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SENATE BILL NO. 905

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on March 5, 2020)

(Patron Prior to Substitute—Senator Stanley)

A BILL to amend the Code of Virginia by adding to Article 4 of Chapter 12 of Title 55.1 a section numbered 55.1-1244.1, relating to property; landlord and tenant; tenant's remedy by repair.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding to Article 4 of Chapter 12 of Title 55.1 a section numbered 55.1-1244.1 as follows:

§ 55.1-1244.1. Tenant's remedy by repair.

A. For purposes of this section, "actual costs" means (i) the amount paid on an invoice to a third-party licensed contractor or a licensed pesticide business by a tenant, local government, or nonprofit entity or (ii) the amount donated by a third-party contractor or pesticide business as reflected on such contractor's or pesticide business's invoice.

B. If (i) there exists in the dwelling unit a condition that constitutes a material noncompliance by the landlord with the rental agreement or with provisions of law or that, if not promptly corrected, will constitute a fire hazard or serious threat to the life, health, or safety of occupants of the premises, including an infestation of rodents or a lack of heat, hot or cold running water, light, electricity, or adequate sewage disposal facilities, and (ii) the tenant has notified the landlord of the condition in writing, the landlord shall take reasonable steps to make the repair or to remedy such condition within 14 days of receiving notice from the tenant.

C. If the landlord does not take reasonable steps to repair or remedy the offending condition within 14 days of receiving a tenant's notice pursuant to subsection B, the tenant may contract with a third-party contractor licensed by the Board for Contractors or, in the case of a rodent infestation, a pesticide business employing commercial applicators or registered technicians who are licensed, certified, and registered with the Department of Agriculture and Consumer Services pursuant to Chapter 39 (§ 3.2-3900 et seq.) of Title 3.2, to repair or remedy the condition specified in the notice. A tenant who contracts with a third-party licensed contractor or pesticide business is entitled to recover the actual costs incurred for the work performed, not exceeding the greater of one month's rent or \$1,500. Unless the tenant has been reimbursed by the landlord, the tenant may deduct the actual costs incurred for the work performed pursuant to the contract with the third-party contractor or pesticide business after submitting to the landlord an itemized statement accompanied by receipts for purchased items and third-party contractor or pest control services.

D. A local government or nonprofit entity may procure the services of a third-party licensed contractor or pesticide business on behalf of the tenant pursuant to subsection B. Such assistance shall have no effect on the tenant's entitlement under this section to be reimbursed by the landlord or to make a deduction from the periodic rent.

E. A tenant may not repair a property condition at the landlord's expense under this section to the extent that (i) the property condition was caused by an act or omission of the tenant, an authorized occupant, or a guest or invitee; (ii) the landlord was unable to remedy the property condition because the landlord was denied access to the dwelling unit; or (iii) the landlord had already remedied the property condition prior to the tenant's contracting with a licensed third-party contractor or pesticide business pursuant to subsection C.