

1991 BILL 33

Third Session, 22nd Legislature, 40 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 33

LANDLORD AND TENANT AMENDMENT ACT, 1991

THE MINISTER OF CONSUMER AND CORPORATE AFFAIRS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 33

1991

LANDLORD AND TENANT AMENDMENT ACT, 1991

(Assented to _____, 1991)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

1 *The Landlord and Tenant Act is amended by this Act.*

2 *The title and chapter number of the Act are repealed and the
following is substituted:*

RESIDENTIAL TENANCIES ACT CHAPTER R-15.3

3 *Section 1 is amended*

- (a) *in clause (b)(i) by striking out "municipal district or county" and substituting "municipal district, county or Metis settlement";*
- (b) *by adding the following after clause (c):*
 - (c.1) "fixed term tenancy" means a tenancy under a residential tenancy agreement for a term that ends on a day specified in the agreement;
 - (c.2) "landlord" means
 - (i) the owner and the property manager of the residential premises and a person who permits the occupation of residential premises under a residential tenancy agreement,
 - (ii) the heirs, assigns, personal representatives and successors in title of the owner, property manager and person who permits occupation, and

Explanatory Notes

1 This Bill will amend chapter L-6 of the Revised Statutes of Alberta 1980.

2 The title and chapter number presently read:

*LANDLORD AND TENANT ACT
CHAPTER L-6*

3 Section 1 presently reads:

1 In this Act,

(a) "common areas" means areas controlled by a landlord and used for access to residential premises or for the service or enjoyment of a tenant;

(b) "council" means

(i) the council of a city, town, village, municipal district or county, or

(ii) the Minister of Municipal Affairs, in the case of an improvement district or special area;

(c) "court" means

(i) the Provincial Court, or

(ii) the Court of Queen's Bench;

(d) repealed 1982 cM-18.5 s60;

(e) "residential premises" means a self-contained dwelling

- (iii) a person who is entitled to possession of the residential premises, other than a tenant, and who attempts to enforce any of the rights of a landlord under a residential tenancy agreement or this Act;

(c.3) “periodic tenancy” means

- (i) a tenancy under a residential tenancy agreement that is renewed or continued without notice, and
- (ii) with respect to a fixed term tenancy that contains a provision allowing for renewal or continuation of the tenancy without notice, that part of the tenancy that arises after the end of the fixed term tenancy;

(c.4) “prescribed” means prescribed by regulation;

(c.5) “rent” means the consideration to be paid by a tenant to a landlord under a residential tenancy agreement but does not include a security deposit;

(c) *by repealing clause (e) and substituting the following:*

- (e) “residential premises” means any place occupied by an individual as a residence;

(d) *by adding the following after clause (g):*

(g.1) “senior citizens lodge” means a home as defined in the *Senior Citizens Housing Act*;

(g.2) “subsidized public housing” means residential premises rented to a tenant of low income who pays rent

- (i) that is reduced by reason of public funding provided by the government of Canada or Alberta or a municipality, or by their agents, under the *National Housing Act* (Canada) or the *Alberta Mortgage and Housing Corporation Act*, and

- (ii) that is determined by the tenant’s income;

(e) *by adding the following after clause (h):*

unit used for residential purposes but does not include premises occupied for business purposes with living accommodation attached and rented under a single agreement;

(f) "residential tenancy agreement" means a written, oral or implied agreement to rent residential premises;

(g) "security deposit" means any money, property or right paid or given by a tenant of residential premises to a landlord or to anyone on his behalf to be held by or for the landlord as security for the performance of an obligation or the payment of a liability by the tenant or to be returned to the tenant on the happening of a condition;

(h) "substantial breach" means

(i) a breach of a covenant specified in section 16, or

(ii) a series of breaches of a residential tenancy agreement, the cumulative effect of which is substantial.

- (i) “tenancy month” means the period on which a monthly periodic tenancy is based whether or not it is a calendar month, and the month begins on the day rent is payable unless another date is specified in the residential tenancy agreement;
- (j) “tenancy week” means the period on which a weekly periodic tenancy is based whether or not it is a calendar week, and the week begins on the day rent is payable unless another date is specified in the residential tenancy agreement;
- (k) “tenancy year” means the period on which a yearly periodic tenancy is based whether or not it is a calendar year, and the year begins on the day, or the anniversary of the day, on which the tenant first becomes entitled to possession unless another day is specified in the residential tenancy agreement;
- (l) “tenant” means
 - (i) a person who is permitted to occupy residential premises under a residential tenancy agreement,
 - (ii) a person permitted to occupy residential premises under a sublease or assignment of the residential tenancy agreement to which the landlord has consented under section 16.1, and
 - (iii) the heirs, assigns and personal representatives of those persons.

4 *Section 2 is repealed and the following is substituted:*

2(1) Subject to subsection (2), this Act applies only to tenancies of residential premises.

(2) This Act does not apply to

- (a) a mobile home site as defined in the *Mobile Home Sites Tenancies Act*,
- (b) premises occupied for business purposes with living accommodation attached and rented under a single agreement,

4 Section 2 presently reads:

2(1) This Act does not apply to

(a) minerals held separately from the surface of land or to any dealings in minerals;

(b) tenancies to which the Mobile Home Sites Tenancies Act applies.

