

# ASSET RECOVERY ASSOCIATES, PLLC

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## OVERVIEW OF COLLECTIONS FOR LANDLORDS<sup>i</sup>

- I. Prepare Early- collect information pre-lease signing and during term of lease
  - a. Collect helpful information in lease applications
  - b. Try to monitor during lease
- II. Security Deposits- 55.1-1226
  - a. During the lease- 55.1-1226 (e) and (f) – Notify tenant of deductions if made during the term of the lease
  - b. Must give written notice of tenants right to be at move out inspection and if tenant wishes to be present, give tenant date and time - 55.1-1226 (g)
  - c. Security deposit disposition to be delivered to tenant within 45 days of "termination of tenancy" or "date tenant vacates the dwelling" whichever occurs last.
- III. Filing the warrant in debt
  - a. Keep your paperwork! Receipts, invoices, etc
  - b. Be aware- most judges will not award full amounts for replacing carpets, painting walls, etc. These items are expected to have a limited lifespan and be replaced periodically. To collect the most on these items, keep records of when installed, and clearly document the damage requiring replacement.
- IV. Garnishment: the mechanism to collect a judgment
  - a. Best tool is a garnishment- a court filing that compels an employer or bank to withhold funds and present them to court
    - i. Bank Garnishment- return date 90 days from filing
    - ii. Wage Garnishment- 180 days from filing
  - b. Other tool- record judgment as lien against real property

<sup>i</sup>This presentation does not constitute legal advice. The purpose of this presentation is to provide a broad summary of the current state of the law and does not address any specific or particular scenario or set of facts. Attending this presentation and receiving the presentation materials do NOT create an attorney client relationship. These materials should not be relied on for legal advice. Should you require legal advice, please contact Michael Hipps at 757-222-8383.

**Code of Virginia****Title 55.1. Property and Conveyances****Chapter 12. Virginia Residential Landlord and Tenant Act**

## § 55.1-1226. Security deposits.

**A.** No landlord may demand or receive a security deposit, however denominated, in an amount or value in excess of two months' periodic rent. Upon termination of the tenancy or the date the tenant vacates the dwelling unit, whichever occurs last, such security deposit, whether it is property or money held by the landlord as security as provided in this section, may be applied by the landlord solely to (i) the payment of accrued rent, including the reasonable charges for late payment of rent specified in the rental agreement; (ii) the payment of the amount of damages that the landlord has suffered by reason of the tenant's noncompliance with § 55.1-1227, less reasonable wear and tear; (iii) other damages or charges as provided in the rental agreement; or (iv) actual damages for breach of the rental agreement pursuant to § 55.1-1251. The security deposit and any deductions, damages, and charges shall be itemized by the landlord in a written notice given to the tenant, together with any amount due to the tenant, within 45 days after the termination date of the tenancy or the date the tenant vacates the dwelling unit, whichever occurs last. As of the date of the termination of the tenancy or the date the tenant vacates the dwelling unit, whichever occurs last, the tenant shall be required to deliver possession of the dwelling unit to the landlord. If the termination date is prior to the expiration of the rental agreement or any renewal thereof, or the tenant has not given proper notice of termination of the rental agreement, the tenant shall be liable for actual damages pursuant to § 55.1-1251, in which case, the landlord shall give written notice of security deposit disposition within the 45-day period but may retain any security balance to apply against any financial obligations of the tenant to the landlord pursuant to this chapter or the rental agreement. If the tenant fails to vacate the dwelling unit as of the termination of the tenancy, the landlord may file an unlawful detainer action pursuant to § 8.01-126.

**B.** Where there is more than one tenant subject to a rental agreement, unless otherwise agreed to in writing by each of the tenants, disposition of the security deposit shall be made with one check being payable to all such tenants and sent to a forwarding address provided by one of the tenants. The landlord shall make the security deposit disposition within the 45-day time period required by subsection A, but if no forwarding address is provided to the landlord, the landlord may continue to hold such security deposit in escrow. If a tenant fails to provide a forwarding address to the landlord to enable the landlord to make a refund of the security deposit, upon the expiration of one year from the date of the end of the 45-day time period, the landlord may remit such sum to the State Treasurer as unclaimed property on a form prescribed by the administrator that includes the name; social security number, if known; and last known address of each tenant on the rental agreement. If the landlord or managing agent is a real estate licensee, compliance with this subsection shall be deemed compliance with § 54.1-2108 and corresponding regulations of the Real Estate Board.

