

*Movin' In . . .
Movin' Out . . .*



And Everything in Between!

A GUIDE TO LOUISIANA LANDLORD & TENANT LAWS

Louisiana Department of Justice
Office of the Attorney General
James D. "Buddy" Caldwell

A message from
Attorney General
James D. "Buddy" Caldwell

Every day the Attorney General's Office receives questions and complaints involving landlord and tenant issues. Education is the best way to address these types of complaints and give you the answers you need. This guide to landlord and tenant laws contains information on a variety of topics ranging from security deposits to eviction that will educate landlords and tenants. I hope you find this guide useful. If you have any questions or need further information on this material, please contact the **Consumer Protection Section** of the Louisiana Attorney General's Office at **1-800-351-4889**.

A handwritten signature in black ink that reads "James D. 'Buddy' Caldwell".

James D. "Buddy" Caldwell
Attorney General

The information in this booklet is current through the 2008 Louisiana Legislative Session. This booklet is *not* intended to be a substitute for legal advice.

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Before you sign the dotted line . . .

Read, know and understand what you are signing. When you sign something it may legally obligate you.

What is a deposit?

When a landlord agrees to reserve rental property, the landlord will probably ask the tenant for a “deposit.” This transaction obligates the tenant to occupy the property on the agreed date, and obligates the landlord to have the property fit for occupancy on the agreed date. If the tenant fails to occupy the property on the agreed date, then the tenant could lose the deposit and may be liable for damages. If the landlord fails to fulfill his obligation, the landlord will have to refund the deposit and may be liable for damages.

Security/Damage Deposit

A security or damage deposit may be required by the landlord to satisfy nonpayment of rent or any other default, including physical damage to the property. The landlord may keep the deposit for such defaults. However, normal wear and tear is not deductible. If the deposit is not enough to cover all damages, then the tenant may be held responsible for additional damages.

Inspection and Checklist

Before putting down a deposit on the property, the tenant should inspect the property for any visible defects, damage or missing items. When the tenant signs an agreement to lease the property, the landlord and the tenant should agree on what problems are to be corrected *before* the tenant moves in.

Landlord & Tenant Checklist

The Landlord-Tenant checklist should look something like the following:

Tenant: _____
Landlord: _____
Landlord Phone: _____
Tenant Phone: _____
Unit #: _____
Unit Address: _____

Living Room

Light Fixtures/Switches: _____
Floor: _____
Rugs: _____
Walls/Ceiling: _____
Holes: _____
Paint: _____

Bedroom #1

Light Fixtures/Switches: _____
Floor: _____
Walls/Ceiling: _____
Holes: _____
Paint: _____

Kitchen

Light: _____
Fixtures/Switches: _____
Cabinets: _____
Drawers/Knobs: _____
Shelves: _____
Doors/Knobs: _____
Exhaust Fan: _____

Landlord & Tenant Checklist, cont.

Kitchen, cont.

Disposal: _____
Stove: _____
Burners: _____
Oven: _____
Broiler: _____
Refrigerator: _____

(Tenant Signature)

(Landlord Signature)

Some landlords offer a pre-printed checklist for noting any existing faults present before occupancy. If a checklist is not provided, then the tenant may write one and make two copies—one for the landlord and one for the tenant. The checklist should be signed by both the tenant and the landlord to prevent future disputes.

Do not sign the lease or leave a deposit *unless* there is an agreement in writing that the property will be in the agreed condition on the date of occupancy.



Get it in writing. . .

It is strongly recommended that all lease agreements be in writing. Know your rights and responsibilities under the lease.

What is a lease?

A lease is an agreement which legally binds both the landlord and the tenant to the terms for a specified period of time¹. The lease may be oral or written². However, oral agreements may be impossible to prove in court should a dispute arise.

Terms & Automatic Renewal Clauses

The terms and conditions of the lease are usually regulated by the lease agreement.

Fixed Term Lease: The duration of the lease may be agreed upon by both the landlord and the tenant for a fixed period of time³. A fixed term lease usually runs for a year but can be for any time period stipulated in the agreement not to exceed ninety-nine (99) years⁴.

Month-to-Month Lease: If the duration of the lease is not stated in the agreement, then it is presumed by law to be month-to-month⁵. The tenant or the landlord may terminate or change the terms of the lease with **ten (10) days written notice** before the end of the month⁶.

Renewal Clauses: Some leases contain automatic renewal clauses, which renew the lease for another term equal to the original term. For example, if the tenant has a one year lease that expires on December 31, then the lease will automatically renew for another full year with the same terms⁷.

- Either the tenant or the landlord can avoid automatic renewal by giving written notice of his/her intent to vacate.
- Most leases require written notice for termination at least 30 days prior to the current lease's expiration.

Terms & Automatic Renewal Clauses, cont.

