CHAPTER 35

Creation, Construction, and Termination of Leasehold Estates

**SECTION 27‑35‑10.** Tenancies created by oral agreement.

 A tenancy for not to exceed one year may be created by oral agreement.

HISTORY: 1962 Code Section 41‑51; 1952 Code Section 41‑51; 1946 (44) 2584.

**SECTION 27‑35‑20.** Agreement for more than one year.

 Any agreement for the use or occupation of real estate for more than one year shall be void unless in writing.

HISTORY: 1962 Code Section 41‑52; 1952 Code Section 41‑52; 1946 (44) 2584.

**SECTION 27‑35‑30.** Tenancies deemed month to month; exceptions.

 All tenancies of real estate other than agricultural lands shall be deemed from month to month unless there be an agreement otherwise. But this section shall not apply to domestic servants, farm laborers or tenants at will.

HISTORY: 1962 Code Section 41‑53; 1952 Code Section 41‑53; 1946 (44) 2584.

**SECTION 27‑35‑40.** Use of premises without agreement or permission or by trespass; rent.

 When a person enters upon or uses the premises of another without agreement or without the permission of the owner or by trespass the owner may at his option waive such tort and treat and deem such person a tenant at will. In such case the landlord shall have and be entitled to a reasonable rental for the use and occupation of such premises and all remedies for the enforcement of his rights in respect thereto as in other cases of tenancy at will.

HISTORY: 1962 Code Section 41‑54; 1952 Code Section 41‑54; 1946 (44) 2584.

**SECTION 27‑35‑50.** Sale of real estate under lease.

 When real estate is sold while under lease, the relationship of landlord and tenant is created ipso facto as between the purchaser and the tenant as if the purchaser had been the landlord in the first instance and the purchaser shall be entitled to all the benefits and rights under such lease as if he had been the lessor from the date of the purchase.

HISTORY: 1962 Code Section 41‑55; 1952 Code Section 41‑55; 1946 (44) 2584.

**SECTION 27‑35‑60.** Validity and effect of subleases.

 A sublease by a tenant without written consent of the landlord is a nullity insofar as the rights of the landlord are concerned, except that rent collected by a tenant from a subtenant shall be deemed to be held in trust by the tenant for the benefit of the landlord until the payment of the landlord’s claim for rent. But when the premises have been sublet the sublessor, as between himself and the subtenant or sublessee, shall be deemed the landlord and the sublessee the tenant under him and the provisions of Chapters 33 through 37, Section 27‑39‑10 and Article 3 of Chapter 39 of this Title, other than Sections 27‑35‑80, 27‑35‑170 and 27‑35‑180, 27‑39‑280 and 27‑39‑300 shall apply to sublessors and sublessees, as between themselves, as in other cases of landlord and tenant.

HISTORY: 1962 Code Section 41‑56; 1952 Code Section 41‑56; 1946 (44) 2584; 1972 (57) 2451.

**SECTION 27‑35‑70.** Person deemed in possession of real estate.

 In all cases of tenancy the owner, landlord or person entitled to possession shall be deemed to be in possession of the real estate used or occupied by the tenant and the tenant shall be deemed to be holding thereunder.

HISTORY: 1962 Code Section 41‑57; 1952 Code Section 41‑57; 1946 (44) 2584.

**SECTION 27‑35‑75.** Lessee’s obligations as to use and maintenance; lessor’s right to inspect.

 (A) Unless otherwise agreed to in a commercial lease agreement or a security agreement, this section applies to all leases on commercial units located in South Carolina.

 (B) A lessee must:

 (1) comply with all obligations imposed upon lessees by applicable building and housing code provisions that materially affect health and safety;

 (2) not deliberately or negligently destroy, deface, damage, impair, abuse, or remove any part of the premises or knowingly permit any person to do so who is on the premises with the lessee’s permission or who is allowed access to the premises by the lessee;

 (3) conduct himself and require other persons on the premises with the lessee’s permission or who are allowed access to the premises by the lessee to conduct themselves in a manner that will not disturb other lessees’ peaceful enjoyment of the premises; and

 (4) comply with the commercial lease agreement or security agreement.

 (C) In cases of real estate, fixtures, and equipment, or any of them that are the subject of a commercial lease agreement, the lessor has the right to enter and inspect the leased premises as provided in subsection (D) to determine if the leased real estate, fixtures, and equipment, or any of them:

 (1) are being used in a reasonable and safe manner as provided in subsection (B) or in the commercial lease agreement or security agreement; and

 (2) are being negligently, deliberately, or knowingly destroyed, defaced, damaged, impaired, abused, or removed in violation of subsection (B) or the terms of the commercial lease agreement or security agreement.

 (D) The lessor must not abuse the right to enter and inspect the premises pursuant to this section and must not use this right of access to harass the lessee. Except in the case of a demonstrable emergency, the lessor must give the lessee at least twenty‑four hours’ written notice of his intent to enter and inspect the premises, and the entry must be scheduled at a reasonable time.

 (E) A lessee must not unreasonably withhold consent to the lessor to enter and inspect the subject premises for the purposes described in subsection (C).

 (F) If the lessee unreasonably withholds consent to the lessor to allow lawful access to the subject premises as described in subsection (C), the lessor may obtain injunctive relief in the magistrates court or the circuit court in the county in which the property is located, without posting bond, to compel access. If injunctive relief is sought, the prevailing party may recover actual damages and reasonable attorney’s fees and costs.

HISTORY: 2005 Act No. 15, Section 1.

