

Table of Contents

CHAPTER 1. COVID19 PANDEMIC

- § 1:1 Status of current dispute
- § 1:2 Tenant screening protections

CHAPTER 2. REGISTERED AGENTS FOR NONRESIDENT OWNERS

- § 2:1 Non-resident owner of residential
- § 2:2 Non-Residential owners of commercial rental property

CHAPTER 3. CREATION OF TENANCY

- § 3:1 Kinds of tenancies
- § 3:2 Nature and creation
- § 3:3 Protection of Tenants after Foreclosure on Landlord
- § 3:4 Statute of conveyances—Statute of frauds
- § 3:5 Delivery of possession
- § 3:6 Letter of intent
- § 3:7 Covenant
- § 3:8 Options to renew or purchase
- § 3:9 Disclosures by landlord where option to buy in lease
- § 3:10 Amendment of lease/option
- § 3:11 Ground rents—In general
- § 3:12 —Residential Ground Rent Act
- § 3:13 Property description
- § 3:14 Referral fee to residential tenant

CHAPTER 4. RULES OF CONSTRUCTION

- § 4:1 Applicable law
- § 4:2 Interpretation
- § 4:3 Restrictions on use
- § 4:4 Statutory shorthand
- § 4:5 Construction of remedial statutes
- § 4:6 Materiality of breach

CHAPTER 5. FORFEITURE AND RIGHT OF REDEMPTION

- § 5:1 Forfeiture

CHAPTER 6. VIRGINIA’S COMMON LAW

- § 6:1 Applicable Code Chapters

- § 6:2 Rent
- § 6:3 —Statutory shorthand
- § 6:4 Constructive eviction
- § 6:5 Quiet possession—Statutory shorthand
- § 6:6 Landlord’s right of access
- § 6:7 Landlord and tenant’s duties to repair and/or rebuild
- § 6:8 Waste
- § 6:9 Abandonment—*tenBraak v. Waffle Shops, Inc.*
- § 6:10 Holdover
- § 6:11 Assignment—Sublease
- § 6:12 —Statutory shorthand
- § 6:13 Self-help—Landlord’s right to use self-help
- § 6:14 —Tenant’s right to use self-help
- § 6:15 Improvements, alterations, and fixtures—Buildings
- § 6:16 —Fixtures
- § 6:17 —Trade fixtures
- § 6:18 —Anti-crime or security systems
- § 6:19 —Emblements
- § 6:20 —Damages
- § 6:21 —Submetering, energy allocation equipment, and ratio billing
- § 6:22 —Conversion for rehabilitation, etc.

CHAPTER 7. VIRGINIA RESIDENTIAL RENTAL AGREEMENTS

- § 7:1 Overview with key changes and new code sections
- § 7:2 Residential Executory Real Estate Contracts Act
- § 7:3 *[Reserved]*
- § 7:4 Virginia Consumer Protection Act
- § 7:5 Board for Housing and Community Development
- § 7:6 Historical perspective of the VRLTA
- § 7:7 Constitutional challenge
- § 7:8 Good faith
- § 7:9 Unconscionability
- § 7:10 Purposes and applicability of the VRLTA (§ 55.1-1201 subsection E and 55.1-1201 subsections A through D)
- § 7:11 Definitions (§ 55.1-1200)
- § 7:12 Application of the VRLTA (§ 55.1-1201 subsections A through D)—In general
- § 7:13 Transient lodging
- § 7:14 What is notice and how to serve it (§ 55.1-1202)—
What is notice
- § 7:15 —How to serve notice

