

D R A F T  
FOR DISCUSSION ONLY

# **REVISED UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT**

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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For October 12-13, 2012 Drafting Committee Meeting  
**Changes Shown in Strike and Score**

*Without Prefatory Note and With Comments*

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September 17, 2012

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# **REVISED UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT**

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1           **REVISED UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT (201\_)**

2                           **ARTICLE ONE**

3                                   **GENERAL PROVISIONS**

4           **SECTION 101. SHORT TITLE.**

5           This [act] may be cited as the Revised Uniform Residential Landlord and Tenant Act  
6 (201\_).

7           **SECTION 102. DEFINITIONS.** In this [act]:

8           (1) “Abandonment” means either the absence of the tenant from the dwelling unit without  
9 notice to the landlord for at least seven days if rent is unpaid for ten days and there is no  
10 reasonable evidence other than the presence of the tenant's personal property that the tenant is  
11 occupying the dwelling unit, or the absence of the tenant for at least five days if the rent for the  
12 dwelling unit is unpaid for five days and none of the tenant's personal property is in the dwelling  
13 unit.

14           (2) “Action” includes an action for possession, ejectment, quiet title, recoupment,  
15 counterclaim, set-off, suit in equity, and any other proceeding in which rights are determined.

16           (3) “Assignment” or “assigns” means the transfer of the remaining balance of the term of  
17 a lease to an assignee by the assignor.

18           (4) “Assignee” means the individual to whom the assignor has assigned the lease.

19           (5) “Assignor” means the individual who assigns a lease to an assignee.

20           (6) “Attesting third party” means a law enforcement official, a licensed health care  
21 professional, a victim’s advocate, or a victim services provider who has had contact with the  
22 tenant or an immediate family member who has been the victim of domestic violence.

23           (7) “Building, housing, and health codes” include any law, ordinance, or governmental  
24 regulation concerning fitness for habitation or the construction, maintenance, operation,

1 occupancy, use, or appearance of the premises.

2 (8) “Domestic violence” means the infliction of physical injury, sexual assault, or the  
3 stalking of a tenant or an immediate family member by a perpetrator regardless of whether the  
4 perpetrator is related to the tenant or an immediate family member.

5 (9) “Dwelling unit” means a building or the part of a building that is used as a home,  
6 residence, or sleeping place by an individual or by two or more individuals who maintain a  
7 common household regardless of their relationship to each other.

8 (10) “Electronic” means relating to technology having electrical, digital, magnetic,  
9 wireless, optical, electromagnetic, or similar capabilities.

10 (11) “Essential services” means heat, hot and cold running water, plumbing, electricity,  
11 and gas. The term also includes air conditioning or other services if required to be supplied to the  
12 tenant by the lease or by law which if not provided to the tenant would create a serious threat to  
13 the health, safety, or property of the tenant or an immediate family member.

14 (12) “Good faith” means honesty in fact and the observance of reasonable commercial  
15 standards of fair dealing.

16 (13) “Immediate family member” means any of the following who resides in the  
17 dwelling unit with the tenant:

18 (A) an individual related to the tenant by blood, adoption, marriage, civil union,  
19 domestic partnership;

20 (B) a cohabitant having an intimate relationship with the tenant; and

21 (C) a foster child, stepchild, or ward of the tenant or of another individual named  
22 in subparagraphs (A) or (B) of this paragraph.

23 (14) “Landlord” includes the owner or lessor of the dwelling unit or the premises, the  
24 landlord’s successor in interest, and the manager of the premises who fails to disclose as required

1 by Section 301.

2 (15) “Lease” means a contract between a landlord and a tenant under which the landlord  
3 rents to the tenant a dwelling unit for a tenancy for a fixed term or for a periodic tenancy.

4 (16) “Normal wear and tear” means deterioration that results from the intended use of  
5 the dwelling unit, including breakage or malfunction due to age or deteriorated condition, but the  
6 term does not include deterioration that results from negligence, carelessness, accident, or abuse  
7 of the dwelling unit, fixtures, equipment, or chattels by the tenant or a person on the premises  
8 with the tenant's consent.

9 (17) “Owner” means one or more persons who jointly or severally are vested with (i) all  
10 or part of the legal title to premises, or (ii) all or part of the beneficial ownership and a right to  
11 present use and enjoyment of the premises, including a mortgagee in possession.

12 (18) “Periodic rent” means the amount of rent payable each month under a tenancy for a  
13 fixed term or a periodic tenancy for month-to-month or payable each week under a periodic  
14 tenancy for week-to-week. If rent is payable annually, periodic rent is the amount of the annual  
15 rent divided by 12.

16 (19) “Periodic tenancy” means a tenancy created under a lease or arising by operation of  
17 law for a period of either month-to-month or week-to-week and continues until either the  
18 landlord or the tenant gives the other the notice described in Section 701.

19 (20) “Perpetrator” means an individual who is inflicting or has inflicted domestic  
20 violence upon the tenant or an immediate family member.

21 (21) “Person” means an individual, estate, business or nonprofit entity, public  
22 corporation, government or governmental subdivision, agency, or instrumentality, or other legal  
23 entity.

24 (22) “Premises” means a dwelling unit and the building of which it is a part, including



1 the facilities and appurtenances therein and the grounds, areas, and facilities held out for the use  
2 of tenants generally or whose use is promised to the tenant.

3 (23) “Prepaid rent” means rent paid by the tenant in advance of the date it is due under  
4 the terms of the lease.

5 (24) “Record” means information that is inscribed on a tangible medium or that is stored  
6 in an electronic or other medium and is retrievable in perceivable form.

7 (25) “Rent” means all payments to be made to or for the benefit of the landlord for the  
8 use and occupation of the dwelling unit.

9 (26) “Roomer” means an individual occupying a dwelling unit that does not include a  
10 toilet and either a bath tub or a shower and a refrigerator, stove, and kitchen sink, all provided by  
11 the landlord, and where one or more of these facilities are used in common by occupants in the  
12 building.

13 (27) “Security deposit” means money or any other form of property given by a tenant to  
14 a landlord to secure the tenant’s obligations under the lease or pursuant to this [act] and includes,  
15 but is not limited to, damage deposits, key deposits, and pet deposits. [The term shall not include  
16 prepaid rent or non-refundable fees, such as an application fee, cleaning fee, or payment for  
17 security deposit insurance or a surety bond in lieu of a damage deposit.]

18 (28) “Sign” means with present intent to authenticate or adopt a record:

19 (A) to execute or adopt a tangible symbol;

20 (B) to attach to or logically associate with the record an electronic symbol, sound,  
21 or process, or

22 (C) to send an electronic mail bearing the sender’s name or electronic mail  
23 address.

24 (29) “Stalking” means a course of conduct directed at a specific individual that

1 involves visual or physical proximity, nonconsensual communication, or verbal, written, or  
2 implied threats, or a combination thereof, repeated on more than two occasions that would cause  
3 a reasonable individual fear.

4 (30) “State” means a state of the United States, the District of Columbia, Puerto Rico,  
5 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction  
6 of the United States.

7 (31) “Sublease” or “sublet” means a transfer of less than the balance of the term of a  
8 lease to a sublessee by a sublessor.

9 (32) “Sublessee” means the individual to whom the sublessor has subleased the dwelling  
10 unit.

11 (33) “Sublessor” means an individual who subleases a dwelling unit to a sublessee.

12 (34) “Tenancy for a fixed term” means a tenancy under a lease for a fixed or computable  
13 period of time, regardless of the length of the period.

14 (35) “Tenant” means an individual entitled under a lease to occupy a dwelling unit to the  
15 exclusion of others.

16 (36) “Uninhabitable” means a condition described in Section 303(a).

#### 17 COMMENT

18 Certain remedies become available to a tenant under Sections 501, 504, and 507 if the  
19 landlord fails to provide the tenant with essential services. Essential services, however, are not  
20 coextensive with the services and other obligations a landlord must provide to discharge the  
21 landlord’s duties under Section 303.

22 The definitions of rent, prepaid rent, and security deposit have been included or updated  
23 from the 1972 act to reflect important distinctions in how these payments are handled under  
24 Article 9.

#### 25 **SECTION 103. SCOPE.**

26  
27 (a) This [act] applies to, regulates, and determines rights, obligations, and remedies under  
28 a lease, wherever executed, for a dwelling unit in this state.

