

Meeting the Legal Needs of Individuals Facing Serious Illness Through Pro Bono

Part 5: Housing Law - Landlord Tenant
Issues

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Areas of assistance include:

- Estate Planning
- Employment Issues
- Private Insurance Denials
- Medicare/Medicaid Coverage and Denials
- Landlord-Tenant Issues
- Foreclosure Prevention
- Bankruptcy
- Debtor's Rights
- Financial Planning

Virginia's Civil Legal Aid Offices

Legal Aid Pro Bono Opportunities. All of Virginia's legal aid offices have well-established private attorney involvement programs with pro bono coordinators who will help support your volunteer lawyering work. Please contact your local legal aid office for more information.

- [Blue Ridge Legal Services](#) – (540) 433-1830 (main office in Harrisonburg, offices in Winchester, Lexington, and Roanoke)
- [Central Virginia Legal Aid Society](#) – (804) 648-1012 (main office in Richmond, offices in Petersburg, and Charlottesville)
- [Legal Aid Justice Center](#) – (434) 977-0553 (main office in Charlottesville, offices in Richmond, Petersburg, and Falls Church)
- [Legal Aid Society of Eastern Virginia](#) – (757) 627-5423 (main office in Norfolk, offices in Hampton, Virginia Beach, Belle Haven, and Williamsburg)
- [Legal Aid Society of Roanoke Valley](#) – (540) 344-2088 (Roanoke)
- [Legal Services of Northern Virginia](#) – (703) 778-6800 (main office in Falls Church, offices in Arlington, Alexandria, Fairfax, Leesburg, and Manassas)
- [Rappahannock Legal Services](#) – (540) 371-1105 (main offices in Fredericksburg, offices in Culpeper, and Tappahannock)
- [Southwest Virginia Legal Aid](#) – (276) 783-8300 (main office in Marion, offices in Castlewood and Christiansburg)
- [Virginia Legal Aid Society](#) – (434) 528-4722 (main office in Lynchburg, offices in Danville, Farmville, and Suffolk)

Helpful Resources

- **Virginia Poverty Law Center** - serves Virginia's legal aid system by providing advocacy, training, and litigation support on civil justice issues that affect low-income Virginians. <http://www.vplc.org/>
- **Probono.net/va** – offers resources for pro bono & legal services attorneys, law professionals, and law students to assist in your representation of low-income or disadvantaged clients. <http://www.probono.net/va/>
- **VALegalAid.org** – provides information and forms on a variety of civil legal issues plus a directory of civil legal services organizations. <http://www.valegalaid.org/>
- **Virginia State Bar** – offers resources for attorneys and the public including pro bono training materials and videos and information about pro bono opportunities. http://www.vsb.org/site/pro_bono

Presenters

- Christine E. “Christie” Marra, Staff Attorney, Virginia Poverty Law Center
- Alexandra “Sandy” Bowen, Managing Partner, Bowen Ten Cardani, PC

VPLC



The statewide support center for legal aid in
Virginia providing support in

ADVOCACY

TRAINING

LITIGATION

on the civil justice issues faced by
low-income Virginians

*An overview of state statutes relevant to representing
tenants in disputes with their landlords*

VIRGINIA STATE LANDLORD TENANT LAW

Three Key Acts

- **Virginia Residential Landlord and Tenant Act:** *Governs many, but not all, residential tenancies in Virginia*
- **Manufactured Home Lot Rental Act:** *Governs most rentals of lots in mobile home parks; incorporates much of the VRLTA*
- **Landlord Tenant Act:** *Governs private tenancies exempted from the VRLTA and MHLRA that do not involve any federal subsidy*

VRLTA

- Applies to all residential tenancies entered into after July 1, 1974 except those that are expressly exempt in the VRLTA
- Exemptions should be read narrowly
- Even otherwise exempt tenancies may be covered by the VRLTA IF the lease expressly provides

Tenancies Exempt from VRLTA

- Tenancies in single family homes owned by natural persons are exempt IF the owner owns no more than TWO single family rental homes, regardless of where they are located.

