

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 36-139 and 55.1-1250 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; landlord remedies; landlord's acceptance of rent with reservation; tenant's right of redemption.

[H 2014]

Approved

Be it enacted by the General Assembly of Virginia:**1. That §§ 36-139 and 55.1-1250 of the Code of Virginia are amended and reenacted as follows:****§ 36-139. Powers and duties of Director.**

The Director of the Department of Housing and Community Development shall have the following responsibilities:

1. Collecting from the governmental subdivisions of the Commonwealth information relevant to their planning and development activities, boundary changes, changes of forms and status of government, intergovernmental agreements and arrangements, and such other information as he may deem necessary.

2. Making information available to communities, planning district commissions, service districts and governmental subdivisions of the Commonwealth.

3. Providing professional and technical assistance to, and cooperating with, any planning agency, planning district commission, service district, and governmental subdivision engaged in the preparation of development plans and programs, service district plans, or consolidation agreements.

4. Assisting the Governor in the providing of such state financial aid as may be appropriated by the General Assembly in accordance with § 15.2-4216.

5. Administering federal grant assistance programs, including funds from the Appalachian Regional Commission, the Economic Development Administration and other such federal agencies, directed at promoting the development of the Commonwealth's communities and regions.

6. Developing state community development policies, goals, plans and programs for the consideration and adoption of the Board with the ultimate authority for adoption to rest with the Governor and the General Assembly.

7. Developing a Consolidated Plan to guide the development and implementation of housing programs and community development in the Commonwealth for the purpose of meeting the housing and community development needs of the Commonwealth and, in particular, those of low-income and moderate-income persons, families and communities.

8. Determining present and future housing requirements of the Commonwealth on an annual basis and revising the Consolidated Plan, as necessary to coordinate the elements of housing production to ensure the availability of housing where and when needed.

9. Assuming administrative coordination of the various state housing programs and cooperating with the various state agencies in their programs as they relate to housing.

10. Establishing public information and educational programs relating to housing; devising and administering programs to inform all citizens about housing and housing-related programs that are available on all levels of government; designing and administering educational programs to prepare families for home ownership and counseling them during their first years as homeowners; and promoting educational programs to assist sponsors in the development of low and moderate income housing as well as programs to lessen the problems of rental housing management.

11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

13. Establishing and operating a Building Code Academy for the training of persons in the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the Board of Housing and Community Development.

14. Administering, in conjunction with the federal government, and promulgating any necessary regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

15. Identifying and disseminating information to local governments about the availability and utilization of federal and state resources.

16. Administering, with the cooperation of the Department of Health, state assistance programs for public water supply systems.

17. Advising the Board on matters relating to policies and programs of the Virginia Housing Trust Fund.

18. Designing and establishing program guidelines to meet the purposes of the Virginia Housing

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57 Trust Fund and to carry out the policies and procedures established by the Board.

58 19. Preparing agreements and documents for loans and grants to be made from the Virginia Housing
59 Trust Fund; soliciting, receiving, reviewing and selecting the applications for which loans and grants are
60 to be made from such fund; directing the Virginia Housing Development Authority and the Department
61 as to the closing and disbursing of such loans and grants and as to the servicing and collection of such
62 loans; directing the Department as to the regulation and monitoring of the ownership, occupancy and
63 operation of the housing developments and residential housing financed or assisted by such loans and
64 grants; and providing direction and guidance to the Virginia Housing Development Authority as to the
65 investment of moneys in such fund.

66 20. Establishing and administering program guidelines for a statewide homeless intervention program.

67 21. Administering 15 percent of the Low Income Home Energy Assistance Program (LIHEAP) Block
68 Grant and any contingency funds awarded and carry over funds, furnishing home weatherization and
69 associated services to low-income households within the Commonwealth in accordance with applicable
70 federal law and regulations.

71 22. Developing a strategy concerning the expansion of affordable, accessible housing for older
72 Virginians and Virginians with disabilities, including supportive services.

73 23. Serving as the Executive Director of the Commission on Local Government as prescribed in
74 § 15.2-2901 and perform all other duties of that position as prescribed by law.

