

2017 Regular Session

SENATE BILL NO. 120

BY SENATOR WARD (On Recommendation of the Louisiana State Law Institute)

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LEASES. Provides for security deposits and evictions involving residential leases. (1/1/18)

AN ACT

To amend and reenact Civil Code Articles 2704, 2725 and 2728(2), the heading of Title XI of Code Book VII of the Code of Civil Procedure, Code of Civil Procedure Articles 4701, 4702, the section heading of Code of Civil Procedure Article 4703, Code of Civil Procedure Articles 4704, 4731, 4732 and 4912, and Part IV of Chapter 1 of Title IX of Title 9 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 9:3251 through 3254, relative to residential leases; to provide a grace period for the nonpayment of rent; to provide for notice not to extend; to provide for notice of termination; to provide for the notice to vacate; to provide for the judgment of eviction; to provide for the return of a security deposit; to provide for the right of retention; to provide time periods; to provide for damages and attorney fees; to provide with respect to the waiver of rights; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Articles 2704, 2725 and 2728(2) are hereby amended and reenacted to read as follows:

Art. 2704. Nonpayment of rent

If the lessee fails to pay the rent when due, the lessor may, in accordance with

1 the provisions of the Title "Conventional Obligations or Contracts", dissolve the
2 lease and may regain possession in the manner provided by law.

3 **Nevertheless, a residential lease shall not be dissolved for the lessee's**
4 **failure to pay the rent when due unless the lessor has given to the lessee a**
5 **written notice to pay the rent within a period of no less than ten days, with a**
6 **warning that, if the lessee does not pay, the lessor may dissolve the lease. If the**
7 **lessee does not pay the rent within the period given, the lessor may immediately**
8 **dissolve the lease by giving written notice of dissolution to the lessee. If within**
9 **six months after a notice to pay the rent has been given, the lessee fails on an**
10 **additional occasion to pay the rent when due, the lessor may immediately**
11 **dissolve the lease by giving written notice of dissolution to the lessee.**

12 Revision Comments - 2017

13 (a) The second paragraph of this Article is new. Even when a residential lease
14 contains a dissolution clause providing that the lessee's failure to pay rent gives rise
15 to extrajudicial dissolution, the lease may not be dissolved unless the lessor complies
16 with the requirements of this Article. The lessee's right to receive the notice to pay
17 rent required by this Article may not be waived by the lessee.

18 (b) The lessor may not give the lessee written notice to the pay rent until after
19 the lessee has failed to pay the rent when due. See C.C. Art. 2015 (1984). A delay
20 of grace granted to a residential lessee in a written lease therefore does not satisfy the
21 requirements of this Article. Nevertheless, when the lease grants a grace period for
22 the payment of rent, the lessor need not wait until the delay of grace has expired
23 before giving the lessee written notice to pay. Instead, the delay of grace required by
24 this Article may run concurrently with a conventional delay of grace.

25 (c) Under the last sentence of this Article, the lessor is not required to tolerate
26 a subsequent failure to pay rent when due during the six-month period after a notice
27 to pay the rent has been given. If the rent is not paid when due on a second occasion
28 during that period, the lessor may dissolve the lease immediately by written notice
29 without first giving an additional notice to pay rent.

30 (d) The 2017 revision is not intended to displace the jurisprudential doctrine
31 of "judicial control" of leases. *See, e.g., Atkinson v. Richeson*, 393 So. 2d 801 (La.
32 App. 2 Cir. 1981).

33 (e) Code of Civil Procedure Article 4701 (Rev. 2017) provides that a written
34 notice to pay the rent given to a residential lessee under this Article shall be
35 considered notice to vacate. Thus, if a residential lessee who has been given notice
36 to pay the rent under this Article fails to pay within the delay given, the lessor may
37 proceed immediately with an eviction proceeding by filing a rule to show cause why
38 possession should not be delivered. If the lessor has not dissolved the lease
39 extrajudicially prior to the hearing on the rule to show case, the court may order
40 dissolution of the lease at that time.

