

Section 2. Any such action shall be instituted in the court of common pleas in any county where the alleged unauthorized activity is committed. The court may issue a temporary restraining order or injunction under the act, but shall determine any such action on its merits as soon as possible, whether in term or in vacation. Appeal from any final decision of such court to the Superior or Supreme Court shall be as in similar cases.

Venue and procedure.

Section 3. No bond shall be required of, and no costs shall be taxed against, the Department of Welfare, the Department of Health, or any departmental administrative board, commission or officer of either department on account of any such action.

Commonwealth not required to file bond, nor liable for costs.

Section 4. The provisions of this act shall be construed as supplementary to all other acts dealing with the same subject matter. No action brought under the provisions of this act shall prevent the prosecution or institution of any civil or criminal action otherwise provided by law for violation of any licensing act or departmental rule or regulation promulgated thereunder.

Construction of act.

APPROVED—The 6th day of April, A. D. 1951.

JOHN S. FINE

No. 20

### AN ACT

Relating to the rights, obligations and liabilities of landlord and tenant and of parties dealing with them and amending, revising, changing and consolidating the law relating thereto.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

“The Landlord and Tenant Act of 1951.”

## ARTICLE I.

## PRELIMINARY PROVISIONS.

Section 101. Short Title.—This act shall be known and may be cited as “The Landlord and Tenant Act of 1951.”

Section 102. Definitions.—As used in this act—

(1) “Person” shall include natural persons, copartnerships, associations, private and public corporations, authorities, fiduciaries, the United States and any other country and their respective governmental agencies, the Commonwealth of Pennsylvania and any other state and their respective political subdivisions and agencies.

(2) “Justice of the peace” shall include justices of the peace, aldermen and magistrates.

(3) “Real property” shall include messuages, lands, tenements, real estate, buildings, parts thereof or any estate or interest therein, and shall include any personalty on real property which is demised with the real property.

(4) “Personal property” shall include goods and chattels, including fixtures and buildings erected by the tenant and which he has the right to remove, agricultural crops, whether harvested or growing, and livestock and poultry.

Section 103. Provisions Excluded from Act.—Nothing contained in this act shall be construed to include or in any manner repeal or modify any existing law—

(1) Providing for preference of rent in case personal property liable to distress is taken and sold by virtue of any execution and providing for the payment of such rent from the proceeds of such execution;

(2) Denying to a plaintiff the right to stay an execution without the consent of the landlord having a preference for rent due payable from the proceeds of such execution;

(3) Providing that a sale on distress shall be stayed where the personal property distrained upon is levied upon by a sheriff or where a receiver or a trustee or receiver in bankruptcy is appointed for the person whose property was distrained, and providing for a lien for the rent or the proceeds of the sale of such personal property by such officer and the payment of such rent, together with the costs of executing the landlord's warrant, from the proceeds of such sale;

(4) Providing for preference of rent in cases of insolvency and assignment for the benefit of creditors and in bankruptcy proceedings;

(5) Providing for preference of rent in the settlement of estates of decedents;

(6) Fixing the liability of the tenant to pay taxes assessed against real property occupied by him and permitting the tenant to recover the amount of the tax so paid from the landlord or to defalcate such amount against rent due or becoming due;

(7) Providing for the issuing of writs of estrepement to stay waste committed by a tenant or by others allowed by a tenant to commit waste and for the procedure in such cases;

(8) Fixing the duties and liabilities of tenants and the rights of landlords in connection with actions of ejectment brought by third parties;

(9) Prescribing special proceedings for the obtaining of possession of real property purchased at tax or judicial sales and providing for and defining the rights, remedies, duties and liabilities of such purchasers and tenants affected thereby;

(10) Except as herein specially provided, fixing fees of justices of the peace, aldermen, magistrates, sheriffs or constables in any proceedings affecting the relationship of landlord and tenant.

Section 104. Rights of Persons Acquiring Title by Descent or Purchase.—Any person who acquires title to real property by descent or purchase shall be liable to the same duties and shall have the same rights, powers and remedies in relation to the property as the person from whom title was acquired.

Section 105. Sublessees.—Any person who is a sublessee shall be subject to the provisions of the lease between the lessor and the lessee.

## ARTICLE II.

CREATION OF LEASES; STATUTE OF FRAUDS;  
MORTGAGING OF LEASEHOLDS.

Section 201. Leases for Not More Than Three Years.—Real property, including any personal property thereon, may be leased for a term of not more than three years by a landlord or his agent to a tenant or his agent, by oral or written contract or agreement.

Section 202. Leases for More Than Three Years.—Real property, including any personal property thereon, may be leased for a term of more than three years by a landlord to a tenant or by their respective agents lawfully authorized in writing. Any such lease must be in writing and signed by the parties making or creating the same, otherwise it shall have the force and effect of a lease at will only and shall not be given any greater force or effect either in law or equity, notwithstanding any consideration therefor, unless the tenancy has continued for more than one year and the landlord and tenant have recognized its rightful existence by claiming and admitting liability for the rent, in which case the tenancy shall become one from year to year.

