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As Amended by House Committee

Session of 2004

HOUSE BILL No. 2564

By Committee on Judiciary

1-22

AN ACT concerning landlords and tenants; relating to the property of the tenant; amending K.S.A. 2003 Supp. 58-2565 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2003 Supp. 58-2565 is hereby amended to read as follows: 58-2565. (a) If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence in excess of seven days required in K.S.A. 58-2558, and amendments thereto, and the tenant willfully fails to do so, the landlord may recover actual damages from the tenant.

(b) During any absence of the tenant in excess of 30 days, the landlord may enter the dwelling unit at times reasonably necessary. If, after the tenant is 10 days in default for nonpayment of rent and has removed a substantial portion of such tenant's belongings from the dwelling unit, the landlord may assume that the tenant has abandoned the dwelling unit, unless the tenant has notified the landlord to the contrary.

(c) If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair rental. If the landlord rents the dwelling unit for a term beginning prior to the expiration of the rental agreement, it is deemed to be terminated as of the date the new tenancy begins. The rental agreement is deemed to be terminated by the landlord as of the date the landlord has notice of the abandonment, if the landlord fails to use reasonable efforts to rent the dwelling unit at a fair rental or if the landlord accepts the abandonment as a surrender. If the tenancy is from month-to-month, or week-to-week, the term of the rental agreement for this purpose shall be deemed to be a month or a week, as the case may be.

(d) If the tenant abandons or surrenders possession of the dwelling unit and leaves household goods, furnishings, fixtures or any other personal property in or at the dwelling unit or if the tenant is removed from the dwelling unit as a result of a forcible detainer action, pursuant to K.S.A. 2003 Supp. 61-3801 through 61-3808, and amendments thereto, and fails to remove *within the time frame established herein* any house-

1 hold goods, furnishings, fixtures or any other personal property in or at
2 the dwelling unit after possession of the dwelling unit is returned to the
3 landlord, the landlord may take possession of the property, store it at
4 tenant's expense and sell or otherwise dispose of the same upon the ex-
5 piration of 30 days after the landlord takes possession of the property, if
6 at least 15 days prior to the sale or other disposition of such property the
7 landlord shall publish once in a newspaper of general circulation in the
8 county in which such dwelling unit is located a notice of the landlord's
9 intention to sell or dispose of such property. *If the tenant is removed as*
10 *a result of such forcible detainer action, the tenant shall have 120 hours*
11 *or at a time certain as agreed upon by the landlord and tenant, in writing,*
12 **signed by both parties or as stipulated to in court on the record,**
13 *not to exceed 14 days from the time possession of the dwelling unit is*
14 *returned to the landlord to remove any household goods, furnishings,*
15 *fixtures or any other personal property in or at the dwelling unit.* Within
16 seven days after publication, a copy of the published notice shall be mailed
17 by the landlord to the tenant at the tenant's last known address. Such
18 notice shall state the name of the tenant, a brief description of the prop-
19 erty and the approximate date on which the landlord intends to sell or
20 otherwise dispose of such property. If the foregoing requirements are
21 met, the landlord may sell or otherwise dispose of the property without
22 liability to the tenant or to any other person who has or claims to have
23 an interest in such property, except as to any secured creditor who gives
24 notice of creditor's interest in such property to the landlord prior to the
25 sale or disposition thereof, if the landlord has no knowledge or notice
26 that any person, other than the tenant, has or claims to have an interest
27 in such property. During such ~~30~~ *30-day* period after the landlord takes
28 possession of the property, and at any time prior to sale or other dispo-
29 sition thereof, the tenant may redeem the property upon payment to the
30 landlord of the reasonable expenses incurred by the landlord of taking,
31 holding and preparing the property for sale and of any amount due from
32 the tenant to the landlord for rent or otherwise.

33 (e) Any proceeds from the sale or other disposition of the property
34 as provided in subsection (d) shall be applied by the landlord in the fol-
35 lowing order:

36 (1) To the reasonable expenses of taking, holding, preparing for sale
37 or disposition, giving notice and selling or disposing thereof;

38 (2) to the satisfaction of any amount due from the tenant to the land-
39 lord for rent or otherwise; and,

40 (3) the balance, if any, may be retained by the landlord, without lia-
41 bility to the tenant or to any other person, other than a secured creditor
42 who gave notice of creditors interest as provided in subsection (d), for
43 any profit made as a result of a sale or other disposition of such property.

1 (f) Any person who purchases or otherwise receives the property pur-
2 suant to a sale or other disposition of the property as provided under
3 subsection (d) of this section, without knowledge that such sale or dis-
4 position is in violation of the ownership rights or security interest of a
5 third party in the property, takes title to the property free and clear of
6 any right, title, claim or interest of the tenant or such third party in the
7 property.

8 Sec. 2. K.S.A. 2003 Supp. 58-2565 is hereby repealed.

9 Sec. 3. This act shall take effect and be in force from and after its
10 publication in the statute book.

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