

/* We continue with the final section of the Uniform Landlord Tenant Act */

/* If the landlord fails to fix an item that the lease requires him to do, or, if the landlord has agreed to fix the appliances, etc. then the tenant after demanding (in writing) that it get fixed can go ahead and bring in people fix it himself. Note that under Section 5.101, the landlord can not evict the tenant for doing so. */

(b) A tenant may not repair at the landlord's expense if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

Section 4.104 Wrongful Failure to Supply Heat, Water, Hot Water, or Essential Services

(a) If contrary to the rental agreement or Section 2.104 the landlord willfully or negligently fails to supply heat, running water, hot water, electric, gas or other essential service, the tenant may give written notice to the landlord specifying the breach and may

(1) procure reasonable amounts of heat, hot water, running water, electric, gas, and other essential service during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent; or

(2) recover damages based upon the diminution in the fair rental value of the dwelling unit; or

(3) procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance.

(b) In addition to the remedy provided in paragraph (3) or subsection (a) the tenant may recover the actual and reasonable cost or fair or reasonable value of the substitute housing not in excess of an amount equal to the periodic rent, and in any case under subsection (a) reasonable attorney's fees.

(c) If the tenant proceeds under this section, he may not proceed under Section 4.101 or Section 4.103 as to that breach.

(d) Rights of the tenant under this subsection do not arise until he has given notice to the landlord or if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other persons on the premises with his consent.

Section 4.105 Landlord's Noncompliance as Defense to Action for Possession or Rent

(a) In an action for possession based upon nonpayment of rent

or in an action for rent when the tenant is in possession, the tenant may counterclaim for any amount he may recover under the rental agreement or this Act. In that event the court from time to time may order the tenant to pay into court all or part of the rent accrued and thereafter accruing, and shall determine the amount due to each party. The party to whom a net amount is owed shall be paid first from the money paid into court, and the balance by the other party. If no rent remains due after application of this section, judgment shall be entered for the tenant in the action for possession. If the defense or counterclaim by the tenant is without merit and is not raised in good faith, the landlord may recover reasonable attorney's fees.

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

Section 4.106 Fire or Casualty Damage

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

(1) immediately vacate the premises and notify the landlord in writing within [14] days thereafter of his intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or

(2) if continued occupancy is lawful, vacate any part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.

(b) If the rental agreement is terminated the landlord shall return all security recoverable under Section 2.101 and all prepaid rent. Accounting for rent in the event of termination or apportionment shall be made as of the date of the fire or casualty.

Section 4.107 Tenant's Remedies for Landlord's Unlawful Ouster, Exclusion or Diminution of Service

If a landlord unlawfully removes or excludes the tenant from the premises or wrongfully diminishes services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electric, gas, or other essential service, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount not more than [3] months' periodic rent or [threefold] the actual damages sustained by him, whichever is greater, and reasonable attorney's fees. If the rental agreement is terminated the landlord shall return all security recoverable under Section 2.101 and all prepaid rent.

Section 4.201 Noncompliance with Rental Agreement; Failure to Pay Rent

(a) Except as provided in this Act, if there is a material noncompliance by the tenant with the rental agreement or a noncompliance with Section 3.101 materially affecting health and safety, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than [30] days after receipt of the notice. If the breach is not remedied in [14] days, the rental agreement shall terminate as provided in the notice subject to the following. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within [6] months, the landlord may terminate the rental agreement upon at least [14] days' written notice specifying the breach and the date of termination of the rental agreement.

/* Many states have a three day rather than 14 day period. */

(b) If the rent is unpaid when due and the tenant fails to pay rent within [14] days after written notice by the landlord of nonpayment and his intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement.

(c) Except as provided in this Act, the landlord may recover actual damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or Section 3.101. If the tenant's noncompliance is willful the landlord may recover reasonable attorney's fees.

