

CHAPTER 234.

LANDLORDS AND TENANTS AND GENERAL PROVISIONS.

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234.01 Distress for rent. The common-law right of a landlord to distrain for rent is abolished.

234.02 Attornment to stranger. The attornment of a tenant to a stranger shall be absolutely void and shall not in anywise affect the possession of his landlord unless it be made:

- (1) With the consent of the landlord; or
- (2) Pursuant to or in consequence of a judgment or order of a court of competent jurisdiction; or
- (3) To a purchaser upon a judicial sale who shall have acquired title to the lands by a conveyance thereof after the period for redemption, if any, has expired.

Note: Landowner's agreement to give cropper one-half of crops for working premises held a contract for services with title to crops remaining in landowner until division, rendering cropper's chattel mortgage, given after having breached agreement, ineffective as against owner. *Herried v. Broadhead*, 211 W 512, 248 NW 470.

234.03 Tenancies, how terminated. Whenever there is a tenancy at will or by sufferance, created in any manner, the same may be terminated by giving at least 30 days' notice in writing to the tenant requiring him to remove from the demised premises, or by the tenant's giving at least 30 days' notice in writing that he shall remove from said premises, and by surrendering to the landlord the possession thereof within the time limited in such notice; but when the rent reserved in a lease at will is payable at periods of less than one month such notice shall be sufficient if it be equal to at least the interval between the times of payment; and in all cases of neglect or refusal to pay the rent due on a lease at will at least 14 days' notice to remove given by the landlord, shall be sufficient to determine the lease. [1935 c. 78; 1943 c. 113]

Note: A provision in a lease for the forfeiture of a deposit if the lessee failed to fulfill the obligations of the lease, is construed as not a provision for liquidated damages which would release the lessee abandoning the premises from further liability for rent. *Elmor R. Co. v. Community Theatres*, 208 W 76, 241 NW 632.

The use of premises by a lessee under a mortgagor for the illegal sale of intoxicating liquor constituted a breach of a covenant in the lease that the lessee would not use the premises for any purpose calculated to injure its reputation, entitling the receiver in a foreclosure proceeding to the immediate possession of such premises under a covenant giving the right of re-entry for breach of the covenants contained in the lease. *Evans v. Orgel*, 221 W 152, 266 NW 176.

See note to 231.05, citing *Hartnup v. Fields*, 247 W 473, 19 NW (2d) 878.

234.04 Notice, how served; re-entry by landlord. Such notice shall be served in the manner provided in sections 262.08 and 262.09 for the service of a summons, and such notice may be served by the lessor or any person in his behalf. In case the tenant of the demised premises cannot be found, nor any usual place of abode of said tenant and member of his family of suitable age and discretion upon whom to make such service, then such notice may be served on a person residing on the demised premises, if there be one, and if not then such notice may be served by affixing same in a conspicuous part of the premises, where it may be conveniently read; and at the expiration of the time required after the service of such notice the landlord may re-enter, or maintain an action for the recovery of the possession thereof, or proceed in the manner prescribed by law to remove such tenant without any further or other notice to quit. [1947 c. 478]

Note: A landlord who has given the thirty-day statutory notice to terminate a tenancy at will may reenter in a peaceable manner after the period has expired. Its right to do so is not affected by the fact that it sought the additional protection of a writ of restitution which was issued upon a void judgment. In such case, entry by the sheriff through the unlocking of the door by the janitor in the tenant's absence is peaceable. *Shefelker v. First Nat. Bank*, 212 W 659, 250 NW 870.

234.05 Liability for double rent. If any tenant shall give notice of his intention to quit the premises by him holden and shall not accordingly deliver up the possession thereof at the time in such notice specified such tenant, his executors or administrators shall from thenceforward pay to the landlord, his heirs or assigns double the rent which he should otherwise have paid, to be recovered at the same time and in the same manner as the single rent, and such double rent shall continue to be paid during all the time such tenant shall continue in possession as aforesaid.

