

Hall of the House of Representatives
93rd General Assembly - Regular Session, 2021
Amendment Form

Subtitle of House Bill No. 1563

TO AMEND THE ARKANSAS RESIDENTIAL LANDLORD-TENANT ACT OF 2007; TO CREATE A CIVIL
EVICITION PROCESS; AND TO REQUIRE MINIMUM HABITABILITY STANDARDS FOR TENANTS OF
RESIDENTIAL REAL PROPERTY.

Amendment No. 1 to House Bill 1563

Amend House Bill No. 1563 as originally introduced:

Add Representatives Brown, Hillman, Vaught, Clowney, M. Hodges, Scott as
cosponsors of the bill

AND

Page 2, delete lines 9 and 10, and substitute the following:

"SECTION 2. Arkansas Code § 18-17-706 is amended to read as follows:
18-17-706. Payment of rent into court.

In any action in which the landlord sues for possession and the tenant
raises defenses or counterclaims under this chapter or the rental agreement:

(1)(A)(i) The tenant shall pay the landlord all rent that
becomes due after the issuance of a written order requiring the tenant to
vacate or show cause as rent becomes due.

(ii) The landlord shall provide the tenant with a
written receipt for each payment except when the tenant pays by check.

(B) Rent shall 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; and

(2) The tenant shall pay the landlord all rent allegedly owed
before the issuance of the order, provided that in lieu of the payment the
tenant may be allowed to submit to the court a receipt or 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 writ of possession under this subchapter.~~

~~(B)(i) Should the tenant appear in response to the order and allege that rent due under subdivision (1) or (2) of this section has been paid, the court shall determine the issue.~~

~~(ii) If the tenant has failed to comply with subdivision (1) or (2) of this section, the court shall issue a writ of possession and the landlord shall be placed in full possession of the premises by the sheriff; and~~

~~(4)(A) If the amount of rent due is found at final adjudication to be less than alleged by the landlord, judgment shall be entered for the amount found due to the landlord.~~

~~(B) If the court finds at final adjudication that no rent is due and no damages are due the landlord, judgment shall be entered for the tenant.~~

Delete SECTION 2 in its entirety

AND

Page 6, delete line 25, and substitute the following:
"against a tenant in a circuit court or district court having jurisdiction over the eviction"

AND

Page 7, delete lines 23 through 33

AND

Page 7, line 35, delete "18-17-905" and substitute "18-17-904"

AND

Page 8, delete lines 8 through 11, and substitute the following:

"(2) A district court if:

(A) Jurisdiction is established by the Supreme Court under Arkansas Constitution, Amendment 80, § 7, and if the eviction cases are assigned to district courts through the administrative plan under Supreme Court Administrative Order No. 14; or

(B) The General Assembly passes this act by a two-thirds (2/3) or greater vote to amend Supreme Court Administrative Order No. 18 under Arkansas Constitution Amendment 80 § 9."

AND

Page 8, delete line 31, and substitute the following:

"reason based on the Defendant's race, color, national origin, sex, religion,"

AND

Page 9, line 5, delete "18-17-906" and substitute "18-17-905"

AND

Page 9, line 8, delete "lease" and substitute "rental agreement"

AND

Page 9, delete line 20, and substitute the following:

"landlord in an uncontested action for eviction when the tenant vacates at least two (2) days prior to the date the hearing is to be held on the complaint under § 18-17-906 and informs the court that he or she has vacated the premises."

AND

Page 9, line 22, delete "18-17-907" and substitute "18-17-906"

AND

Page 10, delete lines 7 and 8, and substitute the following:

"Your landlord has filed a complaint for your eviction."

AND

Page 10, delete lines 13 and 14, and substitute the following:

"that, in the case of nonpayment of rent, either 1) you paid the rent due or 2) you have a legal defense excusing you from paying rent. If the eviction has been filed based on grounds other than the nonpayment of rent, you must prove either 1) that you did not breach the rental agreement, 2) that you have cured the breach within fourteen (14) days, or 3) that the term of your rental agreement has not ended. You have the right to have an attorney represent you in"

AND

Page 10, delete lines 17 through 22, and substitute the following:

"not paid rent, that you have breached the rental agreement without curing the breach within fourteen (14) days, or that your rental agreement has ended, the Court will immediately order the sheriff to evict you and return possession of the rental property to the landlord, and the Court will order you to pay costs. If the Court finds you did not act in good faith or

willfully violated your rental agreement, the Court may order you to pay the landlord's attorney's fees, if any. If you move out at least two (2) days prior to the date the hearing is to be held on the complaint under Arkansas Code § 18-17-906 and notify the Court that you have vacated the premises, the Court will not order you to pay court costs or attorney's fees."

Page 10, line 27, delete "18-17-908" and substitute "18-17-907"

AND

Page 10, delete line 35, and substitute the following:

"(3) Raise defenses to excuse nonpayment.

(c) A tenant's failure to appear at the hearing with no prior notice to the court will result in a judgment for the landlord."

