

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2016 REGULAR SESSION
Unofficial Document

Amend printed copy of SB 23/GA

On page 7, line 5, by inserting the following:

"➔Section 2. KRS 383.500 is repealed, reenacted, and amended to read as follows:

The General Assembly hereby enacts and applies statewide~~{authorizes cities, counties and urban-county governments to enact the provisions of}~~ the Uniform Residential Landlord and Tenant Act as set forth in KRS 383.505 to 383.715~~{383.705}~~.~~{If adopted, these provisions shall be adopted in their entirety and without amendment.}~~ No other ordinance shall be enacted or retained by a city, county,~~{or}~~ urban-county government, consolidated local government, charter county government, or unified local government which relates to the subjects embraced in KRS 383.505 to 383.715~~{383.705}~~.

➔Section 3. KRS 383.505 is repealed and reenacted to read as follows:

- (1) KRS 383.505 to 383.715 shall be liberally construed and applied to promote its underlying purposes and policies.
- (2) Underlying purposes and policies of KRS 383.505 to 383.715 are:
 - (a) To encourage landlords and tenants to maintain and improve the quality of housing; and
 - (b) To make uniform the law with respect to the subject of KRS 383.505 to 383.715 among those states which enact it.

Amendment No. HFA 3

Sponsor: Rep. Johnny Bell

Committee Amendment: _____

Signed: _____

Floor Amendment: _____

LRC Drafter: Nardy, Dale

Adopted: _____

Date: _____

Rejected: _____

Doc. ID: XXXXX

Not for Filing

➔Section 4. KRS 383.510 is repealed and reenacted to read as follows:

Unless displaced by the provisions of KRS 383.505 to 383.715, the principles of law and equity, including the law relating to capacity to contract, mutuality of obligations, principal and agent, real property, public health, safety and fire prevention, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause supplement its provisions.

➔Section 5. KRS 383.515 is repealed and reenacted to read as follows:

KRS 383.505 to 383.715 being a general act intended as a unified coverage of its subject matter, no part of it is to be construed as impliedly repealed by subsequent legislation if that construction can reasonably be avoided.

➔Section 6. KRS 383.520 is repealed and reenacted to read as follows:

- (1) The remedies provided by KRS 383.505 to 383.715 shall be so administered that an aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.
- (2) Any right or obligation declared by KRS 383.505 to 383.715 is enforceable by action unless the provision declaring it specifies a different and limited effect.

➔Section 7. KRS 383.525 is repealed and reenacted to read as follows:

A claim or right arising under KRS 383.505 to 383.715 or on a rental agreement, if disputed in good faith, may be settled by agreement.

➔Section 8. KRS 383.535 is repealed, reenacted, and amended to read as follows:

The following arrangements are not governed by KRS 383.505 to 383.715:

- (1) Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational counseling, religious, or similar service.
- (2) Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his or her interest.

- (3) Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization.
- (4) Transient occupancy in a hotel, or motel, or lodgings subject to state transient lodgings or room occupancy excise tax act.
- (5) Occupancy by an employee of a landlord whose right to occupancy is conditional upon employment in and about the premises.
- (6) Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative.
- (7) Occupancy of a dwelling unit located on land devoted to the production of livestock, livestock products, poultry, poultry products or the growing of tobacco or other crops including timber.

➔Section 9. KRS 383.540 is repealed, reenacted, and amended to read as follows:

- (1) The District Courts of this state may exercise jurisdiction over any landlord or tenant with respect to any conduct in this state governed by KRS 383.505 to 383.715 or with respect to any claim arising from a transaction subject to KRS 383.505 to 383.715. In addition to any other method provided by rule or by statute, personal jurisdiction over a landlord or tenant may be acquired in a civil action or proceeding instituted in the court by the service of process in the manner provided by this section.
- (2) If a landlord is not a resident of this state or is a corporation not authorized to do business in this state and engages in any conduct in this state governed by KRS 383.505 to 383.715, or engages in a transaction subject to KRS 383.505 to 383.715, he or she may designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The designation shall be in writing and filed with the Secretary of State. If no designation is made and filed or if process cannot be served in this state upon the designated agent,

process may be served upon the Secretary of State, but service upon him or her is not effective unless the plaintiff or petitioner forthwith mails a copy of the process and pleading by registered or certified mail to the defendant or respondent at his or her last reasonably ascertainable address. An affidavit of compliance with this section shall be filed with the clerk of the court on or before the return day of the process, if any, or within any further time the court allows.