Exception: This exemption does NOT apply to early termination of rental agreements by military personnel

- Tenancies where tenant pays no rent (ie is a guest of the owner)
- Tenancies governed by HUD where the HUD regulations conflict with the VRLTA
 - **VA Code 55-248.5**

Tenancies exempt from VRLTA

- Business, commercial or agricultural tenancies
- Occupancy by an owner of a condominium unit or cooperative unit
- Tenancies in which right to occupancy is conditioned on employment in and about the premises or ex-employee whose occupancy continues less than 60 days
 - **VA Code 55-248.5**

Tenancies exempt from VRLTA

- Tenancies in hotels, motels, vacation cottages, boardinghouses or similar lodging except when such a tenancy continues for more than ninety consecutive days or is subject to a written lease lasting more than 90 days
- Occupancy in a fraternal or social organization in the portion of the structure operated for the benefit of the organization
 - **VA Code 55-248.5**

Tenancies exempt from VRLTA

- Residence at a public or private institution for medical, geriatric, educational, counseling, religious or similar services
 - **VA Code 55-248.5**

Landlord Obligations (VRLTA)

- **Duty to Inspect and Provide Damages List:**

- Within 5 days of occupancy, LL must provide tenant with written, itemized list of damages to unit existing at time of occupancy

- Tenant must note any inaccuracies within five days or list deemed correct

- LL may have policy allowing tenant to prepare list (in which case LL has five days to object) or for them to do it jointly

Landlord Obligations (VRLTA)

- **Disclosure of Mold in Dwelling Unit:**
 - LL must disclose visible evidence of mold as part of move-in inspection
 - Written report of “no mold” deemed correct unless tenant objects in writing within 5 days
 - If LL discloses visible evidence of mold, tenant may accept unit “As Is” or terminate the tenancy
 - **VA Code 55-248.11:2**

Landlord Obligations (VRLTA)

- **Duty to Maintain Fit Premises:**
 - LL must comply with building and housing code regarding health and safety; make necessary repairs; maintain appliances and heating, cooling and plumbing systems in good working order, etc. (55-248.13)
 - Remedies for LL's Noncompliance include: Termination of lease/damages; tenant's assertion; defense to non-payment of rent; injunction; damages and rent abatement/substitute housing

Landlord's Obligations (VRLTA)

- **Security Deposit:**
- Limited to two months' rent
- Upon termination, must be applied to rent, late fees, damages or other things specified in lease
- LL must return security deposit within 45 days of lease termination; if there are deductions, LL must provide written accounting

Landlord's Obligations (VRLTA)

- **Security Deposit:**

LL may withhold additional money for bill owed by tenant to a third party utility provider, as long as he gives notice to tenant, an opportunity for tenant to pay, and evidence that he (LL) has paid the bill

VA Code 55-248.15:1

Landlord's Obligations (VRLTA)

- **Security Deposit:**

LL must make reasonable efforts to notify tenant of his/her right to be present at move-out inspection

If Tenant advises the LL in writing of his/her desire to be present at move-out inspection, LL must notify tenant of time and date of inspection (held within 72 hours of termination)

LL must furnish Tenant a list of itemized damages

VA Code 55-248.15:1

Landlord's Obligations (VRLTA)

- **Security Deposit:**

- If LL willfully fails to comply with requirements, court must order the return of the security deposit and interest, along with actual damages and reasonable attorneys' fees, less any rent owed by the tenant.

- **VA Code 55-248.15:1**

Landlord's Obligations (VRLTA)

- **Locks and Peepholes:**

- LGA may provide, by ordinance, that a LL who rents 5 or more dwelling units in one building must provide locks and peepholes on exterior doors and windows
- LL must install a new lock (or allow tenant to do so) where tenant presents a copy of a protective order; LL cannot provide new key to person excluded from premises by Protective order

- **VA Code 55-248.13:1**

Landlord Obligations (VRLTA)

- **Additional Disclosures:**

- Pesticide Use: LL must provide at least 48 hours' written notice of pesticide application (unless tenant requests or agrees to shorter notice) **VA Code 55-248.13:3**
- Properties near US Master Jet Base: LL must provide prospective tenant written disclosure that property located in a noise/accident potential zone **VA Code 55-248.12:1**

