

## Senate Bill No. 1055

### CHAPTER 268

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

[Approved by Governor September 7, 2012. Filed with Secretary of State September 7, 2012.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1055, 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.

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

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

1947.3. (a) (1) Except as provided in paragraph (2), a landlord or a 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.

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

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

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

(c) For purposes of this section, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. "Electronic funds transfer" includes, but is not limited to, point-of-sale transfers, direct deposits or withdrawals of funds, transfers initiated by telephone, transfers via an automated clearinghouse, transfers initiated electronically that deliver a paper instrument, and transfers authorized in advance to recur at substantially regular intervals.

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

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