➔Section 10. KRS 383.545 is repealed, reenacted, and amended to read as follows:

Subject to additional definitions contained in subsequent sections of KRS 383.505 to 383.715 which apply to specific sections or paragraphs thereof, and unless the context otherwise requires:

- (1) "Action" includes recoupment, counterclaim, set-off suit in equity, and any other proceeding in which rights are determined, including an action for possession;[-]
- (2) "Building and housing codes" include any law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of any premises or dwelling unit;[-]
- (3) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one (1) person who maintains a household or by two (2) or more persons who maintain a common household;[-]
- (4) "Good faith" means honesty in fact in the conduct of the transaction concerned;[-]
- (5) "Landlord" means the owners, lessor, or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to disclose as required by KRS 383.585;[-]
- (6) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, and any other legal or commercial entity;[-]
- (7) "Owner" means one (1) or more persons, jointly or severally, in whom is vested all or part

- of the legal title to property or all or part of the beneficial ownership and a right to present use and enjoyment of the premises. The term includes a mortgagee in possession;[+]
- (8) "Person" includes an individual or organization;[+]
- (9) "Premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to the tenant;[+]
- (10) "Rent" means all payments except a security deposit as defined in this section to be made to the landlord under the rental agreement;[+]
- (11) "Rental agreement" means all agreements, written or oral, and valid rules and regulations adopted under KRS 383.610 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises;[+]
- (12) "Roomer" or "boarder" means a tenant occupying a dwelling unit:
- (a) Which lacks at least one (1) major bathroom facility or kitchen facility, such as a toilet, refrigerator, or a stove; and
 - (b) In a building where one (1) or more such major facilities are supplied to be used in common by the occupants of the tenant's dwelling unit and by the occupants of one (1) or more other dwelling units; and
 - (c) In a building in which the landlord resides;[+]
- (13) "Security deposit" means an escrow payment made to the landlord under the rental agreement for the purpose of securing the landlord against financial loss due to damage to the premises occasioned by the tenant's occupancy other than ordinary wear and tear;[+]
- (14) "Single family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one (1) or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or

service with any other dwelling unit;~~;~~

- (15) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others;~~;~~
- (16) "Unconscionable" means an act or conduct which is willful and is so harsh and unjust as would be condemned or considered to be wrongful and would be shocking to the conscience of honest and fair-minded persons; and~~;~~
- (17) "Willful" means with deliberate intention, not accidentally or inadvertently, and done according to a purpose.

→Section 11. KRS 383.550 is repealed and reenacted to read as follows:

Every duty under KRS 383.505 to 383.715 and every act which must be performed as a condition precedent to the exercise of a right or remedy under KRS 383.505 to 383.715 imposes an obligation of good faith in its performance or enforcement.

→Section 12. KRS 383.555 is repealed, reenacted, and amended to read as follows:

- (1) If the court, as a matter of law, finds:
- (a) A rental agreement or any provision thereof was unconscionable when made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result; or
 - (b) A settlement in which a party waives or agrees to forgo~~forego~~ a claim or right under KRS 383.505 to 383.715 or under a rental agreement was unconscionable when made, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result.
- (2) If unconscionability is put into issue by a party or by the court upon its own motion, the parties shall be afforded a reasonable opportunity to present evidence as to the setting,

purpose, and effect of the rental agreement or settlement to aid the court in making the determination.

