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SENATE BILL NO. 282

Offered January 13, 2010

Prefiled January 12, 2010

A *BILL to amend and reenact §§ 55-243 and 55-248.34:1 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; eviction procedure; acceptance of redemption tenders.*

Patron—Quayle

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-243 and 55-248.34:1 of the Code of Virginia are amended and reenacted as follows:

§ 55-243. How judgment of forfeiture prevented.

A. If any party having right or claim to such lands shall, at any time before the trial in such ejectment, or at or before the first court return date in an action of unlawful detainer seeking possession of a residential dwelling based upon a default in rent, pay or to the party entitled to such rent, or to his attorney in the cause, or pay into court, all the rent and arrears, along with any reasonable attorney's attorney fees and late charges contracted for in a written rental agreement, interest and costs, all further proceedings in the ejectment or unlawful detainer shall cease. If the person claiming the land shall, upon bill filed as aforesaid, be relieved in equity, he shall hold the land as before the proceedings began, without a new lease or conveyance. If the parties dispute the amount of rent and other charges owed, the court shall take evidence on the issue and make orders for the tender, payment or refund of any appropriate amounts.

B. In cases of unlawful detainer of a tenant from a rental dwelling unit, the tenant may present to the court a redemption tender for payment of all rent due and owing as of the return date, including late charges, attorney fees and court costs, at or before the first return date on an action for unlawful detainer, provided the tenant does not invoke the rights granted by this section ~~no~~ more than one time during any ~~twelve-month~~ 12-month period of continuous residency in the rental dwelling unit. For purposes of this section, "redemption tender" means a written commitment to pay all rent due and owing as of the return date, including late charges, attorney fees and court costs, by a local government or nonprofit entity within 10 days of said return date.

C. If the tenant presents a redemption tender to the court at the return date, the court shall continue the action for unlawful detainer for 10 days following the return date for payment to the court of all rent due and owing as of the return date, including late charges, attorney fees and court costs. Should the court not receive full payment of all rent due and owing as of the return date, including late charges, attorney fees and court costs, within 10 days of the return date, the court shall, without further hearing, grant to the landlord judgment for all amounts due and immediate possession of the premises.

§ 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 written 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 five business days of receipt of the rent. Unless the landlord has given such notice in a termination notice in accordance with § 55-248.31, the landlord shall continue to give a separate written notice to the tenant within five business days of receipt of the rent that the landlord continues 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. If the dwelling unit is a public housing unit or other housing unit subject to regulation by the Department of Housing and Urban Development, the landlord shall be deemed to have accepted rent with reservation pursuant to this subsection if the landlord gives the tenant the written notice required herein for the portion of the rent paid by the tenant.

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' attorney 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 five business days of receipt of payment of such money judgment, attorneys' attorney fees and court costs. If the dwelling unit is a public

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59 housing unit or other housing unit subject to regulation by the Department of Housing and Urban
60 Development, the landlord shall be deemed to have accepted rent with reservation pursuant to this
61 subsection if the landlord gives the tenant the written notice required herein for the portion of the rent
62 paid by the tenant.

63 C. However, the tenant may pay *or present to the court a redemption tender for payment of* all rent
64 *due and owing as of the return date, including late charges, attorneys' attorney fees and court costs,* at
65 or before the first return date on an action for unlawful detainer, provided the tenant does not invoke
66 such right more than once in a continuous 12-month period in accordance with § 55-243. *For purposes*
67 *of this section, "redemption tender" means a binding written commitment to pay all rent due and owing*
68 *as of the return date, including late charges, attorney fees and court costs, by a local government or*
69 *nonprofit entity within 10 days of said return date.*

70 D. *If the tenant presents a redemption tender to the court at the return date, the court shall continue*
71 *the action for unlawful detainer for 10 days following the return date for payment to the court of all*
72 *rent due and owing as of the return date, including late charges, attorney fees and court costs. Should*
73 *the court not receive full payment of all rent due and owing as of the return date, including late*
74 *charges, attorney fees and court costs, within 10 days of the return date, the court shall, without further*
75 *hearing, grant to the landlord judgment for all amounts due and immediate possession of the premises.*