



This document is for informational purposes only and does not constitute legal advice. Please contact the OTA if you have any questions or wish to consult an attorney.

WHAT RENTERS SHOULD KNOW ABOUT “THE RESIDENTIAL LEASE AMENDMENT ACT OF 2016”

The “Residential Lease Clarification Amendment Act of 2016” (DC Law 21-210, effective February 18, 2017) (the Act) clarifies certain aspects of District rental housing law pertaining to residential leases. The following tenant protections generally apply notwithstanding any lease clause to the contrary.

Landlord’s duty to mitigate damages: The Act codifies the “landlord duty to mitigate damages” in the context of residential leases. Under general contract law principles, the housing provider has a duty to mitigate damages when the tenant is in breach of the lease. For example, a tenant who moves out early generally remains responsible for paying the rent through the end of the lease term. However, the housing provider is not entitled to collect *avoidable* damages. Rather, the housing provider must have made good faith efforts to re-let the unit to another tenant.

Security deposits and improper withholding: The Act codifies District case law regarding when the housing provider may apply the security deposit to cover repair costs after a tenant moves out. Such withholding is permissible to recover the cost of repairs resulting from “negligence, carelessness, accident, or abuse” by “the tenant, immediate family member, or a guest.” Such withholding is prohibited, however, regarding damages that are due to “ordinary wear and tear” – which is defined as “deterioration that results from the intended use of a dwelling unit.”

Mandatory services and facilities fees: For any unit under rent control, the Act clarifies that no mandatory fee for a service or facility may be imposed unless the fee has been approved pursuant to a Services and Facilities Petition or a 70% Voluntary Agreement. The housing provider may impose a fee for storage space or parking or other optional service or facility.

Housing provider access to the unit: Under District case law, a housing provider’s unreasonable entry into the rental unit violates the tenant’s right of quiet enjoyment. The Act establishes specific standards of reasonableness and declares such entry in non-

The Office of the Tenant Advocate
2000 14th Street, NW
Suite 300 North
Washington, DC 20009

(202) 719-6560

emergency situations to be reasonable only if: (1) the tenant has been given at least 48 hours written notice absent the tenant's agreement otherwise; (2) the entry occurs between 9 am and 5 pm, and not on a Sunday or federal holiday, unless the tenant has agreed to another time; and (3) it is for a reasonable purpose. Reasonable purposes include maintaining safety or services, inspecting, repairing, and showing the unit to a prospective purchaser or tenant. A tenant who has alleged housing code violations may not unreasonably prevent the housing provider from entering the unit to assess and abate the problem.

Tenant's Notice of Intent to Vacate: The Act clarifies existing law regarding the tenant notice of intent to vacate the unit during a month-to-month tenancy. A housing provider may not require a month-to-month tenant to give more than a 30-day notice of his or her intent to vacate the unit. The tenant should be aware, however, that the notice does not take effect until 30 days after the date that the rent is next due. For example, if a tenant's notice of intent to vacate the unit is given to the housing provider on February 15th, and the rent is next due on March 1st, then the tenancy will not terminate until April 1.

The law is somewhat different for a tenant who wishes to move out upon the expiration of the written lease term, i.e., before the tenancy becomes month-to-month. In that instance, the lease may require more than 30 days-notice of a tenant's intent to vacate, but only if the lease also entitles the tenant to a written notice of a rent increase that is at least 15 days longer than that. For example, if the lease requires the tenant to provide a 60-day notice of intent to vacate, the lease must also entitle the tenant to a 75-day notice of a rent increase. If the lease fails to do so, the tenant is only required to give the housing provider a 30-day notice of intent to vacate.

Subletting: The Act codifies the housing provider's right to prohibit subletting altogether. If the lease does not expressly do so, the Act protects the tenant's reasonable expectation that subletting is permitted. In that instance, the housing provider may condition subletting on reasonable rental qualification guidelines, but may not unreasonably withhold consent to subletting.

Penalties: Treble damages apply if a housing provider: (a) has violated the Act regarding the tenant notice of intent to vacate or subletting, or section 304 of Title 14 of the D.C. Municipal Regulations ("Prohibited Waiver Clauses in Lease Agreements"); and (b) is found to have acted in bad faith.