental regulation concerning fitness for

habitation or the construction, maintenance, operation, occupancy, use, or appearance of any structure or that part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

"Commencement date of rental agreement" means the date upon which the tenant is entitled to occupy the dwelling unit as a tenant.

"Community land trust" means a community housing development organization whose board of directors is composed of tenants, corporate members who are not tenants, and any other category of persons specified in the bylaws of the organization and that:

1. Is not sponsored by a for-profit organization;
2. Acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;
3. Transfers ownership of any structural improvements located on such leased parcels to the tenant; and
4. Retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low-income and moderate-income families in perpetuity.

"Damage insurance" means a bond or commercial insurance coverage as specified in the rental agreement to secure the performance by the tenant of the terms and conditions of the rental agreement and to replace all or part of a security deposit.

"Dwelling unit" means a structure or part of a structure that is used as a home or residence by one or more persons who maintain a household, including a manufactured home, as defined in § 55.1-1300.

"Effective date of rental agreement" means the date on which the rental agreement is signed by the landlord and the tenant obligating each party to the terms and conditions of the rental agreement.

"Essential service" includes heat, running water, hot water, electricity, and gas.

"Facility" means something that is built, constructed, installed, or established to perform some particular function.

"Good faith" means honesty in fact in the conduct of the transaction concerned.

"Guest or invitee" means a person, other than the tenant or an authorized occupant, who has the permission of the tenant to visit but not to occupy the premises.

"Interior of the dwelling unit" means the inside of the dwelling unit, consisting of interior walls, floor, and ceiling, that enclose the dwelling unit as conditioned space from the outside air.

61 "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the building of which such
62 dwelling unit is a part. "Landlord" also includes a managing agent of the premises who fails to disclose the
63 name of such owner, lessor, or sublessor. Such managing agent shall be subject to the provisions of
64 § 16.1-88.03. "Landlord" does not include a community land trust.

65 "Managing agent" means the person authorized by the landlord to act as the property manager on behalf
66 of the landlord pursuant to the written property management agreement.

67 "Mold remediation in accordance with professional standards" means mold remediation of that portion of
68 the dwelling unit or premises affected by mold, or any personal property of the tenant affected by mold,
69 performed consistent with guidance documents published by the U.S. Environmental Protection Agency, the
70 U.S. Department of Housing and Urban Development, or the American Conference of Governmental
71 Industrial Hygienists (Bioaerosols: Assessment and Control); Standard and Reference Guides of the Institute
72 of Inspection, Cleaning and Restoration Certification (IICRC) for Professional Water Damage Restoration
73 and Professional Mold Remediation; or any protocol for mold remediation prepared by an industrial hygienist
74 consistent with such guidance documents.

75 "Multifamily dwelling unit" means more than one single-family dwelling unit located in a building.
76 However, nothing in this definition shall be construed to apply to any nonresidential space in such building.

77 "Natural person," wherever the chapter refers to an owner as a "natural person," includes co-owners who
78 are natural persons, either as tenants in common, joint tenants, tenants in partnership, tenants by the entirety,
79 trustees or beneficiaries of a trust, general partnerships, limited liability partnerships, registered limited
80 liability partnerships or limited liability companies, or any other lawful combination of natural persons
81 permitted by law.

82 "Notice" means notice given in writing by either regular mail or hand delivery, with the sender retaining
83 sufficient proof of having given such notice in the form of a certificate of service confirming such mailing
84 prepared by the sender. However, a person shall be deemed to have notice of a fact if he has actual
85 knowledge of it, he has received a verbal notice of it, or, from all of the facts and circumstances known to
86 him at the time in question, he has reason to know it exists. A person "notifies" or "gives" a notice or
87 notification to another by taking steps reasonably calculated to inform another person, whether or not the
88 other person actually comes to know of it. If notice is given that is not in writing, the person giving the notice
89 has the burden of proof to show that the notice was given to the recipient of the notice.

90 "Organization" means a corporation, government, governmental subdivision or agency, business trust,
91 estate, trust, partnership, or association; two or more persons having a joint or common interest; any
92 combination thereof; and any other legal or commercial entity.

93 "Owner" means one or more persons or entities, jointly or severally, including a mortgagee in possession,
94 in whom is vested:

95 1. All or part of the legal title to the property; or

96 2. All or part of the beneficial ownership and a right to present use and enjoyment of the premises.

97 "Person" means any individual, group of individuals, corporation, partnership, business trust, association,
98 or other legal entity, or any combination thereof.

99 "Premises" means a dwelling unit and the structure of which it is a part, facilities and appurtenances
100 contained therein, and grounds, areas, and facilities held out for the use of tenants generally or whose use is
101 promised to the tenant.

