

1 CHAPTER ~~13~~ XX. [3]

2 LANDLORD AND TENANT-OTHER RESIDENTIAL TENANCIES.

3 **Drafting note: Existing Chapter 13 of Title 55 is retained as proposed Chapter XX**
4 **[3].**

5 Numerous provisions in existing Chapter 13 that are identical or substantially
6 similar to provisions in existing Chapter 13.2 (the VRLTA), that are applicable to all
7 residential tenancies, and that appear as stricken text have been logically relocated to
8 proposed Chapter XX [1] (General Provisions) of Part A (Residential Tenancies), which
9 specifically provides that residential tenancies not covered by the VRLTA are subject to
10 both Chapter XX [1] and Chapter XX [3]. The drafting note for each section containing
11 provisions relocated to proposed Chapter XX [1] explains the reason for relocating and the
12 proposed destination of the provision.

13 Numerous sections in existing Chapter 13 that appear as stricken text are
14 recommended for relocation to other titles of the Code of Virginia; the drafting note for
15 each section relocated to another title of the Code of Virginia explains the reason for
16 relocating and proposed destination of the section.

17 Article 1.

18 In General.

19 **Drafting note: Proposed Article 1 is created to make the organization of proposed**
20 **Chapter XX [3] parallel to the organization of Chapters XX [1], XX [2] (the VRLTA), and**
21 **XX [6] and to consolidate general provisions for residential tenancies not covered by the**
22 **VRLTA.**

23 § 55.1-xxx. Applicability.

24 This chapter shall apply to all rental agreements for residential tenancies as provided in
25 subsection C of § 55.1-xxx [Applicability § in Chapter 1, General Provisions].

26 **Drafting note: This proposed section details the applicability of proposed Chapter**
27 **XX [3]. It is based on existing subdivision A 10 of § 55-248.5.**

28 [§ 55-222.1.](#)

29 **Drafting note: Repealed by Acts 1974, c. 680.**

30 [Article 2.](#)

31 [Landlord Obligations.](#)

32 **Drafting note: Proposed Article 2 is created to make the organization of proposed**
33 **Chapter XX [3] parallel to the organization of proposed Chapters XX [1], XX [2] (the**
34 **VRLTA), and XX [6] and to consolidate provisions concerning landlord obligations for**
35 **residential tenancies not covered by the VRLTA.**

36 [§ 55-225.6 55.1-xxx.](#) Inspection of dwelling unit.

37 The landlord may, within five days after occupancy of a dwelling unit, submit a written
38 report to the tenant, ~~for his safekeeping~~, itemizing damages to the dwelling unit existing at the
39 time of occupancy, ~~which record and the report~~ shall be deemed correct unless the tenant objects
40 ~~thereto to it~~ in writing within five days after receipt ~~thereof of the report~~. The landlord may
41 adopt a written policy allowing the tenant to prepare the written report of the move-in
42 inspection, in which case the tenant shall submit a copy to the landlord, ~~which record and the~~
43 ~~report~~ shall be deemed correct unless the landlord objects ~~thereto to it~~ in writing within five
44 days after receipt ~~thereof of the report~~. Such written policy adopted by the landlord may also
45 provide for the landlord and the tenant to prepare the written report of the move-in inspection
46 jointly, in which case both the landlord and the tenant shall sign the written report and receive a
47 copy ~~thereof of the report~~, at which time the inspection ~~record report~~ shall be deemed correct.

48 **Drafting note: References to "record" are changed to "report" for consistency. The**
49 **phrase "for his safekeeping" is removed as unnecessary. Technical changes are made.**

50 [§ 55-225.7 55.1-xxx.](#) Disclosure of mold in dwelling units.

51 As part of the written report of the move-in inspection pursuant to [§ 55-225.6 55.1-xxx](#),
52 the landlord may disclose whether there is any visible evidence of mold in areas readily
53 accessible within the interior of the dwelling unit. If the landlord's written disclosure states that
54 there is no visible evidence of mold in the dwelling unit, this written statement shall be deemed

55 correct unless the tenant objects ~~thereto to it~~ in writing within five days after receiving the
56 report. If the landlord's written disclosure states that there is visible evidence of mold in the
57 dwelling unit, the tenant shall have the option to terminate the tenancy and not take possession
58 or remain in possession of the dwelling unit. If the tenant requests to take possession, or remain
59 in possession of the dwelling unit, notwithstanding the presence of visible evidence of mold, the
60 landlord shall promptly remediate the mold condition but in no event later than five business
61 days ~~thereafter~~ after the tenant's request to take possession or decision to remain in possession
62 and re-inspect the dwelling unit to confirm that there is no visible evidence of mold in the
63 dwelling unit and ~~reflect on~~ prepare a new report stating that there is no visible evidence of
64 mold in the dwelling unit upon re-inspection.

65 **Drafting note: Technical changes.**

66 § ~~55-225.10~~ 55.1-xxx. Notice to tenant in event of foreclosure.

67 A. The landlord of a dwelling unit subject to this chapter shall give written notice to the
68 tenant or any prospective tenant of such dwelling unit that the landlord has received a notice of a
69 mortgage default, mortgage acceleration, or foreclosure sale relative to the loan on the dwelling
70 unit within five business days after written notice from the lender is received by the landlord.
71 This requirement shall not apply (i) to any managing agent who does not receive a copy of such
72 written notice from the lender or (ii) if the tenant or prospective tenant provides a copy of the
73 written notice from the lender to the landlord or the managing agent.

74 B. If the landlord fails to provide the notice required by this section, the tenant shall have
75 the right to terminate the rental agreement upon written notice to the landlord at least five
76 business days prior to the effective date of termination. If the tenant terminates the rental
77 agreement, the landlord shall make disposition of the tenant's security deposit in accordance
78 with law or the provisions of the rental agreement, whichever is applicable.

79 ~~C. If the dwelling unit is foreclosed upon and there is a tenant lawfully residing in the~~
80 ~~dwelling unit on the date of foreclosure, the tenant may remain in such dwelling unit as a tenant~~
81 ~~only pursuant to the Protecting Tenants at Foreclosure Act, P.L. No. 111-22, § 702, 123 Stat.~~

82 ~~1632, 1660 (2009), and provided the tenant remains in compliance with all of the terms and~~
83 ~~conditions of the lease agreement, including payment of rent.~~

84 **Drafting note: Existing § 55.1-225.10 is retained; however, subsection C is removed**
85 **because it contains an obsolete reference to a federal act that has expired.**

86 § ~~55-222~~ 55.1-xxx. Notice to terminate a tenancy; on whom served; when necessary.