➔Section 13. KRS 383.560 is repealed, reenacted, and amended to read as follows:

- (1) A person has notice of a fact if:
 - (a) He or she has actual knowledge of it;
 - (b) He or she has received a notice or notification of it; or
 - (c) From all the facts and circumstances known to him or her at the time in question he or she has reason to know that it exists.
- (2) A person knows or has knowledge of a fact if he or she has actual knowledge of it.
- (3) A person notifies or gives a notice or notification to another person by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. A person receives a notice or notification when:
 - (a) It comes to his or her attention; or
 - (b) In the case of the landlord, it is delivered in writing at the place of business of the landlord through which the rental agreement was made or at any place held out by him or her as the place for receipt of the communications, or mailed by certified mail to him or her at his or her place of business or at any place held out by him or her as the place for receipt of any communication;
 - (c) In the case of the tenant, it is delivered in hand to the tenant or mailed by registered or certified mail to him or her at the place held out by him or her as the place for receipt of the communication, or in the absence of such designation, to his or her last known place of residence.
- (4) Notice, knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction, and in any event from the time it would have been brought to

his or her attention if the organization had exercised reasonable diligence.

➔Section 14. KRS 383.565 is repealed and reenacted to read as follows:

- (1) A landlord and a tenant may include in a rental agreement terms and conditions not prohibited by KRS 383.505 to 383.715 or other rule of law, including rent, term of the agreement, and other provisions governing the rights and obligations of the parties.
- (2) Rent is payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit and periodic rent is payable at the beginning of any term of one (1) month or less and otherwise in equal monthly installments at the beginning of each month. Unless otherwise agreed, rent is uniformly apportionable from day-to-day.
- (3) Unless the rental agreement fixes a definite term, the tenancy is week-to-week in case of a roomer who pays weekly rent, and in all other cases month-to-month.

➔Section 15. KRS 383.570 is repealed, reenacted, and amended to read as follows:

- (1) A rental agreement may not provide that the tenant:
 - (a) Agrees to waive or forgo~~[forego]~~ rights or remedies under KRS 383.505 to 383.715;
 - (b) Authorizes any person to confess judgment on a claim arising out of the rental agreement;
 - (c) Agrees to pay the landlord's attorney's fees; or
 - (d) Agrees to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or the costs connected therewith.
- (2) A provision prohibited by subsection (1) of this section included in a rental agreement is unenforceable.

➔Section 16. KRS 383.575 is repealed and reenacted to read as follows:

A rental agreement, assignment, conveyance, trust deed, or security instrument may not permit the receipt of rent free of the obligation to comply with KRS 383.595(1).

➔Section 17. KRS 383.580 is repealed, reenacted, and amended to read as follows:

- (1) All landlords of residential property requiring security deposits prior to occupancy shall be required to deposit all tenants' security deposits in an account used only for that purpose, in any bank or other lending institution subject to regulation by the Commonwealth of Kentucky or any agency of the United States government. Prospective tenants shall be informed of the location of the separate account and the account number.
- (2) Prior to tendering any consideration deemed to be a security deposit, the prospective tenant shall be presented with a comprehensive listing of any then-existing damage to the unit which would be the basis for a charge against the security deposit and the estimated dollar cost of repairing such damage. The tenant shall have the right to inspect the premises to ascertain the accuracy of such listing prior to taking occupancy. The landlord and the tenant shall sign the listing, which signatures shall be conclusive evidence of the accuracy of such listing, but shall not be construed to be conclusive to latent defects. If the tenant shall refuse to sign such listing, he or she shall state specifically in writing the items on the list to which he or she dissents, and shall sign such statement of dissent.
- (3) At the termination of occupancy, the landlord shall inspect the premises and compile a comprehensive listing of any damage to the unit which is the basis for any charge against the security deposit and the estimated dollar cost of repairing such damage. The tenant shall then have the right to inspect the premises to ascertain the accuracy of such listing. The landlord and the tenant shall sign the listing, which signatures shall be conclusive evidence of the accuracy of such listing. If the tenant shall refuse to sign such listing, he or she shall state specifically in writing the items on the list to which he or she dissents, and shall sign such statement of dissent.
- (4) No landlord shall be entitled to retain any portion of a security deposit if the security deposit was not deposited in a separate account as required by subsection (1) of this section

and if the initial and final damage listings required by subsections (2) and (3) of this section are not provided.