Other leases contain automatic month-to-month renewal clauses. Again, all lease terms will remain the same⁸. Any alteration to these terms (i.e. changes in the amount of rent, terminating the lease, etc.) must be made with the proper notice as provided for in the lease.

Without A Renewal Clause: If the tenant remains in the apartment for one week after the lease expires⁹ and there is no renewal clause, then the lease will automatically renew on a month-to-month basis¹⁰. In this situation, any change to the terms of the lease must be made with **ten (10) days written notice** prior to the end of the monthly period.

Co-Signing a Lease

Tenants can co-sign a lease with a roommate(s). In this case, either or both tenants can be held responsible for the entire rent, damage, or any other breach of agreement. Therefore, if a roommate moves out or causes damage to the apartment, then the remaining roommate can be held responsible for all the damages.

Non-Payment of Rent

Some lease agreements allow for the landlord to charge a fee for the late payment of rent. Late fees cannot be charged unless they are provided for in the lease agreement. If no written lease exists, fees cannot be charged unless they are agreed upon orally. The law sets no specific amount for late fees; however, unreasonably high fees can be contested.

Special Rules Governing the Lease

- A tenant should ask the landlord about the written rules governing the conduct of the tenant and his/her guests. Before signing the lease, the tenant should request a copy of the rules and study them carefully.
- The death of either the landlord or the tenant does not dissolve the lease agreement. The lease is continued, and both the landlord and the tenant's respective heirs are bound by the agreement¹¹.
- The destruction of the property without fault of either the landlord or the tenant does terminate the lease obligations¹².



What am I supposed to do?

It is important for the landlord and the tenant to know their obligations under the terms of the lease.

Obligations of the Landlord

- To deliver the property to the tenant at the agreed time and in good condition for its leased purpose¹³.
- To maintain the property in a suitable condition for the purpose for which it was leased¹⁴.
- To protect the tenant's right of peaceful possession for the duration of the lease¹⁵.
- To refrain from making any alterations to the property¹⁶.
- To pay taxes, assessments and other charges to the property¹⁷.
- If the landlord sells the property during the term of the lease, then the new owner may change the lease terms or evict the tenant. In order to prevent this, the lease must be **recorded** in the parish where the property is located¹⁸. The tenant may have an action against the landlord for loss sustained as a result of the sale.

Obligations of the Tenant

- To pay the rent in accordance with the lease terms¹⁹.
- To return the property in the same condition, except for normal "wear and tear," as it was leased²⁰.
- To refrain from altering the premises without first obtaining written consent from the landlord.
- To allow the landlord to make all necessary repairs that cannot be postponed until the end of the lease²¹.
- To use the property for the purpose for which was leased²². Any misuse by the tenant may cause the lease to be dissolved²³.
- To inform the landlord promptly when the property has been damaged or needs repair²⁴.
- The tenant is liable for damages to the property that exceed the normal "wear and tear" caused by the tenant or the tenant's guests²⁵.



Am I responsible for that fire?

When a fire occurs through the fault or negligence of the tenant or his/her guests, the tenant will be held responsible for damage or destruction to the property.

Maintenance & Repairs

Many leases require that requests for repairs be made in writing. Regardless, all requests *should* be made in writing and/or in the presence of witnesses. Tenants are strongly advised to keep a record of all maintenance problems, repairs and failures to repair.

The landlord must maintain the property by making all necessary repairs²⁶. The tenant is responsible for the damages caused by his fault, the fault of his guests, and those exceeding normal wear and tear²⁷.

If the repair cannot be postponed until the end of the lease, then the tenant must allow the landlord to make these repairs, even if they are an inconvenience. However, a reduction in rent may be possible²⁸.

If the landlord refuses to maintain the property or to make necessary repairs after being notified, the tenant has several options:

- The tenant can file a complaint with the Attorney General's Consumer Protection Section. The toll-free number is [1-800-351-4889](tel:1-800-351-4889).
- If there is a structural or hazardous defect, then the tenant can complain to the local building officials.
- If a serious problem is ignored, then the tenant may terminate the lease²⁹. Terminating the lease requires **substantial proof** of the landlord's failure to perform his/her obligations. Terminating a lease without sufficient cause will result in serious financial and legal consequences. Therefore, the tenant should seek **legal advice** before terminating a lease due to improper maintenance.

Maintenance & Repairs, cont.

- Louisiana law allows tenants to pay for “necessary” repairs and to deduct the repair cost from the rent due or demand immediate reimbursement from the landlord³⁰. In order to deduct repair costs, tenants must be able to prove each of the following:
 - A) The repairs were necessary.
 - B) The landlord failed to act within a reasonable time *after* being notified.
 - C) The price paid was reasonable.

The tenant should keep copies of estimates, letters, receipts and other documents which support his/her case.