234.06 Tenants for life, etc., to pay double value, when. If any tenant for life or years, or if any other person who may come into the possession of any lands or tenements, under or by collusion with such tenant, shall wilfully hold over any lands or tenements after the termination of such time and after demand made and one month's notice in writing given, in the manner hereinbefore provided, requiring the possession thereof by the person entitled thereto, such person so holding over shall pay to the person so kept out of possession or his representatives at the rate of double the yearly value of the lands or tenements so retained for so long a time as he shall so hold over or keep the person entitled out of possession; and shall also pay and remunerate all special damage whatever to which the person so kept out of possession may be subjected by reason of such holding over.

234.07 Tenant holding over is tenant from year to year; how tenancy ended. If a tenant for a year or more shall hold over after the expiration of his term he may, at the election of his landlord, be considered a tenant from year to year upon the terms of the original lease. But such tenancy may be terminated at the end of any year after the expiration of said term by either party to said lease upon giving to the other party thereto a notice in writing, not less than thirty days prior to the date of such expiration, that he elects to terminate such lease at the end of such year.

Note: While in the absence of agreement as to future occupancy by the tenant and there has been a holding over after expiration of a lease for years, the term is presumed to be for a year, the option on the part of the landlord to regard the tenant as liable for another year period cannot be exercised when the tenant remains in possession under an agreement that he is to hold for a shorter period. *Hog v. Johnson*, 209 W 581, 245 NW 650.

Where the defendant took possession of garage premises under a five-year lease in his individual name, and was then doing business as an individual although operating and paying rent under a corporate name, and he made no attempt to surrender possession on the expiration of the lease, he could be considered, at the election of the landlord, a holdover tenant from year to year on the terms of the original lease, and could be held personally liable for the rent during the years that there was a holding over, in view of the fact that neither the landlord nor her agent knew or should have known that the defendant was not the tenant, although the defendant in fact had incorporated his business and assigned the original lease to the corporation and rent checks were issued in its name. *Voelz v. Spengler*, 237 W 621, 296 NW 593.

234.08 Recovery of rent on life lease. Any person having any rent due upon any lease for life or lives may have the same remedy to recover such arrears as if such lease were for years.

234.09 Person in possession liable for rent. Every person in possession of land out of which any rent is due, whether it was originally demised in fee or for any other estate of freehold, or for any term of years, shall be liable for the amount or proportion of rent due from the land in his possession although it be only a part of what was originally demised; and in any action for the recovery of such rent the deed of demise or other instrument in writing, if there be any, showing the provisions of the lease, may be used in evidence by either party to prove the amount due from the defendant.

Note: This section does not relieve mortgagors from liability under the mortgage for taxes by imposing such liability upon corporation, allegedly an agent of mortgagees, which had accepted assignment, after taxes had accrued, of leasehold interest in mortgaged property under lease requiring lessee to pay taxes. *Brown v. Loewenbach*, 217 W 379, 253 NW 379.

Where the lessee permits a third party to occupy and use the premises the lease may be used as evidence to prove the amount of rent due the landlord. *Maas v. Lutz*, 231 W 422, 285 NW 345.

234.10 Legal remedy not impaired. Nothing contained in the preceding sections shall deprive landlords of any legal remedy for the recovery of their rents, whether secured to them by their leases or provided by law.

234.11 Remedy for arrears on termination of life estate. Every person entitled to any rents dependent upon the life of any other may, notwithstanding the death of such other person, have the same remedy by action for the recovery of all arrears of such rent that shall be behind and unpaid at the death of such other person as he might have had if such person were in full life.

234.12 Remedy of executors. The executors or administrators of every person to whom any rent shall have been due and unpaid at the time of his death may have the same remedy by action for the recovery of all such arrears that their testator or intestate might have had if living.

234.13 Life tenant's executors may recover rent. When a tenant for life, who shall have demised any lands, shall die on or after the day when any rent became due and payable his executors or administrators may recover from the undertenant the whole rent due; if he die before the day when any rent is to become due they may recover the proportion of rent which accrued before his death.

