EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor Of Guam

DEC 12 2018

Honorable Therese M. Terlaje
Acting Speaker
I Mina'trentai Kuåttro Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Hon. Speaker Therese M. Terlaje
34GL-18-2668
DEC 19 2018
Time: 10:42
Received by:

2018 DEC 19 AM 11:38

Dear Madam Speaker:

Transmitted herewith is Bill No. 144-34 (COR), **"AN ACT TO *ADD* A NEW CHPATER 48 TO DIVISION 1 OF TITEL 21, GUAM CODE ANNOTATED, REALTIVE TO ESTABLISHING THE *GUAM LANDLORD AND TENANT RENTAL ACT OF 2018*,"** which lapsed on December 13, 2018, as **Public Law 34-146.**

Senseramente,

EDDIE BAZA CALVO

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2018 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LÅHEN GUÅHAN*

This is to certify that **Bill No. 144-34 (COR), "AN ACT TO *ADD* A NEW CHAPTER 48 TO DIVISION 1 OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE *GUAM LANDLORD AND TENANT RENTAL ACT OF 2018*,"** was on the 30th day of November 2018, duly and regularly passed.

Therese M. Terlaje
Acting Speaker

Attested:

Régine Biscoe Lee
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 30 day of NOV, 2018, at 7:55 o'clock P.M.

Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: DEC 13 2018

Public Law No. 34-146

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2018 (SECOND) Regular Session

Bill No. 144-34 (COR)
As amended; further amended by
the Committee on Housing, Utilities,
Public Safety, and Homeland Security;
and amended on the Floor.

Introduced by: Telena Cruz Nelson
Louise B. Muña
Thomas C. Ada
FRANK B. AGUON, JR.
William M. Castro
James V. Espaldon
Fernando Barcinas Esteves
Régine Biscoe Lee
Tommy Morrison
Dennis G. Rodriguez, Jr.
Joe S. San Agustin
Michael F.Q. San Nicolas
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *ADD* A NEW CHAPTER 48 TO DIVISION 1 OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE *GUAM LANDLORD AND TENANT RENTAL ACT OF 2018*.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Short Title. This Act *shall* be cited as the "*Guam Landlord and Tenant Rental Act of 2018*."

Section 2. A new Chapter 48 is *added* to Division 1 of Title 21, Guam Code Annotated, to read:

"CHAPTER 48

GUAM LANDLORD AND TENANT RENTAL ACT OF 2018

Article 1. General Provisions.
Article 2. Landlord/Tenant Obligations.
Article 3. Remedies.

ARTICLE 1

GENERAL PROVISIONS

§ 48101. Application.
§ 48102. Definitions.
§ 48103. Notice.
§ 48104. Terms and Conditions of Rental Agreements.
§ 48105. Prohibited Provisions in Rental Agreements.

§ 48101. Application.

This Act applies to, regulates, and determines rights, obligations, and remedies under a rental agreement for a dwelling unit located within Guam. This Act applies only to residential leases. In the event of any conflict between any provision of this Act and any provision of 18 GCA §§ 51101 – 51112, which covers both commercial and residential leases, the provision(s) of this Act shall prevail.

§ 48102. Definitions.

As used in this Chapter, unless the context otherwise requires:

(a) *action* includes recoupment, counterclaim, suit in law or equity, and any other proceeding in which rights are determined;

(b) *bona fide purchaser* is a purchaser for a valuable consideration paid or parted with in the belief that the vendor had a right to sell, and without any suspicious circumstances to put him on inquiry;

(c) *building* or *housing code* includes any law, ordinance, rule, or regulation concerning fitness for habitation, use, operation, or occupancy;

(d) *casualty* is other insurable perils that include earthquake, wind, typhoon, and other natural disasters;

(e) *common areas* refers to areas shared by others in the same building such as a swimming pool, a playground, or a laundry facility;

(f) *days* are working days, and do not include weekends and federal and local Guam government holidays;

(g) *dwelling unit* means a structure or a part of a structure that is used as a home, residence, or sleeping place by one (1) or more persons who maintains a household;

(h) *essential services* refers to basic needs such as running water, electricity, gas, or hot water;

(i) *good faith* means a transaction done honestly and objectively with no deliberate intent to defraud the other party;

(j) *landlord* means the owner, lessor, or manager of the property or premises;

