

SENATE BILL NO. 273

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology

on _____)

(Patron Prior to Substitute—Senator Locke)

A BILL to amend and reenact § 55.1-1262 of the Code of Virginia, relating to Virginia Residential Landlord and Tenant Act; Eviction Diversion Program; eligibility.

Be it enacted by the General Assembly of Virginia:**1. That § 55.1-1262 of the Code of Virginia is amended and reenacted as follows:****§ 55.1-1262. Eviction Diversion 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~~ 10 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~~ *has income* 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~~ *Does not owe outstanding rent under any payment plan executed within the last 12 months;*

6. ~~Has not exercised the right of redemption pursuant to § 55.1-1250 within the last six months~~ *Has not defaulted on any rent payment plan executed within the last 12 months;* and

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

B. *Any general district court of the Commonwealth that implements the Program shall attach information about the Program, including eligibility criteria, to any summons for unlawful detainer.*

~~B.~~ C. 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, *or electronic funds transfer*; 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~~ 30 percent due by the fifth day of the month following the initial court hearing date, (ii) ~~25~~ 30 percent due by the fifth day of the second month following the initial court hearing date, and (iii) the final payment of ~~25~~ 30 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~~. D. 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~~. E. 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 § 55.1-1202.

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 § 55.1-1202.

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

~~E~~. F. 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.