

1 SENATE BILL 375

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Brenda G. McKenna

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10 AN ACT

11 RELATING TO PROPERTY; LIMITING THE AMOUNT OF RENT INCREASE
12 DURING A TWELVE-MONTH PERIOD; REQUIRING LANDLORDS TO MAINTAIN
13 EVAPORATIVE COOLING IN GOOD AND SAFE WORKING ORDER; PROHIBITING
14 OWNERS FROM ATTEMPTING TO REMOVE RESIDENTS BY INTERFERING WITH
15 AIR CONDITIONING OR EVAPORATIVE COOLING SERVICES.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 47-8-15 NMSA 1978 (being Laws 1975,
19 Chapter 38, Section 15, as amended) is amended to read:

20 "47-8-15. PAYMENT OF RENT.--

21 A. The resident shall pay rent in accordance with
22 the rental agreement. In the absence of an agreement, the
23 resident shall pay as rent the fair rental value for the use of
24 the premises and occupancy of the dwelling unit.

25 B. Rent is payable without demand or notice at the

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1 time and place agreed upon by the parties. Unless otherwise
2 agreed, rent is payable at the dwelling unit. Unless otherwise
3 agreed, periodic rent is payable at the beginning of any term
4 of one month or less and otherwise in equal monthly
5 installments at the beginning of each monthly period. The date
6 of one month to the same date of the following month shall
7 constitute a term of one month.

8 C. Unless the rental agreement fixes a definite
9 term, the residency is week-to-week in the case of a person who
10 pays weekly rent and in all other cases month-to-month.

11 D. If the rental agreement provides for the
12 charging of a late fee and if the resident does not pay rent in
13 accordance with the rental agreement, the owner may charge the
14 resident a late fee in an amount not to exceed ten percent of
15 the total rent payment for each rental period that the resident
16 is in default. To assess a late fee, the owner shall provide
17 notice of the late fee charged no later than the last day of
18 the next rental period immediately following the period in
19 which the default occurred.

20 E. An owner may not assess a fee from the resident
21 for occupancy of the dwelling unit by a reasonable number of
22 guests for a reasonable length of time. This shall not
23 preclude charges for use of premises or facilities other than
24 the dwelling unit by guests.

25 F. An owner may increase the rent payable by the

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1 resident in a month-to-month residency, in accordance with the
2 rent control provisions of the Uniform Owner-Resident Relations
3 Act, by providing written notice to the resident of the
4 proposed increase at least thirty days prior to the periodic
5 rental date specified in the rental agreement or, in the case
6 of a fixed term residency, at least thirty days prior to the
7 end of the term. In the case of a periodic residency of less
8 than one month, written notice shall be provided at least one
9 rental period in advance of the first rental payment to be
10 increased.

11 G. Unless agreed upon in writing by the owner and
12 the resident, a resident's payment of rent may not be allocated
13 to any deposits or damages."

14 SECTION 2. Section 47-8-20 NMSA 1978 (being Laws 1975,
15 Chapter 38, Section 20, as amended) is amended to read:

16 "47-8-20. OBLIGATIONS OF OWNER.--

17 A. The owner shall:

18 (1) substantially comply with requirements of
19 the applicable minimum housing codes materially affecting
20 health and safety;

21 (2) make repairs and do whatever is necessary
22 to put and keep the premises in a safe condition as provided by
23 applicable law and rules [~~and regulations~~] as provided in
24 Section 47-8-23 NMSA 1978;

25 (3) keep common areas of the premises in a

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1 safe condition;

2 (4) maintain in good and safe working order
3 and condition electrical, plumbing, sanitary, heating,
4 ventilating, air conditioning, evaporative cooling and other
5 facilities and appliances, including elevators, if any,
6 supplied or required to be supplied by ~~[him]~~ the owner;

7 (5) provide and maintain appropriate
8 receptacles and conveniences for the removal of ashes, garbage,
9 rubbish and other waste incidental to the occupancy of the
10 dwelling unit and arrange for their removal from the
11 appropriate receptacle; and

12 (6) supply running water and a reasonable
13 amount of hot water at all times and reasonable heat, except
14 where the building that includes the dwelling unit is not
15 required by law to be equipped for that purpose or the dwelling
16 unit is so constructed that heat or hot water is generated by
17 an installation within the exclusive control of the resident
18 and supplied by a direct public utility connection.

19 B. If there exists a minimum housing code
20 applicable to the premises, the owner's maximum duty ~~[under]~~
21 pursuant to this section shall be determined by Paragraph (1)
22 of Subsection A of this section. The obligations imposed by
23 this section are not intended to change existing tort law in
24 the state.

25 C. The owner and resident of a single family

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1 residence may agree that the resident perform the owner's
2 duties specified in Paragraphs (5) and (6) of Subsection A of
3 this section and also specified repairs, maintenance tasks,
4 alterations and remodeling, but only if the transaction is in
5 writing, for consideration, entered into in good faith and not
6 for the purpose of evading the obligations of the owner.

7 D. The owner and resident of a dwelling unit other
8 than a single family residence may agree that the resident is
9 to perform specified repairs, maintenance tasks, alterations or
10 remodeling only if:

11 (1) the agreement of the parties is entered
12 into in good faith and not for the purpose of evading the
13 obligations of the owner and is set forth in a separate writing
14 signed by the parties and supported by consideration; and

15 (2) the agreement does not diminish or affect
16 the obligation of the owner to other residents in the premises.