Section 203. Assignment, Grant and Surrender of Leases to be in Writing; Exception.—No lease of any real property made or created for a term of more than three years shall be assigned, granted or surrendered except in writing signed by the party assigning, granting or surrendering the same or his agent, unless such assigning, granting or surrendering shall result from operation of law.

Section 204. Mortgaging of Leaseholds.—Every tenant of real property may mortgage his lease or term in the demised premises, together with all buildings, fixtures and machinery thereon and appurtenant thereto belonging to the tenant.

Any such mortgaging of the tenant's interest and title shall have the same effect with respect to lien, notice, evidence and priority of payment as is provided by law in the case of the mortgaging of a freehold interest and title.

Any such mortgage shall be acknowledged and placed on record in the proper county, together with the lease, as in the case of mortgages on freehold interests. If the lease is recorded in the office of the recorder of deeds of the proper county at or before the time of the recording of the mortgage, such recording shall be deemed sufficient compliance with this section if full and distinct reference is made in said mortgage to the book and page where the lease is recorded.

Any such mortgage of a tenant's interest and title may be enforced in the same manner as mortgages on freehold interests.

No such mortgage shall in any wise interfere with the landlord's rights, priority or remedies for rent.

### ARTICLE III.

#### RECOVERY OF RENT BY ASSUMPSIT AND DISTRESS.

Section 301. Recovery of Rent by Assumpsit.—Any landlord may recover from a tenant rent in arrears in an action of assumpsit as debts of similar amount are by law recoverable. In any such action, interest at the legal rate on the amount of rent due may be allowed if deemed equitable under the circumstances of the particular case.

Section 302. Power to Distrain for Rent; Notice.—Personal property located upon premises occupied by a tenant shall, unless exempted by article four of this act, be subject to distress for any rent reserved and due. Such distress may be made by the landlord or by his agent duly authorized thereto in writing. Such distress may be made on any day, except Sunday, between the hours of seven ante meridian and seven post meridian and not at any other time, except where the tenant through his act prevents the execution of the warrant through such hours.

Notice in writing of such distress, stating the cause of such taking, specifying the date of levy and the personal property distrained sufficiently to inform the tenant or owner what personal property is distrained and the amount of rent in arrears, shall be given, within five days after making the distress, to the tenant and any other owner known to the landlord, personally, or by mailing the same to the tenant or any other owner at the premises, or by posting the same conspicuously on the premises charged with the rent.

A landlord or such agent may also, in the manner above provided, distrain personal property located on the premises but only that belonging to the tenant, for arrears of rent due on any lease which has ended and terminated, if such distress is made during the continuance of the landlord's title or interest in the property.

Section 303. Collection of Rent in Special Cases.—

(a) The following persons shall have the right to collect all rent due by assumpsit or by distraint on personal property located on the real property subject to such rent:

- (1) The owner of a ground rent;

(2) The personal representative of a deceased landlord or deceased tenant for life who has demised the real property subject to his estate, or a deceased landlord whose real property has escheated to the Commonwealth, whether such rent accrued prior to or after the death of the decedent and until the termination of the administration of the estate;

(3) The escheator appointed for the purpose of collecting rents;

(4) The spouse of a deceased landlord to whom real property has been set aside as his or her allowance by law; and,

(5) A widow who is the party named in a deed, agreement or decree of court under which a charge is made upon such real estate for the payment of instalments of dower.

(b) Any person given the right by this section to collect and distrain for rent shall be deemed for the purposes of this article to be a landlord.

Section 304. Collection of Rent by Purchasers at Sheriffs' and Judicial Sales.—In the case of a tenant whose right of possession is not paramount to that of the purchaser at a sheriff's or other judicial sale, the latter shall have the right as a landlord to collect by assumpsit or to distrain for rent from the date of the acknowledgment of his deed, except for such fractional part of a quarter as the tenant, if a farmer or one engaged in raising crops or produce, or such fractional part of a month in other cases, as the tenant may, in accordance with the terms of his letting, have paid as an advance payment prior to the date of the acknowledgment of said deed. In the case of a tenant whose right of possession is paramount to that of such purchaser, advance rent paid prior to the date of acknowledgment of the purchaser's deed shall be deemed properly paid though paid prior to its due date, unless it is so paid with the actual notice of the pendency of the proceedings resulting in the sale or with intent to defeat the rights of a purchaser thereat.

The right of possession of a tenant for years shall not be deemed paramount to that of a purchaser at a tax sale.

