

Hall of the House of Representatives

92nd General Assembly - Regular Session, 2019

Amendment Form

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Subtitle of House Bill No. 1410

TO CLARIFY THE OBLIGATIONS OF RESIDENTIAL LANDLORDS AND RESIDENTIAL TENANTS; AND
TO REQUIRE MINIMUM HABITABILITY STANDARDS FOR TENANTS OF RESIDENTIAL REAL
PROPERTY.

Amendment No. ___ to House Bill No. 1410

Amend House Bill No. 1410 as engrossed, H3/11/19 (version: 03/11/2019 10:34:08 AM)

Delete everything after the enacting clause and substitute:

"SECTION 1. Arkansas Code § 18-17-102, concerning the purposes and rules of construction of the Arkansas Residential Landlord-Tenant Act of 2007, is amended to add an additional subsection to read as follows:

(c) This chapter applies to the residential landlord and tenant relationship only and does not create any duties or causes of action in tort, limit the applicability of § 18-16-110, or create any agreement to maintain or repair the premises for the purposes of § 18-16-110.

SECTION 2. Arkansas Code Title 18, Chapter 17, Subchapter 5, is amended to add additional sections to read as follows:

18-17-502. Landlord to maintain premises.

(a) Except when prevented by circumstances outside a landlord's control, including without limitation acts of God and force majeure, the landlord shall:

(1) Comply with the requirements of applicable building, housing, fire, and health codes;

(2) Ensure that the premises are fit for the use consistent with the rental agreement;

(3) Provide and maintain in good working order:

(A) Effective waterproofing and weather protection of the roof and exterior walls, including without limitation windows and doors;

(B) A reasonably sound structure, including without limitation walls, floors, ceilings, stairs, and railings;

(C) Locks on all exterior doors and on windows that can be opened and closed;

(D) A water supply that is capable of providing hot and cold running potable water and, if the water source is a municipality or government operated system, the landlord shall be deemed in compliance with this subdivision (a)(3)(D);

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(E) Plumbing and ventilation and heating systems that conform to housing, fire and health codes at the time of installation;

(F) Access to electricity with wiring and equipment that conform to housing, fire and health codes at the time of installation;

(G) Except in the case of a single family residence, an adequate number of exterior trash receptacles if the landlord is obligated to provide trash removal by law or under a rental agreement; and

(H) Air conditioning that conforms to housing, fire and health codes at the time of installation if the landlord has agreed to provide air conditioning.

(b) A landlord is in compliance with this section if the rental agreement requires that the tenant pay for any utility service and the tenant fails to pay for the service.

(c) A landlord and tenant may agree that the tenant may perform specified repairs, maintenance, alteration, or remodeling only if the repair agreement is in writing and delivered to the landlord by hand-delivery or certified mail.

(d) The rights of a tenant under this section do not apply if the condition of the premises was caused by a willful or negligent act or omission by the tenant or by a person other than the landlord or person acting on behalf of the landlord.

18-17-503. Repairs.

(a) A landlord shall provide the tenant with the following information and keep the information current:

(1) The name, business address, telephone number, and email address if the landlord has an active email address of the person authorized to manage the premises; and

(2) The name of the person authorized to act on behalf of the landlord for the purpose of receiving service of process and notice of repairs.

(b) Failure to comply with subsection (a) of this section renders any person who collects rent on a regular basis the limited agent of the landlord for the purpose of receiving and receipting notices related to repairs.

(c) Except as provided in § 18-17-502(c) and (d), the landlord is responsible for all repairs to the premises necessary to cause the premises to meet the standards in § 18-17-502(a).

(d) A landlord shall cause repairs to be performed in compliance with the building and housing codes and laws in effect at the time of the repair.

(e) A landlord is not liable for a repair to the premises if the defect was caused by a willful or negligent act or omission by the tenant or a person other than the landlord or person acting on behalf of the landlord.

18-17-504. Notice and opportunity to remedy.

(a) Except as provided in § 18-17-505, if a landlord materially fails to comply with the rental agreement, § 18-17-502 or § 18-17-503 so that the tenant's use of the premises is materially affected, the tenant has the remedies available under § 18-17-505 if the tenant gives the landlord:

(1) Notice in writing by any method provided for in the rental agreement or this subchapter; and

(2) An opportunity to remedy the noncompliance of the landlord within fourteen (14) days after the receipt of notice.

(b)(1) The fourteen-day period of time allowed for the remedying of the noncompliance under subdivision (a)(2) of this section may be extended due to circumstances outside the landlord's control such as inclement weather, the duration of insurance claim processing, and availability of repair technicians.

(2) The landlord shall make reasonable temporary repairs during the time period of the extension to mitigate the noncompliance.

18-17-505. Noncompliance by landlord.

(a) Except as otherwise provided in § 18-17-503, if a landlord's material noncompliance with the rental agreement or § 18-17-502 materially interferes with the use of the premises, and the noncompliance is not remedied during the period specified in § 18-17-504, the tenant may:

(1) Terminate the rental agreement as provided in § 18-17-506;
or

(2) Continue the rental agreement and obtain injunctive or other equitable relief provided that the tenant pays rent due into the registry of the court or into an escrow account while litigation is pending.

(b) A tenant is not entitled to a remedy under this section if the:

(1) Landlord's noncompliance was caused by an act or omission of the tenant or a person on the premises with the tenant's consent;

(2) Tenant prevented the landlord from having access to the dwelling unit to remedy the act or omission described in the notice under § 18-17-504; or

(3) Tenant is not current regarding payment of all rental and other charges due to the landlord.

