

**Hall of the House of Representatives**  
86th General Assembly - Regular Session, 2007  
**Amendment Form**

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**Subtitle of House Bill No. 2540**

"RESIDENTIAL LANDLORD TENANT ACT OF 2007."

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**Amendment No. 2 to House Bill No. 2540.**

Amend House Bill No. 2540 as engrossed, H3/12/07 (version: 03-12-2007 10:07):

Delete everything following the enacting clause and substitute the following:

“SECTION 1. Arkansas Code Title 18 is amended to add an additional chapter to read as follows:

SUBCHAPTER 1 – SHORT TITLE, CONSTRUCTION, APPLICATION, AND SUBJECT MATTER OF CHAPTER

18-17-101. Short title.

This chapter shall be known and may be cited as the “Arkansas Residential Landlord - Tenant Act of 2007”.

18-17-102. Purposes; Rules of construction.

(a) This chapter shall be liberally construed and applied to promote its underlying purposes and policies.

(b) Underlying purposes and policies of this chapter are:

(1) To simplify, clarify, modernize, and revise the law governing rental of dwelling units and the rights and obligations of landlords and tenants; and

(2) To encourage landlords and tenants to maintain and improve the quality of housing.

18-17-103. Administration of remedies; enforcement.

(a) The remedies provided by this chapter shall be administered that an aggrieved party may recover appropriate damages.

(b) Any right or obligation declared by this chapter is enforceable by action unless the provision declaring it specifies a different and limited effect.

18-17-104. Settlement of disputed claim or right.

A claim or right arising under this chapter or on a rental agreement, if disputed in good faith, may be settled by agreement.

SUBCHAPTER 2 – SCOPE AND JURISDICTION



18-17-201. Territorial application.

This chapter applies to, regulates, and determines rights, obligations, and remedies under a rental agreement, wherever made, for a dwelling unit located within this State.

18-17-202. Exclusions from application of chapter.

The following arrangements are not governed by this chapter:

- (1) Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service;
- (2) Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his or her interest;
- (3) Occupancy by a member or a fraternal or social organization in the portion of a structure operated for the benefit of the organization;
- (4) Transient occupancy in a hotel, motel, or other accommodations subject to any sales tax on lodging;
- (5) Occupancy by an employee of a landlord whose right to occupancy is conditional upon employment in and about the premises;
- (6) Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;
- (7) Occupancy under a rental agreement covering the premises used by the occupant primarily for agricultural purposes; and
- (8) Residence, whether temporary or not, at a public or private charitable or emergency protective shelter.

18-17-203. Jurisdiction and service of process.

The district court or appropriate court of this State shall exercise jurisdiction over any landlord with respect to any conduct in this State governed by this chapter or with respect to any claim arising from a transaction subject to this chapter.

SUBCHAPTER 3 – GENERAL DEFINITIONS AND PRINCIPLES INTERPRETATION  
NOTICE

18-17-301. General definitions.

As used in this chapter:

- (1) "Action" means a recoupment, counterclaim, suit in equity, and any other proceeding in which rights are determined, including without limitation an action for possession;
- (2) "Building and housing codes" means any law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of any premise, or dwelling unit;
- (3)(A) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two (2) or more persons who maintain a common household and includes landlord-owned mobile homes.
  - (B) Property that is leased for the exclusive purpose of being renovated by the lessee is not considered a dwelling unit within the

meaning of this chapter;

(4) "Good faith" means honesty in fact in the conduct of the transaction concerned;

(5) "Landlord" means the owner, lessor, or sublessor of the premises, and it also means a manager of the premises who fails to disclose as required by this subchapter;

(6) "Organization" means a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity;

(7)(A) "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:

(i) The legal title to property; or

(ii) All or part of the beneficial ownership and a right to present use and enjoyment of the premises.

(B) "Owner" includes, but is not limited to, a mortgagee in possession;

(8) "Person" means an individual or organization;

(9) "Premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to the tenant;

(10) "Rent" means the consideration payable for use of the premises including late charges whether payable in lump sum or periodic payments, excluding security deposits or other charges;

(11) "Rental agreement" means all agreements, written or oral, and valid rules adopted under this subchapter embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises;

(12) "Roomer" means a person occupying a dwelling unit that does not include a toilet and either a bathtub or a shower and a refrigerator, stove, and kitchen sink, all provided by the landlord, and where one or more of these facilities are used in common by occupants in the structure;

(13) "Security deposit" means a monetary deposit from the tenant to the landlord to secure the full and faithful performance of the terms and conditions of the lease agreement as provided in this subchapter;

(14)(A) "Single family residence" means a structure maintained and used as a single dwelling unit.

(B) Notwithstanding that a dwelling unit shares one (1) or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit;

(15) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others; and

(16) "Willful" means an attempt to intentionally avoid obligations under the rental agreement or the provisions of this chapter.

18-17-302. Obligation of good faith.

Every duty under this chapter and every act which shall be performed as a condition precedent to the exercise of a right or remedy under this chapter imposes an obligation of good faith in its performances or enforcement.

18-17-303. Notice.

(a)(1) A person has notice of a fact if:

(A) The person has actual knowledge of it;

(B) The person has received a notice or notification of it; or

(C) From all the facts and circumstances known to him or her at the time in question he or she has reason to know that it exists.