87 A. A year-to-year tenancy ~~from year to year~~ may be terminated by either party giving
88 three months' notice, in writing, prior to the end of any year of the tenancy, of his intention to
89 terminate the same. A month-to-month tenancy ~~from month to month~~ may be terminated by
90 either party giving 30 days' notice in writing, prior to the next rent due date, of his intention to
91 terminate the same, unless the rental agreement provides for a different notice period. Written
92 notice of termination shall be given in accordance with this chapter or the Virginia Residential
93 Landlord and Tenant Act (§ ~~55-248.2 et seq.~~ 55.1-xxx et seq.), as applicable.

94 B. In addition to the termination rights set forth in subsection A, and notwithstanding the
95 terms of the lease, the landlord may terminate the lease due to rehabilitation or a change in the
96 use of all or any part of a building containing at least four residential units, upon 120 days' prior
97 written notice to the tenant. Changes in use shall include ~~but not be limited to~~ conversion to
98 hotel, motel, apartment hotel, or other commercial use; planned unit development; substantial
99 rehabilitation; demolition; or sale to a contract purchaser requiring an empty building. This
100 120-day notice requirement shall not be waived except in the case of a month-to-month tenancy
101 ~~from month to month~~, which may be terminated by the landlord by giving the tenant 30 days'
102 written notice prior to the next rent due date of the landlord's intention to terminate the tenancy.

103 The written notice required by this section to terminate a tenancy shall not be contained
104 in the rental agreement or lease, but shall be a separate writing.

105 **Drafting note: In subsection B, "but not be limited to" is removed following the**
106 **term "include" on the basis of § 1-218, which states "'Includes' means includes, but not**
107 **limited to," and technical changes are made.**

108 § ~~55-222.1~~. ~~Repealed.~~

109 **Drafting note: Repealed by Acts 1974, c. 680.**

110 [Article 3.](#)

111 [Tenant Obligations.](#)

112 **Drafting note: Proposed Article 3 is created to make the organization of proposed**
113 **Chapter XX [3] parallel to the organization of proposed Chapters XX [1], XX [2] (the**
114 **VRLTA), and XX [6] and to consolidate provisions concerning tenant obligations for**
115 **residential tenancies not covered by the VRLTA.**

116 § ~~55-223~~ [55.1-xxx](#). Effect of failure of tenant to vacate premises at expiration of term.

117 A tenant from ~~year to year~~ [year-to-year](#), ~~month to month~~ [month-to-month](#), or other
118 definite term, shall not, by his mere failure to vacate the premises upon the expiration of the
119 lease, be held as tenant for another term when such failure is not due to his willfulness,
120 negligence, or other avoidable cause, but such tenant shall be liable to the ~~lessor~~ [landlord](#) for use
121 and occupation of the premises and also for any loss or damage sustained by the ~~lessor~~ [landlord](#)
122 because of such failure to surrender possession **is replaced with "landlord" for consistency**
123 **throughout the chapter. Technical changes are made.**

124 § ~~55-225.9~~ [55.1-xxx](#). Relocation of tenant where mold remediation needs to be
125 performed in the dwelling unit.

126 Where a mold condition in a dwelling unit materially affects the health or safety of any
127 tenant or authorized occupant, the landlord may require the tenant to temporarily vacate the
128 dwelling unit in order for the landlord to perform mold remediation in accordance with
129 professional standards as defined in § ~~55-225.8~~ [55.1-xxx](#) for a period not to exceed 30 days. The
130 landlord shall provide the tenant with either (i) a comparable dwelling unit, as selected by the
131 landlord, at no expense or cost to the tenant, or (ii) a hotel room, as selected by the landlord, at
132 no expense or cost to the tenant. The tenant shall continue to be responsible for payment of rent
133 under the rental agreement during the period of any temporary relocation and for the remainder
134 of the term of the rental agreement following the remediation. Nothing in this section shall be
135 construed as entitling the tenant to a termination of a tenancy where ~~or when~~ the landlord has

136 remediated a mold condition in accordance with professional standards as defined in § ~~55-225.8~~
137 55.1-xxx. The landlord shall pay all costs of the relocation and the mold remediation, unless the
138 tenant is at fault for the mold condition.

139 **Drafting note: Technical changes.**

140 Article 4.

141 Tenant Remedies.

142 **Drafting note: Proposed Article 4 is created to make the organization of proposed**
143 **Chapter XX [3] parallel to the organization of Chapters XX [1], XX [2] (the VRLTA), and**
144 **XX [6], and to consolidate provisions concerning tenant remedies for residential tenancies**
145 **not covered by the VRLTA.**

146 § ~~55-224~~ 55.1-xxx. ~~When tenant deserts~~ Abandonment of premises, ~~how landlord may~~
147 enter, etc.

148 If any tenant from whom rent is ~~in arrear~~ owed and unpaid ~~shall desert~~ abandons the
149 demised premises and ~~leave~~ leaves the ~~same uncultivated or~~ premises unoccupied, ~~without~~
150 goods thereon and if the tenant's personal property that is subject to distress is not sufficient to
151 satisfy the rent owed, the ~~lessor~~ landlord or his agent may post a written notice, ~~in writing, upon~~
152 on a conspicuous part of the premises requiring the tenant to pay the rent, ~~in the case of a~~
153 monthly tenant within ~~ten~~ 10 days from the date of such notice, in the case of a monthly tenant,
154 and in the case of a yearly tenant or within one month from the date of such notice, in the case
155 of a yearly tenant. If the ~~same be owed rent is~~ not paid within the time specified in the notice,
156 the ~~lessor~~ landlord shall be entitled to possession of the premises and may enter ~~thereon the~~
157 premises and the right of such tenant ~~thereto to possess the premises~~ shall ~~thenceforth be at an~~
158 end terminate; but the landlord may recover the rent up to ~~that time~~ such termination.

159 **Drafting note: The term "lessor" is replaced with "landlord" for consistency**
160 **throughout the chapter. Language is updated for modern usage and technical changes are**
161 **made.**

162 § ~~55-225.12~~ 55.1-xxx. Failure to pay certain rents after five days' notice forfeits right of
163 possession.

164 If any tenant ~~or lessee~~ of premises ~~in a city or town, or in any subdivision of suburban~~
165 ~~and other lands divided into building lots for residential purposes, or of premises anywhere~~ used
166 for residential purposes, ~~and not for farming or agriculture, being who is~~ in default ~~in for~~ the
167 payment of rent, ~~shall so continue for~~ continues to be in default five days after receipt of written
168 notice, ~~in writing, requiring that requires~~ possession of the premises or the payment of rent, such
169 tenant ~~or lessee shall thereby forfeit~~ forfeits his right to ~~the~~ possession of the premises. In such
170 case ~~the possession of the defendant may, at the option of~~ the landlord ~~or lessor, be deemed~~
171 unlawful, and he may proceed to recover possession of the premises in the ~~same~~ manner
172 provided by Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01.

