

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H3/12/07

A Bill

HOUSE BILL 2540

5 By: Representative Wills
6
7

For An Act To Be Entitled

9 AN ACT TO REVISE ARKANSAS LANDLORD TENANT LAW;
10 AND FOR OTHER PURPOSES.
11

Subtitle

12 RESIDENTIAL LANDLORD TENANT ACT OF 2007.
13
14
15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
17

18 SECTION 1. Arkansas Code Title 18 is amended to add an additional
19 chapter to read as follows:
20

21 SUBCHAPTER 1 – SHORT TITLE, CONSTRUCTION, APPLICATION, AND SUBJECT MATTER OF
22 CHAPTER
23

24 18-17-101. Short title.

25 This chapter shall be known and may be cited as the “Arkansas
26 Residential Landlord - Tenant Act of 2007”.
27

28 18-17-102. Purposes; Rules of construction.

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

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

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

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



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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

1 used by the occupant primarily for agricultural purposes; and

2 (8) Residence, whether temporary or not, at a public or private
3 charitable or emergency protective shelter.

4
5 18-17-203. Jurisdiction and service of process.

6 (a) The circuit court, district court, or appropriate court of this
7 State shall exercise jurisdiction over any landlord with respect to any
8 conduct in this State governed by this chapter or with respect to any claim
9 arising from a transaction subject to this chapter.

10 (b)(1) If a landlord is not a resident of this State or is a
11 corporation not authorized to do business in this State and engaged in any
12 conduct in this State governed by this chapter, or engaged in a transaction
13 subject to this chapter, he or she may designate an agent upon whom service
14 of process may be made in this State.

15 (2) The agent shall be a resident of this State or a corporation
16 authorized to do business in this State.

17 (3) The designation shall be in writing and filed with the
18 Secretary of State.

19 (4) If no designation is made and filed or if process cannot be
20 served in this State upon the designated agent, process may be served upon
21 the Secretary of State, but service upon him or her is not effective unless
22 the plaintiff or petitioner mails a copy of the process and pleading by
23 registered or certified mail requiring a signed receipt to the defendant or
24 respondent at his or her last reasonably ascertainable address.

25 (5) An affidavit of compliance with this section shall be filed
26 with the court of the county where the action is instituted on or before the
27 return day of the process, if any, or within any further time the court
28 allows.

29
30 SUBCHAPTER 3 – GENERAL DEFINITIONS AND PRINCIPLES INTERPRETATION

31 NOTICE

32
33 18-17-301. General definitions.

34 As used in this chapter:

35 (1) "Action" means a recoupment, counterclaim, set-off, suit in
36 equity, and any other proceeding in which rights are determined, including,

1 but not limited to, an action for possession;

2 (2) "Building and housing codes" means any law, ordinance, or
3 governmental regulation concerning fitness for habitation, or the
4 construction, maintenance, operation, occupancy, use, or appearance of any
5 premise, or dwelling unit;

6 (3)(A) "Dwelling unit" means a structure or the part of a
7 structure that is used as a home, residence, or sleeping place by one person
8 who maintains a household or by two (2) or more persons who maintain a common
9 household and includes landlord-owned mobile homes.

10 (B) Property that is leased for the exclusive purpose of
11 being renovated by the lessee is not considered a dwelling unit within the
12 meaning of this chapter;

13 (4)(A) "Fair-market rental value" means the actual periodic
14 rental payment for comparable rental property to which a willing landlord and
15 a willing tenant would agree.

16 (B) In determining the fair-market rental value, the court
17 may consider appraisals offered by the tenant, landlord, realty experts,
18 licensed appraisers, and other relevant evidence;

19 (5) "Good faith" means honesty in fact in the conduct of the
20 transaction concerned;

21 (6) "Landlord" means the owner, lessor, or sublessor of the
22 premises, and it also means a manager of the premises who fails to disclose
23 as required by § 18-17-502;

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

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

30 (i) The legal title to property; or

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

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

35 (9) "Person" means an individual or organization;

36 (10) "Premises" means a dwelling unit and the structure of which

1 it is a part and facilities and appurtenances therein and grounds, areas, and
2 facilities held out for the use of tenants generally or whose use is promised
3 to the tenant;

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

7 (12) "Rental agreement" means all agreements, written or oral,
8 and valid rules adopted under § 18-17-602 embodying the terms and conditions
9 concerning the use and occupancy of a dwelling unit and premises;

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

14 (14) "Security deposit" means a monetary deposit from the tenant
15 to the landlord which is held in trust by the landlord to secure the full and
16 faithful performance of the terms and conditions of the lease agreement as
17 provided in § 18-17-501;

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

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

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

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

29
30 18-17-302. Obligation of good faith.

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

34
35 18-17-303. Notice.

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

1 (A) The person has actual knowledge of it;

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

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

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

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

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

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

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

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

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

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

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

31

32 SUBCHAPTER 4 – GENERAL PROVISIONS

33

34 18-17-401. Terms and conditions of rental agreement.

35 (a) A landlord and a tenant may include in a rental agreement terms
36 and conditions not prohibited by this chapter or other rule of law,

1 including, but not limited to, rent, term of the agreement, and other
2 provisions governing the rights and obligations of the parties.

3 (b) In absence of agreement, the tenant shall pay as rent the fair-
4 market rental value for the use and occupancy of the dwelling unit.

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

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

11 (3) Unless otherwise agreed, rent is uniformly apportionable
12 from day to day.

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

16
17 18-17-402. Effect of unsigned or undelivered rental agreement.

