

# **5 Things to Know Before Becoming a Landlord**

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Before deciding to become a landlord, you should the following 5 things:

- 1) Which law applies to your tenant:

Virginia has two bodies of law governing the relationship between residential landlords and tenants. The first is the Virginia Residential Landlord Tenant Act (“VRLTA”) found in Title 55 §248.2 to §248.40. The second is Title 55 §217 to §248. You may “opt in” to the VRLTA if you are not otherwise required to be subject to the Act by the number of properties which you own or by other requirements. There are substantial differences between the two Acts. I generally recommend to the landlords I represent to “opt in” or otherwise make their lease subject to the VRLTA.

- 2) Make sure you know who you are leasing to.

Not only will the people who reside in the property need to be on the lease but if you are leasing to college students you may wish to have the parents sign the lease; however, if you have a non-resident sign the lease, be certain in which capacity they are signing. By signing the lease are you are giving them the right to be present at the property. It may be better to have the Parents sign as only guarantors? Being a guarantor obligates them to make the payments but does not give them a possessor interest.

- 3) Does your lease allow assignment or sub-letting?

Generally, all leases are assignable unless the terms of the lease clearly limit or deny assignment or subleasing. Restrictions against assignments and subleasing must be clearly stated. Please be certain to understand that a prohibition against subletting does not prohibit assignments and vice versa.

- 4) Be clear in your options to renew or extend.

Generally, leases are renewed upon the same terms and conditions as previously contracted (except for a possible increase in rent). The options for renewal are strictly construed by the courts and are generally very time sensitive. The option to renew should be clear in scope and identify the time frame for when the option should be exercised. Failure to comply with the strict terms and conditions of the option to renew will usually result in its denial.

- 5) Federal statutes to consider.

There are several federal statutes that must be considered when becoming a landlord.

- a) American's with Disabilities Act. Before becoming a landlord and deciding to interview the public to rent your property, please determine whether you are required to comply with the American's with Disabilities Act. Generally you will need to inquire two initial questions: 1) where are you meeting the prospective tenants? If you meeting them in an office or rental agency, you must determine if the building or place the where the tenant and landlord meet considered a public accommodation as defined in §302 of the ADA. If so, you must comply with the ADA, and 2) whether the potential renter who is claiming a benefit under the Act is in fact protected by the Act.
- b) Rehabilitation Act of 1973 and the Federal Fair Housing Amendment Act of 1988. The relevant sections of these Acts deal with service animals. Generally a person who is requiring the use of a service animal may not be denied a house because of that animal.
- c) Federal Credit Reporting Act as amended by the Fair and Accurate Credit Transaction Act of 2003. If you reject an applicant or take any other negative action, such as an increase in rent or security deposit based even in part on information contained in their credit report, you are required to 1) provide an adverse action report. This report must state the name and address of the reporting agency that provided you the information upon which you relied; 2) inform the applicant of the right to obtain a copy of the file upon which you relied; and 3) inform the applicant they have the right to obtain a free copy of their credit report from the relevant agency, if the request is made within 60 days of the notice or they have not received a free copy of the report in the past year, and provide them with the agency's address. Lastly, inform them that the credit reporting agency did not make the decision not to rent to them, require more rent, a security deposit or whatever punitive action was taken; therefore, the credit reporting agency is not in a position to comment or explain the reasons for the rejection or punitive action. Inform the tenant they can dispute the accuracy of the report and/or add a 100 word explanation to their credit report.
- d) Residential Lead-Based Paint Hazard Reduction Act. This Act requires landlords of any housing built prior to 1978 to provide the prospective tenant with a lead hazard information pamphlet as prescribed by the Environmental Protection Agency. A copy of the pamphlet is available on the EPA website at [www.EPA.gov](http://www.EPA.gov) or by calling the national lead information clearing house at 1-800-424-LEAD. The Virginia agency responsible for same may be reached at 1-800-523-4019.

If you review and implement these simple steps before becoming a residential landlord you hopefully will be able to minimize your legal exposure.