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2 93rd General Assembly
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4

As Engrossed: H3/9/21 H3/18/21

A Bill

HOUSE BILL 1563

5 By: Representatives Gazaway, Hillman, Vaught, Clowney, M. Hodges, Scott
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For An Act To Be Entitled

8 AN ACT TO AMEND THE ARKANSAS RESIDENTIAL LANDLORD-
9 TENANT ACT OF 2007; TO CREATE A CIVIL EVICTION
10 PROCESS; TO REQUIRE MINIMUM HABITABILITY STANDARDS
11 FOR TENANTS OF RESIDENTIAL REAL PROPERTY; AND FOR
12 OTHER PURPOSES.
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Subtitle

15 TO AMEND THE ARKANSAS RESIDENTIAL
16 LANDLORD-TENANT ACT OF 2007; TO CREATE A
17 CIVIL EVICTION PROCESS; AND TO REQUIRE
18 MINIMUM HABITABILITY STANDARDS FOR
19 TENANTS OF RESIDENTIAL REAL PROPERTY.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 18-17-102, concerning the purposes and
26 rules of construction of the Arkansas Residential Landlord-Tenant Act of
27 2007, is amended to add an additional subsection to read as follows:

28 (c) This chapter applies to the residential landlord and tenant
29 relationship only and does not create any duties in tort or causes of action
30 in tort.
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32 SECTION 2. Arkansas Code Title 18, Chapter 17, Subchapter 4, is
33 amended to add an additional section to read as follows:

34 18-17-402. Prohibited terms and conditions of rental agreement.

35 (a) A rental agreement shall not require the tenant to:

36 (1) Unless permitted by this chapter, waive or forego a right or



1 remedy under this chapter or under § 18-16-301 et seq.;

2 (2) Authorize any person to confess judgment on a claim arising
3 out of the rental agreement;

4 (3) Perform a duty imposed on the landlord by § 18-17-502; or

5 (4) Agree to exculpate or limit the landlord's liability arising
6 under this chapter or other law or indemnify the landlord for the liability
7 and the costs connected with the liability.

8 (b) A provision in a rental agreement prohibited under subdivision
9 (a)(1) of this section or prohibited by any other law is unenforceable.

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11 SECTION 3. Arkansas Code Title 18, Chapter 17, Subchapter 5, is
12 amended to add additional sections to read as follows:

13
14 18-17-502. Landlord duty to maintain habitable premises.

15 (a) The remedies of the tenant under this subchapter do not arise if
16 the noncompliance under this section was caused by a willful or negligent act
17 or omission of the tenant, the tenant's family member, a licensee, or any
18 other person on the premises, except the landlord or landlord's agent.

19 (b) A landlord who is the owner of more than four (4) dwelling units
20 or who has a partial legal or equitable ownership interest, directly or
21 indirectly, whether through multiple legal entities or otherwise, in more
22 than four (4) dwelling units shall ensure the premises:

23 (1) Have reasonable waterproofing and weather protection of the
24 roof and exterior walls, doors, and windows so that the health and safety of
25 the occupants are not materially affected;

26 (2) Have plumbing, heating facilities, ventilation, and if
27 supplied air conditioning that are maintained in good working order;

28 (3) Have hot and cold running water;

29 (4) Have electricity with wiring and equipment that are
30 maintained in good working order;

31 (5) Are not infested by rodents, insects, and vermin so as to
32 materially affect the health and safety of the occupants, unless the
33 infestation is caused by the occupants;

34 (6) Do not contain harmful mold that materially affects the
35 health and safety of the occupants;

36 (7)(A) Have a working smoke alarm or smoke detector.

1 (B) If the smoke alarm or smoke detector is solely battery-operated,
2 the smoke alarm or smoke detector shall be equipped with functioning
3 batteries at the beginning of the tenancy.

4 (C) A landlord is in compliance under this section if the
5 tenant removes the batteries or otherwise disables the smoke alarm or smoke
6 detector;

7 (8)(A) Have a working carbon monoxide alarm if the dwelling unit
8 contains a carbon monoxide source.

9 (B) If the carbon monoxide alarm is solely battery-
10 operated, the carbon monoxide alarm shall be equipped with functioning
11 batteries at the beginning of the tenancy.

12 (C) A landlord is in compliance under this section if the
13 tenant removes the batteries or otherwise disables the carbon monoxide alarm;

14 (9) Have floors, doors, windows, walls, ceilings, stairways, and
15 railings that are in good repair so as not to materially affect the health
16 and safety of the occupants; and

17 (10) Have working locks or other security devices on all
18 exterior doors.

19 (c) A landlord is not in noncompliance with this section if the rental
20 agreement requires that the tenant pay for any utility service and the tenant
21 fails to pay for the utility service.