41 * * *

42 Art. 2725. Extension

43 If the lease contract contains an option to extend the term and the option is

1 exercised, the lease continues for the term and under the other provisions stipulated
2 in the option.

3 In a residential lease in which the parties have agreed that the term shall
4 be automatically extended for a fixed term unless the lessee notifies the lessor
5 of his intent not to extend the term, the lessee's notice shall not be required
6 more than thirty days prior to the day on which the term is set to expire. If the
7 lease stipulates a longer time for the lessee's notice, that time shall be reduced
8 to thirty days.

9 Revision Comments - 2017

10 The second paragraph of this Article is new. This prohibition is intended to
11 prevent hardship on a residential lessee who decides near the end of the original term
12 of the lease not to extend the lease for an additional fixed term. In residential leases,
13 the lessor typically supplies the lease agreement and enjoys greater bargaining power
14 than the lessee. Therefore, this prohibition applies only to the lessee's notice of intent
15 not to extend. An agreement requiring the lessor to give notice of intent not to renew
16 more than thirty days prior to the end of the original term is not affected by the
17 second paragraph of this Article.

18 * * *

19 Art. 2728. Notice of termination; timing

20 The notice of termination required by the preceding Article shall be given at
21 or before the time specified below:

22 * * *

23 (2) In a month-to-month residential lease, thirty calendar days before the
24 end of that month; in all other month-to-month leases, ten calendar days before
25 the end of that month;

26 * * *

27 Revision Comments - 2017

28 (a) A month-to-month residential lease may be terminated by either party
29 giving a notice of termination at least thirty days prior to the end of that month. The
30 "end of that month" refers to the last day of the last month *of the lease's term*, which
31 may or may not correspond to the last calendar day of a given month. For example,
32 a month-to-month residential lease that commenced on January 15 may be
33 terminated on the 14th day of a given month by either party's giving a notice of
34 termination at least thirty days prior to the 14th day of that month. Thus, to terminate
35 on July 14 a lease that commenced on January 15, a party must provide notice of
36 termination no later than June 14. The thirty-day notice period begins to run on the
37 day after notice is given (June 15) and includes the last day of the term (July 14). See
38 C.C. Art. 1784 (Rev. 1984). As provided by Article 2729 (Rev. 2005), a notice to

1 terminate a residential lease must be made in writing.

2 (b) Under the second paragraph of this Article, if on June 14 either party
3 gives notice of termination of a month-to-month residential lease that began the
4 preceding January 15 and the notice does not specify the date of termination, the
5 lease will terminate on July 14. If instead either party gives notice of termination on
6 June 15, again not specifying the date of termination, the lease will terminate on
7 August 14. If, however, notice of termination is given on June 15 and specifies that
8 the lease will terminate on September 14, then the lease will terminate on that date.

9 Section 2. The heading of Title XI of Code Book VII of the Code of Civil Procedure,
10 Code of Civil Procedure Articles 4701, 4702, the section heading of Code of Civil Procedure
11 Article 4703, Code of Civil Procedure Articles 4704, 4731, 4732 and 4912 are hereby
12 amended and reenacted to read as follows:

13 TITLE XI. EVICTION OF ~~TENANTS~~ LESSEES AND OCCUPANTS

14 * * *

15 Art. 4701. ~~Termination of lease; notice~~ Notice to lessee to vacate; waiver of notice

16 A. When a lessee's right of occupancy has ceased because of the termination
17 of the lease by expiration of its term, action by the lessor, nonpayment of rent, or for
18 any other reason, and the lessor wishes to obtain possession of the premises, the
19 lessor or his agent shall cause written notice to vacate the premises to be delivered
20 to the lessee. The notice shall allow the lessee not less than five days from the date
21 of its delivery to vacate the leased premises. **If the lease has a definite term, notice**
22 **to vacate based on the expiration of the term may be given not more than thirty**
23 **days before the expiration of the term. If the lease has no definite term, the**
24 **notice required by law for its termination shall be considered notice to vacate**
25 **under this Article.**

26 B. When the lease has been dissolved or the lessor has the right to
27 dissolution, the lessor who wishes to obtain possession of the premises shall
28 cause written notice to vacate the premises to be delivered to the lessee. A
29 written notice of dissolution given to the lessee shall be considered notice to
30 vacate the premises under this Article. A written notice to pay the rent given to
31 a residential lessee in accordance with Civil Code Article 2704 shall also be
32 considered notice to vacate the premises, provided that the lessee does not pay
33 the rent within the period given.

