

Mold in Rental Properties What Landlords and Tenants Need to Know

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Virginia Code Requirements for Remediation of Mold in Rental Properties.

§ 55.1-1215. Disclosure of mold in dwelling units.

At the start of a tenancy, a Virginia Landlord must disclose whether there is any evidence of mold in the rental unit. If the landlord's written disclosure states that there is no evidence of mold and the tenant disagrees, the tenant must object in writing within five days after receiving the report.

If the landlord's written disclosure states that there is visible evidence of mold in the dwelling unit, the tenant has the option of terminating the tenancy or continuing the tenancy. If the tenant wants to stay in the unit, the landlord must remediate the mold condition no later than five business days after the tenant's decision to remain in the unit.

§ 55.1-1227. Tenant to maintain dwelling unit.

It is the tenant's responsibility to maintain the dwelling unit to prevent accumulation of moisture. Tenants should properly ventilate bathrooms during showers. Tenants must promptly notify the landlord of any moisture accumulation or any evidence of visible mold by the tenant.

§ 55.1-1220. Landlord to maintain fit premises.

Landlords must maintain their property in a condition that prevents the accumulation of moisture and the growth of mold, they must and promptly respond to any notices from a tenant of moisture or visible evidence of mold. When there is visible evidence of mold, the landlord must promptly remediate the mold in accordance with professional standards.

Mold remediation in accordance with professional standards" means mold remediation performed consistent with guidance documents published by the United States Environmental Protection Agency, the United States Department of Housing and Urban Development, the American Conference of Governmental Industrial Hygienists (the Bioaerosols Manual), Standard Reference Guides of the Institute of Inspection, Cleaning and Restoration for Water Damage Restoration and Professional Mold Remediation, or any protocol for mold remediation prepared by an industrial hygienist consistent with guidance documents.

The landlord must provide a tenant with a copy of a summary of information related to mold remediation occurring during that tenancy and, upon request of the tenant, make available the full package of such information and reports not protected by attorney-client privilege. Once the mold has been remediated in accordance with professional standards, the landlord is not required to make disclosures of a past incidence of mold to subsequent tenants.

§ 55.1-1231. Relocation of tenant where mold remediation needs to be performed in the dwelling unit.

If mold in the dwelling unit materially affects the health or safety of any tenant or authorized occupant, the tenant may be required to temporarily vacate the unit during mold remediation for a period not to exceed 30 days. If the tenant is relocated, the landlord must provide the tenant with either comparable dwelling unit, as selected by the landlord, at no expense or cost to the tenant or a hotel room, as selected by the landlord, at no expense or cost to the tenant.

The landlord is not required to pay for other expenses of the tenant that arise after the relocation period. The tenant is responsible for payment of rent under the rental agreement during the period of any temporary relocation and for the remainder of the term of the rental agreement following the remediation.

The landlord is responsible for all costs of the relocation and mold remediation, **unless the mold is a result of the tenant's failure to comply with § 55.1-1227.**

§ 55.1-1244. Tenant's assertion; rent escrow

If a tenant believes that a landlord has not complied with the requirement in the Virginia Code, the tenant may file a Tenant's Assertion and ask a court to intervene.

The tenant's assertion is filed in a general district court where the property is located. The tenant must convince the court that:

1. Before filing the tenant's assertion, the landlord or his agent refused or failed to remedy the condition in a reasonable time after notification.
2. The landlord was served a written notice of the condition by the tenant or was notified of such condition by a violation or condemnation notice from an appropriate state or local agency.
3. The tenant has paid into court the amount of rent called for under the rental agreement, within five days of the date due under the rental agreement.
4. The tenant has not caused the condition and has allowed access to the property for the landlord's contractors to remedy the condition.

The court may order actions that include any one or more of the following:

1. Terminating the rental agreement at the request of the tenant.
2. Ordering all moneys already accumulated in escrow disbursed to the landlord or to the tenant in accordance with this chapter;
3. Ordering that the escrow be continued until the conditions causing the complaint are remedied;
4. Ordering that the amount of rent, whether paid into the escrow account or paid to the landlord, be abated as determined by the court in such an amount as may be equitable;
5. Ordering any amount of moneys accumulated in escrow disbursed to the tenant where the landlord refuses to make repairs after a reasonable time or to the landlord or to a contractor chosen by the landlord in order to make repairs or to otherwise remedy the condition.

For assistance with filing a tenant's assertion contact the City of Alexandria Office of Housing at 703-746-4990 or email Gwen Lassiter at gwen.lassiter@alexandriava.gov, or Goodman Okpara at onwuchekwa.okpara@alexandriava.gov.

Court forms and instructions for filing a tenant's assertion:

<http://www.courts.state.va.us/forms/district/dc429.pdf>

<http://www.courts.state.va.us/forms/district/dc429inst.pdf>

For more information on federal requirements for mold visit:

<https://www.epa.gov/sites/production/files/2016-10/documents/moldguide12.pdf>