Landlord's Obligations (VRLTA)

- **Limitation of Liability:**
 - If LL sells premises to a BF purchaser, LL relieved of liability from there forward
 - BF Purchaser assumes liability for return of tenant's security deposit
 - **VA Code 55-248.14**

Landlord's Liability

- **If rental unit is sold:**
 - Sale only affects who owns property, not who occupies property
 - Lease runs with the land and not the property owner
 - Lease is as binding on the new owner as it was on the old owner
 - New owner takes ownership subject to the lease with the prior owner

Landlord's Liability

- **If rental unit is sold:**
 - New owner steps into the shoes of the old owner and has the same rights and duties under the lease that the old owner had
 - If new owner wants possession, he or she must file unlawful detainer in court
 - Tenants do not have to vacate at sale

Landlord Obligations (VRLTA):

- **Abuse of Access:**

- Tenant may seek injunctive relief or terminate lease if LL makes unlawful entry onto premises or enters in an unreasonable manner **VA Code 55-248.10:1**

Damage or Renter's Insurance:

LL may require tenant to pay for damage insurance or renter's insurance; such payments are treated as rent

Landlord's Obligations

- If the landlord has received a notice of mortgage default, mortgage acceleration or foreclosure he sale, he must provide a copy to the tenant within five business days of receipt
- If landlord fails to provide a copy of the notice within the required time, the tenant may terminate the rental agreement with five days' written notice to landlord
- **VA Code 55-225.10**

Landlord's Obligations

Landlord's Obligations

- If a tenant pays rent by cash or money order and requests a receipt from the landlord, the landlord **MUST** provide the tenant with a written receipt
- If a tenant makes a written request for an accounting, the landlord **MUST** provide tenant with a written statement showing all charges and debits for the past 12 months within 10 business days of request
- **VA Code 55-248.7**

Protecting Tenants at Foreclosure Act

- **Federal law requires the following in event of foreclosure of rental property:**
 - New owners must honor existing lease as long as tenant is deemed a “bona fide tenant”
 - Tenants with more than 90 days remaining on the lease may not be evicted until the end of their lease
 - Tenants with less than 90 days remaining on their lease nonetheless must receive 90 days notice of termination

Protecting Tenants at Foreclosure Act

- **Exception to right of tenant to remain until end of lease term is when new owner will occupy the unit as his or her primary residence; then lease may terminate with 90 days notice**
- Tenants must keep paying rent and should deposit rent into a separate bank account to use later
- Tenants do NOT have to vacate at foreclosure

Landlord References and Release of Information

- **If tenant has NOT given written consent, landlord may NOT release information about the tenant unless it is:**
 - A matter of public record
 - A summary of the tenant's rent payment record
 - A remediable breach notice that was not remedied
 - A non-remediable breach notice
 - **VA Code 55-248.9:1**

Landlord References and Release of Information:

- **Additional information about the tenant landlord may release without tenant's written consent:**
 - Information requested by law enforcement or by subpoena
 - Information requested by a purchased of the property
 - Information needed in an emergency

Tenant Obligations (VRLTA)

- **Duty to Maintain Dwelling Unit:**
 - Tenant has obligation to do his or her part to comply with code regarding health and safety; keep things clean and safe; use utilities, etc. in reasonable manner; keep all utilities paid for by tenant on at all times; not deliberately damage premises or permit others to do so (guest liability); maintain a smoke detector in accordance with USBC standards, etc.
 - **VA Code 55-248.16**

Tenant Obligations (VRLTA):

- **Rules and Regulations:**

- Tenant is obligated to follow reasonable rules of the landlord (see section 55-248.17) as long as the rule is reasonably related to its purpose, applies to all tenants fairly, is clear, does not evade the LL's obligations and the tenant was provided a copy of it when he entered into the lease or when the rule was adopted.