AND

Page 11, line 1, delete "18-17-909" and substitute "18-17-908"

AND

Page 11, line 16, delete "18-17-910" and substitute "18-17-909"

AND

Page 11, line 21, delete "18-17-911" and substitute "18-17-910"

AND

Page 12, line 11, delete "18-17-503" and substitute "18-17-502"

AND

Page 12, delete lines 20 through 36

AND

Page 13, delete lines 1 through 12

AND

Page 13, line 14, delete "18-17-503" and substitute "18-17-502"

AND

Page 13, delete lines 19 through 21, and substitute the following:

"(b) A landlord who is the owner of more than one (1) dwelling unit or who has a partial legal or equitable ownership interest, directly or indirectly, whether through multiple legal entities or otherwise, in more than one (1) dwelling unit shall ensure the premises:"

AND

Page 13, delete lines 22 through 25, and substitute the following:

"(1) Have reasonable waterproofing and weather protection of the"

AND

Page 13, line 28, delete "(3)" and substitute "(2)"

AND

Page 13, delete line 29, and substitute the following:

"supplied air conditioning that are maintained in good"

AND

Page 13, line 31, delete "(4)" and substitute "(3)"

AND

Page 13, delete lines 32 and 33, and substitute the following:

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

AND

Page 13, delete lines 34 and 35, and substitute the following:

"(5) Have reasonable measures in place to control an infestation of rodents, insects, and vermin that materially affects the health and"

AND

Page 14, delete lines 1 through 3, and substitute the following:

"(6) Are maintained in a condition as to prevent the accumulation"

AND

Page 14, delete lines 6 through 9, and substitute the following:

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

AND

Page 14, line 13, delete "(11)(A)" and substitute "(8)(A)"

AND

Page 14, line 19, delete "(12)" and substitute "(9)"

AND

Page 14, delete line 21, and substitute the following:
"health and safety of the occupants; and"

AND

Page 14, delete lines 22 through 28, and substitute the following:
"(10) Have working locks or other security devices on all exterior doors."

AND

Page 14, delete line 29, and substitute the following:
"(c) A landlord is not in noncompliance with this section if the rental"

AND

Page 14, delete lines 32 through 36

AND

Page 15, delete lines 1 through 10

AND

Page 15, line 12, delete "18-17-504" and substitute "18-17-503"

AND

Page 15, delete line 18 through 20, and substitute the following:
"(b) Except as provided in this chapter, if there is a noncompliance by the landlord under § 18-17-502 that materially affects the health and safety of the tenant,"

AND

Page 15, delete line 26, and substitute the following:
"written notice of the tenant's intent to terminate the rental agreement and any remainder of the term of the rental agreement by a"

AND

Page 15, delete line 31, and substitute the following:
"(A) Recover any restitution to which the tenant is entitled due to the landlord's noncompliance;"

AND

Page 15, delete lines 34 and 36, and substitute the following:

"(C) Cause repairs to be made to the premises in a workmanlike manner by a licensed and insured contractor, and after submitting to the landlord an itemized statement and receipt, deduct from his or her rent the actual and reasonable cost of the repairs, not to exceed one (1) month's periodic rent in any twelve-month period, unless the landlord and tenant agree in writing to a larger deduction."

AND

Page 16, delete lines 1 and 2

AND

Page 16, delete lines 17 and 18, and substitute the following:
"reasonable attorney's fees and costs for a noncompliance by the landlord with § 18-16-502 that has materially affected"

AND

Page 16, line 28, delete "unearned" and substitute "prepaid"

AND

Page 16, delete lines 30 through 36

AND

Page 17, delete line 1

AND

Page 17, line 3, delete "18-17-505" and substitute "18-17-504"

AND

Page 17, delete lines 5 through 14, and substitute the following:

"(a)(1) If a landlord fails to comply with § 18-17-502 so as to materially affect the health and safety of the tenant and the tenant has complied with § 18-17-503, the tenant may counterclaim against the landlord based on possession of the premises or nonpayment of rent on the grounds of material noncompliance under § 18-17-502 and counterclaim for any amount the tenant may recover under this chapter.

(2) A tenant prosecuted in a failure to vacate action may produce evidence of expenses incurred by the landlord's noncompliance with § 18-17-502 as proof that nonpayment of rent was not willful and that the elements of the criminal offense were not proven by the landlord."

AND

Page 17, delete lines 15 through 17, and substitute the following:

"(b)(1) The tenant shall pay into the registry of the court or into an"

AND

Page 17, delete lines 21 and 22, and substitute the following:

"party.

(3) If rent has been paid into an escrow account under this section, the court shall order the immediate release of any rent owed to the landlord and any damages owed to the tenant.