1 without first delivering additional notice to vacate to the lessee.

2 (d) When the lessor has dissolved a lease extrajudicially through written
3 notice of dissolution, the rule to show cause why possession should not be delivered
4 is premature if filed fewer than five days after the notice of dissolution is given to
5 the lessee. Such a rule is also premature if filed prior to the effective date of
6 dissolution provided in the written notice.

7 (e) A lessor who wishes to dissolve a residential lease for the lessee's failure
8 to pay the rent when due must first give to the lessee a written notice to pay the rent
9 within no less than ten days, with a warning that, if the lessee does not pay, the lessor
10 may dissolve the lease. See C.C. Art. 2704. If the lessee fails to pay the rent within
11 the delay given, the lessor may immediately file a rule to show cause why possession
12 should not be delivered without first delivering an additional notice to vacate the
13 lease. In such a case, the lessor may also immediately dissolve the lease by giving
14 written notice of dissolution to the lessee. C.C. Art. 2704. If the lessor has not
15 dissolved the lease extrajudicially prior to the hearing on the rule to show cause, the
16 court may order dissolution of the lease at that time.

17 (f) Minimum requirements of due process require that the notice to vacate
18 state the reasons for eviction, in order to allow preparation of a defense if available.
19 *See Louisiana State Museum v. Mayberry*, 348 So. 2d 1274 (La. App. 4 Cir. 1977).

20 (g) The 2017 revision changes the law by prohibiting waiver of the
21 requirements of this Article in residential leases. The relative disparity of bargaining
22 power between residential lessees and lessors militates against allowing the lessee
23 to waive the right to notice.

24 Art. 4702. Notice to occupant other than ~~tenant~~ lessee to vacate

25 When an owner of immovable property wishes to evict the occupant
26 therefrom, after the purpose of the occupancy has ceased, the owner ~~or his agent,~~
27 shall first cause a written notice to vacate the property to be delivered to the
28 occupant.

29 ~~This notice shall allow the occupant five days from its delivery to vacate the~~
30 ~~premises. **A rule to show cause why possession should not be delivered shall not**~~
31 ~~**be filed until the expiration of five days after delivery of the notice given under**~~
32 ~~**this Article.**~~

33 Art. 4703. Delivery or service when premises abandoned or closed, or whereabouts
34 of ~~tenant~~ lessee or occupant unknown

35 * * *

36 Art. 4704. Definitions

37 Unless the context clearly indicates otherwise, as used in this Title the
38 following terms have the following meanings:

39 "Lease" means any oral or written lease, and includes a sublease;

40 "Lessee" includes a sublessee, whether the person seeking to evict is a lessor

1 or sublessor; and an assignee of a lessee;

2 "Lessor" includes a sublessor, assignee, or transferee;

3 "Occupant" includes a sharecropper; half hand; day laborer; former owner;
4 and any person occupying immovable property by permission or accommodation of
5 the owner, former owner, or another occupant, except a mineral lessee, owner of a
6 mineral servitude, or a lessee of the owner;

7 "Owner" includes a lessee; and

8 "Premises" includes the land and all buildings and improvements thereon
9 leased by a ~~tenant~~ **lessee**, or possessed by an occupant.