The right of possession of a tenant shall be deemed paramount to that of a purchaser at a judicial sale if and only if the letting to him shall precede in point of date the entry of the judgment, order or decree on which such sale was had and also shall precede the recording or registering of the mortgage, deed or will, if any, through which by legal proceedings the purchaser derives title, and shall not be paramount if the letting is made with actual notice to such tenant of the contem-

plated entry of such judgment, order or decree or of the fact of the execution of such mortgage, deed or other instrument of writing and with intent to avoid the effect thereof.

Section 305. Distress of Property Fraudulently Removed.—In case any tenant of any real property shall fraudulently or clandestinely remove from the demised premises his personal property with intent to prevent the landlord from distraining the same for arrears of rent, it shall be lawful for the landlord or his agent, within the space of thirty days next ensuing such removal, to take and seize such personal property, wherever the same may be found, in distress for said arrears of rent and to proceed to sell the same, as hereinafter provided, as if the personal property had actually been distrained upon on the demised premises.

Section 306. Replevin by Tenant or Owner.—The tenant or owner of any personal property distrained on may, within five days next after notice of such distress, replevy the same. All proceedings in replevin shall be conducted in accordance with general law and applicable rules of procedure governing actions of replevin.

Section 307. Proceeding by Tenant to Determine Set-Off.—Any court of record or court not of record having jurisdiction in civil actions at law may entertain an action to defalcate by a tenant against a landlord where the landlord has distrained for arrears of rent, to compel the landlord to set-off any account which the tenant may have against the landlord. No such court shall entertain any such action where the rent or set-off claimed is in excess of its civil jurisdiction. Proceedings in such actions shall be the same as in actions of assumpsit.

The court shall determine the amount of rent in arrears and the amount of the set-off, if any, and enter judgment in favor of the proper party for the balance due.

If such judgment is in favor of the landlord he may, in lieu of issuing execution thereon, proceed with his distress for the amount of such judgment. If the landlord shall sell more personal property than necessary to satisfy such judgment and costs and fail to pay the overplus to the tenant, he shall be liable in trespass to double the amount of the sum so detained, together with the costs of suit. If the landlord shall proceed to sell any personal property after notice of any such proceeding to defalcate and before judgment in his favor thereon, he shall be liable in trespass to double the amount by which the sum realized from such sale exceeds the sum to which he shall be found to be entitled by the final judgment



in the defalcation proceeding, together with the costs of suit in the defalcation proceeding, if such judgment be in his favor.

If the landlord proceeds with the distress, he shall satisfy the judgment to the extent of the amount realized on the sale, less the costs of the distress, or on his failure to do so, the tenant may proceed by rule to have such satisfaction entered.

Section 308. Appraisement of Property Levied Upon.—If the tenant or owner of the personal property distrained upon fails to replevy the same within said five days next after distress and notice thereof, the person distraining may, with the sheriff or his deputy or any constable or his deputy, which officer upon demand of the landlord shall aid and assist, cause the personal property so distrained to be appraised by two disinterested and competent persons appointed by said officer.

The appraisers shall each take the following oath or affirmation to be administered by the assisting officer:

“I . . . . ., do solemnly swear (or affirm) that I will well and truly, according to my understanding, appraise the personal property of . . . . ., distrained on for rent by . . . . .”

Each appraiser shall receive two dollars (\$2) per diem for his services in making the appraisement, to be paid out of the proceeds of the sale.

Section 309. Sale and Notice Thereof; Distribution of Proceeds.—After the appraisement has been completed, the sheriff, deputy sheriff, constable or deputy constable shall fix a day, time and place of sale, of which at least six days public notice in writing shall be given by handbills. The notice of sale shall specify the personal property to be sold sufficiently to inform the tenant or owner and to induce bidders to attend the sale. On the day and at the time fixed for the sale or on any day and time to which said sale may be adjourned, the sheriff, deputy sheriff, constable or deputy constable shall publicly sell the personal property so distrained for the best price that can be obtained for the same.

The proceeds of the sale shall be paid out in the following order: First, for the payment of any wages due by the tenant which by law are given preference and to the same extent and upon the same conditions of notice being given as required by the wage preference law and notice of the claim to the officer executing the landlord's warrant; second, for the payment of the charges and costs for making the distress, appraisement and sale; third, for the satisfaction of the rent for which the personal property was distrained; fourth, any overplus for the use of the owner.

Section 310. Rights of Purchasers of Growing Agricultural Crops.—The purchaser of any growing agricultural crops at a sale on distress for rent shall at all times have free ingress and egress to and from the premises where the same may be growing and the right to repair fences. He shall have the right to dig, cut, gather, lay up and thresh the same in the same manner as the tenant might legally have done and thereafter to carry the same away from the premises.

Section 311. Damages for Removal of Property Distrained On.—Any landlord having distrained upon personal property for rent due who is aggrieved by the unlawful removal thereof shall, in an action of trespass, recover treble damages, together with the costs of suit, against the offender or against the owner, if it be afterwards found that the personal property has come into his use or possession.

