

NCLA Government
Resources Section,
"Help! I'm an
Accidental Government
Information Librarian"
Webinar # 26
May 14, 2013

Legal Research... without the Law Library

Presented by Jennifer L. Behrens
Head of Reference Services
Duke University's Goodson Law Library

Legal Research...without the Law Library

- **Introduction**
 - Handling the self-help legal patron
 - Secondary sources: Your best first stop
- **U.S. Legal Research Overview & Sources**
 - Legislative materials
 - Executive materials
 - Judicial materials
 - “Good law”: Updating your findings
- **Participant Questions**

Introduction



- “Do you have anything to help me **make my own will?**”
- “How do I **fight this traffic ticket?**”
- “My deadbeat landlord never fixes anything; **can I sue him?**”
- “I’ve invented the world’s greatest contraption! Now **I need a patent.**”

The self-help legal patron

(a.k.a. “pro se” patron)

Legal reference ≠ legal advice!

- Be very clear with pro se patrons about the **limits to your assistance**.
- Their expectations can be unrealistic!

Policy on Legal Reference and Legal Advice:

Reference librarians help you use the library and its collections, but they cannot do legal research for you. Librarians locate information, identify relevant resources, develop search strategies for catalogs, databases, the web and indexes and provide assistance in legal research methodology. The reference staff cannot provide substantive advice on a legal problem, interpret legal materials for you, or explain how the law applies to your particular case.

Referral services [Duke Law]

Legal Referrals

DUKE LAW STUDENTS WORKING WITH THE PRO BONO PROJECT CANNOT DO LEGAL WORK OR GIVE LEGAL ADVICE TO MEMBERS OF THE PUBLIC. STUDENTS MAY ONLY WORK UNDER THE SUPERVISION OF A LICENSED ATTORNEY AT AN ORGANIZATION APPROVED AND SCREENED BY THE OFFICE OF PUBLIC INTEREST AND PRO BONO. (HOWEVER LAW SCHOOL CLINICS DO ACCEPT CASES THROUGH WHICH STUDENTS ASSIST THE ATTORNEY-INSTRUCTORS OF THE CLINICS. USE THE LINK TO THE CLINICS BELOW TO SEE IF A CLINIC WORKS IN YOUR AREA OF NEED AND CONTACT THOSE CLINICS.)

The organizations listed below provide legal information or, in some cases, legal representation. These referrals are not an endorsement of any organization or website.

Resources Associated with Duke Law


- [Duke Law School's Clinics](#)
- [The North Carolina Center on Actual Innocence](#)

The North Carolina Center works in conjunction with Innocence Projects at both Duke and UNC Law Schools in providing assistance to inmates making claims of actual innocence. The assistance is limited to those convicted of North Carolina crimes who have already concluded their direct appeals from the convictions.

Resources in North Carolina

Legal Aid: LSC.gov

Legal Services Corporation Grants Technology Initiative Grants LSC Resource Information Office of Inspector General National Disaster Legal Aid Stateside Legal



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Access to Justice

- Serving Veterans and Military Families
- Keeping Families in Their Homes
- Protecting Victims of Domestic Violence

LATEST NEWS

New York Times Article Highlights Consequences for Individuals Facing Civil Matters Without Legal Help


Current Issue of LSC Updates features news on Sandy recovery, tech resources, grant opportunities & more

In New Orleans, LSC convenes fourth Forum on the State of Civil Legal Assistance in the

IN THE SPOTLIGHT

REPORT OF THE PRO BONO TASK FORCE RELEASED IN WASHINGTON, BOSTON, AND CHICAGO

In October, 2012, the Pro Bono Task Force convened by the LSC Board of Directors released its findings and recommendations



FIND LEGAL AID

Ayuda en español

Find information about LSC-funded programs in your area.

Select a State

Select a County

ABA's FindLegalHelp.org

Consumers' Guide to Legal Help

Do You Need to Find Legal Help?

Although the ABA cannot help you directly, there are many people out there who can. This site will guide you to a list of resources in your state. Most legal issues are regulated by the law in the state where you live, or where the problem occurred.

Please select a state below to find legal help in that state, or you can select the item from the left-hand menu to learn more about finding legal help.

Necesita encontrar ayuda Legal?

Aunque ABA no puede ayudarle directamente, hay mucha gente fuera de nuestra organización que pueda brindarle ayuda. Este sitio lo guiará a una lista de recursos en su estado. La mayoría de cuestiones jurídicas están reguladas bajo las leyes en el estado donde usted vive, o donde ocurrió el problema.

Favor de seleccionar el estado en donde desea encontrar ayuda legal.

[Select a State]

Foreclosure Resources and Information

In response to the increasing number of foreclosures in the nation, the ABA is providing links to local, state and national resources.

- › Please [click here](#) for national resources
- › Click on a state below for local and state listings



- State-by-state links to lawyer referral services (mostly through state bar associations).
- Not free, but usually a low-cost initial consultation.

Referrals to Law Libraries

- Area law school & court libraries may have more specialized collections to help the determined pro se researcher.
- But your own library may have more than you realize, in the form of **secondary sources**.

Primary legal sources

Secondary legal sources

Official government pronouncements which **have the force of law**.

Materials which **analyze or explain the law**, but do not have the force of law.

Examples:

- **Statutes**
(legislative)
- **Regulations**
(executive)
- **Court opinions**
(judicial)

- **Legal encyclopedia**
- **Journal & law review articles**
- **Specialized treatises**
[see Cornell [Legal Research Engine](#)]

Quick Search

 [Advanced Search](#)

Search by Title



Find a journal, magazine, or newspaper by title.

Title	Recommended
Academic Search Complete	Magazines and journals on many subjects; includes peer-reviewed and scholarly works.
Bills from the NC General Assembly	Current and historical bills from the NC General Assembly. Search by attribute, bill number, chamber, committee, and more.
Business Source Complete	Journals, peer-reviewed publications, magazines on a wide range of topics including: marketing, management, MIS, POM, accounting, finance and economics.
CQ Researcher Online	Reports on issues shaping our world, with in-depth coverage of political and social issues, such as health, education, the environment, technology, and the U.S. economy.
CQ Weekly	News and analysis on how legislation is shaped. Coverage of bills, votes, amendments, committees, and more.
Crime in North Carolina (Uniform Crime Report)	The Uniform Crime Reporting Program collects data on the age, race, and sex of persons arrested for all crimes except traffic violations.
eBooks on EBSCOhost	Nearly 25,000 fiction, reference, scholarly, and professional books online.
GPO	U.S. government documents, including Congressional reports, hearings, debates, and records; judiciary materials; and documents issued by executive departments.
GreenFILE	Scholarly and general interest titles, government documents, and reports related to the topic of ecology.
Legal Information Reference Center	Contains hundreds of full-text publications and thousands of legal forms. The full-text legal reference books are provided through Nolo, the nation's oldest and most-respected provider of legal information for consumers and small businesses.

Legal Information Reference Center: Books & Sample Forms



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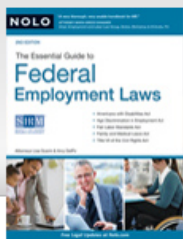


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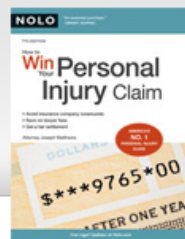


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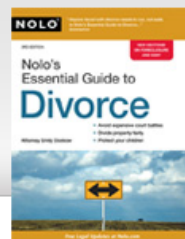
Browse Popular Sources



[Essential Guide to Federal Employment](#)



[How to Win Your Personal Injury Claim](#)



[Nolo's Essential Guide to Divorce](#)



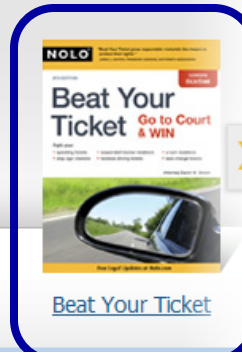
[Quick & Legal Will Book](#)



[Becoming a U.S. Citizen](#)



[Fiancé & Marriage Visas](#)



[Beat Your Ticket](#)



Searching: **Legal Information Reference Center** Search Other Databases

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20100801

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Books

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1. [Your Legal Companion for Beating Your Ticket.](#)

By: Brown, David. *Beat Your Ticket*. 2010, p1-2. 2p.