(k) *normal wear and tear* are the deterioration or depreciation in value by ordinary and reasonable use, but does not include items that are missing from the dwelling unit;

(l) *owner* means one (1) or more persons in whom is vested all or part of the legal title to the property or premises;

(m) *premises* means a dwelling unit and the structure of which is a part of the grounds, areas, and facilities promised for use by the tenant;

(n) *rent* means all payments to be made to or for the benefit of the landlord under the rental agreement;

(o) *rental agreement* means any agreement, written or not, concerning use and occupancy of a dwelling unit;

(p) *security deposit* means money deposited by or for the tenant with the landlord to be held by the landlord to:

(1) remedy tenant defaults for accidental or intentional damages resulting from failure to comply with the terms of this Act, for failure to pay rent due, or for failure to return all keys or other items furnished by the landlord at the termination of the rental agreement;

(2) clean the dwelling unit or have it cleaned at the termination of the rental agreement so as to place the condition of the dwelling unit in as fit a condition as that which the tenant entered into possession of the dwelling unit, less normal wear and tear; and

(3) compensate for damages caused by a tenant who wrongfully quits the dwelling unit;

(q) *tenant* means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others;

(r) *willful* is defined as an intentional act.

§ 48103. Notice.

(a) A person has notice of a fact if they:

(1) have actual knowledge of the fact; or

(2) have received a notification of the fact.

(b) A person is deemed having received notice when it comes to their attention, for which;

(1) in the case of the landlord, notification is delivered at the place of business of the landlord or the place where the rental agreement was executed; or

(2) in the case of the tenant, notification is personally tendered to the tenant or mailed by registered or certified mail to the place of the tenant's known residence.

§ 48104. Terms and Conditions of Rental Agreements.

(a) A landlord and a tenant may include in a rental agreement terms and conditions not prohibited by this Act or other law, rule, or regulation.

(b) In the absence of a rental agreement, the tenant *shall* pay as rent the fair market rental value for the use and occupancy of the dwelling unit.

(c) Rent is payable without demand or notice at the time and place agreed upon by the parties.

§ 48105. Prohibited Provisions in Rental Agreements.

(a) A rental agreement *shall not* provide that the tenant agrees to waive or forego rights or remedies under this Act.

(b) A provision in a rental agreement that is prohibited under this Act *shall* be unenforceable.

ARTICLE 2

LANDLORD/TENANT OBLIGATIONS

§ 48201. Security Deposits.
§ 48202. Landlord to Maintain Premises.
§ 48203. Limitation of Liability.
§ 48204. Tenant to Maintain Dwelling Unit.
§ 48205. Rules and Regulations.
§ 48206. Rights to Access.

§ 48201. Security Deposits.

(a) The total amount of a security deposit may not be in excess of one (1) month's rent. Landlords may charge an additional reasonable "pet deposit," not to exceed Five Hundred Dollars ($500.00) per pet. Landlords

may not collect more than the first month's rent and security deposit (including pet deposit if appropriate) at the time of lease commencement.

(b) If the landlord has lawful grounds to retain all or any portion of the security deposit, the landlord must notify the tenant in writing of the reasons for retention. Any costs, such as cleaning or specific repairs, must be itemized and copies of receipts included. If the repairs cannot be accomplished within fourteen (14) days, estimates for the cleaning or repair services may be substituted.

The notice, and any portion of the security deposit remaining, after deductions, must be given to the tenant within fourteen (14) days after the termination of the rental agreement. In order to comply with this fourteen (14) day requirement, the landlord may mail the material to the tenant on or before the fourteenth (14th) day. The landlord *shall* obtain acceptable proof of mailing from the Post Office. The landlord may also prove compliance with the fourteen (14) day requirement by other types of evidence, such as the tenant's acknowledgement or the testimony of a witness.

(c) The tenant may not use the deposit as payment for the last month's rent unless the landlord agrees with the tenant in writing to such a use. In any event, the landlord retains the right to have the tenant pay for damages caused by the tenant.

(d) Any action by the tenant to recover all or any portion of the security deposit must be commenced within one (1) year from the date the rental agreement terminated.