18 (a) If the landlord does not sign and deliver a written rental
19 agreement which has been signed and delivered to the landlord by the tenant,
20 acceptance of rent without reservation by the landlord gives the rental
21 agreement the same effect as if it had been signed and delivered by the
22 landlord.

23 (b) If the tenant does not sign and deliver a written rental agreement
24 which has been signed and delivered to the tenant by the landlord, acceptance
25 of possession and payment of rent without reservation gives the rental
26 agreement the same effect as if it had been signed and delivered by the
27 tenant.

28
29 SUBCHAPTER 5 – LANDLORD OBLIGATIONS

30
31 18-17-501. Security deposits – Prepaid rent.

32 (a)(1) Upon termination of the tenancy property or money held by the
33 landlord as security must be returned less amounts withheld by the landlord
34 for accrued rent and damages which the landlord has suffered by reason of the
35 tenant's noncompliance with § 18-17-601.

36 (2) The tenant shall provide the landlord in writing with a

1 forwarding address or new address to which the written notice and amount due
2 from the landlord may be sent.

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

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

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

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

12 (c) Subject to the provisions of § 18-17-505, the holder of the
13 landlord's interest in the premises at the time of the termination of the
14 tenancy is bound by this section.

15
16 18-17-502. Disclosure.

17 (a) A landlord or any person authorized to enter into a rental
18 agreement on his or her behalf shall disclose to the tenant in writing at or
19 before the commencement of the tenancy the name and address of an owner of
20 the premises or a person authorized to act on behalf of the owner as agent,
21 inter alia, for purposes of service of process and receiving or receipting
22 notices or demands.

23 (b) The information required to be furnished by this section shall be
24 kept current and this section extends to and is enforceable against any
25 successor landlord, owner, or manager.

26 (c) A person authorized to enter in a rental agreement on behalf of a
27 landlord who fails to comply with subsection (a) with regard to a rental
28 agreement entered into on behalf of the landlord becomes an agent of the
29 landlord for purposes of that rental agreement for:

30 (1) Service of process and receiving and receipting for notices
31 and demands; and

32 (2) Performing the obligations of the landlord under this
33 chapter and under the rental agreement and expending or making available for
34 the performance of the obligations all rent collected from the premises and
35 retained by the person on behalf of the landlord.

36

1 18-17-503. Landlord to deliver possession of dwelling unit.

2 (a) At the commencement of the term a landlord shall deliver
3 possession of the premises to the tenant in compliance with the rental
4 agreement and § 18-17-504.

5 (b) The landlord may bring an action for possession against any person
6 wrongfully in possession and may recover the damages provided in § 18-17-
7 806(c).

8
9 18-17-504. Landlord to maintain premises.

10 A landlord shall comply with the requirements of applicable building
11 and housing codes materially affecting health and safety.

12
13 18-17-505. Limitation of liability.

14 (a) Unless otherwise agreed, a landlord who conveys the premises that
15 include a dwelling unit subject to a rental agreement in a good faith sale to
16 a bona fide purchaser is relieved of liability under the rental agreement and
17 this chapter as to events occurring after written notice to the tenant of the
18 conveyance.

19 (b) Unless otherwise agreed, a manager of the premises that includes a
20 dwelling unit is relieved of liability under the rental agreement and this
21 chapter as to events occurring after written notice to the tenant of the
22 termination of his or her management.

23
24 SUBCHAPTER 6 – TENANT OBLIGATIONS

25
26 18-17-601. Tenant to maintain dwelling unit.

27 A tenant shall:

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

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

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

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

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

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

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

12 (8) Comply with the lease and rules which are enforceable pursuant to
13 § 18-17-602.

14
15 18-17-602. Rules.

16 A landlord, from time to time, may adopt rules concerning the tenant's
17 use and occupancy of the premises. They are enforceable against the tenant
18 only if:

19 (1) Their purpose is to:

20 (A) Promote the convenience, safety, or welfare of the
21 tenants in the premises;

22 (B) Preserve the landlord's property from abusive use; or

23 (C) Make a fair distribution of services and facilities
24 held out for the tenants generally;

25 (2) They are reasonably related to the purpose for which they
26 are adopted;

27 (3) They are sufficiently explicit in their prohibition,
28 direction, or limitation of the tenant's conduct to fairly inform him or her
29 of what he or she must or must not do to comply;

30 (4) They are not for the purpose of evading the obligations of
31 the landlord; and

32 (5) The tenant has notice of them at the time he or she enters
33 into the rental agreement, or when they are adopted.

34
35 18-17-603. Access.

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

1 to enter into the dwelling unit in order to inspect the premises, make
2 necessary or agreed repairs, decorations, alterations, or improvements,
3 supply necessary or agreed services, or exhibit the dwelling unit to
4 prospective or actual purchasers, mortgagees, tenants, workmen, or
5 contractors.

6 (b) A landlord or his or her agent may enter the dwelling unit without
7 consent of the tenant:

8 (1) At any time in case of emergency, including, but not limited
9 to, prospective changes in weather conditions which pose a likelihood of
10 danger to the property;

11 (2) Between the hours of 9:00 a.m. and 6:00 p.m. for the purpose
12 of providing regularly scheduled periodic services including, but not limited
13 to, changing furnace and air-conditioning filters and providing termite,
14 insect, or pest treatment, provided that the right to enter to provide
15 regularly scheduled periodic services is conspicuously stated in writing in
16 the rental agreement and that before entering, the landlord announces his or
17 her intent to enter to perform services; or

18 (3) Between the hours of 8:00 a.m. and 8:00 p.m. for the purpose
19 of providing services requested by the tenant and that before entering, the
20 landlord announces his or her intent to enter to perform services.