(2) A person "knows" or "has knowledge" of a fact if he or she has actual knowledge of it.

(b)(1) A person "notifies" or "gives" a notice or notification to another person by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it.

(2) A person receives a notice or notification when:

(A) It comes to his or her attention; or

(B) In the case of the landlord, it is delivered at the place of business of the landlord through which the rental agreement was made or at any place held out by the landlord as the place for receipt of the communication; or

(C)(i) In the case of the tenant, it is delivered in hand to the tenant or mailed by registered or certified mail to the tenant at the place held out by him or her as the place for receipt of the communication, or in the absence of the designation, to the tenant's last known place of residence.

(ii) Proof of mailing pursuant to this subsection constitutes notice without proof of receipt.

(c) "Notice", knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction, and in any event from the time it would have been brought to the individual's attention if the organization had exercised reasonable diligence.

(d) The time within which an act is to be done shall be computed by reference to the Arkansas Rules of Civil Procedure.

SUBCHAPTER 4 – GENERAL PROVISIONS

18-17-401. Terms and conditions of rental agreement.

(a) A landlord and a tenant may include in a rental agreement terms and conditions not prohibited by this chapter or other rule of law, including, but not limited to, rent, term of the agreement, and other provisions governing the rights and obligations of the parties.

(b)(1) Rent is payable without demand or notice at the time and place agreed upon by the parties.

(2) Unless the tenant is otherwise notified in writing, rent is payable at the dwelling unit and periodic rent is payable at the beginning of any term of one (1) month or less and otherwise in equal monthly installments at the beginning of each month.

(c) Unless the rental agreement fixes a definite term, the tenancy is week to week in case of a roomer who pays weekly rent and in all other cases month to month.

## SUBCHAPTER 5 – LANDLORD OBLIGATIONS

### 18-17-501. Security deposits – Prepaid rent.

(a)(1) Upon termination of the tenancy property or money held by the landlord as security must be returned less amounts withheld by the landlord for accrued rent and damages which the landlord has suffered by reason of the tenant's noncompliance with this subchapter.

(2) The tenant shall provide the landlord in writing with a forwarding address or new address to which the written notice and amount due from the landlord may be sent.

(3) If the tenant fails to provide the landlord with the forwarding or new address, the tenant is not entitled to damages under this subsection provided the landlord:

(A) Had no notice of the tenant's whereabouts; and

(B) Mailed the written notice and amount due, if any, to the tenant's last known address.

(b) This section does not preclude the landlord or tenant from recovering other damages to which he or she may be entitled under this chapter or otherwise.

(c) Subject to the provisions of this subchapter, the holder of the landlord's interest in the premises at the time of the termination of the tenancy is bound by this section.

## SUBCHAPTER 6 – TENANT OBLIGATIONS

### 18-17-601. Tenant to maintain dwelling unit.

A tenant shall:

(1) Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;

(2) Keep the dwelling unit and that part of the premises that he or she uses reasonably safe and reasonably clean;

(3) Dispose from his or her dwelling unit all ashes, garbage, rubbish, and other waste in a reasonably clean and safe manner;

(4) Keep all plumbing fixtures in the dwelling unit or used by the tenant reasonably clean;

(5) Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances including elevators in the premises;

(6) Not deliberately or negligently destroy, deface, damage, impair, or remove any part of the premises or knowingly permit any person to do so who is on the premises with the tenant's permission or who is allowed access to the premises by the tenant;

(7) Conduct himself or herself and require other persons on the premises with the tenant's permission or who are allowed access to the premises by the tenant to conduct themselves in a manner that will not disturb other tenant's peaceful enjoyment of the premises; and

(8) Comply with the lease and rules which are enforceable pursuant to this subchapter.

### 18-17-602. Access.

(a) A tenant shall not unreasonably withhold consent to the landlord

to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, investigate possible rule or lease violations, investigate possible criminal activity, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

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

18-17-604. Tenant to use and occupy.

Unless otherwise agreed, a tenant shall occupy his or her dwelling unit only as a dwelling unit and shall not conduct or permit any illegal activities thereon.

#### SUBCHAPTER 7 – LANDLORD REMEDIES

18-17-701 Noncompliance with rental agreement – Failure to pay rent – Removal of evicted tenant’s personal property.

(a) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental agreement 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 fourteen (14) days after receipt of the notice, if the breach is not remedied in fourteen (14) days. The rental agreement terminates as provided in the notice except that if the breach is remediable by repairs or otherwise and the tenant adequately remedies the breach before the date specified in the notice.

(b) If rent is unpaid when due and the tenant fails to pay rent within five (5) days from the date due, the landlord may terminate the rental agreement.

(c)(1) Except as provided in this chapter, the landlord may recover actual damages and obtain injunctive relief, judgments, or evictions in circuit court or district court without posting bond for any noncompliance by the tenant with the rental agreement.

(2) If the tenant’s noncompliance is willful other than nonpayment of rent, the landlord may recover reasonable attorney’s fees, provided the landlord is represented by an attorney.

(3) If the tenant’s nonpayment of rent is not in good faith, the landlord is entitled to reasonable attorney’s fees, provided the landlord is represented by an attorney.