10 * * *

11 Art. 4731. Rule to show cause why possession should not be delivered;
12 abandonment of premises

13 A. If the lessee or occupant fails to comply with the notice to vacate required
14 under this Title, or if the lessee has waived his right to notice to vacate by written
15 waiver contained in the lease, and has lost his right of occupancy for any reason, the
16 lessor or owner, ~~or agent thereof~~, may cause the lessee or occupant to be cited
17 summarily by a court of competent jurisdiction to show cause why he should not be
18 ordered to deliver possession of the premises to the lessor or owner. The rule to show
19 cause shall state the grounds upon which eviction is sought.

20 B. After the required notice has been given, the lessor or owner, ~~or agent~~
21 ~~thereof~~, may lawfully take possession of the premises without further judicial
22 process, upon a reasonable belief that the lessee or occupant has abandoned the
23 premises. Indicia of abandonment include a cessation of business activity or
24 residential occupancy, returning keys to the premises, and removal of equipment,
25 furnishings, or other movables from the premises.

26 Art. 4732. Trial of rule; judgment of eviction

27 A. The court shall make the rule returnable not earlier than the third day after
28 service thereof, at which time the court shall try the rule and hear any defense which
29 is made.

1 does not exceed five thousand dollars per month, regardless of the amount of rent
2 due or the rent for the unexpired term of the lease.

3 Section 3. Part IV of Chapter 1 of Title IX of Title 9 of the Louisiana Revised
4 Statutes of 1950, comprised of R.S. 9:3251 through 3254, is hereby amended and reenacted
5 to read as follows:

6 PART IV. RESIDENTIAL LESSEE'S SECURITY DEPOSIT

7 §3251. Lessee's deposit to secure lease; retention by lessor; conveyance of leased
8 premises; itemized statement by lessor Return of security deposit;
9 right of retention

10 A. Any ~~advance or~~ deposit of money furnished by a ~~tenant or~~ lessee to a
11 ~~landlord or~~ lessor in a residential lease to secure the performance of any part of a
12 ~~written or oral lease or rental agreement~~ obligations of the lessee shall be returned
13 to the ~~tenant or~~ lessee of residential or dwelling premises within one month after the
14 ~~lease shall terminate~~ in accordance with R.S. 9:3252, except that the ~~landlord or~~
15 lessor may retain all or any portion of the ~~advance or~~ security deposit ~~which that~~ is
16 reasonably necessary to remedy a ~~default of the tenant or to remedy unreasonable~~
17 ~~wear to the premises~~ the lessee's failure to perform. If any portion of an ~~advance~~
18 ~~or a security~~ deposit is retained, by a ~~landlord or~~ lessor, ~~he~~ the lessor shall forward
19 furnish to the ~~tenant or~~ lessee, within one month after the date the tenancy
20 ~~terminates, an a written~~ itemized statement accounting for the ~~proceeds which are~~
21 amount retained and giving the reasons therefor. The tenant shall furnish the lessor
22 a ~~forwarding address at the termination of the lease, to which such statements may~~
23 ~~be sent~~ for the retention.

24 B. ~~In the event of a transfer of the lessor's interest in the leased premises~~
25 ~~during the term of a lease, the transferor shall also transfer to his successor in interest~~
26 ~~the sum deposited as security for performance of the lease and the transferor shall~~
27 ~~then be relieved of further liability with respect to the security deposit. The~~
28 ~~transferee shall be responsible for the return of the lessee's deposit at the termination~~
29 ~~of the lease, as set forth in Subsection A of this Section.~~ The lessee shall furnish the

1 **lessor an address to which the security deposit and any statements shall be sent.**

2 **A lessee who fails to furnish an address to the lessor does not forfeit the right to**
3 **the return of the security deposit or to any written itemized statements.**

4 C. ~~Paragraph A of this Section shall not apply when the tenant abandons the~~
5 ~~premises, either without giving notice as required or prior to the termination of the~~
6 ~~lease.~~ **If the lessee fails to bring an action for the return of the security deposit**
7 **within three years after the date of the termination of the lease, the security**
8 **deposit is deemed abandoned and becomes the property of the lessor.**