Tenant Obligations (VRLTA):

- **Access by LL:**
 - LL can enter to inspect, make necessary repairs, supply necessary services, or show unit to prospective tenants, purchasers or workers
 - Can enter only at reasonable times and with prior notice except in the event of emergency when LL can enter unit without consent
 - **VA Code 55-248.18**

Tenant Obligations (VRLTA):

- **Use and Occupancy by Tenant:**

- Unless otherwise agreed, tenant must use the premises only as a residence.

Surrender Possession of Unit:

Tenant must promptly vacate at termination of tenancy or LL can sue for possession, damages and attorneys fees

Eviction:

- **Tenant does NOT have to move just because:**
 - Landlord says so, orally or in writing
 - Landlord files a summons for unlawful detainer in court
 - Landlord gets judgment for possession
 - Landlord gets a writ of possession
 - Writ of possession is served on the tenant

Eviction:

- **Tenant must move ONLY if:**
 - Landlord files an unlawful detainer;
 - Landlord gets a judgment for possession; and
 - Landlord gets a writ of possession which is served on the tenant
 - The Sheriff waits at least 72 hours after service of the writ of possession on the tenant before coming back to evict

Landlord Remedies:

- **Landlord may NOT:**
 - Lock tenant out (Exception: Owners of hotels, motels and other similar lodging may lock out people who have been living in such lodging fewer than 90 consecutive days. 5 days written notice must be provided if lock-out is for non-payment)
 - Cut-off utilities
 - Use self-help eviction
 - **VA Code 55-225.1**

Landlord Remedies (VRLTA):

- **Tenant Noncompliance with Lease:**
- **Remediable Breach**
 - Material violation of lease
 - Violation of Code materially affecting health or safety
 - Written 21/30 day notice from LL
 - If remedied within 21 days, lease continues
 - If tenant intentionally commits similar breach, lease terminates with 30 days written notice from LL
 - **VA Code 55-248.31**

Landlord Remedies (VRLTA):

- **Tenant Noncompliance with Lease:**
- **Nonpayment of rent**
 - 5 day written “pay or quit” notice must be delivered by LL to tenant
 - If tenant does not pay the rent owed within the 5 day period, LL may terminate lease and obtain possession
 - However, once every 12 months tenant may “redeem” by paying everything sued for or providing written promise to pay from NPO/LGA on or before the first court date
 - **VA Code 55-225, 55-243, 55-248.31**

Landlord Remedies (VRLTA):

- **Tenant Noncompliance with Lease:**
- **Non-remediable breach**
 - LL may serve written notice on tenant terminating tenancy not less than 30 days from notice
 - If breach constitutes criminal or willful act that threatens health or safety of other tenants, LL may terminate lease IMMEDIATELY and initial hearing on LL's claim for possession must be heard within 15 days from date of service on tenant (earlier in emergency) (note: Tenant is held liable for criminal activity of guests and invitees except for special rule when criminal activity is domestic violence committed against tenant)

VA Code 55-248.31

Landlord Remedies (VRLTA):

- **Tenant Noncompliance with Lease**
 - **Illegal Drugs**
 - If tenant, tenant's authorized occupant, guest or invitee engages in illegal drug activity involving controlled substance, such activity is a non-remediable breach
 - LL can terminate immediately without criminal conviction if proves case by P of E
 - Tenant presumed to have knowledge of illegal drug activity by guest or invitee (rebuttable by P of E)

Landlord Remedies (VRLTA):

- **Tenant's Noncompliance with Lease:**
 - **Possible defenses to nonpayment –**
 - Refusal of payment (estoppel)
 - Failure to send pay or quit
 - Conditions – paying rent into escrow
 - Waiver (ie sent second pay or quit)
 - **Redemption (payment of all rent owed, late fees, interest, costs and attorneys fees on or before first return date OR submission of redemption tender and subsequent payment)**

Landlord Remedies (VRLTA):

- **Tenant's Noncompliance with Lease:**
 - **Possible defenses to other breaches –**
 - Conduct didn't occur/not tenant's fault
 - Not material
 - Lack of proper termination notice
 - Failure to reserve rights by LL (waiver)
 - Conditions
 - Retaliatory/Discriminatory

This is NOT an exhaustive list - be creative!!!

