WEST VIRGINIA CODE CHAPTER 37 ARTICLE 6

WV Legislature

§37-6-1. Rights of parties on transfer of land or reversion.

An heir, devisee, grantee or assignee of any land let to lease, or of the reversion thereof, and his heirs, personal representative or assigns, shall enjoy against the lessee, his personal representative, devisees or assigns, the like advantage by action or entry upon any condition or forfeiture, or by action upon any covenant or promise in the lease, which the grantor, assignor, or lessor might have enjoyed.

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§37-6-2. Rights of lessee against transferee of reversion.

A lessee, his personal representatives, devisees or assigns, may have against an heir, devisee, grantee or alienee of the reversion, or of any part thereof, or of any estate therein, his heirs, devisees, or assigns, the like benefit of any condition, covenant, or promise in the lease, as he could have had against the lessors themselves; except the benefit of any warranty, in deed or law.

WV Legislature

§37-6-3. Effect of transfer of rent, reversion or remainder.

When rents are inherited, conveyed or devised, all rights of distress and reentry, or either of them, shall pass to the heir, grantee or devisee without express words. An inheritance, grant, or devise of a rent, or of a reversion or remainder, shall be good and effectual without attornment of the tenant; but no tenant, who, before the death of the ancestor or testator, or before notice of the grant, shall have paid the rent to the ancestor, testator, or grantor, shall suffer any damage thereby.

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§37-6-4. Attornment to stranger void.

The attornment of a tenant to any stranger shall be void, unless it be with the consent of the landlord of such tenant, or pursuant to, or in consequence of, the judgment, order, or decree of a court.

WV Legislature

§37-6-5. Notice to terminate tenancy.

A tenancy from year to year may be terminated by either party giving notice in writing to the other, at least three months prior to the end of any year, of his intention to terminate the same. A periodic tenancy, in which the period is less than one year, may be terminated by like notice, or by notice for one full period before the end of any period. When such notice is to the tenant, it may be served upon him or upon anyone holding under him the leased premises, or any part thereof. When it is by the tenant, it may be served upon anyone who at the time owns the premises in whole or in part, or the agent of such owner, or according to the common law. This section shall not apply where, by special agreement, some other period of notice is fixed, or no notice is to be given; nor shall notice be necessary from or to a tenant whose term is to end at a certain time.

WV Legislature

§37-6-6. Desertion of leased property; entry; recovery of rent, disposition of abandoned personal property; notice.

(a) If any tenant from whom rent is in arrears and unpaid abandons the leased property, the landlord or his or her agent shall post a notice in writing in a conspicuous part of the property, requiring the tenant to pay the rent within one month. If the rent is not paid within that time, the landlord shall be entitled to possession of the property, and may enter thereon, and the right of the tenant to the leased property shall end. The landlord may recover the rent owed up to the time when he or she became entitled to possession.

(b) If any tenant of a housing development operated by a housing authority abandons the leased property when rent is not a condition of the lease agreement, the housing authority shall post a notice in writing in a conspicuous part of the property, requiring the tenant to respond in writing within one month stating that he or she has not abandoned the leased property. If the tenant does not respond in writing within one month, stating that he or she has not abandoned the leased property, the housing authority shall be entitled to possession of the property, and may enter thereon, and the right of the tenant to the leased property shall end.

(c) Upon regaining possession of the property, the landlord or his or her agent or housing authority may take, dispose of or otherwise remove the tenant's personal property without incurring any liability to the tenant or any other person. To dispose of the tenant's property under this section, the landlord or housing authority shall give a written notice to the tenant that shall be:

(1) Posted in a conspicuous place on the property; and

(2) Sent by first-class mail with a certificate of mailing, which provides a receipt of the date of mailing, in an envelope endorsed "Please Forward", addressed and mailed to the tenant at:

(A) The leased property;

(B) Any post office box held by the tenant and known to the landlord or housing authority; and

(C) The most recent forwarding address if provided by the tenant or known to the landlord or housing authority.

(d) The written notice required under subsection (c) of this section shall state that:

(1) The leased property is considered abandoned;

(2) Any personal property left by the tenant must be removed from the property or from the place of safekeeping, if the landlord or housing authority has stored the property, by a date specified in the written notice that is:

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(A) Not less than thirty days after the date the written notice was mailed; or

(B) Not less than sixty days after the date the written notice was mailed if the tenant has notified the landlord or housing authority that he or she is on active duty in the Armed Forces of the United States.