(2) Sections 2(4), 4(3), 9 to 18, 20(e), 21, 23, 24, 26, 29 to 32, 35, 37 to 47, 50(a) and 51 apply only to residential tenancies.

(3) Nothing in this Act prohibits the application of principles

- (c) rooms in the living quarters of the landlord, if the landlord lives in those quarters,
- (d) a hotel, motel, motor hotel, resort, lodge or tourist camp, a cottage or cabin located in a campground, or a trailer park, tourist home, bed and breakfast establishment or farm vacation home, if a person resides there for less than 6 consecutive months,
- (e) premises provided by an educational institution for its students, other than self-contained dwelling units,
- (f) a nursing home as defined in the *Nursing Homes Act*,
- (g) a senior citizens lodge that is operated by the Government of Alberta or by a foundation incorporated under the *Senior Citizens Housing Act* or by a non-profit organization under section 12 of that Act,
- (h) a social care facility licensed under the *Social Care Facilities Licensing Act*,
- (i) a correctional institution, or
- (j) any other prescribed premises.

2.1(1) Any waiver or release by a tenant of the rights, benefits or protections under this Act is void.

(2) If a residential tenancy agreement is in writing, the agreement must contain the following statement in print larger than the other print in the agreement:

The tenancy created by this agreement is governed by the Residential Tenancies Act and if there is a conflict between this agreement and the Act, the Act prevails.

5 Section 4(1)(a) is amended by striking out "6 or 7" and substituting "6, 7, 9 or 10".

contained in this Act to tenancies other than tenancies of residential premises.

(4) Any waiver or release by a tenant of residential premises of the rights, benefits or protections provided to him under this Act is void.

5 Section 4(1) presently reads:

4(1) A weekly, monthly or yearly tenancy may be terminated by either the landlord or the tenant on notice to the other and the notice

(a) shall be served in sufficient time to give the period of notice required by section 5, 6 or 7, as the case may be, and

6 *The following is added after section 4:*

4.1(1) A notice under this Part from a landlord to a tenant to terminate a periodic tenancy is of no effect unless the termination is for one or more of the prescribed reasons or for the reasons set out in section 9 or 10.

(2) No landlord shall terminate a periodic tenancy for the reason that the tenant

- (a)** made an application or filed a statement under this Act, or
- (b)** made a complaint, assisted in an investigation or inquiry or gave evidence at a hearing under this Act or the *Public Health Act*.

7 *Section 5 is amended*

- (a)** *in subsection (1) by striking out “before the commencement” and substituting “on or before the first day”;*
- (b)** *by repealing subsection (2).*

8 *Section 6 is amended*

- (a)** *by repealing subsection (1)(a) and (b) and substituting the following:*
 - (a)** by a tenant on his landlord, on or before the first day of a tenancy month to be effective on the last day of that tenancy month, or
 - (b)** by a landlord on his tenant, on or before the first day of a notice period to be effective on the last day of the notice period.
- (b)** *by repealing subsection (2)(b).*

(b) shall meet the requirements of section 8.

6 Termination by landlord.

7 Section 5 presently reads:

5(1) A notice to terminate a weekly tenancy must be served before the commencement of the tenancy week to be effective on the last day of that tenancy week.

(2) In this section and section 8(3)(a), "tenancy week" means the weekly period on which the tenancy is based whether or not it is a calendar week and, unless otherwise specifically agreed on by the landlord and the tenant, the week shall be deemed to begin on the day on which rent is payable.

8 Section 6 presently reads:

6(1) A notice to terminate a monthly tenancy must be served

(a) by a tenant on his landlord or by a landlord of premises that are not residential premises on his tenant, prior to the commencement of a tenancy month to be effective on the last day of that tenancy month, or

(b) by a landlord of residential premises on his tenant, prior to the commencement of a notice period to be effective on the last day of the notice period.

(2) In this section and section 8(3)(b),

(a) "notice period" means a period of 3 consecutive tenancy months;

9 Section 7 is amended

(a) in subsection (1)

- (i) in clause (a) by striking out “or by a landlord of premises that are not residential premises on his tenant”;*
- (ii) in clause (b) by striking out “of residential premises”;*

(b) by repealing subsection (2).

10 Section 8 is amended

(a) in subsection (1) by adding the following after clause (b):

- (b.1) in the case of a landlord terminating the tenancy, set out the reasons for which the tenancy is being terminated,*

(b) by repealing subsection (2);

(c) in subsection (3)

- (i) in clause (b)(i) by striking out “or by a landlord of premises that are not residential premises on his tenant”;*
- (ii) in clause (b)(ii) by striking out “of residential premises”;*
- (iii) in clause (c)(i) by striking out “or by a landlord of premises that are not residential premises on his tenant”;*
- (iv) in clause (c)(ii) by striking out “of residential premises”;*

(b) "tenancy month" means the monthly period on which the tenancy is based whether or not it is a calendar month and, unless otherwise specifically agreed on by the landlord and the tenant, the month shall be deemed to begin on the day on which rent is payable.

9 Section 7 presently reads:

7(1) A notice to terminate a yearly tenancy must be served

(a) by a tenant on his landlord or by a landlord of premises that are not residential premises on his tenant, on or before the 60th day before the last day of any tenancy year, or

(b) by a landlord of residential premises on his tenant, on or before the 90th day before the last day of any tenancy year,

to be effective on the last day of the tenancy year.