21 (c)(1) A landlord shall not abuse the right of access or use it to
22 harass the tenant.

23 (2) Except in cases under subsection (b), the landlord shall
24 give the tenant at least twenty-four (24) hours notice of his or her intent
25 to enter and may enter only at reasonable times.

26 (d) A landlord has no other right of access except:

27 (1) Pursuant to court order;

28 (2) As permitted by §§ 18-17-802 and 18-17-803;

29 (3) When accompanied by a law enforcement officer at reasonable
30 times for the purpose of service of process in eviction proceedings; or

31 (4) Unless the tenant has abandoned or surrendered the premises.

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

34
35 18-17-604. Tenant to use and occupy.

36 Unless otherwise agreed, a tenant shall occupy his or her dwelling unit

1 only as a dwelling unit and shall not conduct or permit any illegal
2 activities thereon.

3
4 SUBCHAPTER 7 – TENANT REMEDIES

5
6 18-17-701. Landlord's noncompliance as defense to action for
7 possession or rent.

8 (a)(1) In an action for possession based upon nonpayment of the rent
9 or in an action for rent concerning a period when the tenant is in
10 possession, the tenant may rely on the rental agreement and to counterclaim
11 for any amount recoverable.

12 (2) If the defense or counterclaim by the tenant is without
13 merit and is not raised in good faith, the landlord may recover, in addition
14 to actual damages, reasonable attorney's fees.

15 (b) Notwithstanding the provisions of subsection (a), a tenant waives
16 violation of a landlord's duty to maintain the premises as stated by the
17 rental agreement as a defense in an action for possession based upon
18 nonpayment of rent or in an action for rent concerning a period where the
19 landlord has no notice before rent is due which provides a reasonable
20 opportunity to make emergency repairs necessary for the provision of
21 essential services.

22
23 SUBCHAPTER 8 – LANDLORD REMEDIES

24
25 18-17-801 Noncompliance with rental agreement – Failure to pay rent –
26 Removal of evicted tenant's personal property.

27 (a) Except as provided in this chapter, if there is a noncompliance by
28 the tenant with the rental agreement the landlord may deliver a written
29 notice to the tenant specifying the acts and omissions constituting the
30 breach and that the rental agreement will terminate upon a date not less than
31 fourteen (14) days after receipt of the notice, if the breach is not remedied
32 in fourteen (14) days. The rental agreement terminates as provided in the
33 notice except that:

34 (1) If the breach is remediable by repairs or otherwise and the
35 tenant adequately remedies the breach before the date specified in the
36 notice; or

1 (2) If the remedy cannot be completed within fourteen (14) days,
2 but is commenced within the fourteen-day period and is pursued in good faith
3 to completion within a reasonable time, the rental agreement may not
4 terminate by reason of the breach.

5 (b)(1) If rent is unpaid when due and the tenant fails to pay rent
6 within five (5) days from the date due, the landlord may terminate the rental
7 agreement provided the landlord has given the tenant written notice of
8 nonpayment and his or her intention to terminate the rental agreement if the
9 rent is not paid within that period.

10 (2) The landlord's obligation to provide notice under this
11 section is satisfied for any lease term after the landlord has given one (1)
12 notice to the tenant or if the notice is contained in conspicuous language in
13 a written rental agreement.

14 (3) The written notice requirement upon the landlord under this
15 subsection shall be considered to have been complied with if the rental
16 agreement contains the following or a substantially equivalent provision:

17 "IF YOU DO NOT PAY YOUR RENT ON TIME

18 This is your notice. If you do not pay your rent within five (5) days
19 of the due date, the landlord may start to have you evicted. You will get no
20 other notice as long as you live in this rental unit."

21 The presence of this provision in the rental agreement fully satisfies
22 the "written notice" requirement under this subsection and applies to a
23 month-to-month tenancy following the specified lease term in the original
24 rental agreement. If the rental agreement contains the provision stated in
25 this subsection, the landlord is not required to furnish any separate or
26 additional written notice to the tenant in order to begin eviction
27 proceedings for nonpayment of rent even after the original term of the rental
28 agreement has expired.

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

33 (2)(A) A real estate broker-in-charge licensed in this State or
34 a licensed property manager, in the conduct of his or her licensed business
35 may, either in person or through one or more regular employees, complete a
36 form writ of eviction and present facts to judicial officers on behalf of his

1 or her landlord or principal in support of an action for eviction, distress,
2 or abandonment for which no separate charge is made for this service.

3 (B) If the tenant's noncompliance is willful other than
4 nonpayment of rent, the landlord may recover reasonable attorney's fees,
5 provided the landlord is represented by an attorney.

6 (C) If the tenant's nonpayment of rent is not in good
7 faith, the landlord is entitled to reasonable attorney's fees, provided the
8 landlord is represented by an attorney.

9
10 18-17-802. Noncompliance affecting health and safety.

11 (a) If there is noncompliance by the tenant with § 18-17-601
12 materially affecting health and safety that may be remedied by repair,
13 replacement of a damaged item, or cleaning, and the tenant fails to comply as
14 promptly as conditions require in case of emergency or within fourteen (14)
15 days after written notice by the landlord specifying the breach and
16 requesting that the tenant remedy it within that period of time, the landlord
17 may enter the dwelling unit and cause the work to be done in a workmanlike
18 manner and the tenant shall reimburse the landlord for the cost and, in
19 addition, the landlord shall have the remedies available under this chapter.

