

**66-28-201. Terms and conditions.**

(a) The landlord and tenant may include in a rental agreement, terms and conditions not prohibited by this chapter or other rule of law including rent, term of the agreement, and other provisions governing the rights and obligations of parties. A rental agreement cannot provide that the tenant agrees to waive or forego rights or remedies under this chapter. The landlord or the landlord's agent shall advise in writing that the landlord is not responsible for, and will not provide, fire or casualty insurance for the tenant's personal property.

(b) In absence of a lease agreement, the tenant shall pay the reasonable value for the use and occupancy of the dwelling unit.

(c) Rent shall be payable without demand at the time and place agreed upon by the parties. Notice is specifically waived upon the nonpayment of rent by the tenant only if such a waiver is provided for in a written rental agreement. Unless otherwise agreed, rent is payable at the dwelling unit and periodic rent is payable at the beginning of any term of one (1) month or less and otherwise in equal monthly installments at the beginning of each month. Upon agreement, rent shall be uniformly apportionable from day to day.

(d) There shall be a five-day grace period between the day the rent was due and the day a fee for the late payment of rent may be charged. If the last day of the five-day grace period occurs on a Saturday, Sunday or legal holiday, as defined in § 15-1-101, the landlord shall not impose any charge or fee for the late payment of rent, provided that the rent is paid on the next business day. Any charge or fee, however described, which is charged by the landlord for the late payment of rent shall not exceed ten percent (10%) of the amount of rent past due.

(e) (1) No charge or fee for the late payment of rent due from a tenant in a public housing project shall exceed five dollars (\$5.00) per month. No late charge or fee shall be assessed such tenant unless more than fifteen (15) days have elapsed since the rent was due.

(2) The provisions of this subsection (e) shall apply only to counties with a population between two hundred fifty thousand (250,000) and three hundred thousand (300,000) according to the 1980 federal census or any subsequent federal census.

[Acts 1975, ch. 245, § 1.401; T.C.A., § 64-2811; Acts 1984, ch. 876, § 1; 1986, ch. 747, § 1; 1989, ch. 503, § 1; 2000, ch. 666, § 1; 2001, ch. 154, § 1.]

**66-28-202. Effect of unsigned or undelivered agreement.**

(a) If the landlord does not sign a written rental agreement, acceptance of rent without reservation by the landlord binds the parties on a month to month tenancy.

(b) Any person or persons taking possession without payment and failing to sign a written rental agreement delivered to them by the landlord or who enter without oral agreement are deemed to be trespassers and will be evicted forthwith.

[Acts 1975, ch. 245, § 1.402; T.C.A., § 64-2812.]

**66-28-203. Prohibited provisions.**

(a) No rental agreement may provide that the tenant:

- (1) Authorizes any person to confess judgment on a claim arising out of the rental agreement;
- (2) Agrees to the exculpation or limitation of any liability of the landlord to the tenant arising under law or to indemnify the landlord for that liability or the costs connected with such liability.

(b) A provision prohibited by subsection (a) included in an agreement is unenforceable. Should a landlord willfully provide a rental agreement containing provisions known by the landlord to be prohibited by this chapter, the tenant may recover actual damages sustained. The tenant cannot agree to waive or forego rights or remedies under this chapter.

[Acts 1975, ch. 245, § 1.403; T.C.A., § 64-2813.]

**66-28-204. Unconscionability.**

(a) If the court, as a matter of law, finds:

(1) A rental agreement or any provision thereof was unconscionable when made, the court shall enforce the remainder of the agreement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result; or

(2) A settlement in which a party waives or agrees to forego a claim or right under this chapter or under a rental agreement was unconscionable at the time it was made, the court shall enforce the remainder of the settlement without the unconscionable provision, or limit the application of any unconscionable provision to avoid the unconscionable result.

(b) If unconscionability is put into issue by a party or by the court upon its own motion, the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental agreement or settlement to aid the court in making the determination.

[Acts 1975, ch. 245, § 1.303; T.C.A., § 64-2814.]