(2) In this section and section 8(3)(c), "tenancy year" means the yearly period on which the tenancy is based whether or not it is a calendar year and, unless otherwise specifically agreed on by the landlord and the tenant, the year shall be deemed to begin on the day, or the anniversary of the day, on which the tenant first became entitled to possession.

10 Section 8 presently reads:

8(1) A notice to terminate a tenancy shall

(a) be in writing,

(b) be signed by the person giving the notice or his agent,

(c) identify the premises in respect of which the notice is served, and

(d) state the date on which the tenancy is to terminate.

(2) A notice need not be in any particular form, but

(a) a notice by a landlord of premises that are not residential premises to his tenant may be in Form A of the Schedule,

(b) a notice by a tenant to his landlord may be in Form B of the Schedule, and

(c) a notice by a landlord of residential premises to his tenant may be in Form C of the Schedule.

(3) If a notice to terminate a weekly, monthly or yearly tenancy is not served in sufficient time to give the period of notice

(d) *by adding the following after subsection (3):*

(4) Subsection (3) does not apply to a notice to terminate under section 9 or 10.

11 *Section 11 is repealed.*

12 *Section 13 is amended*

(a) *by repealing subsection (1) and substituting the following:*

13(1) A landlord shall not increase the rent payable under a residential tenancy agreement or recover any additional rent resulting from an increase unless the landlord gives to the tenant a written notice of the increase in rent

required by section 5, 6 or 7, as the case may be, the notice is still effective to terminate

(a) the weekly tenancy on the last day of the first complete tenancy week following the date on which the notice is served,

(b) the monthly tenancy

(i) if the notice is served by a tenant on his landlord or by a landlord of premises that are not residential premises on his tenant, on the last day of the first complete tenancy month following the date on which the notice is served, or

(ii) if the notice is served by a landlord of residential premises on his tenant, on the last day of the first complete notice period following the date on which the notice is served,

or

(c) the yearly tenancy

(i) if the notice is served before the end of the tenancy year by a tenant on his landlord or by a landlord of premises that are not residential premises on his tenant, 60 days from the date on which the notice is served, or

(ii) if the notice is served before the end of the tenancy year by a landlord of residential premises on his tenant, 90 days from the date on which the notice is served.

11 Section 11 presently reads:

11 A periodic residential tenancy agreement cannot be terminated by a landlord for the reason that the tenant

(a) made an application or filed a statement under this Act, or

(b) made a complaint, assisted in an investigation or inquiry or gave evidence at a hearing under this Act or the Public Health Act.

12 Section 13 presently reads:

13(1) A landlord shall not increase the rent payable under a residential tenancy agreement or recover any additional rent resulting from the increase unless he gives to the tenant a written notice of the increase in rent at least 90 days before the date on which the increase is to be effective.

- (a) in respect of a weekly tenancy, at least 12 tenancy weeks,
- (b) in respect of a monthly tenancy, at least 3 tenancy months, and
- (c) in respect of any other periodic tenancy, at least 90 days,

before the date on which the increase is to be effective.

(b) *in subsection (2)*

- (i) *by striking out "Notwithstanding subsection (1), if" and substituting "If";*
- (ii) *by striking out "90 days" and substituting "the period specified in subsection (1)";*

(c) *by adding the following after subsection (2):*

(2.1) A landlord shall not increase the rent payable under a residential tenancy agreement or recover any additional rent resulting from an increase unless the prescribed amount of time has passed since the last rent increase.

- (d) *in subsection (3) by striking out "under subsection (1) or (2)" and substituting "under this section";*
- (e) *in subsection (4) by striking out "(1) and (2)" and substituting "(1), (2) and (2.1)".*

13 *The following is added after section 15:*

15.1(1) In this section, "notice of landlord" means a notice that sets out the name of the landlord and a street address and postal address in Alberta for the landlord.

(2) A landlord shall serve each tenant with a notice of landlord within 7 days of the tenant's taking possession of the residential premises.

(3) A landlord of residential premises that are contained in a building or complex with common areas may, instead of complying with subsection (2), post the notice of landlord in a conspicuous place in a common area.

(4) If the information in the notice of landlord changes, the

(2) Notwithstanding subsection (1), if the residential tenancy agreement provides for a period of notice longer than 90 days, the landlord must give at least that longer period of notice before increasing the rent payable or recovering any additional rent resulting from the increase.

(3) A tenant under a periodic tenancy who receives a notice under subsection (1) or (2) and who fails to give to the landlord notice of termination effective on or before the date the rent increase is to be effective is deemed to have agreed to the increase of rent.

(4) A tenant who pays rent in excess of that permitted by subsections (1) and (2) may recover the excess rent from the landlord by commencing an action in a court.

13 Notice of landlord, inspection reports and time of expiration or termination.

landlord shall provide each tenant with a new notice with the current information or, if the landlord has posted the notice under subsection (3), post a new notice with the current information.

(5) The landlord who posts a notice of landlord under this section shall take all reasonable steps to ensure that it remains posted.

15.2(1) A landlord and tenant shall, within one week before or after a tenant takes possession of residential premises, inspect the premises, and the landlord shall provide the tenant with a report of the inspection that describes the condition of the premises.

(2) A landlord and tenant shall, within one week before or after a tenant gives up possession of residential premises, complete an inspection of the premises, and the landlord shall provide the tenant with a report of the inspection that describes the condition of the premises.