20 (b) If there is noncompliance by the tenant with § 18-17-601
21 materially affecting health and safety other than as stated in subsection
22 (a), and the tenant fails to comply as promptly as conditions require in case
23 of emergency, or within fourteen (14) days after written notice by the
24 landlord if it is not an emergency, specifying the breach and requesting that
25 the tenant remedy within that period of time, the landlord may terminate the
26 rental agreement.

27
28 18-17-803. Remedies for absence, nonuse, and abandonment.

29 (a) The unexplained absence of a tenant from a dwelling unit for a
30 period of fifteen (15) days after default in the payment of rent shall be
31 construed as abandonment of the dwelling unit.

32 (b) If the tenant has voluntarily terminated the utilities and there
33 is an unexplained absence of a tenant after default in payment of rent,
34 abandonment is considered immediate and the fifteen (15) day rule as
35 described in (a) does not apply.

36 (c) When a dwelling unit has been abandoned or the rental agreement

1 has come to an end and the tenant has removed a substantial portion of his or
2 her property or voluntarily and permanently terminated his or her utilities
3 and has left personal property in the dwelling unit or on the premises with a
4 fair-market value of five hundred dollars (\$500) or less, the landlord may
5 enter the dwelling unit, using forcible entry if required, and dispose of the
6 property.

7 (d) When a dwelling unit has been abandoned or the rental agreement
8 has come to an end and the tenant has left personal property in the dwelling
9 unit or on the premises in the cases not covered by subsection (d), the
10 landlord may have the property removed only pursuant to the provisions of §
11 18-17-101 et seq.

12 (f) Where property is disposed of by the landlord pursuant to
13 subsection (d) and the property was in excess of five hundred dollars (\$500),
14 the landlord is not liable unless the landlord was grossly negligent.

15
16 18-17-804. Landlord's lien.

17 A contractual lien or contractual security interest on behalf of the
18 landlord in the tenant's household goods is not enforceable unless perfected
19 before the effective date of this chapter.

20
21 18-17-805. Remedy after termination.

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

25
26 18-17-806. Recovery of possession limited.

27 A landlord may not recover or take possession of the dwelling unit by
28 action or otherwise, including willful diminution of required essential
29 services to the tenant by interrupting or causing the interruption of
30 services, except in case of abandonment, surrender, termination, or as
31 permitted in this chapter.

32
33 18-17-807. Periodic tenancy – Holdover remedies.

34 (a) The landlord or the tenant may terminate a week-to-week tenancy by
35 a written notice given to the other at least seven (7) days before the
36 termination date specified in the notice.

1 (b) The landlord or the tenant may terminate a month-to-month tenancy
2 by a written notice given to the other at least thirty (30) days before the
3 termination date specified in the notice.

4 (c)(1) If the tenant remains in possession without the landlord's
5 consent after expiration of the term of the rental agreement or its
6 termination, the landlord may bring an action for possession.

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

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

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

16
17 18-17-808. Landlord and tenant remedies for abuse of access.

18 (a)(1) If the tenant refuses to allow lawful access, the landlord may
19 obtain injunctive relief in circuit court without posting bond to compel
20 access, or terminate the rental agreement.

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

23 (b)(1) If the landlord knowingly makes an unlawful entry or repeated
24 lawful entry in an unreasonable manner or makes repeated demands for entry
25 otherwise lawful but which have the effect of unreasonably harassing the
26 tenant, the tenant may obtain injunctive relief without posting bond to
27 prevent the recurrence of the conduct or terminate the rental agreement.

28 (2) In either case the tenant may recover actual damages and
29 reasonable attorney's fees.

30
31 18-17-809. Payment of rent into court.

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

35 (1)(A) The tenant shall pay the landlord all rent which becomes
36 due after the issuance of a written rule requiring the tenant to vacate or

1 show cause as rent becomes due and the landlord shall provide the tenant with
2 a written receipt for each payment except when the tenant pays by check.

3 (B) If the landlord and tenant disagree as to the amount
4 of rent or the time of payments thereof, the court shall hold a hearing as
5 soon as feasible after the issues have been joined and preliminarily
6 determine the matter.

7 (C) If the basis for the disagreement of the amount of
8 rent due is the landlord's alleged violation of the rental agreement or the
9 provisions of this chapter, the rent to be paid shall be the fair-market
10 rental value of the premises at the time of the hearing.

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

15 (2)(A) The tenant shall pay the landlord all rent allegedly owed
16 before the issuance of the rule, provided that in lieu of the payment the
17 tenant may be allowed to submit to the court a receipt and cancelled check,
18 or both, indicating that payment has been made to the landlord.

19 (B) If that the amount of rent is in controversy, the
20 court shall determine the amount of rent to be paid to the landlord in the
21 manner as in subsection (1) or (2) of this section.

22 (3)(A) Should the tenant not appear and show cause within ten
23 (10) days, the court shall issue a warrant of ejectment pursuant to § 18-17-
24 1004.

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

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

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

36

18-17-810. 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 ejection 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 ejection 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,

1 the appeal by the tenant to the circuit court on issues dealing with
2 possession must be dismissed and the sheriff may dispossess the tenant.

3 This the _____ day of _____, 20
4 _____

5 Judge

6 (d)(1) If either party disputes the amount of the payment or the due
7 date in the undertaking, the aggrieved party may move for modification of the
8 terms of the undertaking before the circuit court.

9 (2) Upon the motion and upon notice to all interested parties,
10 the court shall hold a hearing as soon as is feasible after the filing of the
11 motion and determine what modifications, if any, are appropriate.