234.14 Remedy of lessor's grantees. The grantees of any demised lands, tenements, rents or other hereditaments or of the reversion thereof, the assignee of the lessor or any demise and the heirs and personal representatives of the lessor, grantee or assignee shall have the same remedies by entry, action or otherwise for the nonperformance of any agreement contained in the lease so assigned or for the recovery of any rent or for the doing of any waste or other cause of forfeiture as their grantor or lessor had or might have had if such reversion had remained in such lessor or grantor.

234.15 Remedies of lessees against assignee of lessor. The lessees of any lands, their assigns or personal representatives shall have the same remedy by action or otherwise against the lessor, his grantees, assignees or his or their representatives for the breach of any covenant or agreement in such lease contained as such lessee might have had against his immediate lessor. The provisions of this and section 234.14 shall extend as well to grants or leases in fee reserving rents as to leases for life and for years.

234.16 Recovery for use and occupation. Any landlord may recover a reasonable satisfaction for the use and occupation of any lands or tenements by any person under any agreement not made by deed; and if any parol demise or other agreement, not being by deed, by which a certain rent is reserved, shall appear in evidence on the trial of any such action the plaintiff shall not on that account be debarred from a recovery, but may make use thereof as evidence of the amount of damages to be recovered.

234.17 Lessee may surrender premises, when. Where any building, which is leased or occupied, is destroyed or so injured by the elements, or any other cause as to be untenable, and unfit for occupancy, and no express agreement to the contrary has been made in writing, the lessee or occupant may, if the destruction or injury occurred without his fault or neglect, quit and surrender possession of the leasehold premises, and of the land so leased or occupied; and he is not liable to pay to the lessor or owner, rent for the time subsequent to the surrender.

Note: Under lease of a building which was not entitled to an abatement of rents provided for the abatement of rent if the building be destroyed or made unfit for occupancy or use either by the elements, inherent defects or other like causes, the lessee where the condition of the building was due to normal deterioration. *Finnegan v. McGavock*, 230 W 112, 283 NW 321.

234.18 Notice of adverse proceedings. Every tenant upon whom any process, proceeding or notice of any proceeding to recover the land occupied by him or the possession thereof shall be served shall forthwith give notice thereof to his landlord, under the penalty of forfeiting the value of three years' rent of the premises occupied by him, which may be sued for and recovered by the landlord or person of whom such tenant holds.

234.19 Remedy on default in long terms; improvements. (1) Whenever there shall be any default in the conditions of any lease of lands or a breach of the covenants thereof and such lease shall provide for a term exceeding fifty years and require the lessee to erect or construct improvements or buildings upon the land demised at his own cost and exceeding in value the sum of five thousand dollars, and such improvements shall have been made, and the lessor desires to determine the lease and recover possession of the property described therein freed from all liens, claims or demands of such lessee, the lessor may, in case of any breach or default as aforesaid, institute an equitable action in the circuit court against the lessee and all persons claiming under him to recover the possession of the premises leased and proceed in all respects as if the action was brought under the statute to foreclose a mortgage upon real estate, except that no sale of the premises shall be ordered.

(2) The judgment shall determine the breach or default complained of, fix the amount due the lessor at such time, and state the several amounts to become due within one year from the entry thereof, and further provide that unless the amount adjudged to be due from the lessee, with interest thereon as provided in the lease or by law, shall be paid to the lessor within one year from the entry thereof as aforesaid, and the lessee shall, within such period, fully comply with the judgment requiring him to make good any default in the conditions of said lease, that said lessee and those claiming under him shall be forever barred and foreclosed of any title or interest in the premises described in said lease and that in default of payment thereof within such year the lessee shall be personally liable for the

amount thereof. During said year ensuing the date of the entry of such judgment the possession of the demised premises shall remain in the lessee and he shall receive the rents, issues and profits thereof; but if he shall fail to comply with the terms of said judgment and the same is not fully satisfied, and shall refuse to surrender the possession of the demised premises at the expiration of said year, the lessor shall be entitled to a writ of assistance or execution to be issued and executed in the manner provided by law. Chapter 291 shall not apply to leases and property within this section.