(3) The landlord may complete the inspection without the tenant if the tenant has refused to take part in 2 inspections suggested by the landlord to take place

- (a) on different days,
- (b) on days that are not holidays, and
- (c) between 8 a.m. and 8 p.m.

(4) A report must contain the prescribed statements and be signed in accordance with the regulations.

15.3(1) Unless the landlord and tenant agree to a different time, a tenancy that expires or is terminated ends at 12 noon on the last day of the tenancy.

(2) This section does not apply to a tenancy terminated by notice under section 23.1.

14 The following is added after section 16:

16.1(1) No assignment or sublease of a tenancy by a tenant is valid without the written consent of the landlord.

(2) A landlord shall not refuse consent to an assignment or sublease unless there are reasonable grounds for the refusal.

(3) If a landlord does not respond to a request for a consent within 14 days after receiving the request, the landlord is deemed

14 Assignment and sublease.

to have given consent.

(4) A landlord who refuses to give consent shall provide the tenant who requested consent with written reasons for the refusal.

(5) A landlord shall not charge for giving consent to an assignment or sublease.

15 Section 17 is amended

(a) *in subsection (1) by striking out "a landlord is not entitled to" and substituting "no landlord shall";*

(b) *in subsection (3) by striking out "A landlord" and substituting "Subject to subsection (3.1), a landlord";*

(c) *by adding the following after subsection (3):*

(3.1) A landlord is not entitled to enter residential premises under subsection (3) unless

(a) the notice is served on the tenant at least 24 hours before the time of entry,

(b) the entry is made on a day that is not

(i) a holiday, except that the landlord may enter on a Sunday if the tenant's day of religious worship is not a Sunday and the tenant has provided the landlord with a written notice of that day, or

(ii) the tenant's day of religious worship if that day is not a Sunday and the tenant has provided the landlord with a written notice of that day,

and

(c) the entry is between 8 a.m. and 8 p.m.

(d) *in subsection (4) by repealing clauses (b) and (c) and substituting the following:*

(b) be signed by the landlord or the landlord's agent,

(c) state the reason for the entry, and

15 Section 17 presently reads in part:

17(1) Except as otherwise permitted in this section, a landlord is not entitled to enter residential premises rented by him without the consent of the tenant or of an adult person lawfully on the premises.

(3) A landlord is entitled to enter residential premises rented by him without consent but after notice to the tenant

(a) to inspect the state of repair of the premises,

(b) to make repairs to the premises,

(c) to show the premises to prospective purchasers or mortgagees of the premises, or

(d) to show the premises to prospective tenants after a landlord or tenant has served notice of termination of a periodic tenancy or during the last month of a tenancy for a fixed term.

(4) A notice under subsection (3) must

(a) be in writing,

(b) be served on the tenant at least 24 hours before the time of entry, and

(c) name a reasonable time of entry.

- (d) name a date and time of entry that comply with subsection (3.1).

16 Section 19 is repealed.

17 Section 20 is amended

- (a) *in the words preceding clause (a) by adding “residential” before “tenancy agreement”;*
- (b) *in clause (e) by striking out “in the case of a residential tenancy agreement,”.*

18 Section 23 is repealed and the following is substituted:

23(1) If a tenant commits a substantial breach under a residential tenancy agreement, the landlord may apply to a court to terminate the tenancy or may terminate the tenancy by serving the tenant with a notice at least 14 days before the day the tenancy is to terminate.

(2) The notice must

- (a) be in writing,
- (b) be signed by the landlord or the landlord's agent,
- (c) set out the reasons for the termination, and

16 Section 19 presently reads:

19(1) Subject to the Land Titles Act and the Law of Property Act, a person who acquires the reversionary interest of the landlord or the leasehold interest of the tenant has all the rights and is subject to all the obligations based on the real covenants relating to the tenancy, during the time that he holds the interest.

(2) The Grantees of Reversion Act, 32 Hen. 8, c.34, does not apply to the rights of a landlord or of a tenant.

17 Section 20 presently reads:

20 If a tenant commits a breach of a tenancy agreement, the landlord may apply to a court for one or more of the following remedies:

(a) recovery of arrears of rent;

(b) recovery of damages resulting from the breach;

(c) recovery of compensation for the use and occupation of premises by the overholding tenant after the tenancy has expired or been terminated;

(d) recovery of possession of the premises from the overholding tenant;

(e) in the case of a residential tenancy agreement, termination of the tenancy by reason of a substantial breach.

18 Section 23 presently reads:

23(1) If a tenant commits a substantial breach under a residential tenancy agreement, the landlord may terminate the tenancy under subsection (2) or, in the case of a substantial breach other than a failure to pay rent, apply to a court for termination of the tenancy.

(2) The landlord may terminate the tenancy by serving the tenant with at least 14 days' notice in writing stating the details of the alleged substantial breach and the effective date of the termination.

(3) A notice served under subsection (2) is ineffective if, before the termination date given in the notice, the tenant either

(a) serves the landlord with a notice in writing objecting to

- (d) set out the termination date.

(3) A notice to terminate under this section is ineffective if, before the termination date given in the notice, the tenant

- (a) pays all arrears of rent, if the alleged breach is a failure to pay rent, or
- (b) serves the landlord with a notice in writing objecting to the termination that sets out the tenant's reasons for objecting, if the alleged breach is for grounds other than the failure to pay rent.

