

Revised Uniform Residential Landlord and Tenant Act
Issues to be Discussed by Drafting Committee at November 2014 Drafting Meeting

	Source	Section	Change Suggested
1	Reporters Floor	102(9)(B)(2) & 601(c)	<p>Bracketed provision in 102(9)(B)(2): Need to determine if this provision is needed or not.</p> <p>See also revisions to section 601 (c) in relation to the following questions raised from the floor: What does it mean that tenant "commits a criminal act"? (Shelly: LL can terminate, but may be liable for guessing wrong.) Could a LL abuse this without precautionary provisions? Some discussion whether this should require a conviction, but more commissioners seemed to favor not requiring a conviction. Tr. @ 81-82, 87, 91, 93. Doesn't seem right that criminal act gets immediate eviction while serious and imminent threat you get 14 days to correct. Probably don't need to reference criminal act - the provision regarding serious and imminent threat would cover the situations. Tr. at 83-84, 93. What if a family member commits the crime? Would be nice to allow tenant to cure by having that person eliminated from the lease or no longer on the premises. Tr. @ 87. Look at HUD Regs. on this. Tr. @ 83. Langrock: Lots of problems with "criminal act" -- no requirement that it be reported to police (so it could be used to gain advantage in a civil matter); is smoking a joint in WA a criminal act (not under state law, but federal law). Tr. @ 88-89.</p>
2	Reporters	102(19)	Bracketed: Choices to make regarding terms to include in definition of immediate family member.
3	Chair	203(b)	Can we eliminate the second sentence (the penalty provision) to make the act more balanced?
4	Written	205(b)	<p>The language makes an award of attorney's fees discretionary, which is fine. However, it also makes an award of costs (presumably taxable costs) discretionary, which would be a significant change in Arizona and elsewhere. Suggest changing the text so that costs are awarded to the prevailing party as of right, while an award of attorney's fees is discretionary.</p> <p>Sam Thumma, Arizona Proposed revision by Chair and Reporters (bracketing the costs provision in subsections (b), (c), and (d) and in the section title) for discussion with the Committee.</p>
5	JEB Letter	303	Should there be an alternative for small landlords allowing them to ask tenants to waive warranty of habitability? (JEB letter p 2 wants to allow landlord to require tenant to waive warranty of habitability for renting the landlord's home.)
6	Chair	401(b)(2)	Bracketed: Do we need the last part of the sentence ("but not later than [five] days after the tenant gives the landlord the notice)?
7	JEB Letter	601(b)	Is the grace period of 14 days too long? (The JEB letter says one might justify a brief grace period but 14 days is well beyond what is appropriate.)
8	Floor	601(b)	<p>Subsection (b) - Why would tenant have 30 days? (Shelly: To give the tenant time to find another place.) Commissioner Dyke: What if the tenant fixes on Day 20? Doesn't seem fair to evict them if the problem has been fixed. Maybe could require that the tenant commence repairs within 14 days. Tr. @ 78-80.</p> <p>14 days may not be long enough if permits are required or other government consent is needed. Tr. @ 88.</p>
9	Written	601(b)	<p>I get it - you want a material noncompliance cured within 14 days and give the noncomplying tenant 30 days to find housing. What you have done is permit a noncomplying tenant not to fix within 14 days (thereby hurting the landlord) and have 30 days to look for housing.</p> <p>Therefore - so what if the tenant has 30 days to cure before the lease is terminated.</p> <p>What you can do is require that the cure be commenced within 14 days.</p> <p>Ellen Dyke, Virginia</p>

