



BILL NO. 119

Government Bill

*2nd Session, 61st General Assembly
Nova Scotia
59 Elizabeth II, 2010*

An Act to Amend Chapter 401 of the Revised Statutes, 1989, the Residential Tenancies Act

CHAPTER 72
ACTS OF 2010

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 10, 2010**

The Honourable Ramona Jennex
Minister of Service Nova Scotia and Municipal Relations

*Halifax, Nova Scotia
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**An Act to Amend Chapter 401
of the Revised Statutes, 1989,
the Residential Tenancies Act**

Be it enacted by the Governor and Assembly as follows:

1 Section 2 of Chapter 401 of the Revised Statutes, 1989, the *Residential Tenancies Act*, as amended by Chapter 31 of the Acts of 1992, Chapter 40 of the Acts of 1993 and Chapter 10 of the Acts of 2002, is further amended by

(a) striking out clauses (d) to (f) and substituting the following clauses:

(d) “land-lease community” means any lot, piece or parcel of land upon which two or more occupied manufactured homes are located for a period of ten days or more, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of such land-lease community;

(e) “manufactured home” means any trailer that is

(i) designed for or intended to be equipped with wheels, whether or not it is so equipped, and

(ii) constructed or manufactured to provide a residence for one or more persons,

but does not include a travel trailer or tent trailer otherwise designed;

(f) “manufactured home space” means a plot of ground within a land-lease community designed to accommodate one manufactured home;

(b) striking out “mental hospital, tuberculosis hospital,” in the second and third lines of subclause (h)(i) and substituting “psychiatric hospital or”;

(c) striking out “or sanatorium” in the third and fourth lines of subclause (h)(i);

(d) striking out “or” at the end of subclause (h)(iv);

(e) striking out the semicolon at the end of subclause (h)(v) and substituting “, or”; and

(f) adding immediately after subclause (h)(v) the following subclause:

(vi) any other class of premises prescribed by regulation;

2 Subsection 6(3) of Chapter 401, as enacted by Chapter 40 of the Acts of 1993, is amended by striking out “twenty-five dollars” and substituting “the amount prescribed by regulation”.

3 (1) Subsection 7(1) of Chapter 401 is repealed and the following subsections substituted:

(1) No landlord shall grant a lease or possession or occupancy of residential premises to a tenant unless the landlord has provided the tenant with a copy or reproduction of this Act without cost within ten days of the earliest of

- (a) the date specified in the lease as the start of the tenancy;
- (b) the date upon which the tenant signs the lease;
- (c) the date upon which keys to the residential premises are delivered to the tenant by the landlord; and
- (d) the date upon which the tenant takes possession of the residential premises or occupies those premises.

(1A) For the purpose of subsection (1), where there is more than one tenant occupying residential premises, delivery of the copy or reproduction of this Act by the landlord is compliance with that subsection if it is made to any one of those tenants.

(2) Subsection 7(4) of Chapter 401, as amended by Chapter 7 of the Acts of 1997, is further amended by adding “apply to the Director for permission to” immediately after “may” in the first line.

4 Subsection 9(2) of Chapter 401 is amended by striking out “Mobile Homes” in the second line of the heading immediately following the sixth line and substituting “Manufactured Homes”.

5 (1) Subsection 10(1) of Chapter 401, as amended by Chapter 40 of the Acts of 1993, is further amended by

- (a) striking out "landlord or" in the second line of clause (a);**
- (b) striking out subclause (b)(i); and**
- (c) striking out subclause (c)(i).**

(2) Subsection 10(3) of Chapter 401 is amended by

- (a) striking out "but subject to subsection (6)" in the third and fourth lines;**
- (b) striking out clause (a); and**
- (c) striking out “except that where the tenant or any person whom the tenant permits on the premises is conducting himself in such a manner as to unduly interfere with the possession or occupancy of other tenants or the landlord, the landlord may give the tenant notice to quit the space not earlier than thirty days from the date upon which the notice is given” in the last seven lines.**

(3) Section 10 of Chapter 401, as amended by Chapter 31 of the Acts of 1992, Chapter 40 of the Acts of 1993, Chapter 32 of the Acts of 1994 and Chapter 7 of the Acts of 1997, is further amended by adding immediately after subsection (3) the following subsection:

(3A) A landlord shall not give to the tenant a notice to quit residential premises except in accordance with this Section.

(4) Subsection 10(5) of Chapter 401 is repealed and the following subsection substituted:

(5) A notice to quit must be in the form prescribed by regulation.

(5) Subsection 10(6) of Chapter 401 is amended by

(a) striking out "Notwithstanding the periods of notice in subsection (1)," in the first and second lines and substituting "Where a fixed-term lease exists or"; and

(b) striking out "thirty" in the fourth line and substituting "fifteen".

