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Property

Property; landlord-tenant; tenant security deposit refunds; substitute service of process; agent's liability

AB 554 (Vergiels); STATS 1981, Ch 555

Under existing law, a security deposit is any payment made by a tenant to compensate a landlord for any default in rent payment, damage to the premises beyond normal wear and tear, or cost of cleaning the dwelling unit. Upon termination of the tenancy or termination of the landlord's interest in the dwelling, this security deposit, less allowable deductions, must be returned to the tenant within three weeks. Prior to the enactment of Chapter 555, a bad faith retention of the security deposit beyond the three week period subjected the landlord to liability for the amount owed to the tenant and actual damages. Chapter 555 now provides that if the security deposit is not refunded within twenty-one days after termination of the tenancy, the landlord must return the entire deposit and may not make any deductions.

Chapter 555 also affects the liability of the landlord's agent and the method of substitute service of process on the landlord. Existing law requires that the tenant be apprised of certain information including the landlord's identity if the tenant deals with the landlord or through

1. See N.R.S. §118A.170 (definition of tenant).
2. See id. §118A.100 (definition of landlord).
5. Id. §118A.240 4, 5.

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his or her agent when consummating the rental agreement.\textsuperscript{9} Prior law provided that the person negotiating the rental agreement on the landlord’s behalf would incur the principal’s obligations\textsuperscript{10} if the landlord’s identity was not disclosed at or before the commencement of the tenancy.\textsuperscript{11} Under Chapter 555, the agent assumes the landlord’s obligations whether or not the landlord’s identity is disclosed.\textsuperscript{12} Chapter 555 also provides that service of process on the landlord in actions involving his or her property may be affected by serving the manager of the premises.\textsuperscript{13}

\begin{itemize}
  \item \textsuperscript{9} See \textit{id.} §118A.260 1, 2, 3. \textit{See generally} 3 \textit{AM. JUR. Agency} 2 (2d ed. 1970) [hereinafter cited as \textit{Agency}].
  \item \textsuperscript{10} \textit{See generally} N.R.S. §§118A.240-118A.300, 118A.320-118A.340; \textit{Agency, supra} note 9, §§238-260, 261-286.
  \item \textsuperscript{12} N.R.S. §118A.260 4.
\end{itemize}

Property; creation of a right of survivorship

N.R.S. §§111.064, 120.010 (amended).

SB 659 (Committee on Judiciary); \textit{Stats} 1981, Ch 633

Chapter 633 provides that no right of survivorship is created in an estate in community property unless the instrument creating the estate expressly declares that the husband and wife take the property as community property with a right of survivorship.\textsuperscript{1} If either spouse transfers his or her interest in the community property during the marriage, however, the right of survivorship is extinguished.\textsuperscript{2} Chapter 633 additionally specifies that any party taking an interest in property as a result of a right of survivorship is deemed a beneficiary\textsuperscript{3} for purposes of disclaiming a property interest.\textsuperscript{4}

\begin{itemize}
  \item \textsuperscript{1} N.R.S. §111.064 2.
  \item \textsuperscript{2} See \textit{id.}
  \item \textsuperscript{3} \textit{Id.} §120.010 1 (beneficiary, for these purposes, means any person entitled, except for a disclaimer, to take an interest by intestate succession, devise, legacy, bequest, succession to a disclaimed interest, election to take against a will, as beneficiary of a testamentary trust, pursuant to the exercise or nonexercise of a power of appointment, by right of survivorship, or as beneficiary of an inter vivos gift).
  \item \textsuperscript{4} \textit{See id.} §120.010.
\end{itemize}