(3) If the personal property is not removed within the time provided for in this section, then the tenant forfeits his or her ownership rights to the personal property, and the personal property becomes the property of the landlord or housing authority.

(e) Notwithstanding the provisions of subsection (c) of this section, if the abandoned personal property is worth more than $300 and was not removed from the property or from the place of safekeeping within the time period stated in the notice required in subsection (d) of this section, the landlord shall store the personal property for up to thirty additional days if the tenant or any person holding a security interest in the abandoned personal property informs the landlord of their intent to remove the property: Provided, That the tenant or person holding a security interest in the abandoned personal property pays the landlord the reasonable costs of storage and removal.

WV Legislature

§37-6-7. Reletting by landlord.

The landlord, or other person entitled to the rent may, however, at his election, incorporate, in the notice provided for in the preceding section, the further notice that he will, after he shall have taken possession of the demised premises, lease the premises to some other person, in which case the tenant will still remain liable upon his lease, for the unexpired portion of his term, for the difference between the amount of rent received by the landlord from the new tenant, and the amount payable under the lease of the original tenant, and upon any other covenants or agreements contained in the original lease.

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§37-6-8. Tenant's right to recover possession.

If the landlord shall have elected to continue to hold the tenant liable upon his lease, as provided in the preceding section, the tenant shall be entitled, upon the payment of all arrears of rent, and the satisfaction of any liabilities which shall have accrued upon the covenants or agreements contained in his lease, and any other liabilities with which he is chargeable by virtue of his lease, to the possession of the premises, except to the extent that some other person is already in possession of the premises, or is entitled to such possession, by virtue of a lease made by the landlord to such other person pursuant to the notice given under the preceding section, before the tenant shall have notified the landlord in writing of his intention to resume possession of the premises, and shall have satisfied, or tendered an amount sufficient to satisfy, his liabilities under his lease as aforesaid. No tenant whose lease has been lawfully forfeited, under the second preceding section, shall be entitled to any right, either at law or in equity, to be relieved of such forfeiture, or to reenter the premises, except as provided in this section.

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§37-6-9. Recovery of rent by distress or action; evidence; interest.

Rent of every kind may be recovered by distress or action. A landlord may also, by action, recover a reasonable satisfaction for the use and occupation of lands, and, on the trial of such action, if any parol demise, or any agreement wherein a certain rent was reserved, shall appear in evidence, the plaintiff shall not for that reason be nonsuited, but may use the same as evidence of the amount of his debt or damages. In any action for rent, or for such use and occupation, interest shall be allowed as on other contracts.

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§37-6-10. Who may recover rent.

He to whom rent or compensation is due, whether he have the reversion or not, his personal representative or assignee, may recover it as provided in the preceding section, or may, in a proper case, resort to an attachment, whatever be the estate of the person owing it, or though his estate or interest in the land be ended. And when the owner of real estate in fee, or holder of a term, yielding him rent, dies, the rent thereafter due shall be recoverable by such owner's heir or devisee, or such term- holder's personal representative or devisee. And if the owner or holder alien or assign his estate or term, or the rent thereafter to fall due thereon, his alienee or assignee may recover such rent.

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§37-6-11. Persons liable for rent; termination of lease upon death.

(a) Rent may be recovered from the lessee, or other person owing it, or the heir, personal representative, devisee or assignee, who has succeeded to the lessee's estate in the premises. But no assignee shall be liable for rent which became due before his or her interest began. Subject to the provisions of subsection (b), nothing herein shall change or impair the liability of heirs, personal representatives, or devisees, for rent, to the extent and in the manner in which they are liable for other debts of the ancestor or testator; nor shall the mere merger of the reversion to which a rent is incident affect the liability for such rent.

(b) (1) Notwithstanding any other provision of this code to the contrary, upon the death of a lessee of a residential premises, an heir, personal representative, devisee or assignee of the deceased lessee may terminate a lease prior to its expiration.

(2) Termination of a residential lease, as provided in this subsection, shall become effective on the last day of the calendar month that is two months after:

(A) The date on which the notice is hand-delivered to the other party of the lease, or

(B) The date on which the notice, addressed to the other party to the lease, is deposited in the United States mail, postage prepaid, evidenced by the postmark.