- (5) A tenant who disputes the accuracy of the final damage listing given pursuant to subsection (3) of this section may bring an action in District Court. Tenant's claim shall be limited to those items from which the tenant specifically dissented in accordance with the provisions of subsection (3) of this section, or except as otherwise provided, and if the tenant shall fail to sign the listing or specifically dissent in accordance with subsection (3) of this section, the tenant shall not be entitled to recover any damages under this section.
- (6) In the event a tenant leaves not paying his or her last month's rent and does not demand a return of his or her deposit, the landlord may, after thirty (30) days, remove the deposit from the account and apply any such excess to the debt owing.
- (7) In the event the tenant leaves not owing rent and having any refund due, the landlord shall send notification to the last known or reasonably determinable address, of the amount of any refund due the tenant. In the event the landlord shall not have received a response from the tenant within sixty (60) days from the sending of such notification, the landlord may remove the deposit from the account and retain it free from any claim of the tenant or any person claiming in his behalf.

➔Section 18. KRS 383.585 is repealed, reenacted, and amended to read as follows:

- (1) A landlord or any person authorized to enter into a rental agreement on his or her behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:
 - (a) The person authorized to manage the premises; and
 - (b) An owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and receiving and receipting for notices and demands.

- (2) The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor landlord, owner, or manager.
- (3) A person who fails to comply with subsection (1) **of this section** becomes an agent of each person who is a landlord for:
 - (a) Service of process and receiving and receipting for notices and demands; and
 - (b) Performing the obligations of the landlord under KRS 383.505 to 383.715 and under the rental agreement and expending or making available for the purpose all rent collected from the premises.

➔Section 19. KRS 383.590 is repealed and reenacted to read as follows:

At the commencement of the term a landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and KRS 383.595. The landlord may bring an action for possession against any person wrongfully in possession and may recover the damages provided in KRS 383.695(4).

➔Section 20. KRS 383.595 is repealed, reenacted, and amended to read as follows:

- (1) A landlord shall:
 - (a) Comply with the requirements of applicable building and housing codes materially affecting health and safety;
 - (b) Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;
 - (c) Keep all common areas of the premises in a clean and safe condition;
 - (d) Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by him **or her**; and
 - (e) Supply running water and reasonable amounts of hot water at all times and reasonable heat between October 1 and May 1 except where the building that includes the

dwelling unit is not required by law to be equipped for that purpose, or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection.

- (2) If the duty imposed by paragraph (a) of subsection (1) of this section is greater than any duty imposed by any other paragraph of that subsection, the landlord's duty shall be determined by reference to paragraph (a) of subsection (1) of this section.
- (3) The landlord and tenant of a single family residence may agree in writing that the tenant perform the landlord's duties specified in paragraph (e) of subsection (1) of this section and also specified repairs, maintenance tasks, alterations, and remodeling, but only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord.
- (4) The landlord and tenant of any dwelling unit other than a single family residency may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if:
 - (a) The agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration;
 - (b) The work is not necessary to cure noncompliance with subsection (1)(a) of this section; and
 - (c) The agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

➔Section 21. KRS 383.600 is repealed, reenacted, and amended to read as follows:

- (1) Unless otherwise agreed, a landlord who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and KRS 383.505 to 383.715 as to events occurring

after written notice to the tenant of the conveyance.

- (2) Unless otherwise agreed, a manager of premises that include a dwelling unit is relieved of liability under the rental agreement and KRS 383.505 to 383.715 as to events occurring after written notice to the tenant of the termination of his or her management.

➔Section 22. KRS 383.605 is repealed, reenacted, and amended to read as follows:

A tenant shall:

- (1) Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;
- (2) Keep that part of the premises that he or she occupies and uses as clean and safe as the condition of the premises permit;
- (3) Dispose from his or her dwelling unit all ashes, garbage, rubbish, and other waste in a clean and safe manner;
- (4) Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;
- (5) Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances including elevators in the premises;
- (6) Not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so; and
- (7) Conduct himself or herself and require other persons on the premises with his or her consent to conduct themselves in a manner that will not disturb his or her neighbors' peaceful enjoyment of the premises.

➔Section 23. KRS 383.610 is repealed, reenacted, and amended to read as follows:

- (1) A landlord, from time to time, may adopt a rule or regulation, however described, concerning the tenant's use and occupancy of the premises. It is enforceable against the tenant only if:

- (a) Its purpose is to promote the convenience, safety, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;
 - (b) It is reasonably related to the purpose for which it is adopted;
 - (c) It applies to all tenants in the premises in a fair manner;
 - (d) It is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him or her of what he or she must or must not do to comply;
 - (e) It is not for the purpose of evading the obligations of the landlord; and
 - (f) The tenant has notice of it at the time he or she enters into the rental agreement, or when it is adopted.
- (2) If a rule or regulation is adopted after the tenant enters into the rental agreement that works a substantial modification of his or her bargain it is not valid unless the tenant consents to it in writing.