(b) Unless created to avoid the application of this [act], the following arrangements are not governed by this [act]:

(1) residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, counseling, religious, or similar service;

(2) [Alternative 1: residence in a building owned and operated by an educational institution with private or semi-private rooms rented to students as a sleeping place but providing bathroom, kitchen, or eating facilities in common areas [Alternative 2: Delete 2 so that act applies to all university housing], [Alternative 3: retain current act's exclusion for university housing];

(3) occupancy under a contract of sale of a dwelling unit or the building of which it is a part, if the occupant is the purchaser or an individual who succeeds to the purchaser's interest;

(4) occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;

(5) transient occupancy in a hotel or motel [or lodgings [subject to cite state transient lodgings or room occupancy excise tax act]];

(6) occupancy by an employee of a landlord when the employee's right to occupancy is conditional upon employment in and about the premises;

(7) occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative; and

(8) occupancy under a lease covering premises used by the occupant for agricultural purposes.

**SECTION 104. COMMON LAW AND PRINCIPLES OF EQUITY.** Unless displaced by the provisions of this [act], the principles of law and equity supplement the

provisions of this [act].

## COMMENT

In light of this section, contract principles apply to the construction and interpretation of leases, including provisions relating to mutuality or dependency of lease covenants. By construing leases as contracts, for example, performance of promises the landlord and tenant make to each other are dependent upon the other. Thus, the tenant's promise to pay rent is conditioned upon (dependent upon) the landlord's provision of essential services and compliance with Section 303.

**SECTION 105. CONSTRUCTION AGAINST IMPLICIT REPEAL.** Because this [act] is a general act intended as a unified coverage of its subject matter, no part of it is to be construed as impliedly repealed by subsequent legislation if that construction can reasonably be avoided.

## **SECTION 106. ADMINISTRATION OF REMEDIES; ENFORCEMENT; DUTY TO MITIGATE.**

(a) The remedies provided by this [act] shall be so administered that an aggrieved party may recover appropriate damages.

(b) An aggrieved party has a duty to mitigate damages.

(c) Any right or obligation declared by this [act] is enforceable by action unless the provision declaring it specifies a different and limited effect.

## COMMENT

Under the common law a landlord had no duty to mitigate damages. The no-mitigation rule was abrogated by the 1972 version of this act and this Act is consistent with that policy choice. Unlike the 1972 act, however, this Act provides a safe harbor in Section 603 for a landlord who attempts to mitigate damages following a tenant's wrongful abandonment of the premises.

**SECTION 107. SETTLEMENT OF DISPUTED CLAIM OR RIGHT.** A claim or right arising under this [act] or a lease, if disputed in good faith, may be settled by agreement.

## **SECTION 108. JURISDICTION AND SERVICE OF PROCESS ON LANDLORD.**

[(a) A court of this state may exercise jurisdiction over any landlord with respect to any

1 conduct in this state governed by this [act] or with respect to any claim arising from a transaction  
2 subject to this [act]. In addition to other methods provided by other law of this state, personal  
3 jurisdiction over a landlord may be acquired in any action instituted in a court of this state by the  
4 service of process in the manner provided in subsection (b)].

5 (b) If a landlord is not a resident of this state or is a person, other than an individual, not  
6 authorized to do business in this state [or registered with the Secretary of State of this state] and  
7 the landlord engages in any conduct in this state governed by this [act] or engages in a  
8 transaction subject to this [act], the landlord may designate pursuant to Section 301(b) an agent  
9 upon whom service of process may be made in this state. The agent shall be a resident of this  
10 state or an entity authorized to do business in this state.

11 (c) If no designation is made pursuant to subsection (b) or if process cannot be served in  
12 this state upon the agent, process may be served by sending a copy of the process and pleading  
13 by registered mail to the landlord at the landlord's last reasonably ascertainable address.

#### 14 **COMMENT**

15  
16 Subsection (a) would be unnecessary in states with "long-arm" personal jurisdiction  
17 statutes with comparable language.

18  
19 **SECTION 109. OBLIGATION OF GOOD FAITH.** Every duty under this [act] and  
20 every act which must be performed as a condition precedent to the exercise of a right or remedy  
21 under this [act] imposes an obligation of good faith in its performance or enforcement.

#### 22 **SECTION 110. UNCONSCIONABILITY.**

23 (a) If a court, as a matter of law, finds:

24 (1) a lease or any provision thereof was unconscionable when made, the court  
25 may refuse to enforce the lease, enforce the remainder of the lease without the unconscionable  
26 provision, or limit the application of any unconscionable provision to avoid an unconscionable  
27 result; or

(2) a settlement in which a party waives or agrees to forego a claim or right under this [act] or under a lease was unconscionable when made, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result.

(b) If a party or the court upon its own motion puts unconscionability into issue, the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the lease or the settlement to aid the court in making the determination.

#### **SECTION 111. KNOWLEDGE AND NOTICE.**

(a) A person knows a fact if the person has actual knowledge of it.

(b) A person has notice of a fact if the person:

(1) knows of it;

(2) has received a notification of it; or

(3) has reason to know it exists from all of the facts known to the person at the time in question.

(c) Except as otherwise provided in subsection (d), a person notifies or gives notice to another person by taking steps reasonably calculated to inform the other person in ordinary course, whether or not the other person learns of it.

(d) Whenever notice is given under Section 502, Section 504, Section 508, Section 509, Section 601, Section 602, or Section 701 by the landlord to the tenant or the tenant to the landlord, the notice shall be given by a record signed by the landlord or tenant and sent to the other at the address specified in subsection (e).

(e) A person receives notification when the notification:

(1) comes to the person's attention;

(2) in the case of a landlord, is sent in a record by the tenant to the landlord [or

another person designated by the landlord and] addressed to the post office address or electronic mail address the landlord designates, or, in the absence of such designation, is:

(A) delivered by the United States Postal Service or any commercially reasonable delivery service to the landlord at the landlord's place of business when the lease was made or at any other place held out by the landlord for receipt of a communication; or

(B) delivered by any other method reasonably calculated to provide notice to the landlord; and

(3) in the case of a tenant, is sent in a record by the landlord to the tenant addressed to the post office address or electronic mail address the tenant designates, or, in the absence of such designation; is:

(A) delivered by the United States Postal Service or any commercially reasonable delivery service to the tenant at the tenant's last known residential or business address; or

(B) delivered by any other method reasonably calculated to provide notice to the tenant.

(f) A person other than an individual knows, has notice, or receives a notification of a fact for purposes of a particular transaction when an individual conducting the transaction for the person knows, has notice, or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention if the individual had exercised reasonable diligence. For purposes of this subsection, a person exercises reasonable diligence if the person maintains reasonable routines for communicating significant information to an individual conducting the transaction for the person and there is reasonable compliance with the routines. Reasonable diligence does not require an individual acting for the person to communicate information unless the communication is part of the individual's regular duties or the individual

1 has reason to know of the transaction and that the transaction would be substantially affected by  
2 the information.

## 3 **ARTICLE TWO**

### 4 **GENERAL PROVISIONS APPLICABLE TO LEASES**

#### 5 **SECTION 201. TERMS AND CONDITIONS OF LEASES.**

6 (a) A landlord and a tenant may include in a lease terms and conditions not prohibited by  
7 this [act] or other law, including provisions relating to rent, term of the lease, and other  
8 provisions governing their rights and obligations.

9 (b) Unless the lease otherwise provides, rent is:

10 (A) payable without demand or notice at the place or address the landlord  
11 designates in Section 301 or [at the dwelling unit which is the subject of the lease][at the  
12 landlord's place of business when the lease was made] if no designation has been made and on  
13 the first of each month or at the beginning of the term if the term is less than one month; and

14 (B) uniformly apportioned from day-to-day.

15 (c) Except as provided in Section 202, unless the lease creates a tenancy for a fixed term,  
16 the tenancy is a periodic tenancy for week-to-week in the case of a tenant who pays rent weekly  
17 and in all other cases a periodic tenancy for month-to-month.

#### 18 **COMMENT**

19  
20 Under subsection (d), tenancies at will are effectively abolished; the only recognized  
21 tenancies other than a tenancy for a fixed term, is a periodic tenancy for month-to-month or the  
22 less common week-to-week.  
23

#### 24 **SECTION 202. EFFECT OF UNSIGNED, UNDELIVERED LEASE OR ORAL** 25 **LEASE.**

26 (a) If a written lease signed by the tenant is delivered to the landlord and the landlord  
27 fails to sign the lease and return it to the tenant, acceptance of rent by the landlord without



1 reservation gives the lease the same effect as if the lease had been signed and returned to the  
2 tenant by the landlord.

3 (b) If a written lease signed by the landlord is delivered to the tenant and the tenant fails  
4 to sign the lease and return it to the landlord, acceptance of possession and payment of rent  
5 without reservation gives the lease the same effect as if the lease had been signed and returned to  
6 the landlord by the tenant.

7 (c) If a lease given effect under subsections (a) or (b) provides for a tenancy for a fixed  
8 term longer than one year, the lease is effective for only one year.