Section 312. Remedy in Cases of Improper Distress.—The landlord and his agent shall be liable to the tenant or the owner of the personal property distrained on in an action of trespass, (1) If the distress is for more rent than is due, (2) or if the amount of personal property distrained is unreasonably great, (3) or if made after a proper tender of the rent due was rejected, (4) or if the distress is conducted irregularly or oppressively, (5) or if any personal property taken in distress was, to the knowledge of the landlord or his agent, not distrainable, (6) or if the distress is made at an improper time, (7) or if the landlord or his agent receives notice, after the distress, from the owner or his agent or from the tenant having possession of the property that the personal property distrained on was not subject to distress and nevertheless proceeds with the sale without affording the owner a five day period after such notice to replevy such personal property.

Section 313. Remedy Where Distress and Sale Made and No Rent Due.—In case any distress and sale of personal property shall be made for rent when no rent is due to the person distraining or to the person in whose name the distress has been taken, then the owner of the personal property shall, by action of trespass brought against the person distraining, recover double the value of the personal property so distrained and sold, together with the costs of suit.

#### ARTICLE IV.

##### EXEMPTIONS FROM DISTRESS AND SALE.

Section 401. Tenant's Exemption; Appraisement.—Unless the right of exemption has been waived by the tenant in writing, personal property to the value of

three hundred dollars (\$300), in addition to any other personal property specifically exempted by this article, shall be exempt from levy and sale by distress for rent.

The officer charged with the execution of any landlord's warrant shall, if requested by the tenant, summon two disinterested and competent persons, who shall be sworn or affirmed by such officer to appraise personal property, including bank notes, money, stocks, judgments or other indebtedness due the tenant, to the value of three hundred dollars (\$300), which the tenant may elect to retain, and the property so elected and appraised shall be exempt from levy and sale in such distress proceedings.

Each appraiser shall be entitled to receive two dollars (\$2.00) for his services.

Section 402. Wearing Apparel; Bibles; School Books; Sewing Machines and Military Accoutrements to be Exempt.—All wearing apparel of the tenant and his family, all Bibles and school books in use in the tenant's family, all sewing machines belonging to seamstresses or used and owned by private families, and all uniforms, arms, ammunition and accoutrements of any commissioned officer or enlisted man of the National Guard or of the armed forces of the United States, shall be exempt from levy and sale on any landlord's warrant. Nothing contained in this section shall be construed to exempt sewing machines kept for sale or hire.

Section 403. Exemption of Property on Premises Under Lease or Conditional Sale Contract.—The following personal property loaned to or leased or hired by any person, or conditionally sold to any such person under a contract of sale reserving title in the vendor until paid for, shall be exempt from levy and sale on distress for rent so long as the title thereto remains in the owner, lessor or conditional vendor, if written notice, specifically describing the personal property leased, hired or conditionally sold, shall be given to the landlord or his agent at the time the said personal property is placed upon the demised premises or within ten days thereafter, which notice shall contain a statement of the respective amounts due on each article named in the notice, and when so given, shall be effective as to such landlord and any future owner or owners of said premises, that is to say—

- (1) All pianos, melodeons and organs;
- (2) All soda water apparatus and the appurtenances thereto;
- (3) All sewing machines and typewriting machines;
- (4) All electric motors, electric fans and dynamos;
- (5) All ice cream cabinets and ice cream containers and the appurtenances thereto;

- (6) All household furniture and household goods;
- (7) All patented shoe repairing machinery and tools;
- (8) All beauty and barber shop furniture and equipment;
- (9) All cigarette vending machines.

In the case of personal property enumerated in clauses (2) and (5) of this section, notice may be given in the manner above provided or, in lieu thereof, the name and address of the owner, lessor or conditional vendor may be marked on or attached to said property in a conspicuous part thereof.

Upon request at any reasonable time the owner, lessor or conditional vendor of any personal property enumerated in this section shall advise the landlord or his agent as to the status of his account with the tenant. In default of such advice, it shall be conclusively presumed no balance is due on said account.

Any landlord may levy upon and sell on distress for rent any right or interest of the tenant in any personal property mentioned in this section, subject to the rights therein of the owner, lessor or conditional vendor.

Section 404. Exemption of Other Property Located on Premises.—The following personal property located on premises occupied by a tenant shall be exempt from levy and sale on distress for rent, i. e., personal property—

(1) Necessarily put in possession of the tenant in the course of his business by those with whom the tenant deals or by those who employ the tenant;

(2) Actually held by the tenant for someone else in the course of trade, as agent or as consignee;

(3) Sold for a valuable consideration by the tenant before distress to any bona fide \*purchaser not privy to any fraud;

(4) Of any guest at an inn or hotel, or of a boarder at a boarding house where such property is in the exclusive use of such boarder;

(5) Of a decedent;

(6) Of the United States and its governmental agencies, or of the Commonwealth of Pennsylvania or of any political subdivision thereof;

(7) Of any public service company, essential to the performance of its public functions; or,

(8) Cattle or stock taken by the tenant to be fed or cared for on the leased premises for a consideration to be paid by the owner.

