

Illinois Residential Tenant's Right to Repair Act

Illinois Statute regarding Repair of Residential Property

On January 1, 2005, a new law is effective in Illinois that allows residential tenants, in certain instances, to withhold a portion of their monthly rent and instead use that money to make repairs to a rental unit.

Conditions

For the tenant to repair and deduct, the circumstances must be as follows:

- 1) The repair is required under (a) a residential lease agreement or (b) a law, administrative rule, or local ordinance or regulation. For instance, a violation of the local municipal building code would be an acceptable matter for repair;
 - 2) The reasonable cost of the repair must not exceed the lesser of (a) \$500 or (b) one half of the monthly rent;
 - 3) The tenant must notify the landlord in writing by registered or certified mail indicating that the landlord has fourteen days to make the repair or else the tenant will make the repair and deduct its cost from the rent
 - 4) If the landlord fails to make the repair within fourteen days after notification by the tenant or more promptly in the case of an emergency repair, the tenant can have the repair made;
 - 5) The repair work must be done by an appropriate tradesman or supplier and in a workmanlike manner, in accordance with appropriate law, administrative rule or local ordinance or regulation. The tradesman or supplier must (a) hold an appropriate license or certificate as required by State or municipal law to make the repair and (b) have adequate insurance to cover any bodily harm or property damage caused by the tradesman's negligence or substandard performance. Insurance is important, as the tenant remains responsible for any damages caused by the tradesman or supplier;
 - 6) The tradesman or supplier must be unrelated to the tenant;
 - 7) Upon submission to the landlord of a receipt for the repairwork, the tenant may deduct the amount of the repair from the rent. The receipt must contain the name, address and telephone number of the tradesman or supplier or, if not, the tenant must supply that information to the landlord;
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8) The item to be repaired must not be a condition caused by an omission, deliberate act or negligent act of the tenant, the tenant's family or any other person on the premises with the tenant's consent.

Exceptions

The law does not apply to tenants in public housing, condominiums, co-ops, non-residential tenancies, property covered by the mobile home landlord and tenant rights act or to owner-occupied rental property consisting of six or fewer units.

Eviction Defense

A tenant may not be evicted by a landlord for failure to pay rent (that was subsequently deducted for a repair) if the tenant complies in full with the statute. Obviously, the statutory requirements are quite technical, so it is important to follow the rules by the letter of the law.

Text of Statute

RESIDENTIAL TENANTS' RIGHT TO REPAIR ACT

(765 ILCS 742/1)

Sec. 1. Short title. This Act may be cited as the Residential Tenants' Right to Repair Act.

(765 ILCS 742/5)

* Sec. 5. Repair; deduction from rent. If a repair is required under a residential lease agreement or required under a law, administrative rule, or local ordinance or regulation, and the reasonable cost of the repair does not exceed the lesser of \$500 or one-half of the monthly rent, the tenant may notify the landlord in writing by registered or certified mail or other restricted delivery service to the address of the landlord or an agent of the landlord as indicated on the lease agreement; if an address is not listed, the tenant may send notice to the landlord's last known address of the tenant's intention to have the repair made at the landlord's expense. If the landlord fails to make the repair within 14 days after being notified by the tenant as provided above or more promptly as conditions require in the case of an emergency, the tenant may have the repair made in a workmanlike manner and in compliance with the appropriate law, administrative rule, or local ordinance or regulation. Emergencies include conditions that will cause irreparable harm to the apartment or any fixture attached to the apartment if not immediately repaired or any condition that poses an immediate threat to the health or safety of any occupant of the dwelling or any common area. After submitting to the landlord a paid bill from an appropriate tradesman or supplier unrelated to the tenant, the tenant may deduct from his or her rent the amount of the bill, not to exceed the limits specified by this Section and not to exceed the reasonable price then customarily charged for the repair. If not clearly indicated on the bill submitted by the tenant, the tenant shall also provide to the landlord in

writing, at the time of the submission of the bill, the name, address, and telephone number for the tradesman or supplier that provided the repair services. A tenant may not repair at the landlord's expense if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of the tenant's family, or another person on the premises with the tenant's consent.

