

1 CHAPTER ~~28~~ XX [6].

2 COMMERCIAL REAL ESTATE BROKER'S LIEN ACT.

3 **Drafting note: Existing Chapter 28, Commercial Real Estate Broker's Lien Act, is**  
4 **retained as proposed Chapter XX [6].**

5 § ~~55-526~~ 55.1-xxx. Definitions.

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

7 "Commercial real estate" means any real estate other than (i) real estate containing one  
8 to four residential units or (ii) real estate classified for assessment purposes under the provisions  
9 of Article 4 (§ 58.1-3230 et seq.) of Chapter 32 of Title 58.1. Commercial real estate ~~shall~~ does  
10 not include ~~single-family~~ single-family residential units, including condominiums, townhouses,  
11 apartments, or homes in a subdivision when leased on a ~~unit-by-unit~~ unit-by-unit basis even  
12 though these units may be part of a larger building or parcel of real estate containing more than  
13 four residential units.

14 "Principal broker" ~~shall have the same meaning as provided~~ means the same as that term  
15 is defined in ~~the~~ regulations promulgated by the Real Estate Board.

16 **Drafting note: Technical changes.**

17 § ~~55-527~~ 55.1-xxx. Broker's lien.

18 A. Any principal broker who, either himself or through the principal broker's or  
19 associated broker's employees or independent contractors, has provided licensed services that  
20 result in the procuring of a tenant of commercial real estate upon the terms provided for in a  
21 written agreement signed by the owner ~~thereof of such commercial real estate~~, or ~~which that~~ are  
22 otherwise acceptable to the owner as evidenced by a written agreement signed by the owner,  
23 shall have a lien, in the amount of the compensation agreed upon by and between the principal  
24 broker and the owner, upon rent paid by the tenant of the commercial real estate, or by the  
25 successors or assigns of such tenant. The amount of the lien shall not exceed the lesser of (i) the  
26 amount of the rent to be paid during the term of the lease or (ii) the amount of the rent to be paid  
27 during the first ~~twenty~~ 20 years ~~thereof of such lease~~.

28 B. The lien provided by this chapter shall not attach or be perfected until a memorandum  
29 of such lien signed under oath by the broker and meeting the requirements of this subsection has  
30 been recorded in the clerk's office of the circuit court of the county or city where the commercial  
31 real estate is located, from which date the lien shall have priority over all liens recorded  
32 subsequent thereto. The memorandum of lien shall state the name of the claimant, the name of  
33 the owner of the commercial real estate, a description of the commercial real estate, the name  
34 and address of the person against whom the broker's claim for compensation is made, the name  
35 and address of the tenant paying the rent against which the lien is being claimed, the amount for  
36 which the lien is being claimed, and the real estate license number of the principal broker  
37 claiming the lien. The lien provided by this chapter and the right to rents secured by such lien  
38 shall be subordinate to all liens, deeds of trust, mortgages, or assignments of the leases, rents, or  
39 profits recorded prior to the time the memorandum of lien is recorded and shall not affect a  
40 purchaser for valuable consideration without constructive or actual notice of the recorded lien.

41 However, a purchaser acquiring fee simple title to commercial real estate and having  
42 actual knowledge of terms of a lease agreement ~~which that~~ provide for the payment of brokerage  
43 fees due and payable to a real estate broker shall be liable for payment ~~thereof of such brokerage~~  
44 fees, unless otherwise agreed to in writing by the parties at or before the time of sale regardless  
45 of whether the real estate broker has perfected the lien in accordance with this chapter. The term  
46 "purchaser-shall" does not include a trustee under or a beneficiary of a deed of trust, a mortgagee  
47 under a mortgage, a secured party or any other assignee under an assignment as security, ~~nor or~~  
48 successors, assigns, transferees, or purchasers from such persons or entities.

49 C. Nothing in this section shall be construed to prevent a subsequent purchaser of  
50 commercial real estate subject to a lien under this chapter from establishing an escrow fund at  
51 settlement sufficient to satisfy the lien ~~which that~~ may otherwise affect transferability of title.

52 **Drafting note: Technical changes.**

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