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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1154

Session of  
1995

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INTRODUCED BY WOGAN, TRELLO, DENT, FAIRCHILD, PETTIT, FLEAGLE, DEMPSEY, COLAFELLA, FICHTER, CLARK, READSHAW, E. Z. TAYLOR, KENNEY, SCHULER, GEIST, SATHER, WALKO, DeLUCA, SEMMEL, LAUGHLIN, ARMSTRONG, STERN, MELIO, KELLER, STABACK, FARGO, HASAY, STEIL, RUBLEY, TIGUE, McGEEHAN, MARSICO, OLASZ, ROONEY, WAUGH, CLYMER, DONATUCCI, LEH, FEESE, MERRY, COLAIZZO, CIVERA, MICOZZIE, VAN HORNE, HALUSKA, ALLEN, EGOLF, RAYMOND, TRICH, TANGRETTI, FLICK AND MILLER, MARCH 14, 1995

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SENATOR ULIANA, URBAN AFFAIRS AND HOUSING, IN SENATE, AS  
AMENDED, JUNE 13, 1995

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AN ACT

1 Amending the act of April 6, 1951 (P.L.69, No.20), entitled "An  
2 act relating to the rights, obligations and liabilities of  
3 landlord and tenant and of parties dealing with them and  
4 amending, revising, changing and consolidating the law  
5 relating thereto," further providing for the definition of  
6 "justice of the peace" and for notice to quit; providing for  
7 summons and service, for hearing, judgment, writ of  
8 possession and payment of rent by tenant, for return of writ  
9 and for appeal and certiorari.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Section 102(2) of the act of April 6, 1951  
13 (P.L.69, No.20), known as The Landlord and Tenant Act of 1951,  
14 is amended to read:

15 Section 102. Definitions.--As used in this act--

16 \* \* \*

17 (2) "Justice of the peace" shall include justices of the

1 peace, district justices, aldermen [and], magistrates or any  
2 other court having jurisdiction over landlord and tenant  
3 matters, excluding a court of common pleas.

4 \* \* \*

5 Section 2. Section 501 of the act, amended December 20, 1990  
6 (P.L.1465, No.221), is amended to read:

7 Section 501. Notice to Quit.--(A) A landlord desirous of <—  
8 repossessing real property from a tenant may notify, in writing,  
9 the tenant to remove from the same at the expiration of the time  
10 specified in the notice under the following circumstances,  
11 namely, (1) Upon the termination of a term of the tenant, (2) or  
12 upon forfeiture of the lease for breach of its conditions, (3)  
13 or upon the failure of the tenant, upon demand, to satisfy any  
14 rent reserved and due.

15 [In] (B) EXCEPT AS PROVIDED FOR IN SUBSECTION (C), IN case <—  
16 of the expiration of a term or of a forfeiture for breach of the  
17 conditions of the lease where the lease is for any term of [less  
18 than one year] one year or less or for an indeterminate time,  
19 the notice shall specify that the tenant shall remove within  
20 [thirty] five FIFTEEN days from the date of service thereof, and <—  
21 when the lease is for [one year or more] more than one year,  
22 then within [three months] thirty days from the date of service  
23 thereof. In case of failure of the tenant, upon demand, to  
24 satisfy any rent reserved and due, the notice[, if given ~~on~~ or <—  
25 after April first and before September first], shall specify  
26 that the tenant shall remove within [fifteen] five TEN days from <—  
27 the date of the service thereof[, and if given on or after  
28 September first and before April first, then within thirty days  
29 from the date of the service thereof].