(765 ILCS 742/10)

Sec. 10. Exceptions.

(a) This Act does not apply to public housing as defined in Section 3(b) of the United States Housing Act of 1937, as amended from time to time, and any successor Act.

(b) This Act does not apply to condominiums.

(c) This Act does not apply to not-for-profit corporations organized for the purpose of residential cooperative housing.

(d) This Act does not apply to tenancies other than residential tenancies.

(e) This Act does not apply to owner-occupied rental property containing 6 or fewer dwelling units.

(f) This Act does not apply to any dwelling unit that is subject to the Mobile Home Landlord and Tenant Rights Act.

(765 ILCS 742/15)

Sec. 15. Tenant liabilities and responsibilities. The tenant is responsible for ensuring that:

(1) the repairs are performed in a workmanlike manner in compliance with the appropriate law, administrative rule, or local ordinance or regulation;

(2) the tradesman or supplier that is hired by the tenant to perform the repairs holds the appropriate valid license or certificate required by State or municipal law to make the repair; and

(3) the tradesman or supplier is adequately insured to cover any bodily harm or property damage that is caused by the negligence or substandard performance of the repairs by the tradesman or supplier.

The tenant is responsible for any damages to the premises caused by a tradesman or supplier hired by the tenant. A tenant shall not be entitled to exercise the remedies provided for in this Act if the tenant does not comply with the requirements of this Section.

(765 ILCS 742/20)

Sec. 20. Defense to eviction. A tenant may not assert as a defense to an action for rent or eviction that rent was withheld under this Act unless the tenant meets all the requirements provided for in this Act.

(765 ILCS 742/25)

Sec. 25. Mechanics lien laws. For purposes of mechanics lien laws, repairs performed or materials furnished pursuant to this Act shall not be construed as

having been performed or furnished pursuant to authority of or with permission of the landlord.

(765 ILCS 742/30)

Sec. 30. Home rule. A home rule unit may not regulate residential lease agreements in a manner that diminishes the rights of tenants under this Act. This Section is a limitation under subsection (i) of Section 8 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.



Landlord and Tenant Rights and Laws

There are many state laws and judicial decisions that give landlords and tenants specific legal rights and responsibilities. The purpose of this brochure is to give you general information on those rights and responsibilities. This brochure should not be used as the final source of information on landlord and tenant law. Consult your local municipality for ordinances regulating landlord and tenant rights. Also, this brochure does not pertain to you if you live in federally subsidized housing. Tenants living in subsidized housing have rights under federal law not covered in this brochure.

Tenant's Rights and Responsibilities

- You should demand a written lease to avoid future misunderstandings with your landlord.
- You must pay your rent on time.
- You must keep the rental unit clean and undamaged.
- You are responsible for any damages beyond normal wear and tear.
- You must pay the utility bill if the lease makes you responsible.
- You may not alter the rental unit without your landlord's approval.
- You must give written notice when you intend to move if you don't want to lose your security deposit. Normally, a 30-day notice is sufficient.
- The Illinois Retaliatory Eviction Act prohibits your landlord from evicting you for complaining to any governmental authority (housing inspector, human rights commission, etc.).

Landlord's Rights and Responsibilities

- Must keep the rental unit fit to live in.
- Must make all necessary repairs.
- Must keep the rental unit in compliance with state and local health and housing codes.
- May set the amount of rent and security deposit.
- May charge you a late fee for late rent. The late fee must be reasonable.
- May make reasonable rules and regulations.

Security Deposits

Your landlord can require you to pay a security deposit which may be used to cover unpaid rent, repair damages to the unit, and clean the unit after you move. The amount of the security deposit is normally equal to one month's rent, however, there is no legal limit on the amount your landlord can require.

Interest on Your Security Deposit

State law requires your landlord to pay you interest on your security deposit if it is held for at least six months and there are at least 25 units in your building or complex. Your landlord must pay you the interest or apply the interest as a credit to your rent every 12 months. You may sue your landlord for willfully failing to pay interest and recover an amount equal to your security deposit, court costs, and attorney's fees.

