



July 3, 2013

Chair Joan Zeldon
c/o Uniform Law Commission
111 N. Wabash Ave., Ste. 1010
Chicago, IL 60602

RE: *Apartment Industry Comments to ULC Update of Uniform Residential Landlord and Tenant Act*

Dear Chair Zeldon:

On behalf of the 170 state and local affiliates that represent more than 6.7 million apartment homes throughout the United States, the National Apartment Association appreciates the opportunity to comment on the Uniform Law Commission's (ULC) effort to update the Uniform Residential Landlord and Tenant Act of 1972 ("the URLTA" or "the Act"). Of the many issues being discussed by commissioners, we are writing to highlight four areas of special concern to our members: **security deposits, domestic violence, abandoned property, and property of deceased tenants.**

Please find a summary of the issues mentioned above, industry concerns and recommendations for your consideration.

SECURITY DEPOSITS

Article 12 – Security Deposits, Section 1201 Nature and Amount of Security Deposit

The cost of security deposits is often cited as an impediment to accessibility of rental housing; however, setting arbitrary caps on security deposits ignores the basic risk associated with renting real estate. In recognition of these concerns with security deposits, URLTA drafting committee is contemplating a maximum of 1 month of rent as the standard of security deposit that a property owner can charge. Unfortunately, by limiting the amount of security deposits, it arbitrarily limits the amount of risk a property owner is willing to take, which ultimately undermines rental housing availability and affordability.

Also, the type of security deposit an owner is willing to accept has changed since 1972. For example, some are now accepting personal "bonding" through a bonding agency rather than out-of-pocket security deposit. The proposed statutes should allow for flexibility, rather than narrowing the traditional mechanisms.

Some of the unintended consequences of the proposed Act include the following:

- Limits rental housing provider's willingness to assume risk, thereby narrowing the pool of rental applicants an owner is willing to consider.

- Constricts overall housing availability for residents with problematic rental history: poor credit, criminal background, etc.
- Could have upward pressure to increase rents to make up for additional risk.

Recommendation –

The ULC should acknowledge the need for security deposits and refrain from imposing arbitrary caps on them within the proposed Act. Further, the ULC should include additional language in the proposed Act that allows for other forms of security deposits.

DOMESTIC VIOLENCE

Article 5 – Tenant Remedies, Section 508 Early termination of lease by tenant as the result of Domestic Violence, Sexual Assault or Stalking

The premise of the proposed Act is to give victims of domestic violence the flexibility to terminate a lease prior to its term to protect the victim, without penalty. The health and safety of all residents is one of the upmost priorities of property owners. Owners recognize that extenuating circumstances necessitates early termination from an obligation of a lease. The industry is supportive of the concept in that the proposed Act provides a level of certainty of how to manage matters as sensitive as domestic violence. However, we ask the committee to consider the following recommendations for the purpose of limiting confusion and legal loopholes that may foster abuse:

Recommendations – *If the URLTA addresses housing protections for domestic violence victims, the law should balance the rights of residents who are victims of abuse, neighboring residents’ right to safety and enjoyment, and certainty for rental housing providers with procedures and documentation that close loopholes. Please consider the following:*

- *Limit the required documentation supporting allegations of abuse to actions of the court.*
- *Specify that the resident notify the property owner within a specific time frame after the act of domestic violence with their intent to be released from the lease.*
- *For the safety of the neighboring residents, allow for the termination of a lease where the perpetrator of the abuse is the sole remaining co-tenant.*

PERSONAL PROPERTY

Article 10 – Disposition of Personal Property, Section 1001. Tenant’s Rights to Retrieve Personal Property, and Section 1002. Disposition of Personal Property on Tenant’s Death

Sections 1001 and 1002 deal with the responsibilities of the property owner with property that is either abandoned by the resident or property of a deceased resident. Both provisions impose upon the property owner responsibilities outside of their scope of business: specifically the duties of finding a “tenant representative” of the deceased resident, estimating value, protecting, transporting, and ultimately disposing of the property – all the while assuming a level of liability for each of those actions.

Section 1001. Tenant’s Rights to Retrieve Personal Property

The statute recommends that a property owner estimate the value of the abandoned property, prescribes eight (8) days for the former resident to contact the owner and an additional 15 days to retrieve the property. The issues associated with this statute are as follows:

- Rental housing providers are not qualified to value the property and should not be put in a position of being liable for incorrectly valuing items.
- Because a property owner does not want to assume the liability of damaging items in transport, he or she will leave the item in the unit until it is officially declared abandoned. As a result, the owner will lose the ability to rent out the unit until that date is finalized. The proposal would take the unit off the market for an additional 23 days.
- As the property remains unclaimed, the owner continues to bear the cost and burden of storing the resident's personal property and loses income as the unit remains vacant.

Recommendations –

- *Property owners currently have policies and procedures in place to dispose of a resident's personal property when the resident vacates at the end of the lease term and when an order that entitles the owner to possession has been executed. Section 1001 should focus on the disposition of property when the resident abandons the dwelling unit pursuant to section 604 of the Act.*
- *Presume that property left behind is abandoned and give the former resident a reasonable time frame to retrieve property. Currently, the proposed draft allots 8 days for the resident to contact the property owner with an additional 15 days after the date of contact. A 23-day window is significantly too long, particularly in the eviction context as the resident is given ample notice when an order that entitles the owner to possession has been executed.*
- *After that time frame, the rental housing provider may dispose of the property as the he or she sees fit.*

Section 1002. Disposition of Personal Property on Tenant's Death

In the event that the property owner cannot contact the "tenant representative" identified by deceased resident within ten (10) days, then the statute recommends the owner publish a notice in a local newspaper at least once per week for two consecutive weeks (14 days). The statute recommends that the notice advertises that if the property remains unclaimed for 60 days, then it will be subject to disposal by the property owner. Further it states that an owner cannot remove items from the unit for 15 days after the last publication of notice. The issues associated with this statute are as follows:

- The property owner should not be responsible for the advertisement and subsequent identification of the deceased's tenant representative otherwise not designated by the resident in the lease.
- Although the owner may remove items from the unit 15 days after the last publication of notice, the owner would not likely remove the entire contents of the deceased resident's unit as storage would be impractical, costly and burdensome. According to the statute, the proposed notification process can potentially take the unit off the market for up to 114 days. A property owner continues to lose income as the unit remains unoccupied. The proposed timeframe would be particularly burdensome for independent rental owners.

Recommendation – *If the ULC addresses the disposition of a deceased resident's property in the revised URLTA, the law should take the cost and logistics of advertising the property of a deceased resident into consideration. The apartment industry is willing to work with the ULC to explore ways to respect the resident's property without removing the unit from the market for over three months.*

Again, thank you for the opportunity to voice the industry's concerns on the issues being discussed. The industry looks forward to continuing its role as a resource for URLTA drafting committee and the ULC as a whole. If you have any questions, please do not hesitate to contact Fred Tayco, Director of State & Local Government Affairs at fred@naahq.org or (703) 797-0623.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Brown", followed by a horizontal line.

Greg Brown
Senior Vice President of Government Affairs

cc: Residential Landlord and Tenant Act Committee Members
John Sebert, Staff Liaison, Uniform Law Commission