173 Nothing, however, shall be construed to prohibit a landlord from seeking an award of
174 costs or ~~attorney's~~ attorney fees under § 8.01-27.1 or civil recovery under § 8.01-27.2 as part of
175 the damages requested on an unlawful detainer action filed pursuant to § 8.01-126, provided that
176 the landlord has given notice, which notice may be included in a five-day termination notice
177 provided in accordance with this section.

178 **Drafting note: The terms "lessee" and "lessor" are deleted for consistency**
179 **throughout the chapter. The phrase "and not for farming or agriculture" is removed**
180 **because rental tenancies for the purpose of agriculture are covered by Chapter XX [6],**
181 **Commercial Tenancies. Language is updated for modern usage and technical changes are**
182 **made.**

183 § ~~55-225.12~~ 55.1-xxx. Tenant's assertion; rent escrow; dwelling units.

184 A. The tenant may assert that there exists upon the dwelling unit; a condition ~~or~~
185 ~~conditions which constitute~~ that constitutes a material noncompliance by the landlord with the
186 rental agreement or with provisions of law; or ~~which~~ that if not promptly corrected; will
187 constitute a fire hazard or serious threat to the life, health, or safety of occupants ~~thereof of the~~
188 dwelling unit, including ~~but not limited to;~~ (i) a lack of heat or hot or cold running water, except

189 if where the tenant is responsible for payment of the utility charge and where the lack of such
190 heat or hot or cold running water is the direct result of the tenant's failure to pay the utility
191 charge; ~~or (ii)~~ a lack of light, electricity, or adequate sewage disposal facilities; ~~or (iii)~~ an
192 infestation of rodents; or (iv) the existence of paint containing lead pigment on surfaces within
193 the dwelling, provided that the landlord has notice of such paint. The tenant may file such an
194 assertion in a general district court ~~wherein~~ in which the dwelling unit is located by a
195 declaration setting forth such assertion and asking for one or more forms of relief as provided
196 for in subsection D.

197 B. Prior to the granting of any relief, the tenant shall show to the satisfaction of the court
198 that:

199 1. Prior to the commencement of the action, the landlord or his agent refused or, having
200 a reasonable opportunity to do so, failed to remedy the condition for which he was served a
201 written notice of the condition by the tenant ~~of the conditions described in subsection A,~~ or was
202 notified of such ~~conditions~~ condition by a violation or condemnation notice from an appropriate
203 state or municipal agency, ~~and that the landlord has refused, or having a reasonable opportunity~~
204 ~~to do so, has failed to remedy the same.~~ For the purposes of this subsection, what period of time
205 shall be deemed to be unreasonable delay is left to the discretion of the court, except that there
206 shall be a rebuttable presumption that a period in excess of 30 days from receipt of the
207 notification by the landlord is unreasonable; and

208 2. The tenant has paid into court the amount of rent called for under the rental
209 agreement, within five days of the date due ~~thereunder~~ under the rental agreement, unless or
210 until such amount is modified by subsequent order of the court under this chapter.

211 C. It shall be sufficient answer or rejoinder to ~~a declaration~~ an assertion made pursuant
212 to subsection A if the landlord establishes to the satisfaction of the court that (i) the conditions
213 alleged by the tenant do not in fact exist, ~~or;~~ (ii) such conditions have been removed or
214 remedied, ~~or;~~ (iii) such conditions have been caused by the tenant or members of his family or

215 his or their guests or invitees ~~or licensees;~~ or (iv) the tenant has unreasonably refused entry to
216 the landlord to the dwelling unit for the purpose of correcting such conditions.

217 D. Any court shall make findings of fact on the issues before it and shall issue any order
218 that may be required. Such an order may include,~~but is not limited to,~~ any one or more of the
219 following:

220 1. Terminating the rental agreement upon the request of the tenant or ordering the
221 dwelling unit surrendered to the landlord if the landlord prevails on a request for possession
222 pursuant to an unlawful detainer properly filed with the court;

223 2. Ordering all moneys already accumulated in escrow disbursed to the landlord or to the
224 tenant in accordance with this chapter;

225 3. Ordering that the escrow be continued until the conditions causing the complaint are
226 remedied;

227 4. Ordering that the amount of rent, whether paid into the escrow account or paid to the
228 landlord, be abated as determined by the court in such an amount as may be equitable to
229 represent the existence~~of the~~ any condition ~~or conditions~~ found by the court to exist. In all cases
230 where the court deems that the tenant is entitled to relief under this chapter or Chapter XX [1],
231 the burden shall be upon the landlord to show cause why there should not be an abatement of
232 rent;

233 5. Ordering any amount of moneys accumulated in escrow disbursed to the tenant where
234 the landlord refuses to make repairs after a reasonable time or to the landlord or to a contractor
235 chosen by the landlord in order to make repairs or to otherwise remedy the condition. In either
236 case, the court shall in its order insure that moneys thus disbursed will be in fact used for the
237 purpose of making repairs or effecting a remedy;

238 6. Referring any matter before the court to the proper state or municipal agency for
239 investigation and report and granting a continuance of the action or complaint pending receipt of
240 such investigation and report. When such a continuance is granted, the tenant shall deposit with
241 the court rent payments within five days of the date due under the rental agreement, subject to

242 any abatement under this section, which become due during the period of the continuance, to be
243 held by the court pending its further order;

244 7. ~~In the court's discretion, ordering~~ Ordering escrow funds disbursed to pay a mortgage
245 on the property upon which the dwelling unit is located in order to stay a foreclosure; or

246 8. ~~In the court's discretion, ordering~~ Ordering escrow funds disbursed to pay a creditor to
247 prevent or satisfy a bill to enforce a mechanic's or materialman's lien.

248 Notwithstanding any provision of this subsection, where an escrow account is
249 established by the court and the condition ~~or conditions are~~ is not fully remedied within six
250 months of the establishment of such account, and the landlord has not made reasonable attempts
251 to remedy the condition, the court shall award all moneys accumulated in escrow to the tenant.
252 In such event, the escrow shall not be terminated, but shall begin upon a new six-month period
253 with the same result if, at the end ~~thereof of the period,~~ the condition ~~or conditions have~~ has not
254 been remedied.

255 E. The initial hearing on the tenant's assertion filed pursuant to subsection A shall be
256 held within 15 calendar days from the date of service of process on the landlord, except that the
257 court shall order an earlier hearing where emergency conditions are alleged to exist upon the
258 premises, such as failure of heat in winter, lack of adequate sewage facilities or any other
259 condition which constitutes an immediate threat to the health or safety of the inhabitants of the
260 dwelling unit. The court, on motion of either party or on its own motion, may hold hearings
261 subsequent to the initial proceeding in order to further determine the rights and obligations of
262 the parties. Distribution of escrow moneys may only occur by order of the court after a hearing
263 of which both parties are given notice as required by law or upon motion of both the landlord
264 and tenant or upon certification by the appropriate inspector that the work required by the court
265 to be done has been satisfactorily completed.