30 (C) IN CASE OF THE EXPIRATION OF A TERM OR OF A FORFEITURE <—

1 FOR BREACH OF THE CONDITIONS OF THE LEASE INVOLVING A TENANT OF  
2 A MOBILE HOME PARK AS DEFINED IN THE ACT OF NOVEMBER 24, 1976  
3 (P.L.1176, NO.261), KNOWN AS THE "MOBILE HOME PARK RIGHTS ACT,"  
4 WHERE THE LEASE IS FOR ANY TERM OF LESS THAN ONE YEAR OR FOR AN  
5 INDETERMINATE TIME, THE NOTICE SHALL SPECIFY THAT THE TENANT  
6 SHALL REMOVE WITHIN THIRTY DAYS FROM THE DATE OF SERVICE  
7 THEREOF, AND WHEN THE LEASE IS FOR ONE YEAR OR MORE, THEN WITHIN  
8 THREE MONTHS FROM THE DATE OF SERVICE THEREOF. IN CASE OF  
9 FAILURE OF THE TENANT, UPON DEMAND, TO SATISFY ANY RENT RESERVED  
10 AND DUE, THE NOTICE, IF GIVEN ON OR AFTER APRIL FIRST AND BEFORE  
11 SEPTEMBER FIRST, SHALL SPECIFY THAT THE TENANT SHALL REMOVE  
12 WITHIN FIFTEEN DAYS FROM THE DATE OF THE SERVICE THEREOF, AND IF  
13 GIVEN ON OR AFTER SEPTEMBER FIRST AND BEFORE APRIL FIRST, THEN  
14 WITHIN THIRTY DAYS FROM THE DATE OF THE SERVICE THEREOF.

15     (D) In case of termination due to the provisions of section <—  
16 505-A, the notice shall specify that the tenant shall remove  
17 within [fifteen] ~~five~~ TEN days from the date of service thereof. <—

18     (E) The notice above provided for may be for a lesser time <—  
19 or may be waived by the tenant if the lease so provides.

20     (F) The notice provided for in this section may be served <—  
21 personally on the tenant, or by leaving the same at the  
22 principal building upon the premises, or by posting the same  
23 conspicuously on the leased premises.

24     Section 3. The act is amended by adding sections to read:

25     ~~Section 502. Summons and Service. (a) Upon the filing of~~ <—  
26 ~~the complaint, the district justice shall issue a summons which~~  
27 ~~recites substantially the complaint, is directed to any~~  
28 ~~constable or the sheriff of the county and commands that~~  
29 ~~constable or sheriff to summon the tenant to appear before the~~  
30 ~~district justice to answer the complaint on a date not less than~~

~~five nor more than eight days from the date of the summons.~~

~~(b) The summons may be served personally on the tenant, by mail or by posting the summons conspicuously on the leased premises.~~

~~Section 503. Hearing; Judgment; Writ of Possession; Payment of Rent by Tenant. (a) On the day and at the time appointed or on a day to which the case may be adjourned, the district justice shall proceed to hear the case. If it appears that the complaint has been sufficiently proven, the district justice shall enter judgment against the tenant:~~

~~(1) that the real property be delivered up to the landlord;~~

~~(2) for damages, if any, for the unjust detention of the demised premises;~~

~~(3) for the amount of rent, if any, which remains due and unpaid;~~

~~(4) for costs of the proceeding; and~~

~~(5) any other costs or expenses, including reasonable attorney fees, permitted under the law or pursuant to any written lease agreement signed by the parties.~~

~~(b) At the request of the landlord, the district justice shall, after the fifth day after the rendition of the judgment, issue a writ of possession directed to the constable or sheriff, commanding him to deliver forthwith actual possession of the real property to the landlord and to levy the costs and amount of judgment for damages and rent, if any, on the tenant, in the same manner as judgments and costs are levied and collected on writs of execution. This writ is to be served within no later than forty eight hours and executed on the sixth day following service upon the tenant of the leased premises. Service of the writ of possession shall be served personally on the tenant by~~

~~personal service or by posting the writ conspicuously on the leased premises.~~

~~(c) If it shall appear that the complaint is vexatious and unfounded, the district justice shall dismiss the case and assess the costs against the landlord.~~

~~(d) At any time before any writ of possession is actually executed, the tenant may, in any case for the recovery of possession solely because of failure to pay rent due, supersede and render the writ of no effect by paying to the constable or sheriff the rent actually in arrears and the costs.~~