Add to folder

PDF Full Text (75KB)

2. [CHAPTER 1: First Things.](#)

By: Brown, David. *Beat Your Ticket*. 2010, p3-6. 4p.

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3. [CHAPTER 2: What Are You Charged With?](#)

By: Brown, David. *Beat Your Ticket*. 2010, p7-13. 7p.

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4. [CHAPTER 3: Should You Fight Your Ticket?](#)

By: Brown, David. *Beat Your Ticket*. 2010, p15-25. 11p.

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PDF Full Text (275KB)

5. [CHAPTER 4: Lawyers and What They Can Do for You.](#)

By: Brown, David. *Beat Your Ticket*. 2010, p27-32. 6p.

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Beat Your Ticket: Go to Court & WIN (2010)

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CHAPTER 3: Should You Fight Your Ticket?

Page: 1 of 12 133%

CHAPTER
3

Should You Fight Your Ticket?

Understanding Traffic Offenses.....	16
“Civil” or “Administrative” Traffic Offenses (Some States).....	16
Traffic Offenses as Crimes (Most States).....	17
Negative Consequences of Getting a Ticket.....	18
Fines.....	18
Insurance Rates.....	19
License Suspensions.....	19
The Traffic School Option.....	20
Deciding Whether to Fight Your Ticket.....	21
Prove a Necessary Element of Your Ticket Is Missing.....	21
Challenge the Officer’s Subjective Conclusion.....	22
Challenge the Officer’s Observation of What Happened.....	22
Prove Your Conduct Was Based on a Legitimate “Mistake of Fact”.....	23
Prove Your Conduct Was “Legally Justified”.....	23
Prove Your Conduct Was Necessary to Avoid Serious Harm.....	24
Putting It All Together—How to Decide Whether to Fight or Fold.....	24
Defenses That Rarely Work.....	25

Detailed Record

PDF Full Text

Source: Beat Your Ticket

Inside this work

Full Text Contents

1 - 5 | 6 - 10 | 11 - 14

Your Legal Companion... 1

CHAPTER 1: First Things. 3

CHAPTER 2: What Are ... 7

CHAPTER 3: 15

Legal Information Reference Center / Nolo Press books

- Accessible, **conversational tone** (written specifically for non-lawyers).
- Good **general background/overview** of legal issues related to a particular topic, but only a starting point.
- For more detail and references to **primary/secondary sources**, try a **legal encyclopedia**.

Legal Encyclopedia

- Provide **helpful summaries** of the law, with case law & secondary source references for further reading.
- Most attempt to cover the “**general**” law across all U.S. states.
[*American Jurisprudence 2d* (“AmJur”);
Corpus Juris Secundum (“C.J.S.”)]
- Some **state-specific encyclopedia** give more guidance on the law of one particular jurisdiction.
[*Strong’s North Carolina Index*]

American Jurisprudence 2d

LexisNexis® Academic

Home

General Searching

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By Citation like *347 U.S. 483*

Or by Parties like *Mapp v. Ohio*

 v.

Or by Topic like *Equal Opportunity*

» Citations must be exact. [Click here](#) for citation help. For more options, try [Cases](#), [Law Reviews](#), or [Landmark Cases](#).

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- Ballentine's Law Dictionary
- Bieber's Dictionary of Legal Abbreviations
- A Dictionary of Modern Legal Usage
- Modern Dictionary for the Legal Profession
- Martindale-Hubbell® Legal Professionals Listings
- Martindale-Hubbell® Law School Directory

Note: The “Browse” link allows you to view each individual encyclopedia entry (numbered section) in context within its topic and sub-topic(s).

Legal encyclopedia generally use a **topical outline**, rather than **alphabetical**, format for entries.

Show

Search within results

Sort

1-16 of 16



- Results
- 1. [Am Jur 2d Elevators and Escalators § 21](#), Elevators and Escalators, II. Liability for Elevator-Related Injuries, B. Persons Liable, § 21 Premises not under landlord's control, American Jurisprudence, Second Edition Copyright © 2013 West Group
- 2. [49 Am Jur 2d Landlord and Tenant § 454](#), Landlord and Tenant, IV. Rights, Duties, and Liabilities of Parties, B. Particular Rights and Obligations of Tenant, 4. Warranty of Habitability, b. Landlord's Obligations Concerning Condition, Repair, and Improvement, (1) Landlord's Duty to Repair or Improve, § 454 Generally, American Jurisprudence, Second Edition Copyright © 2013 West Group
- 3. [49 Am Jur 2d Landlord and Tenant § 456](#), Landlord and Tenant, IV. Rights, Duties, and Liabilities of Parties, B. Particular Rights and Obligations of Tenant, 4. Warranty of Habitability, b. Landlord's Obligations Concerning Condition, Repair, and Improvement, (1) Landlord's Duty to Repair or Improve, § 456 Statutory duty to repair, American Jurisprudence, Second Edition Copyright © 2013 West Group
- 4. [49 Am Jur 2d Landlord and Tenant § 460](#), Landlord and Tenant, IV. Rights, Duties, and Liabilities of Parties, B. Particular Rights and Obligations of Tenant, 4. Warranty of Habitability, b. Landlord's Obligations Concerning Condition, Repair, and Improvement, (2) Agreement by Landlord to Repair, (a) In General, § 460 Generally, American Jurisprudence, Second Edition Copyright © 2013 West Group
- 5. [49 Am Jur 2d Landlord and Tenant § 461](#), Landlord and Tenant, IV. Rights, Duties, and Liabilities of Parties, B. Particular Rights and Obligations of Tenant, 4. Warranty of Habitability, b. Landlord's Obligations Concerning Condition, Repair, and Improvement, (2) Agreement by Landlord to Repair, (a) In General, § 461 Duty to rebuild or restore, American Jurisprudence, Second Edition Copyright © 2013 West Group
- 6. [49 Am Jur 2d Landlord and Tenant § 462](#), Landlord and Tenant, IV. Rights, Duties, and Liabilities of Parties, B. Particular Rights and Obligations of Tenant, 4. Warranty of Habitability, b. Landlord's Obligations Concerning Condition, Repair, and Improvement, (2) Agreement by Landlord to Repair, (a) In General, § 462 By and against whom agreement enforceable upon assignment or transfer of leased premises, American Jurisprudence, Second Edition Copyright © 2013 West Group
- 7. [49 Am Jur 2d Landlord and Tenant § 463](#), Landlord and Tenant, IV. Rights, Duties, and Liabilities of Parties, B. Particular Rights and Obligations of Tenant, 4. Warranty of Habitability, b. Landlord's Obligations Concerning Condition, Repair, and Improvement, (2) Agreement by Landlord to Repair, (a) In General, § 463 Notice of need of repairs, American Jurisprudence, Second Edition Copyright © 2013 West Group
- 8. [49 Am Jur 2d Landlord and Tenant § 464](#), Landlord and Tenant, IV. Rights, Duties, and Liabilities of Parties, B. Particular Rights and Obligations of Tenant, 4. Warranty of Habitability, b. Landlord's Obligations Concerning

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2 of 16

More Like This

49 Am Jur 2d Landlord and Tenant § 45...



§ 454 Generally

Generally, a landlord is under no obligation to a tenant to repair, unless there is a contract creating a duty to repair.ⁿ¹ The common law does not impose any obligation upon the **landlord to repair** the premises, in the absence of an agreement to do so.ⁿ² However, a landlord is under a duty to keep the portions of the leased premises that are under his or her control, such as common areas used by more than one tenant, in a reasonably safe condition, and is liable for damages resulting from his or her failure to do so.ⁿ³

