

House File 638

H-8306

1 Amend the Senate amendment, H-1317, to House File 638, as
2 passed by the House, as follows:

3 1. By striking page 1, line 4, through page 2, line 18, and
4 inserting:

5 <<DIVISION ____
6 RETALIATION

7 Sec. ____ . Section 562B.32, subsection 1, paragraph d, Code
8 2020, is amended to read as follows:

9 d. For exercising any of the rights and remedies pursuant
10 to this chapter or chapter 216.

11 Sec. ____ . Section 562B.32, subsection 2, Code 2020, is
12 amended to read as follows:

13 2. If the landlord acts in violation of subsection 1
14 of this section, the tenant is entitled to the remedies
15 provided in section 562B.24 and has a defense in an action for
16 possession. In an action by or against the tenant, evidence
17 of a complaint within ~~six months~~ one year prior to the alleged
18 act of retaliation creates a presumption that the landlord's
19 conduct was in retaliation. The presumption does not arise
20 if the tenant made the complaint after notice of termination
21 of the rental agreement. For the purpose of this subsection,
22 "presumption" means that the trier of fact must find the
23 existence of the fact presumed unless and until evidence is
24 introduced which would support a finding of its nonexistence.

25 Sec. ____ . EFFECTIVE DATE. This division of this Act, being
26 deemed of immediate importance, takes effect upon enactment.

27 DIVISION ____
28 RENT INCREASES

29 Sec. ____ . Section 562B.14, subsection 7, Code 2020, is
30 amended to read as follows:

31 7. Each tenant shall be notified, in writing, of any rent
32 increase at least ~~sixty~~ one hundred twenty days before the
33 effective date. Such effective date shall not be sooner than
34 the expiration date of the original rental agreement or any
35 renewal or extension thereof.

1 scheduled, and the lienholder's right to assert a claim to
2 the mobile home at the hearing. The notice shall also state
3 that failure to assert a claim to the mobile home within the
4 judicial proceedings is deemed a waiver of all right, title,
5 claim, and interest in the mobile home and is deemed consent to
6 the sale or disposal of the mobile home. If personal service
7 upon the lienholder cannot be completed in time to give the
8 lienholder the minimum notice required by this section, the
9 court may set a new hearing date.

10 Sec. _____. Section 555B.8, subsections 2 and 3, Code 2020,
11 are amended to read as follows:

12 2. ~~If~~ Except as otherwise ordered by the court, if the
13 mobile home owner or other claimant asserts a claim to the
14 property, the judgment shall be satisfied before the mobile
15 home owner or other claimant may take possession of the mobile
16 home or personal property.

17 3. If no claim is asserted to the mobile home or personal
18 property or if the judgment is not satisfied at the time of
19 entry, an order shall be entered allowing the real property
20 owner to sell or otherwise dispose of the mobile home and
21 personal property pursuant to [section 555B.9](#). ~~If~~ Except as
22 otherwise ordered by the court, if a claimant satisfies the
23 judgment at the time of entry, the court shall enter an order
24 permitting and directing the claimant to remove the mobile home
25 or personal property from its location within a reasonable time
26 to be fixed by the court. The court shall also determine the
27 amount of further rent or storage charges to be paid by the
28 claimant to the real property owner at the time of removal.

29 Sec. _____. Section 555B.9, subsections 1, 2, 3, and 4, Code
30 2020, are amended to read as follows:

31 1. Pursuant to an order for disposal under section 555B.8,
32 subsection 3, the real property owner shall dispose of the
33 mobile home and personal property by public or private sale in
34 a commercially reasonable manner. If the personal property,
35 lienholder, owner, or other claimant has asserted a claim

1 to the mobile home or personal property within the judicial
2 proceedings, that person shall be notified of the sale by
3 restricted certified mail not less than five days before the
4 sale. The notice is deemed given upon the mailing. The real
5 property owner may buy at any public sale, and if the mobile
6 home or personal property is of a type customarily sold in
7 a recognized market or is the subject of widely distributed
8 standard price quotations, the real property owner may buy at a
9 private sale.

10 2. A sale pursuant to [subsection 1](#) transfers to the
11 purchaser for value, all of the mobile home owner's rights
12 in the mobile home and personal property, and discharges the
13 real property owner's interest in the mobile home and personal
14 property, and any tax lien, and any other lien. The purchaser
15 takes free of all rights and interests even though the real
16 property owner fails to comply with the requirements of this
17 chapter or of any judicial proceedings, if the purchaser acts
18 in good faith.