12 (3) No writ of eviction may be executed pending a hearing on the
13 motion, provided the tenant complied with the terms of the undertaking.

14 (e) If the tenant fails to make a payment within five (5) days of the
15 due date according to the undertaking and order staying execution, the clerk,
16 upon application of the landlord, shall issue a writ of eviction to be
17 executed pursuant to § 18-17-1004.

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

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

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

28
29 SUBCHAPTER 9 – MISCELLANEOUS

30
31 18-17-901. Severability.

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

1
2 18-17-902. Prior transactions.

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

9
10 SUBCHAPTER 10 – EVICTION PROCEEDINGS

11
12 18-17-1001. Grounds for eviction of tenant.

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

15 (1) The tenant fails or refuses to pay the rent when due or when
16 demand;

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

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

19 (b) For residential rental agreements, nonpayment of rent within five
20 days of the date due constitutes legal notice to the tenant that the landlord
21 has the right to begin eviction proceedings under this chapter if a written
22 rental agreement specifies in bold conspicuous type that nonpayment of rent
23 constitutes notice.

24
25 18-17-1002. Eviction proceeding.

26 (a)(1) Upon the occurrence of the grounds for eviction of a tenant
27 under § 18-17-1001, a landlord or his or her agent may file with a court
28 having jurisdiction an affidavit of eviction which specifies the grounds for
29 the eviction.

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

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

1
2 18-17-1003. Service of rule – Posting and mailing requirements.

3 (a) The copy of the order under § 18-17-1002 may be served in the
4 manner as is provided by law for the service of the summons in actions
5 pending in the circuit court of this State.

6 (b)(1) When no person is found in possession of the premises, and the
7 premises have remained abandoned for a period of fifteen (15) days or more
8 immediately before the date of service, the copy of the notice may be served
9 by leaving it affixed to the most conspicuous part of the premises; and

10 (2)(A) When service as provided in subdivision (b)(1) has been
11 attempted unsuccessfully two times, a copy of the order may be served by
12 affixing both it and documentation of the two service attempts to the most
13 conspicuous part of the premises and mailing a copy of the notice in the
14 manner described in subdivision (c)(1).

15 (B)(i) Each of the two attempts to serve the defendant
16 shall be separated by a minimum of forty-eight (48) hours and shall occur at
17 times of day separated by a minimum of eight (8) hours.

18 (ii) The person attempting to serve the notice shall
19 document the date and time of the attempts by affidavit or by certificate in
20 the case of a law enforcement officer.

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

24 (iv) On the second unsuccessful attempt to serve the
25 notice, the documentation of the two attempts to serve the order shall be
26 attached to the copy of the notice when it is affixed to the most conspicuous
27 part of the premises.

28 (c)(1) For mailing by ordinary mail to be considered to complete
29 service under this section, a copy of the order and documentation of the
30 prior attempts at service shall be placed in an envelope in the presence of
31 the clerk of the court.

32 (2)(A) The clerk is responsible for verifying that the:

33 (i) Envelope is addressed to the defendant at the
34 address shown in the notice as the rental premises of the defendant or
35 another address for receipt of mail furnished in writing by the tenant to the
36 landlord;

1 (ii) Envelope contains the necessary documents; and
2 (iii) Clerk has placed the sealed and stamped
3 envelope in the United States mail.

4 (B) The clerk's verification shall be made a part of the
5 record in the case and service by ordinary mail is not considered complete
6 without the clerk's verification.

7 (C) A fee of five dollars (\$5) shall be collected by the
8 clerk for the verification and mailing.

9 (d)(1) Mailing of the order constitutes service when the requirements
10 of subsections (a), (b), and (c) have been met and ten (10) days have elapsed
11 from the time of mailing.

12 (2)(A) If the requirements have been met, the specified time
13 period for the tenant to show cause why he or she should not be ejected as
14 provided in § 18-17-1002 begins to run on the eleventh day after mailing.

15 (B) However, if the tenant contacts the court before the
16 eleventh day, the specified time period for the tenant to show cause as
17 provided in § 18-17-1002 shall begin to run at the time of contact.

18
19 18-17-1004. Tenant ejected on failure to show cause.

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

23
24 18-17-1005. Change of venue.

25 The court may grant a change of venue in an eviction case as in any
26 other civil case on a proper showing.

27
28 18-17-1006. Trial of issue.

29 If the tenant appears and contests eviction, the court shall hear and
30 determine the case as any other civil case, allowing trial by jury if
31 demandd by either party.

32
33 18-17-1007. Designation of parties in eviction.

34 In any trial before the circuit in an eviction case either with or
35 without jury the landlord may be designated as plaintiff and the tenant as
36 defendant.

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18-17-1008. Jury trial.

(a) Either landlord or tenant may demand trial by jury.

(b)(1) In a trial by jury a jury shall be summoned and a jury trial had as in any other civil case.

(2) Upon the testimony offered, under instructions by the court as to the law, the jury shall find for either the landlord or tenant as in any other civil case.

18-17-1009. New trial.

When a jury is had in an eviction case the court may grant a new trial as in any other civil case.

18-17-1010. Effect of verdict for plaintiff.

If the verdict is for the plaintiff the court shall within five (5) days issue a writ of eviction and the tenant shall be evicted by the sheriff of the county.

18-17-1011. 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.

18-17-1012. Appeal.

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

18-17-1013. 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.

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

3
4 18-17-1014. Action of tenant wrongfully dispossessed.

5 In case any tenant is wrongfully dispossessed he or she may have an
6 action for damages against the landlord.

7
8 18-17-1015. Accrual of rent after institution of proceedings.

