

57-26-109 Enforcement by notification to tenant.

- (1) Upon the assignor's default, or as otherwise agreed by the assignor, the assignee may give to a tenant of the real property a notification demanding that the tenant pay to the assignee all unpaid accrued rents and all unaccrued rents as they accrue. The assignee shall give a copy of the notification to the assignor and to any other person that, 10 days before the notification date, held a recorded assignment of rents arising from the real property. The notification must be signed by the assignee and:
 - (a) identify the tenant, assignor, assignee, premises covered by the agreement between the tenant and the assignor, and assignment of rents being enforced;
 - (b) provide the recording data for the document creating the assignment or other reasonable proof that the assignment was made;
 - (c) state that the assignee has the right to collect rents in accordance with the assignment;
 - (d) direct the tenant to pay to the assignee all unpaid accrued rents and all unaccrued rents as they accrue;
 - (e) describe the manner in which Subsections (3) and (4) affect the tenant's payment obligations;
 - (f) provide the name and telephone number of a contact person and an address to which the tenant can direct payment of rents and any inquiry for additional information about the assignment or the assignee's right to enforce the assignment; and
 - (g) contain a statement that the tenant may consult a lawyer if the tenant has questions about its rights and obligations.
- (2) If an assignee enforces an assignment of rents under this section, the date of enforcement is the date on which the tenant receives a notification substantially complying with Subsection (1).
- (3) Subject to Subsection (4) and any other claim or defense that a tenant has under law of this state other than this chapter, following receipt of a notification substantially complying with Subsection (1):
 - (a) a tenant is obligated to pay to the assignee all unpaid accrued rents and all unaccrued rents as they accrue, unless the tenant has previously received a notification from another assignee of rents given by that assignee in accordance with this section and the other assignee has not canceled that notification;
 - (b) unless the tenant occupies the premises as the tenant's primary residence, a tenant that pays rents to the assignor is not discharged from the obligation to pay rents to the assignee;
 - (c) a tenant's payment to the assignee of rents then due satisfies the tenant's obligation under the tenant's agreement with the assignor to the extent of the payment made; and
 - (d) a tenant's obligation to pay rents to the assignee continues until the tenant receives a court order directing the tenant to pay the rent in a different manner or a signed document from the assignee canceling its notification, whichever occurs first.
- (4) A tenant that has received a notification under Subsection (1) is not in default for nonpayment of rents accruing within 30 days after the date the notification is received before the earlier of:
 - (a) 10 days after the date the next regularly scheduled rental payment would be due; or
 - (b) 30 days after the date the tenant receives the notification.
- (5) Upon receiving a notification from another creditor that is entitled to priority under Subsection 57-26-105(3) that the other creditor has enforced and is continuing to enforce its interest in rents, an assignee that has given a notification to a tenant under Subsection (1) shall immediately give another notification to the tenant canceling the earlier notification.
- (6) An assignee's failure to give a notification under Subsection (1) to any person holding a recorded assignment of rents does not affect the effectiveness of the notification as to the assignor and those tenants receiving the notification. However, the person entitled to the notification is entitled to any relief permitted by law of this state other than this chapter.

- (7) An assignee that holds a security interest in rents solely by virtue of Subsection 57-26-104(1) may not enforce the security interest under this section while the assignor occupies the real property as the assignor's primary residence.

Enacted by Chapter 139, 2009 General Session