102 "Processing fee for payment of rent with bad check" means the processing fee specified in the rental
103 agreement, not to exceed \$50, assessed by a landlord against a tenant for payment of rent with a check drawn
104 by the tenant on which payment has been refused by the payor bank because the drawer had no account or
105 insufficient funds.

106 "Readily accessible" means areas within the interior of the dwelling unit available for observation at the
107 time of the move-in inspection that do not require removal of materials, personal property, equipment, or
108 similar items.

109 *"Renewal fee" means any fee charged by a landlord to a tenant upon the renewal of a rental agreement.*

110 "Rent" means all money, other than a security deposit, owed or paid to the landlord under the rental
111 agreement, including prepaid rent paid more than one month in advance of the rent due date.

112 "Rental agreement" or "lease agreement" means all rental agreements, written or oral, and valid rules and
113 regulations adopted under § 55.1-1228 embodying the terms and conditions concerning the use and
114 occupancy of a dwelling unit and premises.

115 "Rental application" means the written application or similar document used by a landlord to determine if
116 a prospective tenant is qualified to become a tenant of a dwelling unit.

117 "Renter's insurance" means insurance coverage specified in the rental agreement that is a combination
118 multi-peril policy containing fire, miscellaneous property, and personal liability coverage insuring personal

property located in dwelling units not occupied by the owner.

"Residential tenancy" means a tenancy that is based on a rental agreement between a landlord and a tenant for a dwelling unit.

"Roomer" means a person occupying a dwelling unit that lacks a major bathroom or kitchen facility, in a structure where one or more major facilities are used in common by occupants of the dwelling unit and other dwelling units. "Major facility" in the case of a bathroom means a toilet and either a bath or shower and in the case of a kitchen means a refrigerator, stove, or sink.

"Security deposit" means any refundable deposit of money that is furnished by a tenant to a landlord *at the execution of the rental agreement* to secure the performance of the terms and conditions of a rental agreement, as a security for damages to the leased premises, or as a pet deposit. ~~However, such money shall be deemed an application deposit until the commencement date of the rental agreement.~~ "Security deposit" does not include a damage insurance policy or renter's insurance policy, as those terms are defined in § 55.1-1206, purchased by a landlord to provide coverage for a tenant.

"Single-family residence" means a structure, other than a multifamily residential structure, maintained and used as a single dwelling unit, condominium unit, or any other dwelling unit that has direct access to a street or thoroughfare and does not share heating facilities, hot water equipment, or any other essential facility or essential service with any other dwelling unit.

"Sublease" means the transfer by any tenant of any but not all interests created by a rental agreement.

"Tenant" means a person entitled only under the terms of a rental agreement to occupy a dwelling unit to the exclusion of others and includes a roomer. "Tenant" does not include (i) an authorized occupant, (ii) a guest or invitee, or (iii) any person who guarantees or cosigns the payment of the financial obligations of a rental agreement but has no right to occupy a dwelling unit.

"Tenant records" means all information, including financial, maintenance, and other records about a tenant or prospective tenant, whether such information is in written or electronic form or any other medium.

"Utility" means electricity, natural gas, or water and sewer provided by a public service corporation or such other person providing utility services as permitted under § 56-1.2. If the rental agreement so provides, a landlord may use submetering equipment or energy allocation equipment as defined in § 56-245.2 or a ratio utility billing system as defined in § 55.1-1212.

"Visible evidence of mold" means the existence of mold in the dwelling unit that is visible to the naked eye by the landlord or tenant in areas within the interior of the dwelling unit readily accessible at the time of

149 the move-in inspection.

150 "Written notice" means notice given in accordance with § 55.1-1202, including any representation of
151 words, letters, symbols, numbers, or figures, whether (i) printed in or inscribed on a tangible medium or (ii)
152 stored in an electronic form or any other medium, retrievable in a perceivable form, and regardless of whether
153 an electronic signature authorized by the Uniform Electronic Transactions Act (§ 59.1-479 et seq.) is affixed.

154 **§ 55.1-1203. Application; disclosure; deposit, fee, and additional information.**

155 A. ~~Any landlord may require a refundable application deposit in addition to a nonrefundable application~~
156 ~~fee.~~ Prior to requesting or collecting any payment or information about a prospective tenant and prior to
157 exhibiting the dwelling unit to a prospective tenant, a landlord shall first notify the prospective tenant in
158 writing or by posting in a manner accessible to a prospective tenant (i) the amount of any application fee or
159 application deposit that may be charged to or collected from an applicant prior to execution of a rental
160 agreement and whether such fee or deposit is optional or refundable and (ii) the amount of any
161 administrative fee, utility account set-up fee, or security deposit that may be charged to or collected from a
162 tenant upon execution of a rental agreement and whether such fee or deposit is refundable.

