

AMENDED IN ASSEMBLY JUNE 14, 2012

AMENDED IN SENATE MAY 15, 2012

SENATE BILL

No. 1055

Introduced by Senator Lieu

February 9, 2012

~~An act to add Section 1947.2 to the Civil Code, relating to landlord and tenant. An act to amend Section 1947.3 of the Civil Code, relating to landlord and tenant.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1055, as amended, Lieu. Landlord and tenant: payments.

Existing law provides that a landlord or a landlord's agent may not demand or require cash as the exclusive form of payment of rent or deposit of security, except as specified.

This bill would provide that, except as specified, a landlord or landlord's agent shall allow a tenant to pay rent and deposit of security by at least one form of payment that is neither cash nor electronic funds transfer. The bill would define the term "electronic funds transfer" for these purposes.

~~Existing law regulates the relationship between landlord and tenant and the terms and conditions of tenancies. Existing law requires a tenant to pay rent as it successively becomes due.~~

~~This bill would prohibit a landlord or a landlord's agent from requiring online Internet payments as the exclusive form of payment of rent or deposit of security for any lease or rental agreement that is first effective on or after January 1, 2013. The bill would provide that a waiver of these provisions is contrary to public policy, and is void and unenforceable.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1947.3 of the Civil Code is amended to
 2 read:

3 1947.3. (a) (1) Except as provided in paragraph (2), a landlord
 4 or a landlord's agent ~~may not demand or require cash as the~~
 5 ~~exclusive form of payment of rent or deposit of security shall allow~~
 6 *a tenant to pay rent and deposit of security by at least one form of*
 7 *payment that is neither cash nor electronic funds transfer.*

8 (2) A landlord or a landlord's agent may demand or require cash
 9 as the exclusive form of payment of rent or deposit of security if
 10 the tenant has previously attempted to pay the landlord or
 11 landlord's agent with a check drawn on insufficient funds or the
 12 tenant has instructed the drawee to stop payment on a check, draft,
 13 or order for the payment of money. The landlord may demand or
 14 require cash as the exclusive form of payment only for a period
 15 not exceeding three months following an attempt to pay with a
 16 check on insufficient funds or following a tenant's instruction to
 17 stop payment. If the landlord chooses to demand or require cash
 18 payment under these circumstances, the landlord shall give the
 19 tenant a written notice stating that the payment instrument was
 20 dishonored and informing the tenant that the tenant shall pay in
 21 cash for a period determined by the landlord, not to exceed three
 22 months, and attach a copy of the dishonored instrument to the
 23 notice. The notice shall comply with Section 827 if demanding or
 24 requiring payment in cash constitutes a change in the terms of the
 25 lease.

26 (3) Paragraph (2) does not enlarge or diminish a landlord's or
 27 landlord's agent's legal right to terminate a tenancy.

28 (b) For the purposes of this section, the issuance of a money
 29 order or a cashier's check is direct evidence only that the instrument
 30 was issued.

31 (c) *For purposes of this section, "electronic funds transfer"*
 32 *means any transfer of funds, other than a transaction originated*
 33 *by check, draft, or similar paper instrument, that is initiated*
 34 *through an electronic terminal, telephonic instrument, computer,*
 35 *or magnetic tape so as to order, instruct, or authorize a financial*

1 institution to debit or credit an account. “Electronic funds
2 transfer” includes, but is not limited to, point-of-sale transfers,
3 direct deposits or withdrawals of funds, transfers initiated by
4 telephone, transfers via an automated clearinghouse, transfers
5 initiated electronically that deliver a paper instrument, and
6 transfers authorized in advance to recur at substantially regular
7 intervals.

8 (d) Nothing in this section shall be construed to prohibit the
9 tenant and landlord or agent to mutually agree that rent payments
10 may be made in cash or by electronic funds transfer, so long as
11 another form of payment is also authorized, subject to the
12 requirements of subdivision (a).

13 (e)

14 (e) A waiver of the provisions of this section is contrary to public
15 policy, and is void and unenforceable.

16 SECTION 1. ~~Section 1947.2 is added to the Civil Code, to~~
17 ~~read:~~

18 ~~1947.2. (a) A landlord or a landlord’s agent may not demand~~
19 ~~or require online Internet payments as the exclusive form of~~
20 ~~payment of rent or deposit of security in any lease or rental~~
21 ~~agreement that is first effective on or after January 1, 2013.~~

22 ~~(b) Subdivision (a) does not enlarge or diminish a landlord’s or~~
23 ~~landlord’s agent’s legal right to terminate a tenancy.~~

24 ~~(e) A waiver of the provisions of this section is contrary to public~~
25 ~~policy, and is void and unenforceable.~~