~~Section 504. Return by Constable or Sheriff. The constable or sheriff shall make return of the writ of possession to the district justice within ten days after receiving the writ. The return shall show: (1) the date, time, place and manner of service of the writ; (2) if the writ was satisfied by the payment of rent due or in arrears and costs by or on behalf of the tenant, the amount of that payment and its distribution; (3) the time and date of any forcible entry and ejectment, or that no entry for the purpose of ejectment had been made; and (4) his expenses and fees, which expenses and fees shall have been paid by the tenant or, if paid by the landlord, reimbursed to the landlord by the tenant in order to satisfy the writ. The constable or sheriff shall be answerable in default of executing the writ according to its terms and for failure to pay over the amount received by him in satisfaction of the judgment or the rent and costs paid to him by the tenant in the same manner as such officers are now by law answerable on other writs of execution.~~

~~Section 505. Appeal; Certiorari. Within ten days after the rendition of judgment, either party may appeal to the next court~~

~~of common pleas upon filing in that court a bond with one or more sufficient sureties, conditioned for the payment of all costs and rent that have accrued or may accrue up to the time of final judgment and for damages assessed, if any, in case the judgment shall be affirmed. Any such appeal shall be tried in the same manner as other suits are tried. The appeal shall not be a supersedeas to the writ of possession except upon special allowance of the court to which the appeal is taken.~~

SECTION 502. SUMMONS AND SERVICE.--(A) UPON THE FILING OF THE COMPLAINT, THE JUSTICE OF THE PEACE SHALL ISSUE A SUMMONS WHICH RECITES SUBSTANTIALLY THE COMPLAINT, IS DIRECTED TO ANY WRIT SERVER, CONSTABLE OR THE SHERIFF OF THE COUNTY AND COMMANDS THAT WRIT SERVER, CONSTABLE OR SHERIFF TO SUMMON THE TENANT TO APPEAR BEFORE THE JUSTICE OF THE PEACE TO ANSWER THE COMPLAINT ON A DATE NOT LESS THAN SEVEN NOR MORE THAN TEN DAYS FROM THE DATE OF THE SUMMONS.

(B) THE SUMMONS MAY BE SERVED PERSONALLY ON THE TENANT, BY MAIL OR BY POSTING THE SUMMONS CONSPICUOUSLY ON THE LEASED PREMISES.

SECTION 503. HEARING; JUDGMENT; WRIT OF POSSESSION; PAYMENT OF RENT BY TENANT.--(A) ON THE DAY AND AT THE TIME APPOINTED OR ON A DAY TO WHICH THE CASE MAY BE ADJOURNED, THE JUSTICE OF THE PEACE SHALL PROCEED TO HEAR THE CASE. IF IT APPEARS THAT THE COMPLAINT HAS BEEN SUFFICIENTLY PROVEN, THE JUSTICE OF THE PEACE SHALL ENTER JUDGMENT AGAINST THE TENANT:

(1) THAT THE REAL PROPERTY BE DELIVERED UP TO THE LANDLORD;  
(2) FOR DAMAGES, IF ANY, FOR THE UNJUST DETENTION OF THE DEMISED PREMISES; AND

(3) FOR THE AMOUNT OF RENT, IF ANY, WHICH REMAINS DUE AND UNPAID.

1       (B) AT THE REQUEST OF THE LANDLORD, THE JUSTICE OF THE PEACE  
2 SHALL, AFTER THE FIFTH DAY AFTER THE RENDITION OF THE JUDGMENT,  
3 ISSUE A WRIT OF POSSESSION DIRECTED TO THE WRIT SERVER,  
4 CONSTABLE OR SHERIFF, COMMANDING HIM TO DELIVER FORTHWITH ACTUAL  
5 POSSESSION OF THE REAL PROPERTY TO THE LANDLORD AND TO LEVY THE  
6 COSTS AND AMOUNT OF JUDGMENT FOR DAMAGES AND RENT, IF ANY, ON  
7 THE TENANT, IN THE SAME MANNER AS JUDGMENTS AND COSTS ARE LEVIED  
8 AND COLLECTED ON WRITS OF EXECUTION. THIS WRIT IS TO BE SERVED  
9 WITHIN NO LATER THAN FORTY-EIGHT HOURS AND EXECUTED ON THE  
10 ELEVENTH DAY FOLLOWING SERVICE UPON THE TENANT OF THE LEASED  
11 PREMISES. SERVICE OF THE WRIT OF POSSESSION SHALL BE SERVED  
12 PERSONALLY ON THE TENANT BY PERSONAL SERVICE OR BY POSTING THE  
13 WRIT CONSPICUOUSLY ON THE LEASED PREMISES.