**C.** Nothing in this section shall be construed by a court of law or otherwise as entitling the tenant, upon the termination of the tenancy, to an immediate credit against the tenant's delinquent rent account in the amount of the security deposit. The landlord shall apply the security deposit in accordance with this section within the 45-day time period required by subsection A. However, provided that the landlord has given prior written notice in accordance with this section, the landlord may withhold a reasonable portion of the security deposit to cover an amount of the balance due on the water, sewer, or other utility account that is an obligation of the tenant to a third-party provider under the rental agreement for the dwelling unit, and upon payment of such obligations the landlord shall provide written confirmation to the tenant within 10 days, along with payment to the tenant of any balance otherwise due to the tenant. In order to withhold such funds as part of the disposition of the security deposit, the landlord shall have so advised the tenant of his rights and obligations under this section in (i) a termination notice to the tenant in accordance with this chapter, (ii) a written notice to the tenant confirming the vacating date in accordance with this section, or (iii) a separate written notice to the tenant at least 15 days prior to the disposition of the security deposit. Any written notice to the tenant shall be given in accordance with § 55.1-1202.

The tenant may provide the landlord with written confirmation of the payment of the final water, sewer, or other utility bill for the dwelling unit, in which case the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period required by subsection A. If the tenant provides such written confirmation after the expiration of the 45-day period, the landlord shall refund any remaining balance of the security deposit held to the tenant within 10 days following the receipt of such written confirmation provided by the tenant. If the landlord otherwise receives confirmation of payment of the

final water, sewer, or other utility bill for the dwelling unit, the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period.

D. Nothing in this section shall be construed to prohibit the landlord from making the disposition of the security deposit prior to the 45-day period required by subsection A and charging an administrative fee to the tenant for such expedited processing, if the rental agreement so provides and the tenant requests expedited processing in a separate written document.

E. (Effective until June 30, 2024) The landlord shall notify the tenant in writing of any deductions provided by this section to be made from the tenant's security deposit during the course of the tenancy. Such notification shall be made within 30 days of the date of the determination of the deduction and shall itemize the reasons in the same manner as provided in subsection F. No such notification shall be required for deductions made less than 30 days prior to the termination of the rental agreement. If the landlord willfully fails to comply with this section, the court shall order the return of the security deposit to the tenant, together with actual damages and reasonable attorney fees, unless the tenant owes rent to the landlord, in which case the court shall order an amount equal to the security deposit credited against the rent due to the landlord. In the event that damages to the premises exceed the amount of the security deposit and require the services of a third-party contractor, the landlord shall give written notice to the tenant advising him of that fact within the 45-day period required by subsection A. If notice is given as prescribed in this subsection, the landlord shall have an additional 30-day period to provide an itemization of the damages and the cost of repair. This section shall not preclude the landlord or tenant from recovering other damages to which he may be entitled under this chapter. The holder of the landlord's interest in the premises at the time of the termination of the tenancy, regardless of how the interest is acquired or transferred, is bound by this section and shall be required to return any security deposit received by the original landlord that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's interest by law or equity, regardless of any contractual agreements between the original landlord and his successors in interest.

E. (Effective June 30, 2024) The landlord shall notify the tenant in writing of any deductions provided by this section to be made from the tenant's security deposit during the course of the tenancy. Such notification shall be made within 30 days of the date of the determination of the deduction and shall itemize the reasons in the same manner as provided in subsection F. No such notification shall be required for deductions made less than 30 days prior to the termination of the rental agreement. If the landlord willfully fails to comply with this section, the court shall order the return of the security deposit to the tenant, together with actual damages and reasonable attorney fees, unless the tenant owes rent to the landlord, in which case the court shall order an amount equal to the security deposit credited against the rent due to the landlord. In the event that damages to the premises exceed the amount of the security deposit and require the services of a third-party contractor, the landlord shall give written notice to the tenant advising him of that fact within the 45-day period required by subsection A. If notice is given as prescribed in this subsection, the landlord shall have an additional 15-day period to provide an itemization of the damages and the cost of repair. This section shall not preclude the landlord or tenant from recovering other damages to which he may be entitled under this chapter. The holder of the landlord's interest in the premises at the time of the termination of the tenancy, regardless of how the interest is acquired or transferred, is bound by this section and shall be required to return any security deposit received by the original landlord that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's interest by law or equity, regardless of any contractual agreements between the original landlord and his successors in interest.