(6) Section 10 of Chapter 401 is further amended by adding immediately after subsection (6) the following subsections:

(6A) Within fifteen days after receiving a notice to quit under subsection (6), the tenant may

(a) pay to the landlord the rent that is in arrears, and upon the payment of that rent, the notice to quit is void and of no effect; or

(b) apply to the Director under Section 13 for an order setting aside the notice to quit.

(6B) Notwithstanding Section 13, the one year period referred to in that Section does not apply to an application under subsection (6A).

(6C) Where a tenant who has received a notice to quit under subsection (6) does not pay the rent that is in arrears or make an application to the Director in accordance with subsection (6A), the tenant

(a) is conclusively deemed to have accepted that the tenancy is terminated on the effective date of the notice; and

(b) must vacate the residential premises by that date.

(6D) A landlord may apply to the Director under Section 13 for an order for the tenant to vacate the residential premises if

(a) a notice to quit has been given by a landlord under subsection (6);

(b) the notice to quit has not been voided under clause (6A)(a) by the tenant paying to the landlord the rent that is in arrears within fifteen days after receiving the notice to quit;

(c) the tenant has not disputed the notice by making an application to the Director under clause (6A)(b); and

(d) the fifteen day time period for making the application under subsection (6A) has expired.

(6E) Notwithstanding Sections 16 and 17, in the circumstances described in subsection (6D), the Director may, without investigating and endeavouring to mediate a settlement and without holding a hearing, order the tenant to vacate the residential premises.

(7) Subsection 10(7) of Chapter 401 is amended by striking out “Notwithstanding the periods of notice in subsection (1), where” and substituting “Where”.

(8) Subsection 10(7A) of Chapter 401, as enacted by Chapter 31 of the Acts of 1992, is amended by striking out “Notwithstanding subsections (1), (6) and (7), where” and substituting “Where”.

(9) Section 10 of Chapter 401 is further amended by adding immediately after subsection (7A) the following subsections:

(7B) A landlord may give to a tenant notice to quit the residential premises where

(a) the tenant has breached statutory condition 3, 4 or 5 of subsection 9(1);

(b) the tenant in a land-lease community has breached statutory condition 3, 4 or 5 of subsection 9(1) or statutory condition 5 of subsection 9(2).

(7C) A landlord shall give to a tenant in a land-lease community notice to quit the residential premises under subsection (7B) not earlier than thirty days from the date the notice to quit is given, and a landlord shall give to any other tenant a notice to quit under subsection (7B) not earlier than fifteen days from the date the notice to quit is given.

(7D) A tenant who has received a notice to quit under subsection (7), (7A) or (7B) or clause (8)(a), (b) or (c) may apply to the Director under Section 13 for an order setting aside the notice to quit.

(10) Subsection 10(8) of Chapter 401 is amended by

(a) striking out "Notwithstanding the periods of notice in subsections (1) or (6), where a tenant, on the eighteenth day of May, 1984, or thereafter, has resided in the residential premises for a period of five consecutive years or more, notice to quit may not be given except" and substituting "A landlord may give to the tenant notice to quit the residential premises"; and

(b) amending clause (f) by striking out "six" in the fourth line and substituting "twelve".

(11) Subsection 10(8A) of Chapter 401 is repealed.

(12) The amendments to Section 10 apply whether the landlord and tenant relationship is entered into before or after the coming into force of those amendments.

6 Section 10B of Chapter 401, as enacted by Chapter 40 of the Acts of 1993, is amended by

(a) adding “(1)” immediately after the Section number;

(b) adding “or fixed-term” immediately after “year-to-year” in the ninth line;

(c) striking out “; and” in clause (a) and substituting “, in the form prescribed by regulation;”;

(d) adding “, in the form prescribed by regulation,” immediately after “practitioner” in the first line of clause (b);

(e) striking out the period at the end of clause (b) and substituting “; and”;

(f) adding immediately after clause (b) the following clause:

(c) proof of service, in the form prescribed in the regulations, of all the tenants in the same residential premises with a copy of the notice to quit.

and

(g) adding the following subsections:

(2) Where a tenancy is terminated pursuant to subsection (1), the tenancy is terminated for all the tenants in the same residential premises, but the other tenants may enter a new landlord and tenant relationship with the landlord with the consent of the landlord, which consent must not be arbitrarily or unreasonably withheld.

(3) Where other tenants reside in the same residential premises, the tenant seeking to terminate a tenancy pursuant to this Section shall serve all the tenants in the same residential premises with a copy of the notice to quit at least one month before the termination of tenancy.