(3) Termination of a lease under this subsection does not relieve the lessee's estate from liability for either:

(A) The payment of rent or other sums owed prior to or during the two month written notice period, or

(B) For the payment of amounts necessary to restore the premises to their condition at the commencement of the tenancy, ordinary wear and tear excepted.

(4) The right of termination contained in this subsection may not be waived by a lessor, lessee or lessee's heir, personal representative, devisee or assignee, by contract or otherwise. Any lease provision or agreement requiring a longer notice period than that provided by this article, is void and unenforceable.

(5) The provisions of this subsection apply to residential property leases entered into or renewed on or after July 1, 2012.

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§37-6-12. Distress for rent; time and place; warrant.

Rent may be distrained for within one year after the time it becomes due, and not afterwards, whether the lease be ended or not. The distress shall be made by any sheriff or constable of the county wherein the premises yielding the rent or some part thereof may be or the goods liable to distress may be found, under a warrant from a justice founded upon the affidavit of the person claiming the rent, or his agent, that the amount of money or other thing to be distrained for (to be specified in the affidavit), as he verily believes, is justly due to the claimant for rent reserved upon contract from the person of whom it is claimed.

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§37-6-13. Property subject to distress.

The distress may be levied on any goods of the lessee, or his assignee or undertenant, found on the premises, or which may have been removed therefrom not more than thirty days. If the goods of such lessee, assignee or undertenant, when carried on the premises, are subject to a lien which is valid against his creditors, his interest only in such goods shall be liable to such distress. If any lien be created thereon while they are upon the leased premises, they shall be liable to distress, but for not more than one year's rent, whether it shall have accrued before or after the creation of the lien: Provided, That if the goods are subject to a perfected purchase money security interest, as defined in section one hundred seven, article nine, chapter forty-six of this code, and that such purchase money security interest is in effect under the terms set forth in section four hundred three, article nine of chapter forty-six of this code, then the goods are liable to distress only to the extent of the unencumbered interest of the lessee, assignee or undertenant. No goods shall be liable to distress other than such as are declared to be so liable in this section.

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§37-6-14. Forcible entry by officer.

The officer having such distress warrant or an order of attachment, based upon rent, if there be need for it, may, in the daytime, break open and enter into any house or close in which there may be goods liable to the distress or order, and may, either in the day or nighttime, break open and enter into any house or close wherein there may be any goods so liable, which have been fraudulently or clandestinely removed from the demised premises.

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§37-6-15. Unlawful act after making distress; damages.

Where distress shall be made for rent justly due, and any irregularity or unlawful act shall afterwards be done by the party distraining, or his agent, the distress itself shall not be deemed to be unlawful, nor the party making it be therefore deemed a trespasser ab initio; but the aggrieved by such irregularity or unlawful act may, by action, recover full satisfaction for the special damage he shall have sustained thereby.

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§37-6-16. Distress or attachment when rent not payable in money.

Where goods are distrained or attached for rent reserved in a share of the crops, or in anything other than money, the claimant of the rent, having given the tenant ten days' notice, or if he be out of the county, having set up the notice in some conspicuous place on the premises, may apply to the court or justice to which the distress or attachment is returnable, to fix the value of such rent. Upon such application the court or justice having ascertained the value, either by its own judgment, or, if either party require it, by the verdict of a jury impaneled without the formality of pleading, shall order the goods distrained or attached, to be sold to pay the amount so ascertained.

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§37-6-17. Attachment for rent.

On complaint by any landlord or person entitled to rent, or his agent, to a justice, that any person liable to him for rent intends to remove, or is removing, or has within thirty days removed his effects from the leased premises, if such landlord or person entitled to rent, or his agent, make oath to the truth of such complaint to the best of his belief, and to the rent which is reserved (whether in money or other thing) and will be payable within one year, and the time or times when it will be payable, and also make oath either that there is not, or he believes, unless an attachment issues, there will not be, left on such premises, property liable to distress sufficient to satisfy the rent so to become payable, such justice shall, if the landlord or person entitled to rent, or his agent, shall execute before such justice a bond in the penalty and with the conditions prescribed in section eight, article seven, chapter thirty-eight of this code, issue an order of attachment for such rent against the personal estate of the person so liable therefor. If the amount of rent claimed by the landlord or person entitled to the rent, or his agent, exclusive of interest, is $50 or less than that amount, the order of attachment shall be returnable before the justice issuing the order, or another justice; if the amount of rent so claimed, exclusive of interest, is more than $50 and not more than $300, the order of attachment may be returnable before the justice issuing the order, or another justice, or to the next term of the circuit court thereafter; and if the amount of rent so claimed, exclusive of interest, exceeds $300, the order of attachment shall be returnable to the next term of the circuit court thereafter.