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

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

21
22 18-17-1016. Commercial leases.

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

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

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

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

35 (b)(1) If a jury trial is requested and upon motion of either party or
36 upon his or her own motion, the circuit judge may order that the commercial

1 lease eviction case be heard at the next term of court following the tenant's
2 appearance.

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

5 (3)(A) If the tenant appears in response to the rule and alleges
6 that rent due as provided by § 18-17-1015 and this section has been paid, the
7 court shall determine the issue.

8 (B) If the tenant has failed to comply with § 18-17-1015
9 and this section, the court shall issue a writ of eviction and the landlord
10 must be placed in full possession of the premises by the sheriff, deputy, or
11 constable.

12 (4) If the amount of rent due is determined at final
13 adjudication to be less than alleged by the landlord, judgment shall be
14 entered for the tenant if the court determines that the tenant has complied
15 fully with the provisions of § 18-17-1015, this section, and the lease
16 agreement.

17 (5) If the court orders that the tenant pay all rent due and
18 accruing as of and during the pendency of the action as provided by Section
19 27-37-150 and this section, the writ may require the payments to be made:

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

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

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

28 (c) If the tenant fails to make a payment as provided in Section 27-
29 37-150 and this section, the tenant's failure to comply entitles the landlord
30 to execution of the judgment for possession and, upon application of the
31 landlord, the circuit judge shall issue a writ of eviction and the landlord
32 shall be placed in full possession of the premises by the sheriff, deputy, or
33 constable.

34
35 18-17-1017. Execution of writ of eviction.

36 (a) In executing a writ of eviction, the sheriff shall proceed to the

1 premises, present to the occupants a copy of the writ and give the occupants
2 twenty-four (24) hours to vacate voluntarily.

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

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

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

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

17 (f) Discretion may be exercised by the sheriff in granting a delay in
18 the dispossession of ill or elderly tenants.

19
20 *SECTION 2. Arkansas Code Title 18, Chapter 16, Subchapters 1 through 3*
21 *are repealed.*

22 ~~18-16-101. Failure to pay rent—Refusal to vacate upon notice—~~
23 ~~Penalty.~~

24 ~~(a) Any person who shall rent any dwelling house or other building or~~
25 ~~any land situated in the State of Arkansas and who shall refuse or fail to~~
26 ~~pay the rent therefor when due according to contract shall at once forfeit~~
27 ~~all right to longer occupy the dwelling house or other building or land.~~

28 ~~(b)(1) If, after ten (10) days' notice in writing shall have been~~
29 ~~given by the landlord or the landlord's agent or attorney to the tenant to~~
30 ~~vacate the dwelling house or other building or land, the tenant shall~~
31 ~~willfully refuse to vacate and surrender the possession of the premises to~~
32 ~~the landlord or the landlord's agent or attorney, the tenant shall be guilty~~
33 ~~of a misdemeanor.~~

34 ~~(2) Upon conviction before any justice of the peace or other~~
35 ~~court of competent jurisdiction in the county where the premises are~~
36 ~~situated, the tenant shall be fined twenty five dollars (\$25.00) per day for~~

1 each day that the tenant fails to vacate the premises.

2 ~~(c)(1) Any tenant charged with refusal to vacate upon notice who~~
3 ~~enters a plea of not guilty to the charge of refusal to vacate upon notice~~
4 ~~and who continues to inhabit the premises after notice to vacate pursuant to~~
5 ~~subsection (b) of this section shall be required to deposit into the registry~~
6 ~~of the court a sum equal to the amount of rent due on the premises. The~~
7 ~~rental payments shall continue to be paid into the registry of the court~~
8 ~~during the pendency of the proceedings in accordance with the rental~~
9 ~~agreement between the landlord and the tenant, whether the agreement is~~
10 ~~written or oral.~~

11 ~~(2)(A) If the tenant is found not guilty of refusal to vacate~~
12 ~~upon notice, the rental payments shall be returned to the tenant.~~

13 ~~(B) If the tenant is found guilty of refusal to vacate~~
14 ~~upon notice, the rental payment paid into the registry of the court shall be~~
15 ~~paid over to the landlord by the court clerk.~~

16 ~~(3) Any tenant who pleads guilty or nolo contendere to or is~~
17 ~~found guilty of refusal to vacate upon notice and has not paid the required~~
18 ~~rental payments into the registry of the court shall be guilty of a Class B~~
19 ~~misdemeanor.~~

20
21 ~~18-16-102. Lessee unlawfully collecting from subtenant — Penalty.~~

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

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

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

1 misdemeanor.

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

6

7 ~~18-16-103. Rent collection by personal representative of life tenant.~~

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

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

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

16

17 ~~18-16-105. Termination of oral lease of farmlands.~~

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

23

24 ~~18-16-106. Holding over after termination of term.~~

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

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

35

36 ~~18-16-107. Failure to quit after notice of intention.~~

1 ~~(a) If any tenant shall give notice in writing of his or her intention~~
2 ~~to quit the premises held by him or her at a time specified in the notice and~~
3 ~~shall not deliver up the possession thereof at such time, the tenant, his or~~
4 ~~her executor or administrator, shall henceforth pay to the landlord, his or~~
5 ~~her heirs or assigns, double the rent reserved during all the time the tenant~~
6 ~~shall so continue in possession of the premises.~~

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

9
10 ~~18 16 108. Property left on premises after termination of lease.~~

11 ~~(a) Upon the voluntary or involuntary termination of any lease~~
12 ~~agreement, all property left in and about the premises by the lessee shall be~~
13 ~~considered abandoned and may be disposed of by the lessor as the lessor shall~~
14 ~~see fit without recourse by the lessee.~~