19 3. The proceeds of the sale of mobile home and personal
20 property shall be distributed as follows:

21 a. First, to satisfy the real property owner's judgment
22 obtained under [section 555B.8](#).

23 b. Second, to satisfy any tax lien for which a claim was
24 asserted pursuant to [section 555B.4, subsection 3](#).

25 0c. Third, to satisfy any other lien for which a claim was
26 asserted pursuant to section 555B.4, subsection 4.

27 c. Any surplus remaining after the proceeds are distributed
28 shall be held by the real property owner for six months. If
29 the mobile home owner fails to claim the surplus in that time,
30 the surplus may be retained by the real property owner. If
31 a deficiency remains after distribution of the proceeds, the
32 mobile home owner is liable for the amount of the deficiency.

33 4. Notwithstanding [subsections 1 through 3](#), the real
34 property owner may propose to retain the mobile home and
35 personal property in satisfaction of the judgment obtained

1 pursuant to [section 555B.8](#). Written notice of the proposal
2 shall be sent to the mobile home owner, lienholder, or other
3 claimant, if that person has asserted a claim to the mobile
4 home or personal property in the judicial proceedings. If
5 the real property owner receives objection in writing from
6 the mobile home owner, lienholder, or other claimant within
7 twenty-one days after the notice was sent, the real property
8 owner shall dispose of the mobile home and personal property
9 pursuant to [subsection 1](#). If no written objection is received
10 by the real property owner within twenty-one days after the
11 notice was sent, the mobile home and personal property may be
12 retained. Retention of the mobile home and personal property
13 discharges the judgment of the real property owner, and any tax
14 lien, and any other lien.

15 Sec. _____. Section 562A.9, subsection 4, Code 2020, is
16 amended to read as follows:

17 4. For rental agreements in which the rent does not exceed
18 seven hundred dollars per month, a rental agreement shall not
19 provide for a late fee that exceeds twelve dollars per day or a
20 total amount of sixty dollars per month. For rental agreements
21 in which the rent is greater than seven hundred dollars per
22 month but less than one thousand four hundred dollars per
23 month, a rental agreement shall not provide for a late fee that
24 exceeds twenty dollars per day or a total amount of one hundred
25 dollars per month. For rental agreements in which the rent is
26 at least one thousand four hundred dollars per month, a rental
27 agreement shall not provide for a late fee that exceeds two
28 percent of the rent per day or a total amount of ten percent of
29 the rent per month.

30 Sec. _____. Section 562B.10, subsections 4 and 7, Code 2020,
31 are amended to read as follows:

32 4. For rental agreements in which the rent does not exceed
33 seven hundred dollars per month, a rental agreement shall not
34 provide for a late fee that exceeds twelve dollars per day or a
35 total amount of sixty dollars per month. For rental agreements

1 in which the rent is greater than seven hundred dollars per
2 month but less than one thousand four hundred dollars per
3 month, a rental agreement shall not provide for a late fee that
4 exceeds twenty dollars per day or a total amount of one hundred
5 dollars per month. For rental agreements in which the rent is
6 at least one thousand four hundred dollars per month, a rental
7 agreement shall not provide for a late fee that exceeds two
8 percent of the rent per day or a total amount of ten percent of
9 the rent per month.

10 7. a. If a tenant who was sole owner of a mobile home dies
11 during the term of a rental agreement then that person's heirs
12 or legal representative or the landlord shall have the right
13 to cancel the tenant's lease by giving sixty days' written
14 notice to the person's heirs or legal representative or to
15 the landlord, whichever is appropriate, and the heirs or the
16 legal representative shall have the same rights, privileges and
17 liabilities of the original tenant.

18 b. (1) If a tenant who was sole owner of a mobile home dies
19 during the term of a rental agreement resulting in the mobile
20 home being abandoned as provided in section 562B.27, subsection
21 1, and the landlord cannot, despite due diligence, locate such
22 tenant's heirs or legal representatives, then the landlord may
23 bring an action for abandonment as provided in section 555B.3,
24 naming as defendants the estate of the tenant and any and all
25 unknown heirs of the tenant and, upon the landlord's filing
26 of an affidavit that personal service cannot be had on any
27 heir, legal representative, or estate of the tenant, the court
28 shall permit original notice of such action to be served by
29 publication pursuant to subparagraph (2) of this paragraph.