17 E. Notwithstanding any provision of this section,
18 an owner may arrange with a resident to perform the obligations
19 of the owner. Any such arrangement between the owner and the
20 resident will not serve to diminish the owner's obligations as
21 set forth in this section, nor shall the failure of the
22 resident to perform the obligations of the owner serve as a
23 basis for eviction or in any way be considered a material
24 breach by the resident of ~~[his]~~ the resident's obligations
25 ~~[under]~~ pursuant to the Uniform Owner-Resident Relations Act or

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1 the rental agreement.

2 F. In multi-unit housing, if there is separate
3 utility metering for each unit, the resident shall receive a
4 copy of the utility bill for ~~[his]~~ the resident's unit upon
5 request made to the owner or ~~[his]~~ the owner's agent. If the
6 unit is submetered, the resident shall then be entitled to
7 receive a copy of the apartment's utility bill. When utility
8 bills for common areas are separately apportioned between units
9 and the costs are passed on to the residents of each unit, each
10 resident may, upon request, receive a copy of all utility bills
11 being apportioned. The calculations used as the basis for
12 apportioning the cost of utilities for common areas and
13 submetered apartments shall be made available to ~~[any]~~ a
14 resident upon request. The portion of the common area cost
15 that would be allocated to an empty unit if it were occupied
16 shall not be allocated to the remaining residents. It is
17 solely the owner's responsibility to supply the items and
18 information in this subsection to the resident upon request.
19 The owner may charge an administrative fee not to exceed five
20 dollars (\$5.00) for each monthly request of the items in this
21 subsection.

22 G. The owner shall provide a written rental
23 agreement to each resident prior to the beginning of
24 occupancy."

25 SECTION 3. Section 47-8-36 NMSA 1978 (being Laws 1975,
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1 Chapter 38, Section 36, as amended) is amended to read:

2 "47-8-36. UNLAWFUL REMOVAL AND DIMINUTION OF SERVICES
3 PROHIBITED.--

4 A. Except in case of abandonment, surrender or as
5 otherwise permitted in the Uniform Owner-Resident Relations
6 Act, an owner or any person acting on behalf of the owner shall
7 not knowingly exclude the resident or remove, threaten or
8 attempt to remove or dispossess [~~æ~~] the resident from the
9 dwelling unit without a court order by:

- 10 (1) fraud;
- 11 (2) plugging, changing, adding or removing any
12 lock or latching device;
- 13 (3) blocking any entrance into the dwelling
14 unit;
- 15 (4) interfering with services or normal and
16 necessary utilities to the unit [~~pursuant to Section 47-8-32~~
17 ~~NMSA 1978~~], including [~~but not limited to~~] electricity, gas,
18 hot or cold water, plumbing, air conditioning, evaporative
19 cooling, heat or telephone service; provided that this section
20 shall not impose a duty upon the owner to make utility payments
21 or otherwise prevent utility interruptions resulting from
22 nonpayment of utility charges by the resident;
- 23 (5) removing the resident's personal property
24 from the dwelling unit or its premises;
- 25 (6) removing or incapacitating appliances or

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1 fixtures, except for making necessary and legitimate repairs;
2 or

3 (7) any willful act rendering a dwelling unit
4 or any personal property located in the dwelling unit or on the
5 premises inaccessible or uninhabitable.

6 B. The provisions of Subsection A of this section
7 shall not apply if an owner temporarily interferes with
8 possession while making legitimate repairs or inspections as
9 provided for in the Uniform Owner-Resident Relations Act.

10 C. If an owner commits any of the acts stated in
11 Subsection A of this section, the resident may:

12 (1) abate one hundred percent of the rent for
13 each day in which the resident is denied possession of the
14 premises for any portion of the day or each day where the owner
15 caused termination or diminishment of any service for any
16 portion of the day;

17 (2) be entitled to civil penalties as provided
18 in Subsection B of Section 47-8-48 NMSA 1978;

19 (3) seek restitution of the premises pursuant
20 to Sections 47-8-41 and [~~Section~~] 47-8-42 NMSA 1978 or
21 terminate the rental agreement; and

22 (4) be entitled to damages."

23 SECTION 4. A new section of the Uniform Owner-Resident
24 Relations Act is enacted to read:

25 "[NEW MATERIAL] RENT CONTROL.--

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1 A. Except as provided in Subsection C of this
2 section, an owner of residential real property may not, over
3 the course of a twelve-month period, increase a resident's
4 rent:

5 (1) five percent plus any percentage increase
6 in the consumer price index for the previous year; provided
7 that if information on the percentage increase in the consumer
8 price index for the previous year is not available, the
9 percentage increase in the consumer price index for the last
10 year when information is available shall be used; or

11 (2) ten percent, if the sum of five percent
12 and the percentage increase in the consumer price index for the
13 previous year is more than ten percent.

14 B. A resident of residential real property subject
15 to this section shall not enter into a sublease that results in
16 a total rent for the premises that exceeds the allowable rental
17 rate authorized by Subsection A of this section.

18 C. The provisions of this section do not apply to a
19 dwelling unit that:

20 (1) has reduced rent as part of a federal,
21 state or local program or subsidy for that dwelling unit; or

22 (2) is rented by the week.

23 D. As used in this section:

24 (1) "consumer price index" means the consumer
25 price index, not seasonally adjusted, for all urban consumers,

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1 United States city average for all items, or its successor
2 index, as published by the United States department of labor
3 for a twelve-month period ending December 31; and

4 (2) "resident's rent" means the gross per
5 month rental amount excluding any rent discounts, incentives,
6 concessions or credits offered by the owner of the dwelling
7 unit of residential real property and accepted by the
8 resident."

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