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SENATE BILL NO. 826

Offered January 8, 2020

Prefiled January 8, 2020

A BILL to amend and reenact § 15.2-2119.4 of the Code of Virginia, relating to water and sewer service charges; tenant or lessee.

Patron—McDougle

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:**1. That § 15.2-2119.4 of the Code of Virginia is amended and reenacted as follows:****§ 15.2-2119.4. Fees and charges for water and sewer services provided to a tenant or lessee of the property owner.**

A. Notwithstanding any provision of law, general or special, the provisions of this section apply to any locality or authority, as such term is defined in § 15.2-5101.

B. A locality or authority providing water or sewer services to a lessee or tenant of the property owner shall do so directly to the tenant after (i) obtaining from the property owner a written or electronic authorization to obtain water and sewer services in the name of such lessee or tenant and (ii) if the locality or authority decides to use the lien rights afforded under subsection G of § 15.2-2119, collecting a security deposit from the lessee or tenant as reasonably determined by the locality to be sufficient to collateralize the locality or authority for not less than three and no more than five months of water and sewer charges. When the property owner has provided the lessee or tenant with written authorization from the property owner to obtain water and sewer services in the name of such lessee or tenant, nothing herein shall be construed to authorize the locality or authority to require (a) the property owner to put water and sewer services in the name of such property owner, except in the case where a single meter serves multiple tenant units, or (b) a security deposit or a guarantee of payment from such property owner. The property owner, lessee, or tenant may provide a copy of the lease or rental agreement to the locality or authority in lieu of the written authorization.

C. For purposes of this section, a written or electronic authorization from the property owner to obtain water and sewer services in the name of such lessee or tenant substantially in the form as follows, or a copy of the lease or rental agreement, shall be sufficient compliance with this section:

DATE

[INSERT NAME OF WATER AND SEWER SERVICES PROVIDER AND ADDRESS]

RE: [INSERT FULL TENANT NAME AND ADDRESS]

To Whom It May Concern:

[INSERT TENANT NAME] has entered into a lease for the property located at [INSERT ADDRESS] and is authorized to obtain services at this address as a tenant of [INSERT PROPERTY OWNER NAME].

Signed:

PROPERTY OWNER

D. If the fees and charges charged for water service or the use and services of the sewage disposal system by or in connection with any real estate are not paid when due, a penalty and interest shall be owed, as provided for by general law, by the lessee or tenant. If such lessee or tenant does not pay the full amount of charges, penalty, and interest for water provided or cease such disposal within 30 days thereafter, the locality or authority supplying water or sewage disposal services for the use of such real estate shall notify such lessee or tenant of the delinquency. If such lessee or tenant does not pay the full amount of charges, penalty, and interest for water provided or cease such disposal within 60 days after the delinquent fees and charges charged for water or sewage disposal services are due, the locality or authority supplying water or sewage disposal services for the use of such real estate may cease supplying water and sewage disposal services thereto unless the health officers certify that shutting off the water will endanger the health of the occupants of the premises or the health of others. At least 10 business days prior to ceasing the supply of water or sewage disposal services, the locality or authority supplying such services shall provide the lessee or tenant with written notice of such cessation, with a copy to the property owner.

E. If the lessee or tenant does not pay the full amount of charges, penalty, and interest for water or the use and services of the sewage disposal system in a timely manner as set out herein, in addition to cessation of such service, the locality or authority shall employ reasonable collection efforts and practices to collect amounts due from the lessee or tenant prior to sending written notice to, or taking

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59 any collection or legal action against, the property owner regarding the delinquency of payment of such
60 lessee or tenant. For the purposes of this section, "reasonable collection efforts and practices" include (i)
61 applying the security deposit paid by the lessee or tenant held by the locality or authority to the
62 payment of the outstanding balance; and (ii) either filing for the Setoff Debt Collection Program
63 (§ 58.1-520 et seq.) or placing the account with a debt collection service.

64 F. Only after the locality or service authority has taken the reasonable collection efforts set forth in
65 subsection E of § 15.2-2119 and practices to collect such fees and charges from the lessee or tenant may
66 the locality or service authority proceed to notify the property owner of such outstanding lien obligation
67 of such lessee or tenant and thereafter to record a lien against the property owner by using the lien
68 recordation and release of lien processes as set out in § 15.2-2119 and only after notice to the property
69 owner as required in § 15.2-2119. Such a lien, up to three months of delinquent water and sewer
70 charges, *but not to exceed \$200*, shall constitute a lien against the property ranking on a parity with
71 liens for unpaid taxes.

72 G. If a lien is recorded against the property owner and the property owner pays any of the delinquent
73 obligations of such former lessee or tenant, upon payment of the outstanding balance, or any portion
74 thereof, or of any amounts of such fees and charges owed by the former tenant, the property owner shall
75 be entitled to receive any refunds and shall be subrogated against the former tenant in place of the
76 locality or authority in the amount paid by the property owner. The locality or authority shall execute all
77 documents necessary to perfect such subrogation in favor of the property owner.

78 H. Unless a lien has been recorded against the property owner, the locality or authority shall not
79 deny service to a new tenant who is requesting service at a particular property address based upon the
80 fact that a former tenant has not paid any outstanding fees and charges charged for the use and services
81 in the name of the former previous tenant. In addition, the locality or authority shall provide information
82 relative to a former tenant or current tenant to the property owner upon request of the property owner. If
83 the property owner provides the locality or authority a request to be notified of a tenant's delinquent
84 water or sewer bill and provides an email address, the locality or authority shall send the property owner
85 notice when a tenant's water or sewer bill has become 15 days delinquent.

86 I. When a locality or authority does not require a lessee or tenant to pay a security deposit to the
87 locality or authority as a condition precedent to turning on water or sewer services in the name of the
88 lessee or tenant, such locality or authority shall waive its lien rights against the property owner. All
89 other provisions of this section shall apply.

90 J. The locality or authority shall not require a security deposit from the lessee or tenant to obtain
91 water and sewer services in the name of such lessee or tenant if such lessee or tenant presents to the
92 locality or authority a landlord authorization letter that has attached documentation showing that such
93 lessee or tenant receives need-based local, state, or federal rental assistance, and the absence of a
94 security deposit shall not prevent a locality from exercising its lien rights as authorized under this
95 section. All other provisions of this section shall apply.