266 **Drafting note: The phrase "but not limited to" is deleted after the term "including"**
267 **and "include" in subsections A and D on the basis of § 1-218, which states that the term**
268 **"Includes" means includes, but not limited to." In subdivision B 1, "or his agent" is added**

269 after "landlord" for consistency with subsection A 1 of § 55.1-xxx [§ 55-248.25] and
270 subsection B 1 of § 55.1-xxx [§ 55-248.27]. In subsection C, "declaration" is changed to
271 "assertion" to conform to the language used in subsection A. In subsection C, the term
272 "licensee" is deleted and the term "guest" added on the basis of the definition in § 55.1-
273 xxx [§ 55-248.4]. The phrase "or conditions" is deleted after the term "condition" in
274 subdivision D 4 and in the last paragraph of subsection D on the basis of § 1-227, which
275 states that the singular includes the plural. Language is reworded for clarity and technical
276 changes are made.

277 § ~~55-226~~ 55.1-xxx. Buildings destroyed or ~~lessee~~ tenant deprived of possession;
278 covenant to pay rent or repair; reduction of rent.

279 No covenant or promise by a ~~lessee~~ tenant to pay the rent, or that he will keep or leave
280 the premises in good repair, shall have the effect, if the buildings ~~thereon be on the premises are~~
281 destroyed by fire or otherwise, in whole or in part, without fault or negligence on his part, or if
282 he ~~be is~~ deprived of the possession of the premises by the public enemy, of binding him to make
283 such payment or repair or erect such buildings again, unless there be other words showing it to
284 be the intent of the parties that he should be so bound. But in case of such destruction there shall
285 be a reasonable reduction of the rent for such time as may elapse until there ~~be are~~
286 the premises buildings of as much value to the tenant for his purposes as what may have been so
287 destroyed; and, in case of such deprivation of possession, a like reduction until possession of
288 the premises ~~be is~~ restored to him.

289 **Drafting note: References to "lessee" are changed to "tenant" to reflect modern**
290 **usage of these terms in the residential tenancies context.**

291 ~~§ 55-227. Remedy for rent and for use and occupation.~~

292 ~~Rent of every kind may be recovered by distress or action. A landlord may also, by~~
293 ~~action, recover, when the agreement is not by deed, a reasonable satisfaction for the use and~~
294 ~~occupation of lands. On the trial of such action, if any parol demise or any agreement not by~~
295 ~~deed whereon a certain rent was reserved shall appear in evidence, the plaintiff shall not therefor~~

296 ~~be nonsuited, but may use the same as evidence of the amount of his debt or damages. In any~~
297 ~~action for rent, or for such use and occupation, interest shall be allowed as on other contracts.~~

298 **Drafting Note: Existing §§ 55-227 through 55-232 are recommended for relocation**
299 **to Title 8.01. See "Proposed Sections to Relocate Out of Title 55" at the end of this chapter**
300 **for amendments to and drafting notes for each section.**

301 ~~§ 55-228. Who may recover rent, etc.~~

302 ~~He to whom rent or compensation is due, whether he have the reversion or not, his~~
303 ~~personal representative or assignee may recover it as provided in § 55-227, whatever be the~~
304 ~~estate of the person owning it, or though his estate or interest in the land be ended. And when~~
305 ~~the owner of real estate in fee, or holder of a term, yielding him rent, dies, the rent thereafter due~~
306 ~~shall be recoverable by such owner's heir or devisee, or such termholder's personal~~
307 ~~representative. And if the owner or holder alien or assign his estate or term, or the rent thereafter~~
308 ~~to fall due thereon, the alienee or assignee may recover such rent.~~

309 **Drafting Note: Existing §§ 55-227 through 55-232 are recommended for relocation**
310 **to Title 8.01. See "Proposed Sections to Relocate Out of Title 55" at the end of this chapter**
311 **for amendments to and drafting notes for each section.**

312 ~~§ 55-229. Who liable for rent.~~

313 ~~Rent may be recovered from the lessee or other person owing it, or his assignee, or the~~
314 ~~personal representative of either; but no assignee is to be liable for rent which became due~~
315 ~~before his interest began. Nothing herein shall impair or change the liability of heirs or devisees~~
316 ~~for rent, as for other debts of their ancestor or devisor.~~

317 **Drafting Note: Existing §§ 55-227 through 55-232 are recommended for relocation**
318 **to Title 8.01. See "Proposed Sections to Relocate Out of Title 55" at the end of this chapter**
319 **for amendments to and drafting notes for each section.**

320 ~~§ 55-230. When and by whom distress made.~~

321 ~~A distress action for rent may be brought within five years from the time the rent~~
322 ~~becomes due, and not afterwards, whether the lease is ended or not. The distress shall be made~~

323 ~~by a sheriff or high constable of the county or city wherein the premises yielding the rent, or~~
324 ~~some part thereof, may be, or the goods liable to distress may be found, under warrant from a~~
325 ~~judge of, or a magistrate serving, the judicial district. Such warrant shall be founded upon a~~
326 ~~sworn petition of the person claiming the rent, or his agent, that (i) the petitioner believes the~~
327 ~~amount of money or other thing by which the rent is measured (to be specified in the petition in~~
328 ~~accordance with § 55-231) is justly due to the claimant for rent reserved upon contract from the~~
329 ~~person of whom it is claimed, (ii) the petitioner alleges one or more of the grounds mentioned in~~
330 ~~§ 8.01-534 and sets forth in the petition specific facts in support of such allegation and (iii) the~~
331 ~~rent claimed is for rent due within five years from the time that it becomes due. The petition~~
332 ~~shall also specify the amount of the rent claimed and request either levy or seizure of the~~
333 ~~affected property prior to trial. The plaintiff shall, at the time of suing out a distress, give bond~~
334 ~~in conformity with the provisions of § 8.01-537.1. The plaintiff praying for a distress warrant~~
335 ~~shall, at the time that he files his petition, pay the proper costs, fees and taxes, and in the event~~
336 ~~of his failure to do so, the distress warrant shall not be issued.~~

337 ~~A judge or magistrate shall make an ex parte review of the petition and may receive~~
338 ~~evidence only in the form of a sworn petition which shall be filed in the office of the clerks of~~
339 ~~court. The warrant may be issued in accordance with the prayer of the petition by a judge or~~
340 ~~magistrate only upon a determination that there appears from the petition that there is reasonable~~
341 ~~cause to believe that one of the grounds mentioned in § 8.01-534 exists, the allegations required~~
342 ~~to be in the petition are true and that bond which complies with § 8.01-537.1 has been posted.~~