However, under the implied warranty of habitability, a landlord is required to make repairs and replacements of vital facilities.ⁿ⁴ The duty of the landlord to a tenant is two-fold: (1) prior to possession by the tenant, the landlord has a duty to reasonably inspect the premises, and to make necessary repairs to transfer a reasonably safe dwelling unit, unless the tenant waives the defect; and (2) after possession by the tenant, the landlord has a continuing duty to exercise reasonable care in repairing dangerous defective conditions upon the tenant giving notice of their existence, unless waived by the tenant.ⁿ⁵ While a landlord is not a guarantor for the safety of those persons who might be expected to come upon its property, it does have a duty to make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition.ⁿ⁶

A landlord may shift the responsibility for performing ordinary specified repairs and maintenance of the rented dwelling premises to the tenant, provided that the parties act in good faith, the parties agree in writing, the agreement is supported by adequate consideration, and the agreement is not for work necessary to cure noncompliance with building and housing codes affecting health and safety.ⁿ⁷

Where the warranty of habitability does not apply according the law of the jurisdiction, absent a retention of control or an agreement to maintain the premises, a landlord is not obligated to make repairs on leased premises, even if the premises are in a dangerous condition.ⁿ⁸ Furthermore, the general rule is that, absent an explicit covenant to the contrary, the lessor of nonresidential space has no duty to repair or maintain that portion of the premises leased to the lessee,ⁿ⁹ except to the extent that he or she retains control over an area used in common by the public or other tenants.ⁿ¹⁰

FOOTNOTES:

ⁿ¹ Caples v. Earthgrains Co., 43 S.W.3d 444 (Mo. Ct. App. E.D. 2001); Tighe v. Cedar Lawn, Inc., 11 Neb. App. 250, 649 N.W.2d 520 (2002); Baker v. Pena, 2001 WY 122, 36 P.3d 602 (Wyo. 2001).

As to an agreement by the **landlord to repair**, see §§ 460 to 463.

rowse

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1 of 1

Next Steps More Like This Go

49 Am Jur 2d Landlord and Tenant § 45...



- a. In General
- b. Landlord's Obligations Concerning Condition, Repair, and Improvement
 - (1) Landlord's Duty to Repair or Improve
 - § 454 Generally
 - § 455 Reservation of right to enter or making repairs as creating duty to repair
 - § 456 Statutory duty to repair
 - § 457 Duty to improve
 - § 458 Duty to pay for improvements made by lessee
 - § 459 Alterations or improvements required by statute or public authorities
 - (2) Agreement by Landlord to Repair
 - (a) In General
 - § 460 Generally
 - § 461 Duty to rebuild or restore
 - § 462 By and against whom agreement enforceable upon assignment or transfer
 - § 463 Notice of need of repairs
 - (b) Rights and Remedies of Tenant for Breach of Agreement to Repair; Damages
 - (3) Landlord's Agreement to Make Improvements

49 Am Jur 2d Landlord and Tenant § 454

§ 454 Generally

Generally, a landlord is under no obligation to a tenant to repair, unless there is a contract creating a duty to repair. ⁿ¹ The common law does not impose any obligation upon the landlord to repair the premises, in the absence of an agreement to do so. ⁿ² However, a landlord is under a duty to keep the portions of the leased premises that are under his or her control, such as common areas used by more than one tenant, in a reasonably safe condition, and is liable for damages resulting from his or her failure to do so. ⁿ³

However, under the implied warranty of habitability, a landlord is required to make repairs and replacements of vital facilities. ⁿ⁴ The duty of the landlord to a tenant is two-fold: (1) prior to possession by the tenant, the landlord has a duty to reasonably inspect the premises, and to make necessary repairs to transfer a reasonably safe dwelling unit, unless the tenant waives the defect; and (2) after possession by the tenant, the landlord

Journal & law review articles

- **LexisNexis Academic** includes a section of “[U.S. Law Reviews & Journals.](#)”
- **Academic Search Complete / Business Source Complete** [via [NC Live](#)] include a number of law reviews & legal journals.
- [Google Scholar](#) also provides some legal journal articles.
- The **ABA’s Legal Technology Resource Center** offers a [free custom search engine](#) of open-access law journal articles.

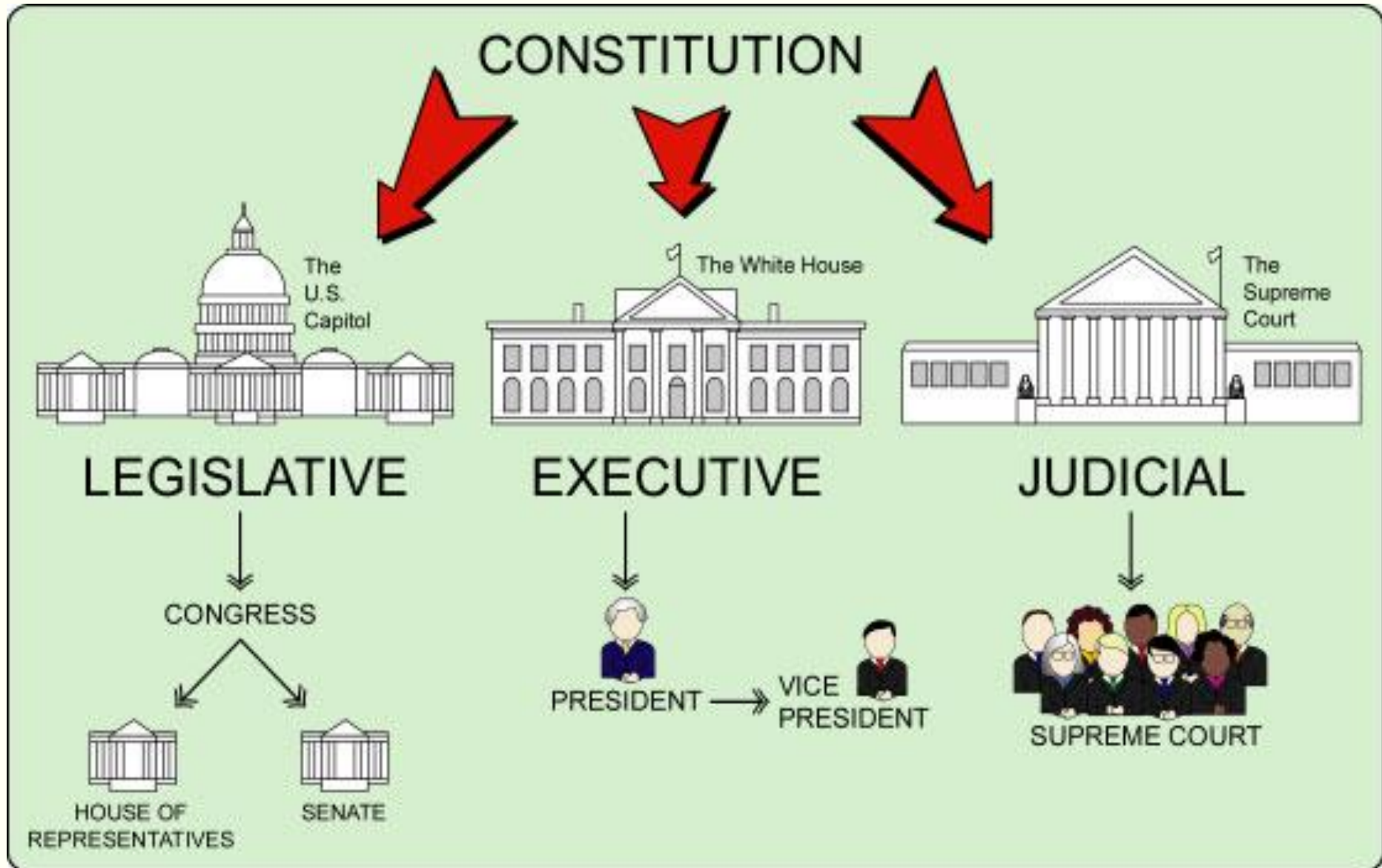
Secondary sources: summation

- Despite the name, **secondary sources** are a legal researcher's *first stop*.
 - Context & background
 - Search keywords
 - Time-saving footnotes to specific primary sources
- **Potential limitations:** currency, jurisdiction, intended audience.

