

HOUSE BILL NO. 996

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on _____)

(Patron Prior to Substitute--Delegate Anthony)

A BILL to amend and reenact §§ 55.1-1200, 55.1-1203, 55.1-1303, and 55.1-1311 of the Code of Virginia, relating to Department of Housing and Community Development; Virginia Residential Landlord and Tenant Act; Manufactured Home Lot Rental Act; notice of tenant screening criteria.

Be it enacted by the General Assembly of Virginia:

1. That §§ 55.1-1200, 55.1-1203, 55.1-1303, 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.

"Adverse action" means the same as that term is defined in 15 U.S.C. § 1681a.

"Application deposit" means any 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 paid by a tenant to a landlord for the purpose of being considered as a tenant for a dwelling unit.

"Application fee" means any nonrefundable fee that is paid by a 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.

27 "Building or housing code" means any law, ordinance, or governmental regulation concerning
28 fitness for habitation or the construction, maintenance, operation, occupancy, use, or appearance of any
29 structure or that part of a structure that is used as a home, residence, or sleeping place by one person who
30 maintains a household or by two or more persons who maintain a common household.

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

33 "Community land trust" means a community housing development organization whose (i)
34 corporate membership is open to any adult resident or organization of a particular geographic area
35 specified in the bylaws of the organization and (ii) board of directors includes a majority of members who
36 are elected by the corporate membership and are composed of tenants, corporate members who are not
37 tenants, and any other category of persons specified in the bylaws of the organization and that:

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

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

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

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

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

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

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

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

59 "Interior of the dwelling unit" means the inside of the dwelling unit, consisting of interior walls,
60 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
62 such dwelling unit is a part. "Landlord" also includes a managing agent of the premises who fails to
63 disclose the name of such owner, lessor, or sublessor. Such managing agent shall be subject to the
64 provisions of § 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
66 behalf of the landlord pursuant to the written property management agreement.

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

78 "Natural person," wherever the chapter refers to an owner as a "natural person," includes co-
79 owners who are natural persons, either as tenants in common, joint tenants, tenants in partnership, tenants
80 by the entirety, trustees or beneficiaries of a trust, general partnerships, limited liability partnerships,

81 registered limited liability partnerships or limited liability companies, or any other lawful combination of
82 natural persons permitted by law.

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

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

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

- 96 1. All or part of the legal title to the property; or
- 97 2. All or part of the beneficial ownership and a right to present use and enjoyment of the premises.

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

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

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

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

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
113 rules and regulations adopted under § 55.1-1228 embodying the terms and conditions concerning the use
114 and occupancy of a dwelling unit and premises.

115 "Rental application" means the written application or similar document used by a landlord to
116 determine if 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
118 combination multi-peril policy containing fire, miscellaneous property, and personal liability coverage
119 insuring personal property located in dwelling units not occupied by the owner.

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

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

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

132 "Single-family residence" means a structure, other than a multifamily residential structure,
133 maintained and used as a single dwelling unit, condominium unit, or any other dwelling unit that has direct

134 access to a street or thoroughfare and does not share heating facilities, hot water equipment, or any other
135 essential facility or essential service with any other dwelling unit.

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

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

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

145 "Utility" means electricity, natural gas, or water and sewer provided by a public service corporation
146 or such other person providing utility services as permitted under § 56-1.2. If the rental agreement so
147 provides, a landlord may use submetering equipment or energy allocation equipment as defined in § 56-
148 245.2 or a ratio utility billing system as defined in § 55.1-1212.

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

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

157 **§ 55.1-1203. Application; deposit, fee, and additional information.**

158 A. 1. Prior to collecting any fee, deposit, or information from an applicant, a landlord shall notify
159 applicants in writing or post in a conspicuous manner (i) the amount and purpose of each fee or deposit
160 that may be charged to an applicant and whether such fee or deposit is refundable, (ii) any information

161 that may be used to assess an applicant's eligibility for tenancy, and (iii) any criteria that may result in
162 automatic denial of an application.

163 2. The landlord shall review applications in the order in which they are received. If, after reviewing
164 an application, the landlord takes an adverse action, the landlord shall send notice to the applicant pursuant
165 to and in accordance with the federal Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.), including a
166 written statement of the reasons for such adverse action. If the landlord fails to review an application
167 within 14 days of receipt of the application, the landlord shall notify the applicant of such failure.