343 ~~Each copy of the distress warrant shall be issued and served on each defendant together~~
344 ~~with (i) a form for requesting a hearing of exemption from levy or seizure, as provided in §~~
345 ~~8.01-546.1, and (ii) a copy of the bond. The distress warrant may be issued or executed on any~~
346 ~~day, including a Saturday, Sunday or other legal holiday. Service shall be made in accordance~~
347 ~~with the methods described in § 8.01-487.1. The provisions of § 8.01-546.2 shall govern claims~~
348 ~~for exemption.~~

349 ~~The officer into whose hands the warrant is delivered shall levy or seize as directed in~~
350 ~~the warrant, except as may be provided by statute, the property found on the premises of the~~
351 ~~tenant as provided by § 55-231. The officer shall return the warrant of distress to the court to~~
352 ~~which the warrant of distress is returnable by the return date unless otherwise notified by the~~
353 ~~court to make return by an earlier date.~~

354 **Drafting Note: Existing §§ 55-227 through 55-232 are recommended for relocation**
355 **to Title 8.01. See "Proposed Sections to Relocate Out of Title 55" at the end of this chapter**
356 **for amendments to and drafting notes for each section.**

357 ~~§ 55-230.1. Procedure for trial on warrant in distress.~~

358 ~~The distress warrant shall contain a return date and be tried in the same manner as an~~
359 ~~action on a warrant as prescribed in § 16.1-79 except that the case shall be returnable not more~~
360 ~~than thirty days from its date of issuance. The trial or hearing of the issues, except as otherwise~~
361 ~~provided, shall be the same, as near as may be, as in actions in personam.~~

362 **Drafting Note: Existing §§ 55-227 through 55-232 are recommended for relocation**
363 **to Title 8.01. See "Proposed Sections to Relocate Out of Title 55" at the end of this chapter**
364 **for amendments to and drafting notes for each section.**

365 ~~§ 55-231. On what goods levied; to what extent goods liable; priorities between landlord~~
366 ~~and other lienors.~~

367 ~~The distress may be levied on any goods of the lessee, or his assignee, or undertenant,~~
368 ~~found on the premises, or which may have been removed therefrom not more than thirty days. A~~
369 ~~levy within such thirty days shall have like effect as if the goods levied on had not been~~
370 ~~removed from the leased premises. If the goods of such lessee, assignee or undertenant, when~~
371 ~~carried on the premises, are subject to a lien, which is valid against his creditors, his interest~~
372 ~~only in such goods shall be liable to such distress. If any lien be created thereon while they are~~
373 ~~upon the leased premises, or within thirty days thereafter, they shall be liable to distress, but for~~
374 ~~not more than six months' rent if the premises are in a city or town, or in any subdivision of~~
375 ~~suburban and other lands divided into building lots for residential purposes, or of premises~~

~~anywhere used for residential purposes, and not for farming, or agriculture, and for not more than twelve months' rent if the lands or premises are used for farming or agriculture whether it shall have accrued before or after the creation of the lien. No other goods shall be liable to distress than such as are declared to be so liable in this section, nor shall the goods of the undertenant be liable to a greater amount than such undertenant owed the tenant at the time the distress was levied.~~

Drafting Note: Existing §§ 55-227 through 55-232 are recommended for relocation to Title 8.01. See "Proposed Sections to Relocate Out of Title 55" at the end of this chapter for amendments to and drafting notes for each section.

~~§ 55-232. Procedure when distress levied and tenant unable to give forthcoming bond; what defense may be made.~~

~~A. On affidavit by a tenant, whose property has been levied on under a warrant of distress, that (i) he is unable to give the bond required in § 8.01-526 and (ii) he has a valid defense under subsection B of this section, the officer levying the warrant shall permit the property to remain in the possession and at the risk of the tenant, and shall return the warrant forthwith, together with the affidavit, to the court to which such warrant is returnable. Thereupon the landlord, after 10 days' notice in writing to the tenant, may make a motion before such court for a judgment for the amount of the rent and for a sale of the property levied on, as aforesaid. The tenant may make such defense as he is authorized to make, including defenses permitted under such subsection B to an action or motion on the bond when one is given. Upon making such defense, the officer shall permit the property to remain in the possession of and at the risk of the tenant. If the property is perishable, or expensive to keep, the court, or the judge thereof in vacation, may order it to be sold, and on the final trial of the cause, the court shall dispose of the property, or proceeds of sale, according to the rights of the parties.~~

~~B. In an action or motion on a forthcoming bond, when it is taken under a distress warrant, the defendants may make defense on the ground that the distress was for rent not due in whole or in part, or was otherwise illegal.~~

403 **Drafting Note: Existing §§ 55-227 through 55-232 are recommended for relocation**
404 **to Title 8.01. See "Proposed Sections to Relocate Out of Title 55" at the end of this chapter**
405 **for amendments to and drafting notes for each section.**

406 ~~§ 55-232.1. Repealed.~~

407 **Drafting Note: Repealed by Acts 1993, c. 841.**

408 ~~§ 55-232.2. Review of decision to issue ex parte order or process; claim of exemption.~~

409 ~~Promptly after levy on the property or promptly after possession of the property is taken~~
410 ~~by the officer pursuant to an ex parte order, or after denial of an application to issue such order~~
411 ~~by a magistrate, upon application of either party, and after reasonable notice, a judge of the~~
412 ~~general district court having jurisdiction shall conduct a hearing to review the decision to issue~~
413 ~~the ex parte order or process. In the event the judge finds that the order or process should not~~
414 ~~have been issued, the court may dismiss the distraint or award actual damages and reasonable~~
415 ~~attorney's fees to the person whose property was taken, or both. The provisions of § 8.01-546.2~~
416 ~~shall govern claims for exemption.~~

417 **Drafting Note: Existing §§ 55-232.2 through 55-237 are recommended for**
418 **relocation to Title 8.01. See "Proposed Sections to Relocate Out of Title 55" at the end of**
419 **this chapter for amendments to and drafting notes for each section.**

420 ~~§ 55-233. On what terms purchasers and lienors inferior to landlord may remove goods;~~
421 ~~certain liens not affected.~~

422 ~~If, after the commencement of any tenancy, a lien be obtained or created by deed of~~
423 ~~trust, mortgage or otherwise upon the interest or property in goods on premises leased or rented~~
424 ~~of any person liable for the rent, or such goods be sold, the party having such lien, or the~~
425 ~~purchaser of such goods, may remove them from the premises on the following terms, and not~~
426 ~~otherwise, that is to say: On paying to the person entitled to the rent so much as is in arrear, and~~
427 ~~securing to him so much as to become due, what is so paid or secured not being more altogether~~
428 ~~than six months' rent if the premises are in a city or town, or in any subdivision of suburban and~~
429 ~~other lands divided into building lots for residential purposes, or of premises anywhere used for~~