9 (d) In the absence of a written lease signed by either the landlord or the tenant, if the  
10 tenant accepts possession and pays rent to the landlord without reservation and the landlord  
11 accepts rent from the tenant without reservation, the tenancy created is a periodic tenancy for  
12 week-to-week in the case of a tenant who pays rent weekly and in all other cases a periodic  
13 tenancy for month-to-month.

### 14 **SECTION 203. PROHIBITED PROVISIONS IN A LEASE.**

15 (a) [Except as otherwise provided in this [act],] a lease may not provide that the tenant:

16 (1) agrees to waive or forego rights or remedies under this [act], including the  
17 landlord's duty to mitigate;

18 (2) authorizes any person to confess judgment on a claim arising out of the lease;

19 (3) agrees to pay the landlord's attorney's fees; or

20 (4) agrees to the exculpation or limitation of any liability of the landlord arising  
21 under law or to indemnify the landlord for that liability or the costs connected therewith.

22 (b) A provision prohibited by subsection (a) or by other law included in a lease is  
23 unenforceable. If a landlord deliberately [willfully] uses a lease containing provisions known by  
24 the landlord to be prohibited, the tenant may recover in addition to any actual damages an

1 amount up to [three] month's periodic rent, costs, and reasonable attorney's fees.

2 **[SECTION 204. SEPARATION OF RENTS FROM THE OBLIGATION TO**  
3 **MAINTAIN PREMISES.** A lease, assignment, conveyance, trust deed, or security instrument  
4 may not permit the receipt of rent free of the obligation to comply with the landlord's obligations  
5 to maintain the premises as provided in Section 303 or other law.]

6 **ARTICLE THREE**

7 **LANDLORD OBLIGATIONS**

8 **SECTION 301. REQUIRED DISCLOSURES.**

9 (a) Prior to accepting any security deposit or entering into a lease, the prospective  
10 landlord shall disclose to the prospective tenant in a record the following information:

11 (1) all rules, regulations, and conditions that would govern the tenancy;

12 (2) any conditions on the premises that would cause a landlord to be in breach of a  
13 duty owed to a tenant under Section 303; and

14 [(3) the existence of bed bugs, lead paint, mold, asbestos, radon, or other  
15 hazardous substances if known to the landlord;].

16 (b) At or before the commencement of a tenancy, the landlord or any person authorized to  
17 enter into a lease on the landlord's behalf shall disclose to the tenant in a record:

18 (1) the name and post office and electronic mail address of:

19 (A) the landlord;

20 (B) any person authorized to act on the landlord's behalf;

21 (C) any other person authorized to manage the premises; and

22 (D) an owner of the premises or a person authorized to act for and on  
23 behalf of the owner for the purpose of service of process and receiving notices and demands;

24 (2) if different from the foregoing addresses, another post office address or

1 electronic mail address to which notices and demands upon the landlord shall be sent; and

2 (3) the address or place to which rent shall be delivered by the tenant.

3 (c) The information required to be given to the tenant by this section shall be kept current  
4 and the duty imposed by subsection (b) extends to and is enforceable against any successor  
5 landlord, owner, or manager.

6 (d) A person who enters into a lease on the landlord's behalf and fails to comply with  
7 subsections (b) or (c) becomes an agent of the landlord for:

8 (1) service of process and receiving and receipting for notices and demands; and

9 (2) performing the obligations of the landlord under this [act] and the lease and  
10 expending or making available all rent collected from the premises for the purpose of performing  
11 those obligations.

#### 12 **COMMENT**

13  
14 The purpose of subsection (b) is to enable the tenant to proceed with the appropriate legal  
15 proceeding, to know to whom complaints must be addressed and, failing satisfaction, against  
16 whom the appropriate legal proceedings may be instituted. Rights under this section are  
17 additional to those provided in Section 108.

18  
19 Subsection (a) imposes upon the landlord a duty to inform the tenant of any conditions  
20 that would make the premises uninhabitable or present an unreasonable risk of harm. These  
21 conditions would include the criteria for uninhabitability enumerated in Section 303 as well as  
22 additional hazards  
23

#### 24 **SECTION 302. DELIVERY OF POSSESSION OF DWELLING UNIT TO** 25 **TENANT.**

26 (a) At the commencement of the term:

27 (1) a landlord shall deliver possession of the premises to the tenant; and

28 (2) the premises shall be in compliance with the lease and Section 303.

29 (b) The landlord may bring an action for possession against any person wrongfully in  
30 possession and may recover the damages provided in Section 702.

1           **SECTION 303. LANDLORD’S DUTY TO MAINTAIN.**

2           (a) A landlord shall have the duty to make all repairs and to do or to refrain from doing  
3 whatever is necessary to assure that the premises are habitable. For purposes of this subsection  
4 (a), the premises are uninhabitable if any part of the premises substantially:

5                   (1) fails to comply with applicable building, housing, and health codes to the  
6 extent the failures substantially affect the health and safety of the tenant or an immediate family  
7 member;

8                   (2) lacks effective waterproofing and weather protection of the roof and exterior  
9 walls, including windows and doors;

10                  (3) lacks plumbing facilities that conform to applicable law in effect at the time of  
11 installation and that are maintained in good working order;

12                  (4) lacks access to a water supply approved under applicable law that is capable of  
13 producing hot and cold running water and is connected to a sewage disposal system approved  
14 under applicable law;

15                  (5) lacks adequate heating facilities that conform to applicable law at the time of  
16 installation that are maintained in good working order;

17                  (6) lacks electrical lighting with wiring and electrical equipment that conform to  
18 applicable law at the time of installation that are maintained in good working order;

19                  (7) fails to prevent or remediate rodents, bedbugs, and other vermin and  
20 prevention or remediation of mold, radon, asbestos, or other hazardous substances;

21                  (8) lacks common areas and other areas under the landlord’s control that are safe  
22 for normal and reasonably foreseeable uses and are clean, sanitary, and free from all  
23 accumulations of debris, filth, rubbish, garbage, rodents and vermin;

24                  (9) lacks an adequate number of appropriate receptacles for garbage and rubbish

1 in clean condition;

2 (10) lacks floors, walls, ceilings, stairways and railings maintained in good repair;

3 (11) lacks ventilating and if supplied or required to be supplied by the landlord,  
4 air conditioning and other facilities and appliances, including elevators, that are maintained in  
5 good repair;

6 (12) lacks locks on all exterior doors and locks or security devices on exterior  
7 windows that are maintained in good repair; and

8 (13) lacks safety equipment required by applicable law, including but not limited  
9 to a working smoke detector, carbon monoxide detector, and fire extinguishers.

10 (b) The landlord and the tenant may agree in a record signed by them that the tenant will  
11 perform specified repairs or maintenance to discharge the landlord's duties under subsection (a)  
12 if the agreement is entered into in good faith and does not diminish or affect the obligation of the  
13 landlord to other tenants in the premises.

14 (c) The landlord may not treat performance of the agreement specified in subsection (b)  
15 as a condition to or a discharge of the landlord's performance of any obligations in the lease or  
16 under this [act].

17 (d) Nothing in this section shall be construed as abrogating, limiting, or otherwise  
18 affecting the obligation of a tenant to pay for any utility service in accordance with the  
19 provisions of the lease.

## 20 **COMMENT**

21  
22 Consistent with the practice of nearly every state, this section recognizes that modern  
23 urban conditions require the proper maintenance and operation of rental housing. This section  
24 imposes certain minimum duties of repair and maintenance upon landlords consistent with  
25 prevailing public standards. Section 401 imposes corresponding duties of cleanliness and proper  
26 use within the dwelling unit upon the tenant. Except as provided in this section, these obligations  
27 may not be waived. See Section 203(a).

## 28 **SECTION 304. LIMITATIONS ON LANDLORD'S LIABILITIES.**

1 (a) Unless otherwise agreed, and except as otherwise provided in subsection (b), a  
2 landlord who conveys in a good faith sale to a bona fide purchaser the premises that include the  
3 dwelling unit subject to the lease is relieved of liability under the lease and this [act] as to all  
4 events occurring after the later of the notice to the tenant of the conveyance or the conveyance to  
5 the purchaser.

6 (b) Unless otherwise agreed or as provided in Article 9, the landlord remains liable to the  
7 tenant for all security deposits and prepaid rent recoverable by the tenant under Section 904.

8 (c) Unless otherwise agreed, a manager of premises that includes a dwelling unit subject  
9 to a lease is relieved of liability under the lease and this [act] as to all events occurring after the  
10 later of the notice to the tenant of the termination of the manager's management authority or the  
11 termination of the manager's management authority.