U.S. Legal Research:

Primary Sources of Law

Sources of Law (federal system): Ben's Guide



The Legislative Branch

Statutes/Laws

Codes

How a Bill Becomes a Law

- If you've forgotten, watch [*Schoolhouse Rock!*](#)
- For information on the **legislative history** documents created along the way, check out:
 - [Federal Legislative History guide](#)
[Goodson Law Library]
 - [NC Legislative History webinar](#)
[NCLA "Help!" series, 2011]
 - Upcoming Congressional research webinar

You're a law...now what?

Session Laws

Chronological compilation of enactments by that year's legislature. Good for **historical research purposes** or for **very recent laws**.

Code

Subject-based arrangement of the **current laws in force** ("of a **general and permanent nature**"), updated to reflect the latest amendments.

Session law or code?

If you want to know...	Then you need to find...
What the U.S. Patent Act looked like as it was originally passed by Congress in 1952.	The session law version (frozen in time, does not reflect later amendments).
The current requirements for patentability of an invention.	The latest edition of the federal code (current laws in force, includes later amendments).
Whether NC state law requires landlords to repair broken windows .	The latest edition of the state code (current laws in force, includes later amendments).

Tools for finding statutes

- Online versions are **keyword-searchable**.
- **Subject indexes** point you to code sections on a particular topic.
- **Popular Name Tables** give you citation information based on the “short title” of the legislation (e.g. U.S. Patent Act of 1952).
- **50 state surveys**: secondary source compiling citations to each state’s laws on a particular topic.

Every Landlord's Legal Guide (2012) [via [NCLive](#)]

State Landlord-Tenant Statutes

Here are some of the key statutes pertaining to landlord-tenant law in each state. In some states, important legal principles are contained in court opinions, not codes or statutes. Court-made law and rent stabilization—rent control—laws and regulations are not reflected in this chart.

Alabama	Ala. Code §§ 35-9-1 to 35-9-100; 35-9A-101	Montana	Mont. Code Ann. §§ 70-24-101 to 70-26-110
Alaska	Alaska Stat. §§ 34.03.010 to 34.03.380	Nebraska	Neb. Rev. Stat. §§ 76-1401 to 76-1449
Arizona	Ariz. Rev. Stat. Ann. §§ 12-1171 to 12-1183; 33-1301 to 33-1381; 33-301 to 33-381	Nevada	Nev. Rev. Stat. Ann. §§ 118A.010 to 118A.520; 40.215 to 40.280
Arkansas	Ark. Code Ann. §§ 18-16-101 to 18-16-306; 18-16-501 to 18-16-508; 18-17-101 to 18-17-913	New Hampshire	N.H. Rev. Stat. Ann. §§ 540:1 to 540:29; 540-A:1 to 540-A:8
California	Cal. Civ. Code §§ 1925 to 1954; 1961 to 1962.7	New Jersey	N.J. Stat. Ann. §§ 46:8-1 to 46:8-50; 2A:42-1 to 42-96
Colorado	Colo. Rev. Stat. §§ 38-12-101 to 38-12-104; 38-12-301 to 38-12-302; 38-12-501 to 38-12-511; 13-40-101 to 13-40-123	New Mexico	N.M. Stat. Ann. §§ 47-8-1 to 47-8-51
Connecticut	Conn. Gen. Stat. Ann. §§ 47a-1 to 47a-74	New York	N.Y. Real Prop. Law §§ 220 to 238; Real Prop. Acts §§ 701 to 853; Mult. Dwell. Law (all); Mult. Res. Law (all); Gen. Oblig. Law §§ 7-103 to 7-109
Delaware	Del. Code Ann. tit. 25, §§ 5101 to 5907	North Carolina	N.C. Gen. Stat. §§ 42-1 to 42-14.2; 42-25.6 to 42-76
Dist. of Columbia	D.C. Code Ann. §§ 42-3201 to 42-3610; D.C. Mun. Reg. tit. 11, §§ 2000.1 to 2000.311		

Sources for federal statutes

Session Laws

- [Public & Private Laws, FDsys](#)
(1995 – present)
- [U.S. Statutes at Large, FDsys](#)
(1951 – present)
- [Public Laws, LexisNexis Academic](#)
(1988 – present)
- [U.S. Statutes at Large Library, HeinOnline](#)
(1789 – present)

U.S. Code

- [U.S. Code beta, Office of Law Revision Counsel](#)
(current code only)
- [U.S. Code, Cornell LII](#)
(current code only)
- [U.S. Code Service \(annotated\), LexisNexis Academic](#)
(current code only)
- [U.S. Code PDFs, FDsys](#)
(1994 – present)
- [U.S. Code library, HeinOnline](#)
(1925 – present)



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UNITED STATES CODE



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POPULAR NAME TOOL

The Popular Name Tool enables you to search or browse the United States Code Table of Acts Cited by Popular Name. For printing purposes, the [PDF file](#) is recommended. A detailed explanation of the Table is located [here](#).

Doctors Draft Act

Sept. 9, [1950, ch. 939](#), 64 Stat. 826
Short title, see 50 U.S.C. App. 451 note

Dodd-Frank Wall Street Reform and Consumer Protection Act

[Pub. L. 111-203](#), July 21, 2010, 124 Stat. 1376
Short title, see 12 U.S.C. 5301 note

Dog and Cat Protection Act of 2000

[Pub. L. 106-476](#), title I, subtitle B, ch. 3 (Sec. 1441 et seq.), Nov. 9, 2000, 114 Stat. 2163
Short title, see 19 U.S.C. 1654 note

Dollinger Act (Food and Drugs)

[Pub. L. 85-250](#), Aug. 31, 1957, 71 Stat. 567

Dolphin Protection Consumer Information Act

[Pub. L. 101-627](#), title IX, Sec. 901, Nov. 28, 1990, 104 Stat. 4465 (16 U.S.C. 1385)
Short title, see 16 U.S.C. 1385(a)

Domestic and Foreign Investment Improved Disclosure Act of 1977

[Pub. L. 95-213](#), title II, Dec. 19, 1977, 91 Stat. 1498
Short title, see 15 U.S.C. 78a note

Jump to:

[1-9](#)

[A](#)

[B](#)

[C](#)

[D](#)

[E](#)

[F](#)

[G](#)

[H](#)

[I](#)

[J](#)

[K](#)

[L](#)

[M](#)

[N](#)

[O](#)

[P](#)

[Q](#)

[R](#)

[S](#)

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Public and private laws are also known as slip laws. A slip law is an official publication of the law and is comp evidence admissible in all state and Federal courts and tribunals of the United States. Public laws affect society whole, while private laws affect an individual, family, or small group.

After the President signs a bill into law, it is delivered to the Office of the Federal Register (OFR), National Arch Records Administration (NARA) where it is assigned a law number, legal statutory citation (public laws only), a for publication as a slip law. Private laws receive their legal statutory citations when they are published in the Statutes at Large.

Prior to publication as a slip law, OFR also prepares marginal notes and citations for each law, and a legislative history for public laws o slip law is published, through the U.S. Government Printing Office (GPO), the text of the law can be found by accessing the enrolled ver bill. [About Public and Private Laws.](#)

[113th Congress \(2013 - 2014\)](#)

[112th Congress \(2011 - 2012\)](#)

[111th Congress \(2009 - 2010\)](#)

[Private Law \(Pvt. L.\)](#)

[Public Law \(Pub. L.\)](#)

[0 - 99](#)

[100 - 199](#)

[200 - 299](#)

Public Law 111-200 - Congressional Award Program Reauthorization Act of 2009

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Public Law 111-201 - Joint resolution recognizing the 60th anniversary of the outbreak of the Korean War and...

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Public Law 111-202 - An act to permanently authorize Radio Free Asia, and for other purposes.

