

VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

CHAPTER 356

An Act to amend the Code of Virginia by adding in Chapter 13.2 of Title 55 an article numbered 7, consisting of sections numbered 55-248.40:1, 55-248.40:2, and 55-248.40:3, relating to the Eviction Diversion Pilot Program.

[S 1450]

Approved March 12, 2019

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 13.2 of Title 55 an article numbered 7, consisting of sections numbered 55-248.40:1, 55-248.40:2, and 55-248.40:3, as follows:

Article 7.

Eviction Diversion Pilot Program.

§ 55-248.40:1. Establishment of Eviction Diversion Pilot Program; purpose; goals.

A. There is hereby established the Eviction Diversion Pilot Program (the Program) within the existing structure of the general district courts for the cities of Danville, Hampton, Petersburg, and Richmond. The purpose of the Program shall be to reduce the number of evictions of low-income persons. Notwithstanding any other provision of law, no eviction diversion court or program shall be established except in conformance with this section.

B. The goals of the Program shall include (i) reducing the number of evictions of low-income persons from their residential dwelling units for the failure to pay small amounts of money under the rental agreement, in particular when such persons have experienced an event that adversely affected financial circumstances such as the loss of employment or a medical crisis in their immediate family; (ii) reducing displacement of families from their homes and the resulting adverse consequences to children who are no longer able to remain in the same public school after eviction; (iii) encouraging understanding of eviction-related processes and facilitating the landlord's and tenant's entering into a reasonable payment plan that provides for the landlord to receive full rental payments as contracted for in the rental agreement and for the tenant to have the opportunity to make current such rental payments; and (iv) encouraging tenants to make rental payments in the manner as provided in the rental agreement.

§ 55-248.40:2. Eviction Diversion Pilot Program; administration.

Administrative oversight of the implementation of the Program and training for judges who preside over general district courts participating in the Program shall be conducted by the Executive Secretary of the Supreme Court of Virginia (Executive Secretary).

§ 55-248.40:3. Eviction Diversion Pilot Program; process; court-ordered payment plan.

A. A tenant in an unlawful detainer case shall be eligible to participate in the Program if he:

1. Appears in court on the first docket call of the case and requests to have the case referred into the Program;

2. Pays to the landlord or into the court at least 25 percent of the amount due on the unlawful detainer as amended on the first docket call of the case;

3. Provides sworn testimony that he is employed and has sufficient funds to make the payments under the court payment plan, or otherwise has sufficient funds to make such payments;

4. Provides sworn testimony explaining the reasons for being unable to make rental payments as contracted for in the rental agreement;

5. Has not been late within the last 12 months in payment of rent as contracted for in the rental agreement at the rate of either (i) more than two times in six months or (ii) more than three times in 12 months;

6. Has not exercised the right of redemption pursuant to § 55-248.34:1 within the last six months; and

7. Has not participated in an eviction diversion program within the last 12 months.

B. The court shall direct an eligible tenant pursuant to subsection A and his landlord to participate in the Program and to enter into a court-ordered payment plan. The court shall provide for a continuance of the case on the docket of the general district court in which the unlawful detainer action is filed to allow for full payment under the plan. The court-ordered payment plan shall be based on a payment agreement entered into by the landlord and tenant, on a form provided by the Executive Secretary, and shall contain the following provisions:

1. All payments shall be (i) made to the landlord; (ii) paid by cashier's check, certified check, or money order; and (iii) received by the landlord on or before the fifth day of each month included in the plan;

2. The remaining payments of the amounts on the amended unlawful detainer after the first payments

made on the first docket call of the case shall be paid on the following schedule: (i) 25 percent due by the fifth day of the month following the initial court hearing date, (ii) 25 percent due by the fifth day of the second month following the initial court hearing date, and (iii) the final payment of 25 percent due by the fifth day of the third month following the initial court hearing date; and

3. All rental payments shall continue to be made by the tenant to the landlord as contracted for in the rental agreement within five days of the due date established by the rental agreement each month during the course of the court-ordered payment plan.

C. If the tenant makes all payments in accordance with the court-ordered payment plan, the judge shall dismiss the unlawful detainer as being satisfied.

D. If the tenant fails to make a payment under the court-ordered payment plan or to keep current any monthly rental payments to the landlord as contracted for in the rental agreement within five days of the due date established by the rental agreement, the landlord shall submit to the general district court clerk a written notice, on a form provided by the Executive Secretary, that the tenant has failed to make payments in accordance with the plan. A copy of such written notice shall be given to the tenant in accordance with § 55-248.6.

The court shall enter an order of possession without further hearings or proceedings, unless the tenant files an affidavit with the court within 10 days of the date of such notice stating that the current rent has in fact been paid and that the landlord has not properly acknowledged payment of such rent. A copy of such affidavit shall be given to the landlord in accordance with § 55-248.6.

The landlord may seek a money judgement for final rent and damages pursuant to subsection B of § 8.01-128.

E. Nothing in this section shall be construed to limit (i) the landlord from filing an unlawful detainer for a non-rent violation against the tenant while such tenant is participating in the Program or (ii) the landlord and tenant from entering into a voluntary payment agreement outside the provisions of this section.

2. That it is the intent of the General Assembly, recognizing the critical need in the Commonwealth to reduce the number of evictions of low-income persons from residential dwelling units, to establish an eviction diversion pilot program and to evaluate the benefits and costs associated with such a program.

3. That the provisions of the first enactment of this act shall become effective on July 1, 2020.

4. That the provisions of the first enactment of this act shall expire on July 1, 2023.

5. That the Virginia Housing Commission shall request data from the Executive Secretary pursuant to § 16.1-69.54:1 and conduct evaluations of the effectiveness and efficiency of the eviction diversion pilot program established by the first enactment of this act. To assist the Commission, the Office of the Executive Secretary of the Virginia Supreme Court shall provide the data requested by the Commission in electronic format, at such times as requested by the Commission.

6. That beginning on July 1, 2022, the Virginia Housing Commission shall evaluate data submitted by the Office of the Executive Secretary of the Virginia Supreme Court relating to the eviction diversion pilot program. The Commission shall submit a report on its findings on or before November 30, 2022, to the General Assembly and the Chairmen of the Senate Committees on Finance, General Laws and Technology, and Courts of Justice and the Chairmen of the House Committees on Appropriations, Finance, General Laws, and Courts of Justice, including recommendations for legislation for the 2023 Session of the General Assembly.

7. That the provisions of this act shall not apply to any tenant who has exercised the right of redemption pursuant to § 55-248.34:1 of the Code of Virginia at any time before July 1, 2020.