F. The landlord shall:

1. Maintain and itemize records for each tenant of all deductions from security deposits provided for under this section that the landlord has made by reason of a tenant's noncompliance with § 55.1-1227, or for any other reason set out in this section, during the preceding two years; and
2. Permit a tenant or his authorized agent or attorney to inspect such tenant's records of deductions at any time during normal business hours.

G. Upon request by the landlord to a tenant to vacate, or within five days after receipt of notice by the landlord of the tenant's intent to vacate, the landlord shall provide written notice to the tenant of the tenant's right to be present at the landlord's inspection of the dwelling unit for the purpose of determining the amount of security deposit to be returned. If the tenant desires to be present when the landlord makes the inspection, he shall, in writing, so advise the landlord, who in turn shall notify the tenant of the date and time of the inspection, which must be made within 72 hours of delivery of possession. Following the move-out inspection, the landlord shall provide the tenant with a written security deposit disposition statement, including an itemized list of damages. If additional damages are discovered by the landlord after the security deposit disposition has been made, nothing in this section shall be construed to preclude the landlord from recovery of such damages against the tenant, provided, however, that the tenant may present into evidence a copy of the move-out report to support the tenant's position that such additional damages did not exist at the time of the move-out inspection.

H. If the tenant has any assignee or sublessee, the landlord shall be entitled to hold a security deposit from only one party in compliance with the provisions of this section.

I. The landlord may permit a tenant to provide damage insurance coverage in lieu of the payment of a security deposit. Such damage insurance in lieu of a security deposit shall conform to the following criteria:

1. The provider of damage insurance is licensed or approved by the Virginia State Corporation Commission;
2. The coverage is effective upon the payment of the first premium and remains effective for the entire lease term;
3. The coverage provided per claim is no less than the amount the landlord requires for security deposits;
4. The provider of damage insurance agrees to approve or deny payment of a claim; and
5. The provider of damage insurance shall notify the landlord within 10 days if the damage policy lapses or is canceled.

J. A tenant who initially opts to provide damage insurance in lieu of a security deposit may, at any time without consent of the landlord, opt to pay the full security deposit to the landlord in lieu of maintaining a damage insurance policy. The landlord shall not alter the terms of the lease in the event a tenant opts to pay the full amount of the security deposit pursuant to this subsection.

2000, cc. 760, 761, § 55-248.15:1; 2001, c. 524; 2003, c. 438; 2007, c. 654; 2010, c. 550; 2015, c. 563; 2014, c. 651; 2015, c. 596; 2017, c. 750; 2018, c. 221; 2019, c. 712; 2020, cc. 384, 823, 998; 2021, Sp. Sess. I, c. 427; 2023, cc. 433, 434.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

2/14/202

 Virginia Law Library  
The Code of Virginia, Constitution of Virginia, Charters, Authorities, Compacts and Uncodified Acts are now available in EPub eBook format. [\(1\)](#)

 Helpful Resources  
[Virginia Code Commission](#)  
[Virginia Register of Regulations](#)  
[U.S. Constitution](#)

 For Developers  
The Virginia Law website data is available via a web service. [\(1\)](#)



**WARRANT IN DEBT** (CIVIL CLAIM FOR MONEY)

Commonwealth of Virginia VA. CODE § 16.1-79

CASE NO.

**HEARING DATE  
AND TIME**

CITY OR COUNTY ..... General District Court

STREET ADDRESS OF COURT

TO ANY AUTHORIZED OFFICER: You are hereby commanded to summons the Defendant(s).

TO THE DEFENDANT(S): You are summoned to appear before this Court at the above address on

..... to answer the Plaintiff(s)' civil claim (see below)

DATE ISSUED

CLERK  DEPUTY CLERK  MAGISTRATE

**CLAIM:** Plaintiff(s) claim that Defendant(s) owe Plaintiff(s) a debt in the sum of

\$ ..... net of any credits, with interest at ..... % from date of ..... until paid,  
\$ ..... costs and \$ ..... attorney's fees with the basis of this claim being

Open Account  Contract  Note  Other (EXPLAIN)

TO DEFENDANT: You are not required to appear; however, if you fail to appear, judgment may be entered against you. See the additional notice of the reverse about requesting a change of trial location.  
 To dispute this claim, you must appear on the return date to try this case.

