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## Digest of the Housing and Rent Act of 1949

BY SYDNEY E. SHUTERAN  
*of the Denver Bar*

The Federal Rent Control Law effective April 1, 1949 comprises the Housing and Rent Acts of 1947, 1948 and 1949. Consequently, to prepare an informative and workable digest of the current law, it is necessary to collate the original act and its subsequent amendments.

The author has purposely eliminated statutory references for the reason that the following digest represents in some instances the exact language of the law and in other instances a synthesis of various sections. Frequently the language of the law has been paraphrased in the interest of simplification.

Because of the sweeping delegation of power granted by the 1949 amendment to the Housing Expediter, his orders and regulations will be as important as the actual provisions of the law. Many of the regulations authorized and directed have not yet been completed or are not yet available; consequently, it is advisable to make inquiry of the area rent office in all instances where a regulation is or may be applicable.

There are various forms to be used for filing petitions and required notices with the area rent office which will be made available by that office.

### Veterans' Preference

#### *Rentals*

All housing accommodations (except for occupancy by transients), the construction or conversion of which is completed after June 30, 1947, shall not be offered for rent or rerent, rented or rented to non-veterans until after the housing accommodations are first:

- (a) Publicly offered for rent exclusively to veterans of World War II or their families during construction or conversion and for 30 days thereafter, and
- (b) Publicly offered for 7 days prior to an offer to rerent or actual rerenting, and
- (c) Publicly offered for additional 7 days if the rental price is reduced from the price for which it was last offered to veterans.

#### *Sales*

*Single Family Residence*, the construction or conversion of which is completed after June 30, 1947 shall not be offered for sale or resale, or sold or resold to non-veterans until after:

- (a) Publicly offered for sale exclusively to veterans of World War II or their families during construction or conversion and for 30 days thereafter, and

- (b) Publicly offered for 7 days prior to offering for resale or actual resale, and
- (c) Publicly offered for an additional 7 days if the sale price is reduced from the price for which it was offered to veterans.

For original rental and sale the public offering shall not be less than 30 days.

Prefabricated housing and cooperative mutual ownership are covered by the above provisions.

**Regulations**

The Housing Expediter will issue regulations prescribing how accommodations shall be publicly offered. A regulation under the previous acts prescribing manner of public offering is in effect, however, and it is not yet known whether this or a new regulation will be applicable. The Housing Expediter can grant exceptions for hardship cases as he deems appropriate.

**Penalty**

Willful violators subject to maximum fine of \$5,000 and/or maximum imprisonment of one year.

**Expiration**

June 30, 1950 or by Presidential or Congressional proclamation that the provisions for preference are no longer needed.

**Exclusions from Controlled Housing Accommodations**

The following housing accommodations are not subject to maximum rents or the provisions of the law:

(a) *Hotels*

Housing accommodations in any establishment which is commonly known as a hotel and which is occupied by persons who are provided customary hotel service such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures and bellboy service. (Provisions of the act relating to cities with a population of 2,500,000 or more is deleted.)

(b) *Motor Court* or any part thereof.

(c) *Trailer or Trailer Space* used exclusively for transient occupancy.

(d) *Tourist Home* serving transient guests exclusively, or any part thereof.

(e) *Construction Completed after February 1, 1947*

Any housing accommodations the construction of which was completed on or after February 1, 1947.

(f) *Change from Nonhousing to Housing Use.*

Housing accommodations created by a change from nonhousing to housing use on or after February 1, 1947.

(g) *Conversion (Conditional)*

Any housing accommodations created by conversion on or after February 1, 1947. *Provided, however, conversion on or after April 1, 1949 shall continue to be controlled, unless the Housing Expediter issues a decontrol order which he shall do if he finds the conversion resulted in additional, self-contained family units (as defined by him).*

(h) *Rental Housing Accommodations for Veterans*

Controls for the rental of housing accommodations to veterans of World War II and their immediate families, the construction of which was assisted by allocation or priorities under Public Law 388, Seventy-ninth Congress, shall no longer be effective if the accommodations were occupied by a veteran or his immediate family on June 30, 1947, or if he had a contract right to occupy on that date.

(i) *Accommodations not Rented for Prescribed Time*

Housing accommodations, the construction of which was completed on or after February 1, 1945 and prior to February 1, 1947 and which between the date of completion and June 30, 1947 both dates inclusive, at no time were rented other than to members of the immediate family of the landlord.

(j) *Nonhousekeeping, Furnished*

Nonhousekeeping, furnished housing accommodations located within a single dwelling unit not used as a rooming or boarding house provided:

- (1) No more than two paying tenants, not members of the landlord's immediate family, live in such dwelling unit, and
- (2) The remaining portion of such dwelling unit is occupied by the landlord or his immediate family.

### **Maximum Rents**

Effective April 1, 1949 the maximum rent which may be collected for controlled housing accommodations shall not be greater than the maximum rent established and in effect on June 30, 1947.

For controlled housing accommodations not so classified prior to the Rent Act of 1949, the maximum rent shall be the maximum rent last in effect for such accommodations under Federal rent control, plus or minus applicable adjustments. If no maximum rent was ever in effect then the maximum rent shall be the rent generally prevailing for comparable controlled housing accommodations, plus or minus applicable adjustments.