\* "purchase" in original.

## ARTICLE V.

## RECOVERY OF POSSESSION.

Section 501. Notice to Quit.—A landlord desirous of repossessing real property from a tenant may notify, in writing, the tenant to remove from the same at the expiration of the time specified in the notice under the following circumstances, namely, (1) Upon the termination of a term of the tenant, (2) or upon forfeiture of the lease for breach of its conditions, (3) or upon the failure of the tenant, upon demand, to satisfy any rent reserved and due, where there is not personal property on the premises adequate to satisfy the rent in arrears except such property as is by this act exempt from levy and sale on distress for rent.

In case of the expiration of a term or of a forfeiture for breach of the conditions of the lease where the lease is for any term of less than one year or for an indeterminate time, the notice shall specify that the tenant shall remove within thirty days from the date of service thereof, and when the lease is for one year or more, then within three months from the date of service thereof. In case of failure of the tenant, upon demand, to satisfy any rent reserved and due, the notice, if given on or after April first and before September first, shall specify that the tenant shall remove within fifteen days from the date of the service thereof, and if given on or after September first and before April first, then within thirty days from the date of the service thereof.

The notice above provided for may be for a lesser time or may be waived by the tenant if the lease so provides.

The notice provided for in this section may be served personally on the tenant, or by leaving the same at the principal building upon the premises, or by posting the same conspicuously on the leased premises.

Section 502. Complaint.—If the tenant shall fail to remove from the real property in compliance with such notice, the landlord or his agent may complain in writing, under oath or affirmation, to any justice of the peace in the county in which the real property is situated.

The landlord's complaint shall set forth with particulars, dates and amounts, (1) that he was quietly and peaceably possessed of the real property from which the tenant was notified to remove, (2) that he demised the same for a specified or indeterminate term to the tenant or to some other person under whom the tenant claims, (3) that due notice to remove has been given to the tenant or that no notice was required under the terms of the lease, (4) that the term for which the same was demised

is fully ended, or that a forfeiture has resulted by reason of a breach of the conditions of the lease, or that any rent reserved and due has, upon demand, remained unsatisfied, as the case may be, (5) that the tenant retains the real property and refuses to give up possession of the same, and (6) the amount of rent, if any, which remains due and unpaid and the amount of damages claimed for unjust detention of the real property, if any.

Section 503. Summons and Service.—Upon the filing of the complaint, the justice of the peace shall issue his summons reciting substantially the complaint, and directed to any constable or the sheriff of the county commanding him to summon the tenant to appear before such justice of the peace to answer said complaint on a day not less than five nor more than eight days from the date of the summons and at a time fixed therein.

Such summons may be served personally on the tenant, or by mailing the same to the tenant, or by posting the same conspicuously on the leased premises.

Section 504. Hearing; Judgment; Writ of Possession; Payment of Rent by Tenant.—On the day and at the time appointed or on any day to which the case may be adjourned, the justice of the peace shall proceed to hear the case. If it shall appear that the complaint has been sufficiently proven, the justice of the peace shall enter judgment against the tenant that the real property be delivered up to the landlord and for damages, if any, for the unjust detention of the demised premises, as well as for the amount of rent, if any, which remains due and unpaid and for costs of the proceeding.

At the request of the landlord he shall, after the fifth day after the rendition of such a judgment, issue a writ of possession directed to the constable or sheriff commanding him forthwith to deliver actual possession of the real property to the landlord and also to levy the costs and amount of judgment for damages and rent, if any, on the tenant, in the same manner as judgments and costs are levied and collected on writs of execution.

If, however, it shall appear that the said complaint is vexatious and unfounded, then the justice of the peace shall dismiss the case and assess the costs against the landlord.

At any time before any writ of possession is actually executed, the tenant may, in any case for the recovery of possession solely because of failure to pay rent, supersede and render the writ of no effect by paying to the constable or sheriff the rent actually in arrears and the costs.

Section 505. Return of Constable or Sheriff.—The constable or sheriff shall make return of said writ of possession to the justice of the peace within ten days

after receiving the same. He shall be answerable in default of executing said writ according to its terms and for failure to pay over the amount received by him in satisfaction of the judgment or the rent and costs paid to him by the tenant, in the same manner as such officers are now by law answerable on other writs of execution.

Section 506. Appeal; Certiorari.—Within five days after the rendition of judgment, either party may appeal to the next court of common pleas upon filing in that court a bond with one or more sufficient sureties, conditioned for the payment of all costs and rent that have accrued or may accrue up to the time of final judgment and for damages assessed, if any, in case the judgment shall be affirmed. Any such appeal shall be tried in the same manner as other suits are tried. Such appeal shall not be a supersedeas to the writ of possession in any case except upon special allowance of the court to which the appeal is taken.