Improvements³¹

At the termination of the lease, *absent a contrary agreement*, improvements, attachments or additions made by the tenant to the property are dealt with as follows:

- The tenant may remove his/her improvements if he/she restores the property to its former condition.
- If the tenant fails to remove the improvements, then:
 - A) The landlord may pay the tenant for the cost of the improvements or for the enhanced value of the leased thing—whichever is less.
 - B) The landlord may demand that the tenant remove the improvements within a reasonable time and restore the property to its original condition.

Improvements, cont.

If the tenant fails to remove the improvements, the landlord may:

- Remove the improvements and restore the property to its former condition at the expense of the tenant.
- Acquire the improvements without any obligation to reimburse the tenant.



The check is in the mail . . .

Tenants should request deposit refunds by certified mail, return receipt requested, on the last day of tenancy. The tenant should give a forwarding address in this letter and keep a copy of the letter for his/her records.

Lessee's Deposit Act³²

The Lessee's Deposit Act requires the landlord to return deposits within one month after the end of the lease, provided the tenant fulfilled the lease obligations and left a forwarding address.

If any part of the deposit is retained, the landlord must send the tenant an itemized list of deductions and any remaining balance within one month. If the landlord fails to return the deposit or to send the itemized list within one month, the tenant may sue in Small Claims Court to recover the deposit.

If the landlord fails to account for the deposit within thirty (30) days of a tenant's written request for a refund, then the law allows the tenant to recover actual damages (amount of damages made) or \$200.00—whichever is greater. The judge may also award court costs and attorney fees to the person who wins the suit. The law does not permit the tenant to give up, or waive, this right in a lease.

Pet Deposits

Pets may or may not be permitted under the terms of the lease. However, most leases that allow pets require the tenant to pay a deposit for damages caused by the pet. Money held as a pet deposit is recoverable under the **Lessee's Deposit Act**. Money held as a "pet fee or charge" is *not* covered by the Act and may or may not be recoverable according to the terms of the lease. Tenants should apply for refunds of pet deposits in writing on the final day of occupancy, the same way they would request security or damage deposits.



On your way out . . .

Upon moving out, the tenant should return the keys to the landlord, leave a forwarding address and mail a certified letter requesting a refund of the security deposit.

Moving Out

The tenant must give proper **written notice** of his/her intent to vacate the property in accordance with the provisions of the lease³³. If there is a month-to-month lease, then the tenant must give written notice of intent to vacate at least ten (10) days prior to the last day of the month for which the rent was paid³⁴.

Final Cleaning & Repair

If there is no clause in the lease which requires specific cleaning, then the tenant must return the property in the same condition in which it was rented, allowing for normal wear and tear³⁵. If the tenant fails to do so, then all or part of the deposit may be withheld.

If the property is not cleaned, then the landlord may deduct all or part of the cleaning charges from the deposit. Clauses in a lease, which automatically deduct for cleaning, *regardless of the property's condition*, may be invalid.

Final Inspection

During the final week of occupancy, the landlord should inspect the property. If the landlord refuses to perform the inspection, then the tenant should have a witness inspect and/or photograph the property and prepare a written statement of the apartment's condition. The tenant should date and sign the statement and have it witnessed.



Get out!

When the lease was signed, the tenant may have waived the five (5) day notice to vacate requirement. Many standard lease forms contain a waiver of notice clause. Check the lease to find out whether it contains a waiver of notice to vacate³⁸.

Proper Eviction Procedures

- Proper procedure must be strictly followed!
- When the tenant breaches the lease agreement (i.e., failure to pay rent), the landlord must first deliver a written **Notice to Vacate** to the tenant.
- This notice gives the tenant five (5) days, not counting weekends or holidays, to vacate³⁶.
- If the tenant is not at home when the notice is given, then the notice may be posted on the door of the leased property. This has the same effect as delivering the notice to the tenant³⁷.
- If a tenant fails to vacate within five (5) days of notice, then the landlord will begin eviction proceedings by filing a petition with the justice of the peace or city court.
- The eviction trial will be heard three (3) days after the tenant has been served³⁹.
- The tenant will then have to appear in court and state why he/she should or should not be ordered to vacate the property⁴⁰.
- If the justice of the peace finds the landlord entitled to evict the tenant, or if the tenant fails to appear at the trial, then the court will rule in favor of the landlord.
- The tenant will be ordered to vacate the property within twenty-four (24) hours⁴¹.

Proper Eviction Procedures, cont.

