

**SUPPORT SB1438 (McClellan)*****Changing Virginia's Landlord Tenant Law to Help Reduce Evictions***What SB1438 Does to Help Lower Evictions:

- Prohibits landlords from filing more than one eviction case based on nonpayment of rent at a time against a tenant and clarifies that landlords can amend the amount requested to ask for all sums owed on the date of the trial. *By limiting the court costs and attorney's fees, this will reduce the amount a tenant has to pay to avoid eviction.*
- Requires judges to enter **valid** termination notices into evidence before authorizing a landlord to evict a tenant. *By directing judges to examine termination notices, SB1438 will make it much more likely that eviction cases with defective notices will be dismissed. (Defective notice example: Notice says tenant owes \$450 rent when he owes \$150.)*
- Requires landlords to offer tenants written leases. In the absence of a written lease, it creates a 12-month tenancy by operation of law. *Most tenants without written leases have month to month tenancies that can be terminated with 30 days' notice, leaving them vulnerable to being easily evicted when they raise complaints about the landlord refusing to make necessary repairs.*
- Gives tenants a right to recover attorney's fees from landlords when they successfully defend against an eviction case. Most leases authorize landlords to recover their attorney's fees from tenants if they have to take the tenants to court, but they don't authorize tenants to recover their attorney's fees from landlords when they successfully defend against an eviction case. *Enabling tenants to recoup their attorney's fees from landlords when eviction cases are dismissed would discourage landlords from filing questionable eviction cases and would help tenants win meritorious cases by making it possible for them to get attorneys.*
- Prohibits landlords from evicting tenants just because they haven't paid fees associated with a late rent payment. Because the accounting methods landlords use credit payments toward unpaid late fees first and current rent second, late fees can snow ball and tenants are sometimes evicted because the fees stemming from a single late payment balloon into a fee they can't pay. *SB1438 makes it unlawful for landlords to evict tenants who have been paying their rent but have accrued large late fees because of the accounting method used.*
- Gives tenants more time to pay their rent by changing the "pay or quit" period from five to fourteen days. If tenants pay rent and late fees before the pay or quit period ends, they are not evicted. *Because most people are paid bi-weekly or twice a month, giving tenants fourteen days to pay past due rent before an eviction case is filed makes it likely they will get paid – and be able to pay their rent – before the landlord can seek eviction..*

For more information, contact Christie Marra, christie@vplc.org. 804-615-8150

Comparison of SB1438 with Virginia Housing Commission bills

SB1438 Provisions Also Contained in Virginia Housing Commission bills

- Prohibiting landlords from filing more than one unlawful detainer at a time.
Virginia Housing Commission bill – SB1627 (Barker)
- Requiring judges to accept a valid termination notice into evidence before entering an order of possession (eviction).
Virginia Housing Commission bill – SB1627(Barker)
- Requiring landlords to offer written leases and providing default rental agreement terms when no written lease is offered
Virginia Housing Commission bills – HB2054 (Carr) and SB1676 (Stanley)
- Extending a tenant's time to redeem until two days before the sheriff's eviction
Virginia Housing Commission bills – SB1445 (Locke) and HB1898 (Carroll Foy)

SB1438 Provisions NOT Contained in Virginia Housing Commission bills

- Providing tenants with a right to recover attorney's fees from landlords when they successfully defend against an eviction case.
- Changing the five-day pay or quit requirement to a fourteen-day pay or quit requirement.
- Prohibiting landlords from terminating leases solely because of unpaid late fees.

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