

## Para 201-You & the Law

### Chapter 6-Renting Residential Property-continued\

Monday-October 5, 2009

- VII. Security Deposits: money to protect LL if tenant damages property or fails to pay rent
- A. local laws may limit to 1 to 2 months rent
  - B. lease sets forth conditions for return of security deposit
  - C. most states have laws requiring LL to pay interest on security deposits
  - D. if LL fails to return security deposit, tenant can take LL to small claims court
- VIII. Uniform Residential Landlord & Tenant Act (URLTA) approved by ABA in 1974  
--most states and some cities have passed laws based on this act
- A. doesn't favor LL over tenant
  - B. URLTA doesn't cover all tenants' rights-see p. 21
  - C. condominium conversion protection: some communities have passed laws controlling method of conversion
- IX. Rent Control: applies to laws or gov't regulations that limit the amount of rent or rental increases LL's can charge
- A. rent controls existed during WW II & in the 70's when Nixon was trying to curb inflation
  - B. all public housing has rent control because gov't sets rent level for each tenant
  - C. privately owned rental housing where gov't grants subsidies also has rent control because LL must get gov't approval before raising rents
  - D. privately owned rental housing: not subject to rent controls unless local or state gov't has passed rent control laws
  - E. D.C. & some cities in Mass, N.Y., N.J., & Cal have passed rent control ordinances
  - F. usually city mayor appoints rent control board but some cities elect board members
  - G. about half of the states have forbidden cities from enacting rent control ordinances
  - H. vacancy decontrol: allows LL's to charge whatever rents they can collect from new tenant who moves in to fill a vacancy—can be unfair
- X Fair Housing
- A. LL's can discriminate in selecting tenants based on:
    - (1) past rental history
    - (2) income levels
    - (3) credit history
    - (4) past criminal record
  - B. Fair Housing Act: federal law which prohibits discrimination in housing based on race, religion, ethnic origin, color, sex, physical or mental handicap, or family status
    - (1) illegal to harass, intimidate, threaten, interfere with or evict a tenant because of same factors
    - (2) prohibits LL's retaliation because tenant filed complaint or lawsuit charging discrimination
    - (3) 42 U.S.C. § 1982 (Civil Rights Act) prohibits discrimination based on race, ethnic origin, or color of tenants
    - (4) many states & cities have also passed similar laws and some protect additional classes of tenants, i.e. based on sexual orientation, source of income

- C. Two remedies under Fair Housing laws:
  - (1) file administrative complaint with agency enforcing the law
  - (2) sue LL in court: federal or state
  
- D. HUD (Dept of Housing & Urban Development): enforces federal fair housing laws
  - (1) complaint must be filed within one year of date of discriminatory conduct
  - (2) HUD has authority to award \$\$ damages
  
- E. Proof of Discrimination:
  - (1) plaintiff is member of protected class
  - (2) plaintiff applied for and was qualified to rent property
  - (3) plaintiff was rejected by LL
  - (4) property remained unrented thereafter
  
- F. Results: LL can be ordered to rent property and to pay actual & punitive damages
  - LL can also be assessed plaintiff's attorney's fees
  - LL may be ordered to produce proof of compliance with laws for period of time

\*\*\* See web-sites at end of chapter materials for more information