

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1396 Session of
2005

INTRODUCED BY BROWNE, CALTAGIRONE, GEORGE, JAMES, WALKO,
WHEATLEY AND YOUNGBLOOD, APRIL 14, 2005

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 14, 2005

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 them and amending, revising, changing and
4 consolidating the law relating thereto," further providing
5 for appeal by tenants.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 513 of the act of April 6, 1951 (P.L.69,
9 No.20), known as The Landlord and Tenant Act of 1951, is
10 repealed.

11 Section 2. The act is amended by adding a section to read:

12 Section 514. Appeal by Tenant.--(a) (1) A tenant that
13 files an appeal to a court of common pleas of a judgment of a
14 district justice involving an action under this act for the
15 recovery of possession of real property or for rent due must:

16 (i) deposit with the prothonotary a sum equal to the amount
17 of rent due as determined by the district justice; and

18 (ii) pay in cash any rent which becomes due during the
19 proceedings in the court of common pleas within ten days after

1 the date each payment becomes due.

2 (2) The sum representing the rent due or in question shall
3 be placed in a special escrow account by the prothonotary.

4 (3) The prothonotary shall only dispose of these funds by
5 order of court.

6 (b) (1) A party must appeal to the court of common pleas
7 within the following time periods:

8 (i) Except as set forth in subparagraph (ii)(B), within ten
9 days after the rendition of judgment by the district justice in
10 the case of a residential lease.

11 (ii) Within thirty days after a judgment by the district
12 justice in the case of a:

13 (A) nonresidential lease; or

14 (B) residential lease involving a victim of domestic
15 violence.

16 (2) An appeal by a tenant shall operate as a supersedeas
17 only in the following cases:

18 (i) The tenant:

19 (A) pays in cash or bond the amount of any judgment rendered
20 by the lower court; and

21 (B) pays in cash into an account with the prothonotary any
22 rent which becomes due during the proceedings in the court of
23 common pleas within ten days after the date each payment becomes
24 due.

25 (ii) The tenant is a victim of domestic violence and pays in
26 cash into an account with the prothonotary any rent which
27 becomes due during the proceedings in the court of common pleas
28 within ten days after the date each payment is due.

29 (iii) With respect to an appeal by an indigent tenant from a
30 judgment of the lower court involving the recovery of possession

of residential real property in which the tenant simultaneously
files a petition and supporting affidavit to proceed in forma
pauperis in the appeal pursuant to Pa.R.C.P. No. 240 (relating
to in forma pauperis), the filing of such an appeal, petition
and supporting affidavit shall operate as a supersedeas until
the court of common pleas renders a decision on the petition
pursuant to Pa.R.C.P. No. 240(c)(3) provided that the indigent
tenant complies with the following:

(A) If the rent has been paid in the month in which the
appeal is taken, the appellant shall be required to pay into
escrow with the prothonotary the monthly rent as it becomes due
under the lease for the months subsequent to the filing of the
appeal.

(B) If the rent has not been paid in the month in which the
appeal is taken, the appellant shall pay:

(I) at the time of the filing of the appeal, a sum of money
equal to one-third of the monthly rent;

(II) an additional deposit of two-thirds of the monthly rent
within twenty days of the date of the appeal; and

(III) additional deposits of one month's rent each
successive thirty-day period after the filing of the appeal. The
amount of the monthly rent shall be determined by the judge of
the court from which the appeal is taken.

(C) If the court of common pleas determines, upon written
motion, that the averments within the tenant's affidavit do not
establish that the tenant meets the terms and conditions above,
the court may terminate the supersedeas.

(D) The tenant shall be required to pay into escrow with the
prothonotary the ongoing rent as required under clause (B) in
order to continue to maintain the supersedeas on appeal.

1 (iv) In the event the petition to proceed in forma pauperis
2 is denied under subparagraph (iii), the supersedeas shall
3 terminate immediately. In the event the petition is granted, the
4 supersedeas shall continue in effect until the entry of the
5 order of the court of common pleas, at which point the
6 supersedeas shall terminate. The filing of an attorney's
7 praecipe pursuant to Pa.R.C.P. No. 240(d) shall not trigger the
8 creation of a supersedeas under the provisions of this
9 subsection.

10 (3) Except as otherwise provided in paragraph (2)(iii), the
11 supersedeas shall be summarily terminated if the tenant does not
12 comply with paragraph (2).

13 (c) (1) 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 (2) Upon application by the tenant, the court shall release
19 appropriate sums from the escrow account on a continuing basis
20 while the appeal is pending to directly compensate providers of
21 habitable services which the landlord is required to provide
22 under law or under the lease.

23 (d) As used in this section, the term "victim of domestic
24 violence" means an individual who:

25 (1) has obtained a protection from abuse order against
26 another individual; or

27 (2) provides other suitable evidence as directed by the
28 court.

29 Section 3. This act shall take effect in 60 days.