

## 10 §9097. TERMS OF RENTAL AGREEMENT

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**1. Eviction of tenant.** A tenancy may be terminated by a park owner or operator only for one or more of the following reasons:

A. Nonpayment of rent, utility charges or reasonable incidental service charges, except that no action for possession may be maintained if, prior to the expiration of a notice to quit, the tenant pays or tenders all arrearages due plus 5% of the outstanding rent or a maximum of \$5 as liquidated damages; [1997, c. 27, §1 (AMD).]

B. Failure of the tenant or the tenant's cohabitants, guests or invitees to comply with local ordinances or state or federal law, rules or regulations relating to mobile homes or mobile home parks, as long as the tenant first is given written notice of failure to comply with those restrictions and a reasonable opportunity to comply with the restrictions; [1997, c. 27, §1 (AMD).]

C. Damage by the tenant or the tenant's cohabitants, guests or invitees to the demised property, except for reasonable wear and tear; [1997, c. 27, §1 (AMD).]

D. Repeated conduct of the tenant or the tenant's cohabitants, guests or invitees upon the mobile home park premises that disturbs the peace and quiet or safety of other tenants in the mobile home park; [1997, c. 27, §1 (AMD).]

E. Failure of the tenant or the tenant's cohabitants, guests or invitees to comply with reasonable written rules of the mobile home park as established by the park owner or operator in the rental agreement at the beginning of the tenancy or as subsequently amended, as long as the tenant first is given written notice of failure to comply and a reasonable opportunity to comply with those rules; [1997, c. 27, §1 (AMD).]

F. Condemnation or change of use of the mobile home park, as long as, in the case of change of use, one year's notice is given in writing to the tenant, unless at the beginning of the tenancy the tenant is given notice of the scheduled change of use; [1997, c. 27, §1 (AMD).]

G. Renovation or reconstruction of any portions of the park, if:

(1) In the case of a temporary eviction, the park owner or operator:

- (a) Gives affected tenants 30 days' notice in writing, unless the temporary eviction is necessary to correct conditions posing an immediate threat to one or more tenants' health or safety; and
- (b) Pays the removal and relocation costs of tenants, except for those tenants who agree otherwise in a signed writing separate from the lease; or

(2) In the case of a permanent eviction, other than an eviction due to reconstruction or renovation required by a federal, state or local governmental body, of one or more mobile homes currently located in the park, the park owner or operator:

- (a) Gives each tenant one year's notice in writing; or
- (b) To each tenant for whose home the park owner has found a reasonable alternative location acceptable to the tenant, gives 6 months' written notice and pays removal and relocation costs; [1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. B, §4 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD); 1989, c. 662, (RPR).]

H. Under terms and expressed conditions in the original lease or rental agreement that is entered into by the tenant and landlord; or [1997, c. 27, §1 (AMD).]

I. Violation by a tenant or the tenant's cohabittees, guests or invitees of paragraph A, B or E, 3 or more times in a 12-month period, notwithstanding the fact that the tenant in each case corrected the violation after being notified of the violation by the park owner or operator. For purposes of termination under this paragraph, the tenant or the tenant's cohabittees, guests or invitees must have engaged in at least 3 separate instances of misconduct. [1997, c. 27, §1 (AMD).]

[ 1997, c. 27, §1 (AMD) .]

**1-A. Retaliation.** The court may not order the termination of any tenancy if the tenant proves that the eviction action is primarily in retaliation for:

A. The tenant's participation in establishing, or membership in, an organization concerned with landlord-tenant relationships; or [1989, c. 650, (NEW).]

B. The tenant's assertion of any right under this chapter. [1989, c. 650, (NEW).]

[ 1989, c. 650, (NEW) .]

**2. Notice.** A tenancy in a mobile home park may be terminated only by:

A. The tenant giving at least 45 days' notice of termination to the park owner; or [1987, c. 737, Pt. C, §1 and Pt (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The park owner entitled under subsection 1 to the mobile home space giving at least 45 days' notice of termination in writing to the tenant. If the landlord or the landlord's agent has made at least 3 witnessed good faith efforts made on 3 separate days to serve the tenant, service may be accomplished by both mailing the notice by first class mail to the tenant's last known address and by leaving the notice at the tenant's space in the park.