## 12 **ARTICLE FOUR**

### 13 **TENANT OBLIGATIONS**

#### 14 **SECTION 401. TENANT'S DUTY TO MAINTAIN.** A tenant shall:

15 (a) comply with all obligations imposed upon tenants by applicable provisions of  
16 building, housing, and health codes substantially affecting health and safety;

17 (b) keep the dwelling unit as safe and sanitary as the conditions of the dwelling unit  
18 permit;

19 (c) dispose from the dwelling unit all ashes, garbage, rubbish, and other waste in a clean  
20 and safe manner;

21 (d) keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their  
22 condition permits;

23 (e) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-  
24 conditioning, and other facilities and appliances including elevators in the premises;

1 (f) not [deliberately or negligently] destroy, deface, damage, impair, or remove any part  
2 of the premises or [knowingly] permit any other person to do the same;

3 (g) act and require other persons on the premises with the tenant's consent to act in a  
4 manner that will not disturb the neighbors peaceful enjoyment of the premises; (h) promptly  
5 notify the landlord of any conditions on the premises that require repair or remediation, including  
6 the existence of mold, radon, asbestos, rodents, bedbugs, or other conditions affecting health and  
7 safety of which the tenant has knowledge; and (i) return the dwelling unit to the landlord at  
8 the termination of the lease in the same condition as it was at the commencement of the tenancy,  
9 normal wear and tear excepted.

10 **SECTION 402. LANDLORD'S RULES AND REGULATIONS.**

11 (a) A landlord from time to time, may adopt a rule or regulation, however described,  
12 concerning the tenant's use and occupancy of the premises but the rule or regulation is  
13 enforceable against the tenant only if:

14 (1) its purpose is to promote the convenience, safety, or welfare of the tenants in  
15 the premises, preserve the landlord's property from abusive use, or make a fair distribution of  
16 services and facilities held out for the tenants generally;

17 (2) it is reasonably related to the purpose for which it is adopted;

18 (3) it applies to all tenants in the premises in a fair and impartial manner;

19 (4) it is sufficiently explicit in its prohibition, direction, or limitation of the  
20 tenant's conduct to fairly inform the tenant of what the tenant must or must not do to comply;

21 (5) it is not for the purpose of evading the landlord's obligations under the lease  
22 or this [act]; and

23 (6) the tenant knows of it at the time the tenant enters into the lease or within  
24 [five] days after it is adopted.

(b) If a rule or regulation is adopted after the tenant enters into the lease that works a substantial modification of the tenant's bargain, it is not enforceable against the tenant unless the tenant consents to it in a record signed by the tenant.

**SECTION 403. LANDLORD'S ACCESS TO DWELLING UNIT.**

(a) A tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect it, make necessary or agreed upon repairs, alterations, or improvements, supply necessary or agreed upon services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

(b) A landlord may enter the dwelling unit without the tenant's consent in case of emergency.

(c) A landlord shall not abuse the right of access or use that right to harass the tenant. Except in case of an emergency or because it is otherwise impracticable to do so, the landlord shall give the tenant at least [two] days' notice of the landlord's intent to enter the dwelling unit and may enter only at reasonable times.

(d) A landlord has no other right of access:

(1) unless the tenant otherwise agrees,

(2) unless pursuant to a court order;

(3) as permitted by Sections 602 and 603(b); or

(4) unless the tenant has abandoned or surrendered the dwelling unit.

**SECTION 404. TENANT TO USE AND OCCUPY.** Unless otherwise agreed, a

tenant shall occupy the dwelling unit only as a dwelling unit. The lease may require that the tenant notify the landlord of any anticipated extended absence from the dwelling unit [in excess of [seven] days] not later than the first day of the extended absence.



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(1) the noncompliance was caused by the negligent or deliberate act or omission of the tenant or an immediate family member or a person on the premises with the tenant's consent; or

(2) the tenant prevented the landlord from having access to the dwelling unit to make repairs or provide a remedy to the acts or omissions described in the tenant's notice.

(d) If the rental agreement is terminated, the landlord shall refund all security deposits  
and prepaid rent recoverable by the tenant under Section 904.

(e) A tenant may make any election provided in subsection (a) without providing the notice required by that subsection if the landlord otherwise knows of any condition on the premises that is in substantial noncompliance with the lease or Section 303 and fails to remedy the condition within [14] days after acquiring such knowledge.

## COMMENT

This section has been modified from the 1972 Act to clarify the remedies available to a tenant for a landlord's noncompliance with the warranty provisions in Section 303 or under the lease. Of particular importance is the measurement of damages a tenant may recover if the tenant has occupied the dwelling unit in a noncompliant condition or, relatedly, the amount of rent that may be abated under Section 505. There has been considerable variation in how states have approached the issue, but most have adopted, by statute or common law, one of three models of calculation:

• The difference between the fair rental value of the property if it had been as warranted versus the fair rental value in its actual, defective condition (“as is”).

- The difference between the *contract rent* and the fair rental value in its actual, defective condition (“as is”).

- A reduction in the contract rent by a percentage corresponding to the relative reduction in the use/habitability of the leased premises in its actual, defective condition.

The difficulty presented by the first two models is determining the fair rental value of the property. To the extent that the approaches would require expert testimony of market rental values, litigation of the issue would be both cost-prohibitive for most tenants and unduly time-consuming for courts. Accordingly, this act focuses on the “value of the use and occupation of the dwelling unit” and expressly states that the value may be determined without expert testimony.

Claims arising under this section if disputed in good faith may be settled by agreement

(see Section 108). However, a prior settlement will not prevent a termination under Section

The availability of injunctive relief is determined by usual principles of equity. See Section 104.

Remedies available to the tenant pursuant to Section 501 are not exclusive (see Section 104). [Thus, to the extent permitted by state law, tort remedies also may be available.] A duty to mitigate damages exists under Section 107. As to rights of third parties, see comment under Section 107.

Not all services or obligations of the landlord described in Section 303 are “essential services.” If there is a substantial noncompliance by the landlord with the lease or Section 303(a), Section 501 allows the tenant to elect from among six remedies. However, the tenant’s ability to secure essential services or substitute housing under Section 504 is only available for the landlord’s substantial noncompliance in providing essential services, a subset of the services the landlord is duty bound to provide under Section 303(a).

## **SECTION 502. LANDLORD’S FAILURE TO DELIVER POSSESSION TO TENANT.**

(a) If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in Section 302, rent abates until possession is delivered and the tenant may:

(1) terminate the lease with at least [five] days’ notice to the landlord and upon termination the landlord shall refund all prepaid rent and security deposits; or

(2) demand performance of the lease by the landlord and, if the tenant elects, obtain possession of the dwelling unit from the landlord or any person wrongfully in possession by any lawful means that could have been used by the landlord and recover actual damages.

(b) If a person’s failure to deliver possession is willful and not in good faith, an aggrieved person may recover from that person an amount not more than [three] months’ periodic rent or [threefold] the actual damages sustained, whichever is greater, and costs and reasonable attorney fees.

## **SECTION 503. SELF-HELP FOR MINOR DEFECTS.**

(a) Except as otherwise provided in subsection (d), if the landlord fails to comply with the lease or Section 303 and the reasonable cost of compliance is less than [\$500] or an amount equal to [one-half] the periodic rent, whichever is greater, the tenant may notify the landlord in a

1 record [or orally] of the tenant's intention to correct the condition at the landlord's expense.

2 (b) If the landlord fails to comply within [14] days after being notified by the tenant or as  
3 promptly as conditions require in case of emergency, the tenant may take appropriate action to  
4 correct the condition and, after submitting to the landlord an itemized statement, including  
5 receipts for purchased items and services, deduct from the rent the actual and reasonable cost or  
6 the fair and reasonable value of the work, not exceeding the amount specified in subsection (a).

7 (c) Repairs shall be made in a workmanlike [skilled] [professional] [competent] manner  
8 and in compliance with applicable laws. [Unless the landlord agrees that the tenant may make  
9 the repairs personally, the tenant shall employ a licensed contractor to perform the work.]

10 (d) A tenant may not repair at the landlord's expense if:

11 (1) the condition was caused by the deliberate or negligent act or omission of the  
12 tenant, an immediate family member, or other person on the premises with the tenant's consent;

13 (2) the landlord was unable to remedy the condition because the tenant denied the  
14 landlord access to the dwelling unit or because of weather or other conditions beyond the  
15 landlord's control; or

16 (3) the tenant previously utilized this remedy [more than once] within the  
17 preceding 12-month period.