18-17-702. Noncompliance affecting health and safety.

(a) If there is noncompliance by the tenant with § 18-17-601 materially affecting health and safety that may 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 fourteen (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 the tenant shall reimburse the landlord for the cost and, in addition, the landlord shall have the remedies available under this chapter.

(b) If there is noncompliance by the tenant with this subchapter

materially affecting health and safety other than as stated in subsection (a), and the tenant fails to comply as promptly as conditions require in case of emergency, or within fourteen (14) days after written notice by the landlord if it is not an emergency, specifying the breach and requesting that the tenant remedy within that period of time, the landlord may terminate the rental agreement.

18-17-703. Remedy after termination.

If the rental agreement is terminated, the landlord has a right to possession and for rent and a separate claim for actual damages for breach of the rental agreement and reasonable attorney's fees.

18-17-704. 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 seven (7) 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 thirty (30) days before the termination date specified in the notice.

(c)(1) 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.

(2) If the holdover is not in good faith, the landlord may recover reasonable attorney's fees.

(3) If the tenant's holdover is a willful violation of the provisions of this chapter or the rental agreement, the landlord may also recover an amount not more than three (3) months periodic rent or twice the actual damages sustained by him or her, whichever is greater and reasonable attorney's fees.

(4) If the landlord consents to the tenant's continued occupancy, § 18-17-401(d) applies.

18-17-705. Landlord and tenant remedies for abuse of access.

(a) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief in district court without posting bond to compel access, or terminate the rental agreement.

(b) In either case the landlord may recover actual damages and reasonable attorney's fees.

18-17-706. Payment of rent into court.

In any action where the landlord sues for possession and the tenant raises defenses or counterclaims pursuant to this chapter or the rental agreement:

(1)(A) The tenant shall pay the landlord all rent which becomes due after the issuance of a written rule requiring the tenant to vacate or show cause as rent becomes due and the landlord shall provide the tenant with a written receipt for each payment except when the tenant pays by check.

(B) Rent must not be abated for a condition caused by the deliberate or negligent act or omission of the tenant, a member of his or her family, or other person on the premises with his or her permission or who is allowed access to the premises by the tenant.

(2) The tenant shall pay the landlord all rent allegedly owed

before the issuance of the rule, provided that in lieu of the payment the tenant may be allowed to submit to the court a receipt and cancelled check, or both, indicating that payment has been made to the landlord.

(3)(A) Should the tenant not appear and show cause within ten (10) days, the court shall issue a warrant of ejectment pursuant to this subchapter.

(B)(i) Should the tenant appear in response to the rule and allege that rent due under subsections (1) or (2) has been paid, the court shall determine the issue.

(ii) If the tenant has failed to comply with subsections (1) or (2), the court shall issue a warrant of ejectment and the landlord shall be placed in full possession of the premises by the sheriff, deputy, or constable.

(4) If the amount of rent due is determined at final adjudication to be less than alleged by the landlord, judgment shall be entered for the tenant if he or she has complied fully with the provisions of this section.

18-17-707. Undertaking on appeal and order staying execution.

(a) Upon appeal to the circuit court, the case shall be heard in a manner consistent with other appeals from the circuit court as soon as is feasible after the appeal is docketed.

(b)(1) It is sufficient to stay execution of a judgment for ejectment that the tenant sign an undertaking that he or she will pay to the landlord the amount of rent, determined by the court in accordance with § 18-17-808, as it becomes due periodically after the judgment was entered.

(2) Any clerk or circuit judge shall order a stay of execution upon the undertaking.

(c) The undertaking by the tenant and the order staying execution may be substantially in the following form:

State of Arkansas County of \_\_\_\_\_

\_\_\_\_\_ Landlord

vs.

\_\_\_\_\_ Tenant

Bond to Stay

Execution on Appeal to Circuit Court

Now comes the tenant in the above entitled action and respectfully shows the court that a writ of eviction was issued against the tenant and for the landlord on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by the circuit court. Tenant has appealed the judgment.

Pursuant to the findings of the circuit court, the tenant is obligated to pay rent in the amount of \$ \_\_\_\_\_ per \_\_\_\_\_, due on the \_\_\_ day of each \_\_\_\_\_.

Tenant undertakes to pay the periodic rent hereinafter due according to the findings of the court and moves the circuit court to stay execution on the writ of eviction until this matter is heard on appeal and decided by the circuit court.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_

Tenant

Upon execution of the bond, execution on the judgment of eviction is stayed until the action is heard on appeal and decided by the circuit court.



If tenant fails to make any rental payment within five (5) days of the due date, upon application of the landlord, the stay of execution shall dissolve, the appeal by the tenant to the circuit court on issues dealing with possession must be dismissed and the sheriff may dispossess the tenant.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Judge

(d) If the tenant fails to make a payment within five (5) days of the due date according to the undertaking and order staying execution, the clerk, upon application of the landlord, shall issue a writ of eviction to be executed pursuant to § 18-17-904.

(e)(1)(A) Upon appeal to the Supreme Court or to the court of appeals, it is sufficient to stay execution of a writ of eviction that the tenant sign an undertaking that he or she will pay to the landlord the amount of rent, determined by order of the judge of the circuit court, as it becomes due periodically after judgment was entered.