~~430 residential purposes, and not for farming or agriculture, and not being more altogether than
431 twelve months' rent, if the lands or premises are used for farming or agriculture. If the goods be
432 taken under legal process, the officer executing it shall, out of the proceeds of the goods, make
433 such payment of what is in arrear; and as to what is to become due, he shall sell a sufficient
434 portion of the goods on a credit till then, taking from the purchasers bonds, with good security,
435 payable to the person so entitled, and delivering such bonds to him. If the goods be not taken
436 under legal process, such payment and security shall be made and given before their removal.
437 Neither this section nor § 55-231 shall affect any lien for taxes, levies, or militia fines.~~

~~438 For the purpose of this section and § 55-231 a monthly or weekly tenancy shall not be
439 construed as a new lease for every month or week of occupation of the premises by the tenant,
440 but his tenancy shall be considered as a continuance of his original lease so long as he shall
441 continue to occupy the property without making any new written lease.~~

**442 Drafting Note: Existing §§ 55-232.2 through 55-237 are recommended for
443 relocation to Title 8.01. See "Proposed Sections to Relocate Out of Title 55" at the end of
444 this chapter for amendments to and drafting notes for each section.**

~~445 § 55-234. When goods of an undertenant may be removed from leased premises.~~

~~446 Section 55-233 is subject to the following limitations: An undertenant, or a purchaser
447 from him, or a creditor holding a deed of trust, mortgage or other encumbrance created on his
448 goods after they were carried on the leased premises, may remove the same upon payment of so
449 much of the rent contracted to be paid by him as is in arrear, and securing the residue, not
450 exceeding six months' rent, if the premises are in a city or town, or in any subdivision of
451 suburban and other lands divided into building lots for residential purposes, or of premises
452 anywhere used for residential purposes, and not for farming or agriculture, and for not more
453 than twelve months' rent if the lands or premises are used for farming or agriculture; and if the
454 goods be taken under legal process against him, the officer executing the same shall, out of the
455 proceeds of his goods, make payment of so much of the rent as to which he is in arrear, and as to
456 what is to become due from him shall sell sufficient of the goods upon credit until then, taking~~

457 ~~from the purchaser bonds with good security, payable to the party entitled to receive the same,~~
458 ~~and deliver them to him.~~

459 **Drafting Note: Existing §§ 55-232.2 through 55-237 are recommended for**
460 **relocation to Title 8.01. See "Proposed Sections to Relocate Out of Title 55" at the end of**
461 **this chapter for amendments to and drafting notes for each section.**

462 ~~§ 55-235. When officer may enter by force to levy distress or attachment.~~

463 ~~The officer having such distress warrant, or an attachment for rent, if there be need for it,~~
464 ~~may, in the daytime, break open and enter into any house or close in which there may be goods~~
465 ~~liable to the distress or attachment, and may, either in the day or night, break open and enter any~~
466 ~~house or close wherein there may be any goods so liable which have been fraudulently or~~
467 ~~clandestinely removed from the demised premises. He may also levy such distress warrant or~~
468 ~~attachment on property liable for the rent found in the personal possession of the party liable~~
469 ~~therefor.~~

470 **Drafting Note: Existing §§ 55-232.2 through 55-237 are recommended for**
471 **relocation to Title 8.01. See "Proposed Sections to Relocate Out of Title 55" at the end of**
472 **this chapter for amendments to and drafting notes for each section.**

473 ~~§ 55-236. When distress not unlawful because of irregularity, etc.~~

474 ~~When distress shall be made for rent justly due and any irregularity or unlawful act shall~~
475 ~~be afterwards done by the party distraining, or his agent, the distress itself shall not be deemed~~
476 ~~to be unlawful, nor the party making it be therefore deemed a trespasser ab initio. The party~~
477 ~~aggrieved by such irregularity or unlawful act may, by action, recover full satisfaction for the~~
478 ~~special damage he shall have sustained thereby.~~

479 **Drafting Note: Existing §§ 55-232.2 through 55-237 are recommended for**
480 **relocation to Title 8.01. See "Proposed Sections to Relocate Out of Title 55" at the end of**
481 **this chapter for amendments to and drafting notes for each section.**

482 ~~§ 55-237. Return of execution; process of sale thereunder.~~

483 ~~The sheriff under writ of execution from the court after hearing and judgment for the~~
484 ~~landlord except when it is otherwise provided by law, shall make return on his execution as may~~
485 ~~be placed in his hands for collection and file the same, within ninety days after the same may~~
486 ~~have come to his hands, with the clerk of the court in which the case was heard. Upon the return~~
487 ~~of such execution such clerk shall preserve such execution in his office as is now provided as to~~
488 ~~other executions. If such return shall show that a levy has been made and that property levied on~~
489 ~~remains unsold, it shall be lawful for the clerk of the court in whose office such return is filed to~~
490 ~~issue a writ of venditioni exponas thereon just as if the return were upon writ of fieri facias.~~

491 **Drafting Note: Existing §§ 55-232.2 through 55-237 are recommended for**
492 **relocation to Title 8.01. See "Proposed Sections to Relocate Out of Title 55" at the end of**
493 **this chapter for amendments to and drafting notes for each section.**

494 ~~§ 55-237.1~~ 55.1-xxx. Authority of sheriffs to store and sell personal property removed
495 from premises; recovery of possession by owner; disposition or sale.

496 Notwithstanding the provisions of § 8.01-156, when personal property is removed from
497 any ~~leased or rented commercial or residential~~ premises pursuant to an action of unlawful
498 detainer or ejection, or pursuant to any other action in which personal property is removed
499 from the premises in order to restore such premises to the person entitled ~~thereto~~ to such
500 premises, the sheriff shall oversee the removal of such personal property to be placed into the
501 public way. The tenant shall have the right to remove his personal property from the public way
502 during the 24-hour period after eviction. Upon the expiration of the 24-hour period after
503 eviction, the landlord shall remove, or dispose of, any such personal property remaining in the
504 public way.

505 At the landlord's request, any personal property removed pursuant to this section shall be
506 placed into a storage area designated by the landlord, which may be the ~~leased or rented~~
507 premises. The tenant shall have the right to remove his personal property from the landlord's
508 designated storage area at reasonable times during the 24 hours after eviction from the premises
509 or at such other reasonable times until the landlord has disposed of the property as provided

510 [herein in this section](#). During that 24-hour period and until the landlord disposes of the
511 remaining personal property of the tenant, the landlord and the sheriff shall not have any
512 liability for the loss of such personal property. If the landlord fails to allow reasonable access to
513 the tenant to remove his personal property as provided ~~herein in this section~~, the tenant shall
514 have a right to injunctive relief and such other relief as may be provided by law.