If upon the appeal the jury shall find in favor of the tenant, they shall also assess any damages which he may have sustained by reason of his removal from the premises and judgment shall be entered for such damages and costs and that the tenant shall retain or recover possession of the demised real estate, as the case may be. The tenant shall have the necessary writ or writs of execution to enforce said judgment.

A writ of certiorari to remove the proceedings before the justice of the peace may be had as in other cases and the court of common pleas shall review the same de novo.

Section 507. Proceeding Where Title to Real Property Is in Dispute.—If in any such proceeding by a landlord to repossess real property the tenant shall declare in writing, on oath or affirmation, that the title to the real property is disputed and claimed by some other person named by the tenant, by virtue of a right or title accruing since the commencement of the lease by descent from or deed or will of the landlord, and if the person so named and claiming does not forthwith appear voluntarily, then the justice of the peace shall immediately issue a summons returnable in six days commanding such person to appear before him.

If the person so summoned fails to appear, the justice of the peace shall proceed to give judgment as though no such dispute or claim had been made.

If the person so summoned shall declare in writing, on oath or affirmation, that he verily believes that he is entitled to the real property in dispute and shall give bond, as hereinafter provided, then the justice of the peace, upon notice of the filing of such bond, shall not enter judgment.

Any such bond shall be filed in the court of common pleas of the county, shall be in such sum as the court shall fix, shall have thereon one or more sufficient sureties, and shall be conditioned that the person claiming title to such real property shall prosecute his claim by ejectment at the next term of the court of common pleas. If said claim is not so prosecuted the bond shall be forfeited to the landlord, and the justice of the peace shall proceed to give judgment and cause the judgment to be executed, as hereinbefore provided.

Section 508. Proceedings Where Tenant Claims Title as Joint Tenant or Tenant in Common.—If in any such proceeding by a landlord to repossess real property the tenant or person in possession shall declare in writing, on oath or affirmation, that the real property in dispute is held and claimed by him as joint tenant or tenant in common with the landlord and that he verily believes that the real property so held does not exceed in quantity or value the just proportion of the tenant's share as joint tenant or tenant in common, and shall file a bond in the court of common pleas with one or more sufficient sureties in such sum as the court shall fix, conditioned to prosecute his claim by ejectment at the next term of court of common pleas, then the said justice of the peace, upon notice of the filing of such bond, shall not enter judgment. If the said claim is not so prosecuted the bond shall be forfeited to the landlord, and the justice of the peace shall proceed to give judgment and cause the judgment to be executed, as hereinbefore provided.

Section 509. Return Where Tenant Retains Forcible Possession; Notice to Tenant that Alias Writ Will be Issued Requiring Use of Force, and Service Thereof.—In any case brought by a landlord before a justice of the peace for the recovery of the possession of real property, if there is no supersedeas to the writ of possession, and the tenant or occupant forcibly detains the real property against the officer serving the writ of possession, the constable or sheriff shall make return of the writ as follows: "Unserved because the tenant or occupant forcibly detains possession of the real property."

Whereupon, after the expiration of ten days from the rendition of judgment by the justice of the peace, as in this article provided, and the issuing of the writ of possession to the officer, such officer shall notify, in writing, the tenant or occupant that an alias writ of possession will be issued setting forth his duty to use such force as may be necessary by the breaking in of any door, or otherwise to enter upon the real property for the purpose of executing a writ of possession in accordance with the judgment obtained.



Any such notice may be served personally on the tenant or occupant, or by leaving same at the principal building upon the premises, or by posting the same conspicuously on the leased premises.

Section 510. *Alias Writ of Possession; Forcible Ejection of Tenant or Occupant.*—If the tenant or occupant fails to deliver up possession of the real property within ten days after the service of the notice, as provided in the last preceding section, the justice of the peace shall issue an alias writ of possession and the officer shall thereupon use such force as may be necessary by the breaking in of any door or otherwise to enter upon the real property and to eject the tenant or occupant and shall deliver possession of the real property to the landlord or his agent.

Section 511. *Remedy to Recover Possession by Ejectment Preserved.*—Nothing contained in this article shall be construed as abolishing the right of any landlord to recover possession of any real property from a tenant by action of ejectment, or from instituting any amicable action of ejectment to recover possession of any real property by confessing judgment in accordance with the terms of any written contract or agreement.

## ARTICLE VI.

### REPEALS.

Section 601. *Specific Repeals.*—The following acts and parts of acts are hereby repealed as respectively indicated:

Sections 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13 and 14 of the act, approved the twenty-first day of March, one thousand seven hundred and seventy-two (1 Smith Laws 370), entitled “An act for the sale of goods distrained for rent, and to secure such goods to the persons distraining the same, for the better security of Rents, and for other purposes therein mentioned,” absolutely.

