



EVICTION OF DRUG TRAFFICKERS

35 P.S. SECTIONS 780-151, ET SEQ.

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Section 780-154 Nature of actions and jurisdiction

The causes of action established in this act are civil actions to evict or remove tenants or other persons from leased residential premises.

Section 780-155 Standing

A civil action under this act may be brought by any of the following:

1. A landlord;
2. A tenant organization;
3. A district attorney;
4. The Attorney General, if requested by a district attorney.

Section 780-156 Remedies and judicial orders

(a) Grounds for complete eviction. Subject to the provisions of section 7 and 25, the court shall order the immediate eviction, as set forth in sections 12(b) and 14, of a tenant if it finds any of the following:

1. Drug-related criminal activity has occurred on or within the individual rental unit leased to the tenant.
2. The individual rental unit leased to the tenant was used in a way in furtherance of or to promote drug-related criminal activity.
3. The tenant, an member of the tenant's household or any guest has engaged in drug-related criminal activity on or in the immediate vicinity of the leased residential premises.
4. The tenant, with knowledge that a person has been removed and barred from the leased residential premises under this act, has given permission to or invited a person to return or reenter any portion of the leased residential premises.

5. The tenant has failed to notify law enforcement or public housing authorities immediately upon learning that a person who has been removed and barred from the tenant's individual rental unit under this act has returned to or reentered the tenant's individual rental unit.

(b) Grounds for partial eviction and issuance of removal orders.

The court shall, subject to the provisions of sections 7(b) and 25, order the immediate removal from the leased residential premises of any person other than the tenant, including, but not limited to, an adult or minor member of the tenant's household, if the court finds that the person has engaged in drug-related criminal activity on or in the immediate vicinity of the leased residential premises. Persons removed under this section shall be barred from returning to or reentering any portion of the leased residential premises.

(c) Removal orders directed against the tenant. If the court finds that a tenant, resident or guest has engaged in drug-related criminal activity on or in the immediate vicinity of the leased residential premises and if the person has not been named as a defendant, has not appeared in the action and has not been subjected to the jurisdiction of the court, a removal order issued under subsection (b) shall be directed against the tenant and shall provide that as an express condition of the tenancy, the tenant shall not give permission to or invite the barred person to return to or reenter any portion of the leased premises. The tenant shall acknowledge in writing that the tenant understands the terms of the court's order and that the tenant understands that the failure to comply with the court's order will result in the mandatory termination of the tenancy under section 12.

Section 780-157

Affirmative defenses or exemption to a complete eviction.

(a) Affirmative defenses. The court may refrain from ordering the complete eviction of a tenant under section 6(a), if the tenant has established that the tenant was not involved in the drug-related criminal activity and that the tenant:

1. did not know or have reason to know that drug-related criminal activity was occurring on or within the individual rental unit, that the individual rental unit was used in any way in furtherance of or to promote drug-related criminal activity or that any member of the tenant's household or any guest has engaged in drug-related criminal activity on or in the immediate

vicinity of any portion of the leased residential premises;

2. had done everything that could reasonably be expected in the circumstances to prevent the commission of the drug-related criminal activity; or
3. had promptly reported the drug-related criminal activity to appropriate law enforcement authorities.

- (b) **Exemption.** If the grounds for a complete eviction have been established, the court shall order the eviction of the tenant unless, having regard to the circumstances of the criminal activity and the condition of the tenant, the court is clearly convinced that immediate eviction or removal would effect a serious injustice the prevention of which overrides the need to protect the rights, safety and health of the other tenants and residents of the leased residential premises.
- (c) **Burden of proof.** The burden of proof for the affirmative defense set forth in subsection (a) shall be by a preponderance of the evidence. The burden of proof for the exemption set forth in subsection (b) shall be by clear and convincing evidence.

Section 780-163 Impermissible defense

It shall not be a defense to an action brought under this act that the drug-related criminal activity was an isolated incident or otherwise has not recurred or that the person who actually engaged in the drug-related criminal activity no longer resides in the tenant's individual rental unit.

Section 780-164 Expedited proceedings

- (a) **Expedited hearing.** If a complaint is filed initiating an action under this act, the court shall set the matter for a hearing which shall be held on an expedited basis and within 15 days following the filing of the complaint.
- (b) **Standards for continuances.** The court shall not grant a continuance nor shall it stay the civil proceedings pending the disposition of any related criminal proceedings except for compelling and extraordinary reasons or on application for good cause shown.