(B) The judge of the court having jurisdiction shall order stay of execution upon the undertaking.

(2) The tenant's failure to comply with the terms of the undertaking entitles the landlord to execution of the judgment for possession in accordance with the provisions of subsection (e) of this section.

#### SUBCHAPTER 8 – MISCELLANEOUS

##### 18-17-801. Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of this chapter which may be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

##### 18-17-802. Prior transactions.

Transactions entered into before the effective date of this chapter, and not extended or renewed on or after that date, and the rights, duties, and interests flowing from them remain valid and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law amended or repealed by this chapter as though the repeal or amendment had not occurred.

#### SUBCHAPTER 9 – EVICTION PROCEEDINGS

##### 18-17-901. Grounds for eviction of tenant.

(a) A landlord or his or her agent may begin eviction proceedings against a tenant when:

(1) The tenant fails or refuses to pay the rent when due or when demanded;

(2) The term of tenancy or occupancy has ended, or

(3) The terms or conditions of the lease have been violated.

(b) For residential rental agreements, nonpayment of rent within five days of the date due constitutes legal notice to the tenant that the landlord has the right to begin eviction proceedings under this chapter.

18-17-902. Eviction proceeding.

(a)(1) Upon the occurrence of the grounds for eviction of a tenant under this subchapter, a landlord or his or her agent may file with a court having jurisdiction an affidavit of eviction which specifies the grounds for the eviction.

(2) The fee for filing an affidavit of eviction shall be twenty-five dollars (\$25.00).

(b) Upon the filing by the landlord or his or her agent or attorney of an affidavit of eviction, the court shall issue an order requiring the tenant to vacate the occupied premises or to show cause why he or she should not be evicted before the court within ten (10) days after service of a copy of the order upon the tenant.

18-17-903. Service of rule – Posting and mailing requirements.

(a) The copy of the order under § 18-17-902 may be served in the manner as is provided by law for the service of the summons in actions pending in the circuit court of this State.

(b)(1) When no person is found in possession of the premises, the copy of the notice may be served by leaving it affixed to the most conspicuous part of the premises; and

(2)(A) When service as provided in subdivision (b)(1) has been attempted unsuccessfully, a copy of the order may be served by affixing it to the most conspicuous part of the premises and mailing a copy of the notice.

(B) On the first unsuccessful attempt to serve the order, a copy of the notice shall be affixed to the most conspicuous part of the premises.

18-17-904. Tenant ejected on failure to show cause.

If the tenant fails to appear and show cause within the ten (10) days, the court shall issue an writ of eviction and the tenant shall be evicted by the sheriff of the county.

18-17-905. Trial of issue.

If the tenant appears and contests eviction, the court shall hear and determine the case as any other civil case.

18-17-906. Designation of parties in eviction.

In any trial before the circuit in an eviction case the landlord may be designated as plaintiff and the tenant as defendant.

18-17-907. Effect of verdict for plaintiff.

If the verdict is for the plaintiff the court shall within three (3) days issue a writ of eviction and the tenant shall be evicted by the sheriff of the county.

18-17-908. Effect of verdict for defendant.

If the verdict is for the defendant then the tenant shall remain in possession until:

(1) The termination of his or her tenancy by agreement or operation of law;

(2) Failure or neglect to pay rent; or

(3) Eviction in another proceeding under this chapter or by the

judgment of a court of competent jurisdiction.

18-17-909. Appeal.

Either party may appeal in an eviction case and the appeal shall be heard and determined as other appeals in civil cases.

18-17-910. Bond required to stay eviction on appeal.

(a) An appeal in an eviction case will not stay eviction unless at the time of appealing the tenant shall give an appeal bond as in other civil cases for an amount to be fixed by the court and conditioned for the payment of all costs and damages which the landlord may sustain.

(b) If the tenant fails to file the bond within five (5) days after service of the notice of appeal the appeal shall be dismissed.

18-17-911. Accrual of rent after institution of proceedings.

(a) After the commencement of eviction proceedings by the issuance of a rule to vacate or to show cause as provided, the rental for the use and occupancy of the premises involved shall continue to accrue so long as the tenant remains in possession of the premises, at the rate as prevailed immediately before the issuance of the rule, and the tenant shall be liable for the payment of the rental, the collection of which may be enforced by distress as provided with respect to other rents.

(b) The acceptance by the landlord of any rent, whether it shall have accrued at the time of issuing the rule or shall subsequently accrue, shall not operate as a waiver of the landlord's right to insist upon eviction, nor as a renewal or extension of the tenancy, but the rights of the parties as they existed at the time of the issuance of the rule shall control.

18-17-912. Commercial leases.

(a) In any action involving a commercial lease where the landlord sues for possession and the tenant raises defenses or counterclaims pursuant to this chapter or the lease agreement:

(1) The tenant shall pay the landlord all rent which becomes due after the issuance of a written rule requiring the tenant to vacate or show cause as rent becomes due and the landlord shall provide the tenant with a written receipt for each payment except when the tenant pays by check; and

(2)(A) The tenant shall pay the landlord all rent allegedly owed before the issuance of the rule.