(1) In cases where the reason for eviction is nonpayment of rent, the tenancy may be terminated by 30 days' notice given in the same manner provided that the notice for eviction contains notice of the amount owed and a statement indicating that the tenant can negate the effect of the notice of termination as it applies to rent arrearage if the tenant pays the full amount of rent due before the expiration of the notice.

(2) In cases in which the reason for eviction is one listed in subsection 1, paragraph B, C, D, E, H or I, the 45 days' notice of termination must refer to relevant provisions of the lease or mobile home park rules and must state the reasons for the termination. [1993, c. 211, §1 (AMD).]

[ 1993, c. 211, §1 (AMD) .]

**2-A. Notice to lienholders.**

[ 1999, c. 207, §2 (RP) .]

**2-B. Responsibilities of park operator and lienholder.** The responsibilities of the mobile home park operator and the holder of a lien on the tenant's mobile home are as follows.

A. In the event the park operator moves to evict a tenant and there is a lien on the tenant's home, if the holder of the lien has provided the park operator with a notice of the lien and the notice includes the lienholder's mailing address, then prior to evicting the tenant who resides in that mobile home, the park operator shall give notice of the eviction in writing by certified mail to the lienholder at the time the park operator serves the tenant with a notice to quit. Following receipt of this notice from the park operator, the lienholder shall:

(1) Declare, in writing and by certified mail, to the park operator that the lienholder intends to take possession of the mobile home and assume tenancy in the park. The lienholder shall pay to the park operator:

- (a) Any arrearage for rent and other recurring monthly fees owed the park operator by the tenant at the time of issuance of the notice to quit;
- (b) Rent and other charges that become due subsequent to issuance of the notice to quit. Rent and charges imposed pursuant to this division may not exceed 3 months of those rents and charges; and
- (c) Rent and other charges that become due subsequent to the issuance of a forcible entry and detainer or, if no forcible entry and detainer is issued, following abandonment by the tenant or possession of the home by the lienholder; or

(2) Declare, in writing and by certified mail, to the park operator that the lienholder intends to take possession of the mobile home but not assume tenancy in the park. The lienholder also shall:

- (a) Pay to the park operator any arrearage for rent and other recurring monthly fees owed the park operator by the tenant at the time of issuance of the notice to quit; and
- (b) Remove the mobile home from the mobile home park.

The arrearage for which the lienholder is responsible may not exceed 3 months rent and recurring fees. [1999, c. 207, §3 (NEW).]

**B.** In the event that the holder of a lien on a mobile home in a mobile home park intends to repossess that home, the holder of the lien shall provide the park operator with a notice that it holds a lien, which notice must include the lienholder's mailing address and shall:

- (1) Give notice in writing and by certified mail to the park operator of the lienholder's intent to repossess and that the lienholder intends to leave the mobile home in the park and assume tenancy in the park. The lienholder also shall pay to the park operator any arrearage for rent and other recurring monthly fees owed the park operator by the tenant at the time it takes possession of the mobile home and all rent and other charges that become due subsequent to the time it takes possession of the mobile home; or
- (2) Give notice in writing and by certified mail to the park operator of the lienholder's intent to repossess and that it does not intend to leave the mobile home nor assume tenancy in the park. The lienholder also shall pay to the park operator any arrearage for rent and other recurring monthly fees owed the park operator by the tenant at the time it takes possession of the mobile home and all rent and other charges that become due subsequent to the time it takes possession of the mobile home until the lienholder physically removes the mobile home from the park.

The arrearage for which the lienholder is responsible may not exceed 3 months rent and other recurring fees. [1999, c. 207, §3 (NEW).]

Notwithstanding this subsection, the lienholder and the park operator may agree to an alternative arrangement if they so choose.

[ 1999, c. 207, §3 (NEW) .]

**3. Fees.** The owner of a mobile home park or the owner's agents may not charge any fees to tenants other than charges for rent, utilities, reasonable incidental service charges, entrance fees or security deposits, unless otherwise provided for in the original lease or agreement. The owner of a mobile home park or the owner's agents may not charge any entrance fee, regardless of what that fee is called, to a tenant who is moving into a mobile home currently in the mobile home park that is greater than 2 times the amount of the monthly rent.

[ 2005, c. 156, §1 (AMD) .]

