STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1513 By: Balkman

AS INTRODUCED

An Act relating to landlord and tenant; providing a lien for a landlord on unpaid rent; providing procedures for sale of certain personal property for unpaid rent; providing procedure for renter's failure to allow landlord possession; providing for application to certain lease assignments; providing procedures for landlord to reenter premises for failure to pay rent; providing landlord with a duty to mitigate damages; providing certain enforcement procedures for unpaid rent or judgment; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53 of Title 41, unless there is created a duplication in numbering, reads as follows:

A. A landlord shall have a general lien on all property of the tenant, not exempt by law, placed upon or used on the leased premises, until the unpaid rent or any judgment obtained pursuant to the lease is paid. The lien shall not secure the payment of rent accruing after the death or bankruptcy of the lessee, or after an assignment for the benefit of the creditors of the lessee.

B. The landlord may seize for unpaid rent, any judgment rendered against the tenant pursuant to the lease, and any personal property found on the premises, but the property of any other person shall not be sold to pay the unpaid rent or judgment of the tenant. The landlord shall not be held to respond in damages for conversion of property owned by a person other than the tenant and seized by the landlord, if the landlord, after put on notice of the identity of the rightful owner, returns the property within a reasonable

time. If the tenant fails to allow the landlord to take possession of the property on the premises, the landlord may reduce the property to possession by an action to recover possession, and may hold or sell the property for the payment of the debt as provided for in this section and Section 3 of this act.

C. When premises are sublet or when the lease is assigned, the landlord shall have the same lien against the sublessee or assignee as the landlord has against the tenant and may enforce the lien in like manner.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 54 of Title 41, unless there is created a duplication in numbering, reads as follows:

A. When a tenant neglects or refuses to pay rent when due and is in arrears for five (5) days, the landlord or person to whom the rent is due, or the agent of the landlord or person to whom the rent is due, may, without a notice to quit:

1. Reenter and take possession, thereby terminating the lease, and commence an action for the recovery of unpaid rent up to the time the landlord regained possession, damages, attorney fees and costs; or

2. Commence an action for recovery of possession of the premises and enforcement of the lease as provided for in action for forcible entry or detainer or an action in ejectment. In addition to determining the right to actual possession, the court may assess damages pursuant to the terms of the lease, attorney fees and costs.

B. A landlord has a duty to mitigate damages.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 55 of Title 41, unless there is created a duplication in numbering, reads as follows:

Pursuant to the lien of a landlord created by Section 1 of this act, upon regaining possession of the premises, a landlord, or agent of the landlord, may seize as much personal property located on the

premises as is necessary to secure payment of the unpaid rent or judgment or unpaid rent and judgment rendered against the tenant pursuant to the lease. If the unpaid rent or judgment or the unpaid rent and judgment is not paid and satisfied within thirty (30) days after the landlord regains possession by either method as provided for in Section 2 of this act, the landlord may sell the seized personal property not exempted by law, or owned by a person other than the tenant for which the landlord has knowledge, in the manner provided by Section 91 of Title 42 of the Oklahoma Statutes.

SECTION 4. This act shall become effective November 1, 2003.

49-1-5641 MD 01/13/03