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Public Law 111-203 - Dodd-Frank Wall Street Reform and Consumer Protection Act

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Public Law 111-204 - Improper Payments Elimination and Recovery Act of 2010

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Public Law 111-205 - Unemployment Compensation Extension Act of 2010

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Session law internal sections

Subtitle J—Securities and Exchange Commission Match Funding

Sec. 991. Securities and Exchange Commission match funding.

TITLE X—BUREAU OF CONSUMER FINANCIAL PROTECTION

Sec. 1001. Short title.

Sec. 1002. Definitions.

Subtitle A—Bureau of Consumer Financial Protection

Sec. 1011. Establishment of the Bureau of Consumer Financial Protection.

Sec. 1012. Executive and administrative powers.

Sec. 1013. Administration.

Sec. 1014. Consumer Advisory Board.

Sec. 1015. Coordination.

Sec. 1016. Appearances before and reports to Congress.

Sec. 1017. Funding; penalties and fines.

Sec. 1018. Effective date.

Subtitle B—General Powers of the Bureau

Sec. 1021. Purpose, objectives, and functions.

Sec. 1022. Rulemaking authority.

Sec. 1023. Review of Bureau regulations.

Sec. 1024. Supervision of nondepository covered persons.

Sec. 1025. Supervision of very large banks, savings associations, and credit unions.

Sec. 1026. Other banks, savings associations, and credit unions.

Sec. 1027. Limitations on authorities of the Bureau; preservation of authorities.

Sec. 1028. Authority to restrict mandatory pre-dispute arbitration.

Sec. 1029. Exclusion for auto dealers.

Sec. 1029A. Effective date.

Subtitle C—Specific Bureau Authorities

Sec. 1031. Prohibiting unfair, deceptive, or abusive acts or practices.

Sec. 1032. Disclosures.

Sec. 1033. Consumer rights to access information.

Sec. 1034. Response to consumer complaints and inquiries.

Sec. 1035. Private education loan ombudsman.

Sec. 1036. Prohibited acts.

Sec. 1037. Effective date.

July 1

[H.R.]

Dodd-Frank
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Statutes at Large table



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Home

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[111th Cong.](#) ↑

[124 Stat.](#) ↑

[July 21, 2010](#) ↑

[111-202](#)

111-203

[111-204](#)

Act Section	Stat. Pg.	United States Code		
		Title	Section	Status
1002	1955	12	5481	
1011	1964	12	5491	
1012	1965	12	5492	
1013	1966	12	5493	
1013(d)(5), (6)	1971	20	9702	
1014	1974	12	5494	
1015	1974	12	5495	
1016	1974	12	5496	
1016A		12	5496a	



Current



[<< Previous](#) [TITLE 12 / CHAPTER 53 / SUBCHAPTER V / Part A / § 5491](#) [Next >>](#)

[\[Print\]](#) [\[Print selection\]](#)

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12 USC 5491: Establishment of the Bureau of Consumer Financial Protection

Text contains those laws in effect on April 15, 2013

From Title 12-BANKS AND BANKING

CHAPTER 53-WALL STREET REFORM AND CONSUMER PROTECTION

SUBCHAPTER V-BUREAU OF CONSUMER FINANCIAL PROTECTION

Part A-Bureau of Consumer Financial Protection

Jump To:

[Source Credit](#)

[Effective Date](#)

§5491. Establishment of the Bureau of Consumer Financial Protection

(a) Bureau established

There is established in the Federal Reserve System, an independent bureau to be known as the "Bureau of Consumer Financial Protection", which shall regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws. The Bureau shall be considered an Executive agency, as defined in section 105 of title 5. Except as otherwise provided expressly by law, all Federal laws dealing with public or Federal contracts, property, works, officers, employees, budgets, or funds, including the provisions of chapters 5 and 7 of title 5, shall apply to the exercise of the powers of the Bureau.

(b) Director and Deputy Director

(1) In general

There is established the position of the Director, who shall serve as the head of the Bureau.

Current Code historical notes

Current

[<< Previous](#) [TITLE 12 / CHAPTER 53 / SUBCHAPTER V / Part A / § 5491](#) [Next >>](#)

[\[Print\]](#) [\[Print selection\]](#)

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(b) Serve as acting Director in the absence or unavailability of the Director.

(c) Term

(1) In general

The Director shall serve for a term of 5 years.

(2) Expiration of term

An individual may serve as Director after the expiration of the term for which appointed, until a successor has been appointed and qualified.

(3) Removal for cause

The President may remove the Director for inefficiency, neglect of duty, or malfeasance in office.

(d) Service restriction

No Director or Deputy Director may hold any office, position, or employment in any Federal reserve bank, Federal home loan bank, covered person, or service provider during the period of service of such person as Director or Deputy Director.

(e) Offices

The principal office of the Bureau shall be in the District of Columbia. The Director may establish regional offices of the Bureau, including in cities in which the Federal reserve banks, or branches of such banks, are located, in order to carry out the responsibilities assigned to the Bureau under the Federal consumer financial laws.

(Pub. L. 111–203, title X, §1011, July 21, 2010, 124 Stat. 1964.)

EFFECTIVE DATE

Pub. L. 111–203, title X, §1018, July 21, 2010, 124 Stat. 1979, provided that: “This subtitle [subtitle A (§§1011–1018), enacting this part and amending section 9702 of Title 20, Education] shall become effective on the date of enactment of this Act [July 21, 2010].”

Sources for state statutes

Session laws

- Access through state legislature website ([NC: back to 1959](#))

Links via
Cornell LII
State Law Listings

- [Session Laws library, HeinOnline](#)
(18th century – present)

Codes

- Access through state legislature website ([NC General Statutes](#))
- [State Statutes, Codes & Regulations, LexisNexis Academic](#)
(current codes only)
- [State Statutes: A Historical Archive library, HeinOnline](#)
(various dates)

North Carolina General Statutes, NCGA



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NC General Statutes

NOTE: The Statutes on the North Carolina General Assembly website reflect changes made in the [2012](#) Session. The changes for the 2013 Session are listed in the [NC Statutes and Session Laws](#) affected by ratified bills.

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Section	Description
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2. G.S. 42-43	§ 42-43. TENANT TO MAINTAIN DWELLING UNIT.
3. G.S. 42-37.1	§ 42-37.1. DEFENSE OF RETALIATORY EVICTION.
4. G.S. 44A-2	§ 44A-2. PERSONS ENTITLED TO LIEN ON PERSONAL ...
5. G.S. 42-42	§ 42-42. LANDLORD TO PROVIDE FIT PREMISES.
6. G.S. 42A-31	§ 42A-31. LANDLORD TO PROVIDE FIT PREMISES.

Section Text

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(See note), the note can be viewed in the printed copy of the General Statutes in a library or courthouse setting or in the online statutes available through LexisNexis on a subscription basis.

Service

The North Carolina General Assembly offers access to the Statutes on the Internet as a service to the public. The Webmanager is



§ 42-42. Landlord to provide fit premises.

- (a) compliance with this subdivision.
- (8) Within a reasonable period of time based upon the severity of the condition, repair or remedy any imminently dangerous condition on the premises after acquiring actual knowledge or receiving notice of the condition. Notwithstanding the landlord's repair or remedy of any imminently dangerous condition, the landlord may recover from the tenant the actual and reasonable costs of repairs that are the fault of the tenant. For purposes of this subdivision, the term "imminently dangerous condition" means any of the following:
- a. Unsafe wiring.
 - b. Unsafe flooring or steps.
 - c. Unsafe ceilings or roofs.
 - d. Unsafe chimneys or flues.
 - e. Lack of potable water.
 - f. Lack of operable locks on all doors leading to the outside.
 - g. Broken windows or lack of operable locks on all windows on the ground level.
 - h. Lack of operable heating facilities capable of heating living areas to 65 degrees Fahrenheit when it is 20 degrees Fahrenheit outside from

and is not made with the purpose or effect of evading the landlord's obligations under this Article. (1977, c. 770, s. 1; 1995, c. 111, s. 2; 1998-212, s. 17.16(i); 2004-143, s. 3; 2008-219, ss. 2, 6; 2009-279, s. 3; 2010-97, s. 6(a); 2012-92, s. 1.)