(e) Legal action involving security deposit disputes may be undertaken by either party. Where the court determines that the landlord:

(1) wrongfully and willfully retained all or part of the security deposit, it may award the tenant damages equal to three (3) times the

amount of the security deposit, or part thereof, wrongfully and willfully retained, plus the cost of the suit;

(2) wrongfully retained all or part of the security deposit, it shall award the tenant damages equal to the amount of the security deposit or part thereof, wrongfully retained, plus the cost of the suit;

(3) was entitled to retain the security deposit or part thereof, the court shall award the landlord damages in an amount equal to the amount of the security deposit, or part thereof, in dispute, plus the cost of the suit.

§ 48202. Landlord to Maintain Premises.

(a) A landlord *shall*:

(1) comply with the requirements of all applicable building and housing codes relative to health and safety;

(2) make all repairs reasonably necessary to maintain the premises in a fit and habitable condition; and

(3) Any defective condition of the premises which comes to the tenant's attention, which the tenant has reason to believe is unknown to the landlord, and which the tenant has reason to believe is the duty of the landlord to repair, *shall* be reported by the tenant to the landlord as soon as practicable.

(b) The landlord and tenant may agree that the tenant perform the duties prescribed in Subsections (a)(1), (2) and (3) of this Section, but only if the transaction is entered in good faith.

§ 48203. Limitation of Liability.

(a) The landlord must convey in written notice to tenant of sale of dwelling unit in good faith to a bona fide purchaser to be relieved of liability under the rental agreement and this Act. However, the landlord remains liable

to the tenant for the recoverable security deposit under § 48201, unless buyer is credited the security deposit and all parties are notified, at which time the buyer becomes liable for the security deposit and any refunds.

(b) Unless otherwise agreed, a manager of the premises that includes a dwelling unit is relieved of liability under the rental agreement and this Act after written notice to the tenant of termination of his management.

§ 48204. Tenant to Maintain Dwelling Unit.

(a) A tenant *shall*:

(1) maintain the dwelling unit and premises that he uses as clean and safe as premises permit to comply with housing codes affecting health and safety;

(2) dispose from his dwelling unit and common areas used from all garbage, rubbish, and other waste in a clean and safe manner;

(3) not deliberately or negligently destroy, deface, damage, or remove any part of the premises or permit any person to do so;

(4) use in a reasonable manner all power, water, and other common areas provided by a landlord; and

(5) conduct himself and require other persons on the premises who are his guests and invitees to conduct themselves in a manner so as not to disturb neighbors or other tenants.

§ 48205. Rules and Regulations.

(a) A landlord may adopt a rule or regulation concerning the tenant's use and occupancy of the premises, and it is enforceable without the consent of the tenant if all the following criteria listed are satisfied:

(1) its purpose is to promote the safety and welfare of the tenants, or to preserve the landlord's property from deliberate abuse;

(2) it applies to all tenants on the premises in a fair manner;

(3) it is not for the purpose of evading obligation of the landlord; and

(4) the tenant is given thirty (30) days' prior notice of when it is to be adopted.

(b) If a rule or regulation is adopted after the tenant enters into a rental agreement, then it is not valid without the consent of the tenant unless it meets the criteria listed in Subsection (a) of this Section.

§ 48206. Rights to Access.

(a) The tenant *shall not* unreasonably withhold the tenant's consent to the landlord to enter into the dwelling unit in order to inspect the premise; make necessary or agreed repairs, decorations, alterations, or improvements; supply services as agreed; or exhibit the dwelling unit to prospective purchasers, mortgagees or tenants.

(b) The landlord *shall not* abuse this right of access nor use it to harass the tenant. Except in the case of emergency or where impracticable to do so, the landlord *shall* give tenant at least twenty-four (24) hours' notice of the landlord's intent to enter, and shall enter only during reasonable hours.

(c) The landlord shall have no other right of entry, except by court order, unless the tenant appears to have abandoned the premises, or the landlord may, during any extended absence of the tenant, enter the dwelling unit as reasonably necessary for purposes of inspection, maintenance, and safe-keeping.

ARTICLE 3

REMEDIES

PART 1 TENANT REMEDIES

§ 48301. Noncompliance by the Landlord-In General.

§ 48302. Failure to Deliver Possession.

§ 48303. Withholding of Rent.
§ 48304. Wrongful Failure to Provide Essential Services.
§ 48305. Fire or Casualty Damage.
§ 48306. Tenant's Remedies for Landlord's Unlawful Ouster, Exclusion, or Diminution of Services.
PART 2 LANDLORD REMEDIES
§ 48311. Noncompliance with Rental Agreement; Failure to Pay Rent.
§ 48312. Failure to Maintain.
§ 48313. Remedies for Absence, Nonuse and Abandonment.
§ 48314. Holdover.
§ 48315. Refusal of Lawful Access.

