



*Practical **Guide** for Landlords in Illinois*
An Overview of Main Laws and Regulations



ILLINOIS
ASSOCIATION OF
REALTORS

Overview

This Guide is intended to give you an overview and description of the main laws and regulations that exist in the realm of residential rental property management and ownership.

In many instances in this Guide, you may need additional information which may require your own review of the law or consultation with an attorney.



Eviction Law

Eviction actions are governed by the Forcible Entry and Detainer Statute (735 ILCS 5/9-101). This law lays out the procedures by which a landlord can legally have a tenant removed from the rental unit.

Basics of *Eviction Laws*

A landlord cannot forcibly evict a tenant. If a landlord wants to evict a tenant and the tenant does not leave voluntarily, the landlord must file an eviction lawsuit. A landlord can evict a tenant for various reasons including;

- Improper possession after the oral or written lease has expired;
- The tenant has breached some part of the lease including not paying the rent;
- The tenant is doing something illegal in the unit.

Required *Notice*

The eviction law is very specific about the form and content of written notices and how those notices are to be served upon tenants before an eviction lawsuit can be filed. Even if the facts are with you, you can lose your case if proper notice and service procedures are not followed precisely.

Non-Payment *of Rent*

When the tenant has not paid the rent on time, the landlord must give a written 5-day notice that the lease or possession of the unit will be terminated unless the rent is paid. If the tenant pays the rent within this five-day period, the landlord must accept it and cannot terminate the lease or proceed with the eviction.

Tenant Violation *of Lease*

If a tenant violates the lease for other than non-payment of rent, the landlord can give the tenant a written 10-day notice, which explains the violation and asks the tenant to move out if the problem is not fixed within 10 days. The landlord can only pursue eviction if the problem is not fixed within the 10-day notice period.

Notice is not required if the lease automatically ends on a specific date. If the lease includes an automatic termination provision, the landlord simply asks the tenant to move out. If the tenant refuses, the landlord can file an eviction suit without giving any other notice or waiting any time beyond the end of the lease term.

For additional legal information on leases, visit this web site of the Illinois State Bar Association: www.illinoislawyerfinder.com/publicinfo/landlord.html

Note

The information provided here is just an introduction to the procedures and requirements associated with evictions. You should consult with an attorney on the steps that must be taken (e.g. service of summons by the Sheriff's office and the filing of the suit).



Screening Prospective Tenants

Background checks on tenants are the most important step in renting your property. Property owners who do not screen tenants are easy prey for drug dealers and others conducting illegal activities, and can cost the landlord thousands of dollars.

A few simple steps will help you screen prospective tenants:

- **Advertise carefully** to reach honest, law-abiding tenants. Include a statement that verifiable references will be required.
- **Verify application information.** A telephone call to past landlords can provide insight into the applicant's past behavior. Prepare a list of questions to ask previous landlords, including the most important one: "Would you rent to this person again?"
- **Have a thorough credit check done.** Obtaining a credit report provides a way to verify application information. Also, verify income sources and employment information. Requesting copies of the applicant's last two tax returns can be invaluable, especially in the commercial context.
- **Conduct a personal interview.** It's valuable to see how a person reacts when asked questions about the rental application.
- **Examine how the application is filled out.** A legitimate applicant will carefully complete the application. Beware of partially completed forms and situations where the applicant can't remember his or her last address or landlord. If you find discrepancies, further question the applicant. If you find the applicant has lied or given false information, say, "No, thank you," and move on to the next applicant.
- **Check public records.** If you have concerns about a prospective tenant, a quick trip to the courthouse may confirm them. Most court clerk's offices have a system of indexing both civil and criminal cases by the parties' last names. With rare exceptions, you'll be able to look at any case files involving your prospective tenant. You can usually copy them but cannot remove them from the clerk's office, so bring a paper and pen or change for the copy machine.

Of course, no screening technique is fool-proof. For your own peace of mind, keep copies of your tenants' rent checks. If the tenant ever leaves owing you money or stops paying rent, you'll at least know of one bank account whose contents you can attach. And keeping a record of tenants' Social Security numbers (for individuals) or tax identification numbers (for companies) gives you solid information for a skip trace should the tenant disappear owing you money.

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Security Deposit Return Act and Security Deposit Interest Act

The Security Deposit *Return Act*

The Security Deposit Return Act provides that certain landlords can withhold a part of the security deposit if specific procedures are followed. Below is the main section of the Act with which that you should become familiar.