Editor’s Note

2005 Act No. 15, Section 2, provides in part as follows:

This act . . . . applies to all leases on commercial units located in South Carolina, whether created before or after this act’s effective date [January 1, 2005]. The obligations imposed and rights created by this act accrue on or after the effective date of the act.

**SECTION 27‑35‑80.** Attornments by tenants.

 To prevent the difficulty and expense to which a landlord or lessor may be put by the fraudulent practice of tenants in attorning to strangers who claim title to the estates of their respective landlords or lessors, every such attornment of any tenant of any lands, tenements or hereditaments shall be absolutely null and void to all intents and purposes whatsoever and the possession of the landlord or lessor shall not be deemed or construed to be in any wise changed, altered or affected by any such attornment. But nothing herein contained shall extend to vacate or affect any attornment made pursuant to, and in consequence of, some judgment, decree or order of court or made with the privity and consent of the landlord or lessor or pursuant to Section 27‑35‑50.

HISTORY: 1962 Code Section 41‑58; 1952 Code Section 41‑58; 1942 Code Section 8803; 1932 Code Section 8803; Civ. C. ‘22 Section 5269; Civ. C. ‘12 Section 3499; Civ. C. ‘02 Section 2413; G. S. 1810; R. S. 1929; 1712 (2) 575.

**SECTION 27‑35‑90.** Time for payment of rents.

 Unless otherwise agreed upon rents shall be payable monthly and at the end of each calendar month, excepting rents for farm lands.

HISTORY: 1962 Code Section 41‑59; 1952 Code Section 41‑59; 1946 (44) 2584.

**SECTION 27‑35‑100.** Time of termination of farm tenancies.

 All tenancies of farm laborers, sharecroppers and renters of farm lands shall end on the last day of December in each year unless there be an express agreement to the contrary or unless continued by operation of law as herein provided.

HISTORY: 1962 Code Section 41‑60; 1952 Code Section 41‑60; 1946 (44) 2584.

**SECTION 27‑35‑110.** Time of expiration of agreed tenancy for term or years.

 When there is an express agreement, either oral or written, as to the term of the tenancy of a tenant for term or for years such tenancy shall end without notice upon the last day of the agreed term.

HISTORY: 1962 Code Section 41‑62; 1952 Code Section 41‑62; 1946 (44) 2584.

**SECTION 27‑35‑120.** Termination of month to month tenancy.

 A tenancy from month to month may be ended by either party giving to the other written notice of thirty days to the effect that such tenancy shall be then terminated. No such tenancy shall ripen into a tenancy from year to year.

HISTORY: 1962 Code Section 41‑63; 1952 Code Section 41‑63; 1946 (44) 2584.

**SECTION 27‑35‑130.** Notice required for tenants at will and domestic servants.

 All tenants at will and domestic servants shall vacate the premises occupied upon twenty days’ written notice.

HISTORY: 1962 Code Section 41‑64; 1952 Code Section 41‑64; 1946 (44) 2584.

**SECTION 27‑35‑140.** Failure to pay rent.

 Failure to pay the rent agreed upon when due, or a reasonable rent for use and occupation when demanded, shall terminate all tenancies for a term, for years, from month to month and at will and the tenant shall forthwith vacate the premises without notice.

HISTORY: 1962 Code Section 41‑65; 1952 Code Section 41‑65; 1946 (44) 2584.

**SECTION 27‑35‑150.** Abandonment of premises.

 When a tenant abandons premises theretofore occupied by him the landlord may enter and take possession thereof, making distraint as herein provided of any property found thereon, including the property exempt from distress by the provisions of Section 27‑39‑230 and the term of a tenant abandoning premises used and occupied by him as such shall be deemed ended by such abandonment. Absence from the property for fifteen days after default in the payment of rent shall be construed as abandonment.

HISTORY: 1962 Code Section 41‑66; 1952 Code Section 41‑66; 1946 (44) 2584.

**SECTION 27‑35‑160.** Unlawful abandonment of buildings without notice.

 Any tenant abandoning a building and leaving it open and exposed to vandalism without giving notice to the landlord of such action shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined not more than one hundred dollars or be imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 41‑67; 1962 (52) 1909.

**SECTION 27‑35‑170.** Holding over following demand for possession; penalty.

 All tenants, whether for life or years, by sufferance or at will, or persons coming in under or by collusion with them who shall hold over after the legal determination of their estates, after demand made in writing for delivering possession thereof by the person having the reversion or remainder therein or his agent, for the space of three months after such demand shall forfeit double the value of the use of the premises, recoverable by action.

HISTORY: 1962 Code Section 41‑72; 1952 Code Section 41‑72; 1942 Code Section 8800; 1932 Code Section 8800; Civ. C. ‘22 Section 5267; Civ. C. ‘12 Section 3497; Civ. C. ‘02 Section 2411; G. S. 1808; R. S. 1927; 1808 (5) 565.

**SECTION 27‑35‑180.** Penalty for not delivering possession after notice of intent to quit.

 In case any tenant shall give notice in writing of his intention to quit the premises rented by him and shall not accordingly deliver up the possession at the time in such notice contained, the tenant, his executors or administrators, shall pay to the landlord double the rent which he otherwise would have been liable to pay. But nothing herein contained shall be construed to give such tenant a right to discontinue or determine his tenancy by such notice in any other manner than according to the laws of force at the time of giving such notice.

HISTORY: 1962 Code Section 41‑73; 1952 Code Section 41‑73; 1942 Code Section 8814; 1932 Code Section 8814; Civ. C. ‘22 Section 5280; Civ. C. ‘12 Section 3510; Civ. C. ‘02 Section 2424; G. S. 1820; R. S. 1940; 1712 (2) 578; 1808 (5) 565.