19 The following is added after section 23:

23.1(1) Notwithstanding section 23, if a tenant has

- (a) done or permitted significant damage to the residential premises, the common areas or the property of which they form a part, or
- (b) physically assaulted the landlord or other tenants,

the landlord may apply to a court to terminate the tenancy or may terminate the tenancy by serving the tenant with a notice at least 48 hours before the time that the tenancy is to terminate.

(2) The notice must

- (a) be in writing,
- (b) be signed by the landlord or the landlord's agent,
- (c) set out the reasons for the termination, and
- (d) set out the time and date that the tenancy is to terminate.

(3) If a landlord terminates a tenancy by serving a notice under subsection (1) and the tenant has not vacated the premises by the time and date set out in the notice, the landlord may within 5 days after the termination date apply to a court for an order confirming the termination of the tenancy and for any remedy that may be granted under section 20.

(4) If the landlord has not applied to a court to confirm the termination of the tenancy within 5 days after the termination date and the tenant has not vacated the premises, the termination

the termination and stating his reasons for objecting, or

(b) if the alleged breach is a failure to pay rent, pays all arrears of rent.

(4) If the tenant serves the landlord with a notice under subsection (3)(a) objecting to the termination, the landlord may apply to a court for termination of the tenancy.

19 Termination of tenancy for damage or assault.

of the tenancy by notice of the landlord is ineffective and the tenancy is deemed never to have been terminated by notice of the landlord under this section.

(5) A court may grant an order confirming the termination of the tenancy if satisfied that the tenant has done or permitted damage or committed the assault referred to in subsection (1).

(6) If a court is not satisfied that the tenant has done or permitted damage or committed the assault referred to in subsection (1), the court may declare the termination of the tenancy by notice of the landlord to be ineffective and the tenancy is deemed never to have been terminated by notice of the landlord under this section.

20 Section 24 is amended

- (a) *in subsection (2) by striking out "\$300" and substituting "the prescribed amount";*
- (b) *in subsection (3) by striking out "of \$300 or more" and substituting "equal to or greater than the prescribed amount";*
- (c) *in subsection (4)(a) by striking out "a period of 60 days" and substituting "the prescribed period";*
- (d) *by repealing subsection (9)(b) and substituting the following:*
 - (b) *to satisfy the tenant's liabilities to the landlord in respect of the tenancy, if the liabilities are established in accordance with the regulations,*

20 Section 24 presently reads in part:

(2) A landlord who believes on reasonable grounds that abandoned goods have a total market value of less than \$300 may dispose of the goods.

(3) Notwithstanding that abandoned goods have a value of \$300 or more, a landlord who on reasonable grounds believes

(a) that the storage of the goods would be unsanitary or unsafe or would rapidly result in total or substantial depreciation in their market value, or

(b) that the cost of removing, storing and selling the goods would exceed the proceeds of their sale,

may sell the goods by a means and for a price that he believes is reasonable.

(4) If subsections (2) and (3) do not apply, the landlord

(a) shall store or arrange for storage of the goods on behalf of the tenant until the expiration of a period of 60 days after the date of their abandonment, and

(b) thereafter may dispose of the goods by public auction or, with the approval of a court, by private sale.

(9) A landlord may apply the proceeds of any sale of abandoned goods

(a) to his proper costs of removing, storing and selling the goods, and

(b) to any judgment obtained by him against the tenant in

21 The following is added after section 26:

26.1(1) If the tenant having the right to occupy residential premises has abandoned the premises, the landlord may require a person living in the premises who is not a tenant to vacate the premises by serving the person with a notice to vacate.

(2) The notice to vacate under subsection (1) must give the person living in the premises at least 48 hours to vacate from the time that the notice is served.

(3) A notice to vacate must

- (a) be in writing,
- (b) be signed by the landlord or the landlord's agent,
and
- (c) set out the time and date that the person is to vacate.

(4) If the person described in a notice fails to vacate the premises on or before the time specified in the notice, the landlord may apply to a court for an order terminating the tenancy of the tenants who abandoned the premises and for recovery of possession of the premises.

(5) A court may grant an order under subsection (4) if satisfied that the tenants have abandoned the premises and that the person living in the premises is not a tenant.

(6) Nothing in this section prevents a landlord from applying to a court for additional remedies under section 20.

22 Section 27 is amended by striking out the words preceding clause (a), repealing clause (a) and substituting the following:

27 An order for recovery of possession of premises

- (a) shall direct the tenant or, where section 26.1 applies, the person living on the premises and the tenant to deliver possession of the premises to the landlord by a specified date or within a specified time after service of the order on the tenant or person,

respect of the tenancy,
and shall pay the surplus, if any, to the Provincial Treasurer.

21 Notice to vacate.

22 Section 27 presently reads:

27 An order for possession for the recovery of premises

(a) shall direct the tenant to deliver possession of the premises to the landlord by a specified date or within a specified time after service of the order on the tenant,

(b) shall state that if the order is not obeyed by the specified date or within the specified time, a writ of possession will issue without a further order, and

23 *Section 28 is amended by striking out “for possession for the recovery of premises” and substituting “for recovery of possession of premises”.*

24 *The following is added after section 28:*

28.1(1) A landlord may require a person who is not a tenant but who is living in residential premises occupied by a tenant to vacate the premises by serving the person with a notice to vacate.