163 B. No landlord shall charge or collect from a tenant any fee prior to the execution of a rental agreement
164 that is not an application fee or application deposit. An application fee shall not exceed the actual out-of-
165 pocket expenses paid by the landlord to a third party performing background, credit, or other pre-occupancy
166 checks on the applicant. A landlord shall provide a receipt reflecting such expenses to the applicant. If a
167 landlord fails to review an application for any reason, the landlord shall refund any application fee to the
168 applicant within 14 days after the landlord's failure to review the application. If the applicant fails to rent the
169 unit for which application was made, from the application deposit the landlord shall refund to the applicant
170 within 20 days after the applicant's failure to rent the unit or the landlord's rejection of the application all
171 sums ~~in excess of the landlord's~~, less the actual expenses and damages incurred by the landlord in the
172 application process that are directly attributable to the applicant, together with an itemized list of such
173 expenses and damages. If, however, the application deposit was made by cash, certified check, cashier's
174 check, or postal money order, such refund shall be made within 10 days of the applicant's failure to rent the
175 unit if the failure to rent is due to the landlord's rejection of the application. If the landlord fails to comply
176 with this section, the applicant may recover as damages suffered by him that portion of the application
177 deposit wrongfully withheld and reasonable attorney fees.

178 ~~B.~~ C. A landlord may request that a prospective tenant provide information that will enable the landlord to
179 determine whether each applicant may become a tenant. The landlord may photocopy each applicant's driver's

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

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

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

E. No landlord shall charge or collect from a tenant any fee at the time of the execution of a rental agreement that is not an administrative fee, a utility account set-up fee, or a security deposit.

§ 55.1-1204. Terms and conditions of rental agreement; payment of rent; copy of rental agreement for tenant.

A. A landlord and tenant may include in a rental agreement terms and conditions not prohibited by this chapter or other rule of law, including rent, charges for late payment of rent, the term of the agreement, automatic renewal of the rental agreement, requirements for notice of intent to vacate or terminate the rental agreement, and other provisions governing the rights and obligations of the parties.

B. A landlord shall offer a prospective tenant a written rental agreement containing the terms governing

211 the rental of the dwelling unit and setting forth the terms and conditions of the landlord-tenant relationship
212 and shall provide with it the statement of tenant rights and responsibilities developed by the Department of
213 Housing and Community Development and posted on its website pursuant to § 36-139. The parties to a
214 written rental agreement shall sign the form developed by the Department of Housing and Community
215 Development and posted on its website pursuant to § 36-139 acknowledging that the tenant has received from
216 the landlord the statement of tenant rights and responsibilities. The written rental agreement shall be effective
217 upon the date signed by the parties.

218 If a tenant fails to sign the form available pursuant to this subsection, the landlord shall record the date or
219 dates on which he provided the form to the tenant and the fact that the tenant failed to sign such form.
220 Subsequent to the effective date of the tenancy, a landlord may, but shall not be required to, provide a tenant
221 with and allow such tenant an opportunity to sign the form described pursuant to this subsection. The form
222 shall be current as of the date of delivery.

223 C. If a landlord does not offer a written rental agreement, the tenancy shall exist by operation of law,
224 consisting of the following terms and conditions:

225 1. The provision of this chapter shall be applicable to the dwelling unit that is being rented;

226 2. The duration of the rental agreement shall be for 12 months and shall not be subject to automatic
227 renewal, except in the event of a month-to-month lease as otherwise provided for under subsection D of
228 § 55.1-1253;

229 3. Rent shall be paid in 12 equal periodic installments in an amount agreed upon by the landlord and the
230 tenant and if no amount is agreed upon, the installments shall be at fair market rent;

231 4. Rent payments shall be due on the first day of each month during the tenancy and shall be considered
232 late if not paid by the fifth of the month;

233 5. If the rent is paid by the tenant after the fifth day of any given month, the landlord shall be entitled to
234 charge a late charge as provided in this chapter;

235 6. The landlord may collect a security deposit in an amount that does not exceed a total amount equal to
236 two months of rent; and

237 7. The parties may enter into a written rental agreement at any time during the 12-month tenancy created
238 by this subsection.

239 D. Except as provided in the written rental agreement, or as provided in subsection C if no written
240 agreement is offered, rent shall be payable without demand or notice at the time and place agreed upon by the

parties. Except as provided in the written rental agreement, rent is payable at the place designated by the landlord, and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal installments at the beginning of each month. If the landlord receives from a tenant a written request for a written statement of charges and payments, he shall provide the tenant with a written statement showing all debits and credits over the tenancy or the past 12 months, whichever is shorter. The landlord shall provide such written statement within 10 business days of receiving the request.

