

Legal Alert: bill amending Law 18,101 on urban property leases



April 08, 2022 / By [Bernardita Doren](#) and [Teresita María González](#)

On April 06, 2022, the Chamber of Deputies sent to the President of the Republic the text approved by the National Congress of Chile of the bill, known as "Devuélveme mi casa" (give me back my house), which amends Law 18,101 that establishes Special Rules on Urban Property Leasing and the Code of Civil Procedure, to incorporate the precautionary measure of early restitution of real estate and establish a procedure for the collection of rental income (Bulletin No. 12,809-07), hereinafter the "Bill".

The Bill seeks to solve a problem that has become increasingly common in Chile, reinforcing the rights of the owner so that, through a more expeditious procedure, the restitution of leased property that is in arrears or unpaid rent, or that has been occupied without any title, can be achieved.

With the current judicial procedure, eviction with the help of public force and restitution of a property in the context of a lease can take about seven months.

Some of the main amendments to Law 18,101 included in the Bill:

1) The precautionary measure of anticipated restitution of real estate is incorporated, which allows the presiding judge of the trial for the termination of the lease contract/rental agreement, to order the anticipated restitution of the real estate and the eviction of the defendant lessee, for having been partially destroyed or having been rendered unusable for its use as a consequence of the action or omission of the lessee. For this, it would only be necessary to prove the existence of a serious presumption of the right claimed.

The Judge, when he deems it necessary, may require a surety from the plaintiff to indemnify the defendant lessee for the

damages arising from the eviction, if the final judgment does not condemn him to return the property which is the object of the lease.

2) A "Proceeding for the Collection of Lease Rent" is created, which establishes that if the lessor requests the lessee to pay the rent, service charges, and consumption bills. If the lessee does not pay within a maximum period of 10 days, he will be condemned to pay the obligation claimed and the eviction will be carried out as provided by law.

It is stipulated that the rules of the aforementioned procedure will not be applicable under any of the states of constitutional exception established in the current Constitution.

3) The Bill amends Article 20 which states that in contracts governed by Law 18,101 and which are not in writing, the rent shall be presumed to be the rent declared by the lessee. The Bill provides that if the lease contracts are not in writing, the rent will be presumed to be the amount stated in the deposits or payment documents for at least 3 consecutive months, in the event that these do not exist, the rent will be presumed to be the one declared by the lessee.

In addition, it is established that the written lease contract/rental agreement shall be authorized by a Notary Public **who must request the titles that enable the lessor to assign the use of the property to which the agreement relates**. These contracts authorized before a notary public will constitute a sufficient precedent to exercise a simplified procedure for eviction.

4) Lastly, the precarious occupancy agreement will no longer be conducted under the rules of the summary proceeding, but under the rules of the "Proceeding for the Collection of Lease Rent" indicated in number 2) above.

	Contact us: For more information contact: Bernardita Doren Counsel bdoren@dlapiper.cl
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