75 24. Developing a strategy, in consultation with the Virginia Housing Development Authority, for the
76 creation and implementation of housing programs and community development for the purpose of
77 meeting the housing needs of persons who have been released from federal, state, and local correctional
78 facilities into communities.

79 25. Administering the Private Activity Bonds program in Chapter 50 (§ 15.2-5000 et seq.) of Title
80 15.2 jointly with the Virginia Small Business Financing Authority and the Virginia Housing
81 Development Authority.

82 26. Developing a statement of tenant rights and responsibilities explaining in plain language the
83 rights and responsibilities of tenants under the Virginia Residential Landlord and Tenant Act
84 (§ 55.1-1200 et seq.) and maintaining such statement on the Department's website. The Director shall
85 also develop and maintain on the Department's website a printable form to be signed by the parties to a
86 written rental agreement acknowledging that the tenant has received from the landlord the statement of
87 tenant rights and responsibilities as required by § 55.1-1204. The Director may at any time amend the
88 statement of tenant rights and responsibilities and such printable form as the Director deems necessary
89 and appropriate. The statement of tenant rights and responsibilities shall contain a plain language
90 explanation of the rights and responsibilities of tenants in at least 14-point type. The statement shall
91 provide the telephone number and website address for the statewide legal aid organization and direct
92 tenants with questions about their rights and responsibilities to contact such organization.

93 27. *Developing a sample termination notice that includes language referencing acceptance of rent*
94 *with reservation by a landlord following a breach of a lease by a tenant in accordance with*
95 *§ 55.1-1250. The sample termination notice shall be in at least 14-point type and shall be maintained on*
96 *the Department's website.*

97 28. Carrying out such other duties as may be necessary and convenient to the exercise of powers
98 granted to the Department.

99 **§ 55.1-1250. Landlord's acceptance of rent with reservation; tenant's right of redemption.**

100 A. ~~The No~~ landlord may accept full ~~or partial~~ payment of rent, *as well as any damages, money*
101 *judgment, award of attorney fees, and court costs*, and receive an order of possession from a court of
102 competent jurisdiction pursuant to an unlawful detainer action filed under Article 13 (§ 8.01-124 et seq.)
103 of Chapter 3 of Title 8.01 and proceed with eviction under ~~§ 55.1-1255~~ 55.1-1245, *unless there are*
104 *bases for the entry of an order of possession other than nonpayment of rent stated in the unlawful*
105 *detainer action filed by the landlord. However, a landlord may accept partial payment of rent and other*
106 *amounts owned by the tenant to the landlord and receive an order of possession from a court of*
107 *competent jurisdiction pursuant to an unlawful detainer action filed under Article 13 (§ 8.01-124 et seq.)*
108 *of Chapter 3 of Title 8.01 and proceed with eviction for nonpayment of rent under § 55.1-1245,*
109 *provided that the landlord has stated in a written notice to the tenant that any and all amounts owed to*
110 *the landlord by the tenant, including payment of any rent, damages, money judgment, award of attorney*
111 *fees, and court costs, would be accepted with reservation and would not constitute a waiver of the*
112 *landlord's right to evict the tenant from the dwelling unit. Such notice may be included in a written*
113 *termination notice given by the landlord to the tenant in accordance with § 55.1-1245, and if so*
114 *included, nothing herein shall be construed by a court of law or otherwise as requiring such landlord to*
115 *give the tenant subsequent written notice. Such notice shall include the following language: "Any partial*
116 *payment of rent made before or after a judgment of possession is ordered will not prevent your landlord*
117 *from taking action to evict you. However, full payment of all amounts you owe the landlord, including*