If the order of attachment is returnable to the circuit court, it shall be in form or effect as follows:

"District of ....., ... County, to-wit:

A..... B....., Plaintiff) Order

vs.) of

C..... D....., Defendant) Attachment.

The above-named plaintiff having filed with me the affidavit and bond required by law, the sheriff of the County of ....., or any constable therein to whom this order may come, is hereby required, in the name of the State of West Virginia, to attach and take into his possession the personal estate of the defendant, C..... D....., sufficient to pay the sum of ..... dollars (the sum affiant states will be due), and the costs of this attachment, and to make return of his proceedings under this order to the next term of the circuit court of the said county.

Given under my hand this ..... day of ....., 19.....

E..... F....., Justice."

The defendant, in an attachment issued under the next preceding paragraph, may make

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defense thereto in the same manner and to the same extent as in other cases of attachment; and the same, as to the rent claimed, shall be proceeded in, tried and determined, as if it were an original action brought in said circuit court, and the affidavit and attachment shall take the place of a declaration in the case. The affidavit in such case shall be returned to the clerk of the circuit court by the justice. The provisions of sections seven to forty-six, both inclusive, except sections thirty-seven, thirty-eight, and thirty- nine, article seven, chapter thirty-eight of this code, shall be applicable to attachments issued hereunder and returnable to the circuit court.

If the order of attachment is returnable before a justice, it shall be in form or effect as follows:

"District of ....., ..., County, to-wit:

"A..... B....., Plaintiff,) Order

vs.) of

C..... D....., Defendant.) Attachment

The above-named plaintiff having filed with me the affidavit and bond required by law, any constable in the County of ....., to whom this order may come, is hereby required, in the name of the State of West Virginia, to attach and take into his possession the personal estate of the defendant, C..... D....., sufficient to pay the sum of ..... dollars (the sum affiant states will be due), and the costs of this attachment, and to make return of his proceedings under this order to me (or, if the order is made returnable before another justice, to G..... H.....), a justice of the peace in ..... County.

Given under my hand this ..... day of ....., 19....

E..... F....., Justice."

The provisions of sections seven to twenty-four, both inclusive, article nine, chapter fifty of this code shall be applicable to attachments issued hereunder and returnable before a justice.

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§37-6-18. Removal of goods by third party having lien.

If, after the commencement of any tenancy, a lien be obtained or created by trust deed, mortgage, or otherwise, upon the interest or property in goods on premises leased or rented, of any person liable for the rent, the party having such lien may remove such goods from the premises on the following terms, and not otherwise, that is to say: On the terms of paying to the person entitled to the rent, so much as is in arrear, and securing to him so much as is to become due; what is so paid or secured not being more altogether than a year's rent in any case: Provided, That if the party removing such goods has perfected a purchase money security interest in the goods, as defined in section one hundred seven, article nine, chapter forty-six of this code and that such purchase money security interest is in effect under the terms set forth in section four hundred three, article nine, chapter forty-six of this code, then the goods are liable to distress only to the extent of the unencumbered interest of the lessee, assignee or undertenant. If the goods be taken under legal process, the officer executing it shall, out of the proceeds of the goods, make such payment of what is in arrear; and, as to what is to become due, he shall sell a sufficient portion of the goods on a credit till then, taking from the purchaser bond, with good security, payable to the person so entitled, and delivering such bond to him If the goods be not taken under legal process, such payment and security shall be made and given before their removal. Neither this nor any other section of this article shall affect any lien for taxes or levies.

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§37-6-19. Right of reentry; ejectment; unlawful detainer; judgment by default.