515 Any property remaining in the landlord's storage area upon the expiration of the 24-hour
516 period after eviction may be disposed of by the landlord as the landlord sees fit or appropriate. If
517 the landlord receives any funds from any sale of such remaining property, the landlord shall pay
518 such funds to the account of the tenant and apply same to any amounts due the landlord by the
519 tenant, including the reasonable costs incurred by the landlord in the eviction process described
520 in this section or the reasonable costs incurred by the landlord in selling or storing such
521 property. If any funds are remaining after application, the remaining funds shall be treated as
522 security deposit under applicable law.

523 The notice posted by the sheriff setting the date and time of the eviction, pursuant to §
524 8.01-470, shall provide notice to the tenant of the rights afforded to tenants in this section and
525 shall include in the notice a copy of this statute attached to, or made a part of, this notice.

526 Nothing [herein in this section](#) shall affect the right of a landlord to enforce an inchoate or
527 perfected lien of the landlord on the personal property of a tenant of any ~~leased or rented~~
528 ~~commercial or residential~~ premises, or of a landlord to distress, levy, and seize such personal
529 property as otherwise provided by law.

530 **Drafting Note: The terms "leased or rented" and "residential" are removed before**
531 **the word "premises" as unnecessary. Likewise, references to "commercial" property are**
532 **removed because this proposed chapter applies only to residential tenancies. Technical**
533 **changes are made.**

534 § ~~55-238~~ [55.1-xxx](#). Remedy when rent is to be paid in other thing than money.

535 When goods are distrained or attached for rent reserved in a share of the crop, or in
536 anything other than money, the claimant of the rent ~~having given shall give~~ the tenant ~~ten 10~~

537 days' notice, ~~or, if he be is out of the county, having set up the notice in some conspicuous place~~
538 ~~on the premises,~~ and the claimant may then apply to the court to which the attachment is
539 returnable, or the circuit court of the city or county ~~or the corporation court of the corporation~~ in
540 which the distress is made, to ascertain the value in money of the rent reserved, and to order a
541 sale of the goods distrained or attached. The tenant may make the same defenses that he could to
542 a motion on a forfeited forthcoming bond given for rent and may also contest the value of what
543 was reserved for the rent. The court shall ascertain, either by its own judgment, or, if either party
544 ~~require~~ requires it, by the verdict of a jury impaneled without the formality of pleading, the
545 extent of the liability of the tenant for rent, and the value in money of such rent, and if the tenant
546 has been served with notice shall enter judgment against him for the amount so ascertained. It
547 shall also order the goods distrained or attached, or so much thereof as may be necessary, to be
548 sold to pay the amount so ascertained. The officer charged with the execution of such warrant or
549 attachment shall ~~make~~ return ~~thereof~~ such warrant or attachment to the clerk's office of the
550 court, showing how he has executed ~~the same~~ such warrant or attachment. If the goods so
551 directed to be sold prove insufficient to pay the amount of the rent so ascertained, an execution
552 may be issued on the judgment as in case of other judgments, which may be levied on such
553 property as would be leviable under an execution issued on a judgment in an action brought to
554 recover the rent.

555 **Drafting Note: The provision for providing notice for a tenant who is out of the**
556 **county is deleted because methods for providing notice are contained in the Part-wide**
557 **definitions section (§ 55.1-xxx) in Chapter 1. The reference to "corporation court" is**
558 **replaced with circuit court of a city because corporation courts no longer exist. Language**
559 **is updated for modern usage.**

560 § ~~55-239~~ 55.1-xxx. Proceedings to establish right of reentry, ~~and;~~ judgment ~~therefor~~.

561 Any person who ~~shall have~~ has a right of reentry into lands by reason of any rent issuing
562 thereout being in arrear, or by reason of the breach of any covenant or condition, may serve a
563 declaration in ejectment on the tenant in possession, ~~when there shall be such tenant if any,~~ or, if

564 the possession ~~be is~~ vacant, by ~~affixing~~ posting the declaration upon the ~~chief front~~ door of ~~any~~
565 message the dwelling unit, or at any other notorious place on the premises, and such service
566 shall be in lieu of a demand and reentry; ~~and upon~~. Upon proof to the court, by affidavit in case
567 of judgment by default or upon proof on the trial, that the rent claimed was due and no sufficient
568 distress was upon the premises, or that the covenant or condition was broken before the service
569 of the declaration and that the plaintiff had power ~~thereupon~~ to reenter, he shall recover
570 judgment and have execution for such lands.

571 **Drafting Note: Language is updated for modern usage.**

572 ~~§ 55-240~~ § 55.1-xxx. When defendant barred of relief.

573 Should the defendant, or other person for him, not pay the rent in arrear, with interest
574 and costs, nor file a bill in equity for relief against such forfeiture, within ~~twelve calendar~~ 12
575 months after execution executed, he shall be barred of all right, in law or equity, to be restored
576 to such lands or tenements.

577 **Drafting Note: A technical change is made.**

578 ~~§ 55-242~~ § 55.1-xxx. How owner, etc., relieved in equity.

579 If the owner of such lands, or any person having right or claim ~~thereto, shall, to such~~
580 lands, files within the time ~~aforsaid, file provided by § 55.1-xxx [§ 55-240]~~ his bill for relief in
581 any court of equity, he shall not have or continue any injunction against the proceedings at law
582 on the ejectment, unless ~~he shall~~, within ~~thirty~~ 30 days ~~next after following~~ a full and perfect
583 answer filed by the plaintiff in ejectment, ~~bring he brings~~ into court, or ~~deposit deposits~~ in some
584 bank within the Commonwealth to the credit of the cause; such money as the plaintiff in
585 ejectment ~~shall~~, in his answers, ~~swear swears~~ to be due and in arrear, over and above all just
586 allowances and also the costs taxed in the suit, there to remain till the hearing of the cause, or to
587 be paid out to the plaintiff on good security, subject to the decree of the court. ~~And in case~~ If the
588 bill ~~shall be is~~ filed within the time ~~aforsaid provided by § 55.1-xxx [§ 55-240]~~, and after
589 execution executed, the plaintiff shall be accountable for no more than he ~~shall~~, really and bona
590 fide, without fraud, deceit, or willful neglect, ~~make makes~~ of the premises from the time of his

591 entering into the actual possession thereof, and if it should be less than the rent payable, then the
592 possession shall not be restored until the plaintiff ~~be is~~ paid the ~~sum which the money so made~~
593 ~~shall fall short~~ balance of the rent for the time he so held the lands.