all rent as contracted for in the rental agreement that is owed to the landlord as of the date payment is made, as well as any damages, money judgment, award of attorney fees, and court costs made at least 48 hours before the scheduled eviction will cause the eviction to be canceled, unless there are bases for the entry of an order of possession other than nonpayment of rent stated in the unlawful detainer action filed by the landlord." If the landlord elects to seek possession of the dwelling unit pursuant to § 8.01-126, the landlord shall provide a copy of this notice to the court for service to the tenant, along with the summons for unlawful detainer. If the dwelling unit is a public housing unit or other housing unit subject to regulation by the U.S. Department of Housing and Urban Development, nothing in this section shall be construed to require that written notice be given to any public agency paying a portion of the rent under the rental agreement. If a landlord enters into a new written rental agreement with the tenant prior to eviction, an order of possession obtained prior to the entry of such new rental agreement is not enforceable. Notwithstanding the requirements of this section, a landlord with four or fewer rental dwelling units, or up to a 10 percent interest in four or fewer rental dwelling units, may limit a tenant's use of the right of redemption to once per lease period, provided that the landlord provides written notice of such limitation to the tenant.

B. The tenant may pay or present to the court a redemption tender for payment of all rent 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" means a written commitment to pay all rent due and owing as of the return date, including late charges, attorney fees, and court costs, by a local government or nonprofit entity within 10 days of such return date.

C. If the tenant presents a redemption tender to the court at the return date, the court shall 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 costs, and dismiss the action upon such payment. Should the landlord not receive full payment of all 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 amounts due and immediate possession of the premises. For purposes of this section, "redemption tender" means a written commitment to pay all rent due and owing as of the return date, including late charges, attorney fees, and court costs, by a local government or nonprofit entity within 10 days of such return date.

D. C. In cases of unlawful detainer, a tenant, or any third party on behalf of a tenant, may pay the landlord or the landlord's attorney or pay into court all (i) rent due and owing as of the court date as contracted for in the rental agreement, (ii) other charges and fees as contracted for in the rental agreement, (iii) late charges contracted for in the rental agreement and as provided by law, (iv) reasonable attorney fees as contracted for in the rental agreement ~~or~~ and as provided by law, and (v) costs of the proceeding as provided by law, at which time the unlawful detainer proceeding shall be dismissed, unless there are bases for the entry of an order of possession other than nonpayment of rent stated in the unlawful detainer action filed by the landlord.

D. If such payment has not been made as of the return date for the unlawful detainer, the tenant, or any third party on behalf of the tenant, may pay to the landlord, the landlord's attorney, or the court all amounts claimed on the summons in unlawful detainer, including current rent, damages, late charges, costs of court, any civil recovery, attorney fees, and sheriff fees, including the sheriff fees for service of the writ of eviction if payment is made after issuance of the writ, no less than two business days 48 hours before the date and time scheduled by the officer to whom the writ of eviction has been delivered to be executed. Upon receipt of such payment, the landlord, or the landlord's attorney or managing agent, shall promptly notify the officer to whom the writ of eviction has been delivered to be executed that the execution of the writ of eviction shall be canceled. If the landlord has actual knowledge that the tenant has made such payment and willfully fails to provide such notification, such act may be deemed to be a violation of § 55.1-1243. In addition, the landlord shall transmit to the court a notice of satisfaction of any money judgment in accordance with § 8.01-454.

E. Upon receiving a written request from the tenant, the landlord, or the landlord's attorney or managing agent, shall provide to the tenant a written statement of all amounts owed by the tenant to the landlord so that the tenant may pay the exact amount necessary for the tenant to exercise his right of redemption pursuant to this section. Any payments made by the tenant shall be by cashier's check, certified check, or money order. A tenant may invoke the rights granted in this section no more than one time during any 12-month period of continuous residency in the dwelling unit, regardless of the term of the rental agreement or any renewal term of the rental agreement. A court shall not issue a writ of eviction on any judgment for possession that has expired or has been marked as satisfied.

2. That the Department of Housing and Community Development shall convene a stakeholder group consisting of landlords, property managers, and tenants, as well as attorneys knowledgeable of the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq. of the Code of Virginia) and other relevant provisions of the Code of Virginia related to eviction procedures in residential

179 landlord and tenant cases, to provide input to the Director of the Department of Housing and
180 Community Development (the Director) regarding the development of the sample termination
181 notice required to be developed by the Director pursuant to § 36-139 of the Code of Virginia, as
182 amended by this act.