

Effective 5/9/2017

78B-6-816 Abandoned premises -- Retaking and rerenting by owner -- Liability of tenant -- Personal property of tenant left on premises.

- (1) In the event of abandonment, the owner may retake the premises and attempt to rent them at a fair rental value and the tenant who abandoned the premises shall be liable:
 - (a) for the entire rent due for the remainder of the term; or
 - (b) for rent accrued during the period necessary to rerent the premises at a fair rental value, plus the difference between the fair rental value and the rent agreed to in the prior rental agreement, plus a reasonable commission for the renting of the premises and the costs, if any, necessary to restore the rental unit to its condition when rented by the tenant less normal wear and tear. This Subsection (1) applies, if less than Subsection (1)(a), notwithstanding that the owner did not rerent the premises.
- (2)
 - (a) If the tenant has abandoned the premises and has left personal property on the premises, the owner is entitled to remove the property from the dwelling, store it for the tenant, and recover actual moving and storage costs from the tenant.
 - (b)
 - (i) The owner shall post a copy of the notice in a conspicuous place and send by first class mail to the last known address for the tenant a notice that the property is considered abandoned.
 - (ii) The tenant may retrieve the property within 15 calendar days from the date of the notice if the tenant tenders payment of all costs of inventory, moving, and storage to the owner.
 - (iii) Except as provided in Subsection (5), if the property has been in storage for at least 15 calendar days and the tenant has made no reasonable effort to recover the property after notice was sent, pay reasonable costs associated with the inventory, removal, and storage, and no court hearing on the property is pending, the owner may:
 - (A) sell the property at a public sale and apply the proceeds toward any amount the tenant owes; or
 - (B) donate the property to charity if the donation is a commercially reasonable alternative.
 - (c) Any money left over from the public sale of the property shall be handled as specified in Title 67, Chapter 4a, Part 2, Presumption of Abandonment.
 - (d) Nothing contained in this act shall be in derogation of or alter the owner's rights under Title 38, Chapter 3, Lessors' Liens, or any other contractual liens or rights.
- (3) If abandoned property is determined to belong to a person who is the tenant or an occupant, the tenant or occupant may claim the property, upon payment of any costs, inventory, moving, and storage, by delivery of a written demand with evidence of ownership of the personal property within 15 calendar days after the notice described in Subsection (2)(b) is sent. The owner may not be liable for the loss of the abandoned personal property if the written demand is not received.
- (4) As used in this section, "personal property" does not include a motor vehicle, as defined in Section 41-1a-102.
- (5) A tenant has no recourse for damage or loss if the tenant fails to recover any abandoned property as required in this section.
- (6) An owner is not required to store the following abandoned personal property:
 - (a) chemicals, pests, potentially dangerous or other hazardous materials;
 - (b) animals, including dogs, cats, fish, reptiles, rodents, birds, or other pets;
 - (c) gas, fireworks, combustibles, or any item considered to be hazardous or explosive;
 - (d) garbage;
 - (e) perishable items; or

- (f) items that when placed in storage might create a hazardous condition or a pest control issue.
- (7) An owner shall give an extension for up to 15 calendar days, beyond the 15 calendar day limit described in Subsection (2)(b)(ii), to recover the abandoned property, if a tenant provides:
 - (a) a copy of a police report or protection order for situations of domestic violence, as defined in Section 77-36-1;
 - (b) verification of an extended hospitalization from a verified medical provider; or
 - (c) a death certificate or obituary for a tenant's death, provided by an immediate family member.
- (8) Items listed in Subsection (6) may be properly disposed of by the owner immediately upon determination of abandonment. A tenant may not recover for disposal of abandoned items listed in Subsection (6).
- (9) Notice of any public sale shall be mailed to the last known address of the tenant at least five calendar days prior to the public sale.
- (10) If the tenant is present at the public sale:
 - (a) the tenant may specify the order in which the personal property is sold;
 - (b) the owner may sell only as much personal property necessary to satisfy the amount due under the rental agreement and statutorily allowed damages, costs, and fees associated with the abandoned items; and
 - (c) any unsold personal property shall be released to the tenant.
- (11) If the tenant is not present at the public sale:
 - (a) all items may be sold; and
 - (b) any surplus amount over the amount due to the owner shall be paid to the tenant, if the tenant's current location is known. If the tenant's location is not known, any surplus shall be disposed of in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

Amended by Chapter 371, 2017 General Session