Note: As against the lessor, a lessee under a lease for a term exceeding fifty years is entitled to continue to receive the rents, issues and profits until one year after the date of entry of judgment in an action to foreclose the lease. A receiver appointed in such action is not entitled to receive the rents for the year following entry of judgment foreclosing the lease, in the absence of the lessee's waiver of his right under the statute to receive the rent for such year. *Tweedy v. Johnston*, 222 W 302, 267 NW 282.

234.20 Remedy of remainderman. A person seized of real estate in remainder or reversion may maintain an action for any injury done to the inheritance notwithstanding any intervening estate for life or years.

234.21 Actions between cotenants. One joint tenant or tenant in common and his executors or administrators may maintain an action for money had and received against his cotenant for receiving more than his just proportion of the rents or profits of the estate owned by them as joint tenants or tenants in common.

234.22 Aliens may acquire lands. Subject to the limitations of section 234.23 an alien may acquire and hold lands or any right thereto or interest therein by purchase, devise or descent, and he may convey, mortgage and devise the same; and if he shall die intestate the same shall descend to his heirs; and in all cases such lands shall be held, conveyed, mortgaged or devised or shall descend in like manner and with like effect as if such alien were a native citizen of the state or of the United States.

234.23 Limitation on nonresident aliens and corporations. It shall be unlawful for any alien not a resident of this state, of some state or territory of the United States or of the District of Columbia, or for any corporation not created by or under the laws of the United States or of some state or territory thereof, to hereafter acquire, hold or own more than three hundred and twenty acres of land in this state or any interest therein except such as may be acquired by devise, inheritance or in good faith in the collection of debts by due process of law. No corporation or association more than twenty per centum of the stock of which is or may be owned by any person, corporation or association who are such nonresident aliens shall hereafter acquire, hold or own more than said quantity of land in this state or any interest in a greater quantity of land herein except such as may be acquired in good faith in the collection of debts by judicial proceedings. All lands acquired, held or owned in violation of the provisions hereof shall be forfeited to the state, and it shall be the duty of the attorney-general to enforce every such forfeiture.

234.24 Provision not retroactive. The title to any lands conveyed before the third day of May, one thousand eight hundred and eighty-seven, or any lands which nonresident aliens may hold under section 234.23 conveyed since that date, shall not be questioned nor in any manner affected by reason of the alienage of any person from or through whom such title may have been derived.

234.25 Conveyances by life tenant. A conveyance made by a tenant for life or years purporting to grant a greater estate than he possessed or could lawfully convey shall not work a forfeiture of his estate, but shall pass to the grantee all the estate which such tenant could lawfully convey.

234.26 Emergency control of rentals. (1) **DECLARATION OF PUBLIC EMERGENCY.** The legislature hereby finds that a serious public emergency exists in the housing of a considerable number of persons in the state of Wisconsin which emergency has come as a result of the economic disruptions attendant upon the recent war and the aftermath of hostilities; that such emergency has come as a result of an acute shortage in dwellings; that during the war years essential materials and manpower needed to prosecute the war were diverted from the building industry; that as a result of the shortage of housing it is necessary to prevent the exaction of unjust, unreasonable and oppressive rents and rental agreements and to forestall extensive evictions and profiteering, speculation and other disruptive practices tending to produce threats to the public health and public welfare; that the federal government has and is presently exercising controls over rentals on housing facilities but these controls may expire or be suspended before the emergency in this state has passed; and that it is imperative that the state of Wisconsin provide regulation and control of rentals of and evictions from housing facilities; and that the provisions of this section are declared to be necessary and designed to protect the public health, safety and general welfare.

(2) DEFINITIONS. When used in this section, unless a different meaning clearly appears from the context, the following terms shall mean and include:

(a) "Housing accommodation." Any building or structure, permanent or temporary, or any part thereof, occupied or intended to be occupied by one or more individuals as a residence, home, sleeping place, boarding house, lodging house or hotel, together with the land and buildings appurtenant thereto, and all services, privileges, furnishings, furniture and facilities supplied in connection with the occupation thereof, but does not include a hospital, convent, monastery, asylum, public institution, college or school dormitory, dwelling situated on a farm and occupied by a tenant who is engaged for a substantial portion of his time in farming operations thereon, dwelling space occupied by domestic servants, caretakers, managers or other employes to whom the space is provided as part or all of their compensation and who are employed for the purpose of rendering services in connection with the premises of which the dwelling space is a part, hotel accommodations for transient guests, and dwelling accommodations used for summer or winter resort purposes and customarily rented or occupied on a seasonal basis prior to the date this section becomes operative.