Section 1 of the act, approved the twenty-first day of March, one thousand seven hundred and seventy-two (1 Smith Laws 389), entitled “An act for prevention of frauds and perjuries,” in so far as it applies to leases.

Section 20 of the act, approved the twentieth day of March, one thousand eight hundred and ten (Pamphlet Laws 208), entitled “An act to amend and consolidate with its Supplements, the Act entitled ‘An act for the recovery of debts and demands, not exceeding one hundred dollars, before a Justice of the Peace, and for the election of Constables, and for other purposes,’” absolutely.

The act, approved the twenty-second day of March, one thousand eight hundred and fourteen (Pamphlet Laws 179), entitled "A Supplement to an act entitled 'An act for the sale of goods distrained for rent, and to secure such goods to the persons distraining the same for the better security of rents, and for other purposes therein mentioned,'" absolutely.

Sections 1 and 2 of the act, approved the third day of April, one thousand eight hundred and thirty (Pamphlet Laws 187), entitled "An act relative to landlord and tenant," absolutely.

Sections 119 and 120 of the act, approved the sixteenth day of June, one thousand eight hundred and thirty-six (Pamphlet Laws 755), entitled "An act relating to executions," absolutely.

Section 6 of the act, approved the ninth day of April, one thousand eight hundred and forty-nine (Pamphlet Laws 524), entitled "A supplement to an act relative to the venders of mineral waters; and an act relative to the Washington coal company; to sheriffs' sales of real estate; to the substitution of executors and trustees when plaintiffs; to partition in the courts of common pleas, and for other purposes," absolutely.

Sections 1 and 2 of the act, approved the ninth day of April, one thousand eight hundred and forty-nine (Pamphlet Laws 533), entitled "An act to exempt property to the value of three hundred dollars from levy and sale on execution and distress for rent," in so far as it applies to distress for rent.

Section 8 of the act, approved the twenty-seventh day of April, one thousand eight hundred and fifty-five (Pamphlet Laws 368), entitled "An act to amend certain defects of the law for the more just and safe transmission and secure enjoyment of real and personal estate," absolutely.

The act, approved the eighth day of April, one thousand eight hundred and fifty-seven (Pamphlet Laws 170), entitled "A supplement to the act to exempt property to the value of three hundred dollars from levy and sale on executions and distress for rent, approved the ninth day of April, one thousand eight hundred and forty-nine," in so far as it applies to distress for rent.

The act, approved the \*eighth day of April, one thousand eight hundred and fifty-nine (Pamphlet Laws 425), entitled "An act relative to the Exemption of Three Hundred Dollars and to the Widows and Children of decedents," in so far as it applies to distress for rent.

The act, approved the twenty-second day of March, one thousand eight hundred and sixty-one (Pamphlet Laws 181), entitled "A supplement to an act, passed the

\* "eight" in original.

third day of April, Anno Domini one thousand eight hundred and thirty, relating to Landlords and Tenants," absolutely.

The act, approved the fourteenth day of December, one thousand eight hundred and sixty-three (1864, Pamphlet Laws 1125), entitled "An act relative to Landlords and Tenants," absolutely.

The act, approved the eleventh day of April, one thousand eight hundred and sixty-six (Pamphlet Laws 97), entitled "Supplement to an act relating to landlords and tenants," absolutely.

The act, approved the twentieth day of February, one thousand eight hundred and sixty-seven (Pamphlet Laws 30, No. 10), entitled "A supplement to an act relative to landlords and tenants, approved December fourteen, one thousand eight hundred and sixty-three, extending the provisions thereof to cases of descent and purchase," absolutely.

The act, approved the third day of April, one thousand eight hundred and sixty-eight (Pamphlet Laws 57, No. 25), entitled "An act relative to mortgages of leasehold estates," absolutely.

The act, approved the seventeenth day of April, one thousand eight hundred and sixty-nine (Pamphlet Laws 69, No. 44), entitled "An act to exempt sewing machines belonging to seamstresses in this Commonwealth from levy and sale on execution or distress for rent," in so far as it applies to distress for rent.

The act, approved the fourth day of March, one thousand eight hundred and seventy (Pamphlet Laws 35, No. 13), entitled "A supplement to an act, entitled 'An act to exempt sewing machines belonging to seamstresses, in this Commonwealth, from levy and sale on execution or distress for rent,' " in so far as it applies to distress for rent.

The act, approved the sixth day of March, one thousand eight hundred and seventy-two (Pamphlet Laws 22, No. 9), entitled "An act in relation to landlord and tenant proceedings under the act of December fourteenth, one thousand eight hundred and sixty-three," absolutely.

