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SENATE BILL NO. 197

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on February 15, 2018)

(Patron Prior to Substitute—Senator Locke)

A BILL to amend and reenact §§ 55-225.47 and 55-248.34:1 of the Code of Virginia, relating to landlord and tenant law; notice requirements; landlord's acceptance of rent with reservation.

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-225.47 and 55-248.34:1 of the Code of Virginia are amended and reenacted as follows:

§ 55-225.47. Landlord's acceptance of rent with reservation.

A. Provided that the landlord has given written notice to the tenant that the rent will be accepted with reservation, the landlord may accept full or partial payment of all rent and receive an order of possession from a court of competent jurisdiction pursuant to an unlawful detainer action filed under Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01 and proceed with eviction under § 55-225.41, provided that the landlord has stated in a written notice to the tenant that any and all amounts owed to the landlord by the tenant, including payment of any rent, damages, money judgment, award of attorney fees, and court costs, 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 may be included in a written termination notice given by the landlord to the tenant in accordance with § 55-225.43 or in a separate written notice given by the landlord to the tenant within five business days of receipt of the rent, and if so included, nothing herein shall be construed by a court of law or otherwise as requiring such landlord to give the tenant subsequent written notice. Unless the landlord has given such notice in a termination notice in accordance with § 55-225.43, 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 nothing herein shall be construed to require that written notice be given to any public agency paying a portion of the rent under the rental agreement. If a landlord enters into a new written rental agreement with the tenant prior to eviction, an order of possession obtained prior to the entry of such new rental agreement is not enforceable.

B. Subsequent to the entry of an order of possession by a court of competent jurisdiction but prior to eviction pursuant to § 55-225.41, the landlord may accept all amounts owed to the landlord by the tenant, including full payment of any money judgment, award of attorney fees, and court costs, and all subsequent rents that may be paid prior to eviction, 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. However, if a landlord enters into a new written rental agreement with the tenant prior to eviction, an order of possession obtained prior to the entry of such new rental agreement is not enforceable. 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, attorney fees and court costs, and all subsequent rents that may be paid prior to eviction. 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. Writs of possession in cases of unlawful entry and detainer are otherwise subject to § 8.01-471.

C. However, the tenant may pay or 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. 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.

D. 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 landlord of all rent due and owing as of the return date, including late charges, attorney fees, and court costs and dismissal of the action upon such payment. Should the landlord 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 evidence, grant to the landlord judgment for all amounts due and immediate possession of the premises.

E. D. In cases of unlawful detainer, a tenant may pay the landlord or his attorney or pay into court all (i) rent due and owing as of the court date as contracted for in the rental agreement, (ii) other charges and fees as contracted for in the rental agreement, (iii) late charges contracted for in the rental agreement, (iv) reasonable attorney fees as contracted for in the rental agreement or as provided by law, and (v) costs of the proceeding as provided by law, at which time the unlawful detainer proceeding shall be dismissed. A tenant may invoke the rights granted in this section no more than one time during any 12-month period of continuous residency in the dwelling unit, regardless of the term of the rental agreement or any renewal term thereof.

§ 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 or partial payment of all rent and receive an order of possession from a court of competent jurisdiction pursuant to an unlawful detainer action filed under Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01 and proceed with eviction under § 55-248.38:2, provided that the landlord has stated in a written notice to the tenant that any and all amounts owed to the landlord by the tenant, including payment of any rent, damages, money judgment, award of attorney fees, and court costs, 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 may 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, and if so included, nothing herein shall be construed by a court of law or otherwise as requiring such landlord to give the tenant subsequent written notice. 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 nothing herein shall be construed to require that written notice be given to any public agency paying a portion of the rent under the rental agreement. If a landlord enters into a new written rental agreement with the tenant prior to eviction, an order of possession obtained prior to the entry of such new rental agreement is not enforceable.

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 all amounts owed to the landlord by the tenant, including full payment of any money judgment, award of attorney fees and court costs, and all subsequent rents that may be paid prior to eviction, 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. However, if a landlord enters into a new written rental agreement with the tenant prior to eviction, an order of possession obtained prior to the entry of such new rental agreement is not enforceable. 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, attorney fees and court costs, and all subsequent rents that may be paid prior to eviction. 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. Writs of possession in cases of unlawful entry and detainer are otherwise subject to § 8.01-471.

C. However, the tenant may pay or 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. 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.

D. 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 landlord of all rent due and owing as of the return date, including late charges, attorney fees, and court costs and dismissal of the action upon such payment. Should the landlord 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 evidence, grant to the landlord judgment for all

122 amounts due and immediate possession of the premises.

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124 all (i) rent due and owing as of the court date as contracted for in the rental agreement, (ii) other
125 charges and fees as contracted for in the rental agreement, (iii) late charges contracted for in the rental
126 agreement, (iv) reasonable attorney fees as contracted for in the rental agreement or as provided by law,
127 and (v) costs of the proceeding as provided by law, at which time the unlawful detainer proceeding shall
128 be dismissed. A tenant may invoke the rights granted in this section no more than one time during any
129 12-month period of continuous residency in the dwelling unit, regardless of the term of the rental
130 agreement or any renewal term thereof.