

SUBLETTING

Frequently Asked Questions

1

What is subletting?

Subletting is basically the same as a regular lease, with an added step. When subletting takes place; there is a landlord, tenant, and subtenant. The subtenant rents from the tenant, and the tenant rents from the landlord.

South Dakota landlord-tenant law currently does not specifically address subletting. If subletting is not prohibited in your existing lease agreement, it is best to ask the landlord for permission before subletting.

2

What if I want to sublet TO someone?

- Read your existing lease and discuss with your landlord if subletting is allowed. If it is allowed, and the landlord approves, make sure to get written consent from them.
- Discuss with your landlord and agree on whether they are allowed to screen and reject prospective subtenants.
- Discuss with your landlord and agree on whether they can ask for additional rent money and security deposit money if they are to allow a subtenant.
- If your sublease is going to be longer than one year, it must be in writing, must be signed by you, and should be signed by your subtenant.

3

What if I want to sublet FROM someone?

Communicate with your intended lessor and make sure that they are allowed to sublease, and that they have discussed the points mentioned above: What if I want to sublet to someone?

4

What should I do to protect myself?

- Save all documentation, letters, and communication you receive or write about the property in question. Save copies of everything.
- Put in writing all “side deals” or agreements outside the original lease and sublease.
- Know the terms of the initial lease and sublease.
- Attend all hearings to defend your rights.

For more specific information on your situation, it is best to speak to a licensed, competent attorney to best suit your needs. Anyone can apply for free legal services at South Dakota Law Help.

Additional Resources:

- South Dakota Codified Law on Leases of Real Property - SDCL § 43-32
- South Dakota Consumer Protection - <https://consumer.sd.gov/fastfacts/landlordtenant.aspx>
- Landlord Tenant Law - <https://www.landlord-tenant-law.com/south-dakota-landlord-tenant-law.html>

