

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
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# A Bill

HOUSE BILL 1563

By: Representatives Gazaway, Hillman, Vaught, Clowney, M. Hodges, Scott

## For An Act To Be Entitled

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

## Subtitle

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

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

SECTION 1. Arkansas Code § 18-17-102, concerning the purposes and rules of construction of the Arkansas Residential Landlord-Tenant Act of 2007, is amended to add an additional subsection to read as follows:

(c) This chapter applies to the residential landlord and tenant relationship only and does not create any duties in tort or causes of action in tort.

SECTION 2. Arkansas Code Title 18, Chapter 17, Subchapter 4, is amended to add an additional section to read as follows:

18-17-402. Prohibited terms and conditions of rental agreement.

(a) A rental agreement shall not require the tenant to:

(1) Unless permitted by this chapter, waive or forego a right or



remedy under this chapter or under § 18-16-301 et seq.;

(2) Authorize any person to confess judgment on a claim arising out of the rental agreement;

(3) Perform a duty imposed on the landlord by § 18-17-502; or

(4) Agree to exculpate or limit the landlord's liability arising under this chapter or other law or indemnify the landlord for the liability and the costs connected with the liability.

(b) A provision in a rental agreement prohibited under subdivision (a)(1) of this section or prohibited by any other law is unenforceable.

SECTION 3. Arkansas Code Title 18, Chapter 17, Subchapter 5, is amended to add additional sections to read as follows:

18-17-502. Landlord duty to maintain habitable premises.

(a) The remedies of the tenant under this subchapter do not arise if the noncompliance under this section was caused by a willful or negligent act or omission of the tenant, the tenant's family member, a licensee, or any other person on the premises, except the landlord or landlord's agent.

(b) A landlord who is the owner of more than four (4) dwelling units or who has a partial legal or equitable ownership interest, directly or indirectly, whether through multiple legal entities or otherwise, in more than four (4) dwelling units shall ensure the premises:

(1) Have reasonable waterproofing and weather protection of the roof and exterior walls, doors, and windows so that the health and safety of the occupants are not materially affected;

(2) Have plumbing, heating facilities, ventilation, and if supplied air conditioning that are maintained in good working order;

(3) Have hot and cold running water;

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

(5) Are not infested by rodents, insects, and vermin so as to materially affect the health and safety of the occupants, unless the infestation is caused by the occupants;

(6) Do not contain harmful mold that materially affects the health and safety of the occupants;

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

(B) If the smoke alarm or smoke detector is solely battery-operated, the smoke alarm or smoke detector shall be equipped with functioning batteries at the beginning of the tenancy.

(C) A landlord is in compliance under this section if the tenant removes the batteries or otherwise disables the smoke alarm or smoke detector;

(8)(A) Have a working carbon monoxide alarm if the dwelling unit contains a carbon monoxide source.

(B) If the carbon monoxide alarm is solely battery-operated, the carbon monoxide alarm shall be equipped with functioning batteries at the beginning of the tenancy.

(C) A landlord is in compliance under this section if the tenant removes the batteries or otherwise disables the carbon monoxide alarm;

(9) Have floors, doors, windows, walls, ceilings, stairways, and railings that are in good repair so as not to materially affect the health and safety of the occupants; and

(10) Have working locks or other security devices on all exterior doors.

(c) A landlord is not in noncompliance with this section if the rental agreement requires that the tenant pay for any utility service and the tenant fails to pay for the utility service.

18-17-503. Noncompliance by the landlord.

(a) The tenant is not entitled to any of the remedies under subsection (b) of this section if the:

(1) Noncompliance is caused by or is a result of a willful or negligent act or omission of the tenant, the tenant's family member, a licensee, or other person on the premises with the tenant's consent; or

(2) Tenant is not current with payment of rent.

(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, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the noncompliance and if the noncompliance is not remedied within fourteen (14) days from the date of delivery of the written notice, the tenant may:

(1) Terminate the rental agreement, by giving the landlord

written notice of the tenant's intent to terminate the rental agreement and any remainder of the term of the rental agreement by a specified date that is not later than thirty (30) days after the delivery date of the written notice; or

(2) Continue the rental agreement and elect one (1) or more of the following remedies:

(A) Recover any restitution to which the tenant is entitled due to the landlord's noncompliance;

(B) Obtain injunctive relief for the landlord's noncompliance; or

(C)(i) If the cost of the repair exceeds the value of three (3) months' rent, the landlord shall notify the tenant within fourteen (14) days of the delivery of the written notice, and the tenant may terminate the rental agreement and vacate the premises and is entitled to:

(a) One (1) month's rent at the time the tenant vacates the premises; and

(b) The amount of the security deposit and prepaid rent to which the tenant is entitled, which shall be paid within five (5) days of the date the tenant vacates the premises.

(ii) The tenant:

(a) Shall exercise the option to terminate the rental agreement and vacate the premises within seven (7) days of notification by the landlord;

(b) Is entitled to see the estimate for the repair; and

(c) Shall vacate the premises within thirty (30) days or within a longer period if both parties agree.

(iii) The landlord shall not re-rent the premises until the premises comply with § 18-17-502.

(c) If the noncompliance is remediable by repairs or the payment of damages or otherwise and the landlord adequately remedies the noncompliance before the date specified in the written notice, the rental agreement shall not terminate by reason of the noncompliance.

(d) The fourteen-day period of time allowed for the remedying of the noncompliance under subdivision (b) of this section may be extended due to circumstances outside the landlord's control, including without limitation

due to:

- (1) The nature of the repair needed to remedy the noncompliance;
- (2) Inclement weather;
- (3) The duration of the processing of an insurance claim; or
- (4) The availability of a repair technician needed to remedy the

noncompliance.

(e) If fire or other casualty or natural disaster substantially damages the premises so that continued occupation of the dwelling unit is unlawful or dangerous or requires repairs that can be made only if the tenant vacates the premises, the landlord may terminate the rental agreement by giving the tenant written notice that the rental agreement will terminate on a specified date that is at least five (5) days after the date the written notice is given to the tenant.

(f) If the rental agreement is terminated under this section, the landlord shall return any security deposit and prepaid rent to which the tenant is entitled under § 18-16-301 et seq.

18-17-504. Retaliation prohibited – Remedies.

(a) Except as provided in this section, a landlord shall not retaliate against a tenant who complains to the landlord or to a government agency about a noncompliance or code violation or has sought to enforce a remedy under the rental agreement or this subchapter by increasing rent or fees, bringing or threatening to bring a failure to vacate charge or an action for possession of the premises, or taking similar action.

(b) Notwithstanding subsection (a) of this section, a landlord may bring an action for possession of the premises if the tenant is in material noncompliance with the rental agreement, the tenant did not engage in conduct described in subsection (a) of this section until after the filing of the action, or other grounds for eviction exist.

(c) If a tenant engages in conduct described in subsection (a) with no factual or legal basis for the conduct, any conduct by the landlord described in subsection (a) of this section is not retaliatory.

(d) If a landlord engages in conduct of retaliation under subsection (a) of this section, the tenant has a defense against an action for possession of the premises or a charge of failure to vacate and may recover possession or terminate the rental agreement.

(e) If a tenant terminates a rental agreement under subsection (d) of this section, the landlord shall return to the tenant the security deposit and any prepaid rent to which the tenant is entitled.

*/s/Gazaway*