Any person who shall have the right of reentry into the lands by reason of any rent issuing thereout being in arrear, or by reason of the breach of any covenant or condition, may serve a declaration in ejectment on the tenant in possession, where there shall be such tenant, or, if the possession be vacant, by affixing the declaration upon the chief door of any messuage, or at any other conspicuous place on the premises, which service shall be in lieu of a demand and reentry; or may commence an action of unlawful detainer, and obtain service either in person or by publication, as in other such actions, which service shall be in lieu of a demand and reentry; and upon proof to the court, by affidavit in case of judgment by default, or upon proof on the trial that the rent claimed was due, and there was not sufficient property subject to distress upon the premises to satisfy the claim for rent due, or that the covenant or condition was broken before the service of the declaration in ejectment, or the commencement of the action of unlawful detainer, and that the plaintiff had power thereupon to reenter, he shall recover judgment, and have execution for such lands. In case the time for reentering be specified in the instrument creating the rent, covenant or condition, the proceedings in ejectment or unlawful detainer shall not be begun until such time shall have elapsed.

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§37-6-20. Relief against forfeiture.

Should the defendant, or other person for him not pay the rent in arrear, with interests and costs, nor file a bill in equity for relief against such forfeiture, within twelve months after execution executed, he shall be barred of all rights, in law or equity, to be restored to such lands or tenements.

WV Legislature

§37-6-21. Rights of mortgagee or trustee.

Any mortgagee or trustee of the tenant's interest in such lands, or any part thereof, whether he be in possession of the lands or not, may, within twelve months after execution executed, pay the rent and all arrears, with interest and costs, or file a bill in equity for relief against such forfeiture; and thereupon may be relieved against it, on the same terms and conditions as the tenant of such lands or tenements would be entitled to.

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§37-6-22. Injunction against ejectment or unlawful detainer.

If the tenant of such lands, or any person having a right or claim thereto, shall, within the time aforesaid, file his bill for relief in the circuit court of the county wherein the lands are situated, he shall not have or continue any injunction against the proceedings at law on the ejectment or unlawful detainer, unless he shall, within thirty days next after a full and perfect answer filed by the plaintiff in ejectment, or unlawful detainer, bring into court or deposit in some bank within the state, to the credit of the cause, such money as the plaintiff in ejectment or unlawful detainer shall, in his answer, swear to be due and in arrear over and above all just allowances, and also the costs taxed in the suit, there to remain till the hearing of the cause, or to be paid out to such plaintiff on good security, subject to the decree of the court.

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§37-6-23. Effect of payment of rent or relief in equity.

If any party having a right or claim to such lands shall, at any time before the trial in such action of ejectment or of unlawful detainer, pay or tender to the party entitled to such rent, or to his attorney in the cause, or pay into court, all the rents and arrears, with interest and costs, all further proceedings in the action shall cease. If the person claiming the land shall, upon bill filed as aforesaid, be relieved in equity, he shall hold the land as before the proceedings began, without a new lease or conveyance.

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§37-6-24. Record of reentry; publication of certificate.

Where actual reentry shall be made, the party, by or for whom the same shall be made, shall return a written act of reentry, sworn to by the sheriff or other officer acting therein, to the clerk of the county court of the county wherein the lands or tenements shall be, who shall record the same in the deed book, and shall deliver, to the party making the reentry, a certificate setting forth the substance of such written act, and that the same had been left in his office to be recorded, which certificate shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty- nine of this code, and the publication area for such publication shall be such county. Such publication shall be proved by affidavit to the satisfaction of such clerk, who shall note the fact on the margin of the deed book against the record of the act of reentry in the words, "Publication made and proved according to law, A ..... B ....., Clerk," and shall return the original act of reentry to the party entitled thereto. Such written act of reentry, when recorded, and the record thereof, or a duly certified copy from such record, shall be evidence in all cases of the facts therein set forth.

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§37-6-25. Fees of clerk.

The clerk shall be paid for recording, granting certificate, and noting publication, as aforesaid, $1.50.

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§37-6-26. Payment of rent and reinstatement after reentry.

Should the person entitled to such land at the time of reentry made, or having a claim thereto, not pay or tender the rent and all arrears thereof, with interest and all reasonable expenses incurred about such reentry, within one year from the first day of publication as aforesaid, he shall be forever barred from all right, in law or equity, to such lands. In case any party, having such right, shall pay or tender such rent and arrears with interest and expenses as aforesaid to the party making reentry, within the time aforementioned therefor, he shall be reinstated in his possession to hold as if the reentry had not been made.