(2) The notice to vacate under subsection (1) must give the person living in the premises at least 30 days to vacate from the day that the notice is served.

(3) A notice to vacate must

- (a)** be in writing,
- (b)** be signed by the landlord or the landlord’s agent,
and
- (c)** set out the date that the person is to vacate.

(4) If the person described in a notice fails to vacate the premises on or before the date specified in the notice, the landlord may apply to a court for an order directing the person to vacate the premises.

25 *Section 33 is amended by striking out “20 or 29” and substituting “20, 23.1, 26.1, 28.1 or 29”.*

26 *The following is added after section 34:*

34.1 A landlord’s application to obtain an order confirming the termination of a tenancy under section 23.1 shall be supported by an affidavit setting forth the following:

(c) may be served in a manner provided for by section 48 or in any other manner that the court directs.

23 Section 28 presently reads:

28 If an order for possession for the recovery of premises is not complied with by the specified date or within the specified time, the landlord is entitled, without a further order, to a writ of possession on filing an affidavit showing that the order has been served and has not been complied with.

24 Notice to vacate.

25 Section 33 presently reads:

33 If a landlord or tenant applies to a court to obtain a remedy under section 20 or 29, he shall serve on the other party to the application a notice of the application and a supporting affidavit at least 3 days, exclusive of holidays and Saturdays, or such shorter period of time that the court may approve, before the day named in the notice for the hearing.

26 Landlord's supporting affidavit.

- (a) details of the damage or physical assault;
- (b) a copy of the notice to terminate and the time and date it was served.

34.2 A landlord's application to obtain an order terminating a tenancy and for recovery of possession of premises under section 26.1 shall be supported by an affidavit setting forth the following:

- (a) the date that the premises were abandoned by the tenant, to the extent known;
- (b) a copy of the notice to vacate and the time and date it was served;
- (c) the reasons for the person's failure to vacate the premises, to the extent known.

34.3 A landlord's application to obtain an order directing a person to vacate residential premises under section 28.1 shall be supported by an affidavit setting forth the following:

- (a) a copy of the notice to vacate and the date it was served;
- (b) the reasons for the person's failure to vacate the premises, to the extent known.

27 Section 37 is amended by renumbering it as section 37(1) and by adding the following after subsection (1):

- (2) A landlord shall not require a tenant to pay an increase in a security deposit.

28 The following is added after section 37:

37.1(1) A landlord shall deposit each security deposit consisting of money received by the landlord into an interest-bearing trust account at a bank, treasury branch, credit union or trust company in Alberta within 2 banking days of receiving the deposit.

- (2) The landlord is the trustee of the money in the trust account on behalf of the tenant who paid it or, if the tenant has assigned the residential tenancy agreement with the consent of the landlord under section 16.1, the assignee.

27 Section 37 presently reads:

37 A landlord shall not require a tenant to provide a security deposit that is greater than one month's rent under the residential tenancy agreement or that is greater than the rent that would be payable for one month under the residential tenancy agreement if the rent were payable monthly.

28 Trust account.

(3) The landlord shall deposit only money that is a security deposit in the trust account.

(4) The money in the trust account is subject to this Act and the regulations and to the provisions of the residential tenancy agreement respecting security deposits that are not in conflict with this Act or the regulations.

29 *Section 38(1) is repealed and the following is substituted:*

38(1) Subject to subsection (2), a landlord shall pay annually to the tenant interest calculated at the prescribed rate on a security deposit consisting of money.

30 *Section 39 is amended*

(a) *by adding the following before subsection (1):*

39(0.1) In this section,

- (a) “normal wear and tear” in respect of residential premises means the deterioration that occurs over time with the use of the premises even though the premises receive reasonable care and maintenance;
- (b) “security deposit” includes any amount owing to the tenant as interest under section 38 at the time of the expiration or termination of the tenancy.

(b) *by adding the following after subsection (4):*

(4.1) A landlord shall not make a deduction from a tenant’s security deposit for damages to the residential premises unless the requirements respecting inspection reports under section 15.2 have been met.

(c) *by repealing subsection (5).*

29 Section 38(1) presently reads:

38(1) Subject to subsection (2), a landlord shall pay annually to the tenant interest on a security deposit consisting of money held by him or anyone on his behalf calculated

(a) at the rate of 6% per year,

(b) on and after January 1, 1982 at the rate of 12% per year until December 31, 1983, and

(c) on and after January 1, 1984 at the rate established by regulation.

30 Section 39 presently reads:

39(1) A landlord who holds a security deposit shall within 10 days of the day that the tenant gave up possession of the premises

(a) deliver the security deposit to the tenant,

(b) if all or part of the security deposit has been deducted in accordance with the conditions agreed to by the tenant, deliver to the tenant the balance of the deposit, if any, and a statement of account showing the amount of the deposit used, or

(c) if he is entitled to make a deduction from the security deposit in accordance with the conditions agreed to by the tenant but is unable to determine the correct amount of the deduction, deliver to the tenant the balance of the deposit, if any, that he does not intend to use and an estimated statement of account of the anticipated deduction and within 30 days after the day that the tenant gave up possession of the premises deliver to the tenant the remaining balance of the deposit, if any, and a final statement of account.

(2) If a landlord fails to return all or part of a security deposit to a tenant in accordance with subsection (1), then, whether or not a statement of account was delivered to the tenant, the tenant may commence an action in a court to recover the whole of the deposit or that part of the deposit to which the tenant claims to be entitled.