(B) However, in lieu of the payment the tenant may be allowed to submit to the court a receipt and cancelled check, or both, indicating that payment has been made to the landlord.

(b)(1) If a jury trial is requested and upon motion of either party or upon his or her own motion, the circuit judge may order that the commercial lease eviction case be heard at the next term of court following the tenant's appearance.

(2) If the amount of rent is in controversy, the court shall preliminarily determine the amount of rent to be paid to the landlord.

(3)(A) If the tenant appears in response to the rule and alleges that rent due as provided by § 18-17-911 and this section has been paid, the court shall determine the issue.

(B) If the tenant has failed to comply with § 18-17-911 and this section, the court shall issue a writ of eviction and the landlord

must be placed in full possession of the premises by the sheriff, deputy, or constable.

(4) If the amount of rent due is determined at final adjudication to be less than alleged by the landlord, judgment shall be entered for the tenant if the court determines that the tenant has complied fully with the provisions of § 18-17-911, this section, and the lease agreement.

(5) If the court orders that the tenant pay all rent due and accruing as of and during the pendency of the action as provided by this subchapter, the writ may require the payments to be made:

(A) Directly to the commercial landlord or to the clerk of court, to be held until final disposition of the case; or

(B)(i) Through the circuit judge's office.

(ii) If payments are to be made through the circuit judge's office, a fee of three percent (3%) of the rental payment shall be added to the amount paid through the office and the fee of three percent (3%) shall be retained in the circuit judge's office to defray the costs of collection.

(c) If the tenant fails to make a payment as provided in § 18-17-911 and this section, the tenant's failure to comply entitles the landlord to execution of the judgment for possession and, upon application of the landlord, the circuit judge shall issue a writ of eviction and the landlord shall be placed in full possession of the premises by the sheriff, deputy, or constable.

#### 18-17-913. Execution of writ of eviction.

(a) In executing a writ of eviction, the sheriff shall proceed to the premises, present to the occupants a copy of the writ and give the occupants twenty-four (24) hours to vacate voluntarily.

(b) If the occupants refuse to vacate within twenty-four (24) hours or the premises appear unoccupied, the sheriff shall announce his or her identity and purpose.

(c) If necessary, the sheriff may then enter the premises by force, using the least destructive means possible, in order to effectuate the eviction.

(d) If the premises appear to be occupied and the occupant does not respond, the sheriff shall leave a copy of the writ taped or stapled at each corner and attached at the top of either the front or back door or in the most conspicuous place.

(e) Twenty-four (24) hours following the posting of the writ, if the occupants have not vacated the premises voluntarily, the sheriff may then enter the premises by force, using the least destructive means possible, in order to effectuate the eviction.

#### SECTION 2. Arkansas Code § 18-16-102 is repealed.

~~18-16-102. Lessee unlawfully collecting from subtenant — Penalty.~~

~~(a)(1) It shall not be lawful for anyone who has leased any lands from one (1) or more persons and sublet any portion thereof to others to take or collect any rent from the subtenant before final settlement with the landlord without first having obtained from the landlord or his or her agent and delivered to the subtenant a written direction stating the amount of rent authorized to be collected from the subtenant.~~

~~(2) If, afterward, the principal tenant shall fail to pay to the landlord his or her rent due, the amount paid by the subtenant upon the written direction shall be deducted from the pro rata amount of rent for which the land cultivated by the subtenant would otherwise be liable to the landlord under existing laws.~~

~~(b)(1) Every principal tenant or his or her agent who without first having paid or settled with the landlord or produced and delivered the written directions as stated in subsection (a) of this section, shall collect or attempt to collect any rent from any subtenant shall be deemed guilty of a misdemeanor.~~

~~(2) Upon conviction, he or she shall be punished by fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) or by imprisonment not exceeding six (6) months, or by both fine and imprisonment.~~

SECTION 3. Arkansas Code § 18-16-103 is repealed.

~~18-16-103. Rent collection by personal representative of life tenant.~~

~~The executor or administrator of any tenant for life who shall have demised any lands or tenements so held and shall die on or before the day when any rent on the demise shall become payable may recover:~~

~~(1) If the tenant for life dies on the day the rent becomes due, the whole rent; or~~

~~(2) If he or she dies before the day on which the rent becomes due, the proportion of the rent as shall have accrued before his or her death.~~

SECTION 4. Arkansas Code § 18-16-105 is repealed.

~~18-16-105. Termination of oral lease of farmlands.~~

~~The owner of farmlands which are leased under an oral agreement may elect not to renew the oral rental or lease agreement for the following calendar year by giving written notice by certified registered mail to the renter or lessee, on or before June 30, that the lease or rental agreement will not be renewed for the following calendar year.~~

SECTION 5. Arkansas Code § 18-16-106 is repealed.

~~18-16-106. Holding over after termination of term.~~

~~(a) If any tenant for life or years, or if any other person who may have come into possession of any lands and tenements under, or by, collusion with the tenant, shall willfully hold over after the termination of the term and thirty (30) days' previous notice in writing given, requiring the possession thereof by the person entitled thereto, the person so holding over shall pay to the person so kept out of possession double the yearly rent of the lands or tenements so detained for all the time he or she shall keep the person entitled thereto out of possession.~~

~~(b) There shall be no relief in equity against any recovery had at law under subsection (a) of this section.~~

SECTION 6. Arkansas Code § 18-16-107 is repealed.

