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**MEMORANDUM**

TO: Clients and Friends of the Firm  
FROM: Joshua M. Greenberg, Esq.  
DATE: June 29, 2020  
SUBJECT: 2020 Update to Virginia Landlord & Tenant Laws

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Each year, many of the bills passed by Virginia's General Assembly and signed into law by the governor take effect on July 1 (with two exceptions: late fees – effective on April 22, 2020; expungement of unlawful detainer records – effective January 1, 2022), and this year is no different. The following is a summary of critical laws impacting the Landlord and Tenant landscape in the Commonwealth.

**MAXIMUM LATE FEE CHARGE (Effective April 22, 2020)**

Late fees for nonpayment of rent will be capped at the lesser of ten percent (10%) of the periodic rent payment or ten percent (10%) of the outstanding balance due and owed by the tenant, and, in either case, only if such late fees are expressly provided for in the written lease.

Initially scheduled to take effect on July 1, 2020, due to the COVID-19 public health emergency and resulting widespread economic hardship faced by many Virginia residents, at the recommendation of Governor Northam, the General Assembly implemented the law effective immediately. As such, any late fees charged to a residential tenant's account prior to April 22, 2020 can remain on the account provided such late fees comply with the lease terms. Any late fees charged to a residential tenant's account on or after April 22, 2020, must comply with the new law.<sup>1</sup>

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<sup>1</sup> For properties subject to the federal CARES Act, no late fees may be charged during the moratorium period (current expiration date is July 25, 2020).

### **TENANT BILL OF RIGHTS**

At or before signing a lease, all prospective residential tenants must be provided a copy of a summary of tenant's rights and responsibilities under the Virginia Residential Landlord & Tenant Act (the "[Tenant Bill of Rights](#)") on a form provided by the Virginia Department of Housing and Community Development ("DHCD") and both the prospective tenant and the landlord must sign the statement acknowledging the prospective tenant's receipt of the Tenant Bill of Rights. A fully signed copy of the Tenant Bill of Rights shall be provided to a tenant within one (1) month of the effective date of the lease. Failure to either provide a copy of the Tenant Bill of Rights to, or obtain the signed acknowledgment from, residential tenants precludes a landlord from maintaining an action in court against that tenant until such time as the Tenant Bill of Rights has been provided to the tenant. A copy of the two-page Tenant Bill of Rights and one-page acknowledgement form follows this memorandum and is available on DHCD's website at [www.dhcd.virginia.gov/landlord-tenantresources](http://www.dhcd.virginia.gov/landlord-tenantresources).

### **REQUIRED CONTACT INFORMATION IN LEASES AND TERMINATION NOTICES**

All lease documents signed after July 1, 2020, must contain contact information for emergency repairs and legal inquiries. Additionally, any termination notices served upon tenants receiving rental assistance must include contact information for statewide legal aid services.

### **FAIR HOUSING – SOURCE OF FUNDS**

"Source of funds" has been added to the list of protected classes under Virginia's fair housing law. This newest protected class effectively mandates a landlord's participation in the previously voluntary federal Housing Choice Voucher Program (colloquially known as "Section 8"). As of July 1, 2020, housing providers may not turn away prospective tenants on the basis of their rent payment being made by a voucher.

### **FAIR HOUSING – ADDITIONAL PROTECTED CLASSES**

In addition to "source of funds," Virginia has added "sexual orientation," "gender identity" and "status as a veteran" to list of protected classes under its fair housing law. As of July 1, 2020, discrimination on the basis of any of these classes is prohibited.

### **SECURITY DEPOSIT REFUNDS**

The time by when a landlord is obligated to refund a tenant's security deposit or provide an itemization of amounts withheld from the security deposit is not the later of within 45 days of termination of tenancy or within 45 days from when tenant vacates the residential unit.

### **TENANT'S REMEDY OF REPAIR**

Tenants may remedy fire hazard or life, health and/or safety issues provided the tenant gives landlord 14 days' advanced notice and the landlord fails to respond. In such situation, landlord is to reimburse the tenant for such expenses or provide tenant a credit to his account upon submissions of the itemized statement for the repairs. The cost of the repairs cannot exceed the greater of one (1) month's rent or

\$1,500.00. A tenant may not exercise this remedy if the condition was caused by the tenant or if the tenant fails to provide the landlord with access to the apartment to make the needed repairs.

**EXPUNGEMENT OF UNLAWFUL DETAINER RECORD *(Effective January 1, 2022)***

A tenant may file a petition requesting unlawful detainer records be expunged for cases that were dismissed or nonsuit and the time for refiling under 8.01-229 has expired.

**CONTACT US**

For further information or questions related to this article, contact Joshua Greenberg, Esq., at [JMG@GDLLAW.COM](mailto:JMG@GDLLAW.COM) or (202) 452 – 1400.

