

West's Arkansas Code Annotated [Currentness](#)

Title 18. Property

Subtitle 2. Real Property (Chapters 10 to 26) ([Refs & Annos](#))

▢ [Chapter 17](#). Arkansas Residential Landlord-Tenant Act of 2007

→ [Subchapter 1](#). Short Title, Construction, Application, and Subject Matter of Chapter

→ **§ 18-17-101. Short title**

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

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

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

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

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

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

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

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

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

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

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

§ 18-17-201. Territorial application

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

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

The following arrangements are not governed by this chapter:

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

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

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

§ 18-17-301. General definitions

As used in this chapter:

(1) “Action” means a recoupment, counterclaim, suit in equity, and any other proceeding in which rights are determined, including without limitation an action for possession;

(2) “Building and housing codes” means any law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of any premises or dwelling unit;

(3)(A) “Dwelling unit” means a structure or the part of a structure that is used as a home, residence, or sleeping place by one (1) person who maintains a household or by two (2) or more persons who maintain a common household and includes landlord-owned mobile homes.

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

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

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

(6) “Organization” means a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, and any other legal or commercial entity;

(7)(A) “Owner” means one (1) or more persons, jointly or severally, in whom is vested all or part of:

(i) The legal title to property; or

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

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

(8) “Person” means an individual or organization;

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

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

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

(12) “Roomer” means a person occupying a dwelling unit that does not include a toilet and either a bathtub or a shower and a refrigerator, stove, and kitchen sink, all provided by the landlord, and where one (1) or more of these facilities are used in common by occupants in the structure;

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

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

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

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

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

§ 18-17-301. General definitions

As used in this chapter:

(1) “Action” means a recoupment, counterclaim, suit in equity, and any other proceeding in which rights are determined, including without limitation an action for possession;

(2) “Building and housing codes” means any law, ordinance, or governmental regulation concerning fitness

for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of any premises or dwelling unit;

(3)(A) “Dwelling unit” means a structure or the part of a structure that is used as a home, residence, or sleeping place by one (1) person who maintains a household or by two (2) or more persons who maintain a common household and includes landlord-owned mobile homes.

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

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

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

(6) “Organization” means a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, and any other legal or commercial entity;

(7)(A) “Owner” means one (1) or more persons, jointly or severally, in whom is vested all or part of:

(i) The legal title to property; or

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

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

(8) “Person” means an individual or organization;

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

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

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

(12) “Roomer” means a person occupying a dwelling unit:

(A) That does not include the following facilities provided by the landlord:

(i) Toilet;

(ii) Bath tub or shower;

(iii) Refrigerator;

(iv) Stove; and

(v) Kitchen sink; and

(B) Where one (1) or more of these facilities are used in common by occupants in the structure;

(13) “Security deposit” means a monetary deposit from the tenant to the landlord to secure the full and faithful performance of the terms and conditions of the rental agreement as provided in this chapter;

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

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

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

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

§ 18-17-302. Obligation of good faith

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

§ 18-17-303. Notice

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

(A) The person has actual knowledge of it;

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

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

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

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

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

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

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

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

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

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

reasonable diligence.

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

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

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

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

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

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

§ 18-17-501. Security deposits--Prepaid rent

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

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

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

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

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

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

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

§ 18-17-501. Security deposits

Section 18-16-301 et seq. shall determine:

- (1) Whether a security deposit is required under this chapter; and
- (2) The rights, duties, and remedies of a landlord and tenant concerning a security deposit.

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

A tenant shall:

- (1) Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;
- (2) Keep the dwelling unit and that part of the premises that he or she uses reasonably safe and reasonably clean;
- (3) Dispose from his or her dwelling unit all ashes, garbage, rubbish, and other waste in a reasonably clean and safe manner;
- (4) Keep all plumbing fixtures in the dwelling unit or used by the tenant reasonably clean;
- (5) Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air conditioning, and other facilities and appliances, including elevators in the premises;
- (6) Not deliberately or negligently destroy, deface, damage, impair, or remove any part of the premises or knowingly permit any person to do so who is on the premises with the tenant's permission or who is allowed access to the premises by the tenant;

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

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

§ 18-17-602. Access

(a) A tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, investigate possible rule or lease violations, investigate possible criminal activity, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors.

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

§ 18-17-603. Tenant to use and occupy

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

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

(a) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental agreement, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than fourteen (14) days after receipt of the notice, if the breach is not remedied in fourteen (14) days. The rental agreement terminates as provided in the notice except that if the breach is remediable by repairs or otherwise and the tenant adequately remedies the breach before the date specified in the notice.

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

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

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

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

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

(a)(1) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental agreement, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the noncompliance and that the rental agreement will terminate upon a date not less than fourteen (14) days after receipt of the notice, if the noncompliance is not remedied in fourteen (14) days.

(2) The rental agreement shall terminate as provided in the notice unless the noncompliance is remediable by repairs or otherwise and the tenant adequately remedies the noncompliance before the date specified in the notice.

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

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

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

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

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

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

landlord for the cost and, in addition, the landlord shall have the remedies available under this chapter.