594 **Drafting Note: Language is updated for modern usage and technical changes are**
595 **made.**

596 § ~~55-243~~ 55.1-xxx. How judgment of forfeiture prevented.

597 A. If any party having right or claim to such lands ~~shall~~, at any time before the trial in
598 such ejectment, ~~pay or tender~~ pays to the party entitled to such rent, or to his attorney ~~in the~~
599 ~~cause~~, or ~~pay into to the~~ court, all the rent and arrears owed, along with any reasonable attorney
600 fees and late charges contracted for in a written rental agreement, interest, and costs, all further
601 proceedings in the ejectment shall cease. If the person claiming the land ~~shall, upon bill filed as~~
602 ~~aforsaid, be is~~ relieved in equity, he ~~shall~~ is entitled to hold the land in the same manner as
603 before he was prior to the commencement of the proceedings ~~began~~, without a new lease or
604 conveyance. If the parties dispute the amount of rent and other charges owed, the court shall
605 take evidence on the issue and make orders for the tender, payment, or refund of any appropriate
606 amounts.

607 B. In cases of unlawful detainer for the nonpayment of rent of a tenant from a ~~rental~~
608 dwelling unit, the tenant may present to the court a redemption tender for payment of all rent
609 due and owing as of the return date, including late charges, attorney fees, and court costs, at or
610 before the first return date on an action for unlawful detainer. For purposes of this section,
611 "redemption tender" means a written commitment to pay all rent due and owing as of the return
612 date, including late charges, attorney fees, and court costs, by a local government or nonprofit
613 entity within 10 days of ~~said~~ such return date.

614 C. If the tenant presents a redemption tender to the court at the return date, the court
615 shall continue the action for unlawful detainer for 10 days following the return date for payment
616 to the landlord of all rent due and owing as of the return date, including late charges, attorney
617 fees, and court costs, and ~~dismissal of~~ shall dismiss the action upon such payment. ~~Should If~~ the

618 landlord does not receive full payment of all rent due and owing as of the return date, including
619 late charges, attorney fees, and court costs, within 10 days of the return date, the court shall,
620 without further evidence, grant to the landlord judgment for all amounts due and immediate
621 possession of the premises.

622 D. In cases of unlawful detainer, a tenant may pay the landlord or his attorney or pay
623 ~~into to the~~ court all (i) rent due and owing as of the court date as contracted for in the rental
624 agreement, (ii) other charges and fees as contracted for in the rental agreement, (iii) late charges
625 contracted for in the rental agreement, (iv) reasonable attorney fees as contracted for in the
626 rental agreement or as provided by law, and (v) costs of the proceeding as provided by law, at
627 which time the unlawful detainer proceeding shall be dismissed. A tenant may invoke the rights
628 granted in this section no more than one time during any 12-month period of continuous
629 residency in the dwelling unit, regardless of the term of the rental agreement or any renewal
630 term thereof.

631 **Drafting Note: Language is updated for modern usage and technical changes are**
632 **made.**

633 § ~~55-244~~ 55.1-xxx. When suit for reentry brought.

634 ~~In case the time for reentering be specified in the instrument creating the rent, covenant~~
635 ~~or condition, the proceedings in~~ Proceedings for ejectment shall not be ~~begun until such time~~
636 ~~shall have elapsed~~ initiated unless the time for reentry of the premises specified in the rental
637 agreement has lapsed.

638 **Drafting Note: Language is updated for modern usage.**

639 § ~~55-245~~ 55.1-xxx. Written act of reentry to be returned and recorded, and certificate
640 ~~thereof of reentry~~ published.

641 When actual reentry is made, the party by or for whom the ~~same~~ reentry is made shall
642 return a written act of reentry, sworn to by the sheriff or ~~other~~ another authorized officer ~~acting~~
643 ~~therein~~, to the clerk of the circuit court of the county or ~~corporation court of the~~ city wherein in
644 which the lands or tenements are located, who. The clerk shall record the ~~same~~ written act of

645 reentry in the deed book, and shall deliver to the party making the reentry a certificate setting
646 forth the substance of such written act, ~~and that the same had been left in his office to be~~
647 recorded. Such certificate shall be published at least once a week for two months successively,
648 in some newspaper published in or nearest to such county or ~~corporation~~ city. Such publication
649 shall be proved by affidavit to the satisfaction of the clerk, who shall record such affidavit in the
650 deed book. Such affidavit shall reference the book and page where the original written act of
651 reentry was recorded. The clerk shall return the original act of reentry to the party entitled
652 thereto to it. The written act of reentry, when recorded, and the record ~~thereof of such written~~
653 act, or a duly certified copy from such record, shall be evidence, in all cases, of the facts
654 contained therein ~~set forth~~.

655 **Drafting Note: Language is updated for modern usage and technical amendments**
656 **are made.**

657 § ~~55-246~~ 55.1-xxx. Fee of clerk.

658 The clerk shall be paid for recording, granting certificate, and noting publication, as
659 aforsaid required by § 55.1-xxx [§ 55-245], the ~~same~~ fee ~~as~~ prescribed in subdivision A 2 of §
660 17.1-275, and shall collect and account for the same tax upon every such act of reentry offered
661 for record as ~~shall then be is~~ levied by law upon deeds of conveyance.

662 **Drafting Note: Language is updated for modern usage.**

663 § ~~55-247~~ 55.1-xxx. How person entitled, etc., to lands may be restored to his possession.

664 ~~Should-If~~ the person entitled to such lands at the time of reentry made, or having claim
665 thereto to such lands, does not pay or tender the rent and all arrears ~~thereof owed~~, with interest
666 and all reasonable expenses incurred about such reentry, within one year from the first day of
667 publication ~~as aforsaid pursuant to § 55.1-xxx [§ 55-245]~~, he shall be forever barred from all
668 right in law or equity to the lands. ~~In-case~~ If any party having right ~~shall pay pays~~ or ~~tender~~
669 tenders the rent and arrears owed, with interest and expenses ~~as aforsaid~~, to the party making
670 reentry, within the required time ~~aforementioned therefor~~, he shall be reinstated in his
671 possession to hold as if the reentry had not been made.

672 **Drafting Note: Language is updated for modern usage.**

673 § ~~55-248~~ 55.1-xxx. Limitation of suit, etc., against person in possession by reentry.

674 No person who, or who with his predecessor in title under whom he claims, ~~shall have~~

675 ~~been~~ has possessed ~~of~~ lands by virtue of a reentry for the term of two years shall be disturbed

676 therein by suit or otherwise for any defect of proceedings in such entry.

677 **Drafting Note: Language is updated for modern usage.**

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