HOMESTEAD EXEMPTION WAIVED?  YES  NO  cannot be demanded

DATE

PLAINTIFF  PLAINTIFF'S ATTORNEY  PLAINTIFF'S EMPLOYEE/AGENT

**CASE DISPOSITION**

JUDGMENT against  named Defendant(s)

for \$ ..... net of any credits, with interest at ..... % from date of ..... until paid, \$ ..... costs and \$ ..... attorney's fees

and \$ ..... costs for Servicemember Civil Relief Act counsel fees

**HOMESTEAD EXEMPTION WAIVED?**  YES  NO  CAN NOT BE DEMANDED

JUDGMENT FOR  NAMED DEFENDANT(S)

NON-SUIT  DISMISSED

Defendant(s) Present:  NO  YES

DATE \_\_\_\_\_ JUDGE \_\_\_\_\_

CASE NO.		<b>HEARING DATE AND TIME</b>	
... PLAINTIFF(S) (LAST NAME, FIRST NAME, MIDDLE INITIAL)		... DEFENDANT(S) (LAST NAME, FIRST NAME, MIDDLE INITIAL)	
... ADDRESS		... ADDRESS	
... STREET ADDRESS OF COURT		... STREET ADDRESS OF COURT	
TO ANY AUTHORIZED OFFICER: You are hereby commanded to summons the Defendant(s).		TO THE DEFENDANT(S): You are summoned to appear before this Court at the above address on	
..... to answer the Plaintiff(s)' civil claim (see below)		..... to answer the Plaintiff(s)' civil claim (see below)	
DATE ISSUED	<input type="checkbox"/> CLERK <input type="checkbox"/> DEPUTY CLERK <input type="checkbox"/> MAGISTRATE	DATE ISSUED	<input type="checkbox"/> CLERK <input type="checkbox"/> DEPUTY CLERK <input type="checkbox"/> MAGISTRATE
<b>CLAIM:</b> Plaintiff(s) claim that Defendant(s) owe Plaintiff(s) a debt in the sum of		<b>CLAIM:</b> Plaintiff(s) claim that Defendant(s) owe Plaintiff(s) a debt in the sum of	
\$ ..... net of any credits, with interest at ..... % from date of ..... until paid,		\$ ..... net of any credits, with interest at ..... % from date of ..... until paid,	
\$ ..... costs and \$ ..... attorney's fees with the basis of this claim being		\$ ..... costs and \$ ..... attorney's fees with the basis of this claim being	
<input type="checkbox"/> Open Account <input type="checkbox"/> Contract <input type="checkbox"/> Note <input type="checkbox"/> Other (EXPLAIN)		<input type="checkbox"/> Open Account <input type="checkbox"/> Contract <input type="checkbox"/> Note <input type="checkbox"/> Other (EXPLAIN)	
TO DEFENDANT: You are not required to appear; however, if you fail to appear, judgment may be entered against you. See the additional notice of the reverse about requesting a change of trial location.			
<input type="checkbox"/> To dispute this claim, you must appear on the return date to try this case.			
<input type="checkbox"/> To dispute this claim, you must appear on the return date for the judge to set another date for trial.			
Bill of Particulars	ORDERED	Bill of Particulars	ORDERED
Grounds of Defense	ORDERED	Grounds of Defense	ORDERED
<b>ATTORNEY FOR PLAINTIFF(S)</b>		<b>ATTORNEY FOR PLAINTIFF(S)</b>	
... ... ... ...		... ... ... ...	
<b>DISABILITY ACCOMMODATIONS</b>		<b>DISABILITY ACCOMMODATIONS</b>	
for loss of hearing, vision, mobility, etc., contact the court ahead of time.		for loss of hearing, vision, mobility, etc., contact the court ahead of time.	
<b>ATTORNEY FOR DEFENDANT(S)</b>		<b>ATTORNEY FOR DEFENDANT(S)</b>	
... ... ... ...		... ... ... ...	

**RETURNS: Each defendant was served according to law, as indicated below, unless not found.**

NAME .....	<input type="checkbox"/> PERSONAL SERVICE		Tel. No. ....
ADDRESS .....	<input type="checkbox"/> PERSONAL SERVICE		Tel. No. ....
Being unable to make personal service, a copy was delivered in the following manner:			
<p><input type="checkbox"/> Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.</p>			
<p><input type="checkbox"/> Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)</p>			
<p><input type="checkbox"/> Served on Secretary of the Commonwealth</p>			
<input type="checkbox"/> NOT FOUND		SERVING OFFICER	for _____ DATE _____

**OBJECTION TO VENUE:**  
 To the Defendant(s): If you believe that Plaintiff(s) should have filed this suit in a different city or county, you may file a written request to have the case moved for trial to the general district court of that city or county. To do so, you must do the following:

1. Prepare a written request which contains (a) this court's name, (b) the case number and the "return date" as shown on the other side of this form in the right corner, (c) Plaintiff(s) name(s) and Defendant(s) name(s), (d) the phrase "I move to object to venue of this case in this court because" and state the reasons for your objection and also state in which city or county the case should be tried, and (e) your signature and mailing address.
2. File the written request in the clerk's office before the trial date (use the mail at your own risk) or give it to the judge when your case is called on the return date. Also send or deliver a copy to plaintiff.
3. If you mail this request to the court, you will be notified of the judge's decision.