E. A landlord shall not charge a tenant for late payment of rent unless such charge is provided for in the written rental agreement. No such late charge shall exceed the lesser of 10 percent of the periodic rent or 10 percent of the remaining balance due and owed by the tenant.

F. Except as provided in the written rental agreement or, as provided in subsection C if no written agreement is offered, the tenancy shall be week-to-week in the case of a tenant who pays weekly rent and month-to-month in all other cases. Terminations of tenancies shall be governed by § 55.1-1253 unless the rental agreement provides for a different notice period.

G. If the rental agreement contains any provision allowing the landlord to approve or disapprove a sublessee or assignee of the tenant, the landlord shall, within 10 business days of receipt of the written application of the prospective sublessee or assignee on a form to be provided by the landlord, approve or disapprove the sublessee or assignee. Failure of the landlord to act within 10 business days is evidence of his approval.

H. The landlord shall provide a copy of the signed written rental agreement and the statement of tenant rights and responsibilities to the tenant within 10 business days of the effective date of the written rental agreement. The failure of the landlord to deliver such a rental agreement and statement shall not affect the validity of the agreement. However, the landlord shall not file or maintain an action, including any summons for unlawful detainer, against the tenant in a court of law for any alleged lease violation until he has provided the tenant with the statement of tenant rights and responsibilities.

The landlord shall provide the tenant with an additional hard copy of such tenant's rental agreement once per year upon request or shall maintain such rental agreement in an electronic format that can be easily accessed by or shared with the tenant upon request. Any additional electronic copy of a tenant's rental agreement provided pursuant to this subsection shall be provided by the landlord at no charge to the tenant.

I. No unilateral change in the terms of a rental agreement by a landlord or tenant shall be valid unless (i)

notice of the change is given in accordance with the terms of the rental agreement or as otherwise required by law and (ii) both parties consent in writing to the change.

J. 1. The landlord shall provide the tenant with a written receipt, upon request from the tenant, whenever the tenant pays rent in the form of cash or money order. No landlord shall charge a tenant any fee for the collection or processing of any payment of rent, security deposit, or any other fees, unless the landlord offers an alternative method of payment that does not include additional fees.

2. A landlord with four or fewer rental dwelling units, or up to a 10 percent interest in four or fewer rental dwelling units, shall not be required to accept payment of periodic rent and any security deposit by debit or credit card.

K. A landlord who owns more than four rental dwelling units or more than a 10 percent interest in more than four rental dwelling units, whether individually or through a business entity, in the Commonwealth shall be required to provide written notice to any tenant who has the option to renew a rental agreement or whose rental agreement contains an automatic renewal provision of any increase in rent during the subsequent rental agreement term. Such landlord shall also provide written notice of nonrenewal to any tenant. Such notices shall be provided to the tenant no less than 60 days prior to the end of the rental agreement term. This subsection shall not apply to any periodic tenancy created pursuant to subsection C of § 55.1-1253.

L. A landlord that charges an administrative fee shall charge an amount equal to the actual cost of executing the rental agreement. Such costs shall only include the actual expenses incurred by the landlord.

§ 55.1-1204.1. Fee disclosure statement; fee prohibition.

A. A landlord shall provide, beginning on the first page of the written rental agreement, an itemization of all charges to the tenant that comprise (i) the security deposit, (ii) the amount of rent due per payment period pursuant to the lease period, and (iii) any ~~additional one-time charges~~ fees due prior to the commencement date of the rental agreement or that will be included in the first rental payment. Immediately above the itemized list of charges, the written rental agreement shall state: No additional security deposits or rent shall be charged unless they are listed below or incorporated into this agreement by way of a separate addendum after execution of this rental agreement.

B. No landlord shall charge a renewal fee or administrative fee to a tenant prior to the execution of a subsequent rental agreement unless (i) a change to the terms and conditions of the subsequent rental agreement is requested by the tenant in writing, (ii) such a fee is necessary to cover the actual cost of implementing the changes proposed by the tenant, and (iii) the change is agreed to by the landlord and tenant in writing. If a change to the terms and conditions of the subsequent rental agreement is proposed by the

landlord, no renewal fee or administrative fee shall be charged to the tenant.

C. A landlord that charges a fee pursuant to subsection B shall charge an amount equal to the actual cost of implementing the changes to the terms and conditions of a rental agreement. Such costs shall only include the actual expenses and damages incurred in the application process pursuant to § 55.1-1203 and actual administrative expenses incurred by the landlord, his employees, or a third party.