7 Section 10C of Chapter 401, as enacted by Chapter 40 of the Acts of 1993 and amended by Chapter 30 of the Acts of 2002, is further amended by

(a) adding “(1)” immediately after the Section number;

(b) striking out “of a tenant” in the second line and substituting “residing in the same residential premises”;

(c) adding “or fixed-term” immediately after “year-to-year” in the second line;

(d) striking out “; and” in clause (a) and substituting “, in the form prescribed in the regulations;”;

(e) adding “, in the form prescribed by regulation,” immediately after “practitioner” in the second line of clause (b);

(f) striking out the period at the end of clause (b) and substituting “; and”;

(g) adding immediately after clause (b) the following clause:

(c) proof of service, in the form prescribed by regulation, of all the tenants in the same residential premises with a copy of the notice to quit.

and

(h) adding the following subsections:

(2) Where a tenancy is terminated pursuant to subsection (1), the tenancy is terminated for all the tenants in the same residential premises, but the other tenants may enter a new landlord and tenant relationship with the landlord with the consent of the landlord, which consent must not be arbitrarily or unreasonably withheld.

(3) Where other tenants reside in the same residential premises, the tenant seeking to terminate a tenancy pursuant to this Section shall serve all the tenants in the same residential premises with a copy of the notice to quit at least one month before the termination of tenancy.

8 Section 10D of Chapter 401, as enacted by Chapter 40 of the Acts of 1993, is amended by

- (a) adding “(1)” immediately after the Section number;**
- (b) adding “or fixed-term” immediately after “year-to-year” in the second line;**
- (c) striking out “one month’s notice to quit” in the last line and substituting the following clauses:**

- (a) one month’s notice to quit in the form prescribed by regulation;
- (b) such proof of acceptance into a nursing home or home for special care as is prescribed by regulation; and
- (c) proof of service, in the form prescribed by regulation, of all the tenants in the same residential premises with a copy of the notice to quit.

and

- (d) adding the following subsections:**

(2) Where a tenancy is terminated pursuant to subsection (1), the tenancy is terminated for all the tenants in the same residential premises, but the other tenants may enter a new landlord and tenant relationship with the landlord with the consent of the landlord, which consent must not be arbitrarily or unreasonably withheld.

(3) Where other tenants reside in the same residential premises, the tenant seeking to terminate a tenancy pursuant to this Section shall serve all the tenants in the same residential premises with a copy of the notice to quit at least one month before the termination of tenancy.

9 Section 10E of Chapter 401, as enacted by Chapter 40 of the Acts of 1993, is amended by adding “or fixed-term” immediately after “year-to-year” in the second line.

10 (1) Subsection 11(2) of Chapter 401, as enacted by Chapter 40 of the Acts of 1993, is amended by:

- (a) striking out “mobile home” in the first line of clause (d) and substituting “manufactured home”.**

(2) Section 11 of Chapter 401, as enacted by Chapter 40 of the Acts of 1993, is amended by adding immediately after subsection (2) the following subsection:

(2A) Notwithstanding subsection (2), where the landlord is a housing association within the meaning of the *Co-operative Associations Act*, the landlord may establish a common anniversary date for the increase of rent payable by tenants in accordance with the regulations and that date is thereafter the anniversary date respecting tenancies in the buildings owned by the association

and the notice periods referred to in that subsection apply with respect to those tenancies.

11 (1) Subsection 11A(2) of Chapter 401, as enacted by Chapter 7 of the Acts of 1997, is amended by striking out “mobile home park spaces” in the third line and substituting “manufactured home spaces”.

(2) Subsections 11A(3) and (4) of Chapter 401 are repealed.

12 Chapter 401 is further amended by adding immediately after Section 11A the following Sections:

11B (1) A landlord of a land-lease community shall not impose a rent increase in the land-lease community by an amount that is greater than the annual allowable rent increase amount calculated in accordance with the regulations.

(2) Notwithstanding subsection (1), a landlord of a land-lease community may apply to the Director for permission to increase rents in the land-lease community by an amount that is greater than the annual allowable rent increase amount calculated in accordance with the regulations.

(3) In reviewing an application by a landlord of a land-lease community for permission to increase rents by an amount greater than the annual allowable rent increase amount referred to in subsection (1), the Director shall consider any guidelines prescribed by regulation.

13 (1) Subsection 12(4) of Chapter 401 is amended by striking out clauses (a) and (b) and substituting “at the rate per annum determined by the Governor in Council from time to time by regulation with respect to any period of time, whether before or after the coming into force of this subsection.”.

(2) Subsection 12(6) of Chapter 401, as amended by Chapter 7 of the Acts of 1997, is further amended by adding “in the form prescribed in the regulations” immediately after “13” in the last line.

(3) Subsection 12(7) of Chapter 401 is amended by

(a) striking out “or a complaint” in the first line; and

(b) striking out “or no complaint” in the third and fourth lines.