- If the tenant fails to vacate the premises within twenty-four (24) hours after the landlord is granted a judgment of eviction, then the court must issue a warrant commanding the local sheriff, constable, or marshal to seize the leased property, remove the non-complying tenant, and return possession of the leased thing to the landlord⁴².
- Though not absolutely necessary, you may wish to have an attorney represent you at an eviction proceeding. An attorney is recommended if you believe you have legally valid reasons to contest the eviction and/or wish to preserve your rights to appeal the judge's or justice's decision.
- A tenant who has appeared at the trial and argued a defense can file a suspensive appeal. In addition, an appeal bond must be applied for, and filed within twenty-four (24) hours of judgment of eviction⁴³. A landlord cannot legally evict a tenant without this procedure.
- If the landlord locks the tenant out of the leased property, puts the tenant's possessions on the street or otherwise takes the law into his/her own hands, the landlord may be liable for damages for wrongful eviction.

Collection of Past Due Rent

A landlord may file a separate suit to collect past due rent and may seize personal items, such as furniture and appliances, found in the property. If the landlord is unable

Collection of Past Due Rent, cont.

to locate the tenant, the court has a procedure which will still allow the landlord to get a judgment against the former tenant. The landlord may get a court order to seize personal property in the property without posting a bond or other security. If this happens, it is probably best to consult an attorney. If the landlord does not follow proper legal procedure, the tenant may be entitled to damages.



Know your rights . . .

If you are in the military, you have rights under current law regarding your rental agreement⁴⁴.

Terminating a Lease

Any active or reserve member of the armed forces, including the National Guard and the US Coast Guard, may terminate his/her lease if any of the following occur:

- The member receives orders to depart thirty-five (35) miles or more from the location of the dwelling.
- The member receives orders to depart thirty-five (35) miles or more from the location of the dwelling for more than three (3) months.
- The member is discharged, released, or retires.
- The member is ordered to reside in government-supplied quarters.
- The member is notified of the availability of government-supplied quarters which were not available at the time the lease was executed. The member should have notified the landlord **in writing** that he/she had a pending request for the government-supplied quarters *before* signing the lease.



Did you know?

Louisiana has a law that prohibits discrimination in housing and related activities because of race, color, national origin, gender, religion, handicap or familial status.

Louisiana Equal Housing Opportunity Act⁴⁵

The Louisiana Equal Housing Opportunity Act prohibits discrimination in housing and related activities because of a person's race, color, national origin, gender, religion, handicap, or familial status.

Warning Signs of Housing Discrimination

- Refusing to rent housing.
- Falsely denying that a house is available for inspection or rent.
- Differing terms, conditions or privileges for certain people.
- Intimidating, interfering or coercing a person to prevent him/her from leasing/renting a home or apartment.
- Landlords "steering" tenants to or from certain areas of the complex.

Fair Housing Hotline

If you feel you have been discriminated against or want more information about equal housing, please contact the **Louisiana Attorney General's Fair Housing Hotline** at **1-800-273-5718**. The Attorney General's Office must remain neutral throughout the investigation and resolution process.

The **Equal Housing Section of the Attorney General's Office** can assist landlords with understanding their responsibilities under the law and help tenants recognize and report unfair housing practices. Free education is provided through Fair Housing Seminars to the public.

Resources

Louisiana Attorney General's Office
P.O. Box 94005
Baton Rouge, LA 70804-9005

Consumer Protection Hotline
1.800.351.4889

Fair Housing Hotline
1.800.273.5718

www.agbuddycaldwell.com

Footnotes

- ¹ CC 2668
- ² CC 2681
- ³ CC 2678
- ⁴ CC 2679
- ⁵ CC 2680
- ⁶ CC 2728
- ⁷ CC 2725
- ⁸ CC 2724
- ⁹ CC 2721
- ¹⁰ CC 2723
- ¹¹ CC 2717
- ¹² CC 2714
- ¹³ CC 2682 & 2684
- ¹⁴ CC 2682
- ¹⁵ CC 2682 & 2700
- ¹⁶ CC 2690
- ¹⁷ CC 2689
- ¹⁸ CC 2712
- ¹⁹ CC 2683
- ²⁰ CC 2683
- ²¹ CC 2693
- ²² CC 2683
- ²³ CC 2686
- ²⁴ CC 2688
- ²⁵ CC 2687
- ²⁶ CC 2691
- ²⁷ CC 2692
- ²⁸ CC 2693
- ²⁹ CC 2719
- ³⁰ CC 2694
- ³¹ CC 2695
- ³² R.S. 9:3251-3254
- ³³ CC 2729
- ³⁴ CC 2728

Footnotes, cont.

³⁵ CC 2683

³⁶ CCP 4701

³⁷ CCP 4703

³⁸ CCP 4701

³⁹ CCP 4732

⁴⁰ CCP 4731

⁴¹ CCP 4732

⁴² CCP 4733

⁴³ CC 4735

⁴⁴ LSA-R.S. 9:3261

⁴⁵ R.S. 51:2601-2614

You can view these laws by visiting the Louisiana Legislature website at www.legis.state.la.us. Click on "Louisiana Laws".

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