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HOUSE BILL NO. 1499

Offered January 12, 2011

Prefiled December 16, 2010

A BILL to amend and reenact §§ 55-237.1 and 55-248.38:2 of the Code of Virginia, relating to unlawful detainer, etc.; storage of tenant's property.

Patron—Ware, O.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-237.1 and 55-248.38:2 of the Code of Virginia are amended and reenacted as follows:

§ 55-237.1. Authority of sheriffs to store and sell personal property removed from premises; recovery of possession by owner; disposition or sale.

Notwithstanding the provisions of § 8.01-156, when personal property is removed from any leased or rented commercial or residential premises pursuant to an action of unlawful detainer or ejectment, or pursuant to any other action in which personal property is removed from the premises in order to restore such premises to the person entitled thereto, the sheriff shall oversee the removal of such personal property to be placed into the public way. The tenant shall have the right to remove his personal property from the public way during the 24-hour period after eviction. Upon the expiration of the 24-hour period after eviction, the landlord shall remove, or dispose of, any such personal property remaining in the public way.

At the landlord's request, any personal property removed pursuant to this section, which shall be placed into a storage area designated by the landlord, which may be the leased or rented premises, and which shall not be in the public way. The tenant shall have the right to remove his personal property from the landlord's designated storage area at reasonable times during the 24 hours after eviction from the premises or at such other reasonable times until the landlord has disposed of the property as provided herein. During that 24-hour period and until the landlord disposes of the remaining personal property of the tenant, the landlord and the sheriff shall not have any liability for the loss of such personal property. If the landlord fails to allow reasonable access to the tenant to remove his personal property as provided herein, the tenant shall have a right to injunctive relief and such other relief as may be provided by law.

Any property remaining in the landlord's storage area upon the expiration of the 24-hour period after eviction may be disposed of by the landlord as the landlord sees fit or appropriate. If the landlord receives any funds from any sale of such remaining property, the landlord shall pay such funds to the account of the tenant and apply same to any amounts due the landlord by the tenant, including the reasonable costs incurred by the landlord in the eviction process described in this section or the reasonable costs incurred by the landlord in selling or storing such property. If any funds are remaining after application, the remaining funds shall be treated as security deposit under applicable law.

The notice posted by the sheriff setting the date and time of the eviction, pursuant to § 8.01-470, shall provide notice to the tenant of the rights afforded to tenants in this section and shall include in the notice a copy of this statute attached to, or made a part of, this notice.

§ 55-248.38:2. Authority of sheriffs to store and sell personal property removed from residential premises; recovery of possession by owner; disposition or sale.

Notwithstanding the provisions of § 8.01-156, when personal property is removed from a dwelling unit pursuant to an action of unlawful detainer or ejectment, or pursuant to any other action in which personal property is removed from the dwelling unit in order to restore the dwelling unit to the person entitled thereto, the sheriff shall oversee the removal of such personal property to be placed into the public way. The tenant shall have the right to remove his personal property from the public way during the 24-hour period after eviction. Upon the expiration of the 24-hour period after eviction, the landlord shall remove, or dispose of, any such personal property remaining in the public way.

At the landlord's request, any personal property removed pursuant to this section, which shall be placed into a storage area designated by the landlord, which may be the dwelling unit, and which shall not be in the public way. The tenant shall have the right to remove his personal property from the landlord's designated storage area at reasonable times during the 24 hours after eviction from the landlord's premises or at such other reasonable times until the landlord has disposed of the property as provided herein. During that 24-hour period and until the landlord disposes of the remaining personal property of the tenant, the landlord and the sheriff shall not have any liability for the risk of loss for

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60 personal property as provided herein, the tenant shall have a right to injunctive or other relief as
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63 eviction may be disposed of by the landlord as the landlord sees fit or appropriate. If the landlord
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65 account of the tenant and apply same to any amounts due the landlord by the tenant, including the
66 reasonable costs incurred by the landlord in the eviction process described in this section or the
67 reasonable costs incurred by the landlord in selling or storing such property. If any funds are remaining
68 after application, the remaining funds shall be treated as security deposit under applicable law.

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70 shall provide notice to the tenant of the rights afforded to tenants in this section and shall include in the
71 said notice a copy of this statute attached to, or made a part of, this notice.