31 Section 41 is amended

- (a) in subsection (1) by striking out “or” at the end of clause (b) and by adding the following after clause (b):**
 - (b.1) granting an order for recovery of possession of premises or an order directing a person to vacate premises, or**
- (b) by repealing subsection (2).**

32 Section 48 is amended

- (a) in subsection (1) by adding “(4.1),” before “(5);”**
- (b) in subsection (2)(b) by adding “or the address in the notice provided or posted under section 15.1” after “payable”;**
- (c) by repealing subsection (3);**
- (d) by adding the following after subsection (4):**

(3) In proceedings taken under subsection (2), the court

(a) shall determine the amounts, if any, that the landlord is entitled to deduct from the security deposit in accordance with the conditions agreed to by the tenant, and

(b) if the deductions so determined are less than the amount of the deposit, shall give judgment in favour of the tenant for the balance.

(4) No deduction may be made from a tenant's security deposit for normal wear and tear to the residential premises during the period of his tenancy.

(5) In this section, "security deposit" includes any amount owing to the tenant as interest under section 38 at the time of termination or expiration of the tenancy.

31 Section 41 presently reads:

41(1) The Provincial Court has the jurisdiction to grant any remedy or relief under this Act other than

(a) giving a judgment for debt or damages in excess of the amount prescribed under Part 4 of the Provincial Court Act,

(b) granting an equitable remedy, or

(c) granting a relief or remedy required by this Act to be granted in the Court of Queen's Bench.

(2) The Provincial Court may only give an order for possession of premises under this Act if

(a) the premises are residential premises,

(b) the rent is not more than \$500 per month, and

(c) the term under the tenancy is for not more than 3 years.

32 Section 48 presently reads in part:

48(1) Subject to subsections (4), (5) and (6), a notice, order or document under this Act shall be served personally, by registered mail or certified mail.

(2) For the purpose of service by registered mail or certified mail

(a) a tenant's address is the address of the premises rented by him, and

(4.1) If a landlord is unable to serve a person referred to in section 26.1 or 28.1 by reason of the person's absence from the premises or by reason of the person's evading service, service may be effected by posting the notice in a conspicuous place on some part of the premises.

33 *Section 50 is repealed and the following is substituted:*

50(1) A person who contravenes

- (a) section 4.1(2), 15.1, 17, 18, 37, 37.1(1) or (3), 38 or 39(1) or (4.1),
- (b) the regulations, or
- (c) an order of a court made under this Act,

is guilty of an offence and liable to a fine of not more than \$5000.

(2) Where a corporation is convicted of an offence, every officer, director, employee or agent of the corporation who authorized the commission of the offence or assented to it or acquiesced or participated in it is also guilty of an offence and is liable to the penalty provided for in subsection (1).

(3) A justice who convicts a landlord of contravening section 39(1) or (4.1) may, on the application of a tenant who is entitled to all or part of a security deposit, order the landlord to pay to the tenant the whole or part of the security deposit together with interest calculated under section 38.

(4) If an amount that is ordered to be paid under subsection (3) is not paid within the time ordered by the justice, the tenant may, by filing the order, enter as a judgment in the Court of Queen's Bench the amount ordered to be paid, and that judgment is enforceable against the landlord in the same manner as if it were a judgment rendered against the landlord in the Court of Queen's Bench in civil proceedings.

(b) a landlord's address is the address at which rent is payable.

(3) A landlord or a tenant may from time to time change his address for service by written notice served on the other party.

(4) If a landlord is unable to serve a tenant by reason of the tenant's absence from the premises or by reason of his evading service, service may be effected

(a) on any adult person who apparently resides with the tenant, or

(b) by posting it in a conspicuous place on some part of the premises.

33 Section 50 presently reads:

50 A person who contravenes

(a) section 18, 37, 38(1) or (2) or 39(1), or

(b) an order of a court made under this Act,

is guilty of an offence and liable to a fine of not more than \$1000.

34 The following is added after section 50:

50.1 No proceedings may be instituted under section 50 more than 12 months after the time when the alleged offence occurred.

35 Section 51 is amended

- (a) *in clause (b) by striking out “section 38(1)(c)” and substituting “section 38(1)”;*
- (b) *by adding the following after clause (b):*
 - (c) prescribing that any class of residential premises is exempt from the application of this Act;
 - (d) defining any word that is not defined in this Act for the purposes of this Act and the regulations.

36 The following is added after section 51:

51.1(1) The Lieutenant Governor in Council may make regulations respecting rent, security deposits and the termination of tenancies for subsidized public housing.

(2) The regulations made under subsection (1) may have the effect of modifying or making inapplicable Parts 1 to 4 of this Act with respect to subsidized public housing.

51.2 The Minister may make regulations

- (a) establishing forms that may be used by landlords and tenants for leases, inspection reports and other documents under this Act;
- (b) respecting the reasons that a landlord may terminate a periodic tenancy under Part 1;
- (c) prescribing the minimum period of time between rent increases of periodic tenancies;
- (d) prescribing the statements to be contained in inspection reports and governing the signing of inspection reports for the purposes of section 15.2;
- (e) prescribing an amount for the purposes of section 24(2) and (3);

34 Limitation period.

35 Section 51 presently reads:

51 The Lieutenant Governor in Council may make regulations

(a) governing the practice and procedures in matters before the Provincial Court under this Act;

(b) respecting the rate of interest under section 38(1)(c).