(c)(1) A tenant is not entitled to injunctive relief under this section if the landlord's noncompliance was caused by circumstances outside the landlord's control and repair would cause the landlord undue financial hardship.

(2) In such a case, the tenant is entitled to the remedies of termination of the rental agreement, the return of any amount of security deposit and unearned rent to which the tenant may be entitled.

18-17-506. Limitations on remedies – Termination.

(a) If a landlord's noncompliance with a rental agreement or § 18-17-502 materially interferes with the tenant's use of the premises and the noncompliance is not remedied within the period specified in § 18-17-504, the tenant may terminate the rental agreement by giving the landlord notice in a record of the tenant's intent to terminate the rental agreement on a specified date, which must be at least fourteen (14) days after the expiration of the period of time allowed under § 18-17-504 for the remedy of noncompliance.

(b) If a rental agreement is terminated under this section, the landlord shall return to the tenant the amount of any unearned rent and the security deposit to which the tenant may be entitled under § 18-16-301 et seq.

(c) The remedy provided to tenant by this section shall be inapplicable if the tenant is not current regarding payment of all rental and other charges due to landlord.

18-17-507. Prohibited conduct.

(a) Except as provided in this section, a landlord may not retaliate against a tenant by discriminatorily increasing rent or fees, decreasing services, terminating a periodic tenancy, refusing to renew a tenancy for a fixed term under a rental agreement containing a renewal option that is exercisable by the tenant without negotiation with the landlord, or bringing or threatening to bring a failure to vacate charge or an action for eviction or unlawful detainer by a tenant who, at such time, is current regarding payment of all rental or other charges due to landlord if the tenant has:

(1) Complained to a governmental agency responsible for the enforcement of a building or housing code or other law, alleging a violation applicable to the premises;

(2) Complained to a governmental agency responsible for the enforcement of laws prohibiting discrimination in rental housing;

(3) Complained to the landlord of noncompliance of the landlord with the rental agreement or § 18-17-502;

(4) Organized or became a member of a tenant's union or similar organization; or

(5) Made use of the remedies provided under this subchapter.

(b) Notwithstanding subsection (a) of this section, a landlord may bring an action in unlawful detainer or eviction if:

(1) A violation of this subchapter or of building and housing codes was caused by lack of reasonable care of the premises on behalf of the tenant, a family member, person occupying the premises with consent of tenant, a co-tenant, or an invitee;

(2) The tenant's conduct described in subsection (a) of this section was in an unreasonable manner or at an unreasonable time or was repeated in a manner that is considered to be harassing to the landlord;

(3) The tenant is in default in the payment of rent or other sums due to the landlord;

(4) The tenant or a person on the premises with the tenant's consent engaged in conduct that threatened the use of the premises of another tenant on property owned by the landlord;

(5) The landlord is seeking a judgment in unlawful detainer or eviction based on a notice to terminate the rental agreement given to the tenant before the tenant engaged in conduct described in subsection (a) of this section; or

(6) Compliance with a building, housing, fire, or health code or other law, judicial or administrative order, requires repair, alteration, remodeling, or demolition that deprives the tenant of the use and enjoyment of the premises.

(c)(1) A rental agreement shall not require a tenant to waive or forego a right or remedy which may be available under this subchapter except as otherwise provided in this subchapter or other applicable law.

(2) A rental agreement shall not prohibit a tenant from installing one (1) or more smoke detectors in the premises without the

permission of the landlord if the smoke detector is installed in a professional manner.

(3) A rental agreement shall not prohibit a tenant from installing one (1) or more carbon monoxide detectors in the premises without the permission of the landlord if the carbon monoxide detector is installed in a professional manner.

(4) A provision in a rental agreement that violates subdivision (c)(1), subdivision (c)(2), or subdivision (c)(3) of this section is unenforceable.

SECTION 2. Arkansas Code § 18-17-602 is amended to read as follows:
18-17-602. Access.

(a) A tenant shall not unreasonably withhold consent to the landlord to enter into ~~the a dwelling unit premises~~ in order to inspect the premises, make necessary or ~~agreed~~ agreed-upon repairs, decorations, alterations, or improvements, supply necessary or ~~agreed~~ agreed-upon services, investigate possible rule or ~~lease rental agreement~~ violations, ~~investigate possible criminal activity,~~ or exhibit the ~~dwelling unit premises~~ to prospective or actual purchasers, mortgagees, tenants, workers, or contractors.

(b) A landlord may enter the premises without the consent of the tenant in the case of an emergency.

(c) A landlord shall not abuse the right of access or use it to harass the tenant.

(d) With the exception of an emergency or while under court order, when the tenant has abandoned or surrendered possession of the premises, when it is impractical to give notice, or upon mutual agreement between the landlord and tenant, the landlord shall give the tenant at least twenty-four (24) hours' notice of his or her intent to enter the premises and may enter only at reasonable times.

(e) A tenant shall not change locks on the ~~dwelling unit premises~~ without the permission of the landlord.

SECTION 3. Arkansas Code § 18-17-705 is amended to read as follows:
18-17-705. Landlord remedies for refusal of access to rental property.

(a)(1) If ~~the a~~ tenant refuses to allow lawful access to a premises by a landlord, the landlord may:

(A) ~~obtain~~ Obtain injunctive relief in ~~district court~~ without posting bond to compel access; or

(B) ~~terminate~~ Terminate the rental agreement.

~~(b) In either case the landlord may recover actual damages 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 in connection with an otherwise lawful entry that has the effect of harassing the tenant, the tenant may:

(1) Obtain injunctive relief to prevent the recurrence of the conduct; or

(2) Terminate the rental agreement."

The Amendment was read _____
By: Representative Gazaway
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Chief Clerk