Landlord Remedies (VRLTA)

- **Remedy After Termination:**

- LL may have claims for rent, possession and actual damages from breach
- LL cannot sue for accelerated rent; can only seek rent as it becomes due and owing
- LL may simultaneously receive judgment for possession and money

Limits on Landlord Remedies (VRLTA and VLTA):

- **No Self-Help Evictions:**

- LL cannot recover possession by willfully interrupting gas, electric, water or other essential services required by the lease, or by denying tenant access to the unit unless pursuant to court order
- Any lease provision that authorizes self-help evictions is unenforceable
- **VA Code 55-225.1**

Waiver of Right to Terminate:

If LL accepts partial or full rent after termination notice is given, and he has not provided tenant written notice that rent is accepted with reservation (either in the termination notice or in a separate notice within 5 days of acceptance of rent), LL waives his right to evict tenant. This holds true even for rent accepted after order of possession entered, and landlord must provide a distinct notice within 5 days of accepting rent after order of possession is entered. **55-248.34:1**

Landlord Remedies (VRLTA):

- **Barring Guest or Invitee of Tenant:**
 - LL can send written notice to guest and to tenant barring guest for conduct committed on premises that violates lease, local ordinance, state or federal law
 - Tenant can challenge the bar notice through a tenant's assertion
 - LL may treat Tenant's allowing barred guest to return to premises as material non-compliance with lease
 - **VA Code 55-248.31:01**

Landlord Remedies (VRLTA)

- **Remedy by repair; Emergency:**
 - Applies to breach which materially affects health or safety but can be remediated by repair, replacement or cleaning'
 - After written notice to tenant, LL may enter premises, have the work done and submit itemized bill for actual and reasonable costs as rent on next rent due date
 - In emergency, LL may enter unit, have work done and submit itemized bill for actual and reasonable cost on next due date
 - **VA Code 55-248.32**

Landlord Remedies (VRLTA)

- **Tenant Abandonment, Absence, Nonuse:**
 - If lease requires notice of absence of more than 7 days and tenant doesn't provide, LL can get damages
 - If LL can't tell if unit abandoned, shall serve written notice on tenant requiring notice within 7 days that tenant wants to stay on premises
 - If no written notice back to LL within 7 days, rebuttable presumption of abandoned premises
 - **VA Code 55-248.33**

Notice of Termination of Tenancies

- Week to week tenancies may be terminated with written notice served at least 7 days before the next rent due date
- Month to month tenancies may be terminated by serving a written notice at least 30 days before the next rent due date
- LL may include in lease liquidated damages not to exceed amount equal to per diem of monthly rent, for each day tenant remains in unit after date specified in notice

Landlord Remedies (VRLTA)

- **Disposal of Property Abandoned by tenant:**
 - LL can dispose of personal property left in unit after possession transferred if he has given tenant notice that:
 - Property left after termination would be disposed of 24 hrs after termination
 - Property left would be disposed of after 7 days (in case of abandonment) OR
 - Property would be disposed of 10 days after notice given
 - **VA Code 55-248.38:1**

Landlord Remedies (VRLTA)

- **Disposal of Property After Court Order**
 - After judgment for possession entered, sheriff places the personal property of tenant in public way or at LL's request in storage area designated by LL
 - Tenant has 24 hours to retrieve property (or can retrieve at other reasonable times until LL disposes of property)
 - **VA Code 55-248.38:2**

Late Fees

- No express statutory cap on late fees for late rental payment
- Late fees are generally set forth in lease and must be “reasonable”
- What is considered a “reasonable” late fee can vary widely from jurisdiction to jurisdiction
- Courts generally treat a per diem late fee as impermissible/unreasonable

Tenant Remedies

- **In Virginia:**
 - **There is no rent withholding when landlord fails to meet his obligations**
 - **There is no “repair and deduct”**

Tenant Remedies (VRLTA/VLTA):