TABLE OF CONTENTS

§ 7:16	—Public housing notice requirement
§ 7:17	Statewide legal aid contact info
§ 7:18	Application; deposit, fee, and additional information (§ 55.1-1203)
§ 7:19	Terms and conditions of rental agreement and permitted insurance (§§ 55.1-1204, 55.1-1204.1, 55.1-1206)—In general, fee disclosure statement
§ 7:20	Landlord may obtain certain insurance
§ 7:21	Terms and conditions of rental agreement (§§ 55.1-1204)—Late fee
§ 7:22	—Assignment and subleasing
§ 7:23	Terms and conditions of rental agreement (§§ 55.1- 1204, 55.1-1207)—Delivery of lease
§ 7:24	Terms and conditions of rental agreement (§§ 55.1- 1204 55.1-1207)—No unilateral change without written consent
§ 7:25	Prepaid rent; Maintenance of escrow account (§ 55.1-1205)
§ 7:26	Prohibited provisions (§ 55.1-1208)
§ 7:27	Confidential information (§ 55.1-1209)
§ 7:28	Employees of the landlord; rental dwelling unit keys and electronic key codes; policies and procedures § 55.1–1209.1
§ 7:29	Landlord’s obligations (§§ 55.1-1220 et seq.)— Overview
§ 7:30	Landlord’s obligations (§ 55.1-1220)—Security deposits and inspection (§§ 55.1-1226 55.1-1214)— Amount and definition
§ 7:31	— —Application of deposit
§ 7:32	Landlord’s obligations (§§ 55.1-1220 et seq.)—Security deposits and inspection (§§ 55.1-1226 55.1-1214)— Time limitations and inspections
§ 7:33	— —Interest
§ 7:34	— —Maintenance and inspection of records
§ 7:35	— —Assignee’s duties
§ 7:36	— —Duty to transfer the deposit to landlord’s assignee
§ 7:37	—Disclosure (§ 55.1-1216)
§ 7:38	—Security deposits and inspection (§ 55.1-1226)— Duty of landlord to pay deposit to tenant’s assignee (§ 55.1-1226)
§ 7:39	—Landlord’s duty to maintain premises—Perspective
§ 7:40	— —Duties
§ 7:41	—Landlord’s duty to maintain premises (§ 55.1-1220)—Shifting of duty
§ 7:42	— —Locks and peepholes (§ 55.1-1221)

VIRGINIA LANDLORD—TENANT HANDBOOK

- § 7:43 — —Access to cable, satellite, etc. (§ 55.1-1222)
- § 7:44 — —Notice to tenants for pesticide use (§ 55.1-1223)
- § 7:45 — —Limitation of liability (§ 55.1-1224)
- § 7:46 — —Effect of notice to change terms (§ 55.1-1225)
- § 7:47 Tenant obligations (§§ 55.1-1227-55.1-1233)—
Preliminary remarks
- § 7:48 Tenant obligations (§ 55.1-1227)—Tenant to maintain
dwelling unit (§ 55.1-1227)
- § 7:49 —Rules and regulations (§ 55.1-1228)
- § 7:50 —Access; Consent; correction of nonemergency
conditions; relocation of tenant; security systems.
(§ 55.1-1229)
- § 7:51 Access under protective orders (§ 55.1-1230)
- § 7:52 Relocation of tenant for mold remediation
(§ 55.1-1231)
- § 7:53 Tenant obligations (§ 55.1-1227)—Use and occupancy
by tenant (§ 55.1-1232) & child care (§ 55.1-1208.1)
- § 7:54 Tenant obligations (55.1-1227)—Tenant to surrender
at end of term (§ 55.1-1233)
- § 7:55 Tenant remedies (§§ 55.1-1224-55.1-1244)—Overview
- § 7:56 Tenant remedies (§ 55.1-1234)—Noncompliance by
landlord (§ 55.1-1234)
- § 7:57 — —Notice required
- § 7:58 — —Computation of notice time
- § 7:59 —Early termination by military and foreign service
(§ 55.1-1235)
- § 7:60 —Early termination by victims of abuse (§ 55.1-1236)
- § 7:61 Protection of Tenants after Foreclosure on Landlord
- § 7:62 Failure to deliver possession (§ 55.1-1238)
- § 7:63 Landlord's failure to provide essential services
(§ 55.1-1239)
- § 7:64 Fire or casualty damage (§ 55.1-1240)
- § 7:65 Landlord's noncompliance as a defense (§ 55.1-1241)
- § 7:66 —Defenses available to tenant
- § 7:67 —Written notice condition
- § 7:68 —Rent-paid-into-court condition
- § 7:69 Tenant's right to repair and deduct (§ 55.1-1244.1)
- § 7:70 Landlord's noncompliance as a defense
(§ 55.1-1241)—Landlord's response to tenant's
defense
- § 7:71 —Court's order
- § 7:72 —Tenant's bad faith
- § 7:73 —Tenant not in possession
- § 7:74 —Landlord's claim unrelated to rent
- § 7:75 Pre-trial rent escrow required by tenant to continue
or try unlawful detainer (§ 55.1-1242)

