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SENATE BILL NO. 286

Offered January 10, 2018

Prefiled January 8, 2018

A BILL to amend and reenact § 55-248.3:1 of the Code of Virginia, relating to Virginia Residential Landlord and Tenant Act; transient lodging as primary residence for fewer than 90 consecutive days; self-help eviction.

 Patron—Spruill

 Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:**1. That § 55-248.3:1 of the Code of Virginia is amended and reenacted as follows:****§ 55-248.3:1. Applicability of chapter.**

A. This chapter shall apply to all jurisdictions in the Commonwealth and may not be waived or otherwise modified, in whole or in part, by the governing body of any locality, its boards and commissions or other instrumentalities, or the courts of the Commonwealth.

B. The provisions of this chapter shall apply to occupancy in all single-family and multifamily residential dwelling units and multifamily dwelling unit located in the Commonwealth. However, where the landlord is a natural person, an estate, or a legal entity that owns no more than two single-family residential dwelling units in its own name subject to a rental agreement, such landlord may opt out of the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) by so stating in a rental agreement with a tenant. Such residential dwelling units shall be exempt from this chapter and the provisions of §§ 55-225.01 through 55-225.48 shall be applicable.

The provisions of this chapter shall not apply to instances where occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest.

C. Tenancies and occupancies that are not residential tenancies. The following occupancies are not residential tenancies under this chapter:

1. Residence at a public or private institution, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar services;

2. Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;

3. Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;

4. Occupancy in a campground as defined in § 35.1-1;

5. Occupancy by a tenant who pays no rent pursuant to a rental agreement;

6. Occupancy by an employee of a landlord whose right to occupancy in a multifamily dwelling unit is conditioned upon employment in and about the premises or an former employee whose occupancy continues less than 60 days; or

7. Occupancy in a public housing unit or other housing unit subject to regulation by the Department of Housing and Urban Development, if the provisions of this chapter are inconsistent with the regulations of the Department of Housing and Urban Development.

D. Occupancy in hotel, motel, and extended stay facility.

1. A guest who is an occupant of a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging shall not be construed to be a tenant living in a dwelling unit if such person does not reside in such lodging as his primary residence. Such guest shall be exempt from this chapter, and the innkeeper or property owner, or his agent, shall have the right to use self-help eviction under Virginia law, without the necessity of the filing of an unlawful detainer action in a court of competent jurisdiction and the execution of a writ of possession issued pursuant to such action, which would otherwise be required under this chapter.

2. A hotel, motel, extended stay facility, vacation residential facility, boardinghouse, or similar transient lodging shall be exempt from the provisions of this chapter if overnight sleeping accommodations are furnished to a person for consideration if such person does not reside in such lodging as his primary residence.

3. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging as his primary residence for fewer than 90 consecutive days, such lodging shall not be subject to the provisions of this chapter. However, the owner of such lodging establishment shall give a

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59 five-day written notice of nonpayment to a person residing in such lodging and, upon the expiration of
60 the five-day period specified in the notice, may exercise self-help eviction if payment in full has not
61 been received. *The availability of self-help eviction shall not preclude arrest or prosecution for any*
62 *violation of any criminal law of the Commonwealth, including trespass pursuant to § 18.2-119.*
63 4. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including
64 those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar
65 transient lodging as his primary residence for more than 90 consecutive days or is subject to a written
66 lease for more than 90 days, such lodging shall be subject to the provisions of this chapter.