

MASSACHUSETTS LANDLORD RESPONSIBILITIES, OBLIGATIONS, & BEST PRACTICES

The attorneys at Tempus Fugit Law LLC have years of experience representing both landlords and tenants in actions for unpaid rent, discrimination, improper security deposit administration, and summary process (i.e., eviction), among others. A vast majority of these actions which were brought against a given landlord could have been avoided if that landlord had proper documentation and procedures in place to ensure compliance with federal and state landlord-tenant laws.

Tempus Fugit Law LLC leverages the experience of its attorneys into an ability to advise Massachusetts landlords while implementing procedures and documentation, including carefully drafted leases, that help avoid costly issues with tenants. Our firm has represented and assisted landlords who are renting for the first time, as well as experienced landlords in need of a review or overhaul of their lease and/or policies.

This guide sets forth the best practices for Massachusetts landlords to ensure – to the fullest extent possible – that they are not in violation of any federal or state law while also protecting their rights, property, and return on investment.

I. Prepare and execute a comprehensive written lease or rental agreement.

- Taken together with federal, state, and local landlord-tenant laws, the lease or rental agreement sets forth all of the legal rights and responsibilities of you and your tenant.
- Many landlords fail to execute a lease with their tenant that covers all of the necessary components of the landlord-tenant relationship.
- Some landlords attempt to include illegal or impermissible provisions within their leases. Such a practice may prove costly. Others fail to include essential provisions which inadvertently relinquish landlord rights.

II. Comply with anti-discrimination laws.

- Violating fair housing laws can bring harmful consequences to a landlord, even when s/he may not have discriminatory intent.
- How one advertises a rental, the questions asked on a rental application or when interviewing a potential tenant, and how a landlord deals with a tenant throughout the lease term all have the potential to lead to a costly discrimination action.
- Massachusetts landlords may reject an applicant based on bad credit, negative references, or other non-discriminatory factors, but may not reject an applicant based on race,

religion, national origin, gender, familial status, physical or mental disability, sexual orientation, gender identity, or source of income.

III. Provide habitable and sanitary housing.

- Massachusetts law requires landlords to comply with the “implied warranty of habitability” which, practically speaking, means the leased property must be a healthy place to live and must be able to provide heat, hot water, electricity, and certain kitchen fixtures. The property must further have working locks on all doors and windows and be free from rodents, cockroaches, and insect infestation.
- The State Sanitary Code further provides which violations a landlord must repair within 24 hours after being notified by the Board of Health, which violations must be repaired within 5 days, and which violations must be repaired within 30 days.

IV. Make legally required disclosures.

- Under Massachusetts law, landlords must make certain disclosures to tenants either in the lease or in a separate written document. These disclosures include:
 - Insurance carrier: Upon a tenant’s request and within 15 days, the landlord must furnish the name of the company insuring the property against loss or damage by fire and the amount of insurance provided by each such company and the name of any person who would receive payment for a loss covered by such insurance.
 - Move-In Checklist: If the landlord collects a security deposit, s/he must provide the tenant with a list of all damage to the property prior to the move-in date, and must have it signed by the tenant.
 - Security Deposit: At the time of receiving a security deposit, the landlord must furnish a receipt indicating: (a) the amount of the deposit; (b) the name of the person receiving it, and, if received by a property manager, the name of the lessor for whom the security deposit is received; (c) the date on which it is received; (d) and a description of the premises leased or rented. The receipt must be signed by the person receiving the security deposit. Further, within 30 days of receiving security deposit, the landlord must (e) disclose the name and location of the bank in which the security deposit has been deposited, and the amount and account number of the deposit.

V. Follow state rent rules and regulations.

- A landlord who desires to raise rent or evict a tenant for nonpayment must be sure to follow the rules and procedures for either process. For example, if a tenant is late on rent, Massachusetts law provides that the landlord cannot file for an eviction action for 14 days (unless the lease states otherwise).

- Many of the rent rules – such as the amount, when it is due, how it is paid, the fee for a bounced check, and late fees – can be set forth in the lease itself. This underscores the need for a detailed and comprehensive written lease.

VI. Follow security deposit laws and regulations.

- Massachusetts security deposit law is very strict and can have harsh consequences for the unwary landlord.
- The following should be followed by a landlord if s/he chooses to collect a security deposit:
 - The maximum that can be collected is equal to one month's rent.
 - The security deposit must be returned 30 days after the tenant has moved out and returned the keys.
 - The security deposit must be held in a separate security, interest-bearing account in a Massachusetts bank.
 - For yearly leases, the landlord must pay the *lesser* of 5% interest per year, or other such amount of interest as has been received from the bank where the deposit is held. This interest must be paid over to the tenant each year, or within 30 days of the end of the tenancy if it ends sooner than one year.
 - The landlord must provide certain notifications to the tenant if s/he collects a security deposit. In addition to those notifications listed in Section IV, above, relating to the security deposit, the landlord must also provide: (a) a receipt of the deposit within 30 days indicating the name and location of the bank in which it has been deposited and the amount and account number of said deposit, and (b) a move-out statement within 30 days of the end of the lease specifying an itemized list of damages for which the security deposit will be applied.

VII. Do not retaliate against a tenant who exercises a legal right.

- It is illegal to retaliate in Massachusetts against a tenant who exercises a legal right, such as complaining to a government agency about an unsafe living condition within the premises.
- To avoid problems, and to counter false retaliation claims, document all communications with the tenant and all repairs made to the property, as well as all other facts of the landlord-tenant relationship. Communicating politely, directly, and professionally via email with the tenant is one way to do this.

VIII. Follow the applicable laws and lease provisions for terminating a tenancy.

- Massachusetts laws vary and are very specific as to the amount and type of notice that must be provided to a tenant to terminate the tenancy.
- For example, a landlord must give a tenant who has not paid rent 14 days' notice before the landlord can file for eviction. Terminating the tenancy for any other reason, including

violation of a lease provision (other than nonpayment), is typically governed by the lease document.

- A lease similarly may or may not require the landlord to give a specific amount of time to the tenant regarding whether the tenant will be able to re-let the property after the expiration of the lease term.

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The laws governing a Massachusetts landlord's obligations and responsibilities are numerous and, at times, complex. The attorneys at Tempus Fugit Law LLC can advise on how best to maintain your leasehold interest while avoiding potential pitfalls. We will ensure that the landlord's rights are safeguarded and provide forward-looking protection against tenant actions. In the event that an eviction is necessary, or if a tenant initiates a lawsuit, we can draft all necessary documentation and provide in-court representation.

Please contact our office at 617-752-2371 with any questions.

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