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14 NEW LAWS THAT ARE MORE FAIR, FAVORABLE & FRIENDLY TO TENANTS

In 2020, 14 new laws were passed that are more fair, favorable and friendly to tenants and homeowners. Three took effect on April 22, 2020. Nine more will take effect on July 1, 2020. A 13th will take effect January 1, 2021, and a 14th will take effect January 1, 2022. These laws passed as a response to the high rate of evictions in Virginia, which are more than two times the national average. In many Virginia cities, evictions are more than four times the national average. These are the 14 new laws.

Ban on Source of Funds Discrimination (HB 6). Under current law, no one may be denied housing due to race, color, religion, national origin, sex (including sexual orientation & sexual harassment), family status (having children under 18, or being pregnant), elderliness (55 or older), or disability. A landlord may deny housing because a tenant wants to use a housing voucher or other source of funds.

Starting July 1, 2020, source of funds will be added to the reasons why a person may not be denied housing. There are a couple exceptions. The law does not apply to owners of four or fewer rental units in Virginia, or those who own a 10% or less interest in four or more units. The law also does not apply if the source of funds is not approved within 15 days of submitting the request to approve the tenancy.

Code of Virginia §§36-96.1:1, 36-96.3

Protecting Status of Domestic Abuse Survivors (HB 99). Under current law, landlords do not have to consider a person's status as a domestic abuse survivor when reviewing an application to rent. In many cases, being a survivor of domestic abuse has after-effects that include a lower credit score.

Starting July 1, 2020, a landlord must consider a person's status as a domestic abuse survivor when reviewing a credit score in a rental application. Survivor status can be shown by a court order, police report, or letter from a sexual & domestic violence program, housing counselor, or attorney. If the landlord violates the law, the survivor can recover actual damages, all amounts paid to the landlord, and attorney's fees.

Code of Virginia §§36-96.2, 55.1-1203(D), 55.1-1209(B).

Notice to Tenants about Legal Rights (HB 393 / SB 707). Under current law, landlord leases do not have to explain tenant rights. Many tenants do not know basic laws about issues such as evictions, repairs, and security deposits.

Starting July 1, 2020, landlords must offer to potential tenants a statement of tenant rights on the website of the Department of Housing and Community Development (DHCD), which will contain the telephone number and website of the statewide legal aid organization. This statement must be signed by both landlord and tenant. A landlord may not sue a tenant in any court for any reason unless this statement has been signed.

Code of Virginia §§36-139(26), 55.1-1204(B), 55.1-1204(G).

Notice to Subsidized Tenants about Legal Aid (HB 519 / SB 115). Under current law, a public housing authority must put on any notice terminating a tenancy the name, address, and phone number of the local legal aid program. This helps protect our most vulnerable tenants.

Starting July 1, 2020, all landlords must put on any notice terminating a subsidized tenancy the statewide legal aid telephone number and website address. The notice will not be effective without this information.

Code of Virginia §55.1-1202(D).

Notice to Public Housing Tenants of Intent to Demolish (HB 921 / SB 708). Under current law, a public housing authority (PHA) does not have to notify tenants when they intend to demolish or dispose of housing. This keeps vulnerable tenants from being able to plan ahead.

Starting January 1, 2021, a PHA that wishes to demolish or dispose of housing must give 12 months' advance notice to the Virginia Housing Development Authority (VHDA), to any agency giving rental assistance to tenants who would be displaced, and to each individual tenant before filing a demolition application with HUD. The notice must say:

- The expected date an application to demolish or dispose will be given to HUD.
- The name, address, and phone number of the local legal aid program.
- Instructions how to get more information about the application and timeline.
- Instructions how to give written comments to the PHA about the demolition or disposal.

During this 12 month period, the PHA cannot increase rent, change leases, or evict residents except as allowed by law.

Code of Virginia §36-7.2.

Security Deposit Insurance (HB 1333). Under current law, a landlord can charge a security deposit of up to two months' rent. However, many tenants do not get their security deposit from their prior landlord returned for up to 45 days. This makes it difficult to pay the next security deposit.

Starting July 1, 2020, landlords may allow tenants to provide security deposit insurance for all or part of the security deposit requirement. This will make it easier for tenants to move from one rental unit to another.

Code of Virginia §§55.1-1204, 55.1-1226

Limits on Late Fees (HB 1420). Under the old law, there was no limit in the statute on late fees. Some courts would not allow more than 10% late fees. Other courts would enforce any late fee in the lease. Nonpayment of excessive late fees is a frequent cause of eviction.

Effective April 22, 2020, a landlord may charge a late fee of 10% of the periodic (monthly or weekly) rent, or 10% of the remaining balance due and owed, whichever is smaller, and only if the late fee is provided for in the written lease agreement.

Code of Virginia §55.1-1204(E).

Repair and Deduct (SB 905). Under current law, tenants have only one way to get repairs. They must be current in rent. They must give written notice to the landlord of needed repairs. They must wait a reasonable period of time for repairs to be made. If repairs are not made, they must pay next month's rent to the court and file a Tenant's Assertion.

Starting July 1, 2020, tenants will have another way to get repairs. They can give a written notice to the landlord of needed repairs and wait 14 days. If repairs are not made, they can contract with a licensed contractor or pesticide business to get the needed work done. The cost cannot be more than \$1,500, or one month's rent, whichever is higher. The tenant can deduct the cost of the repairs from the rent by giving the landlord an itemized statement of the work and a receipt for the work.

Code of Virginia §55.1-1244.1.