Sidebar: Local ordinances

- County, city and town **ordinances** regulate local issues such as noise and animal control.
- Codes are often posted for free on local government websites, or via:
 - [Municode Library](#)
 - [eCode 360](#)

The Executive Branch

Rules/Regulations

The rulemaking process

Delegation

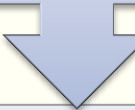
- **Legislature assigns (“delegates”)** its rulemaking power to executive branch agency or department.
- Usually highly **technical or specialized** area.

Promulgation

- **Executive agency now has power to make (“promulgate”)** rules/regulations within the scope of the legislature’s grant of power.
- Once promulgated, regulations have the same **force of law** as if the legislature had passed it.

“Notice & comment” rulemaking

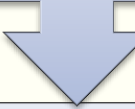
Proposed rule is announced and published in administrative register.



Period for **public comments** to the regulating body.



Finalized rule is re-published in administrative register with summary of public comments.



Current rules in force are codified in an **administrative code**.

Administrative registers/codes

Federal Register

- FederalRegister.gov
(1994 – present)
- FDsys (1994 – present)
- LexisNexis Academic
(1936 – present)
- F.R. library, HeinOnline
(1936 – present)

Code of Federal Regulations

- e-CFR, GPO (unofficial, but kept the most current)
- FDsys (1996 – present)
- LexisNexis Academic
(current edition)
- C.F.R. library, HeinOnline
(1938 – present)

State administrative registers & codes:

State Law Listings, Cornell Legal Information Institute

Subtitle J—Securities and Exchange Commission Match Funding

Sec. 991. Securities and Exchange Commission match funding.

TITLE X—BUREAU OF CONSUMER FINANCIAL PROTECTION

Sec. 1001. Short title.

Sec. 1002. Definitions.

Subtitle A—Bureau of Consumer Financial Protection

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Sec. 1013. Administration.

Sec. 1014. Consumer Advisory Board.

Sec. 1015. Coordination.

Sec. 1016. Appearances before and reports to Congress.

Sec. 1017. Funding; penalties and fines.

Sec. 1018. Effective date.

Subtitle B—General Powers of the Bureau

USC title & section

Sec. 1021. Purpose, objectives, and function.

Sec. 1022. Rulemaking authority.

Sec. 1023. Review of Bureau regulation.

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Sec. 1024. Supervision of nondepository covered persons.

Sec. 1025. Supervision of very large banks, savings associations, and credit unions.

Sec. 1026. Other banks, savings associations, and credit unions.

Sec. 1027. Limitations on authorities of the Bureau; preservation of authorities.

Sec. 1028. Authority to restrict mandatory pre-dispute arbitration.

Sec. 1029. Exclusion for auto dealers.

Sec. 1029A. Effective date.

Subtitle C—Specific Bureau Authorities

Sec. 1031. Prohibiting unfair, deceptive, or abusive acts or practices.

Sec. 1032. Disclosures.

Sec. 1033. Consumer rights to access information.

Sec. 1034. Response to consumer complaints and inquiries.

Sec. 1035. Private education loan ombudsman.

Sec. 1036. Prohibited acts.

Sec. 1037. Effective date.

Enabling statute

◀ Current ▶

[<< Previous](#) [TITLE 12 / CHAPTER 53 / SUBCHAPTER V / Part B / § 5512](#) [Next >>](#)

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§5512. Rulemaking authority

(a) In general

The Bureau is authorized to exercise its authorities under Federal consumer financial law to administer, enforce, and otherwise implement the provisions of Federal consumer financial law.

(b) Rulemaking, orders, and guidance

(1) General authority

The Director may prescribe rules and issue orders and guidance, as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof.

(2) Standards for rulemaking

In prescribing a rule under the Federal consumer financial laws-

(A) the Bureau shall consider-

- (i) the potential benefits and costs to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services resulting from such rule; and
- (ii) the impact of proposed rules on covered persons, as described in section 5516 of this title, and the impact on consumers in rural areas;

(B) the Bureau shall consult with the appropriate prudential regulators or other Federal agencies prior to proposing a rule and during the comment process regarding consistency with prudential, market, or systemic objectives administered by such agencies; and

(C) if, during the consultation process described in subparagraph (B), a prudential regulator provides the Bureau with a

Proposed rule - FR

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB-2012-0039]

RIN 3170-AA28

Truth in Lending (Regulation Z)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Proposed rule; request for public comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is proposing to amend Regulation Z, which implements the Truth in Lending Act (TILA), and the official interpretation to the regulation, which interprets the requirements of Regulation Z. Regulation Z generally prohibits a card issuer from opening a credit card account for a consumer, or increasing the credit limit applicable to a credit card account, unless the card issuer considers the consumer's ability to make the required payments under the terms of such account. Regulation Z currently requires that issuers consider the consumer's independent ability to pay, regardless of the consumer's age; in contrast, TILA expressly requires consideration of an independent ability to pay only for applicants who are

under the age of 21. The Bureau requests comment on proposed amendments that would remove the independent ability-to-pay requirement for consumers who are 21 and older, and permit issuers to consider income to which such consumers have a reasonable expectation of access.

DATES: Comments must be received on or before January 7, 2013.

comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1700 G Street NW., Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by calling (202) 435-7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or social security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT:

Andrea Edmonds, Senior Counsel, Office of Regulations, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552, at (202) 435-7000.

SUPPLEMENTARY INFORMATION:

I. Background

The Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit Card Act) was signed into law on May 22, 2009.¹ The Credit Card Act primarily amended the Truth in Lending Act (TILA) and instituted new substantive and disclosure requirements to establish fair and transparent practices for open-end consumer credit plans.

The Credit Card Act added TILA section 150 which states that "[a] card issuer may not open any credit card account for any consumer under an open end consumer credit plan, or increase any credit limit applicable to such account, unless the card issuer considers the ability of the consumer to

requirements.³ Section 127(c)(8)(B) sets forth those requirements and provides that "an application to open a credit card account by a consumer who has not attained the age of 21 as of the date of submission of the application shall require * * * (i) the signature of a cosigner, including the parent, legal guardian, spouse, or any other individual who has attained the age of 21 having a means to repay debts incurred by the consumer in connection with the account, indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has attained the age of 21; or * * * (ii) submission by the consumer of financial information, including through an application, indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account."⁴

On January 12, 2010, the Board of Governors of the Federal Reserve System (Board) issued a final rule (January 2010 Final Rule) implementing new TILA Sections 150 and 127(c)(8) in a new 12 CFR 226.51.⁵ The general rule in § 226.51(a) provided, in part, that "[a] card issuer must not open a credit card account for a consumer under an open-end (not home-secured) consumer credit plan, or increase any limit applicable to such account, unless the card issuer considers the ability of the consumer to make the required minimum periodic payments under the terms of the account based on the consumer's income or assets and current obligations."⁶ Consistent with the statute, § 226.51(b) set forth a special rule for consumers who are less than 21 years old and provided, in part, that a card issuer may not open a credit card account for a consumer less than 21 years old unless the consumer has

Final Rule – FR (again) / Comments on Regulations.gov

in this contract.

(g)(1) All litigation costs, including counsel fees, judgments and settlements shall be segregated and accounted for by the contractor separately. If the Contracting Officer provisionally disallows such costs, then the contractor may not use funds advanced by DOE under the contract to finance the litigation.

(2) Punitive damages are not allowable unless the act or failure to act which gave rise to the liability resulted from compliance with specific terms and conditions of the contract or written instructions from the Contracting Officer.

(3) The portion of the cost of insurance obtained by the contractor that is allocable to coverage of liabilities referred to in paragraph (f) of this clause is not allowable.

(h) The contractor may at its own expense and not as an allowable cost procure for its own protection insurance to compensate the contractor for any unallowable or non-reimbursable costs incurred in connection with contract performance.