30 (2) Publication of the original notice shall be made
31 once each week for three consecutive weeks in a newspaper of
32 general circulation published in the county where the petition
33 is filed, as provided in rules of civil procedure 1.313 and
34 1.314. Service is complete after the third consecutive weekly
35 publication.

1 (3) In the event any tax lien or other lien exists on
2 the mobile home, the landlord may proceed with an action for
3 abandonment as provided in section 555B.3, except that:

4 (a) Notice shall be provided to the county treasurer as
5 provided in section 555B.4, subsection 3, if a tax lien exists.

6 (b) Personal service pursuant to rule of civil procedure
7 1.305 shall be made upon any lienholder no less than twenty
8 days before the hearing.

9 (4) Any notice to a lienholder shall state that failure
10 to assert a claim to the mobile home is deemed a waiver of
11 all right, title, claim, and interest in the mobile home and
12 is deemed consent to the sale or disposal of the mobile home.
13 If personal service upon the lienholder cannot be completed
14 in time to give the lienholder the minimum notice required by
15 subparagraph (3), the court may set a new hearing date.

16 Sec. _____. Section 648.5, subsection 1, Code 2020, is amended
17 to read as follows:

18 1. An action for forcible entry and detainer shall be
19 brought in a county where all or part of the premises is
20 located. Such an action shall be tried as an equitable action.
21 Upon receipt of the petition, the court shall set a date,
22 time, and place for hearing. The court shall set the date
23 of hearing no later than eight days from the filing date,
24 except that the court shall set a later hearing date no later
25 than fifteen days from the date of filing if the plaintiff
26 requests or consents to the later date of hearing. The
27 requirement regarding the setting of the initial hearing is not
28 a jurisdictional requirement and does not affect the court's
29 subject matter jurisdiction to hear the action for forcible
30 entry and detainer.

31 Sec. _____. EFFECTIVE DATE. The following take effect January
32 1, 2021:

33 1. The section of this division of this Act amending section
34 562A.9, subsection 4.

35 2. The portion of the section of this division of this Act

1 amending section 562B.10, subsection 4.

2 DIVISION ____

3 UNLAWFUL OUSTER

4 Sec. ____ . Section 562B.24, Code 2020, is amended to read as
5 follows:

6 **562B.24 Tenant's remedies for landlord's unlawful ouster,**
7 **exclusion or diminution of services.**

8 If the landlord unlawfully removes or excludes the tenant
9 from the manufactured home community or mobile home park or
10 willfully diminishes services to the tenant by interrupting
11 or causing the interruption of electric, gas, water, or
12 other essential service to the tenant, the tenant may recover
13 possession, require the restoration of essential services or
14 terminate the rental agreement and, in either case, recover an
15 amount not to exceed two months' periodic rent, ~~and~~ twice the
16 actual damages sustained by the tenant, and reasonable attorney
17 fees. If the rental agreement is terminated, the landlord
18 shall return all prepaid rent and security.

19 Sec. ____ . EFFECTIVE DATE. This division of this Act, being
20 deemed of immediate importance, takes effect upon enactment.

21 Sec. ____ . APPLICABILITY. This division of this Act
22 applies to actions under section 562B.24 filed on or after the
23 effective date of this division of this Act.

24 DIVISION ____

25 WRONGFUL FAILURE TO PROVIDE ESSENTIAL SERVICES

26 Sec. ____ . NEW SECTION. **562B.23A Wrongful failure to supply**
27 **running water or essential services.**

28 1. If contrary to the rental agreement or section 562B.16
29 the landlord deliberately or negligently fails to supply
30 running water or other essential services, the tenant may give
31 written notice to the landlord specifying the breach and may
32 do one of the following:

33 a. Procure reasonable amounts of water or other essential
34 services during the period of the landlord's noncompliance and
35 deduct the actual and reasonable cost from the rent.

1 otherwise necessary for the safe and proper installation of the
2 home.

3 DIVISION ____
4 LANDLORD SALES

5 Sec. ____ . NEW SECTION. 562B.17A Sale of mobile home by
6 landlord.

7 1. Any sale of a mobile home located in a manufactured
8 home community or mobile home park by a landlord or landlord's
9 agent shall be by written agreement and the landlord shall
10 produce and assign the current certificate of title obtained
11 from the department of transportation. The agreement shall
12 state the basic terms of sale, including the total cost of
13 the mobile home, finance charges, annual percentage rate, and
14 the frequency and amount of each installment payment. Such
15 agreement shall comply with the finance charge rate limitation
16 in section 103A.58, subsection 1.