➔Section 24. KRS 383.615 is repealed, reenacted, and amended to read as follows:

- (1) A tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.
- (2) A landlord may enter the dwelling unit without consent of the tenant in case of emergency.
- (3) A landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or unless it is impracticable to do so, the landlord shall give the tenant at least two (2) days' notice of his or her intent to enter and may enter only at reasonable times.
- (4) A landlord has no other right of access except:
 - (a) Pursuant to court order;
 - (b) As permitted by KRS 383.665 and 383.670(2); or

(c) Unless the tenant has abandoned or surrendered the premises.

➔Section 25. KRS 383.620 is repealed, reenacted, and amended to read as follows:

Unless otherwise agreed, a tenant shall occupy his or her dwelling unit only as a dwelling unit. The rental agreement may require that the tenant notify the landlord of any anticipated extended absence from the premises in excess of seven (7) days no later than the first day of the extended absence.

➔Section 26. KRS 383.625 is repealed, reenacted, and amended to read as follows:

- (1) Except as provided in KRS 383.505 to 383.715, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with KRS 383.595 materially affecting health and safety, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty (30) days after receipt of the notice if the breach is not remedied in fourteen (14) days, and the rental agreement shall terminate as provided in the notice subject to the following:
 - (a) If the breach is remediable by repairs, the payment of damages or otherwise and the landlord adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate by reason of the breach.
 - (b) If substantially the same act or omission which constituted a prior noncompliance covered by subsection (1) of this section of which notice was given recurs within six (6) months, the tenant may terminate the rental agreement upon at least fourteen (14) days' written notice specifying the breach and the date of termination of the rental agreement.
 - (c) The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of his or her family, or other person on the premises with his or her consent.

(2) Except as provided in KRS 383.505 to 383.715, the tenant may recover damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement of KRS 383.595.

(3) The remedy provided in subsection (2) **of this section** is in addition to any right of the tenant arising under subsection (1) of this section.

(4) If the rental agreement is terminated, the landlord shall return all prepaid rent.

➔Section 27. KRS 383.630 is repealed, reenacted, and amended to read as follows:

(1) If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in KRS 383.590, rent abates until possession is delivered and the tenant may:

(a) Terminate the rental agreement upon at least five (5) days' written notice to the landlord and upon termination the landlord shall return all prepaid rent and damage fee; or

(b) Demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the dwelling unit against the landlord or any person wrongfully in possession and recover the damages sustained by him **or her**.

(2) If a person's failure to deliver possession is willful and not in good faith, an aggrieved person may recover from that person an amount not more than three (3) months' periodic rent or threefold the actual damages sustained, whichever is greater, and reasonable attorney's fees.

➔Section 28. KRS 383.635 is repealed, reenacted, and amended to read as follows:

(1) If the landlord willfully and materially fails to comply with the rental agreement or fails to comply with KRS 383.595 and such noncompliance materially affects health and safety and the reasonable cost of compliance is less than one hundred dollars (\$100), or an amount equal to one-half (1/2) of the monthly rent, whichever amount is greater, the tenant may notify the landlord of his **or her** intention to correct the condition at the landlord's expense.

If the landlord willfully fails to comply within fourteen (14) days after being notified by the tenant in writing or as promptly as conditions require in case of emergency, the tenant may cause the work to be done in a workmanlike manner and, after submitting to the landlord an itemized statement for the work actually done and for which the tenant has paid in full, deduct from his or her rent the actual and reasonable cost or the fair and reasonable value of the work, not exceeding the amount specified in this subsection.

- (2) 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 his or her family, or other person on the premises with his or her consent.