(End of clause)

[FR Doc. 2013-10485 Filed 5-2-13; 8:45 am]

BILLING CODE 6450-01-P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB-2012-0039]

RIN 3170-AA28

Truth in Lending (Regulation Z)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official interpretations.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) issues this final rule to amend Regulation Z, which implements the Truth in Lending Act (TILA), and the official interpretations to the regulation. Regulation Z generally

reasonable expectation of access.

DATES: The rule is effective on May 3, 2013. Compliance with the rule is required by November 4, 2013. Card issuers may, at their option, comply with the final rule prior to this date.

FOR FURTHER INFORMATION CONTACT:

Krista P. Ayoub and Andrea Pruitt Edmonds, Senior Counsels, Office of Regulations, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552, at (202) 435-7000.

SUPPLEMENTARY INFORMATION:

I. Summary of the Final Rule

The Credit Card Accountability Responsibility and Disclosure Act (Credit Card Act) was enacted in 2009 as an amendment to the Truth in Lending Act (TILA) to address concerns that certain practices in the credit card industry were not transparent or fair to consumers. As amended, TILA section 150 generally prohibits a card issuer from opening a credit card account or increasing a line of credit for any consumer unless it considers the consumer's ability to make the required payments under the terms of the account. TILA section 127(c)(8) establishes special requirements for consumers under 21 and, among other things, prohibits a card issuer from extending credit to younger consumers unless the consumer's written application is cosigned by a person 21 or older with the means to make the required payments, or the card issuer has financial information that indicates the consumer's independent ability to make the required payments under the terms of the account. The statutory requirements in TILA sections 150 and 127(c)(8) are implemented in section 1026.51(a) and (b) of Regulation Z, respectively. Notwithstanding TILA's different ability-to-pay standards for

effective date, although covered persons may come into compliance before that date.

The final rule has four main elements. First, the final rule generally removes references to an "independent" ability-to-pay standard from § 1026.51(a)(1) and associated commentary. As a result, card issuers are no longer required to consider whether consumers age 21 or older have an independent ability to pay; instead, card issuers are now required by Regulation Z to consider the consumer's ability to pay. Second, in determining a consumer's ability to pay, the final rule permits issuers to consider income or assets to which an applicant or accountholder who is 21 or older—and thus subject to § 1026.51(a) rather than § 1026.51(b) □ has a reasonable expectation of access. The final rule clarifies by examples in the commentary those circumstances in which the expectation of access is deemed to be reasonable or unreasonable. Third, the final rule continues to require in § 1026.51(b)(1)(i) that consumers under the age of 21 without a cosigner or similar party who is 21 years or older have an independent ability to pay, consistent with TILA section 127(c)(8). Finally, the final rule clarifies that application of the independent ability-to-pay standard to consumers under 21, consistent with Regulation Z, does not violate the Regulation B prohibition against age-based discrimination.

II. Background

The Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit Card Act) was signed into law on May 22, 2009.¹ The Credit Card Act primarily amended the Truth in Lending Act (TILA) and instituted new substantive and disclosure requirements to establish fair and transparent

¹ Public Law 111-24, 123 Stat. 1734 (2009).

amendments to Regulation Z that it believes are more consistent with the plain language and intent of the Credit Card Act.

In response to the proposal, the Bureau received over 300 comments from individual consumers, consumer groups, trade groups, retailers, banks, credit unions, card issuers, and other financial institutions. Based on a review of these comments and its own analysis, the Bureau adopts the amendments to § 1026.51 substantially as proposed, with several edits and clarifications to address issues raised by the commenters.

III. Legal Authority

The Bureau issues this final rule pursuant to its authority under TILA, the Dodd-Frank Act, and the Credit Card Act. Effective July 21, 2011, section 1061 of the Dodd-Frank Act transferred to the Bureau the "consumer financial protection functions" previously vested in certain other Federal agencies. The term "consumer financial protection functions" is defined to include "all authority to prescribe rules or issue orders or guidelines pursuant to any Federal consumer financial law, including performing appropriate functions to promulgate and review such rules, orders, and guidelines."¹⁶ TILA is a Federal consumer financial law.¹⁷ Accordingly, effective July 21, 2011, except with respect to persons excluded from the Bureau's rulemaking authority by sections 1027 and 1029 of the Dodd-Frank Act, the authority of the Board to issue regulations pursuant to TILA transferred to the Bureau.

TILA, as amended by the Dodd-Frank Act, authorizes the Bureau to "prescribe regulations to carry out the purposes of [TILA]."¹⁸ These "regulations may contain such additional requirements, classifications, differentiations, or other provisions, and may provide for such

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e-CFR Data is current as of May 8, 2013

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Title 12: Banks and Banking

[PART 1026—TRUTH IN LENDING \(REGULATION Z\)](#)[Subpart G—Special Rules Applicable to Credit Card Accounts and Open-End Credit Offered to College Students](#)**§ 1026.51 Ability to Pay.**

(a) *General rule*—(1)(i) *Consideration of ability to pay.* A card issuer must not open a credit card account for a consumer under an open-end (not home-secured) consumer credit plan, or increase any credit limit applicable to such account, unless the card issuer considers the consumer's ability to make the required minimum periodic payments under the terms of the account based on the consumer's income or assets and the consumer's current obligations.

(ii) *Reasonable policies and procedures.* Card issuers must establish and maintain reasonable written policies and procedures to consider the consumer's ability to make the required minimum payments under the terms of the account based on a consumer's income or assets and a consumer's current obligations. Reasonable policies and procedures include treating any income and assets to which the consumer has a reasonable expectation of access as the consumer's income or assets, or limiting consideration of the consumer's income or assets to the consumer's independent income and assets. Reasonable policies and procedures also include consideration of at least one of the

[76 FR 79772, Dec. 22, 2011, as amended at 78 FR 25837, May 3, 2013]

Regulations summary

- Researchers must always check for **applicable executive branch regulations**.
- They are **legally binding** and can provide additional details not contained in the relevant statutes.
- Begin research with the **current administrative code** for your jurisdiction.

Sidebar: Other executive materials

- Administrative agencies often issue many other types of documents: **memoranda, reports, press releases, etc.**
- Some agencies also hear disputes and issue **administrative decisions**, very much like a judicial branch court.
- These materials are often available through the **[agency website](#)**.

The Judicial Branch

Court opinions/orders

Precedent

- Courts **interpret the meaning of** statutes, regulations, and prior case law, as they apply to a particular situation.
- Their rulings create **precedent** which the relevant **jurisdiction** is bound to follow in future, similar situations.

The life of a lawsuit

Most case law that researchers will find comes from **appellate courts**, although they comprise a *much* smaller fraction of the court systems' case load.



Court of
last resort
("discretionary")

Intermediate
appellate court
(appeal is "of right")

Trial court

U.S. Supreme Court – binds lower federal courts on matters of federal law, and state courts on federal constitutional issues

Court of last resort – final word on matters of state law & the state constitution

U.S. Circuit Courts of Appeal – bind lower federal district courts within that appellate circuit. Different circuits may disagree (“**circuit split**”).

Intermediate appellate court – binds lower trial-level courts.

U.S. District Courts – No binding precedential value in federal system. Most decisions at this level are not formally “published” / reported.

Trial courts – generally have no precedential value; usually not officially “published” / reported.

Sources for case law

- [LexisNexis Academic](#), Federal & State Cases section
- [Google Scholar](#): free access to federal & state cases
- [FindLaw Cases & Codes](#): includes case law databases. **Note:** Check dates of coverage!

Example: State case law

§ 42-42. Landlord to provide fit premises.

(a) The landlord shall:

(8) Within a reasonable period of time based upon the severity of the condition, repair or remedy any imminently dangerous condition on the premises after acquiring actual knowledge or receiving notice of the condition. Notwithstanding the landlord's repair or remedy of any imminently dangerous condition, the landlord may recover from the tenant the actual and reasonable costs of repairs that are the fault of the tenant. For purposes of this subdivision, the term "imminently dangerous condition" means any of the following:

- a. Unsafe wiring.
- b. Unsafe flooring or stairs.
- c. Unsafe ceilings or roofs.
- d. Unsafe chimneys or flues.
- e. Lack of potable water.
- f. Lack of operable locks on all doors leading to the outside.
- g. Broken windows or lack of operable locks on all windows on the ground level.