15 ~~(b) All property placed on the premises by the tenant or lessee is~~
16 ~~subject to a lien in favor of the lessor for the payment of all sums agreed~~
17 ~~to be paid by the lessee.~~

18
19 ~~18 16 110. Landlord's liability arising from alleged defects or~~
20 ~~disrepair of premises.~~

21 ~~No landlord or agent or employee of a landlord shall be liable to a~~
22 ~~tenant or a tenant's licensee or invitee for death, personal injury, or~~
23 ~~property damage proximately caused by any defect or disrepair on the premises~~
24 ~~absent the landlord's:~~

25 ~~(1) Agreement supported by consideration or assumption by~~
26 ~~conduct of a duty to undertake an obligation to maintain or repair the leased~~
27 ~~premises; and~~

28 ~~(2) Failure to perform the agreement or assumed duty in a~~
29 ~~reasonable manner.~~

30
31 ~~18 16 111. Manufactured homes and mobile homes on leased land.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~(2) If the lienholder fails to remove the manufactured home or~~
2 ~~mobile home within thirty (30) days, the manufactured home or mobile home~~
3 ~~shall be subject to a lien in favor of the lessor for the payment of all~~
4 ~~lease or rental payments beginning on the date that the notice is received by~~
5 ~~the lienholder in an amount equal to the monthly lease or rental payments~~
6 ~~contained in the notice.~~

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

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

14
15 ~~18-16-201. Ejectment for nonpayment of rent.~~

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

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

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

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

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

35 ~~(f) If the rent and costs remain unpaid for six (6) months after~~
36 ~~execution upon such a judgment in ejectment is executed and no complaint for~~

1 relief in equity is filed within that time, then the lessee and his or her
2 assigns, and all other persons deriving title under the lease from the
3 lessee, shall be barred from all relief in law or equity, except for error in
4 the record or proceedings, and the landlords shall henceforth hold the
5 demised premises discharged from the lease.

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

11
12 ~~18-16-202. Duty of tenant to notify landlord.~~

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

16
17 ~~18-16-203. Actions for use and occupation.~~

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

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

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

30
31 ~~18-16-204. Remedy when lease for life.~~

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

34
35 ~~18-16-205. Recovery of rent in arrears due decedent.~~

36 ~~(a) Every person entitled to any rent dependent upon the life of any~~

1 other may notwithstanding the death of the other person have the same remedy
2 by action for the recovery of all arrears of the rent that may be due and
3 unpaid at the death of the person as he or she might have if the person were
4 still living.

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

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

14
15 ~~18-16-301. Definitions.~~

16 ~~As used in this subchapter:~~

17 (1) ~~"Dwelling unit" means a structure or the part of the~~
18 ~~structure that is used as a home, residence, or sleeping place by one (1)~~
19 ~~person who maintains a household or by two (2) or more persons who maintain a~~
20 ~~common household;~~

21 (2) ~~"Landlord" means the owner, lessor, or sublessor of the~~
22 ~~dwelling unit or the building of which it is a part;~~

23 (3) ~~"Owner" means one (1) or more persons, jointly or severally,~~
24 ~~in whom is vested:~~

25 (A) ~~All or part of the legal title to property; or~~

26 (B) ~~All or part of the beneficial ownership and a right to~~
27 ~~present use and enjoyment of the premises. The term includes a mortgagor in~~
28 ~~possession;~~

29 (4) ~~"Person" means any individual, firm, partnership,~~
30 ~~corporation, association, or other organization;~~

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

35 (6) ~~"Rent" means all payments to be made to the landlord under~~
36 ~~the rental agreement;~~

1 ~~(7) "Rental agreement" means all written or oral agreements and~~
2 ~~valid rules and regulations embodying the terms and conditions concerning the~~
3 ~~use and occupancy of a dwelling unit and premises; and~~

4 ~~(8) "Tenant" means a person entitled under a rental agreement to~~
5 ~~occupy a dwelling unit to the exclusion of others.~~

6
7 ~~18-16-302. Transferee, etc., bound.~~

8 ~~The transferee, assignee, or other holder of the landlord's interest in~~
9 ~~the premises at the time of the termination of the tenancy is bound by this~~
10 ~~subchapter.~~

11
12 ~~18-16-303. Exemptions.~~

13 ~~(a) This subchapter shall not apply to dwelling units owned by an~~
14 ~~individual, if the individual, his or her spouse and minor children, and any~~
15 ~~and all partnerships, corporations, or other legal entities formed for the~~
16 ~~purpose of renting dwelling units and of which they are officers, owners, or~~
17 ~~majority shareholders own, or collectively own, five (5) or fewer dwelling~~
18 ~~units.~~

19 ~~(b) This exemption does not apply to units for which management,~~
20 ~~including rent collection, is performed by third persons for a fee.~~

21
22 ~~18-16-304. Maximum amount.~~

23 ~~A landlord may not demand or receive a security deposit, however~~
24 ~~denominated, in an amount or value in excess of two (2) months periodic rent.~~

25
26 ~~18-16-305. Refund required—Exceptions.~~

27 ~~(a)(1) Within thirty (30) days of termination of the tenancy, property~~
28 ~~or money held by the landlord as security shall be returned to the tenant.~~

29 ~~(2) However, the money may be applied to the payment of accrued~~
30 ~~unpaid rent and any damages which the landlord has suffered by reason of the~~
31 ~~tenant's noncompliance with the rental agreement, all as itemized by the~~
32 ~~landlord in a written notice delivered to the tenant, together with the~~
33 ~~remainder of the amount due thirty (30) days after termination of the tenancy~~
34 ~~and delivery of possession by the tenant.~~

35 ~~(b)(1) The landlord shall be deemed to have complied with subsection~~
36 ~~(a) of this section by mailing via first class mail the written notice and~~

1 any payment required to the last known address of the tenant.