9 Revision Comments - 2017

10 (a) The 2017 revision restates and clarifies the parties' obligations with
11 respect to the security deposit. As under prior law, any security deposit furnished in
12 connection with a written or oral residential lease must be returned to the lessee at
13 the termination of the lease. The lessor may retain all or part of the security deposit
14 necessary to remedy the lessee's failure to perform; however, in this case the lessor
15 must furnish the lessee with a written itemized statement accounting for the amount
16 retained. The itemized statement must provide categorical specification which
17 reasonably apprises the lessee of the reasons for the withholding. *See Garb v.*
18 *Clayton-Kent Builders, Inc.*, 307 So. 2d 813 (La. App. 1 Cir. 1975). The requirement
19 that the itemized statement be "written" may be satisfied by any means of electronic
20 communication. Moreover, the security deposit itself may be returned by electronic
21 means.

22 (b) The lessee may furnish an address to the lessor orally or in writing,
23 including by any means of electronic communication.

24 (c) Prior Subsection B of this Section has been eliminated. The law governing
25 transfer of obligations, from which the former provision deviated significantly,
26 provides for the obligations of the lessor and a transferee of the lessor's interest in the
27 leased premises with respect to the security deposit.

28 (d) Prior Subsection C of this Section has been eliminated. Whereas prior law
29 deprived a lessee who abandoned the premises of any right to either the deposit or
30 a written statement accounting for any withholding, under the 2017 revision, a lessor
31 may retain the security deposit only as necessary to remedy the lessee's failure to
32 perform and must provide an accounting, even when the lessee abandons the
33 premises.

34 (e) This revision clarifies the lessor's rights and obligations with respect to
35 unclaimed security deposits by providing that the deposit is deemed abandoned and
36 becomes the property of the lessor if the lessee fails to commence an action for its
37 return within three years after the date of the termination of the lease.

38 (f) An advance payment of rent is distinct from a security deposit. A security
39 deposit is a payment made by a lessee to secure the performance of the lessee's
40 obligations, whether arising by law or under the lease agreement. Advance payments
41 of rent are not governed by this Part.

42 **§3251.1. Security deposit; security interest**

43 **A. The lessor's interest in the security deposit is a security interest under**
44 **the Uniform Commercial Code. Nevertheless, R.S. 10:9-207(c)(2) shall not apply**
45 **to the security deposit. Unless otherwise required by law or by agreement of the**

1 parties, the lessor is not required to hold the security deposit in a separate
2 account or to remit to the lessee any interest earned on the deposit.

3 B. The claim of a lessee to a security deposit held in a deposit account
4 maintained by the lessor with a financial institution is preferred to that of the
5 lessor's creditors, except that the lessee's claim is subject to the rights of the
6 following persons:

7 (1) The financial institution with which the deposit account is
8 maintained.

9 (2) A transferee of funds from the deposit account, unless the transferee
10 acts in collusion with the lessor in violating the rights of the lessee to the security
11 deposit.

12 (3) A secured party holding a security interest perfected by control of the
13 deposit account in accordance with R.S. 10:9-104.

14 Revision Comments-2017

15 (a) This Subsection is new and adopts the view that the nature of a security
16 deposit is that of security. See C.C. Art. 3136 (Rev. 2014). The deposit secures the
17 obligations of the lessee.

18 (b) Because the security deposit is a movable, its use as collateral by contract
19 is governed by Chapter 9 of the Uniform Commercial Code. Chapter 9 would
20 normally require the lessor to keep the deposit "identifiable" or maintained in a
21 separate account holding fungible deposits. R.S. 10:9-207(b)(3). In addition, because
22 any interest earned on the security deposit would belong to the lessee, the lessor
23 normally would be required to remit interest to the lessee unless it is applied to the
24 lessee's obligations under the lease. R.S. 10:9-207(c)(2). These requirements are far
25 too onerous for most residential lessors. Therefore, under the 2017 revision, the
26 lessor is relieved of the obligation to pay interest to the lessee and, unless the parties
27 agree or applicable law provides otherwise, the lessor is relieved of the obligation
28 to maintain the deposit in a segregated deposit account.