(b) "Rent control area." Any area designated by federal rent control authorities as an area wherein abnormal conditions have resulted or threaten to result in rents for housing accommodations and in which maximum legal rentals fixed by federal rent control authorities were operative on the last day federal rent control was in effect.

(c) "Rent." Consideration, including any bonus, benefit or gratuity, demanded or received for or in connection with the use or occupancy of housing accommodations or the transfer of a lease of such housing accommodations.

(d) "Owner occupancy." Occupancy by the owner for his immediate and personal use and occupancy and not for the purpose of circumventing a tenancy theretofore existing.

(e) "Owner." A person who has acquired title (legal or equitable) to the property and has made a bona fide payment of not less than 20 per cent of the purchase price thereof. Any credit extended by or guarantee of credit granted by the federal administration of veterans' affairs under Title III of the Servicemen's Readjustment Act of 1944, as amended, or by the state board of veterans' affairs shall be deemed a bona fide payment under this paragraph. Owner may include joint tenants or tenants in common.

(f) "Hotel." As defined in section 160.01.

(g) "Permanent guest." Any person who has been an occupant of a housing accommodation in a hotel continuously since January 1, 1947 and not on a day rate basis.

(h) "Maximum rent." During the time the federal rent control law existing on July 1, 1947 is in effect the maximum rent of housing accommodations as to which the rent chargeable is fixed by or pursuant to said federal rent control law shall be the amount so fixed therefor. After December 31, 1947 the maximum rent of housing accommodations as to which a valid written lease was entered into in accordance with and pursuant to the provisions of the last proviso in section 204 (b) of the Housing and Rent Act of 1947, (Public Law 129, 80th Congress, Chapter 163, 1st Session), shall be the amount which said proviso authorized as the maximum rent for such lease. After the expiration of said federal rent control law, the maximum rent of housing accommodations as to which the rent chargeable was fixed by or pursuant to said federal rent control law on the last day such federal rent control law was in effect shall be the amount legally chargeable on June 30, 1947 under the federal rent control law, subject to the following:

1. Plus an increase of 15 per cent of said amount as the base.

2. Plus an additional increase of 5 per cent of said base amount as to any tenant who was in occupancy of the housing accommodation any time subsequent to June 30, 1947 and refused or failed to enter into a written lease of the accommodation up to and including December 31, 1948 at an increase in rental of 15 per cent over said base amount as provided by the federal rent control law in effect on July 1, 1947 if such a lease was duly tendered or offered to him by the owner on or before December 31, 1947.

3. The maximum rent chargeable for tenancies commencing after the expiration of the federal rent control law existing on July 1, 1947 shall be the said base amount plus the 15 per cent increase in subdivision 1 but shall not be subject to the additional increase in subdivision 2.

4. If the rent lawfully prevailing for a housing accommodation at the expiration of said federal control law is higher than the rental permitted under this subsection, such higher rental shall be permitted.

(3) MAXIMUM RENT FOR HOTEL PERMANENT GUESTS. If the maximum rent of housing accommodations for permanent guests in a hotel does not fall within the foregoing provisions of subsection (2) (h), then during the time this section is in effect the maximum rent that may be charged a permanent guest of a hotel shall be the amount of rent pay-

able by such permanent guest for the housing accommodation on June 30, 1947 plus an increase of 25 per cent of such amount.