~~18-16-107. Failure to quit after notice of intention.~~

~~(a) If any tenant shall give notice in writing of his or her intention to quit the premises held by him or her at a time specified in the notice and shall not deliver up the possession thereof at such time, the tenant, his or~~

~~her executor or administrator, shall henceforth pay to the landlord, his or her heirs or assigns, double the rent reserved during all the time the tenant shall so continue in possession of the premises.~~

~~(b) The double rent may be recovered by a civil action in any court having jurisdiction thereof.~~

SECTION 7. Arkansas Code § 18-16-111 is repealed.

~~18-16-111. Manufactured homes and mobile homes on leased land.~~

~~(a) As used in this section:~~

~~(1) "Lessee" means the person or persons leasing the property, site, or lot where a manufactured home or mobile home is located;~~

~~(2) "Lessor" means the owner or manager of the property, site, or lot where a manufactured home or mobile home is located; and~~

~~(3) "Unoccupied" means that a manufactured home or mobile home has ceased to be a customary place of habitation or abode and no person is living or residing in it.~~

~~(b)(1) When a manufactured home or mobile home on a leased site is unoccupied and the lease or rental payment for the leased site where the mobile home or manufactured home is located is sixty (60) days or more past due, the lessor shall notify the lessee and the lienholder, if the lienholder is not the lessee or occupant of the manufactured home or mobile home, that the manufactured home or mobile home is unoccupied and that the lease or rental payment is past due.~~

~~(2) The notice shall be in writing and delivered by certified mail and shall include the following information if known or readily available to the lessor:~~

~~(A) The lessor's name and mailing address;~~

~~(B) The lessee's name and last known mailing address;~~

~~(C) The lienholder's name and mailing address;~~

~~(D) The street address or physical location of the manufactured home or mobile home;~~

~~(E) The monthly lease payment amount;~~

~~(F) The serial number of the manufactured home or mobile home; and~~

~~(G) A description of the manufactured home or mobile home, including the make, model, year, dimensions, and any identification numbers or marks.~~

~~(3) In the notice required in subdivision (b)(1) of this section, the lessor shall notify the lienholder that unless the manufactured home or mobile home is removed from the leased site within thirty (30) days from the date the lienholder receives the notice, the manufactured home or mobile home shall be subject to a lien in favor of the lessor for the payment of all lease or rental payments accruing from the date the lienholder received the notice.~~

~~(c)(1) Unless the lienholder is prevented by law from removing the manufactured home or mobile home, the lienholder has thirty (30) days to remove the manufactured home or mobile home before the lienholder shall be held responsible for lease or rental payments accruing from the date the lienholder received the notice.~~

~~(2) If the lienholder fails to remove the manufactured home or mobile home within thirty (30) days, the manufactured home or mobile home shall be subject to a lien in favor of the lessor for the payment of all~~

~~lease or rental payments beginning on the date that the notice is received by the lienholder in an amount equal to the monthly lease or rental payments contained in the notice.~~

~~(d) Nothing in this section shall obligate the lienholder for any lease or rental payments owed while the lessee occupied the manufactured home or mobile home or any other lease or rental payments due prior to the notification of the lienholder, as required by subsection (b) of this section.~~

~~(e) Nothing in this section shall prevent the lessor from holding the lessee responsible for any unpaid lease or rental payments.~~

SECTION 8. Arkansas Code § 18-16-201 is repealed.

~~18-16-201. Ejectment for nonpayment of rent.~~

~~(a) Whenever a half year's rent or more is in arrears from a tenant, the landlord, if he or she has a subsisting right by law to reenter for the nonpayment of the rent, may bring an action of ejectment to recover the possession of the demised premises.~~

~~(b) If a summons in the action cannot be served in the ordinary mode provided by law, it may be served by affixing a copy thereof on a conspicuous part of the demised premises, where it may be conveniently read.~~

~~(c) The service of the summons in such an action of ejectment shall be deemed and stand instead of a demand of the rent in arrears and of a reentry on the demised premises.~~

~~(d) If on the trial of the action it is proved or upon judgment by default it appears to the court by affidavit that the plaintiff had a right to commence the action according to the provisions of this section, then he or she shall have judgment to recover the possession of the demised premises and costs of suit.~~

~~(e) If the defendant, before judgment is given in the action, either tenders to the landlord or brings into court where the suit is pending all the rent then in arrears and all costs, all further proceedings in the action shall cease.~~

~~(f) If the rent and costs remain unpaid for six (6) months after execution upon such a judgment in ejectment is executed and no complaint for relief in equity is filed within that time, then the lessee and his or her assigns, and all other persons deriving title under the lease from the lessee, shall be barred from all relief in law or equity, except for error in the record or proceedings, and the landlords shall henceforth hold the demised premises discharged from the lease.~~

~~(g) A mortgagee of the lease not in possession of the demised premises who, within six (6) months after execution of any judgment in ejectment is executed, shall pay all rent in arrears, pay all costs and charges incurred by the landlord, and perform all the agreements which ought to be performed by the first lessee shall not be affected by the recovery in ejectment.~~

SECTION 9. Arkansas Code § 18-16-202 is repealed.