29 (c) Subsection B provides that when a security deposit is held in a deposit
30 account maintained with a financial institution, the rights of the lessee are superior
31 to the rights of the lessor's other creditors, with some exceptions. This preference is
32 similar to the privilege of a depositor on the thing deposited. See C.C. Art. 3222. In
33 the event that the security deposit is co-mingled with other fungible collateral in the
34 same deposit account, the lessee's rights in the security deposit will persist to the
35 extent that the security deposit can be identified through an acceptable tracing
36 method. See R.S. 10:9-315(b)(2).

37 (d) The preference of the lessee's claim to the security deposit held in a
38 deposit account maintained by the lessor with a financial institution does not apply
39 to the rights of that financial institution, the rights of a secured party who holds a
40 security interest perfected by control of the deposit account, or the rights of a
41 transferee of funds from the deposit account who does not act in collusion with the
42 lessor in violating the rights of the lessee. These exceptions are similar to those
43 applicable to the rights of a pledgee to cash proceeds of rent deposited into an
44 account maintained with a financial institution. See R.S. 9:4402 (Rev. 2014).

1 the portion of the security deposit wrongfully retained, whichever is greater. If
 2 the court determines that the lessee knew or should have known that the
 3 security deposit is not owed or if the lessor's failure to perform was technical in
 4 nature, the court may exercise its discretion to refuse an award of damages.

5 B. An action for the recovery of damages may be brought in the parish
 6 of the lessor's domicile or in the parish where the premises are situated.

7 C. In an action for the return of the lessee's security deposit, the court
 8 may award costs and attorney fees to the prevailing party.

9 Revision Comments - 2017

10 (a) Under prior law, the lessor's willful failure to comply with the
 11 requirement to return the security deposit or provide an itemized statement
 12 accounting for any withholding gave the lessee the right to recover actual damages,
 13 or two hundred dollars, whichever was greater. Willful failure was defined as the
 14 failure to remit within thirty days after written demand. The 2017 revision eliminates
 15 the notion of "willful failure," and with it, the requirement that the lessee make
 16 written demand for the return of the deposit as a prerequisite to an award of damages.
 17 This revision also increases the amount of damages that may be recovered.

18 (b) The purpose of providing for an award of damages under this Section is
 19 to deter the arbitrary withholding of the security deposit by the lessor. Recognizing
 20 this, courts have required lessors to comply strictly with the requirements of this
 21 Part. *See, e.g., Golden v. Riverside Apartments, Inc.*, 488 So. 2d 478 (La. App. 3 Cir.
 22 1986). Even if there is a valid dispute between the parties as to the amount of the
 23 security deposit to be returned, the lessor must return the deposit or an itemized
 24 statement within the requisite time or suffer the penalties provided. *Bradwell v.*
 25 *Carter*, 298 So. 2d 853 (La. App. 1 Cir. 1974). Nevertheless, courts occasionally
 26 have refused a damages award when a lessee's demand for the return of the deposit
 27 is not made in good faith and the lessor's noncompliance with the statute is technical
 28 in nature. *See, e.g., Flynn v. Central Realty of Louisiana, Inc.*, 338 So. 2d 774 (La.
 29 App. 4 Cir. 1976) (refusing to award damages to lessee who demanded the return of
 30 the deposit after knowingly failing to pay last month's rent and receiving verbal
 31 explanation of reason for withholding from lessor). The elimination of the notion of
 32 "willful failure" militates in favor of increased judicial flexibility in the awarding of
 33 damages. Although a verbal explanation of the reasons for withholding the deposit
 34 will not suffice in every case, courts may refuse to award damages when the lessee
 35 knew or should have known that the security deposit is not due and the lessor's
 36 failure to perform was technical in nature.

37 §3254. Waiver of ~~tenant's~~ rights prohibited

38 Any ~~waiver of the right~~ clause that, in advance, excludes or limits the
 39 rights of a ~~tenant~~ lessee under this ~~part~~ Part shall be absolutely null ~~and void~~.