(765 ILCS 710/1) (from Ch. 80, par. 101)

Sec. 1. A lessor of residential real property, containing 5 or more units, who has received a security deposit from a lessee to secure the payment of rent or to compensate for damage to the leased property may not withhold any part of that deposit as compensation for property



damage unless he has, within 30 days of the date that the lessee vacated the premises, furnished to the lessee, delivered in person or by mail directed to his last known address, an itemized statement of the damage allegedly caused to the premises and the estimated or actual cost for repairing or replacing each item on that statement, attaching the paid receipts, or copies thereof, for the repair or replacement. If the lessor utilizes his or her own labor to repair any damage caused by the lessee, the lessor may include the reasonable cost of his or her labor to repair such damage. If estimated cost is given, the lessor shall furnish the lessee with paid receipts, or copies thereof, within 30 days from the date the statement

showing estimated cost was furnished to the lessee, as required by this Section. If no such statement and receipts, or copies thereof, are furnished to the lessee as required by this Section, the lessor shall return the security deposit in full within 45 days of the date that the lessee vacated the premises. Upon a finding by a circuit court that a lessor has refused to supply the itemized statement required by this Section, or has supplied such statement

in bad faith, and has failed or refused to return the amount of the security deposit due within the time limits provided, the lessor shall be liable for an amount equal to twice the amount of the security deposit due, together with court costs and reasonable attorney's fees.

Note

The City of Chicago has its own Residential Landlord-Tenant Ordinance which includes different provisions on security deposits. For more information on that Ordinance, visit this web site: www.chicityclerk.com/legislation/codes/chapter5_12.pdf

The Security Deposit *Interest Act*

The Security Deposit Interest Act imposes interest payment requirements on landlords who have 25 or more units in a single building or a complex of buildings located on contiguous parcels of real property. Such landlords who receive a security deposit must pay interest to the lessee at a rate that changes each year. The rate is based on the



passbook savings account rate at the largest commercial bank in Illinois on December 31st of the calendar year immediately preceding the inception of the rental agreement. This interest payment requirement only applies to rental agreements where a security deposit is held for more than six months. Accordingly, the rates are as follows:

- For leases that were entered into in calendar year 2007, the interest rate is .50%.
- For leases that were entered into in calendar year 2008, the interest rate is .35%.

Note

For the cities of Chicago and Evanston, a different rate calculation is used (one that utilizes a blended rate of various interest rates). For these two cities, the interest rates are as follows: For leases that were entered into in calendar year 2007, the interest rate is 1.68%. For leases that were entered into in calendar year 2008, the interest rate is 1.26%.

What Landlords Need to Know About Lead-Based Paint in Residential Units

Lead poisoning in children can cause irreversible brain damage and even at very low levels can lead to life-long learning, behavioral and physical problems. Most children are poisoned in their own homes, and deteriorating lead paint on windows, doors, and porches in homes built before 1978 is the main cause.

Existing Laws on Lead Paint for Property Owners / Managers

Federal law requires property owners to:

- Disclose any knowledge of lead-based paint or lead-based paint hazards when selling or renting a house/apartment built before 1978.*
- Include a lead warning statement in leases.
- Use lead-safe work practices when making certain repairs and renovations.
- Provide a copy of the federal HUD/EPA pamphlet on lead paint entitled, "Protect Your Family From Lead in Your Home."*



Illinois state law requires property owners to:

- Allow inspection of property by a public health agency when a resident is found to be lead-poisoned.
- Follow regulated mitigation procedures when a lead hazard has been identified.
- Post lead hazard warning signs at work sites when property houses two or more families.
- Disclose any lead hazard to renters in buildings built before 1978.
- Allow inspection by departments of public health of common areas of multi-family residential buildings when two or more units in the same building have had mitigation notices issued within a five-year period. The law also requires owners of buildings (where two or more hazards have been identified in a five-year period) to allow inspection of units where a child under age six or a pregnant woman resides if the parent or pregnant woman requests such an inspection.
- Post notices in the common area of a building when the property owner has received a mitigation notice. The notice form can be obtained from the local health agency or the Illinois Department of Public Health.

Note

**The federal lead paint pamphlet and the disclosure forms can be obtained by REALTORS® at the IAR Online Store at www.illinoisrealtor.org*

City of Chicago regulations require property owners to:

- Abide by a duty to maintain lead-hazard free property.
- Allow inspections of all units for lead hazards when requested by the City's Department of Public Health (CDPH).
- Abide by a duty to maintain property according to any existing mitigation plan.
- Provide a mitigation plan, subject to CDPH approval, when a lead hazard is identified.