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

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

(a)(1) If there is noncompliance by the tenant with § 18-17-601 materially affecting health and safety that may be remedied by repair, replacement of a damaged item, or cleaning, and the tenant fails to comply as promptly as conditions require in case of emergency or within fourteen (14) days after written notice by the landlord specifying the noncompliance and requesting that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner.

(2) The tenant shall reimburse the landlord for the cost of the work.

(3) In addition, the landlord shall have the remedies available under this chapter.

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

§ 18-17-703. Remedy after termination

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

§ 18-17-704. Periodic tenancy--Holdover remedies

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

(b) The landlord or the tenant may terminate a month-to-month tenancy by a written notice given to the other

at least thirty (30) days before the termination date specified in the notice.

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

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

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

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

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

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

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

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

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

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

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

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

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

(B)(i) Should the tenant appear in response to the rule and allege that rent due under 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 warrant of ejectment and the landlord shall be placed in full possession of the premises by the sheriff, deputy, or constable; and

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

§ 18-17-706. 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.

(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 and cancelled check, or both, indicating that payment has been made to the landlord;

(3)(A) Should the tenant not appear and show cause within ten (10) days, the court shall issue a 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.

(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.

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

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

(b)(1) It is sufficient to stay execution of a judgment for ejectment that the tenant sign an undertaking that he or she will pay to the landlord the amount of rent, determined by the court in accordance with § 18-17-705, 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. Ten-

ant 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

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

This the _____ day of _____, 20

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

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

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

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

§ 18-17-707. Bond on appeal and order staying execution

(a) Upon appeal to the circuit court, the case shall be heard in a manner consistent with the rules of 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 possession that the tenant sign a bond that he or she will pay to the landlord the amount of rent, determined by the court in accordance with §§ 18-17-705 and 18-17-706, as it becomes due periodically after the judgment was entered.

(2) Any circuit judge shall order a stay of execution upon the bond.

(c) The bond 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 possession was issued against the tenant and for the landlord on the ___ day of ___, 20___, by the district court. Tenant has appealed the judgment.

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

Tenant bonds 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 possession until this matter is heard on appeal and decided by the circuit court.

This the ___ day of ___, 20

Upon execution of the bond, execution on the judgment of eviction is stayed until the action is heard on appeal and decided by the circuit court. If tenant fails to make any rental payment within five (5) days of the due date, upon application of the landlord, the stay of execution shall dissolve, the appeal by the tenant to the cir-

cuit court on issues dealing with possession shall be dismissed and the sheriff shall dispossess the tenant.

This the ___ day of ___, 20

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

§ 18-17-801. Severability

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

§ 18-17-802. Prior transactions

Transactions entered into before July 31, 2007, and not extended or renewed on or after that date, and the rights, duties, and interests flowing from them remain valid and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law amended or repealed by this chapter as though the repeal or amendment had not occurred.

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

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

- (1) The tenant fails or refuses to pay the rent when due or when demanded;
- (2) The term of tenancy or occupancy has ended; or
- (3) The terms or conditions of the lease have been violated.

(b) For residential rental agreements, nonpayment of rent within five (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.

§ 18-17-901. 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) Upon the occurrence of the grounds for eviction of a tenant under this subchapter, a landlord or his or her agent may file with a court having jurisdiction an affidavit of eviction that specifies the grounds for the eviction.

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

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

§ 18-17-902. 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 rule--Posting and mailing requirements

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

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

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

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

§ 18-17-903. 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 (10) days, the court shall issue a writ of eviction and the tenant shall be evicted by the sheriff of the county.

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

<Text of section as amended by Acts of 2009, Act 311, § 6.>

If the tenant fails to appear and show cause within the ten calendar-day period 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.

<Text of section as amended by Acts of 2009, Act 482, § 9.>

If the tenant fails to appear and show cause within the ten (10) days provided in § 18-17-902(b), the court shall issue a writ of eviction and the tenant shall be evicted by the sheriff of the county.

§ 18-17-905. Trial of issue

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

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

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

§ 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 verdict for plaintiff

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

§ 18-17-907. 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 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.

§ 18-17-908. 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) After the commencement of eviction proceedings by the issuance of a rule to vacate or to show cause as provided, the rental for the use and occupancy of the premises involved shall continue to accrue so long as the tenant remains in possession of the premises, at the rate as prevailed immediately before the issuance of the rule, and the tenant shall be liable for the payment of the rental, the collection of which may be enforced by

distress as provided with respect to other rents.

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

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

<Text of (a) as amended by Acts of 2009, Act 311, § 10.>

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

<Text of (a) as amended by Acts of 2009, Act 482, § 10.>

(a)(1) After the commencement of eviction proceedings by the issuance of an order to vacate or to show cause as provided, 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.

(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 pursuant to this chapter or the lease agreement:

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

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

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

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

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

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

(B) If the tenant has failed to comply with § 18-17-911 and this section, the court shall issue a writ of eviction and the landlord must be placed in full possession of the premises by the sheriff, deputy, or constable.

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

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

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

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

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

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

§ 18-17-912. 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.

(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 eviction

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

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

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

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

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

§ 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.

END OF DOCUMENT