Section 4.202 Failure to Maintain

If there is noncompliance by the tenant with Section 3.101 materially affecting health and safety that can be remedied by repair, replacement of a damaged item, or cleaning, and the tenant fails to comply as promptly as conditions require in case of emergency or within [14] days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner and submit the itemized bill for the actual and reasonable cost or the fair and reasonable value thereof as rent on the next date periodic rent is due, or if the rental agreement has terminated, for immediate payment.

Section 4.203 Remedies for Absence, Nonuse and Abandonment

(a) If the rental agreement requires the tenant to give notice to the landlord of an anticipated absence [in excess of {7} days] as required in Section 3.104 and the tenant willfully fails to do so, the landlord may recover actual damages from the tenant.

(b) During any absence of the tenant in excess of [7] days, the landlord may enter the dwelling unit at times reasonably necessary.

Section 4.204. [Waiver of Landlord's Right to Terminate]

Acceptance of rent with knowledge of a default by the tenant or acceptance of performance by him that varies from the terms of the rental agreement constitutes a waiver of the landlord's right to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

/* This is a waiver section. If the landlord accepts late rent, tolerates other conditions that are violations of the lease, the tenant's lease is reinstated. */

Section 4.205. [Landlord Liens; Distress for Rent]

(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.

Section 4.206. [Remedy after Termination]

If the rental agreement is terminated, the landlord has a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement and reasonable attorney's fees as provided in Section 4.201(c).

Section 4.207. [Recovery of Possession Limited]

A landlord may not recover or take possession of the dwelling unit by action or otherwise, including willful diminution of services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electric, gas, or other essential service to the tenant, except in case of abandonment, surrender, or as permitted in this Act.

Part III

Periodic Tenancy; Holdover; Abuse of Access

Section 4.301. [Periodic Tenancy; Holdover Remedies]

(a) The landlord or the tenant may terminate a week-to-week tenancy by a written notice given to the other at least [10] days before the termination date specified in the notice.

(b) The landlord or the tenant may terminate a month-to-month tenancy by a written notice given to the other at least [60] days before the periodic rental date specified in the notice.

(c) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental

agreement or its termination, the landlord may bring an action for possession and if the tenant's holdover is willful and not in good faith the landlord may also recover an amount not more than [3] month's periodic rent or [threefold] the actual damages sustained by him, whichever is greater, and reasonable attorney's fees. If the landlord consents to the tenant's continued occupancy, Section 1.401(d) applies.

Section 4.302. [Landlord and Tenant Remedies for Abuse of Access]

(a) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the rental agreement. 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 for entry otherwise lawful but have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct or terminate the rental agreement. In either case the tenant may recover actual damages [not less than an amount equal to [1] month's rent] and reasonable attorney's fees.

Section 5.101 Retaliatory Conduct Prohibited

(a) Except as provided in this section, a landlord may not retaliate by increasing rent or decreasing services or by bringing an action for possession after:

/* This section prohibits a landlord from victimizing a tenant for complaining properly about repairs that are not done, or for going ahead and fixing something himself. */

(1) the tenant has complained to a governmental agency charged with responsibility for enforcement of a building or housing code of a violation applicable to the premises materially affecting health and safety; or

(2) the tenant has complained to the landlord of a violation under Section 2.104; or

(3) the tenant has organized or become a member of a tenant's union or similar organization.

(b) If the landlord acts in violation of subsection (a), the tenant is entitled to the remedies provided in Section 4.107 and has a defense in any retaliatory action against him for possession. In an action by or against the tenant, evidence of a complaint within [1] year before the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. Presumption means that the trier of fact must find the existence of the fact presumed unless and until

evidence is introduced which would support a finding of its nonexistence.

(c) Notwithstanding subsection (a) and (b), a landlord may bring an action for possession if:

(1) the violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant, a member of his family, or other person on the premises with his consent; or

(2) the tenant is in default in rent; or

(3) compliance with the applicable building or housing code requires alternation, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit.

(d) The maintenance of an action under subsection (c) does not release the landlord from liability under Section 4.101(b).

/* Section 6 is omitted and states that leases entered into prior to the act will be valid until their expiration. */