TABLE OF CONTENTS

§ 7:76	Tenant's remedies for unlawful ouster, service interruption, or being made unsafe (§ 55.1-1243.1) or due to condemnation (§ 55.1-1243.2)
§ 7:77	Tenant's assertion; Rent escrow—In general (§ 55.1-1244(A))
§ 7:78	—Conditions for relief (§ 55.1-1244(B-C))
§ 7:79	—Order of court (§ 55.1-1244 (D))
§ 7:80	—Hearing on declaration (§ 55.1-1244 (F))
§ 7:81	Landlord remedies—Tenant's noncompliance (§ 55.1-1245)
§ 7:82	— —Family abuse protective order, effect of
§ 7:83	— —Nonpayment of rent
§ 7:84	— —Non-rent breaches
§ 7:85	— —Non-remediable breach
§ 7:86	— —Criminal or willful conduct
§ 7:87	— —Recurring breach
§ 7:88	— —Attorney's fees
§ 7:89	—Computation of notice time
§ 7:90	—Sheriff authorized to serve (§ 55.1-1247)
§ 7:91	—Barring guest or invitee of tenant (§ 55.1-1246)
§ 7:92	Landlord's remedy for tenant's failure to maintain (§ 55.1-1248)
§ 7:93	Who may recover rent or possession—Non-lawyers
§ 7:94	Tenant's absence, nonuse and abandonment (§ 55.1-1249)
§ 7:95	Landlord's acceptance of rent with reservation & tenant's right of redemption (§ 55.1-1250)
§ 7:96	Landlord's remedy after termination (§ 55.1-1251)
§ 7:97	Self-help prohibited (§ 55.1-1252)
§ 7:98	Holdover remedies—Periodic tenancies (§ 55.1-1253)
§ 7:99	Remedies for abuse of access (§ 55.1-1210)
§ 7:100	Disposal of abandoned property (§ 55.1-1254)—By landlord
§ 7:101	—By sheriff (§ 55.1-1255)
§ 7:102	Disposal of deceased tenant's property (§ 55.1-1256)
§ 7:103	Retaliatory action (§ 55.1-1258)—In general
§ 7:104	—The VRLTA
§ 7:105	Actions to enforce VRLTA (§ 55.1-1259)
§ 7:106	Submetering, energy allocation equipment and ratio billing

CHAPTER 8. MANUFACTURED HOME LOT RENTAL ACT §§ 55.1-1300 ET SEQ.

§ 8:1	In general
§ 8:2	Application of act

- § 8:3 Written rental agreement
- § 8:4 Landlord's obligations
- § 8:5 Tenant's obligations
- § 8:6 Prohibited charges
- § 8:7 Access
- § 8:8 Free choice of vendors
- § 8:9 Termination of tenancy (§ 55.1-1308 et seq)
- § 8:10 Waiver of landlord's right to terminate
- § 8:11 Self-help
- § 8:12 Sale or lease of manufactured home by owner
- § 8:13 Retaliatory conduct
- § 8:14 Right to sell manufactured home upon eviction
(§ 55.1-1316)
- § 8:15 Penalties
- § 8:16 Transfer of deposits
- § 8:17 Injunctive relief
- § 8:18 Local governments

CHAPTER 9. LIABILITY WITH RESPECT TO CONDITION OF PREMISES

- § 9:1 In general
- § 9:2 Avoidance of liability by delegation
- § 9:3 Common law duty—Open and obvious
- § 9:4 —Common areas
- § 9:5 —Ice and snow
- § 9:6 —Latent defects—Proper use
- § 9:7 — —Standard of care
- § 9:8 Landlord's liability for acts of tenant and tenant's employees
- § 9:9 Landlord's liability for criminal acts of third persons—
Tort
- § 9:10 —Contract liability
- § 9:11 Landlord's liability for repairs made
- § 9:12 Exoneration and exculpatory clauses
- § 9:13 Liability of landlord under Virginia Residential
Landlord and Tenant Act
- § 9:14 Duty to provide lighting
- § 9:15 Lead-based paint maintenance immunity