22
23 18-17-503. Noncompliance by the landlord.

24 (a) The tenant is not entitled to any of the remedies under subsection
25 (b) of this section if the:

26 (1) Noncompliance is caused by or is a result of a willful or
27 negligent act or omission of the tenant, the tenant's family member, a
28 licensee, or other person on the premises with the tenant's consent; or

29 (2) Tenant is not current with payment of rent.

30 (b) Except as provided in this chapter, if there is a noncompliance by
31 the landlord under § 18-17-502 that materially affects the health and safety
32 of the tenant, the tenant may deliver a written notice to the landlord
33 specifying the acts and omissions constituting the noncompliance and if the
34 noncompliance is not remedied within fourteen (14) days from the date of
35 delivery of the written notice, the tenant may:

36 (1) Terminate the rental agreement, by giving the landlord

1 written notice of the tenant's intent to terminate the rental agreement and
2 any remainder of the term of the rental agreement by a specified date that is
3 not later than thirty (30) days after the delivery date of the written
4 notice; or

5 (2) Continue the rental agreement and elect one (1) or more of
6 the following remedies:

7 (A) Recover any restitution to which the tenant is
8 entitled due to the landlord's noncompliance;

9 (B) Obtain injunctive relief for the landlord's
10 noncompliance; or

11 (C)(i) If the cost of the repair exceeds the value of
12 three (3) months' rent, the landlord shall notify the tenant within fourteen
13 (14) days of the delivery of the written notice, and the tenant may terminate
14 the rental agreement and vacate the premises and is entitled to:

15 (a) One (1) month's rent at the time the
16 tenant vacates the premises; and

17 (b) The amount of the security deposit and
18 prepaid rent to which the tenant is entitled, which shall be paid within five
19 (5) days of the date the tenant vacates the premises.

20 (ii) The tenant:

21 (a) Shall exercise the option to terminate the
22 rental agreement and vacate the premises within seven (7) days of
23 notification by the landlord;

24 (b) Is entitled to see the estimate for the
25 repair; and

26 (c) Shall vacate the premises within thirty
27 (30) days or within a longer period if both parties agree.

28 (iii) The landlord shall not re-rent the premises
29 until the premises comply with § 18-17-502.

30 (c) If the noncompliance is remediable by repairs or the payment of
31 damages or otherwise and the landlord adequately remedies the noncompliance
32 before the date specified in the written notice, the rental agreement shall
33 not terminate by reason of the noncompliance.

34 (d) The fourteen-day period of time allowed for the remedying of the
35 noncompliance under subdivision (b) of this section may be extended due to
36 circumstances outside the landlord's control, including without limitation

1 due to:

2 (1) The nature of the repair needed to remedy the noncompliance;

3 (2) Inclement weather;

4 (3) The duration of the processing of an insurance claim; or

5 (4) The availability of a repair technician needed to remedy the

6 noncompliance.

7 (e) If fire or other casualty or natural disaster substantially
8 damages the premises so that continued occupation of the dwelling unit is
9 unlawful or dangerous or requires repairs that can be made only if the tenant
10 vacates the premises, the landlord may terminate the rental agreement by
11 giving the tenant written notice that the rental agreement will terminate on
12 a specified date that is at least five (5) days after the date the written
13 notice is given to the tenant.

14 (f) If the rental agreement is terminated under this section, the
15 landlord shall return any security deposit and prepaid rent to which the
16 tenant is entitled under § 18-16-301 et seq.

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18 18-17-504. Retaliation prohibited – Remedies.

19 (a) Except as provided in this section, a landlord shall not retaliate
20 against a tenant who complains to the landlord or to a government agency
21 about a noncompliance or code violation or has sought to enforce a remedy
22 under the rental agreement or this subchapter by increasing rent or fees,
23 bringing or threatening to bring a failure to vacate charge or an action for
24 possession of the premises, or taking similar action.

25 (b) Notwithstanding subsection (a) of this section, a landlord may
26 bring an action for possession of the premises if the tenant is in material
27 noncompliance with the rental agreement, the tenant did not engage in conduct
28 described in subsection (a) of this section until after the filing of the
29 action, or other grounds for eviction exist.

30 (c) If a tenant engages in conduct described in subsection (a) with no
31 factual or legal basis for the conduct, any conduct by the landlord described
32 in subsection (a) of this section is not retaliatory.

33 (d) If a landlord engages in conduct of retaliation under subsection
34 (a) of this section, the tenant has a defense against an action for
35 possession of the premises or a charge of failure to vacate and may recover
36 possession or terminate the rental agreement.

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(e) If a tenant terminates a rental agreement under subsection (d) of this section, the landlord shall return to the tenant the security deposit and any prepaid rent to which the tenant is entitled.

/s/Gazaway