Relief to Tenants and Homeowners due to Federal Government Shutdown (HB 340). Under the old law, people unable to pay their rent or mortgage due to a federal government shutdown did not get any special treatment. This caused unneeded hardship for tenants and homeowners behind on their rent or mortgage due to no fault of theirs.

Effective April 22, 2020, a closing of the federal government for 14 or more days triggers protections. These protections apply to federal employees, contractors for the federal government, and employees of a contractor for the federal government.

If a landlord sues to evict for nonpayment of rent due after the start of a federal shutdown, the tenant not getting paid due to the shutdown can get the case postponed for 60 days. The tenant must come to court and give written proof of not getting paid due to the shutdown.

If a homeowner defaults on a mortgage and is subject to foreclosure after the start of a federal shutdown, the homeowner can get the foreclosure stopped for 30 days. The homeowner can do this up to 90 days after the shutdown ends. The homeowner must give written proof of not getting paid due to the shutdown.

Code of Virginia §44-209.

Relief to Tenants and Homeowners Affected by COVID-19 (HB 340). Under the old

law, people affected by COVID-19 who were unable to pay their rent or mortgage did not get any special treatment. This caused unneeded hardship for tenants and homeowners behind on their rent or mortgage due to no fault of theirs.

Effective April 22, 2020, the protections given to tenants and homeowners affected by a federal government shutdown also will be given to tenants and homeowners affected by COVID-19. Affected by COVID-19 means any loss of income due to the COVID-19 state of emergency. The COVID-19 state of emergency started March 12, 2020 and ends June 10, 2020, unless changed by another order from the Governor. Affected by COVID-19 also means an individual currently is not getting wages or payments, from a public or private source, that previously were being received.

If a landlord sues to evict for nonpayment of rent that was unpaid during the COVID-19 state of emergency, a tenant can get the case postponed for 60 days. The tenant must come to court and give written proof of not getting wages or payments. Written proof means a paystub showing zero dollars in earnings for a pay period during the COVID-19 state of emergency, or a copy of a furlough letter or letter showing the person is a nonessential employee due to the COVID-19 state of emergency, or any other appropriate documentation.

This protection does not apply to tenants renting in properties participating in federal housing programs. These properties already have a 120 day federal moratorium on evictions and late fees from March 27 through July 25, 2020. Federal housing programs includes public housing, Section 8 project based, Section 8 voucher, Low-Income Housing Tax Credit (LIHTC), and properties with federally backed mortgages (FHA, Fannie Mae, Freddie Mac, VA, etc.). This protection for other tenants ends 90 days after the COVID-19 state of emergency ends.

If a homeowner defaults on a mortgage and is subject to foreclosure during the COVID-19 state of emergency, the homeowner can get the foreclosure stopped for 30 days. The homeowner must give to the lender the same type of written proof of not getting wages or payments. This protection for homeowners ends 90 days after the COVID-19 state of emergency ends.

Code of Virginia §44-209.

Ex parte (One Party) Orders if Tenant Unlawfully Excluded (HB 1401). Under current law, if a landlord does a lockout, self-help eviction, or utility cutoff, without a court order, the tenant may file a Petition for Relief from Unlawful Exclusion. The tenant can get an order to recover possession, resume the utility, actual damages, and attorney's fees. The tenant can do so only after the petition is served (legally delivered) on the landlord.

Starting July 1, 2020, a tenant can get temporary relief even if the landlord has not been served, and even if the landlord is not in court. This is an *ex parte* order. The tenant must have made a good faith effort to notify the landlord of the filing of the petition and the hearing. If temporary relief is granted, there must be a full hearing within five days.

Code of Virginia §55.1-1243(B).

Expunging Dismissed Eviction Lawsuits in General District Court (SB 640). Under current law, an eviction lawsuit filed in court stays on the court record for at least ten years, even if the lawsuit is dismissed. This record can harm tenants seeking rental housing in the future.

Starting January 1, 2022, if an eviction lawsuit is dismissed and more than six months have passed, the tenant can petition the court to expunge (remove) the court record.

Code of Virginia §8.01-130.01.

Notice of Sale to Mobile Home Park Residents (HB 1249). Under current law, if there is going to be change in use of a mobile home park, the owner must give the residents 180 days' advance written notice. The residents get no information about proposed sales of the park.

Starting July 1, 2020, a mobile home park owner who wants to sell the park must give 90 days' advance written notice of the asking price to each resident, and to the Department of Housing and Community Development (DHCD) for posting on its website. If the park owner gets an offer, the owner must give 60 days' advance written notice of that offer to each resident, and to DHCD for posting on its website. During that 60 days, the park owner must consider offers from a resident group representing at least 25 percent of the park residents.

Also under current law, a mobile home park resident who has been evicted has only 90 days to move or sell the mobile home, and cannot rent it to someone else. Starting July 1, 2020, a mobile home park resident who has been evicted may rent the mobile home to a tenant, who will pay lot rent to the park owner, and mobile home rent to the mobile home owner.

Code of Virginia §§55.1-1308, 55.1-1308.1, 55.1-1316(B).

Relocation Expenses to Mobile Home Park Residents (HB 334). Under current law, if the owner of a mobile home park wants to sell the park, the owner must give the residents 180 days' advance written notice if there is to be a change in use of the park. Because most mobile homes either cannot be moved, or can be moved only at great expense, this causes hardship.

Starting July 1, 2020, a mobile home park owner who wants to sell or redevelop the park for another use must – within the 180 day period – give each resident \$2,500 in relocation expenses. In Planning District 8 (most of northern Virginia), this amount is \$3,500. Relocation expenses are subject to an agreement between the owner and resident that the resident will remove the home from the park.

Code of Virginia §55.1-1308.1.

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