

Judiciary  
Rush, Chairperson  
Coleman  
P. Hill

FILED MAY 20 1977

SENATE FILE 411

By WILLITS

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

### A BILL FOR

1 An Act codifying the doctrine of implied warranty of  
2 habitability and providing remedies.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 411

1 Section 1. Chapter five hundred sixty-two (562), Code  
2 1977, is amended by adding sections two (2) through eight  
3 (8) of this Act as a new division to be entitled "Warranty  
4 of Habitability."

5 Sec. 2. NEW SECTION. LANDLORD'S WARRANTY OF HABITABILITY.

6 A landlord's warranty of habitability shall exist at the  
7 outset of a lease of residential premises including a house,  
8 condominium, or apartment. A landlord shall warrant the  
9 following:

10 1. That there are no latent defects in facilities and  
11 utilities that are vital to the use of the premises for  
12 residential purposes.

13 2. That those essential features shall remain in a  
14 condition to maintain the habitability of the premises during  
15 the entire term of the lease.

16 3. That there neither is nor shall be a violation of  
17 applicable housing laws, regulations, or ordinances during  
18 the term of the lease which would render the premises unsafe  
19 or insanitary, and consequently unfit for habitation.

20 Sec. 3. NEW SECTION. DUTY OF TENANT. A tenant of leased  
21 residential premises shall have a duty to notify the landlord  
22 of a deficiency or defect which is not known to the landlord.

23 Sec. 4. NEW SECTION. BREACH OF WARRANTY OF HABITABILITY.  
24 A landlord does not breach the warranty of habitability within  
25 the meaning of this Act unless the breach is of such a  
26 substantial nature as to render the premises unsafe or  
27 insanitary, and consequently unfit for habitation.

28 The circumstances of each case shall determine whether  
29 a landlord has breached the warranty of habitability.  
30 Pertinent factors to be considered in determining whether  
31 a breach has occurred include:

32 1. Whether the deficiency or defect violates a housing  
33 law, regulation, or ordinance.

34 2. The nature of the deficiency or defect.

35 3. The effect of the deficiency or defect on safety and

1 sanitation, and consequently habitability of the premises.

2 4. The length of time the deficiency or defect existed.

3 5. The age of the structure.

4 6. The amount of rent.

5 7. Whether the tenant voluntarily, knowingly, and  
6 intelligently waived the deficiency or defect or is estopped  
7 from raising the question of breach.

8 8. Whether the deficiency or defect resulted from unusual,  
9 abnormal, or malicious use by the tenant, a member of the  
10 tenant's family, or other person on the premises with the  
11 tenant's consent.

12 Sec. 5. NEW SECTION. TENANT REMEDIES.

13 1. If a landlord breaches the warranty of habitability,  
14 the tenant may deliver a written notice to the landlord  
15 specifying the acts and omissions constituting the breach  
16 and that the rental agreement shall terminate upon a date  
17 not less than thirty days after receipt of the notice if the  
18 breach is not remedied in fourteen days. The rental agreement  
19 shall terminate as provided in the notice unless the landlord  
20 adequately remedies the breach prior to the fourteen day  
21 deadline specified in the notice.

22 If substantially the same act or omission which constituted  
23 a prior breach of which notice was given recurs within six  
24 months, the tenant may terminate the rental agreement upon  
25 at least fourteen days' written notice specifying the acts  
26 and omissions constituting the breach and the date of ter-  
27 mination of the rental agreement.

28 The tenant may not terminate for a condition caused by  
29 the unusual, abnormal, or malicious use by the tenant, a  
30 member of the tenant's family, or other person on the premises  
31 with the tenant's consent.

32 2. If the rental agreement is terminated, the landlord  
33 shall return any prepaid rent and rental deposits to the  
34 tenant as provided in this chapter.

35 3. The tenant may obtain injunctive relief for a breach

1 of the warranty of habitability.

2 4. If the landlord's breach of the warranty of habitability  
3 is willful, the tenant may recover reasonable attorney fees.

4 5. When a landlord breaches the warranty of habitability,  
5 the basic contract remedy of damages is available to the  
6 tenant.

7 The tenant's damages shall be the difference between the  
8 fair rental value of the premises if they had been as warranted  
9 and the fair rental value of the premises as they were during  
10 occupancy by the tenant in an unsafe or insanitary condition.

11 When a tenant vacates leased residential premises because  
12 of a landlord's breach of the warranty of habitability, the  
13 tenant's damages after vacation of the premises shall be the  
14 difference between the fair rental value of the premises if  
15 they had been as warranted and the promised rent computed  
16 for the balance of the term of the lease. This is the value  
17 of the lease for the unexpired term of the lease.

18 In all events, a tenant shall have incidental and  
19 consequential damages.

20 6. A landlord's alleged breach of the warranty of  
21 habitability may be asserted as a defense and counterclaim  
22 in a landlord's action against a tenant to recover rent when  
23 the tenant has vacated leased residential premises.

24 Sec. 6. NEW SECTION. SELF--HELP FOR MINOR DEFECTS. If  
25 a landlord breaches the warranty of habitability and the  
26 reasonable cost of remedying the breach is less than one  
27 hundred dollars or an amount equal to one-half the periodic  
28 rent, whichever is greater, the tenant may recover damages  
29 for breach pursuant to section five (5), subsection five (5)  
30 of this Act or may notify the landlord in writing of his or  
31 her intention to correct the condition at the landlord's  
32 expense.

33 If the landlord fails to comply within fourteen days after  
34 being notified by the tenant, or as promptly as conditions  
35 require in case of an emergency, the tenant may cause the

1 work to be done in a workmanlike manner. After submitting  
2 an itemized statement to the landlord, the tenant may deduct  
3 the actual and reasonable cost or the fair and reasonable  
4 value of the work from the rent. This amount shall be subject  
5 to the limitations set forth in this section.

6 A tenant may not repair at the landlord's expense if the  
7 condition was caused by the unusual, abnormal, or malicious  
8 use by the tenant, a member of the tenant's family, or other  
9 person on the premises with the tenant's consent.

10 Sec. 7. This Act shall apply to rental agreements entered  
11 into or extended or renewed after the effective date of this  
12 Act.

13 Sec. 8. This Act is effective January 1, 1978.

14 EXPLANATION

15 This bill codifies the doctrine of implied warranty of  
16 habitability established in the Iowa Supreme Court case Mease  
17 v. Fox, 200 N.W. 2d 791 (Iowa 1972). It also incorporates  
18 some of the remedies contained in the Uniform Residential  
19 Landlord and Tenant Act.

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