§ 55.1-1208. Prohibited provisions in rental agreements.

A. A rental agreement shall not contain provisions that the tenant:

1. Agrees to waive or forgo rights or remedies under this chapter;

2. Agrees to waive or forgo rights or remedies pertaining to the 120-day conversion or rehabilitation notice required in the Virginia Condominium Act (§ 55.1-1900 et seq.) or the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.) or under § 55.1-1410;

3. Authorizes any person to confess judgment on a claim arising out of the rental agreement;

4. Agrees to pay the landlord's attorney fees except as provided in this chapter;

5. Agrees to the exculpation or limitation of any liability of the landlord to the tenant arising under law or to indemnify the landlord for that liability or any associated costs;

6. Agrees as a condition of tenancy in public housing to a prohibition or restriction of any lawful possession of a firearm within individual dwelling units unless required by federal law or regulation;

7. Agrees to the payment of a security deposit, insurance premiums for damage insurance, and insurance premiums for renter's insurance prior to the commencement of the tenancy that exceed the amount of two months' periodic rent; ~~or~~

8. Agrees to hire or pay for a professional service, including professional cleaning, painting, and trash removal, upon conclusion of the rental agreement; however, nothing in this subdivision shall limit the right of a landlord to recover a security deposit from a tenant pursuant to § 55.1-1226; or

9. Agrees to waive remedies or rights under the Servicemembers Civil Relief Act, 50 U.S.C. § 3901 et seq., prior to the occurrence of a dispute between landlord and tenant. Execution of leases shall not be contingent upon the execution of a waiver of rights under the Servicemembers Civil Relief Act; however, upon the occurrence of any dispute, the landlord and tenant may execute a waiver of such rights and remedies as to that dispute in order to facilitate a resolution.

B. Any provision prohibited by subsection A that is included in a rental agreement is unenforceable. If a landlord brings an action to enforce any such provision, the tenant may recover actual damages sustained by

331 him and reasonable attorney fees.

332 C. If the landlord is a public housing authority, the landlord shall not require a tenant to pay any fee for
333 the maintenance or repair of any dwelling unit unless the repair is necessitated by the tenant's action or
334 omission.

335 **§ 55.1-1212. Energy submetering, energy allocation equipment, sewer and water submetering**
336 **equipment, and ratio utility billing systems; local government fees.**

337 A. As used in this section:

338 "Energy allocation equipment" means the same as that term is defined in § 56-245.2.

339 "Energy submetering equipment" has the same meaning ascribed to "submetering equipment" in
340 § 56-245.2.

341 "Local government fees" means any local government charges or fees assessed against a residential
342 building, including charges or fees for stormwater, recycling, trash collection, elevator testing, fire or life
343 safety testing, or residential rental inspection programs.

344 "Ratio utility billing system" means a program that utilizes a mathematical formula for allocating, among
345 the tenants in a residential building, the actual or anticipated water, sewer, electrical, oil, or natural gas
346 billings billed to the residential building owner from a third-party provider of the utility service. Permitted
347 allocation methods may include formulas based on square footage, occupancy, number of bedrooms, or some
348 other specific method agreed to by the residential building owner and the tenant in the rental agreement or
349 lease.

350 "Residential building" means all of the individual units served through the same utility-owned meter
351 within a residential building that is defined in § 56-245.2 as an apartment building or house or all of the
352 individual dwelling units served through the same utility-owned meter within a manufactured home park as
353 defined in § 55.1-1300.

354 "Water and sewer submetering equipment" means equipment used to measure actual water or sewer usage
355 in any residential building when such equipment is not owned or controlled by the utility or other provider of
356 water or sewer service that provides service to the residential building.

357 B. Energy submetering equipment, energy allocation equipment, water and sewer submetering equipment,
358 or a ratio utility billing system may be used in a residential building if clearly stated in the rental agreement
359 or lease for the residential building. All energy submetering equipment and energy allocation equipment shall
360 meet the requirements and standards established and enforced by the State Corporation Commission pursuant

to § 56-245.3.

C. If energy submetering equipment, energy allocation equipment, or water and sewer submetering equipment is used in any residential building, the owner, manager, or operator of such residential building shall bill the tenant for electricity, oil, natural gas, or water and sewer for the same billing period as the utility serving the residential building, unless the rental agreement or lease expressly provides otherwise. The owner, manager, or operator of such residential building may charge and collect from the tenant additional service charges, including monthly billing fees, account set-up fees, or account move-out fees, to cover the actual costs of administrative expenses and billing charged to the residential building owner, manager, or operator by a third-party provider of such services, provided that such charges are agreed to by the residential building owner and the tenant in the rental agreement or lease. The residential building owner may require the tenant to pay a late charge of up to \$5 if the tenant fails to make payment when due, which shall not be less than 15 days following the date of mailing or delivery of the bill sent pursuant to this section.