2 (2) If the letter containing the payment is returned to the
3 landlord and if the landlord is unable to locate the tenant after reasonable
4 effort, then the payment shall become the property of the landlord one
5 hundred eighty (180) days from the date the payment was mailed.

6
7 ~~18-16-306. Remedies.~~

8 (a)(1) If the landlord fails to comply with this subchapter, the
9 tenant may recover:

10 (A) The property and money due him or her;

11 (B) Damages in an amount equal to two (2) times the amount
12 wrongfully withheld;

13 (C) Costs; and

14 (D) Reasonable attorney's fees.

15 (2) However, the landlord shall be liable only for costs and the
16 sum erroneously withheld if the landlord shows by the preponderance of the
17 evidence that his or her noncompliance:

18 (A) Resulted from an error which occurred despite the
19 existence of procedures reasonably designed to avoid such errors; or

20 (B) Was based on a good faith dispute as to the amount
21 due.

22 (b) This section does not preclude the landlord or tenant from any
23 other relief to which either may be lawfully entitled.

24
25 *SECTION 3. Arkansas Code Title 18, Chapter 16, Subchapter 5 is*
26 *repealed.*

27
28 ~~18-16-501. Common nuisance—Criminal offense.~~

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

35
36 ~~18-16-502. Gambling—Prostitution—Alcohol.~~

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

6
7 ~~18-16-503. Complaint.~~

8 ~~The prosecuting attorney of the county, the city attorney of the city,~~
9 ~~the premises owner, or an agent for the premises owner may file a complaint~~
10 ~~in the office of the clerk of the circuit court for the eviction of any~~
11 ~~tenant who has used or has allowed another person to use the tenant's leased~~
12 ~~premises for use as a common nuisance, as defined by § 5-74-109(b) or § 16-~~
13 ~~105-402, or for a criminal offense, as identified in § 18-16-502.~~

14
15 ~~18-16-504. Form of complaint.~~

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

19
20 ~~18-16-505. Summons—Notice.~~

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

27
28 ~~"NOTICE OF INTENTION TO EVICT FOR CRIMINAL ACTIVITY~~

29
30 ~~You are hereby notified that the attached complaint in the above-styled cause~~
31 ~~claims that you have engaged in or have allowed the property described in the~~
32 ~~above-mentioned complaint to be used for criminal activity and that the~~
33 ~~plaintiff is entitled to have you evicted pursuant to state law. If, within~~
34 ~~five (5) days, excluding Sundays and legal holidays, after the date of~~
35 ~~service of this notice, you have not filed in the office of the circuit clerk~~
36 ~~of this county a written objection to the claims made against you by the~~

1 ~~plaintiff in his or her complaint for eviction, then a writ of ejectionment~~
 2 ~~shall forthwith issue from this office directed to the sheriff of this county~~
 3 ~~or to the police chief of the city and ordering him or her to remove you from~~
 4 ~~possession of the property described in the complaint. If you should file a~~
 5 ~~written objection to the complaint of the plaintiff and the allegations for~~
 6 ~~immediate possession of the property described in the complaint within five~~
 7 ~~(5) days, excluding Sundays and legal holidays, after the date of service of~~
 8 ~~this notice, a hearing will be scheduled by the circuit court of this county~~
 9 ~~after you have timely answered to determine whether or not the writ of~~
 10 ~~ejectionment should issue as sought by the plaintiff.~~

11
 12
 13

14
 15 Circuit Clerk of County"

16
 17 18-16-506. ~~Written objection.~~

18 (a) ~~If, within five (5) days, excluding Sundays and legal holidays,~~
 19 ~~following service of this summons, complaint, and notice seeking a writ of~~
 20 ~~ejectionment against the defendants named therein, the defendant or defendants~~
 21 ~~have not filed a written objection to the claim for a writ of ejectionment made~~
 22 ~~by the plaintiff in his or her complaint, the clerk of the circuit court~~
 23 ~~shall immediately issue a writ of ejectionment directed to the sheriff of the~~
 24 ~~county or the police chief of the city commanding him or her to cause the~~
 25 ~~defendant or defendants to vacate the property described in the complaint~~
 26 ~~without delay, which the sheriff or police chief shall thereupon execute in~~
 27 ~~the manner described in § 18-16-507.~~

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

35 (2)(A) ~~If such a hearing is required, at the hearing the~~
 36 ~~plaintiff shall present evidence sufficient to make a prima facie case of the~~

1 ~~riminal activity that has been facilitated at the property described in the~~
2 ~~complaint.~~

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

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

10
11 ~~18-16-507. Writ of ejectment.~~

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

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

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

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

1 ~~other reasonable safe place of storage under the control of the plaintiff~~
2 ~~until the defendant or defendants may recover the property within seven (7)~~
3 ~~business days.~~

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

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

12 ~~(d) In executing the writ of ejectment, the sheriff or police chief~~
13 ~~shall have the right forcibly to remove all locks or other barriers erected~~
14 ~~to prevent entry upon the premises in any manner which he or she deems~~
15 ~~appropriate or convenient and, if necessary, physically to restrain the~~

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17 */s/ Wills*
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