NAME .....	<input type="checkbox"/> PERSONAL SERVICE		Tel. No. ....
ADDRESS .....	<input type="checkbox"/> PERSONAL SERVICE		Tel. No. ....
Being unable to make personal service, a copy was delivered in the following manner:			
<p><input type="checkbox"/> Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.</p>			
<p><input type="checkbox"/> Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)</p>			
<p><input type="checkbox"/> Served on Secretary of the Commonwealth</p>			
<input type="checkbox"/> NOT FOUND		SERVING OFFICER	for _____ DATE _____

I certify that I mailed a copy of this document to the defendants named therein at the address shown therein on \_\_\_\_\_

DATE \_\_\_\_\_

Plaintiff  
 Plaintiff's Aux.  
 Plaintiff's Agent

Fi. Fa. issued on .....  
 Interrogatories issued on .....  
 Garnishment issued on .....



The following statement is not the law but is an interpretation of the law which is intended to assist those who must respond to this garnishment. You may rely on this only for general guidance because the law itself is the final word. (Read the law, § 34-29 of the Code of Virginia, for a full explanation. A copy of § 34-29 is available at the Clerk's office. If you do not understand the law, call a lawyer for help.)

An employer may take as much as 25 percent of an employee's disposable earnings to satisfy this garnishment. But if any employee makes the minimum wage or less for his week's earnings, the employee will ordinarily get to keep 40 times the minimum hourly wage.

But an employer may withhold a different amount of money from that above if:

- (1) The employee must pay child support or spousal support and was ordered to do so by a court procedure or other legal procedure. No more than 65 percent of an employee's earnings may be withheld for support;
- (2) Money is withheld by order of a bankruptcy court; or
- (3) Money is withheld for a tax debt.

"Disposable earnings" means the money an employee makes "after taxes" and after other amounts required by law to be withheld are satisfied. Earnings can be salary, hourly wages, commissions, bonuses, payments to an independent contractor, or otherwise, whether paid directly to the employee or not.

If an employee tries to transfer, assign or in any way give his earnings to another person to avoid the garnishment, it will not be legal: earnings are still earnings. Financial institutions that receive an employee's paycheck by direct deposit do not have to determine what part of a person's earnings can be garnished.

#### CAME TO HAND

DATE AND TIME

SHERIFF

NOTE:  
Return of Writ of Fieri Facias to be used if no effects found  
otherwise, use appropriate sections of DC-467, WRIT OF FIERI  
FACIAS.

#### [ ] NO EFFECTS FOUND

DATE

SHERIFF

#### DEPUTY SHERIFF

RETURNS: The following garnishee was served, according to law, as indicated below, unless not found.

GARNIShee .....	<input type="checkbox"/> PERSONAL SERVICE	<input type="checkbox"/> FEDERAL SERVICE*
ADDRESS .....	<input type="checkbox"/> Being unable to make personal service, a copy was delivered in the following manner:	
	<input type="checkbox"/> Served on registered agent of the corporation. List name and title:	
	<input type="checkbox"/> Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purpose. List name, age of recipient, and relation of recipient to party named above.	
	<input type="checkbox"/> Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (Other authorized recipient not found.)	
	<input type="checkbox"/> Served on the Secretary of the Commonwealth	
	<input type="checkbox"/> Served on the Clerk of the State Corporation Commission, pursuant to § 8.01-513.	
	<input type="checkbox"/> Copy mailed to judgment debtor after serving the garnishee on date of service unless a different date of mailing is shown.	
	DATE OF MAILING	
	<input type="checkbox"/> Not found	SERVING OFFICER _____ for .....
	DATE OF SERVICE	
	<input type="checkbox"/> Federal garnishment statutes, 5 U.S.C. § 5520a(c)(1) and 42 U.S.C. § 659 provide that the garnishee, when a federal agency, may be served either personally or by certified or registered mail, return receipt requested.	