40 Section 4. The provisions of this Act shall become effective January 1, 2018.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Thomas L. Tyler.

DIGEST

SB 120 Original 2017 Regular Session Ward

Present law (C.C. Art. 2704) provides for the failure to pay rent.

Proposed law provides an exception in the form of a grace period for residential leases only.

Present law (C.C. Art. 2725) provides for the extension of the term of a lease.

Proposed law provides that in a residential lease, if the parties have agreed that the term will be automatically extended unless notice is given, the lessee's notice not to extend shall not be required more than 30 days prior to the expiration of the term.

Present law (C.C. Art. 2728(2)) provides that notice of termination of a month-to-month lease shall be given ten days before the end of the month.

Proposed law increases the notice from ten days to 30 days for residential leases and retains the notice period for all other leases.

Present law (C.C.P. Art. 4701) provides for the notice to vacate leased premises.

Proposed law provides that a notice to terminate, a written notice of dissolution, and a written notice to pay rent may all be considered a notice to vacate in certain circumstances.

Proposed law requires notice to be delivered no fewer than five days prior to the filing of a rule to show cause and requires the notice to state the reasons for termination of the lease.

Proposed law also prohibits the waiver of notice in residential leases.

Present law (C.C.P. Art. 4702) provides for the notice to vacate for occupants.

Proposed law makes the notice to vacate parallel for both lessees and occupants.

Present law (C.C.P. Art. 4703) provides for service when the premises are abandoned.

Proposed law retains these provisions but updates terminology.

Present law (C.C.P. Art. 4704) provides definitions.

Proposed law retains these provisions but updates terminology.

Present law (C.C.P. Art. 4731) provides for the rule to show cause why possession should not be delivered.

Proposed law retains these provisions but updates terminology.

Present law (C.C.P. Art. 4732) provides for the trial of the rule to show cause and the judgment of eviction.

Proposed law provides for a delay in the rendition of the judgment, not to exceed seven days, for exceptional circumstances.

Present law (C.C.P. Art. 4912) provides for eviction proceedings in the justice of the peace

courts.

Proposed law retains these provisions but updates terminology.

Present law (R.S. 9:3251) provides for the return of a security deposit within one month after the termination of a lease and allows for the retention of a portion of the deposit to remedy any default.

Proposed law retains these provisions but clarifies language.

Proposed law provides that if the lessee fails to provide an address for the return of the deposit, he does not forfeit his right to the return.

Present law (R.S. 9:3251) provides for the transfer of the deposit to a successor in interest of the leased premises.

Proposed law deletes these provisions.

Proposed law provides for the abandonment of the security deposit if not claimed within three years.

Proposed law (R.S. 9:3251.1) provides that a security deposit is a security interest, but the lessor is not required to hold the deposit in a separate account or pay interest to the lessee and proposed law sets forth the ranking of a claim to the deposit.

Present law (R.S. 9:3252) provides for venue and damages for the willful failure to comply with statutory requirements to return the deposit.

Proposed law retains the venue provision but moves it to R.S. 9:3253 and provides a new damage provision in R.S. 9:3253.

Proposed law provides the time period for the return of the deposit and requires a written statement accounting for the retention of any funds.

Present law (R.S. 9:3253) provides for costs and attorney fees.

Proposed law retains these provisions but moves it to R.S. 9:3254 and provides for the damages which may be awarded for a lessor's failure to comply with this Part.

Proposed law provides that damages may equal \$300 or twice the amount of the portion of the deposit wrongfully retained, whichever is greater. Proposed law also gives the court discretion in the awarding of damages for technical violations.

Present law (R.S. 9:3254) provides for the nullity of any waiver of a lessee's rights.

Proposed law retains these provisions but modernizes the terminology.

Effective on January 1, 2018.

(Amends C.C. Arts. 2704, 2725 and 2728(2), C.C.P. Arts. 4701, 4702, 4703(section heading), 4704, 4731, 4732 and 4912, and R.S. 9:3251-3254)