PART 1 TENANT REMEDIES

§ 48301. Noncompliance by the Landlord-In General.

(a) Except as provided in this Act, if there is noncompliance by the landlord with the rental agreement or noncompliance with § 48202 of this Chapter affecting health and safety, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty (30) days after receipt of the notice if the breach is not remedied in fourteen (14) days, and the rental agreement *shall* terminate as provided in the notice subject to the following:

(1) If the breach is remedied by repairs, the payment of damages or otherwise, and the landlord adequately remedies the breach before the date specified or shows reason why the date cannot be met in the notice, the rental agreement *shall not* terminate by reason of the breach.

(2) The tenant *shall not* terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises.

(b) Except as provided in this Act, the tenant may recover actual damages and obtain injunctive relief for the noncompliance by the landlord with the rental agreement or with § 48202 of this Chapter. If the landlord's noncompliance is willful, the tenant may recover reasonable attorney's fees.

(c) The remedy provided in Subsection (b) of this Section is in addition to any right of the tenant arising under Subsection (a) of this Section.

(d) If the rental agreement is terminated, the landlord *shall* return that portion of the security deposit which is recoverable by the tenant under § 48201 of this Chapter.

§ 48302. Failure to Deliver Possession.

(a) If the landlord fails to deliver possession on the effective or occupancy date of the lease of the dwelling unit to the tenant, rent abates until possession is delivered, and the tenant may terminate the rental agreement upon at least five (5) days written notice to the landlord; and upon termination the landlord *shall* return all security deposits.

(b) If the landlord's failure to deliver possession is willful and not in good faith, the tenant may recover from the landlord an amount twice the actual damages sustained, and reasonable attorney's fees.

§ 48303. Withholding of Rent.

(a) Tenant may not do self or contracted repairs without the express written consent of landlord, and tenant may not deduct expenses or costs for such repairs from their rent unless approved in writing from landlord.

(b) Tenant may not withhold rent for repairs not done.

(c) Tenant may not repair at landlord's expense if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other persons on the premises.

§ 48304. Wrongful Failure to Provide Essential Services.

(a) If, contrary to the rental agreement or § 48204 of this Chapter, the landlord willfully or negligently fails to supply essential services pursuant to the rental agreement, the tenant may give written notice to the landlord specifying the breach and may:

(1) take reasonable and appropriate measures to secure essential services during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent; or

(2) procure substitute housing during the period of landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance, but in no case will landlord be responsible or liable for cost of substitute housing unless agreed to in writing by both parties.

(b) Rights of the tenant do not apply if the condition was caused by the deliberate negligent act or omission of the tenant, a member of his family, or other persons on the premises.

§ 48305. Fire or Casualty Damage.

(a) If the dwelling unit or premises are damaged or destroyed by fire or casualty to the extent that enjoyment of the dwelling unit is substantially impaired, the tenant may:

(1) immediately vacate the premises and notify the landlord in writing within fourteen (14) days thereafter of his intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating;

(2) if continued occupancy is lawful, vacate any part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.

(b) If the rental agreement is terminated, the landlord *shall* return all security deposits recoverable under § 48201. Accounting for rent in the event of termination or apportionment is to be occurred as of the date of the fire or casualty.

(c) This Section does not apply to fire or casualty damage caused by the tenant, their family, guests, or invitees.

§ 48306. Tenant's Remedies for Landlord's Unlawful Ouster, Exclusion, or Diminution of Services.

If the landlord unlawfully removes or excludes the tenant from the premises or willfully diminishes services to the tenant by causing interruption of essential services to the tenant, the tenant may either recover possession or terminate rental agreement. In either case, the tenant *shall* be entitled from the landlord the actual and verifiable cost of damages sustained by him. If rental agreement is terminated the landlord *shall* return all security deposits recoverable under § 48201.

PART 2 LANDLORD REMEDIES

§ 48311. Noncompliance with Rental Agreement; Failure to Pay Rent.