(4) **APPLICABILITY OF SECTION.** The provisions of this section shall apply during the time the federal rent control law existing on July 1, 1947 is in effect only to housing accommodations as to which, and during the time that, the rent chargeable therefor is fixed by federal rent control authorities, and from and after the expiration of said federal rent control law only to housing accommodations as to which the rent chargeable therefor was fixed by federal rent control authorities and in effect on the last day said federal rent control law was in effect. The provisions of this section shall also apply to the occupancy by a permanent guest of housing accommodations in a hotel which was occupied by such permanent guest on June 30, 1947. The provisions of this section shall also apply after December 31, 1947 to housing accommodations as to which a valid written lease was entered into in accordance with and pursuant to the provisions of the last proviso in section 204 (b) of the Housing and Rent Act of 1947 (Public Law 129, 80th Congress, Chapter 163, 1st Session).

(5) **RENT LIMITED.** No rent shall be exacted or paid for a housing accommodation in excess of the maximum rent provided in subsection (2) (h). Substantially the same services which were included as a part of the housing accommodation shall be maintained and continued after said federal rent control law expires as were required to be furnished on the last day said federal rent control law was in effect.

(6) **EVICCTIONS REGULATED.** From and after July 26, 1947 and during the time a maximum rent, as defined in subsections (2) (h) and (3) is in effect in respect to a housing accommodation, no tenant thereof who has entered into possession with the consent or permission of the landlord shall be evicted therefrom except when such tenant:

(a) Fails to pay rent which is not in excess of the maximum rent lawfully chargeable under the provisions of this section.

(b) Has violated a substantial obligation of the terms of his tenancy (other than an obligation to pay rent higher than that permitted under this section or an obligation to surrender possession) and has continued such violation after receipt of a written notice from the landlord that such violation must cease. Subletting all or part of a housing accommodation by the tenant without the written consent of the landlord shall constitute a violation of a substantial obligation of the terms of tenancy.

(c) Has committed or permitted or is committing or permitting a nuisance or waste on or about the housing accommodation or is using the same for immoral or unlawful purpose or predominantly for other than living or dwelling purposes.

(d) Fails or refuses to surrender possession for bona fide owner occupancy after 6 months' written notice by the owner to such tenant to surrender the premises, given as provided in section 234.04. Transfer from other accommodation owned by the owner shall not be deemed bona fide owner occupancy unless the tenant is offered such accommodation vacated by the owner at a rent proportionately comparable to the rent of the accommodations covered by the notice. No such notice shall be valid unless the person giving it was at that time an owner as defined in subsection (2) (e) and it includes a sworn statement showing that he is such owner and that said notice is not given to circumvent the existing tenancy. Any person who shall make any such statement which is false shall be subject to the penalties provided in section 346.02. Eviction under this paragraph shall not subject the tenant to liability under section 291.10. A tenant served with such notice may have the sufficiency or validity thereof determined by declaratory judgment under section 269.56, provided proceedings therefor are commenced not later than 30 days after the date of service of such notice.

(e) Unreasonably interferes with the peaceable possession of other residents in the same building.

(f) Fails or refuses to surrender possession to the holder of a certificate authorizing eviction which was issued prior to July 1, 1947 by federal rent control authorities, and where (1) the period of time specified in such certificate has expired, (2) the ground for eviction is one set forth in the Housing and Rent Act of 1947 (Public Law 129, 80th Congress, Chapter 163, 1st Session), and (3) due and proper notice of termination of the tenancy has been given in accordance with section 234.03 or other applicable provision of the statutes.

(g) Fails or refuses to surrender possession for the purpose of substantially altering, remodeling or demolishing the housing accommodation and replacing same with new construction, after a 6 months' written notice by the owner to such tenant to surrender the premises for such purposes, given as provided in section 234.04. No such notice shall be valid unless it contains a sworn statement that the necessary permit or approval required by local law, ordinance or regulation for the proposed alteration, remodeling or construction has been obtained and that the same cannot be done with such tenant in

occupancy. Any person who shall make any such statement which is false shall be subject to the penalties provided in section 346.02. Eviction under this paragraph shall not subject the tenant to liability under section 291.10. A tenant served with such notice may have the sufficiency or validity thereof determined by declaratory judgment under section 269.56, provided proceedings therefor are commenced not later than 30 days after the date of service of such notice.

(h) After July 26, 1947, no eviction proceeding involving a housing accommodation in respect to which this section is operative shall be predicated upon any notice of termination of tenancy given prior to said date, except a notice given under paragraph (f).