168 3. Any landlord may require a refundable application deposit in addition to a refundable or
169 nonrefundable application fee. If the applicant fails to rent the unit for which application was made, from
170 the application deposit the landlord shall refund to the applicant within ~~20~~ a reasonable time, not to exceed
171 14 days, after the applicant's failure to rent the unit or the landlord's rejection of the application all sums
172 in excess of the landlord's actual expenses and damages together with an itemized list of such expenses
173 and damages. If, however, the application deposit was made by cash, certified check, cashier's check, or
174 postal money order, such refund shall be made within 10 days of the applicant's failure to rent the unit if
175 the failure to rent is due to the landlord's rejection of the application. Failure to review an application
176 within 14 days of receipt constitutes a rejection for purposes of this subdivision. If the landlord fails to
177 comply with this section, the applicant may recover as damages suffered by him that portion of the
178 application deposit wrongfully withheld and reasonable attorney fees.

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

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

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

203 **§ 55.1-1303. Landlord's obligations.**

204 The landlord shall:

205 1. Comply with applicable laws governing health, zoning, safety, and other matters pertaining to
206 manufactured home parks;

207 2. Make all repairs and do whatever is necessary to put and keep the manufactured home park in a
208 fit and habitable condition, including maintaining in a clean and safe condition all facilities and common
209 areas provided by the landlord for use by the tenants of two or more manufactured home lots;

210 3. Maintain in good and working order and condition all electrical, plumbing, sanitary, heating,
211 ventilating, air conditioning, and other facilities and appliances supplied or required to be supplied by the
212 landlord;

213 4. Provide and maintain appropriate receptacles as a manufactured home park facility, except when
214 door-to-door garbage and waste pickup is available within the manufactured home park for the collection

215 and storage of garbage and other waste incidental to the occupancy of the manufactured home park, and
216 arrange for the removal of the garbage and other waste;

217 5. Provide reasonable access to electric, water, and sewage disposal connections for each
218 manufactured home lot. In the event of a planned disruption by the landlord in electric, water, or sewage
219 disposal services, the landlord shall give written notice to tenants no less than 48 hours prior to the planned
220 disruption in service; ~~and~~

221 6. Within a reasonable time, not to exceed 14 days, after the landlord's rejection of an application
222 for tenancy or an applicant's failure to rent a unit upon being notified of his eligibility for tenancy, refund
223 from any application deposit made by such applicant all sums in excess of the landlord's actual expenses
224 and damages together with an itemized list of such expenses and damages. Failure to review an application
225 within 14 days of receipt constitutes a rejection for purposes of this subdivision; and

226 ~~6-7.~~ Provide a copy of any written rental agreement and the statement of tenant rights and
227 responsibilities to the tenant within one month of the effective date of the written rental agreement. The
228 parties to a written rental agreement shall sign the form developed by the Department of Housing and
229 Community Development and posted on its website pursuant to § 36-139 acknowledging that the tenant
230 has received from the landlord the statement of tenant rights and responsibilities. If a tenant fails to sign
231 the form available pursuant to this subsection, the landlord shall record the date or dates on which he
232 provided the form to the tenant and the fact that the tenant failed to sign such form. Subsequent to the
233 effective date of the tenancy, a landlord may, but shall not be required to, provide a tenant with and allow
234 such tenant an opportunity to sign the form described pursuant to this subsection. The failure of the
235 landlord to deliver such a rental agreement and statement shall not affect the validity of the agreement.
236 However, the landlord shall not file or maintain an action, including any summons for unlawful detainer,
237 against the tenant in a court of law for any alleged lease violation until he has provided the tenant with the
238 statement of tenant rights and responsibilities.

239 **§ 55.1-1311. Other provisions of law applicable.**

240 Section 55.1-1202, subsections A, C, and D of § 55.1-1203, subsection A of § 55.1-1204, §§ 55.1-
241 1207, 55.1-1208, 55.1-1216, 55.1-1224, 55.1-1226, 55.1-1228, 55.1-1234 through 55.1-1249, 55.1-1251,

242 55.1-1252, and 55.1-1259 shall, insofar as they are not inconsistent with this chapter, apply, mutatis
243 mutandis, to the rental and occupancy of a manufactured home lot.

244 #