D. If a ratio utility billing system is used in any residential building, in lieu of increasing the rent, the owner, manager, or operator of such residential building may employ such a program that utilizes a mathematical formula for allocating, among the tenants in a residential building, the actual or anticipated water, sewer, electrical, oil, or natural gas billings billed to the residential building owner from a third-party provider of the utility service. The owner, manager, or operator of the residential building may charge and collect from the tenant additional service charges, including monthly billing fees, account set-up fees, or account move-out fees, to cover the actual costs of administrative expenses and billings charged to the residential building owner, manager, or operator by a third-party provider of such services, provided that such charges are agreed to by the residential building owner and the tenant in the rental agreement or lease. The residential building owner may require the tenant to pay a late charge of up to \$5 if the tenant fails to make payment when due, which shall not be less than 15 days following the date of mailing or delivery of the bill sent pursuant to this section. The late charge shall be deemed rent (i) as defined in § 55.1-1200 if a ratio utility billing system is used in a residential multifamily dwelling unit subject to this chapter or (ii) as defined in § 55.1-1300 if a ratio utility billing system is used in a manufactured home park subject to the Manufactured Home Lot Rental Act (§ 55.1-1300 et seq.).

E. Energy allocation equipment shall be tested periodically by the owner, manager, or operator of the residential building. Upon the request by a tenant, the owner shall test the energy allocation equipment without charge. The test conducted without charge to the tenant shall not be conducted more frequently than

391 once in a 24-month period for the same tenant. The tenant or his designated representative may be present
392 during the testing of the energy allocation equipment. A written report of the results of the test shall be made
393 to the tenant within 10 working days after the completion of the test.

394 F. The owner of any residential building shall maintain adequate records regarding energy submetering
395 equipment, energy allocation equipment, water and sewer submetering equipment, or a ratio utility billing
396 system. A tenant may inspect and copy the records for the leased premises during reasonable business hours
397 at a convenient location within or serving the residential building. The owner of the residential building may
398 impose and collect a reasonable charge for copying documents, reflecting the actual costs of materials and
399 labor for copying, prior to providing copies of the records to the tenant.

400 G. Notwithstanding any enforcement action undertaken by the State Corporation Commission pursuant to
401 its authority under § 56-245.3, tenants and owners shall retain any private right of action resulting from any
402 breach of the rental agreement or lease terms required by this section or § 56-245.3, if applicable, to the same
403 extent as such actions may be maintained for breach of other terms of the rental agreement or lease under this
404 chapter, if applicable. The use of energy submetering equipment, energy allocation equipment, water and
405 sewer submetering equipment, or a ratio utility billing system is not within the jurisdiction of the Department
406 of Agriculture and Consumer Services under Chapter 56 (§ 3.2-5600 et seq.) of Title 3.2.

407 H. In lieu of increasing the rent, the owner, manager, or operator of a residential building may employ a
408 program that utilizes a mathematical formula for allocating the actual or anticipated local government fees
409 billed to the residential building owner among the tenants in such residential building if clearly stated in the
410 rental agreement or lease. Permitted allocation methods may include formulas based upon square footage,
411 occupancy, number of bedrooms, or some other specific method agreed to by the residential building owner
412 and the tenant in the rental agreement or lease. Such owner, manager, or operator of a residential building
413 may also charge and collect from each tenant additional service charges, including monthly billing fees,
414 account set-up fees, or account move-out fees, to cover the actual costs of administrative expenses for
415 administration of such a program, *provided that such charges are agreed to by the residential building owner*
416 *and the tenant in the rental agreement or lease.* If the building is residential and is subject to (i) this chapter,
417 such local government fees and administrative expenses shall be deemed to be rent as defined in § 55.1-1200
418 or (ii) the Manufactured Home Lot Rental Act (§ 55.1-1300 et seq.), such local government fees and
419 administrative expenses shall be deemed to be rent as defined in § 55.1-1300.

420 I. Nothing in this section shall be construed to ~~prohibit~~ *allow* an owner, manager, or operator of a
421 residential building ~~from including to charge a tenant for~~ water, sewer, electrical, natural gas, oil, or other

422 utilities ~~in the amount of rent as specified in the rental agreement or lease~~ if the tenant directly pays the
423 provider of such utilities for the provision of such utilities.