~~18-16-202. Duty of tenant to notify landlord.~~

~~Every tenant on whom a summons in ejectment to recover the tenements by him or her held shall be served shall forthwith give notice thereof to the person, or the agent of the person, of whom the tenant holds.~~

SECTION 10. Arkansas Code § 18-16-203 is repealed.

~~18-16-203. Actions for use and occupation.~~

~~(a) A landlord may recover in a civil action a reasonable satisfaction for the use and occupation of any lands and tenements held by any person under an agreement not made by deed.~~

~~(b) If a parol demise or other agreement not by deed, by which a certain rent is reserved, appears in evidence on the trial of the action, the plaintiff shall not on that account be barred from a recovery but may make use thereof as evidence of the amount of damages to be recovered.~~

~~(c) When lands or tenements are held and occupied by any person without any special agreement for rent, the owner of the lands or tenements, or his or her executor or administrator, may sue for and recover a fair and reasonable compensation for the use and occupation by a civil action in any court having jurisdiction thereof.~~

SECTION 11. Arkansas Code § 18-16-204 is repealed.

~~18-16-204. Remedy when lease for life.~~

~~Any person having any rent due upon any lease for life may have the same remedy by action for the recovery thereof as if the lease was for years.~~

SECTION 12. Arkansas Code § 18-16-205 is repealed.

~~18-16-205. Recovery of rent in arrears due decedent.~~

~~(a) Every person entitled to any rent dependent upon the life of any other may notwithstanding the death of the other person have the same remedy by action for the recovery of all arrears of the rent that may be due and unpaid at the death of the person as he or she might have if the person were still living.~~

~~(b) Every person having in right of his wife any freehold estate in any rents may, if the rent is due and unpaid at the time of his wife's death, have the same remedy by action for the recovery of the arrears as he might have if the wife were still living.~~

~~(c) The executor or administrator of any person to whom any rent shall have been due and unpaid at the time of the death of the person may have the same remedy, by action against the tenant, or his or her executor or administrator, for the recovery thereof that the testator or intestate might have had.~~

SECTION 13. Arkansas Code Title 18, Chapter 16, Subchapter 5 is repealed.

~~18-16-501. Common nuisance — Criminal offense.~~

~~Any tenant who uses or allows another person to use the tenant's leased premises as a common nuisance as defined by § 5-74-109(b) or § 16-105-402 or for a criminal offense as identified in § 18-16-502 may be evicted by the prosecuting attorney of the county, the city attorney of the city, the premises owner, or an agent for the premises owner pursuant to the provisions of this subchapter.~~

~~18-16-502. Gambling — Prostitution — Alcohol.~~

~~For purposes of this subchapter, any tenant who engages in or allows another person to engage in gambling, as defined by § 5-66-107, in prostitution, as defined by § 5-70-102, or in the unlawful sale of alcohol, as defined by § 3-3-205, on the tenant's leased premises shall be subject to the eviction procedures established by this subchapter.~~



~~18-16-503. Complaint.~~

~~The prosecuting attorney of the county, the city attorney of the city, the premises owner, or an agent for the premises owner may file a complaint in the office of the clerk of the circuit court for the eviction of any tenant who has used or has allowed another person to use the tenant's leased premises for use as a common nuisance, as defined by § 5-74-109(b) or § 16-105-402, or for a criminal offense, as identified in § 18-16-502.~~

~~18-16-504. Form of complaint.~~

~~The complaint shall state the name of the tenant or tenants to be evicted, the location of the leased premises, and the basis for which eviction is authorized under this subchapter.~~

~~18-16-505. Summons -- Notice.~~

~~Upon the filing of a complaint under this subchapter, the clerk of the court shall issue a summons upon the complaint. The summons shall be in customary form directed to the sheriff of the county in which the cause of action is filed, with direction for service thereof on the named defendants. In addition, the court shall issue and direct the sheriff to serve upon the named defendants a notice in the following form:~~

~~"NOTICE OF INTENTION TO EVICT FOR CRIMINAL ACTIVITY~~

~~You are hereby notified that the attached complaint in the above styled cause claims that you have engaged in or have allowed the property described in the above mentioned complaint to be used for criminal activity and that the plaintiff is entitled to have you evicted pursuant to state law. If, within five (5) days, excluding Sundays and legal holidays, after the date of service of this notice, you have not filed in the office of the circuit clerk of this county a written objection to the claims made against you by the plaintiff in his or her complaint for eviction, then a writ of ejection shall forthwith issue from this office directed to the sheriff of this county or to the police chief of the city and ordering him or her to remove you from possession of the property described in the complaint. If you should file a written objection to the complaint of the plaintiff and the allegations for immediate possession of the property described in the complaint within five (5) days, excluding Sundays and legal holidays, after the date of service of this notice, a hearing will be scheduled by the circuit court of this county after you have timely answered to determine whether or not the writ of ejection should issue as sought by the plaintiff.~~

~~.....  
.....~~

~~Circuit Clerk of ..... County"~~

~~18-16-506. Written objection.~~

~~(a) If, within five (5) days, excluding Sundays and legal holidays, following service of this summons, complaint, and notice seeking a writ of ejection against the defendants named therein, the defendant or defendants have not filed a written objection to the claim for a writ of ejection made~~