Return of Your Security Deposit

The Illinois Security Deposit Return Act requires your landlord to return your security deposit in full within 45 days of the date you moved, if:

- Your building or complex consists of 5 or more units.
- You do not owe any back rent.
- You have not damaged the rental unit.
- You cleaned the apartment before you moved.

If your landlord refuses to return all or any portion of your security deposit, he/she must give you an itemized statement of the damages along with paid receipts within 30 days of the date you moved. You can sue your landlord to recover your security deposit. If a court finds that your landlord violated the security deposit law, he/she could be liable for damages in an amount equal to two times your security deposit, court costs, and attorney's fees.

Rent Increases

In a week-to-week or month-to-month tenancy, the landlord can raise your rent by any amount if he/she gives you seven days notice for a week-to-week lease or 30 days notice for a month-to-month lease. Your landlord cannot raise your rent if you have a fixed-term lease. In other words, if you have a year lease, your landlord cannot raise your rent prior to the expiration of the lease.

Illinois does not have a rent control law. Therefore, your landlord can raise your rent as much as he/she deems necessary. However, you should contact your local units of government to see if your city or county has a rent control ordinance.

Terminating A Lease

Your landlord must notify you in writing that he/she intends to terminate the lease. If you are renting month-to-month, you are entitled to a 30-day written notice. Leases running year-to-year require a 60-day written notice. **YOUR LANDLORD DOES NOT HAVE TO GIVE YOU ANY REASON FOR TERMINATING THE LEASE.**

Illinois Rental Property Utility Service Act

If your landlord has failed to pay a utility bill for which he/she is legally responsible, you may pay the bill and deduct the payment from your rent.

Discrimination

A landlord may not refuse to rent or lease an apartment or house to potential tenants or have different rental terms on the grounds of race, color, religion, national origin, ancestry, sex and marital status, or disability. Under the Federal Fair Housing Act, it is illegal to discriminate against families with children when leasing a rental unit. Complaints about discrimination may be filed with the Illinois Department of Human Rights.

The Eviction Process

A landlord must file a lawsuit in order to evict you. Your landlord cannot make you move by turning off your utilities. Also, your landlord may not evict you by locking you out, changing the locks or removing your personal property from the rental unit. The eviction process is detailed below:

Your landlord must give you a written notice stating the reason for the eviction. If the reason is for nonpayment, your landlord must give you five days to pay the rent. If the eviction is for violating a provision in the lease, your landlord must give you a 10-day notice.

If you remain in the rental unit after the eviction notice, your landlord can file a lawsuit to evict you. The Illinois Forcible Entry and Detainer Act requires your landlord to serve you a summons and complaint. The summons will require you to appear in court.

Go to court on the scheduled day. Remember, you have the right to:

- Have legal representation at your cost
- Have a trial by jury
- Present evidence
- Call your own witnesses
- Ask questions

The burden of proof is on your landlord. The judge will make a decision. If you lose your case, the judge will order you to vacate the rental unit. However, the judge normally will give you some time to move. You have the right to appeal the decision. This must be done within 30 days after the trial. If you do not move out, your landlord may ask the Sheriff's office to physically evict you. Remember, only a sheriff can physically evict you. It is illegal for a landlord to evict you by locking you out.

Eviction Defenses

You can use the following defenses to stop an eviction:

- You paid the rent during the 5-day notice period.
- Your landlord retaliated against you for filing a complaint.
- You withheld rent because your landlord failed to pay the utility bills.

If You Need Further Help

If you have further questions about landlord and tenant law or a specific problem you may contact:

- Your attorney for legal advice.
- Legal aid services to determine if you are eligible for free legal services.
- The Illinois Lawyer Referral Service for the name and telephone number of a private attorney. The attorney will charge a moderate fee for an initial interview.
- The Illinois Department of Human Rights - Chicago: (312) 814-6200, TDD: (312) 263-1579 ; Springfield: (217) 785-5100, TDD: (217) 785-5125; Housing complaints: 1-800-662-3942

Please visit

www.IllinoisAttorneyGeneral.gov



Chicago
1-800-386-5438
TTY: 1-800-964-3013

Springfield
1-800-243-0618
TTY: 877-844-5461

Carbondale
1-800-243-0607
TTY: 877-675-9339