(a) Except as provided in this Act, if there is noncompliance by the tenant with the rental agreement or noncompliance with § 48204 affecting health and safety, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach, and that the rental agreement will terminate upon a date not less than five (5) days after receipt of the notice unless otherwise agreed in writing by landlord and tenant. If the breach is not remedied within the five (5) days, the rental agreement *shall*

terminate as provided in the notice subject to the following: If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement *shall not* terminate.

(b) If rent is unpaid when due and the tenant fails to pay rent five (5) days after written notice by the landlord of nonpayment and his intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement thirty (30) days after receipt of notice.

(c) Except as provided in this Act, the landlord may recover actual damages and obtain injunctive relief for noncompliance by the tenant with the rental agreement or with § 48204 of this Chapter. If the tenant's noncompliance is willful, the landlord may recover reasonable attorney's fees.

§ 48312. Failure to Maintain.

If there is noncompliance by the tenant with § 48204 of this Chapter materially affecting health and safety that can be remedied by repair or replacement of a damaged item, and the tenant fails to comply as promptly as conditions require in case of emergency or within five (5) days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner and submit the itemized bill for the actual and reasonable cost, or the fair and reasonable cost thereof, as rent on the next date periodic rent is due, or if the rental agreement has terminated, for immediate payment.

§ 48313. Remedies for Absence, Nonuse and Abandonment.

(a) If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence in excess of seven (7) days pursuant to § 48103 of this Chapter and the tenant willfully fails to do so, the

landlord may recover actual damages from the tenant and consider the dwelling unit abandoned.

(b) During any absence of the tenant in excess of seven (7) days, the landlord may enter the dwelling unit at times reasonably necessary.

(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 before the expiration of the rental agreement, it terminates as of the date of the new tenancy. 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, the rental agreement is deemed to be terminated by the landlord as of the date the landlord has notice of the abandonment. If the tenancy is from month-to-month or week-to-week, the term of the rental agreement for this purpose is deemed to be a month or week, as the case may be.

(d) If the tenant abandons the dwelling unit, with no intention of resuming the tenancy, the landlord is entitled to the lesser of:

(1) the entire rent for the remainder of the term; or

(2) the daily rent for the period necessary to re-rent the dwelling, plus a reasonable commission, plus the difference between the rent agreed to in the prior rental agreement and the fair rental value.

(e) When the tenant has wrongfully abandoned the premises, pursuant to a notice to quit the premises or when the tenant has or upon the natural expiration of the term, and has abandoned personal property which the landlord, in good faith, determines to be of value, in or around the premises, the landlord may sell such personal property, in a commercially reasonable manner, store such personal property at the tenant's expense, or donate such personal property to a charitable organization. Before selling or donating such

personal property, the landlord *shall* make reasonable efforts to apprise the tenant of the identity and location of, and the landlord's intent to sell or donate such personal property by mailing notice to the tenant's forwarding address, or to an address designated by the tenant for the purpose of notification, or if neither of these is available, to the tenant's previous known address. Following such notice, the landlord may sell the personal property, or the landlord may donate the personal property to a charitable organization; provided, that such sale or donation *shall not* take place until fifteen (15) days after notice is mailed, after which the tenant is deemed to have received notice. The proceeds of the sale of personal property *shall*, after deduction of accrued rent and costs of storage and sale, including the cost of advertising, be held in trust for the tenant for thirty (30) days, after which time the proceeds *shall* be forfeited to the landlord. When the tenant has abandoned the premises, any personal property in or around the premises left unsold after conformance to this Section or otherwise left abandoned by the tenant and determined by the landlord to be of no value may be disposed of at the landlord's discretion without liability to the landlord.

§ 48314. Holdover.

If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession of the premises. If the tenant's holdover is willful and not in good faith the landlord may also recover an amount equal to rent owed, costs of eviction and reasonable attorney's fees.

§ 48315. Refusal of Lawful Access.

(a) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the rental agreement. In

either case the landlord may recover actual damages, costs, rental loss and reasonable attorney's fees.

(b) If the landlord makes an unlawful entry or makes repeated demands for entry, which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct or terminate the rental agreement. In either case the tenant may recover actual damages, costs and reasonable attorney's fees. Also, the landlord *shall* return that portion of the security deposit which is recoverable by the tenant under § 48201 of this Chapter."

Section 3. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or applications of this Act that can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

Section 4. Effective Date. This Act *shall* become effective upon enactment.