CHAPTER 10. WAIVER AND ESTOPPEL

- § 10:1 Waiver and estoppel

CHAPTER 11. LANDLORD'S LIEN

- § 11:1 Landlord's lien in general

TABLE OF CONTENTS

§ 11:2 Landlord's lien in residential cases

CHAPTER 12. ATTORNEY'S FEES

§ 12:1 In general

§ 12:2 Virginia Residential Landlord and Tenant Act

CHAPTER 13. SERVICEMEMBERS CIVIL RELIEF ACT

§ 13:1 In general

§ 13:2 Application of Act

§ 13:3 Landlord and tenants

§ 13:4 Secured transactions

§ 13:5 Default judgments

§ 13:6 Stay of proceedings

§ 13:7 § 8.01-15.2. Servicemembers Civil Relief Act; default judgment; appointment of counsel

§ 13:8 Duration of stay and action to be taken

§ 13:9 Interest

§ 13:10 Statute of limitations

CHAPTER 14. BANKRUPTCY AND LEASES

§ 14:1 Introduction

§ 14:2 Lease

§ 14:3 Automatic stay—Application of the stay

§ 14:4 —Exemptions to the stay

§ 14:5 —Automatic termination of the stay

§ 14:6 —Relief from the stay

§ 14:7 —Violation of the stay

§ 14:8 —Procedure for relief from stay (Rule 4001(a))—To obtain relief from the stay

§ 14:9 — —Agreement as to the stay

§ 14:10 Creditors' meeting

§ 14:11 Abandonment

§ 14:12 Use, sale or lease of property

§ 14:13 Sale of jointly owned property

§ 14:14 Restrictive clauses regarding bankruptcy, assignment, etc.

§ 14:15 Assignment of lease

§ 14:16 Assumption or rejection of unexpired leases—In general

§ 14:17 —Nonresidential lease

§ 14:18 —Defaults

§ 14:19 —Shopping center leases

§ 14:20 —Services and supplies

- § 14:21 —Effect of rejection
- § 14:22 —Effect of use before rejection
- § 14:23 —Effect of assumption
- § 14:24 —Time to assume or reject—Residential
- § 14:25 — —Nonresidential
- § 14:26 Estoppel to avoid automatic rejection
- § 14:27 The debtor landlord
- § 14:28 Landlord's lien
- § 14:29 Deposits and other claims
- § 14:30 Fraudulent conveyances from pre-petition lease terminations

CHAPTER 15. FAIR HOUSING

- § 15:1 In general
- § 15:2 Protected classes
- § 15:3 Exemptions from fair housing laws
- § 15:4 Source of funds
- § 15:5 Sexual orientation
- § 15:6 Gender identity
- § 15:7 Military Status
- § 15:8 Familial status
- § 15:9 Handicap status—Under state and federal FHA
- § 15:10 —Virginia Disability Act
- § 15:11 Permitted inquiries
- § 15:12 Modifications and accommodations for the handicapped
- § 15:13 Assistance Animal Accommodation
- § 15:14 “All adult” buildings
- § 15:15 Administrative and civil enforcement provisions—
Under Virginia's law
- § 15:16 —Under federal law
- § 15:17 Americans with Disabilities Act of 1990

CHAPTER 16. EMINENT DOMAIN

- § 16:1 In general
- § 16:2 Procedure
- § 16:3 Tenant's entitlements
- § 16:4 Condemnation clauses
- § 16:5 —Reserved rent on a temporary or partial taking
- § 16:6 Special damages

CHAPTER 17. DIPLOMATS

- § 17:1 In general
- § 17:2 Head of mission and diplomatic staff

TABLE OF CONTENTS

- § 17:3 Family of diplomatic agent
- § 17:4 Administrative and technical staff
- § 17:5 Service staff
- § 17:6 Private servants
- § 17:7 Civil proceedings
- § 17:8 Landlord and tenant aspect
- § 17:9 Jurisdiction

CHAPTER 18. USING THE CONSUMER PRICE INDEX

- § 18:1 In general
- § 18:2 Guidelines for escalation clauses
- § 18:3 Calculating the CPI changes
- § 18:4 Sample CPI escalation clause