(i) In all eviction proceedings under this subsection termination of tenancy shall be required. The time and manner of giving notice thereof shall be as provided in section 234.03 or other applicable provision of the statutes, except that the time of notice in proceedings under paragraphs (d) and (g) shall be as prescribed therein.

(k) In addition to the foregoing, a tenant may be evicted for owner occupancy if the owner has been the owner of the premises continuously since prior to July 25, 1947 and has an immediate and compelling need for owner occupancy thereof because of extreme physical disability or serious and prolonged illness of the owner or a member of his immediate family. Upon the filing of a verified petition by the owner the court, if satisfied that it appears to present a case of extreme hardship, shall by order fix a time and place for the hearing thereof. A copy of the petition and order of hearing must be served upon the tenant not less than 14 days prior to the date of hearing in the manner provided in sections 262.08 and 262.09 for service of a summons. The petition must contain a statement of the facts, including a recital in detail in respect to the physical disability or illness which is the basis for seeking the eviction. In case of transfer by the owner from other accommodations owned by him the petition shall offer such vacated accommodations to the tenant at a specifically stated rent which shall be proportionately comparable to the rent of the accommodations from which it is sought to remove such tenant. If such hearing shall establish that the owner is entitled to possession of the premises hereunder the court may enter an order that he shall have restitution of the premises on a date to be fixed therein which shall not be less than 30 days from the date of the service of the order for hearing on the tenant and may enforce the same by a writ of restitution. Where the landlord and tenant disagree as to the fair rental for the premises vacated by the owner the court shall fix the rental therefor in such order. Subsequent to the vacation by the owner of premises required herein to be offered to a tenant evicted hereunder, the maximum rent of such vacated premises during the operation of this section shall be the amount of rent at which said premises were offered to said tenant, unless the rental thereof is fixed by a court in an order as provided herein, in which case it shall be the amount as fixed in such order.

(l) A tenant is deemed to have waived any and all objections to the sufficiency or validity of a notice under paragraph (d) or (g) unless declaratory judgment proceedings are commenced within the 30 days as therein provided, except that the court may relieve him from such waiver if the failure to so proceed was induced by fraud or concealment of the owner.

(m) No notice under this subsection is deemed insufficient or invalid because of an inaccuracy or failure therein in stating time or dates or in describing the premises if it shall appear there was no intention on the part of the one giving such notice to mislead the tenant and that the tenant was not in fact misled thereby.

(7) EVICTION PROCEEDINGS, WHERE BROUGHT. During the time this section is operative in respect to a housing accommodation:

(a) An eviction proceeding in respect thereto may be brought before a justice of the peace under chapter 291 as modified by this section or in a court of record;

(b) Justices of the peace and courts of record are hereby granted jurisdiction in such matters; and

(c) The procedure in respect to such evictions in a court of record shall be the same as provided in chapter 291 with only such changes as may be necessary to adapt the same to proceeding in a court of record. The jurisdiction hereby granted to courts of record shall also extend to the disposition of a proceeding commenced in such court prior to the date on which this section becomes inoperative as to the housing accommodation involved therein.

(8) TERMINATION OF EMERGENCY. If the governor finds that a public emergency no longer exists in respect to any rent control area or part thereof or type or types of housing accommodations therein, the governor may by proclamation declare such fact and thereafter this section shall not be operative in respect to such area or part thereof or to the type or types of housing accommodations therein specified in such proclamation. Any proclamation issued by the governor pursuant to this section shall be filed in the

office of the secretary of state and shall not be effective until published in the official state paper.

(9) GENERAL PROVISIONS. Any waiver of any of the provisions of this section shall be unenforceable and void. To the extent that the provisions of this section are inconsistent with the provisions of any general, special or local law or charter provisions the provisions of this section shall be controlling.

(10) This section shall continue in effect until April 1, 1949.

(12) If any provision of this section or the application of such provision to any person or circumstances shall be held invalid, the remainder of the section and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby. [1947 c. 442; 43.08 (3); 1947 c. 614]