424 **§ 55.1-1226. Security deposits.**

425 A. No landlord may demand or receive a security deposit, however denominated, in an amount or value in
426 excess of two months' periodic rent. Upon termination of the tenancy or the date the tenant vacates the
427 dwelling unit, whichever occurs last, such security deposit, whether it is property or money held by the
428 landlord as security as provided in this section, ~~may~~ shall be applied by the landlord solely to (i) the payment
429 of accrued rent, including the reasonable charges for late payment of rent specified in the rental agreement;
430 (ii) the payment of the amount of damages that the landlord has suffered by reason of the tenant's
431 noncompliance with § 55.1-1227, less reasonable wear and tear; (iii) other damages or charges as provided in
432 the rental agreement; or (iv) actual damages for breach of the rental agreement pursuant to § 55.1-1251.

433 B. No amount of security deposit shall be applied by the landlord toward (i) the cost of professional
434 services or (ii) the cost of materials and labor performed by the landlord or an employee of the landlord,
435 unless (a) such costs are reasonably necessary to return the premises to the same condition as the condition
436 of the premises at the start of the rental agreement, less reasonable wear and tear, and (b) the landlord
437 provides a receipt reflecting such costs to the tenant. The security deposit and any deductions, damages, and
438 charges shall be itemized by the landlord in a written notice given to the tenant, together with any amount due
439 to the tenant, within 45 days after the termination date of the tenancy or the date the tenant vacates the
440 dwelling unit, whichever occurs last. As of the date of the termination of the tenancy or the date the tenant
441 vacates the dwelling unit, whichever occurs last, the tenant shall be required to deliver possession of the
442 dwelling unit to the landlord. If the termination date is prior to the expiration of the rental agreement or any
443 renewal thereof, or the tenant has not given proper notice of termination of the rental agreement, the tenant
444 shall be liable for actual damages pursuant to § 55.1-1251, in which case, the landlord shall give written
445 notice of security deposit disposition within the 45-day period but may retain any security balance to apply
446 against any financial obligations of the tenant to the landlord pursuant to this chapter or the rental agreement.
447 If the tenant fails to vacate the dwelling unit as of the termination of the tenancy, the landlord may file an
448 unlawful detainer action pursuant to § 8.01-126.

449 ~~B.~~ C. Where there is more than one tenant subject to a rental agreement, unless otherwise agreed to in
450 writing by each of the tenants, disposition of the security deposit shall be made with one check being payable
451 to all such tenants and sent to a forwarding address provided by one of the tenants. The landlord shall make
452 the security deposit disposition within the 45-day time period required by subsection A, but if no forwarding

address is provided to the landlord, the landlord may continue to hold such security deposit in escrow. If a tenant fails to provide a forwarding address to the landlord to enable the landlord to make a refund of the security deposit, upon the expiration of one year from the date of the end of the 45-day time period, the landlord may remit such sum to the State Treasurer as unclaimed property on a form prescribed by the administrator that includes the name; social security number, if known; and last known address of each tenant on the rental agreement. If the landlord or managing agent is a real estate licensee, compliance with this subsection shall be deemed compliance with § 54.1-2108 and corresponding regulations of the Real Estate Board.

~~C.~~ D. Nothing in this section shall be construed by a court of law or otherwise as entitling the tenant, upon the termination of the tenancy, to an immediate credit against the tenant's delinquent rent account in the amount of the security deposit. The landlord shall apply the security deposit in accordance with this section within the 45-day time period required by subsection A. However, provided that the landlord has given prior written notice in accordance with this section, the landlord may withhold a reasonable portion of the security deposit to cover an amount of the balance due on the water, sewer, or other utility account that is an obligation of the tenant to a third-party provider under the rental agreement for the dwelling unit, and upon payment of such obligations the landlord shall provide written confirmation to the tenant within 10 days, along with payment to the tenant of any balance otherwise due to the tenant. In order to withhold such funds as part of the disposition of the security deposit, the landlord shall have so advised the tenant of his rights and obligations under this section in (i) a termination notice to the tenant in accordance with this chapter, (ii) a written notice to the tenant confirming the vacating date in accordance with this section, or (iii) a separate written notice to the tenant at least 15 days prior to the disposition of the security deposit. Any written notice to the tenant shall be given in accordance with § 55.1-1202.

The tenant may provide the landlord with written confirmation of the payment of the final water, sewer, or other utility bill for the dwelling unit, in which case the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period required by subsection A. If the tenant provides such written confirmation after the expiration of the 45-day period, the landlord shall refund any remaining balance of the security deposit held to the tenant within 10 days following the receipt of such written confirmation provided by the tenant. If the landlord otherwise receives confirmation of payment of the final water, sewer, or other utility bill for the dwelling unit, the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period.

