

LD5597204

## HOUSE BILL NO. 2142

Offered January 23, 1995

A BILL to amend the Code of Virginia by adding a section numbered 8.01-127.1, relating to unlawful detainer actions.

Patrons—Almand, Diamonstein, Mims and Stump; Senators: Calhoun, Waddell and Walker

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-127.1 as follows:

§ 8.01-127.1. Removal of residential unlawful detainer actions.

A. In any case involving a residential tenancy not involving a default in rent in which an action has been commenced or a summons has been issued pursuant to § 8.01-126, in or returnable to a general district court, removal of the action to the circuit court shall be conditioned upon the defendant (i) filing an affidavit of substantial defense pursuant to the requirements of § 16.1-92 and (ii) paying the costs accrued to the time of removal, the writ tax as fixed by law, and in the court to which it is removed, the costs as fixed by subdivision (17) of § 14.1-112.

B. The affidavit of substantial defense described in subsection A and any representation by the landlord that there has been a default in rent shall be subject to the requirements of § 8.01-271.1.

C. If the defendant fails to pay rent at such time and in such manner as required by the terms of the rental agreement and applicable law, the landlord may file with the circuit court, and serve upon the defendant, or his attorney, an affidavit made by himself, his agent, or his attorney, stating that the rent is delinquent. If within three business days of service of such notice, the defendant or his attorney fails to file, and the court does not receive an affidavit stating that the rent has been paid timely, the circuit court shall enter an order of possession granting the landlord immediate possession of the premises.

If an affidavit is filed on behalf of the defendant stating that payment has been made, the matter shall come before the circuit court forthwith to resolve the issue of payment.

D. Unlawful detainer actions removed to the circuit court shall be accorded priority on the civil docket.

INTRODUCED

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