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10	Written	602	Do we need section 602? Consider in light of following comments: Provision is unclear. On line 5, does the phrase "that noncompliance" refer only to past noncompliance? What if a landlord has twice given notice that rent is past due, but the tenant has paid within 14 days pursuant to 601(a) - is the landlord deemed to have waived timely payment of the rent? What if the landlord accepts payment of rent twice when it was late - once when it was 2 days late and another time when it was 4 days late. Does this constitute waiver of timely payment such that the tenant can now make payment 15 days late and the landlord may not terminate for late payment? Suppose the lease provides tenant may not have dog. Tenant does have dog and landlord knows it and accepts rent for 2 months. Then another tenant in the building complains about the dog. Can the landlord then tell the tenant he may not have the dog or has the landlord waived "that noncompliance?" Nichols, North Carolina Reporter's Research Assistant researching waiver law in various states.
11	NAA Letter III	901	Should we add to section 901 the concept that there would be a rebuttable presumption that the tenant acted in bad faith if a gov. rep. visits the unit and determines in writing that a violation of the housing or building code did not exist. And further should we provide a penalty that a landlord could assert against a tenant if a tenant files a suit in bad faith against a landlord?
12	Floor	901(a)	Concern about the use of the word "dominant" purpose. How do you know which is the dominant one? How does this square up with other discrimination law? (Make consistent with the standard used in other laws.) Tr. @ 117, 124. Reporter's Research Assistant researching standards used in discrimination law.
13	Floor	901(b)(4)	Is this appropriate? Tr. @ 118-120 (In response, Barbara Atwood says it is similar to terminating an employee at will.) Tr. @ 122-123. See proposed revision in latest draft for committee to discuss
14	JEB Letter	1001	Should section 1001 be modified to cover only property above a minimum apparent value? (JEB letter, par. 8)
15	Floor	1001	Consider whether this section can be waived by agreement of the parties. (The only place current provision allows for agreement is in subsection (g).) Tr. @ 146- 147.
16	Chair	1001(d)	Should we allow a waiver of 1001 in the lease? Or should we reduce 15 days to 8 days?
17	Floor	1001(d)	The limit of eight days is not limited to eight business days. Eight days is not very much time if the mail has to be forwarded. Tr. @ 141-142.
18	Chair	1001(g)(2)	Eliminate "commercially reasonable"? What if a landlord has twice given notice that rent is past due, but the tenant has p
19	Floor	1107(e)	Section 1107 (e), is an attestation or ex parte order sufficient? Does the landlord met the burden of proof if the landlord received and relied upon a verification or court order prior to terminating the tenancy of the perpetrator? Definition of perpetrator is loose, so by saying that the act is not applicable to a perpetrator, could be impacting a victim who was the subject of a competing order of protection. Tr. @ 165-66; 193
20	Chair	1108	Should we add to section 1108 the right of a landlord to evict a domestic violence victim if the perpetrator returns to the premises and damages them or otherwise disturbs the peace and enjoyment of the premises by other tenants? What about a compromise allowing a landlord to evict a tenant who invites the perpetrator back onto the property in violation of a court order that he/she stay away and he/she damages the property or otherwise disturbs the peace and enjoyment of the premises by other tenants?
21	Reporters	1108(d)(2)	Bracketed: Committee to choose which version it prefers and whether some terms are needed or not.
22	NAA Letter II	1201(a)	Should we remove prepaid rent from section 1201's security deposit calculation?
23	Floor	1201(a)	Should not limit this - should leave to the marketplace. Another alternative: add "or reasonable under the circumstances" to the maximum in this section. Tr. @ 57, 58-59, 69.

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24	Floor	1201(b)	Consider adding lawn service, snow removal, pool and pest control services. Tr. @ 18-19, 33. Policy Question for Committee. Anything else to consider adding??
25	Floor	1202(b)(1)	Consider an exclusion for LLs who casually rent out vacation property for short-term rental. Tr. @ 15. Question: Should vacation rentals be excluded from all of Article 12?
26	Floor	1202(d)	Q: How does this apply when LL sells property and transfers security deposits to the new owner? (Is this a transferee who takes the funds free from the claims of the tenant's interest?) Tr. @ 37, 65-66. Suggests that the comment to 1202(d) is wrong. Proposed revision by Chair and Reporters for discussion by the Committee.
27	Floor	1202(d)	There's a mystery what this means and the comment is not helpful. Tr. @ 37. (Note: This is to deal with things like the negotiability of money. But this is not clear in the provision or comment.) Tr. @ 40. Proposed revision by Chair and Reporters for discussion by the Committee.
28	Floor	1203	What if there is a technical breach (LL doesn't segregate, but returns security deposit?) Zeldon explained that tenant can recover only if there are actual damages. Tr. @17. Chair and Reporters have bracketed a revision for discussion by the Committee.
29	Chair	1203(a)(2)	Bracketed: Should we strike this provision? (Am. Bankers' Assoc. favors striking this section.)
30	Reporters	1203(b)	Bracketed: Should this include "or one month's periodic rent, whichever is greater"?
31	Floor	1203(c)	Question raised about the policy choice - why this pro-LL provision? This provisions covers both low interest times (like today) and high interest times. You might consider what happens in high interest times. Tr. @ 32. Policy Question for Committee: Do we want to authorize interest bearing accounts for security deposits?
32	Floor	1204(e)	Example of how act is not balanced. Subsection (e) provides for penalty against LL. Compare with (g), where LL limited to actual damages (and there is no penalty). Tr. @ 51-54. VanLandingham: The penalty would be in the provision regarding the tenant's conduct; this section is only about the LL's obligations. Penalty in subsection (e) would be unlawful in Nebraska and other states. Tr. @ 55-57 Policy Question for Committee: Should we delete section 1204 (e)? Commnr. Breetz says it is too harsh.