➔Section 29. KRS 383.640 is repealed, reenacted, and amended to read as follows:

- (1) If, contrary to the rental agreement of KRS 383.595, the landlord willfully fails to supply heat, running water, hot water, electric, gas, or other essential service, the tenant may give written notice to the landlord specifying the breach and may:
- (a) Procure reasonable amounts of heat, hot water, running water, electric, gas, and the essential service during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent;
 - (b) Recover damages based upon the diminution in the fair rental value of the dwelling unit; or
 - (c) Procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance.
- (2) In addition to a remedy provided in paragraph (c) of subsection (1) of this section the tenant may recover reasonable attorney's fees.
- (3) If the tenant proceeds under this section, he or she may not proceed under KRS 383.625 or 383.635 as to that breach.

- (4) Rights of the tenant under this section do not arise until he or she has given notice to the landlord or if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his or her family, or other person on the premises with his or her consent.

➔Section 30. KRS 383.645 is repealed, reenacted, and amended to read as follows:

- (1) In an action for possession based upon nonpayment of the rent or in an action for rent when the tenant is in possession, the tenant may counterclaim for any amount he or she may recover under the rental agreement of KRS 383.565. In that event the court from time to time may order the tenant to pay into court all or part of the rent accrued and thereafter accruing, and shall determine the amount due to each party. The party to whom a net amount is owed shall be paid first from the money paid into court, and the balance by the other party. If no rent remains due after application of this section, judgment shall be entered for the tenant in the action for possession. If the defense or counterclaim by the tenant is without merit and is not raised in good faith, the landlord may recover reasonable attorney's fees.
- (2) In an action for rent when the tenant is not in possession, he or she may counterclaim as provided in subsection (1) of this section but is not required to pay any rent into court.

➔Section 31. KRS 383.650 is repealed and reenacted to read as follows:

- (1) If the dwelling unit or premises are damaged or destroyed by fire or casualty or so injured by the elements, act of God, or other cause to an extent that enjoyment of the dwelling unit is substantially impaired, the tenant or the landlord may terminate the rental agreement upon fourteen (14) days' notice; however, the tenant may immediately vacate the premises.
- (2) If the rental agreement is terminated under provision of this section the landlord shall return all the unused portion of the prepaid rent. Accounting for rent in the event of termination or apportionment shall be made as of the date of the casualty.

➔Section 32. KRS 383.655 is repealed and reenacted to read as follows:

If a landlord unlawfully removes or excludes the tenant from the premises or willfully diminishes services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electric, gas, or other essential service, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount not more than three (3) months periodic rent and a reasonable attorney's fee. If the rental agreement is terminated, the landlord shall return all prepaid rent.

➔Section 33. KRS 383.660 is repealed, reenacted, and amended to read as follows:

- (1) Except as provided in KRS 383.505 to 383.715, if there is a material noncompliance by the tenant with the rental agreement or a material noncompliance with KRS 383.605 or 383.610, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than fourteen (14) days after receipt of the notice. If the breach is not remedied in fifteen (15) days, the rental agreement shall terminate as provided in the notice subject to the following. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six (6) months, the landlord may terminate the rental agreement upon at least fourteen (14) days' written notice specifying the breach and the date of termination of the rental agreement.
- (2) If rent is unpaid when due and the tenant fails to pay rent within seven (7) days after written notice by the landlord of nonpayment and his ***or her*** intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement.
- (3) Except as provided in KRS 383.505 to 383.715, the landlord may recover damages and

obtain injunctive relief for any noncompliance by the tenant with the rental agreement or KRS 383.605 or 383.610. If the tenant's noncompliance is willful the landlord may recover actual damages and reasonable attorney's fees.

➔Section 34. KRS 383.665 is repealed and reenacted to read as follows:

If there is noncompliance by the tenant with KRS 383.605 or 383.610 materially affecting health and safety that can be remedied by repair, replacement of a damaged item or cleaning, and the tenant fails to comply as promptly as conditions require in case of emergency or within fourteen (14) days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner and submit the itemized bill for the actual and reasonable cost or the fair and reasonable value thereof as rent on the next date periodic rent is due, or if the rental agreement has terminated, for immediate payment.