18 **SECTION 504. LANDLORD'S WRONGFUL FAILURE TO PROVIDE**  
19 **ESSENTIAL SERVICES.**

20 (a) If contrary to the terms of the lease or Section 303, the landlord willfully or  
21 negligently fails to supply essential services, the tenant may give notice to the landlord  
22 specifying the breach and may:

23 (1) take reasonable and appropriate measures to secure reasonable amounts of  
24 essential services during the period of the landlord's noncompliance and deduct their actual and

1 reasonable cost from the rent;

2 (2) recover damages based upon the difference between the amount of rent  
3 provided in the lease and the value of the tenant's use and occupation of the dwelling unit in its  
4 noncompliant condition, which may be determined without the use of expert testimony; or

5 (3) procure comparable substitute housing during the period of the landlord's  
6 noncompliance, in which case the tenant is excused from paying rent for the period of the  
7 landlord's noncompliance and may recover the difference between the rent provided in the lease  
8 and the actual and reasonable cost of the substitute housing.

9 (b) In addition to the remedy provided in paragraphs (2) and (3) of subsection (a), the  
10 tenant may recover costs and reasonable attorney's fees.

11 (c) If the tenant proceeds under this section, the tenant may not seek other remedies under  
12 Section 501 or Section 503 as to that breach.

13 (d) Rights of the tenant under this section do not arise:

14 (1) until the tenant has given notice to the landlord; or

15 (2) if the condition was caused by [an] [the deliberate or negligent] act or  
16 omission of the tenant, an immediate family member, or other person on the premises with the  
17 tenant's consent.

18 **SECTION 505. LANDLORD'S NONCOMPLIANCE AS DEFENSE TO ACTION**  
19 **FOR POSSESSION OR NONPAYMENT OF RENT.**

20 (a) In an action for possession based upon nonpayment of rent or in an action for unpaid  
21 rent when the tenant is in possession,

22 (1) the tenant may defend on the basis that that no rent was due or [counterclaim]  
23 for any amount the tenant may recover under the lease or this [act]; and

24 (2) during the pendency of an action, the court may order the tenant to pay all or

1 part of the unpaid rent and all additional rent as it accrues into an escrow account with the court  
2 [or with a financial institution or other entity authorized to hold funds in escrow].

3 (b) In an action for possession based upon nonpayment of rent or in an action for unpaid  
4 rent when the tenant is in possession,

5 (1) if the court determines that the landlord failed to comply with the lease or  
6 Section 303, the court may order that:

7 (A) all or some portion of rents held in escrow be released for the purpose  
8 of bringing the premises into compliance with the lease or Section 303;

9 (B) all or some portion of the rents held in escrow be refunded to the  
10 tenant for:

11 (1) any repairs made by the tenant in compliance with Section 503;

12 (2) damages owed to the tenant for the difference between the  
13 amount of rent provided for in the lease and the value of the tenant's use and occupation of the  
14 dwelling unit in its noncompliant condition, which may be determined without the use of expert  
15 testimony; or

16 (3) other actual damages; or

17 (C) the tenant continue to pay rent into escrow as rent becomes due or  
18 abate future rent until the landlord brings the premises into compliance with the lease or Section  
19 303; or

20 (D) any rents held in escrow not otherwise payable to the tenant and any  
21 other amounts the court determines the tenant owes the landlord be paid to the landlord; or

22 (2) if the court determines that the landlord fully complied with the lease and  
23 Section 303 or that the tenant failed to deposit the full amount of rent into escrow as ordered by  
24 the court, the court shall order the immediate release of any rent held in escrow to the landlord,

1 direct the tenant to pay the landlord any remaining rent owed, and, if the court determines the  
2 defense or counterclaim by the tenant was without merit and was not raised in good faith, the  
3 court, in addition to any other relief to which the landlord is entitled, may order the tenant to pay  
4 the landlord's costs and reasonable attorney's fees. For this purpose, if the tenant's defense or  
5 counterclaim was raised upon advice of the tenant's counsel, the defense or counterclaim is  
6 presumed to have been raised in good faith.

7 (c) In an action for rent when the tenant is not in possession, the tenant may  
8 [counterclaim] as provided in subsection (a) but is not required to pay any rent into court.

9 **SECTION 506. FIRE OR CASUALTY DAMAGE.**

10 (a) If the dwelling unit or premises are damaged or destroyed by fire or other casualty to  
11 the extent that enjoyment of the dwelling unit is substantially impaired, the tenant may:

12 (1) immediately vacate the dwelling unit and notify the landlord within [14] days  
13 thereafter of the tenant's intention to terminate the lease, in which case the lease terminates as of  
14 the date the tenant vacates; or

15 (2) if continued occupancy is lawful, vacate any part of the dwelling unit rendered  
16 unusable by the fire or other casualty, in which case the tenant's liability for rent is reduced by  
17 the difference between the amount of rent provided in the lease and the value of the tenant's  
18 continued use and occupation of the dwelling unit in its damaged or destroyed condition, which  
19 may be determined without the use of expert testimony.

20 (b) If the lease is terminated the landlord shall return all security and prepaid rent  
21 recoverable under Section 904. Accounting for rent in the event of termination or apportionment  
22 shall be made as of the date of the fire or other casualty.

23 **SECTION 507. TENANT'S REMEDIES FOR LANDLORD'S UNLAWFUL**  
24 **OUSTER, EXCLUSION, OR DIMINUTION OF ESSENTIAL SERVICES.** If a landlord

1 unlawfully removes or excludes the tenant from the premises or willfully interrupts or causes the  
2 interruption of essential services to the tenant, the tenant may recover possession or terminate the  
3 lease and, in either case, recover an amount not more than [three] months' periodic rent or  
4 [threefold] the actual damages sustained by the tenant, whichever is greater, costs, and  
5 reasonable attorney's fees. If the lease terminates the landlord shall return all security deposits  
6 and prepaid rent recoverable under Section 904.

7 **SECTION 508. EARLY TERMINATION OF LEASE BY TENANT AS THE**  
8 **RESULT OF DOMESTIC VIOLENCE.**

9 (a) A tenant of a dwelling unit may be released from the lease at any time if the tenant or  
10 an immediate family member has been the victim of domestic violence, any act of which  
11 occurred within [90] days immediately preceding the notice described in paragraph (1) of this  
12 subsection, and the tenant gives the landlord:

13 (1) notice of the tenant's intent to be released from the lease at least [14] days  
14 before the release date specified in the notice; and

15 (2) one of the following documents:

16 (A) a copy of a valid order of protection issued by a court of any state that  
17 restrains the perpetrator from contact with the tenant or an immediate family member;

18 (B) a copy of a police report filed with an agency of any state detailing an  
19 act of domestic violence against the tenant or an immediate family member; \_\_\_\_\_

20 (C) a copy of the conviction of any perpetrator for an act of domestic  
21 violence against the tenant or an immediate family member; or \_\_\_\_\_

22 (D) a verification in a record signed by the tenant and an attesting third  
23 party that complies with Section 508(h).

24 (b) If the tenant is the only tenant who is a party to the lease, a release terminates the



lease on the date specified in the notice described in paragraph (1) of subsection (a) and neither the tenant nor an immediate family member shall be liable for rent accruing thereafter.

(c) If there are multiple tenants who are parties to the lease, the release of one tenant under this section does not terminate the lease with respect to other tenants who are parties to the lease. The landlord shall not be required to refund security deposits or prepaid rents under Section 904 of this [act] until the lease terminates with respect to all tenants and the dwelling unit is surrendered to the landlord.

(d) If a tenant complies with this section, the landlord shall:

(1) except as otherwise provided in subsection (c), following the tenant's surrender of the dwelling unit, return all security deposits and prepaid rent recoverable by the tenant under Section 904;

(2) not assess any fee against a tenant for exercising any right granted under this section; and

(3) not disclose any information required to be reported to the landlord under this section unless:

(A) the tenant consents in a record signed by the tenant to the disclosure of the information;

(B) the information is required [or is relevant] in an action;

(C) the information is disclosed to an attesting third party; or

(D) the disclosure is required by other law.

(e) The landlord may recover from the perpetrator actual damages resulting from the tenant's exercise of a right under this section and, if the perpetrator is a party to the lease may:

(1) except as otherwise provided in Section 510(b), allow the perpetrator to remain in possession of the dwelling unit and hold the perpetrator liable on the lease for all

1 future rents payable thereunder; or

2 (2) terminate the perpetrator's interest under the lease by giving the perpetrator  
3 notice by a record signed by the landlord at least [5] days before the termination date specified in  
4 the notice and evict the perpetrator if the perpetrator fails to vacate the dwelling unit on the  
5 specified termination date.

6 (f) If a tenant knowingly submits a false verification to the landlord in support of the right  
7 to be released from the lease, the landlord may recover an amount equal to [3] months' periodic  
8 rent or [threefold] actual damages, whichever is greater, and costs and reasonable attorney's fees.

9 (g) The perpetrator is not entitled to any damages or other relief against the landlord or  
10 the tenant who in good faith complies with this section.

