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HOUSE BILL NO. 2342**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on General Laws
on January 16, 2003)

(Patrons Prior to Substitute—Delegates Drake (HB 2342) and Armstrong (HB 2576))

A BILL to amend and reenact § 8.01-471 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 55-248.34:1, and to repeal § 55-248.34 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; acceptance of rent with reservation.

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-471 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 55-248.34:1 as follows:

§ 8.01-471. Time period for issuing writs of possession in unlawful entry and detainer; when returnable.

Writs of possession, in case of unlawful entry and detainer, shall be issued within one year from the date of judgment for possession and shall be made returnable within thirty days from the date of issuing the writ. No writ shall issue, however, if, following the entry of judgment, the landlord has accepted rent payments without reservation, as described in ~~§ 55-248.34~~ § 55-248.34:1.

§ 55-248.34:1. Landlord's acceptance of rent with reservation.

A. Provided the landlord has given written notice to the tenant that the rent will be accepted with reservation, the landlord may accept full payment of all rent and receive an order of possession from a court of competent jurisdiction pursuant to an unlawful detainer action filed under Chapter 13 (§ 8.01-374 et seq.) of Title 8.01. Such notice shall be included in a termination notice given by the landlord to the tenant in accordance with § 55-248.31 or in a separate written notice given by the landlord to the tenant within 5 business days of receipt of the rent. The landlord shall continue to accept the rent with reservation in accordance with this section until such time as the violation alleged in the termination notice has been remedied or the matter has been adjudicated in a court of competent jurisdiction.

B. Subsequent to the entry of an order of possession by a court of competent jurisdiction but prior to eviction pursuant to § 55-248.38:2, the landlord may accept full payment of any money judgment, award of attorneys' fees and court costs, and proceed with eviction provided that the landlord has given the tenant written notice that any such payment would be accepted with reservation and would not constitute a waiver of the landlord's right to evict the tenant from the dwelling unit. Such notice shall be given in a separate written notice given by the landlord within 5 business days of receipt of such money judgment, attorneys' fees and court costs.

C. However, the tenant may pay all rent, late charges, attorneys' fees and court costs at or before the first return date on an action for unlawful detainer, provided the tenant does not invoke such right more than once in a continuous 12-month period in accordance with § 55-243.

2. That § 55-248.34 of the Code of Virginia is repealed.