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§37-6-27. Defects in entry proceedings.

No person who, or those under whom he claims, shall have been possessed of lands by virtue of a reentry, for the term of two years, shall be disturbed therein by suit or otherwise for any defect of proceedings in such reentry.

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§37-6-28. Destruction of buildings; abatement of rent.

Where buildings or other structures upon leased premises, not owned by the tenant or removable by him are destroyed by fire or otherwise, in whole or in part, without fault or negligence on the part of the tenant, there shall be, unless the lease otherwise provides, a reasonable reduction of the rent for such time as may elapse until there be placed again upon the premises buildings, or other structures, of as much value to the tenant for his purposes as those destroyed, and unless the landlord shall rebuild or replace such structures as soon as he can reasonably do so, the tenant may, after the expiration of such reasonable time, surrender the possession of the premises and be relieved of all further liability for rent, after the time of such surrender.

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§37-6-29. Land taken by eminent domain; termination or reduction of rent.

Whenever the whole of any tract of land which is under lease is taken under the power of eminent domain, the liability of any tenant of such land to pay rent thereon shall terminate unless the lease expressly provide otherwise. If any part of a tract of land which is under lease, or any easement or other interest in such land, is taken under the power of eminent domain, the rent of any tenant of the land shall, unless the lease expressly provide otherwise, be reduced in the proportion which the value of the land or interest taken bears, at the time of such taking, to the total value of the land upon which rent was payable, under the lease. The foregoing provisions shall not affect nor impair any right which a tenant of land may have to compensation from the person exercising the right of eminent domain, for the value of his lease, or other property upon the leased premises belonging to him or in which he may have an interest, if such value shall exceed the amount of the rent from the payment of which he is relieved by virtue of the provisions of this section.

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§37-6-30. Landlord to deliver premises; duty to maintain premises in fit and habitable condition.

With respect to residential property:

(a) A landlord shall:

(1) At the commencement of a tenancy, deliver the dwelling unit and surrounding premises in a fit and habitable condition, and shall thereafter maintain the leased property in such condition; and

(2) Maintain the leased property in a condition that meets requirements of applicable health, safety, fire and housing codes, unless the failure to meet those requirements is the fault of the tenant, a member of his family or other person on the premises with his consent; and

(3) In multiple housing units, keep clean, safe and in repair all common areas of the premises remaining under his control that are maintained for the use and benefit of his tenants; and

(4) Make all repairs necessary to keep the premises in a fit and habitable condition, unless said repairs were necessitated primarily by a lack of reasonable care by the tenant, a member of his family or other person on the premises with his consent; and

(5) Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air- conditioning and other facilities and appliances, including elevators, supplied or required to be supplied by him by written or oral agreement or by law; and

(6) In multiple housing units, provide and maintain appropriate conveniences for the removal of ashes, garbage, rubbish and other waste incidental to the occupancy of the dwelling unit; and

(7) With respect to dwelling units supplied by direct public utility connections, supply running water and reasonable amounts of hot water at all times, and reasonable heat between October 1, and the last day of April, except where the dwelling unit is so constructed that running water, heat or hot water is generated by an installation within the exclusive control of the tenant.

(b) If a landlord's duty under the rental agreement exceeds a duty imposed by this section, that portion of the rental agreement imposing a greater duty shall control.

(c) None of the provisions of this section shall be deemed to require the landlord to make repairs when the tenant is in arrears in payment of rent.

(d) For the purposes of this section, the term "multiple housing unit" shall mean a dwelling which contains a room or group of rooms located within a building or structure forming more than one habitable unit for occupants for living, sleeping, eating and cooking.

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§37-6-31. Exclusions from application of this article.

(a) For purposes of this Article, “squatter” means a person occupying a dwelling unit who is not so entitled under a rental agreement or who is not authorized by the tenant to occupy that dwelling unit. “Squatter” does not include a tenant who holds over in a periodic tenancy as described in §37-6-5 of this code.

(b) Occupancy by a squatter is not governed by the provisions of this article.

(c) No Court of this state shall require the utilization of eviction, or a similar procedure such as those found under the provisions of this chapter, by an owner in any instance involving the removal of a squatter from possession of a property, and such removal shall not be unduly hindered.

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