11 (h) A verification provided by the tenant under subsection (a)(2)(D) shall include, to the  
12 best of the knowledge and belief,

13 (1) of the tenant, the following:

14 (A) the name and address of the tenant;

15 (B) the time period over which the domestic violence occurred with  
16 approximate dates as to when it occurred;

17 (C) the date of the most recent act of domestic violence;

18 (D) the proposed date for the termination of the lease if the tenant is the  
19 only tenant to the lease, or if the tenant is one of multiple tenants to the lease, the proposed date  
20 the tenant will be released from the lease which date is no more than 90 days from the date of the  
21 most recent act of domestic violence described in subparagraph (C) of paragraph (1) of this  
22 subsection (h); and

23 (E) the tenant's acknowledgment that the statements in the verification are  
24 true and accurate to the best of the tenant's knowledge and belief, that the tenant understands that

1 the statements could be used in court, and that the tenant could be liable for perjury for making  
2 false statements in the verification.

3 (2) of an attesting third party, the following:

4 (A) the name, address, and business phone number of the attesting third  
5 party;

6 (B) the capacity in which the attesting third party received the information  
7 regarding the acts of domestic violence of the tenant or an immediate family member of the  
8 tenant;

9 (C) a statement that the attesting third party has read the tenant's  
10 statements in the verification and has been advised by the tenant that the tenant or an immediate  
11 family member of the tenant is the victim of domestic violence;

12 (D) a statement that the attesting third party, based upon the tenant's  
13 statements in the verification, believes the tenant and understands that the verification may be  
14 used as the basis for releasing the tenant from a lease or terminating the tenant's interest under  
15 the lease; and

16 (E) the attesting third party's acknowledgment that the statements of the  
17 attesting third party in the verification are true and accurate to the best of the attesting third  
18 party's knowledge and belief, that the attesting third party understands that the statements in the  
19 verification could be used in court, and that the attesting third party could be liable for perjury  
20 for making false statements in the verification.

## 21 **COMMENTS**

22  
23 The following is an example of a verification that would comply with subsection (h):

### 24 Verification

25  
26 I, \_\_\_\_\_ [insert name of tenant] , do hereby state that:

27 (a) I presently reside at \_\_\_\_\_ [insert address of

dwelling unit];

(b) I or an immediate family member has been a victim of acts of domestic violence occurring to the best of my knowledge over a period

\_\_\_\_\_ [insert time period over which acts of domestic violence occurred];

(c) The most recent act of that violence occurred on \_\_\_\_\_ [insert date]; and

(d) The time since the most recent act of domestic violence is less than [90] days from \_\_\_\_\_, the date specified as the termination date in the notice accompanying this statement.

I hereby declare that the above statement is true and accurate to the best of my knowledge and belief and that I understand it could be used as evidence in court and I could be subject to a penalty for perjury by making false statements in this verification.

\_\_\_\_\_  
[Tenant's signature]

I, \_\_\_\_\_, [insert name of attesting third party] do hereby state that:

(a) I am a \_\_\_\_\_ [insert whichever is applicable: law enforcement official, a licensed health care professional, a victim's advocate, or a victim services provider];

(b) My business address and phone number is: \_\_\_\_\_;

(c) The individual who signed the preceding statement has informed me that [he or she] [the individual] or an immediate family member is a victim of domestic violence based upon the act listed in the preceding statement; and

(d) I reasonably believe the preceding statement recounting acts of domestic violence and understand that the tenant who made the statement may use this document as a basis for terminating the tenant's lease for the dwelling unit described in the preceding statement.

I hereby declare that the above statement is true and accurate to the best of my knowledge and belief and that I understand it could be used as evidence in court and I could be subject to a penalty for perjury by making false statements in this verification.

\_\_\_\_\_  
[Attesting third party's signature]

## **SECTION 509. CHANGE OF LOCKS AS A RESULT OF DOMESTIC VIOLENCE.**

(a) Subject to subsections (b) and (c), if a tenant of a dwelling unit or an immediate family member has been the victim of domestic violence and the tenant does not elect to be released from the lease pursuant to Section 508, the tenant may give notice to the landlord requesting the landlord to change the locks to the dwelling unit.

(b) Within [three] days of the receipt of the notice in subsection (a), the landlord shall

1 change the locks at the tenant's expense. If the landlord fails to act within the [three]-day period,  
2 the tenant may change the locks without the landlord's permission and shall give the landlord a  
3 key to the new locks.

4 (c) If the perpetrator of the domestic violence is also a party to the lease, the locks cannot  
5 be changed unless there is a court order requiring the perpetrator to vacate the dwelling unit and  
6 a copy of the order has been furnished to the landlord.

7 (d) The tenant shall not be required to pay any additional rent, fees, or security deposit  
8 because of the perpetrator's exclusion from the dwelling unit.

9 (e) The perpetrator is not entitled to any damages or other relief against the landlord or  
10 the tenant who in good faith complies with this section.

11 **SECTION 510. EFFECT OF COURT ORDER TO VACATE.**

12 (a) If a court has ordered a perpetrator [of domestic violence] to vacate the dwelling unit,  
13 neither the landlord nor the tenant has any duty once the order is issued to:

14 (1) allow the perpetrator access to the dwelling unit unless accompanied by a law  
15 enforcement officer; or

16 (2) provide the perpetrator with keys to the dwelling unit.

17 (b) If the perpetrator is a party to the lease, then upon issuance of the court order  
18 requiring the perpetrator to vacate the dwelling unit, the perpetrator's interest in the tenancy  
19 terminates and the landlord and the tenant are entitled to any actual damages as a result of that  
20 termination.

21 (c) The landlord shall return security deposits and prepaid rent recoverable under Section  
22 904 following the termination of the lease and the surrender of possession of the dwelling unit to  
23 the landlord.

24 (d) The tenant shall not be required to pay any additional rent, fees, or security deposit

1 because of the termination of the perpetrator's interest as a tenant of the dwelling unit.

## 2 **ARTICLE SIX**

### 3 **LANDLORD REMEDIES**

#### 4 **SECTION 601. NONCOMPLIANCE WITH LEASE BY TENANT; FAILURE TO** 5 **PAY RENT.**

6 (a) Except as otherwise provided in this [act], if there is a substantial noncompliance by  
7 the tenant with the lease or a noncompliance with Section 401 substantially affecting health and  
8 safety, the landlord may deliver a notice to the tenant specifying the acts and omissions  
9 constituting the breach and that the lease will terminate upon a specified date not less than [30]  
10 days after receipt of the notice. If the breach is not remedied in [14] days, the lease shall  
11 terminate as provided in the notice subject to the following:

12 (1) If the breach is remediable by repairs or the payment of rent, damages or  
13 otherwise and the tenant adequately remedies the breach before the date of termination specified  
14 in the notice, the lease shall not terminate.

15 (2) If substantially the same act or omission which constituted a prior  
16 noncompliance of which notice was given recurs within [6] months after such notice, the  
17 landlord may deliver to the tenant a notice specifying the substantially same act or omission  
18 constituting the breach and that the lease will terminate upon a specified date not less than [14]  
19 days after receipt of the notice.

20 ~~(b) If rent is unpaid when due and the tenant fails to pay rent within [5] days after receipt~~  
21 ~~of a notice from the landlord of nonpayment and of the landlord's intention to terminate the lease~~  
22 ~~if the rent is not paid within that period, the landlord may terminate the lease.~~

23 (b) Except as otherwise provided in this [act], the landlord may recover actual damages  
24 and obtain injunctive relief or specific performance for noncompliance by the tenant with the

1 lease or Section 401. If the tenant's noncompliance is willful, the landlord may recover costs and  
2 reasonable attorney's fees.

3 **SECTION 602. TENANT'S FAILURE TO MAINTAIN.** If there is noncompliance  
4 by the tenant with Section 401 substantially affecting health and safety that can be remedied by  
5 repair, replacement of a damaged item, or cleaning, and the tenant fails to comply as promptly as  
6 conditions require in case of emergency or within [14] days after notice by the landlord  
7 specifying the breach and requesting that the tenant remedy it within that period of time, the  
8 landlord may enter the dwelling unit and cause the work to be done in workmanlike [skilled]  
9 [professional] [competent] manner and submit the itemized bill for the actual and reasonable cost  
10 or the fair and reasonable value thereof as rent on the next date periodic rent is due, or if the  
11 lease has terminated, for immediate payment.