36 Regulations.

- (f) prescribing a period for the purposes of section 24(4);
- (g) respecting the means of establishing the liabilities of a tenant for the purposes of section 24(9);
- (h) respecting trust accounts for security deposits.

37 Section 53 is repealed.

38 Section 54 is repealed and the following is substituted:

54(1) *In this section, "proclamation date" means the coming into force date of the Landlord and Tenant Amendment Act, 1991.*

(2) Subject to this section and section 2, this Act applies to tenancies under residential tenancy agreements made before, on or after the proclamation date.

(3) The following provisions apply only to residential tenancy agreements made after the proclamation date:

*section 2.1(2);
section 15.2;
section 37.1;
section 39(4.1).*

(4) A landlord shall serve or post the notice under section 15.1 within 30 days after the proclamation date.

(5) Section 16.1 applies to an assignment or sublease made after the proclamation date.

(6) Nothing in the Landlord and Tenant Amendment Act, 1991 affects any notice given or proceeding commenced under the Landlord and Tenant Act, RSA 1980 cL-6, before the proclamation date.

(7) The common law that was displaced by the Landlord and Tenant Act, RSA 1980 cL-6, applies to tenancies that were but are no longer, on the proclamation date, subject to this Act.

37 Section 53 presently reads:

53(1) The doctrine of "interesse termini" is abolished.

(2) The Landlord and Tenant Act, 4 Geo. 2, c.28, and section 18 of the Distress for Rent Act, 11 Geo. 2, c.19, do not apply to tenancies.

38 Section 54 presently reads:

54(1) This Act applies to

(a) any tenancy entered into on or after July 1, 1979,

(b) a weekly or monthly tenancy entered into before July 1, 1979, and

(c) a yearly tenancy entered into before July 1, 1979, from and after the first anniversary of the tenancy occurring after July 1, 1979.

(2) This Act does not apply to a tenancy entered into for a fixed term made before July 1, 1979, but applies to a renewal of that tenancy entered into on or after July 1, 1979.

(3) Notwithstanding that the Landlord and Tenant Act (R.S.A. 1970 c200) or any provision of it is repealed, that Act or provision, as the case may be, remains in force in respect of a tenancy to which this Act does not apply.

39 *The Schedule is repealed.*

40 *The Condominium Property Act is amended in section 45(2)(b) by striking out "Landlord and Tenant Act" and substituting "Residential Tenancies Act".*

41 *The Co-operative Associations Act is amended in section 63.1(2) by striking out "Landlord and Tenant Act" and substituting "Residential Tenancies Act".*

42 *The Land Titles Act is amended*

- (a) *in section 99 by striking out the words preceding clause (a) and substituting the following:*

99 In every lease referred to in section 98 other than a lease that is subject to the *Residential Tenancies Act* or the *Mobile Home Sites Tenancies Act*, there shall be implied the following covenants by the lessee, unless a contrary intention appears in the lease:

- (b) *in section 100 by striking out the words preceding clause (a) and substituting the following:*

100 In every lease referred to in section 98 other than a lease that is subject to the *Residential Tenancies Act* or the *Mobile Home Sites Tenancies Act*, there shall also be implied the following powers in the lessor, unless a contrary intention appears in the lease:

- (c) *in section 102(1) by striking out " , other than a lease of residential premises as defined in the Landlord and Tenant Act" and substituting "other than a lease that is subject to the Residential Tenancies Act or the Mobile Home Sites Tenancies Act".*

43 *The Law of Property Act is amended by adding the following after section 59.1:*

59.2(1) Subject to the *Land Titles Act* and this Act, a person who acquires the reversionary interest of the landlord or the leasehold interest of the tenant has all the rights and is subject to all the obligations based on the real covenants relating to the tenancy, during the time that the person holds the interest.

- (2) *The Grantees of Reversion Act, 32 Hen. 8, c.34, does not*

39 The Schedule contains forms of notices to terminate periodic tenancies.

40 Amends chapter C-22 of the Revised Statutes of Alberta 1980.

41 Amends chapter C-24 of the Revised Statutes of Alberta 1980.

42 Amends chapter L-5 of the Revised Statutes of Alberta 1980.

43 Amends chapter L-8 of the Revised Statutes of Alberta 1980.

apply to the rights of a landlord or of a tenant.

59.3(1) The doctrine of “interesse termini” is abolished.

(2) The *Landlord and Tenant Act*, 4 Geo. 2, c.28, and section 18 of the *Distress for Rent Act*, 11 Geo. 2, c.19, do not apply to tenancies.

44 *The Mobile Home Sites Tenancies Act is amended*

- (a) *by repealing section 23;*
- (b) *in section 54(3) by striking out “Landlord and Tenant Act” and substituting “Residential Tenancies Act”;*
- (c) *by repealing section 58.*

45 *The Real Estate Agents’ Licensing Act is amended by repealing section 15.92(4)(b) and substituting the following:*

- (b) *a security deposit that is given under a tenancy that is subject to the Residential Tenancies Act.*

46 *This Act comes into force on Proclamation.*

44 Amends chapter M-18.5 of the Statutes of Alberta, 1982.

45 Amends chapter R-5 of the Revised Statutes of Alberta 1980.

46 Coming into force.