**4. Rules.** A mobile home park owner may adopt reasonable rules governing the conduct of tenants, if the rules are reasonably related to preserving the order and peace of other tenants and the mobile home park. A park rule may not be unreasonable, unfair or unconscionable. Any rule or change in rent that does not apply

uniformly to all park tenants creates a rebuttable presumption that the rule or change in rent is unfair unless the rule or change in rent is made by majority vote of all the members in a resident-owned cooperative. Any park rule that does not comply with this section is void. For purposes of this subsection, "resident-owned cooperative" means a corporation or other legal entity that owns the mobile home park, the ownership interest in which is held only by residents of the mobile home park.

[ 1991, c. 738, (AMD) .]

**5. Tenant to be given copy of rules and applicable laws.** Before any rental agreement is entered into, the owner must provide each tenant who resides in the park and all prospective tenants with:

A. A written copy of the rules of the mobile home park; and [1987, c. 737, Pt. C, §1 and Pt (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A written copy of this chapter. [1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §5 and Pt (AMD).]

[ 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §5 and Pt (AMD) .]

**6. Enforcement.** In addition to any other remedy under this chapter, any mobile home park resident may sue to enforce any provision of this section and the court may award damages or grant injunctive or other appropriate relief.

[ 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §6 and Pt (AMD) .]

**7. Waiver prohibited.** No lease or rental agreement, oral or written, may contain any provision by which the tenant waives any rights under this chapter. Any such waiver is contrary to public policy and unenforceable.

[ 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §7 and Pt (AMD) .]

**8. Written or oral rental agreement.** Nothing in this section may be construed to permit a park owner or operator to vary the terms of a written or oral rental agreement without the express written consent of the tenant.

[ 1987, c. 737, Pt. C, §1 and Pt (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**9. Rental agreements involving children.**

[ 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD); 1989, c. 104, Pt. C, §8 and Pt (RP) .]

**10. Discrimination against tenants with children prohibited.** Discrimination against any tenant with children is prohibited in accordance with Title 5, chapter 337.

[ 2005, Pt. B, §7 (AMD) .]

**11. Breach of warranty of habitability as an affirmative defense.** In an action brought by a mobile home park owner to terminate a rental agreement on the ground that the tenant is in arrears in the payment of rent, the tenant may raise, as a defense, any alleged violation of the implied warranty and covenant of habitability provided that:

- A. The tenant gave the mobile home park owner, or the owner's agent has received, actual notice of the alleged violation while the tenant was current in rental payments; [1989, c. 687, (NEW).]
- B. The park owner or operator unreasonably failed under the circumstances to take prompt, effective steps to repair or remedy the condition; and [1989, c. 687, (NEW).]
- C. The condition was not caused by the tenant or another person acting under the tenant's control. [1989, c. 687, (NEW).]

Upon finding that the leased premises is not fit for human habitation, the court shall permit the tenant either to terminate the rental agreement without prejudice or to reaffirm the rental agreement and the court shall assess against the tenant an amount equal to the reduced fair rental value of the property for the period during which rent is owed. The reduced amount of rent owed is to be paid on a pro rata basis, unless the parties agree otherwise, and payments are due at the same intervals as rent for the current rental period. The mobile home park owner may not charge the tenant for the full rental value of the property until the property is fit for human habitation.

[ 1989, c. 687, (NEW) .]

**12. Application; mobile homes owned by park.** If a park owner or operator owns a mobile home in the mobile home park and rents that mobile home, termination of the tenancy is governed by the terms of the lease. If there is no lease agreement, the tenancy is a tenancy at will and termination is governed by Title 14, section 6002.

[ 1999, c. 287, §1 (NEW) .]

SECTION HISTORY

1987, c. 737, §§B1,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§B4-9,C8,10 (AMD). 1989, c. 650, (AMD). 1989, c. 652, (AMD). 1989, c. 662, (AMD). 1989, c. 687, (AMD). 1991, c. 738, (AMD). 1993, c. 180, §1 (AMD). 1993, c. 211, §1 (AMD). 1995, c. 365, §2 (AMD). 1997, c. 27, §1 (AMD). 1999, c. 207, §§2,3 (AMD). 1999, c. 287, §1 (AMD). 2005, c. 156, §1 (AMD). 2005, c. 683, §B7 (AMD).

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