12 **SECTION 603. ABSENCE, NONUSE AND ABANDONMENT.**  
13

14 (a) For purposes of this section, "fair rental value" **[Alternative 1: means the estimated**  
15 **rent that a willing tenant would pay and a willing landlord would accept if both parties were**  
16 **knowledgeable about the dwelling unit and the then-prevailing market conditions.] [Alternative**  
17 **2: means rent comparable to the amount paid for other dwelling units of similar size and**  
18 **condition within the general neighborhood.] In the absence of contrary evidence, fair rental value**  
19 **is the amount of rent fixed in the lease between the landlord and the tenant who abandoned the**  
20 **dwelling unit.**

21 (b) If the lease requires the tenant to give notice to the landlord of an anticipated extended  
22 absence [in excess of [seven] days] pursuant to Section 404 and the tenant willfully fails to do so,  
23 the landlord may recover actual damages, costs, and attorney's fees from the tenant.

24 (c) During any absence of the tenant in excess of [seven] days, the landlord may enter the  
25 dwelling unit at times reasonably necessary.

1       (d) If the tenant abandons the dwelling unit prior to the end of the term, the landlord in  
2 fulfilling the duty to mitigate shall make reasonable efforts to rent the dwelling unit at its fair  
3 rental value.

4       (e) For purposes of subsection (c), “reasonable efforts” means steps which a landlord  
5 would have taken to rent the dwelling unit if the unit had been vacated at the end of the term,  
6 provided those steps are in accordance with local rental practices for similar dwelling units. The  
7 landlord is presumed to have taken reasonable steps to rent the dwelling unit if the landlord  
8 shows the dwelling unit to prospective tenants and advertises the availability of the dwelling unit  
9 by any of the following means: sending mailings to prospective tenants, hiring a real estate agent  
10 to locate prospective tenants, posting “for rent” signs on the premises, or advertising the dwelling  
11 unit for rent in newspapers or other media.

12       (f) Nothing in subsection (d) shall be construed to require a landlord to show or lease the  
13 dwelling unit in preference to other units the landlord has available for rent.

14       (g) If the landlord rents the dwelling unit abandoned by the tenant to another tenant for a  
15 term beginning before the expiration of the tenant’s lease, the tenant’s lease terminates as of the  
16 date of the new tenancy and the landlord may recover actual damages from the tenant.

17       (h) If the landlord fails to lease the dwelling unit after making reasonable efforts to rent  
18 the dwelling unit at its fair rental value, the landlord may recover actual damages.

19       (i) If the landlord fails to use reasonable efforts to rent the dwelling unit at its fair rental  
20 value or if the landlord accepts the abandonment as a surrender, the lease is deemed to be  
21 terminated by the landlord as of the date the landlord has notice of the abandonment and the  
22 landlord shall refund all security deposits and prepaid rent recoverable under Section 904.

23       **SECTION 604. WAIVER OF LANDLORD’S RIGHT TO TERMINATE.**

24       Acceptance of rent with knowledge of a default by the tenant or acceptance of performance by



the landlord that varies from the terms of the lease constitutes a waiver of the landlord's right to terminate the lease for that breach, unless otherwise agreed after the breach has occurred.

**SECTION 605. LANDLORD LIENS; DISTRESS FOR RENT; TENANT'S ABANDONMENT OF HOUSEHOLD GOODS.**

(a) A lien or security interest on behalf of the landlord in the tenant's household goods is not enforceable unless perfected before the effective date of this [act].

(b) Distraint for rent is abolished.

(c) TO COME

**[SECTION 606. REMEDY AFTER TERMINATION.** If the lease is wrongfully terminated by the tenant, the landlord has a claim for possession and for rent and a separate claim for actual damages for breach of the lease, costs, and reasonable attorney's fees as provided in Section 601(c).]

**SECTION 607. RECOVERY OF POSSESSION LIMITED; DIMINUTION OF SERVICES.** A landlord may not recover or take possession of the dwelling unit by action or otherwise or willfully interrupt or cause the interruption of essential services to the tenant, except in case of abandonment, surrender, or as permitted by this [act].

**ARTICLE SEVEN**

**TERMINATION OF PERIODIC TENANCY, DEATH OF A TENANT, HOLDOVER TENANCY; ABUSE OF ACCESS**

**SECTION 701. TERMINATION OF PERIODIC TENANCY; DEATH OF A TENANT.**

Except as otherwise provided in Section 508 and [ ]:

(a) Either the landlord or the tenant may terminate a periodic tenancy for week-to-week by giving the other at least [5] days' notice of the intent to terminate on the date specified in the

1 notice.

2 (b) Either the landlord or the tenant may terminate a periodic tenancy for month-to-month  
3 by giving the other at least [one] month's notice of the intent to terminate at the end of a monthly  
4 period.

5 (c) The notice to terminate a tenancy under either subsection (a) or (b) need not state any  
6 reason for the termination.

7 (d) The landlord or the tenant may terminate a tenancy for a fixed term by giving notice  
8 to the other at least [60] days prior to the date specified in the notice for the termination of the  
9 tenancy [if any one of the following is met]:

10 (1) In the case of the landlord, if the landlord has:

11 (A) accepted an offer to purchase the dwelling unit from an individual  
12 who intends in good faith to occupy the dwelling unit as the individual's primary residence; and

13 (B) given the notice, together with written evidence of the offer to  
14 purchase the dwelling unit, to the tenant not more than [120] days after accepting the offer to  
15 purchase.

16 (2) In the case of the tenant, if the tenant has:

17 (A) accepted an offer of employment which would require the tenant to  
18 relocate to a community at least [90 miles] from the dwelling unit; and

19 (B) given the notice, together with written evidence of the offer of  
20 employment, to the landlord not more than [120] days after accepting the offer of employment.

21 (e) If a tenant who is the only tenant who is a party to a lease dies prior to the end of a  
22 tenancy for a fixed term:

23 (1) [unless the deceased tenant's will otherwise provides][notwithstanding any  
24 contrary provision in the deceased tenant's will], the tenant's surviving spouse may give the

landlord a notice at least [20] days after the tenant's death of the spouse's intent to assume the lease for the balance of the term subject to all of its terms and conditions; or

(2) except as provided in paragraph (1), either the landlord or the personal representative of the deceased tenant's estate may elect to terminate the lease by giving the other notice of the intent to terminate the tenancy as of a specified date. The notice shall be given at least [60] days prior to the date specified in the notice for the termination of the tenancy.

### **COMMENT**

Under subsection (b) a month-to-month tenant can be terminated by giving one month's notice. The termination date in the notice must coincide with the normal end of the monthly period. Thus, if the tenancy begins on the first of the month, the termination date in the notice must be on the last day of at least the next month or it could be on the last date of any months at least one month after the notice is given. If the month-to-month tenancy begins on the 15<sup>th</sup> of the month, the one month's notice must have a termination date no earlier than the 14<sup>th</sup> of the next month but could have a termination date on the 14<sup>th</sup> for subsequent months.

**SECTION 702. HOLDOVER TENANCIES.** If the tenant remains in possession without the landlord's consent after the expiration of a tenancy for a fixed term or the termination of the lease, the landlord may bring an action for possession. If the tenant holdover is willful and not in good faith, the landlord may also recover an amount not more than [three] month's periodic rent or [threefold] the actual damages sustained by the landlord, whichever are greater, costs and reasonable attorney's fees. If the landlord consents to the tenant's continued occupancy, a periodic tenancy for month-to-month arises under the same terms and conditions as the lease unless otherwise agreed.

### **SECTION 703. LANDLORD AND TENANT REMEDIES FOR ABUSE OF ACCESS.**

(a) If the tenant refused to allow the landlord lawful access to the dwelling unit, the landlord may obtain injunctive relief to compel access or terminate the lease. In either case the landlord may recover actual damages, costs and reasonable attorney's fees.

(b) If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct or terminate the lease. In either case the tenant may recover actual damages [not less than an amount equal to [one] month's rent], costs and reasonable attorney's fees.

## **ARTICLE EIGHT**

### **RETALIATORY CONDUCT**

72 #20 (#

## **ARTICLE NINE**

### **SECURITY DEPOSITS**

#### **SECTION 901. NATURE AND AMOUNT OF SECURITY DEPOSIT.**

(a) Except as otherwise provided in subsection (b), a landlord may not collect a security deposit in an amount [or value] which, together with any non-refundable fees payable at the commencement of the lease, exceeds [1.5] month[s] of periodic rent.

(b) If the lease is for a furnished dwelling unit or permits the tenant to keep or maintain pets or make alterations to the dwelling unit, the landlord may collect an additional security deposit in an amount commensurate with the additional risk of damage.

(c) A security deposit and prepaid rent shall remain the tenant's property in which the landlord shall have a security interest to secure the tenant's obligations under the lease or this [act].

(d) Security deposits and prepaid rent shall be exempt from attachment and execution by the landlord's creditors and shall be exempt from garnishment by the tenant's creditors.

### **COMMENT**

Consistent with the 1972 act, subsection (a) limits what a landlord may demand of a tenant at the commencement of the lease as a security deposit but places no limit on prepaid rent.