For detailed information on how to comply with lead prevention laws and lead safety visit: www.hud.gov/offices/lead or www.leadsafeillinois.org/owners.

Federal rule on lead safe work practices in renovation work

The U.S. EPA has issued new rules for home improvement contractors and maintenance professionals that renovate or repair pre-1978 housing. Under the new rules, workers must follow lead-safe work practice standards to reduce potential exposure of occupants to dangerous levels of lead resulting from renovation and repair activities. The new rules go into effect on April 1, 2010.

To read more about the new rule, go to www.epa.gov/lead.

Other Illinois Laws You Should Be Aware Of

Carbon Monoxide *Alarm Detector Act*

This law which went into effect on January 1, 2007 requires that most dwelling units be equipped with at least one carbon monoxide detector within 15 feet of every room used for sleeping.

You can obtain an informational brochure on this law from IAR at the following web site: www.illinoisrealtor.org Go to the REALTOR® Store in this web site to obtain the FREE brochure.

The Act specifically mentions the responsibility of the landlord and the tenant in one of the provisions of the Act:

The tenant is responsible for replacement of any required batteries in the carbon monoxide alarms in the tenant's dwelling unit, except that the owner shall ensure that the batteries are in operating condition at the time the tenant takes possession of the dwelling unit.

The tenant shall provide the owner or the authorized agent of the owner with access to the dwelling unit to correct any deficiencies in the carbon monoxide alarm that have been reported in writing to the owner or the authorized agent of the owner.

Note

To read the entire Act, go to www.ilga.gov/legislation/ilcs/ilcs.asp and look for the Act by statute number: 430 ILCS 135

Smoke *Detector Act*

Every dwelling unit shall be equipped with at least one approved smoke detector in an operating condition within 15 feet of every room used for sleeping purposes. The detector shall be installed on the ceiling and at least 6 inches from any wall, or on a wall located between 4-6 inches from the ceiling. Every structure which (1) contains more than one dwelling unit, or (2) contains at least one dwelling unit and is a mixed-use structure, shall contain at least one approved smoke detector at the uppermost ceiling of each interior stairwell.

Owner and Tenant Responsibilities:

It shall be the responsibility of the owner of a structure to supply and install all required detectors. The owner shall be responsible for making reasonable efforts to test and maintain detectors in common stairwells and hallways. It is the responsibility of the tenant to test and provide general maintenance for detectors within the tenant's dwelling unit or rooming unit, and to notify the owner or the owner's authorized agent in writing of any deficiencies which the tenant cannot correct. The owner is responsible for providing one tenant per dwelling unit with written information regarding detector testing and maintenance.

The tenant shall be responsible for replacement of any required batteries in the detectors in the tenant's dwelling unit, except that the owner shall ensure that such batteries are in operating condition at the time the tenant takes possession of the dwelling unit.

Single Family Homes: Every single-family residence shall have at least one smoke detector installed on every story of the dwelling unit, including basements.

*The Safe **Homes Act***

This Act deals with the rights of tenants who are under threat of domestic or sexual violence. This Act allows tenants to change the locks or break the lease in certain limited circumstances. To read the entire Act, go to www.ilga.gov/legislation/ilcs/ilcs.asp and look for the Act by statute number: 765 ILCS 750

*The Illinois **Human Rights Act / Fair Housing***

This Act contains the Fair Housing provisions and requirements for the state of Illinois. A knowledge of Fair Housing is critically important in rental property management and leasing. For an overview of the Human Rights Act's provisions visit the following IAR web site: www.thehousing.org

Note

Keep in mind that some municipalities have their own fair housing ordinances which may include protected classes that are in addition to the ones in the Human Rights Act. It is suggested that you check with the municipality on fair housing/human rights ordinances.

Municipal Landlord Licensing and Inspection Programs

Based on a review of case law and the statutory authority granted to municipalities, it is correct to conclude that municipalities do have the power to inspect rental units and to require a landlord to hold a municipal license in order to rent property. These requirements regarding inspections and licensing should be designed to ensure that the rental units are maintained in a manner that is consistent with the municipal building code. Safety and habitability of each rental unit should be the main purposes of such requirements and ordinances. However, the powers to inspect and to require a license are not unlimited. The following discussion is intended to provide you with an understanding of some key property owner rights and provisions of state law that you should be aware.