- **Material Noncompliance by Landlord:**
 - Tenant may serve notice on LL saying lease will terminate in 30 days if specified breach isn't remedied in 21 days
 - If LL breach non-remediable, tenant gives notice of breach and that lease will terminate in 30 days
 - If LL intentionally commits breach for which he has previously received 21/30 notice, tenant can send notice terminating lease in 30 days
 - **VA Code 55-248.21 and 55-225.13**

Tenant Remedies (VRLTA):

- Early termination by military personnel:
 - Following members of US armed forces or VA National Guard may terminate lease upon 30 days' notice:
 - FT duty, received permanent change 35 or more miles away
 - Temporary duty order of 35 or more miles away for more than 3 months
 - Discharged
 - Ordered to live in government-supplied quarters
 - **VA Code 55-248.21:1**

Tenant Remedies (VRLTA/VLTA)

- Early Lease Termination for Victims of Domestic and Sexual Violence
 - Applies to tenants who have **either** a final order of protection for family abuse or an order of conviction of sexual assault, sexual abuse or family abuse
 - Tenant must provide landlord written notice of intent to terminate, which must state the termination date.
 - Termination date must be at least 30 days before the next rent payment is due.
 - **VA Code 55-248.21:1 AND 55-225.16**

Tenant Remedies (VRLTA)

- **LL failure to deliver possession:**
 - If LL willfully fails to deliver possession –
 - Rent abates until delivery of possession
 - Tenant can terminate rent agreement with 5 days written notice
 - Tenant can demand performance and maintain action for possession against LL

Tenant Remedies (VRLTA/VLTA):

- **Wrongful Failure to Supply Essential Services:**
 - If LL, contrary to lease, willfully or negligently fails to supply essential service (ie water, heat, electricity), tenant may serve a notice on LL and after reasonable time for LL to remedy may get damages or move and not pay rent OR tenant can seek injunction
 - Tenant can bring action in general district court
 - Tenant can also seek actual damages and attorneys fees
 - **VA Code 55-248.23 and VA Code 55-248.26**

Tenant Remedies (VRLTA/VLTA)

- **Tenant's Assertion:**
 - Remedy for LL material noncompliance with lease or law constituting fire hazard or serious threat to life, health or safety
 - Tenant must serve LL written notice advising him of the condition unless LL is notified of the condition by appropriate agency
 - If LL doesn't remedy within reasonable time after notice, tenant can file Tenant's Assertion
 - **VA Code 55-248.27 and VA Code 55-225.12**

Tenant Remedies (VRLTA/VLTA)

- **Tenant's Assertion:**
 - To file, tenant must be current on rent
 - Tenant must pay rent into court after filing
 - Initial hearing held within 15 days of service
 - Possible relief includes termination of rental agreement, awarding money in escrow to tenant, rent abatement, continued payment of rent into escrow until conditions remedied

Tenant Remedies (VRLTA)

- **Fire or Casualty Damage:**
 - If damage is substantial, tenant may immediately vacate and serve notice on LL within 14 days (termination effective as of date of vacating); rent abatement or termination
 - If repairs can only be made if tenant vacates, tenant can terminate and serve notice within 14 days OR LL can terminate by giving tenant 30 days' notice
 - LL must return prepaid rent and security deposit
 - **VA Code 55-248.24**

Tenant Remedies (VRLTA)

- **LL's Noncompliance as Defense to Action for Possession for Unpaid Rent:**
 - Tenant may assert serious threat to health or safety as defense IF
 - He has served LL written notice of the condition(s) or LL notified by building inspector before action for possession
 - LL didn't remedy condition(s)
 - Tenant paid rent into court

Tenant Remedies

- **Fictitious Name Defense:**
 - Any person, partnership, LLC or corporation transacting business in VA under a fictitious name must record a fictitious name certificate in the Circuit Court where business is conducted
 - Failure to comply with this requirement prior to entry of a final judgment makes the judgment void

Tenant Remedies

- **Legal Aid Notice in Public Housing Termination Notices:**
 - Notice to terminate public housing tenancy is NOT effective unless it contains on its first page the name and phone number of the local legal aid society