The act, approved the thirteenth day of May, one thousand eight hundred and seventy-six (Pamphlet Laws 160), entitled "A supplement to an act to amend certain defects of \*the law for the more just and safe transmission and secure enjoyment \*\*of real and personal estate, approved the twenty-seventh day of April, Anno Domini one thousand eight hundred and fifty-five, declaring how mortgages and leases provided for in the eighth section of said act shall be recorded," absolutely.

\* "the" omitted in original.

\*\* "or" in original.

The act, approved the thirteenth day of May, one thousand eight hundred and seventy-six (Pamphlet Laws 171, No. 134), entitled "An act to exempt pianos, melodeons and organs leased or hired from levy or sale on execution or distress for rent," in so far as it applies to distress for rent.

The act, approved the twenty-fifth day of June, one thousand eight hundred and ninety-five (Pamphlet Laws 282), entitled "An act to exempt sewing machines and type writing machines, leased or hired, from levy or sale on execution or distress for rent," in so far as it applies to distress for rent.

The act, approved the twenty-eighth day of April, one thousand eight hundred and ninety-nine (Pamphlet Laws 117, No. 94), entitled "An act supplementary to an act, entitled 'An act to exempt pianos, melodeons and organs, leased or hired, from levy or sale on execution or distress for rent,' approved the thirteenth day of May, Anno Domini one thousand eight hundred and seventy-six," in so far as it applies to distress for rent.

The act, approved the thirty-first day of March, one thousand nine hundred and five (Pamphlet Laws 87), entitled "An act to provide for notice in the recovery of possession of premises by a landlord, in all cases where the tenant holds for a term less than one year, either by license or lease for an indeterminate time," absolutely.

The act, approved the tenth day of April, one thousand nine hundred and five (Pamphlet Laws 135), entitled "An act for the better enforcement of the service of writs of possession in landlord and tenant cases, where the premises are \*forcibly detained by the occupant," absolutely.

The act, approved the twenty-seventh day of April, one thousand nine hundred and nine (Pamphlet Laws 197), entitled "A supplement to an act, entitled 'An act defining and regulating escheats, in cases where property is without a lawful owner, and providing for more convenient proceedings relative to the same,' approved May second, one thousand eight hundred and eighty-nine (Pamphlet Laws 66); providing for the collection of rent by escheators, in all cases where lands or tenements have escheated or may hereafter escheat to the Commonwealth," absolutely.

The act, approved the third day of May, one thousand nine hundred and nine (Pamphlet Laws 407), entitled "An act to exempt electric motors, electric fans, or dynamos, leased or hired, from levy or sale on execution, or distress for rent," in so far as it applies to distress for rent.

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\* "forcibly" in original.

The act, approved the third day of May, one thousand nine hundred and nine (Pamphlet Laws 423), entitled "An act exempting soda-water apparatus and appurtenances thereto, leased, hired, or conditionally sold, from levy or sale on execution or distress for rent," in so far as it applies to distress for rent.

The act, approved the twentieth day of May, one thousand nine hundred and thirteen (Pamphlet Laws 238), entitled "An act relating to the service of notices and summons in landlord and tenant cases," absolutely.

The act, approved the twenty-second day of April, one thousand nine hundred and twenty-seven (Pamphlet Laws 351), entitled "An act exempting ice cream cabinets, ice cream containers, and the appurtenances thereto, leased, loaned, hired, or conditionally sold, from levy or sale on execution or distress for rent," in so far as it applies to distress for rent.

The act, approved the second day of June, one thousand nine hundred and thirty-three (Pamphlet Laws 1417), entitled "An act exempting household furniture and household goods, leased, hired, or conditionally sold, from levy and sale on execution or distress for rent under certain conditions," in so far as it applies to distress for rent.

The act, approved the second day of June, one thousand nine hundred and thirty-three (Pamphlet Laws 1419, No. 304), entitled "An act exempting shoe repairing machinery and tools and the appurtenances thereto, leased, loaned, hired or conditionally sold, from levy or sale on execution or distress for rent," in so far as it applies to distress for rent.

The act, approved the twenty-sixth day of May, one thousand nine hundred and forty-three (Pamphlet Laws 634), entitled "An act exempting beauty and barber shop furniture, mechanical appliances and equipment leased, hired or conditionally sold from levy and sale on execution or distress for rent under certain conditions," in so far as it applies to distress for rent.

The act, approved the fifth day of July, one thousand nine hundred and forty-seven (Pamphlet Laws 1355), entitled "An act exempting cigarette vending machines, leased, loaned, hired or conditionally sold, from levy or sale on execution or distress for rent," in so far as it applies to distress for rent.

Section 602. General Repeal.—All other acts and parts of acts, general, local and special, inconsistent with or supplied by this act, are hereby repealed. It is intended that this act shall furnish a complete and exclusive system in itself.

APPROVED—The 6th day of April, A. D. 1951.

JOHN S. FINE