CHAPTER 19. DAMAGES FOR BREACH

- § 19:1 Virginia's common law—In general
- § 19:2 —Damages for abandonment
- § 19:3 —Rent
- § 19:4 —Waste
- § 19:5 —Failure to deliver possession
- § 19:6 —Lost profits
- § 19:7 —Trespass
- § 19:8 Virginia Residential Landlord and Tenant Act
- § 19:9 Penalty

CHAPTER 20. REMEDIES

- § 20:1 Injunctive relief
- § 20:2 Ejectment
- § 20:3 Unlawful detainer and entry—Tenant & landlord remedies
- § 20:4 —Procedural aspects
- § 20:5 —Appeal
- § 20:6 —Pre-trial rent escrow
- § 20:7 Distress—In general
- § 20:8 —The petition and bond
- § 20:9 —The levy
- § 20:10 —Priority of lien
- § 20:11 —Limits of distress
- § 20:12 —Tenant's forthcoming bond
- § 20:13 —Taking possession
- § 20:14 —Exemptions
- § 20:15 —Review of ex parte order

- § 20:16 —When goods may be removed
- § 20:17 —Use of force
- § 20:18 —Irregularities in the distress
- § 20:19 —Wrongful distraint
- § 20:20 —Where rent is other than money
- § 20:21 Jurisdiction, removal and appeal in the general district court
- § 20:22 Default judgment-military affidavit
- § 20:23 The Eviction Diversion Pilot Program

CHAPTER 21. THE FAIR DEBT COLLECTION PRACTICES ACT

- § 21:1 In general
- § 21:2 Consumer debts
- § 21:3 Attorneys are debt collectors
- § 21:4 Property managers not debt collections
- § 21:5 Prohibited conduct
- § 21:6 Validation—Information about debt
- § 21:7 Five-day notices, lawsuits or unlawful detainer?
- § 21:8 Venue
- § 21:9 Penalties
- § 21:10 Conclusions

CHAPTER 22. LEAD-BASED PAINT DISCLOSURE REQUIREMENTS

- § 22:1 Lead-based paint disclosure requirements
- § 22:2 Immunity from civil suit
- § 22:3 Action for exposure to lead-based paint

CHAPTER 23. PRACTICAL TIPS FOR COMMERCIAL LEASES

- § 23:1 Nonresident owner
- § 23:2 Covenant
- § 23:3 Identify the parties
- § 23:4 Identify the property
- § 23:5 Use of property
- § 23:6 Options for renewal and options to buy
- § 23:7 Lease commencement date
- § 23:8 Base or minimum rent
- § 23:9 Rent escalations
- § 23:10 Rent concessions
- § 23:11 Percentage leases
- § 23:12 Net leases

TABLE OF CONTENTS

§ 23:13	Real estate taxes and pro ration
§ 23:14	Water
§ 23:15	Insurance
§ 23:16	Rules and regulations
§ 23:17	Duty to repair
§ 23:18	Landlord's liability to tenant
§ 23:19	Assignment and sublease
§ 23:20	Fixtures and trade fixtures
§ 23:21	Condemnation clause
§ 23:22	Casualty—Total or partial
§ 23:23	Jury trial
§ 23:24	Subordination and nondisturbance
§ 23:25	Submetering, energy allocation equipment and ratio billing
§ 23:26	Acceleration clause
§ 23:27	Lead base paint

APPENDICES

APPENDIX A.	Selected Statutes from the Virginia Code
APPENDIX B.	Uniform Residential Landlord and Tenant Act (1972)
APPENDIX C.	Agents
APPENDIX D.	Notices
APPENDIX E.	Court Forms
APPENDIX F.	Residential Leases
APPENDIX G.	Commercial Leases
APPENDIX H.	Rent Concession Addendum
APPENDIX I.	Memorandum of Lease
APPENDIX J.	Modification and Addendum to Lease
APPENDIX K.	Lease Guarantees and Waiver of Servicemembers Civil Relief Act
APPENDIX L.	Assignments
APPENDIX M.	Estoppel Certificate for Tenant
APPENDIX N.	Subordination, Non-Disturbance and Attornment Agreement
APPENDIX O.	<i>tenBraak v. Waffle Shops, Inc.</i>

Table of Laws and Rules

Table of Cases

Index