2018 SESSION

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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)

- 4 5 6 A BILL to amend and reenact §§ 55-225.47 and 55-248.34:1 of the Code of Virginia, relating to 7 landlord and tenant law; notice requirements; landlord's acceptance of rent with reservation. Be it enacted by the General Assembly of Virginia: 8
- 9 1. That §§ 55-225.47 and 55-248.34:1 of the Code of Virginia are amended and reenacted as 10 follows:
 - § 55-225.47. Landlord's acceptance of rent with reservation.

12 A. Provided that the landlord has given written notice to the tenant that the rent will be accepted 13 with reservation, the 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 14 15 Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01 and proceed with eviction under § 55-225.41, 16 provided that the landlord has stated in a written notice to the tenant that any and all amounts owed to 17 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 18 19 landlord's right to evict the tenant from the dwelling unit. Such notice shall may be included in a written 20 termination notice given by the landlord to the tenant in accordance with § 55-225.43 or in a separate 21 written notice given by the landlord to the tenant within five business days of receipt of the rent, and if 22 so included, nothing herein shall be construed by a court of law or otherwise as requiring such landlord 23 to give the tenant subsequent written notice. Unless the landlord has given such notice in a termination 24 notice in accordance with § 55-225.43, the landlord shall continue to give a separate written notice to 25 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 26 27 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 28 29 the Department of Housing and Urban Development, the landlord shall be deemed to have accepted rent 30 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 31 32 written notice be given to any public agency paying a portion of the rent under the rental agreement. If 33 a landlord enters into a new written rental agreement with the tenant prior to eviction, an order of 34 possession obtained prior to the entry of such new rental agreement is not enforceable.

35 B. Subsequent to the entry of an order of possession by a court of competent jurisdiction but prior to 36 eviction pursuant to § 55-225.41, the landlord may accept all amounts owed to the landlord by the 37 tenant, including full payment of any money judgment, award of attorney fees, and court costs, and all 38 subsequent rents that may be paid prior to eviction, and proceed with eviction, provided that the 39 landlord has given the tenant written notice that any such payment would be accepted with reservation 40 and would not constitute a waiver of the landlord's right to evict the tenant from the dwelling unit. 41 However, if a landlord enters into a new written rental agreement with the tenant prior to eviction, an 42 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 43 44 receipt of payment of such money judgment, attorney fees and court costs, and all subsequent rents that 45 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 46 47 have accepted rent with reservation pursuant to this subsection if the landlord gives the tenant the **48** written notice required herein for the portion of the rent paid by the tenant. Writs of possession in cases 49 of unlawful entry and detainer are otherwise subject to § 8.01-471.

50 C. However, the tenant may pay or present to the court a redemption tender for payment of all rent 51 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" 52 53 means a written commitment to pay all rent due and owing as of the return date, including late charges, 54 attorney fees, and court costs, by a local government or nonprofit entity within 10 days of said return 55 date.

56 D. C. If the tenant presents a redemption tender to the court at the return date, the court shall 57 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 58 59 costs and dismissal of the action upon such payment. Should the landlord not receive full payment of all

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60 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 61 62 amounts due and immediate possession of the premises.

63 E. D. In cases of unlawful detainer, a tenant may pay the landlord or his attorney or pay into court 64 all (i) rent due and owing as of the court date as contracted for in the rental agreement, (ii) other 65 charges and fees as contracted for in the rental agreement, (iii) late charges contracted for in the rental 66 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 67 be dismissed. A tenant may invoke the rights granted in this section no more than one time during any 68 12-month period of continuous residency in the dwelling unit, regardless of the term of the rental 69 70 agreement or any renewal term thereof. 71

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

72 A. Provided the landlord has given written notice to the tenant that the rent will be accepted with reservation, the The landlord may accept full or partial payment of all rent and receive an order of 73 possession from a court of competent jurisdiction pursuant to an unlawful detainer action filed under 74 75 Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01 and proceed with eviction under § 55-248.38:2, 76 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 77 78 fees, and court costs, would be accepted with reservation and would not constitute a waiver of the 79 landlord's right to evict the tenant from the dwelling unit. Such notice shall may be included in a written 80 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 81 the landlord has given such notice in a termination notice in accordance with § 55-248.31, the landlord 82 83 shall continue to give a separate written notice to the tenant within five business days of receipt of the 84 rent that the landlord continues to accept the rent with reservation in accordance with this section until 85 such time as the violation alleged in the termination notice has been remedied or the matter has been 86 adjudicated in a court of competent jurisdiction, and if so included, nothing herein shall be construed by 87 a court of law or otherwise as requiring such landlord to give the tenant subsequent written notice. If 88 the dwelling unit is a public housing unit or other housing unit subject to regulation by the Department 89 of Housing and Urban Development, the landlord shall be deemed to have accepted rent with reservation 90 pursuant to this subsection if the landlord gives the tenant the written notice required herein for the 91 portion of the rent paid by the tenant nothing herein shall be construed to require that written notice be 92 given to any public agency paying a portion of the rent under the rental agreement. If a landlord enters 93 into a new written rental agreement with the tenant prior to eviction, an order of possession obtained 94 prior to the entry of such new rental agreement is not enforceable.

95 B. Subsequent to the entry of an order of possession by a court of competent jurisdiction but prior to 96 eviction pursuant to § 55-248.38:2, the landlord may accept all amounts owed to the landlord by the 97 tenant, including full payment of any money judgment, award of attorney fees and court costs, and all 98 subsequent rents that may be paid prior to eviction, and proceed with eviction provided that the landlord 99 has given the tenant written notice that any such payment would be accepted with reservation and would 100 not constitute a waiver of the landlord's right to evict the tenant from the dwelling unit. However, if a 101 landlord enters into a new written rental agreement with the tenant prior to eviction, an order of 102 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 103 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 104 105 regulation by the Department of Housing and Urban Development, the landlord shall be deemed to have 106 accepted rent with reservation pursuant to this subsection if the landlord gives the tenant the written 107 108 notice required herein for the portion of the rent paid by the tenant. Writs of possession in cases of 109 unlawful entry and detainer are otherwise subject to § 8.01-471.

110 C. However, the tenant may pay or present to the court a redemption tender for payment of all rent 111 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" 112 means a written commitment to pay all rent due and owing as of the return date, including late charges, 113 114 attorney fees, and court costs, by a local government or nonprofit entity within 10 days of said return 115 date.

D. C. If the tenant presents a redemption tender to the court at the return date, the court shall 116 117 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 118 119 costs and dismissal of the action upon such payment. Should the landlord not receive full payment of all 120 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 121

122 amounts due and immediate possession of the premises.

123 E. D. In cases of unlawful detainer, a tenant may pay the landlord or his attorney or pay into court 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.

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