~~by the plaintiff in his or her complaint, the clerk of the circuit court shall immediately issue a writ of ejection directed to the sheriff of the county or the police chief of the city commanding him or her to cause the defendant or defendants to vacate the property described in the complaint without delay, which the sheriff or police chief shall thereupon execute in the manner described in § 18-16-507.~~

~~(b)(1) If a written objection to the claim of the plaintiff for a writ of ejection shall be filed by the defendant or defendants within five (5) days after the date of service of the notice, summons, and complaint as provided for in this section, the plaintiff shall obtain a date for the hearing of the plaintiff's demand for a writ of ejection of the property described in the complaint after the defendants have timely answered the complaint.~~

~~(2)(A) If such a hearing is required, at the hearing the plaintiff shall present evidence sufficient to make a prima facie case of the criminal activity that has been facilitated at the property described in the complaint.~~

~~(B) The defendant or defendants shall be entitled to present evidence in rebuttal thereof.~~

~~(3) If the court decides upon all the evidence that the plaintiff is entitled to a writ of ejection under state law, then the court shall order the clerk forthwith to issue a writ of ejection to the sheriff or the police chief of the city to evict the defendant or defendants, as provided for in § 18-16-507.~~

~~18-16-507. Writ of ejection.~~

~~(a) Upon receipt of a writ of ejection from the clerk of the circuit court, the sheriff or police chief shall immediately proceed to execute the writ in the specific manner described in this section and, if necessary, ultimately by ejecting from the property described in the writ the defendant or defendants and any other person or persons who shall have unlawfully received or entered into the possession of the property after the issuance of the writ, and thereupon notify the plaintiff that the property has been vacated by the defendant or defendants.~~

~~(b)(1) Upon receipt of the writ, the sheriff or police chief shall notify the defendant of the issuance of the writ by delivering a copy thereof to the defendant or to any person authorized to receive summons in civil cases and in like manner.~~

~~(2) If, within eight (8) hours after receipt of the writ of possession, the sheriff or police chief shall not find any such person at his or her normal place of residence, he or she may serve the writ of possession by placing a copy conspicuously upon the front door or other structure of the property described in the complaint, which shall have like effect as if delivered in person pursuant to the terms hereof.~~

~~(c)(1)(A) If, at the expiration of twenty-four (24) hours after the service of the writ of ejection in the manner indicated, the defendants or any or either of them shall be and remain in possession of the property, the sheriff or police chief shall notify the plaintiff or his attorney of that fact and shall be provided with all labor and assistance required by him or her in removing the possessions and belongings of the defendants from the affected property to a place of storage in a public warehouse or in some other reasonable safe place of storage under the control of the plaintiff~~

~~until the defendant or defendants may recover the property within seven (7) business days.~~

~~(B) Before recovering the property, the defendant or defendants shall pay for the reasonable cost of storage.~~

~~(2) If the defendant or defendants shall never recover the property as provided in subdivision (c)(1) of this section, then the court shall order the possessions and belongings of the defendant sold by the plaintiff in a commercially reasonable manner with the proceeds of the sale applied first to the cost of storage, second to any monetary judgment in favor of the plaintiff, and third, to the defendant any excess.~~

~~(d) In executing the writ of ejectment, the sheriff or police chief shall have the right forcibly to remove all locks or other barriers erected to prevent entry upon the premises in any manner which he or she deems appropriate or convenient and, if necessary, physically to restrain the defendants from interfering with the removal of the defendants' property and possessions from the property described in the writ of ejectment.~~

~~(e) If the plaintiff is the city attorney or prosecuting attorney, no bond shall be required. If the plaintiff is the landlord, no bond shall be required, unless ordered to do so by the court, as a condition to the execution of a writ granted prior to the date that an answer is to be filed by the defendant or defendants.~~

~~(f) The sheriff or police chief shall return the writ at or before the return date of the writ and shall state in his or her return the manner in which he or she executed the writ and whether or not the defendant or defendants have been ejected from the property described and, if not, the reason for his or her failure to do so.~~

~~18-16-508. Costs and attorney's fees — Damages.~~

~~(a)(1) A court granting relief under this subchapter may order, in addition to any other costs provided by law, the payment by the defendant or defendants to the plaintiff reasonable attorney's fees and the costs of the action. In such cases, multiple defendants are jointly and severally liable for any payment so ordered.~~

~~(2) Any costs of attorney's fees collected from the defendants shall be remitted to the plaintiff. If the plaintiff is the city attorney, the costs shall be remitted to the general fund of the city. If the plaintiff is the prosecuting attorney, the costs shall be remitted to the general fund of the county.~~

~~(b) A proceeding brought under this subchapter for eviction of the defendant or defendants of the premises does not preclude the owner or landlord from recovering monetary damages for rent, repairs, or any other incidental damages up to the date of eviction from the tenants or occupants of such premises in a civil action."~~

The Amendment was read \_\_\_\_\_  
By: Representative Wills  
MBM/LNS - 03-16-2007 12:17  
MBM674 \_\_\_\_\_ Chief Clerk