The Housing Expediter shall, by regulation or order, make such in-

dividual and general adjustments in the maximum rents as may be necessary to remove hardships, or to correct other inequities, provided the landlord certifies that he is maintaining all of the services which were furnished on the date the maximum rent was determined and that he will continue to maintain such services so long as the adjustment which may be granted continues in effect. The adjustments here referred to require the Housing Expediter and the local boards to observe the principle of maintaining *maximum rents* so far as practicable at a level which will yield to the landlords a *fair operating income* from the housing accommodations. Among other relevant factors, the following are to be taken into consideration in determining a fair net operation of income:

- (a) Increases in property taxes.
- (b) Unavoidable increases in operating and maintenance expenses.
- (c) Major capital improvement of the accommodations—distinguished from ordinary repair, replacement and maintenance.
- (d) Increases or decreases in space, service, furniture, furnishings or equipment.
- (e) Substantial deterioration other than ordinary wear and tear or failure to perform ordinary repair, replacement or maintenance.

Subsequent to the preparation of this digest, the Housing Expediter established a formula to be used in determining if a landlord's rents are yielding him a "fair operating income." The formula is strictly mathematical, and whether or not it will grant the relief for which the legislation was designed remains to be seen.

The Expediter is authorized to remove maximum rents, if in his judgment, controls are no longer needed. The provisions relating thereto appear hereafter under the title "Local Advisory Boards."

### **Recontrol of Accommodations Leased Under Prior Rent Law**

Leases executed in accordance with the provisions of the Rent Act of 1947 as amended by the Rent Act of 1948 are subject to the following provisions:

- (a) Accommodations under leases which have terminated or expired or which are hereafter terminated or expire are subject to the provisions of the Rent Act of 1949.
- (b) Leases in effect on April 1, 1949 continue to have maximum rent as provided in the lease.
- (c) After termination or expiration, the maximum rent is the rent provided for in the lease, plus or minus applicable individual adjustments. Provided, however, if a general increase in maximum rents has been or is hereafter granted, the maximum rent shall be said lease rent plus or minus applicable individual adjustments, or the maximum rent in the absence of a lease, whichever is higher.

- (d) Report shall be filed with Housing Expediter of the aforesaid leases which terminate prior to expiration date, such report to be filed within 15 days after date of termination.

### **Local Advisory Boards**

The Housing Expediter is authorized and directed to remove any or all maximum rents if in his judgment the need no longer exists, due to sufficient construction of new housing accommodations or when the demand for rental housing accommodations has been otherwise reasonably met. He may remove maximum rents for any or all *luxury housing accommodations* if in his judgment such action would result in the creation of additional rental units by conversion. The Expediter is to issue regulations and orders to carry out above provisions.

Local Advisory Board consisting of not less than five members may make recommendations to the Housing Expediter with respect to:

- (a) Removal of any or all maximum rents with respect to any class of housing accommodations or any portion thereof, if in the judgment of the board the need for continuing maximum rents no longer exists, due to sufficient construction of new housing or when the demand for rental housing accommodations has been otherwise reasonably met.
- (b) Adjustments, other than individual adjustments, in maximum rents deemed to be necessary to remove hardships or to correct other inequities, or further to carry out the provisions of the Act.
- (c) Operations generally of local rent office with particular reference to hardship cases.

### **Landlord's Liability For Damages**

Any person, corporation, partnership, association or representative who demands, accepts or receives any payment of rent in excess of the maximum rent prescribed shall be *liable to the person* from whom he demands or receives such payment, or *shall be liable to the United States* for reasonable attorney's fees, costs and liquidated damages in the amount of \$50.00 or three times the amount paid over the maximum rent, whichever is the greater amount. If the violation was neither wilful nor the result of failure to take practical precautions against the occurrence of the violation then the amount of liquidated damages shall be the amount of the overcharge.

All violations alleged in such action which were committed by the defendant with respect to the plaintiff prior to bringing the action shall be deemed to constitute one violation and the amount demanded, accepted or received in connection with such one violation shall be deemed to be the aggregate amount demanded, accepted or received in connection with all violations.

If the tenant fails to institute an action within 30 days from the date of the occurrence of the violation, the United States may institute the action and if it does so then the tenant is barred from bringing an action for the same violation.

Suit under this provision may be brought in any Federal or State court of competent jurisdiction within one year after the date of such violation. Court may enjoin violator or enforce compliance. United States may intervene in all such cases.

For the purpose of obtaining information the Housing Expediter is authorized by regulation or order to require any person who rents or offers for rent or acts as a broker or agent for the rental of any controlled housing accommodations to

- (a) Furnish information under oath.
- (b) Make and keep records and other documents and to make reports.
- (c) Permit inspection and copying of records and other documents.
- (d) Permit inspection of controlled housing accommodations.

Section 204 (e) as amended by the 1949 Act and the additional provisions contained in the 1949 Act provide for the procedural and administrative processing of the removal of rent controls by local option and the making of rent adjustments, as well as the steps preceding an appeal to the Emergency Court of Appeals.

### **Evictions**

Section 209 of the Housing and Rent Act of 1947 as amended (which provides for eviction of tenants) is amended to read as follows:

“Whenever in the judgment of the Housing Expediter such action is necessary or proper in order to effectuate the purposes of this Act, he may, by regulation or order, regulate or prohibit speculative or manipulative practices or renting or leasing practices (*including practices relating to recovery of the possession*) in connection with any controlled housing accommodations, which in his judgment are equivalent to or are likely to result in rent increases inconsistent with the purposes of this Act.”

Pursuant to the authority delegated to the Housing Expediter by the foregoing provisions of the law, he has issued a four page regulation concerning evictions which is available at the local area rent control office.

Word has been received of the death on February 18, 1949 of Irving B. Melville, honorary life member of the Denver Bar Association. Mr. Melville, father of Max Melville, present Assistant District Attorney, was admitted to the Colorado bar in 1886.

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John H. Winchell has moved his office to 315 Majestic Building, Denver.