

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0194/P1dn
PJK&RPN:nwn&kjf:jf

October 2, 2008

Although we didn't discuss this, I assumed you wanted the provisions limited to residential rental property.

I provided that the rent payable if the tenant retains possession for up to 60 days after the confirmation of sale would be the same as the tenant paid before and on a pro rata basis. Is this what you want? If rent is paid on a pro rata basis, do you want to provide that the amount for the last 30 days, rather than the last month, may be withheld? "Month" may be interpreted to mean that the tenant may withhold rent that would be payable in the last calendar month in which the tenant remains on the property, which might be only a few days.

Do you want to specify that any rent withheld by the tenant for the last month may be withheld from the security deposit if the security deposit is returned? I guess the question is, does the tenant owe rent for the last month, even though it may be withheld, or is the last month's rent forgiven?

Do you want to be more specific about when the notices must be provided by the plaintiff, such as within a certain number of days after each of the specified events? When the plaintiff gives notice of the foreclosure judgment, it might be helpful for the tenants if the notice also provided the date on which the redemption period ends.

Do you want to require only one notice per rental unit, or notices to all persons who have signed a lease for the unit and one notice per unit if there is no lease?

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I am not sure if the language added to s. 799.40 meets your intent. I put a time limit (an arbitrary number of days) in the draft just to allow persons who acquire property by foreclosure to avoid the requirement to add the statement if they are evicting for a reason other than the foreclosure.

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