Prohibited Provisions

- A lease cannot include a provision through which the tenant waives any right or remedy under the VRLTA
- Any such prohibited provisions are unenforceable and if LL brings action to enforce tenant can recover actual damages and reasonable attorneys fees
 - **VA Code 55-248.9**

Manufactured Home Lot Rental Act

- Some Key Parts

- Requires park owners to offer all year-round tenants a one year lease
- One year leases automatically renew for one year unless LL gives notice of termination or change 60 days prior to termination of lease
- Limits reasons tenants can be evicted
- Allows evicted tenant right to leave home in the park for up to 90 days in some circumstances
- If LL rents both lot and home may be covered by VRLTA; incorporates much of VRLTA (55-248.48)
- **VA Code 55-248.41 through 55-248.52**

Landlord/Tenant Act

- **Key Provisions:**

- Appointment of resident agent by nonresident property owner (55-218.1)
- Notice to terminate tenancy (55-222)
- Failure to vacate at end of term (55-223)
- Failure to pay after 5 days notice (55-225)
- Remedies for LL's unlawful diminution of services (55-225.2)
- Right of Redemption (55-243)
- Tenant's Assertion (55-225.11)
- Right to terminate for landlord's material breach (55-225.12)

Utility Protections for Consumers with Serious Medical Conditions



A PRESENTATION BY THE
VIRGINIA POVERTY LAW CENTER

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STAFF ATTORNEY



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700 E Main St. Suite 1410, Richmond, VA 23219

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What protections do these rules provide?



- The State Corporation Commission rules allow consumers with serious medical conditions (and consumers with household members who have serious medical conditions) to delay disconnection of their service for nonpayment for up to 60 days
- The consumer can delay disconnection of service for thirty days, but can use this right to a 30 day delay twice in a twelve month period
- The two thirty day periods may be consecutive

20VAC5-330-40

Which utilities are covered by these rules?



- The rules related to consumers with serious medical conditions apply to:
 - Investor-owned electric utilities
 - Electric cooperatives
 - Public utilities providing water service

✦ **20VAC5-330-10**

Most notably, gas companies are not covered by these rules

What is a serious medical condition?



- Serious medical condition means a physical or psychiatric condition that requires medical intervention to prevent further disability, loss of function or death
- Serious medical conditions are characterized by a need for ongoing medical supervision or the consultation of a physician
- Medical interventions may include medications with special storage requirements, use of powered equipment or access to water **20VAC5-33-20**

How does a consumer notify the utility?



- Consumers with serious medical conditions must provide the utility with a completed serious medical condition form
- The serious medical condition form is available on the State Corporation website at <http://www.scc.Virginia.gov/pue/rules.aspx>
- The serious medical condition form must be completed and signed by a licensed physician, the customer and the patient or the patient's legal guardian or power of attorney **20VAC5-330-20,30**

What if a consumer with a SMC receives a disconnect notice?



- If a customer who has filed a completed serious medical condition form with the utility receives a disconnect notice, the utility must delay terminating service upon the customer's request for an additional 30 days beyond the date in the notice
- If a customer who does not have a SMC form on file receives a disconnect notice and requests a delay of termination, the utility must delay termination for 10 days and provide the consumer the SMC form via website, and mail, email or fax
- No later than two business days after receipt of the request, the utility must notify the consumer by mail of the date the notification was received, the date the ten day period expires, and that upon receipt of a completed SMC form termination will be delayed for thirty days from the original termination date in the disconnect notice **20VAC5-330-40**

What if the utility disconnects before the customer submits the SMC form?



- The customer has 14 calendar days after the termination of service to request reconnection of service and submit a Serious Medical Condition form (if not already on file)
- The utility can NOT charge a reconnect fee as a condition of restoring service; however, it may include reconnection fees in the customers' next bill
- Following reconnection of service, the utility must delay termination of service for a minimum of 30 days from the date it reconnects **20VAC5-330-40**

Thank You



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The Virginia Poverty Law Center is a non-profit committed to serve the needs of low-income Virginians. The work of the center is supported by individual and corporate donors and through lawyer's IOLTA accounts. If you would like to find out how to give to our general or specific efforts, please contact us at donate@vplc.org

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