~~D.~~ E. Nothing in this section shall be construed to prohibit the landlord from making the disposition of the

security deposit prior to the 45-day period required by subsection A and charging an administrative fee to the tenant for such expedited processing, if the rental agreement so provides and the tenant requests expedited processing in a separate written document.

~~E.~~ *F.* The landlord shall notify the tenant in writing of any deductions provided by this section to be made from the tenant's security deposit during the course of the tenancy. Such notification shall be made within ~~30~~ 15 days of the date of the determination of the deduction and shall itemize the reasons in the same manner as provided in subsection F. No such notification shall be required for deductions made less than ~~30~~ 15 days prior to the termination of the rental agreement. If the landlord willfully fails to comply with this section, the court shall order the return of the security deposit to the tenant, together with actual damages and reasonable attorney fees, unless the tenant owes rent to the landlord, in which case the court shall order an amount equal to the security deposit credited against the rent due to the landlord. In the event that damages to the premises exceed the amount of the security deposit and require the services of a third-party contractor, the landlord shall give written notice to the tenant advising him of that fact within the 45-day period required by subsection A. If notice is given as prescribed in this subsection, the landlord shall have an additional ~~15-day~~ 10-day period to provide an itemization of the damages and the cost of repair. This section shall not preclude the landlord or tenant from recovering other damages to which he may be entitled under this chapter. The holder of the landlord's interest in the premises at the time of the termination of the tenancy, regardless of how the interest is acquired or transferred, is bound by this section and shall be required to return any security deposit received by the original landlord that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's interest by law or equity, regardless of any contractual agreements between the original landlord and his successors in interest.

~~F.~~ *G.* The landlord shall:

1. Maintain and itemize records for each tenant of all deductions from security deposits provided for under this section that the landlord has made by reason of a tenant's noncompliance with § 55.1-1227, or for any other reason set out in this section, during the preceding two years; and

2. Permit a tenant or his authorized agent or attorney to inspect such tenant's records of deductions at any time during normal business hours.

~~G.~~ *H.* Upon request by the landlord to a tenant to vacate, or within five days after receipt of notice by the landlord of the tenant's intent to vacate, the landlord shall provide written notice to the tenant of the tenant's right to be present at the landlord's inspection of the dwelling unit for the purpose of determining the amount of security deposit to be returned. If the tenant desires to be present when the landlord makes the inspection,

he shall, in writing, so advise the landlord, who in turn shall notify the tenant of the date and time of the inspection, which must be made within 72 hours of delivery of possession. Following the move-out inspection, the landlord shall provide the tenant with a written security deposit disposition statement, including an itemized list of damages. If additional damages are discovered by the landlord after the security deposit disposition has been made, nothing in this section shall be construed to preclude the landlord from recovery of such damages against the tenant, provided, however, that the tenant may present into evidence a copy of the move-out report to support the tenant's position that such additional damages did not exist at the time of the move-out inspection.

~~H. I.~~ If the tenant has any assignee or sublessee, the landlord shall be entitled to hold a security deposit from only one party in compliance with the provisions of this section.

~~I. J.~~ The landlord may permit a tenant to provide damage insurance coverage in lieu of the payment of a security deposit. Such damage insurance in lieu of a security deposit shall conform to the following criteria:

1. The provider of damage insurance is licensed or approved by the Virginia State Corporation Commission;

2. The coverage is effective upon the payment of the first premium and remains effective for the entire lease term;

3. The coverage provided per claim is no less than the amount the landlord requires for security deposits;

4. The provider of damage insurance agrees to approve or deny payment of a claim; and

5. The provider of damage insurance shall notify the landlord within 10 days if the damage policy lapses or is canceled.

~~J. K.~~ A tenant who initially opts to provide damage insurance in lieu of a security deposit may, at any time without consent of the landlord, opt to pay the full security deposit to the landlord in lieu of maintaining a damage insurance policy. The landlord shall not alter the terms of the lease in the event a tenant opts to pay the full amount of the security deposit pursuant to this subsection.

§ 55.1-1311. Other provisions of law applicable.

Section 55.1-1202, subsection A of § 55.1-1204, and §§ 55.1-1203, 55.1-1207, 55.1-1208, 55.1-1216, 55.1-1224, 55.1-1226, 55.1-1228, 55.1-1234 through 55.1-1252, and 55.1-1259 shall, insofar as they are not inconsistent with this chapter, apply, mutatis mutandis, to the rental and occupancy of a manufactured home lot, including termination of a lot lease if a tenant commits a remediable breach and, after remedying such breach, intentionally commits a subsequent breach of a like nature, during the same lease term.

545 2. That nothing in this act shall invalidate, alter, or otherwise affect any rental agreements entered into
546 or renewed prior to July 1, 2026.