With the Illinois Association of REALTORS® local Government Affairs Director (GAD) program, you can feel free to contact the GAD assigned to your local association if you have questions or concerns about the topics and issues discussed in this section. Issues related to enforcement of licensing and inspection requirements at the municipal level can be brought to the attention of the local GAD or local association for review.



Consent and *Search Warrant*

Federal courts have dealt with the issue of limitless searches or inspections by governmental units. With any municipal inspection ordinance, there must be a consent provision. With such a provision, the owner is permitted to deny or not grant consent to the municipal inspector to enter the property. In such a situation, where the owner does not grant consent, the municipality must seek an administrative search warrant from the circuit court in order to gain access to the property.

Municipal License Requirement and the Real Estate License Act

The Illinois Real Estate License Act contains a provision which preempts any municipality from doing its own version of the state license law. In other words, no municipality can set up its own licensing scheme for the same “licensed activities” that are regulated in the state license law. Therefore, no municipality can prevent a real estate licensee from performing the “licensed activities” (*such as managing property or leasing out an apartment on behalf of the landlord*) that are in the state license law.

Inspection / Licensing Fees

The fee that a municipality imposes must reasonably reflect the cost of providing such services (the man hours of the physical inspection, the administrative follow-up, etc.).

Note To see the Illinois municipalities which have inspection requirements, visit the IAR web site for the complete list: www.illinoisrealtor.org/Member/government/inspections.pdf

Other *Municipal Requirements*

Several municipalities in Illinois impose other kinds of restrictions and requirements on owners of residential rental property. Some of the requirements regard the following:

Occupancy Standards.

Most municipalities in Illinois have ordinances which put limits on the number of occupants that can inhabit a residential unit based on the size of the unit.

Crime-Free Requirements.

Some municipalities require the use of a “crime-free lease addendum.” This kind of addendum states that it is a violation of the lease to commit a crime anywhere on the property (e.g. sale of drugs). There are a few municipalities in Illinois which encourage or require a landlord or agent to attend a seminar on crime prevention on rental property.

Nuisance Abatement.

Several municipalities in Illinois require the owner to take specific steps in regard to property maintenance/care in order to prevent criminal nuisances or activity. These requirements usually are required after the police have identified the occurrence of a nuisance or crime on the property.

Building Registration.

The main purpose of this type of ordinance is to obtain contact information on the owner and agent of the owner in case of an emergency or tenant problem on the property. (Chicago has such a requirement for buildings with four or more units.)

Note

You should check with the municipality to see if these kinds of ordinances or regulations exist in the town where you operate rental property.



Use of Specific Terms in Advertising

In a Settlement Agreement signed and effective December 18, 2007, the Illinois Association of REALTORS® (Plaintiff) achieved a major victory in its lawsuit challenging the unconstitutionality of a real estate advertising rule implemented by the Illinois Department of Financial and Professional Regulation (Defendant) dealing with the requirement not to use certain terms in advertising residences zoned single-family.

In 2005 IDFPR proposed the controversial advertising rule that banned the use of certain words and phrases in advertisements for property zoned single-family is deemed “misleading advertising” under the Real Estate License Act. Specifically, the rule prohibited the following terms in advertisements for such properties:

- “apartment”
- “two units”
- “related living”
- “in-law arrangement”
- “related apartment”

IAR opposed the rule throughout the promulgation process because, as it is written, it prohibits the use of those and similar terms even if those terms were factually and legally accurate to reflect the permitted use of the property under the municipality’s zoning code and applicable variances, conditional permits, and legal non-conforming uses.

In the Settlement, those five terms, and any others regarding the physical condition or use of the property, can be used in advertising so long as that use is permitted by local ordinances, such as zoning, and the terms accurately describe the physical condition of the property.

Note

Pay close attention to the words that you use in any advertisement. This is the key question in advertising a potential use of a property: “Is the use legally permitted and are the physical characteristics of the property accurately described?”

Additional Web Resources

New legislation that affects Residential Rental Real Estate is continually being proposed and considered in the Illinois General Assembly. Stay abreast of these proposals and IAR Advocacy activities at www.iaractioncenter.org

IAR's Housing Site
www.thehousinginfo.org

Illinois Department of Financial and Professional Regulation
www.idfpr.com

Institute of Real Estate Management
www.IREM.org

City of Chicago - Housing
www.cityofchicago.org

U.S. Housing and Urban Development
www.hud.gov

Illinois Housing Development Authority
www.ihda.org

Illinois State Bar Association
www.illinoislawyerfinder.com/publicinfo/landlord.html