1 Unlike the 1972 act, however, this Act includes non-refundable fees within subsection (a) to  
2 discourage landlords from circumventing the limit on security deposits by charging non-  
3 refundable fees instead.

4  
5 The Act differs from the 1972 act in its treatment of prepaid rent. The Act treats both  
6 security deposits and prepaid rent as the property of the tenant in which the landlord has a  
7 security interest and provides protection of the funds from both the landlord and tenant's  
8 creditors. This treatment is consistent with the modern trend of recognizing that the purpose of a  
9 security deposit is to ensure the tenant's compliance with the tenant's obligations under the lease;  
10 thus, the landlord is not entitled to the funds unless the tenant fails to comply with one or more of  
11 those obligations.

12  
13 Prepaid rent is treated as property of the tenant for a similar reason. The Act defines  
14 prepaid rent as rent paid in advance of the date upon which it is due under the terms of the lease.  
15 Thus, prepaid rent reflects funds that the landlord has accepted on the tenant's behalf before the  
16 tenant is actually obligated to make the payment under the terms of the lease. Like the 1972 Act,  
17 this Act provides a number of situations in which the landlord is required to refund prepaid rent  
18 (as well as a security deposit) upon termination of the lease. Imposing the same safekeeping  
19 requirements on both types of payments ensures that the funds are available for refund in those  
20 situations.

21  
22 Whether a payment constitutes prepaid rent depends upon the terms of the lease. For  
23 example, if a one-year lease provides for payment of \$500 in rent every month on the first of the  
24 month, a \$3,000 payment at the beginning of the lease would be prepaid rent for six months of  
25 the lease. Conversely, if the lease provides that the full amount of the rent is due and payable at  
26 the commencement of the lease, payment of that amount would not be prepaid rent. The funds in  
27 this latter situation would belong entirely to the landlord upon payment and would not be subject  
28 to the safekeeping requirements of Section 903.

## 30 **SECTION 902. TENANT PROHIBITED FROM USING SECURITY DEPOSIT**

31 **AS RENT.** Unless the landlord and tenant otherwise agree in a signed record, the tenant shall  
32 not use or apply the tenant's security deposit at any time in lieu of payment of rent. If a tenant  
33 violates this section in bad faith, the landlord may recover the unpaid rent to which the landlord  
34 is entitled and an additional amount equal to [two times] the periodic rent plus costs and  
35 reasonable attorney's fees.

## 36 **COMMENT**

37  
38 Section 902 is a new provision to address the common misconception of tenants that the  
39 security deposit may be used in lieu of paying the last month's rent.

## 40 **SECTION 903. SAFEKEEPING OF SECURITY DEPOSITS.**

1           (a) Security deposits and prepaid rents:

2  
3                   (1) [unless otherwise agreed due to the form of a security deposit,] shall be held  
4 by the landlord in a federally insured financial institution;

5                   (2) may be commingled with the security deposits and prepaid rents of other  
6 tenants but may not be commingled with the landlord's personal funds;

7                   (3) may not be used by the landlord for purposes other than the purposes  
8 permitted by this [act]; and

9                   (4) [unless the lease provides otherwise, need not be deposited into an interest-  
10 bearing account or have interest thereon paid to the tenant.]

11           (b) If the landlord fails to comply with subsection (a), the tenant may recover actual  
12 damages or one month's periodic rent, whichever is greater, together with costs and reasonable  
13 attorney's fees.

14                                   **COMMENT**

15  
16           Section 903 introduces a new requirement that landlords segregate both security deposits  
17 and prepaid rents from the landlord's other funds. Imposing the safekeeping requirements on  
18 both types of payments ensures that the funds are available for refund as required under various  
19 provisions in the Act.

20  
21                   **SECTION 904. RETURN OF SECURITY DEPOSITS OR PREPAID RENT;**

22           **DISPUTES.**

23           (a) The landlord may apply security deposits and prepaid rent as provided in the lease  
24 and, upon termination of the lease, shall account for and refund to the tenant any unused amounts  
25 as provided in subsections (b) and (c).

26           (b) Within [30] days after the termination of the lease and subject to  
27 subsection (c), the landlord shall:

28                   (1) refund to the tenant the amount of security deposits and prepaid rent the  
29

1 landlord in good faith reasonably believes is due the tenant, and

2 (2) if less than the entire amount of the security deposits or prepaid rents  
3 collected from the tenant is refunded to the tenant, provide the tenant with a record signed by the  
4 landlord complying with subsection (d).

5 (c) The landlord shall send the refund and record to an address provided by the tenant to  
6 the landlord upon surrendering the premises or, in the absence of that address, to the tenant at the  
7 address specified in Section 111(d)(3). A landlord who complies with this subsection is not liable  
8 if the refund or record is misdelivered or is undeliverable and any security deposit or prepaid rent  
9 unclaimed by the tenant as well as any check outstanding shall be forfeited by the tenant after a  
10 period of [180] days.

11 (d) If the landlord fails to refund to the tenant the entire amount of the security deposits  
12 or prepaid rents,

13 (1) except as otherwise provided in paragraph (2), the record shall:

14 (A) specify the items to which the security deposit or prepaid rent are  
15 being applied [including unpaid rent, unpaid utility charges, late fees, repair work, or cleaning  
16 contracted for by the tenant but not paid, costs of repossession, costs for storage or disposal of  
17 unclaimed property, and costs of restoring the dwelling unit to its condition at the  
18 commencement of the lease, normal wear and tear excepted]; and

19 (B) itemize the amount being retained by the landlord for each item and  
20 include copies of paid receipts for expenses paid by the landlord to others or a statement of the  
21 landlord's charges, including the reasonable cost of the landlord's own labor; and

22 (2) if the landlord is unable to itemize the amount being retained for an item  
23 within the time provided in subsection (h), the record shall provide a good faith estimate of the  
24 amount and the landlord shall furnish the tenant with a supplemental record that complies with

1 paragraph (1) within [60] days after termination of the lease, together with any portion of the  
2 security deposit to which the tenant is entitled after all deductions have been made; and

3 (3) notify the tenant by a conspicuous statement in the record or the supplemental  
4 record that unless the tenant objects to the withholding of any amount of the security deposits or  
5 prepaid rent within [10] days of the receipt of the record or supplemental record, the tenant  
6 waives the right to object to the landlord's withholding of any security deposits or prepaid rent.

7 (e) If the record sent to the tenant complies with subsection (d)(3), the tenant's failure to  
8 object to the withholding of any amount of the security deposits or prepaid rent within [10] days  
9 of the receipt of the record constitutes a waiver of the tenant's right to object to the landlord's  
10 withholding of any security deposits or prepaid rent.

11 (f) In disputes involving security deposits or prepaid rent:

12 (1) Proof of the existence of and the amount of a security deposit or prepaid rent  
13 may be established by any credible evidence, including, but not limited to, a canceled check, a  
14 receipt, a lease indicating the requirement of a deposit or prepaid rent as well as the amount,  
15 prior consistent statements or actions of the landlord or tenant, or a statement under penalty of  
16 perjury, and

17 (2) the landlord has the burden of proving that the retention of any portion of the  
18 security deposit or prepaid rent was reasonable.

19 (g) The penalties for noncompliance with subsection (b) are as follows:

20 (1) If the landlord fails to remit the security deposits and prepaid rents to which  
21 the tenant is entitled or provide the record as required by subsection (b)(2), the tenant may  
22 recover the amount of the security deposits and prepaid rent to which the tenant is entitled and an  
23 additional amount equal to [two] times the amount thereof [or [\$250]], whichever is greater,  
24 together with costs and reasonable attorney fees;





1 (a), the landlord's successor shall have all of the rights and obligations of a landlord under this  
2 Article for those funds.

3 **COMMENT**

4  
5 Section 905 is a new section that provides for disposition of security deposits and prepaid  
6 rent after a transfer of the landlord's interest in the premises.  
7

8 **ARTICLE TEN**

9 **EVICCTIONS**

10 **TO COME**

11 **ARTICLE ELEVEN**

12 **MISCELLANEOUS PROVISIONS**

13 **SECTION 1101. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In  
14 applying and construing this uniform act, consideration must be given to the need to promote  
15 uniformity of the law with respect to its subject matter among states that enact it.

16 **SECTION 1102. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL**  
17 **AND NATIONAL COMMERCE ACT.** This [act] modifies, limits, and supersedes the federal  
18 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq.,  
19 but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or  
20 authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15  
21 U.S.C. Section 7003(b).

22 **SECTION 1103. REPEALS.** The following are repealed: . . .

23 **SECTION 1104. EFFECTIVE DATE.** This [act] takes effect .....