**But what if it's a broken
window screen?**

Annotated code case notes

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4 of 5

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N.C. Gen. Stat. § 42-42



safe condition, and a violation of that duty is evidence of negligence. [O'Neal v. Kellett](#), 55 N.C. App. 225, 284 S.E.2d 707 (1981).

Since the duty to keep the common areas in a safe condition implies the duty to make reasonable inspection and to correct an unsafe condition which a reasonable inspection might reveal, such a breach of duty would constitute actionable negligence on defendants' part and would support a verdict for plaintiff. [Lenz v. Ridgewood Assocs.](#), 55 N.C. App. 115, 284 S.E.2d 702 (1981), cert. denied, 305 N.C. 300, 290 S.E.2d 702 (1982).

Violations of this section are evidence of negligence. [Jackson v. Housing Auth.](#), 73 N.C. App. 363, 326 S.E.2d 295 (1985), aff'd, 316 N.C. 259, 341 S.E.2d 523 (1986).

A violation of this statute amounts to evidence of negligence, not negligence per se, and as such requires the application of common law principles of negligence to determine a **landlord's** liability. [Bradley v. Wachovia Bank & Trust Co.](#), 90 N.C. App. 581, 369 S.E.2d 86 (1988).

STANDARD OF CARE WAS NOT MERE COMPLIANCE WITH SUBDIVISION (A)(1). --Where complaint alleged that defendants were negligent in design and construction of apartment, where defendant argued standard of care was compliance with state and local building and housing codes, and where defendant pointed out that apartment's plans, specifications, materials, and construction conformed in all respects to subdivision (a)(1), compliance with statutory standard was only evidence of due care, and compliance with this section did not insulate **landlords** from liability for defects in building design or construction. [Collingwood v. General Elec. Real Estate Equities, Inc.](#), 324 N.C. 63, 376 S.E.2d 425 (1989).

STANDARD OF REASONABLE CARE IN THE INSPECTION AND MAINTENANCE OF LEASED PROPERTY DID NOT IMPOSE UPON DEFENDANT LESSOR THE DUTY TO TEAR DOWN WALLS FOR PURPOSES OF INSPECTION without notice or any suggestion of a defective condition which allegedly was the cause of a house-destroying fire. [Bradley v. Wachovia Bank & Trust Co.](#), 90 N.C. App. 581, 369 S.E.2d 86 (1988).

STANDARD OF CARE AS TO HABITABILITY. --Absent an express agreement to install or **repair** protective **window** screens, **landlord** not liable for injuries to child falling through **window**. **Landlord** has no common law duty to provide or maintain such screens. [Mudusar v. V.G. Murray & Co.](#), 100 N.C. App. 395, 396 S.E.2d 325 (1990).

As agent/manager of property defendant had actual authority to **repair** and keep the premises in a fit and habitable condition and had failed to do so during plaintiff's tenancy; therefore, as **landlord**, defendant's violation of this section subjected him to liability for rent abatement. [Surratt v. Newton](#), 99 N.C. App. 396, 393 S.E.2d 554 (1990).

STANDARD OF CARE AS TO HABITABILITY. --Absent an express agreement to install or **repair** protective **window** screens, **landlord** not liable for injuries to child falling through **window**. **Landlord** has no common law duty to provide or maintain such screens. [Mudusar v. V.G. Murray & Co.](#), 100 N.C. App. 395, 396 S.E.2d 325 (1990).

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NO BREACH OF IMPLIED WARRANTY OF HABITABILITY. --Failure of **landlord** or building manager to install or maintain **window** screens not a breach of implied warranty of habitability since screens did comply with local housing code. [Mudusar v. V.G. Murray & Co.](#), 100 N.C. App. 395, 396 S.E.2d 325 (1990).

THE PROPER MEASURE OF DAMAGES IN A RENT ABATEMENT ACTION BASED ON A BREACH OF THE IMPLIED WARRANTY OF HABITABILITY is the difference between the fair rental value of the property in a warranted condition and the fair rental value of the property in its unwarranted condition, provided, however, the damages do not exceed the total amount of rent paid by the tenant; and the tenant is entitled to any special and consequential damages alleged and proved. [Von Pettis Realty, Inc. v. McKoy](#), 135

Full-text case law searches



The screenshot shows a Google Scholar search interface. At the top left is the Google logo. The search bar contains the text "landlord repair window screen" and a blue search button with a magnifying glass icon. Below the search bar, the word "Scholar" is displayed in red, followed by "2 results (0.02 sec)". To the right of this information are two dropdown menus: "Any time" and a downward arrow. A blue search button with a magnifying glass icon is also visible on the right side of the interface.

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[MUDUSAR BY BALOCH v. VG Murray & Co.](#)
396 SE 2d 325, 100 NC App. 395, 327 NC ... - NC: Court of Appeals, 1990 - Google Scholar
... 907, 546 NE2d 1020 (1989). Nevertheless, a number of other jurisdictions dealing with this question have refused to require a **landlord**, absent some specific agreement or covenant to **repair**, to install and maintain protective **window screens**: ...
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... electrical wiring and overloaded circuits; 6) improper drainage and sewage connections resulting in sewage lying on top of the ground; 7) broken steps, **window** panes and ... 785, 795 (1978) (indicating the **landlord** should have a reasonable time after notice to **repair** the defects ...
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“Good Law”

(or not?)

Updating Your Findings

- The law is **constantly changing!**
 - Statutes can be **amended**.
 - Regulations can be **revised**.
 - Case law can be **overruled**.
- Print materials become outdated quickly.
- **“Citator tools”** help bring your research up to date.

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 [Mudusar v. V. G. Murray & Co., 396 S.E.2d 325](#)



Mudusar v. V. G. Murray & Co. , 100 N.C. App. 395, 396 S.E.2d 325, 1990 N.C. App. LEXIS 987 (1990)

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Google Scholar

- Google Scholar's legal documents search includes a “**cited by**” feature for case law and secondary sources.
- Can lead to materials which indicate **subsequent treatment**, but puts more burden on the reader to make fine distinctions.



mudusar v. VG Murray



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mudusar v. VG Murray



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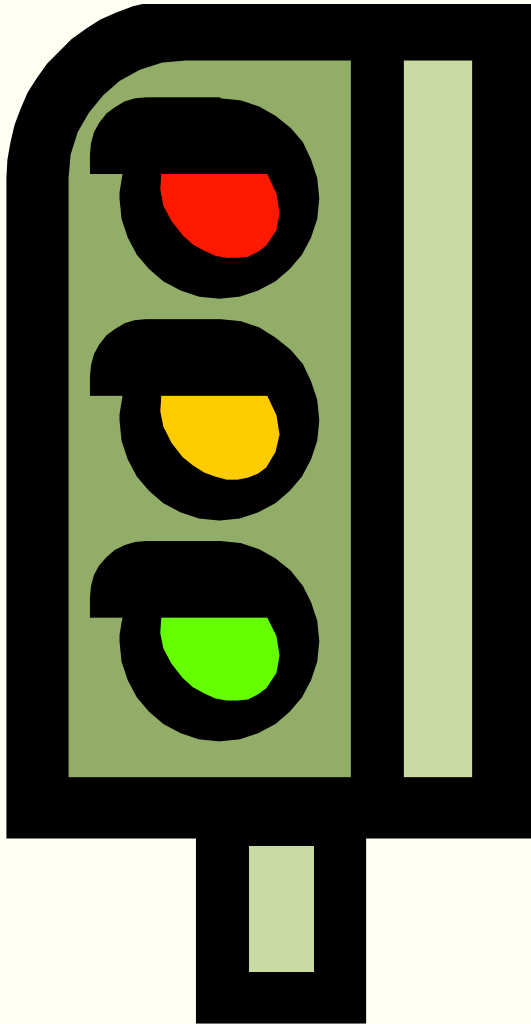
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