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PURCHASING, LEASING OR SELLING A HOME

CHECKLIST: REVIEWING A LEASE

Here's a checklist of things you should look for in a lease before you sign it. A lease is a contract, so you will want to understand what it says and how it will affect you. And because a lease is a contract, you may be able to negotiate changes to it, even if it is a preprinted form. In fact, a preprinted form should be reviewed very carefully, because its provisions will probably greatly favor the landlord. You may want to ask a lawyer to review the lease with you before you sign it. An experienced lawyer who practices in this area will be able to point out illegal provisions, explain how certain provisions work, tell you if they are favorable or unfavorable to you, and suggest changes and additional terms.

- √ How long does the lease run? One year is typical, but some landlords rent month-to-month, which gives both the tenant and the landlord great flexibility. A month-to-month is ideal if you are living someplace for a short time, if you are in school and move home when school is not in session, or if your job requires you to move a lot.
- √ The lease might refer to you, the renter/tenant, as the "lessee" and the landlord as the "lessor." The space you are renting may be referred to as the "premises" or the "leased premises."
- √ The lease may prohibit you from using the premises for a home business.
- √ The lease may limit the number of people who can live on the premises.
- √ The lease may prohibit pets. Talk to the landlord about this after he or she has agreed to rent to you but before you sign the lease. You may be able to have your pet move in with you if the landlord agrees to drop that provision.
- √ Review the provisions in the lease relating to ending the tenancy. How much advance notice do you have to give to the landlord? If you don't give the notice on time, will the lease automatically be extended for another lease term?
- √ Check to see what happens if you "hold over" and do not move out on time.
- √ The lease may have a provision saying that if you break the lease you will automatically have to pay the landlord a stated amount of money. This kind of provision is called a "liquidated damages clause." It means that the landlord will not have to prove the actual amount of money damage your breach would cause. These provisions can be very unfair to the tenant. Don't get stuck with one!
- √ When is the rent due? Are there late fees? Do you have a little time after the due date to get your rent paid without triggering the fee?
- √ What are the security deposit requirements? Does your state require that the deposit be returned with interest and an itemized statement of deductions from the deposit? Does the lease reflect that requirement?
- √ Does the lease allow you to sub-let the premises or to assign your tenancy to somebody else? It probably won't, but if it does, the clause will probably state that the landlord must approve of your sub-tenant. Make sure that the clause also says "approval shall not be unreasonably withheld."

- √ Who is responsible for utilities?
- √ What are the landlord's responsibilities to make repairs and perform routine maintenance. For example, who shovels the sidewalk in the winter?
- √ Watch out for a clause that says the landlord will have a "lien" on your personal property if you don't pay the rent or if you damage the premises. A "lien" is a right to claim somebody else's property if any stated condition, such as nonpayment, occurs. The lien will give the landlord the right to take your property away to satisfy your debt without having to prove to anybody that you have failed to pay or that the landlord has suffered a monetary loss. In other words, the landlord would not have to go through a formal eviction proceeding. While most courts would decide that the automatic lien provision could not be enforced, it's easier on you if that clause isn't even in the lease.
- √ Insist that you and the landlord walk through the premises after the landlord has agreed to rent to you so that you both see what condition its in and what repairs may be required. Make a list of any questionable items, have the landlord sign it or initial it with the date, and do the same thing yourself. Keep the list with your lease and provide a copy to the landlord. This document may prove invaluable if the landlord later withholds money from your security deposit.

TIP: Do not rely on the landlord's spoken promise not to enforce some provision, such as the no-pets provision. Get these concessions in writing and have the landlord initial them. You can write them in the margin or cross out language on the form contract. If there are changes, make sure that you have a copy of the lease with the changes and the landlord's initials.