➔Section 35. KRS 383.670 is repealed and reenacted to read as follows:

- (1) If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence in excess of seven (7) days as required in KRS 383.620 and the tenant willfully fails to do so, the landlord may recover actual damages from the tenant.
- (2) During any absence of the tenant in excess of seven (7) days, the landlord may enter the dwelling unit at times reasonably necessary.
- (3) If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair rental. If the landlord rents the dwelling unit for a term beginning before the expiration of the rental agreement, it terminates as of the date of the new tenancy. If the landlord fails to use reasonable efforts to rent the dwelling unit at a fair rental or if the landlord accepts the abandonment as a surrender, the rental agreement is deemed to be terminated by the landlord as of the date the landlord has notice of the abandonment. If the tenancy is from month-to-month or week-to-week, the term of the rental agreement for this

purpose is deemed to be a month or a week, as the case may be.

➔Section 36. KRS 383.675 is repealed, reenacted, and amended to read as follows:

Acceptance of rent with knowledge of a default by the tenant or acceptance of performance by him or her that varies from the terms of the rental agreement constitutes a waiver of the landlord's right to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

➔Section 37. KRS 383.680 is repealed and reenacted to read as follows:

- (1) A lien or security interest on behalf of the landlord in the tenant's household goods is not enforceable unless perfected before August 1, 1984.
- (2) Distraint for rent is abolished.

➔Section 38. KRS 383.685 is repealed and reenacted to read as follows:

If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement and reasonable attorney's fees as provided in KRS 383.660(3).

➔Section 39. KRS 383.690 is repealed and reenacted to read as follows:

A landlord may not recover or take possession of the dwelling unit by action or otherwise, including willful diminution of services to the tenant by interrupting or causing the interruption of heat, electric, running water, hot water, gas, or other essential service to the tenant, except in case of abandonment, surrender, or as permitted in KRS 383.505 to 383.715.

➔Section 40. KRS 383.695 is repealed, reenacted, and amended to read as follows:

- (1) The landlord or the tenant may terminate a week-to-week tenancy by a written notice given to the other at least seven (7) days before the termination date specified in the notice.
- (2) The landlord or the tenant may terminate a month-to-month tenancy by a written notice given to the other at least thirty (30) days before the periodic rental date specified in the notice.

- (3) The landlord or the tenant may terminate a tenancy begun upon the termination of a written lease by written notice given to the other at least ten (10) days before the termination date specified in the notice, except that if the tenant fails to pay rent within ten (10) days after the day it becomes due, the landlord may terminate the tenancy at any time without notice.
- (4) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and if the tenant's holdover is willful and not in good faith the landlord may also recover an amount not more than three (3) months' periodic rent or threefold the actual damages sustained by him or her, whichever is greater, and reasonable attorney's fees. If the landlord consents to the tenant's continued occupancy, KRS 383.565(3) applies.

➔Section 41. KRS 383.700 is repealed and reenacted to read as follows:

- (1) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the rental agreement. In either case the landlord may recover actual damages and reasonable attorney's fees.
- (2) If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the reoccurrence of the conduct or terminate the rental agreement. In either case the tenant may recover actual damages and reasonable attorney's fees.

➔Section 42. KRS 383.705 is repealed, reenacted, and amended to read as follows:

- (1) Except as provided in this section, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession after:
 - (a) The tenant has complained to a governmental agency charged with responsibility for enforcement of a building or housing code of a violation applicable to the premises materially affecting health and safety;

- (b) The tenant has complained to the landlord of a violation under KRS 383.595;
 - (c) The tenant has organized or become a member of a tenant's union or similar organization.
- (2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the remedies provided in KRS 383.655 and has a defense in any retaliatory action against him ***or her*** for possession. In an action by or against the tenant, evidence of a complaint within one (1) year before the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. "Presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.
- (3) Notwithstanding subsections (1) and (2) of this section, a landlord may bring an action for possession if:
- (a) The violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant or other person in his household or upon the premises with his ***or her*** consent;
 - (b) The tenant is in default in rent; or
 - (c) Compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit.
- (4) The maintenance of an action under subsection (3) of this section does not release the landlord from liability under KRS 383.625(2).
- ➔Section 43. KRS 383.715 is repealed, reenacted, and amended to read as follows:
- KRS 383.505 to **383.715**[383.705] shall be known and may be cited as the "Uniform Residential Landlord and Tenant Act."".