(4) If no rent remains due after the application of this"

AND

Page 17, line 25, delete "(d)" and substitute "(c)"

AND

Page 17, line 29, delete "(e)" and substitute "(d)"

AND

Page 17, line 33, delete "18-17-506" and substitute "18-17-505"

AND

Page 18, line 12, delete "18-17-503" and substitute "18-17-502"

AND

Page 18, line 36, delete "18-17-507" and substitute "18-17-506"

AND

Page 19, line 1, delete "18-17-506(a)" and substitute "18-17-505(a)(1)-(4)"

AND

Page 19, line 5, delete "18-17-506" and substitute "18-17-505"

AND

Page 19, line 13, delete "unearned" and substitute "prepaid"

AND

Page 19, line 15, delete "18-17-503" and substitute "18-17-502"

AND

Delete SECTION 7 in its entirety

AND

Delete SECTION 8 in its entirety

AND

Page 20, delete line 2, and substitute the following:

SECTION 6. Arkansas Code Title 18, Chapter 17, Subchapter 9, is repealed.

~~Subchapter 9~~
~~—Eviction Proceedings~~

~~18-17-901.—Grounds for eviction of tenant.~~

~~(a)—A landlord or his or her agent may commence eviction proceedings against a tenant in a district court having jurisdiction over the eviction proceeding, 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 rental agreement have been violated.~~

~~(b)—For residential rental agreements, nonpayment of rent within five (5) 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)(A)—When grounds exist for eviction of a tenant under this subchapter, a landlord or his or her agent may commence an action for eviction by filing with a district court having jurisdiction a complaint and supporting affidavit of eviction that specifies the grounds for the eviction.~~

~~(B)—The supporting affidavit shall be signed by a person with personal knowledge of the grounds for eviction.~~

~~(2)—The fee for filing an action under this chapter by a complaint with supporting affidavit of eviction shall be as provided in § 16-17-705.~~

~~(b)—Upon the filing by the landlord or his or her agent or attorney of a complaint and supporting affidavit of eviction, the district 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 by the court within ten (10) calendar days after the date of service of a copy of the order upon the tenant.~~

~~18-17-903. Service of order—Posting and mailing requirements.~~

~~(a) The copy of the order to vacate 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 district court of this state.~~

~~(b) When service in accordance with subsection (a) of this section has been unsuccessfully attempted and no person is found in possession of the premises, the copy of the order to vacate may be served by leaving it 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-calendar-day period provided in § 18-17-902(b) as directed by the order or at the court appointed hearing date, the court shall enter judgment in favor of the plaintiff and direct the clerk to issue a writ of possession, 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 eviction proceeding in a district court, the landlord shall be designated as plaintiff and the tenant as defendant.~~

~~18-17-907. Effect of judgment for plaintiff.~~

~~If the judgment is for the plaintiff, the district 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 judgment for defendant.~~

~~If the judgment is for the defendant, the tenant shall be entitled to~~

~~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 that 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)(1) After the commencement of eviction proceedings by the issuance of an order to vacate or to show cause as provided in § 18-17-902, the rent 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 order to vacate or show cause.~~

~~(2) The tenant shall be liable for the payment of the rent, the collection of which may be enforced 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 the issuance of the order to vacate or to show cause or shall subsequently accrue, shall not operate as a waiver of the landlord's right to insist upon eviction or 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 order to vacate or to show cause shall control.~~

~~18-17-912. Commercial leases.~~

~~(a) In any action involving a commercial lease in which the landlord sues for possession and the tenant raises defenses or counterclaims under this chapter or the lease agreement:~~

~~(1)(A) The tenant shall pay the landlord all rent that becomes due after the issuance of the order requiring the tenant to vacate or show cause as rent becomes due.~~

~~(B) 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 order to vacate or to show cause.~~

~~(B) However, in lieu of the payment under subdivision (a)(2)(A) of this section the tenant may be allowed to submit to the court a receipt or cancelled check, or both, indicating that payment has been made to the landlord.~~

~~(b)(1) If the amount of rent is in controversy, the court shall preliminarily determine the amount of rent to be paid to the landlord.~~

~~(2)(A) If the tenant appears in response to the order to vacate or to show cause and alleges that rent due owed under § 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 possession, and the landlord shall be placed in full possession of the premises by the sheriff.~~

~~(3) If the amount of rent due is determined at final adjudication to be less than the amount 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.~~

~~(4) If the court orders that the tenant pay all rent due and accruing as of and during the pendency of the action, the judgment may require the payments to be made to either the:~~

~~(A) Commercial landlord; or~~

~~(B)(i) Clerk of the district court who shall hold the payments until the final disposition of the case.~~

~~(ii)(a) If payments are to be made through the district clerk's office, a fee of three percent (3%) of the rental payment shall be added to the amount paid through the district clerk's office.~~

~~(b) The fee of three percent (3%) shall be retained by the district clerk'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 district court shall issue a writ of possession and the landlord shall be placed in full possession of the premises by the sheriff or his or her deputy.~~

~~18-17-913. Execution of writ of possession.~~

~~In executing a writ of possession, the sheriff shall proceed in accordance with the provisions of § 18-60-310."~~

AND

Appropriately renumber the sections of the bill

The Amendment was read _____
By: Representative Gazaway
DTP/DTP - 03-08-2021 14:31:19
DTP173

Chief Clerk