14 Section 14 of Chapter 401 is repealed.

15 Subsection 15(1) of Chapter 401, as enacted by Chapter 7 of the Acts of 1997 and amended by Chapters 10 and 30 of the Acts of 2002, is further amended by striking out “may” in the first line and substituting “shall”.

16 Section 17A of Chapter 401, as enacted by Chapter 7 of the Acts of 1997, is amended by

(a) striking out the period at the end of clause (j) and substituting a semi-colon; and

(b) adding immediately after clause (j) the following clauses:

(k) award to a successful party to an application the costs of an application fee paid to the Director, but no other costs associated with the application;

(l) set aside a notice to quit given by a landlord under subsection 10(6), (7), (7A) or (7B) or clause 10(8)(a), (b), or (c).

17 Section 17D of Chapter 401, as enacted by Chapter 7 of the Acts of 1997, and amended by Chapter 10 of the Acts of 2002, is further amended by adding immediately after subsection (1) the following subsection:

(2) The Small Claims Court may award to a successful party to an appeal the cost of the fee paid pursuant to subsection 17C(2) and any costs awarded to that party pursuant to clause 17A(k), but no other costs associated with the appeal.

18 Chapter 401 is further amended by adding immediately after Section 17E the following Section:

17F (1) Notwithstanding any other enactment or law but subject to subsection (2), neither the Director nor any other persons appointed pursuant to this Act may be compelled or required to

(a) give evidence in respect of matters that come to the knowledge of the Director or such persons in the course of carrying out duties pursuant to this Act; or

(b) produce information, records or documents of any kind obtained by the Director or such persons for the purpose of this Act or in the course of carrying out duties pursuant to this Act,

before any court, body or person having authority to receive evidence.

(2) Where an order of the Director has been appealed to the Small Claims Court, the Director may provide that Court with copies of any evidence submitted by parties to a dispute and copies of any orders made by the Director respecting a dispute.

19 Subsection 26(1) of Chapter 401, as amended by Chapter 31 of the Acts of 1992, Chapter 40 of the Acts of 1993, Chapter 7 of the Acts of 1997 and Chapter 10 of the Acts of 2002, is further amended by adding immediately after clause (cc) the following clauses:

(cd) prescribing any other class of premises that are not included in the definition of “residential premises” for the purpose of subclause 2(h)(vi);

(ce) prescribing the maximum amount a landlord may charge for expenses actually incurred in respect of a sublease or an assignment for the purpose of subsection 6(3);

(cf) prescribing acceptable proof of acceptance into a nursing home or home for special care for the purpose of Section 10D;

(cg) respecting the establishment of a common anniversary date for rent increases for tenants in a housing association for the purpose of subsection 11(2A);

(ch) respecting an application and adjudication process for a rent increase that is greater than the annual allowable rent increase amount referred to in subsection 11B(1);

(ci) prescribing calculations for annual allowable rent increase amounts for land-lease communities for the purpose of subsection 11B(1);

(cj) respecting an application and adjudication process for a rent increase that is greater than the annual allowable rent increase amount for land-lease communities for the purpose of subsection 11B(2);

(ck) prescribing guidelines to be considered by the Director in reviewing applications for rent increases by an amount greater than the annual allowable rent increase amount for land-lease communities for the purpose of subsection 11B(3);

(cl) determining interest rates from time to time for the purpose of subsection 12(4);

(cm) respecting the form and content of notices to quit;

(cn) requiring different forms of notice to quit to be used in respect of different grounds on which a notice to quit may be given;

20 The heading immediately before Section 29 of Chapter 401, as enacted by Chapter 40 of the Acts of 1993, is amended by striking out “MOBILE-HOME” and substituting “MANUFACTURED-HOME”.

21 (1) Subsection 29(1) of Chapter 401, as enacted by Chapter 40 of the Acts of 1993, is amended by

(a) striking out “shall” in the first line and substituting “may”;

(b) striking out “mobile-home” in the second line and substituting “manufactured home”; and

(c) striking out “mobile” in the third line and substituting “manufactured”.

(2) Subsection 29(2) of Chapter 401, as enacted by Chapter 40 of the Acts of 1993, is amended by striking out “mobile” in the fourth line and substituting “manufactured”.

(3) Subsection 29(3) of Chapter 401, as enacted by Chapter 40 of the Acts of 1993, is amended by striking out “the Department of Housing and Consumer Affairs” in the second and third lines and substituting “Service Nova Scotia and Municipal Relations”.

22 Chapter 401 is further amended by

(a) striking out “mobile home park space” wherever it appears in Chapter 401 and substituting in each case “manufactured home space”;

(b) striking out “mobile home park” wherever it appears in Chapter 401 and substituting in each case “land-lease community”; and

(c) striking out “mobile” wherever it appears in Chapter 401 and substituting in each case “manufactured”.

23 The Schedule to Chapter 401 is repealed.

24 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