14       (C) AT ANY TIME BEFORE ANY WRIT OF POSSESSION IS ACTUALLY  
15 EXECUTED, THE TENANT MAY, IN ANY CASE FOR THE RECOVERY OF  
16 POSSESSION SOLELY BECAUSE OF FAILURE TO PAY RENT DUE, SUPERSEDE  
17 AND RENDER THE WRIT OF NO EFFECT BY PAYING TO THE WRIT SERVER,  
18 CONSTABLE OR SHERIFF THE RENT ACTUALLY IN ARREARS AND THE COSTS.

19       SECTION 504. RETURN BY CONSTABLE OR SHERIFF.--THE WRIT  
20 SERVER, CONSTABLE OR SHERIFF SHALL MAKE RETURN OF THE WRIT OF  
21 POSSESSION TO THE JUSTICE OF THE PEACE WITHIN TEN DAYS AFTER  
22 RECEIVING THE WRIT. THE RETURN SHALL SHOW: (1) THE DATE, TIME,  
23 PLACE AND MANNER OF SERVICE OF THE WRIT; (2) IF THE WRIT WAS  
24 SATISFIED BY THE PAYMENT OF RENT DUE OR IN ARREARS AND COSTS BY  
25 OR ON BEHALF OF THE TENANT, THE AMOUNT OF THAT PAYMENT AND ITS  
26 DISTRIBUTION; (3) THE TIME AND DATE OF ANY FORCIBLE ENTRY AND  
27 EJECTMENT, OR THAT NO ENTRY FOR THE PURPOSE OF EJECTMENT HAD  
28 BEEN MADE; AND (4) HIS EXPENSES AND FEES, WHICH EXPENSES AND  
29 FEES SHALL HAVE BEEN PAID BY THE TENANT OR, IF PAID BY THE  
30 LANDLORD, REIMBURSED TO THE LANDLORD BY THE TENANT IN ORDER TO

1 SATISFY THE WRIT.

2 SECTION 505. APPEAL; CERTIORARI.--(A) WITHIN TEN DAYS AFTER  
3 THE RENDITION OF JUDGMENT BY A LOWER COURT ARISING OUT OF A  
4 RESIDENTIAL LEASE OR WITHIN THIRTY DAYS AFTER A JUDGMENT BY A  
5 LOWER COURT ARISING OUT OF A NONRESIDENTIAL LEASE, EITHER PARTY  
6 MAY APPEAL TO THE COURT OF COMMON PLEAS AND THE APPEAL BY THE  
7 TENANT SHALL OPERATE AS A SUPERSEDEAS ONLY IF THE TENANT PAYS IN  
8 CASH OR BOND THE AMOUNT OF ANY JUDGMENT RENDERED BY THE LOWER  
9 COURT AND PAYS, IN CASH, ANY RENT WHICH BECOMES DUE DURING THE  
10 COURT OF COMMON PLEAS PROCEEDINGS WITHIN FIVE DAYS AFTER THE  
11 DATE EACH PAYMENT IS DUE, INTO AN ESCROW ACCOUNT WITH THE  
12 PROTHONOTARY OR THE SUPERSEDEAS SHALL BE SUMMARILY TERMINATED.

13 (B) UPON APPLICATION BY THE LANDLORD, THE COURT SHALL  
14 RELEASE APPROPRIATE SUMS FROM THE ESCROW ACCOUNT ON A CONTINUING  
15 BASIS WHILE THE APPEAL IS PENDING TO COMPENSATE THE LANDLORD FOR  
16 THE TENANT'S ACTUAL POSSESSION AND USE OF THE PREMISES DURING  
17 THE PENDENCY OF THE APPEAL.

18 Section 4. This act shall take effect in 60 days.