

TO: Uniform Law Commission Committee of the Whole
FROM: Joan Zeldon, Drafting Committee Chair, Sheldon Kurtz, Reporter,
Alice Noble-Allgire, Reporter
RE: Overview of the Revised Uniform Residential Landlord and Tenant Act
DATE: June 10, 2013

The Revised Uniform Residential Landlord and Tenant Act (RURLTA) includes several new provisions as well as substantial revisions to a number of the existing provisions in the 1972 act. These major changes are highlighted below.

New to the RURLTA

Protections for Victims of Domestic Violence, Sexual Assault, or Stalking. Sections 508 to 512 identify circumstances in which a tenant may terminate a lease or change the locks on the dwelling unit after the tenant or an immediate family member has been the victim of domestic violence, sexual assault, or stalking. These provisions include, and build on, statutory provisions that have already been enacted in a number of states.

Death of a Tenant. Section 801(c) permits a landlord or a tenant representative to terminate a lease after a tenant has died. The section provides an important exception, however, by allowing the deceased tenant's surviving spouse to assume the lease if the survivor was not a party to the lease.

Tenant's Abandoned Personal Property. Sections 1001 to 1003 provide a process for handling any personal property of a tenant that remains on the premises after abandonment, eviction, or other termination of the lease. Sections 1002 and 1003 specifically address the personal property of deceased tenants, a situation that landlords regularly face but only a handful of states have addressed to date.

Assignments and Subleases. Sections 1101 to 1102 address two assignment and subleasing issues that have produced divergent common law rulings. Section 1101 provides that a tenant may not sublease or assign a lease without a landlord's consent and permits a landlord to withhold consent only for commercially reasonable grounds. Section 1102 addresses the rights of the various parties after a sublease or assignment. This section provides a common-sense approach to the parties' liabilities to one another after a sublease or assignment. Specifically, it: (a) releases an assignor or sublessor from liability for any periods in which they are not entitled to possession, and (b) gives the landlord and an assignee or sublessee all of the rights and duties under the terms of the original lease.

Other Substantial Revisions

Warranty of Habitability. Section 303 has been reorganized and updated to clarify the landlord's duties regarding the repair and maintenance of the premises. The revision imposes upon the landlord a general duty of ensuring that the premises are maintained in a habitable condition but also includes a specific list of minimum requirements regarding structural components, utilities, and other facilities. The section also clarifies the circumstances under which a landlord may contract with a tenant to have the latter perform one or more of the landlord's maintenance or repair obligations.

Tenant Remedies. Sections 501 to 505 have been modified to clarify the tenant's remedies if the landlord fails to comply with the lease or Section 303. Section 501 was restructured to serve as an umbrella provision; it lists all of the tenant's available remedies, with cross-references to the sections that provide more specific guidance on self-help for minor repairs (Section 503), the limited circumstances in which a tenant may secure essential services or substitute housing (Section 504), and abatement of rent

(Section 505). Section 501 also clarifies how a tenant's damages are measured if the tenant has continued to occupy a dwelling unit while it is in a noncompliant condition. This brings important uniformity to the law given the various measures of damages that have been judicially devised.

Tenant's Duties. Section 401 includes several new duties intended to codify the existing expectations of landlords and tenants, such as notifying the landlord of any condition that requires repair or remediation under Section 303 and returning the dwelling unit to the landlord in the same condition as when the lease commenced, with the exception of normal wear and tear and casualties beyond the tenant's control.

Safe Harbors for Landlords After Tenant's Abandonment. New provisions have been added to Section 604 to clarify a landlord's duty to mitigate damages after a tenant abandons a dwelling unit. The section requires a landlord to use "reasonable efforts" to rent the unit and notifies landlords of steps that are reasonable. The act states, however, that this duty does not take priority over a landlord's right to first rent any of the landlord's other vacant units. The section clarifies the remedies available if the landlord accepts the abandonment or fails to make reasonable efforts to rent the abandoned unit.

Retaliatory Conduct. Sections 901 to 903 reorganize, clarify, and supplement the provisions in the 1972 act that prohibit a landlord from retaliating against a tenant for engaging in certain conduct, such as complaining of housing code violations or joining a tenant's union. The revised act expands slightly the list of tenant activities that are protected, as well as the landlord activities that are prohibited. It also expands the list of landlord safe harbors – conduct that does not constitute retaliation.

Security Deposits. Sections 1201 to 1205 represent a major revision of the provisions in the 1972 act regarding security deposits and prepaid rents. Section 1201 identifies the landlord's interest in a security deposit and prepaid rent as a security interest that (a) takes priority over all creditors of the tenant and (b) gives creditors of the landlord no greater interest in the funds than the interest of the landlord. It also makes slight modifications to the maximum amount of security deposit that may be held. Section 1202 codifies the principle that a tenant may not withhold payment of any month's rent on the assumption that the landlord will apply the security deposit as rent. Section 1203 establishes new rules regarding the safekeeping and use of the funds, and Section 1204 provides the process by which the security deposit or prepaid rents are to be returned to the tenant unless applied to the tenant's unmet obligations. Section 1205 sets forth the liabilities of the landlord and a successor for the tenant's security deposit and prepaid rents after a transfer of the landlord's interest in the premises to the successor. These provisions, however, may undergo some significant revision in the fall to take account of suggestions from observers from the UCC Article 9 community. (See note in the draft).

Required Disclosures. Section 301 includes new disclosures that a landlord must make prior to entering into a lease or accepting a security deposit or prepaid rent, including: the existence of any rules and regulations of the landlord governing the tenancy, any condition of the premises that would cause the landlord to be in breach of duty under Section 303, and whether the premises are in foreclosure. The section also modifies disclosures landlord must make when the lease actually commences, such as disclosure of the place where the tenant must deliver rent and send notices and demands.