17 2. Any such sale that does not comply with this section
18 may be voided by the buyer and the buyer may recover damages
19 incurred, amounts paid as a rental deposit in excess of two
20 months' rent for the mobile home, and reasonable attorney fees.

21 3. A claim under subsection 2 may be combined with an action
22 under chapter 648.

23 Sec. ____ . Section 648.19, subsection 1, Code 2020, is
24 amended to read as follows:

25 1. An action under [this chapter](#) shall not be filed in
26 connection with any other action, with the exception of a claim
27 for rent or recovery as provided in [section 555B.3](#), [562A.24](#),
28 [562A.32](#), [562B.17A](#), [562B.22](#), [562B.25](#), or [562B.27](#), nor shall it
29 be made the subject of counterclaim.

30 DIVISION ____
31 DISCLOSURE OF UTILITY CHARGES

32 Sec. ____ . Section 562B.14, subsection 6, Code 2020, is
33 amended to read as follows:

34 6. a. The landlord or any person authorized to enter into
35 a rental agreement on the landlord's behalf shall provide a

1 written explanation of utility rates, charges and services to
2 the prospective tenant before the rental agreement is signed
3 unless the utility charges are paid by the tenant directly to
4 the utility company.

5 b. If a landlord obtains a utility service from a utility
6 provider and furnishes the utility to the tenant and the
7 landlord's charge to the tenant is based upon the utility
8 provider's charge or rate for the use of such utility to
9 consumers, an increase in the landlord's charge to a tenant
10 for the utility that corresponds to the same increase in the
11 utility provider's charge or rate to the landlord shall be
12 effective thirty days after the landlord provides written
13 notice of such increase to the tenant, unless the landlord does
14 not receive at least sixty days' prior notice of such increase
15 from the utility provider in which case no prior notice of the
16 increase from the landlord to the tenant is required for the
17 increase to be effective.

18 DIVISION ____

19 FURNISHING OF WATER AND UTILITY CHARGES

20 Sec. ____ . Section 423.3, subsection 103, Code 2020, is
21 amended to read as follows:

22 103. a. (1) The sales price from the sale or furnishing by
23 a water utility of a water service in the state to consumers or
24 users.

25 (2) Water service furnished by a mobile home park that does
26 not engage in the sale of water service. For purposes of this
27 subsection, a mobile home park does not engage in the sale of
28 water service if all of the following apply:

29 (a) The water service is not furnished to tenants for a
30 separately itemized price.

31 (b) The water service is not otherwise identifiable from
32 an invoice, bill, catalogue, price list, rate card, receipt,
33 agreement, or other similar document, including where the total
34 sales price increases when water service is included in the
35 sale to tenants.

1 (c) The water service is incidental to the rental of real
2 property.

3 *b.* For purposes of **this subsection**:

4 (1) "Mobile home park" means the same as defined in section
5 562B.7.

6 ~~(1)~~ (2) "Water service" means the delivery of water by
7 piped distribution system.

8 ~~(2)~~ (3) "Water utility" means a public utility as defined
9 in **section 476.1** that furnishes water by piped distribution
10 system to the public for compensation.

11 Sec. _____. Section 423G.4, Code 2020, is amended by striking
12 the section and inserting in lieu thereof the following:

13 **423G.4 Exemptions.**

14 There is exempted from the tax imposed by this chapter the
15 following:

16 1. The sales price from transactions exempt from state
17 sales tax under section 423.3. However, the sales price from
18 transactions exempt from state sales tax under section 423.3,
19 subsection 103, shall not be exempt unless as provided in
20 subsection 2 or 3.

21 2. *a.* The sales price from the sale or furnishing of water
22 by a mobile home park through a piped distribution system
23 maintained by the mobile home park, to a consumer or user of
24 water who is a tenant, if all of the following apply:

25 (1) The water was obtained from a water utility.

26 (2) A tax was imposed by this chapter on the sales price
27 from the sale or furnishing of water by a water utility to the
28 mobile home park based upon readings of the master meter of the
29 mobile home park.

30 (3) The tenant is not charged for water by the mobile home
31 park in an amount that is more than the rate the tenant would be
32 charged for consuming or using water from the water utility,
33 plus an administrative fee under section 562B.16, subsection 3,
34 not to exceed five dollars per month.

35 *b.* As used in this section:

1 (1) *Master meter* means a single meter used in determining
2 the amount of water provided to a mobile home park.

3 (2) *Mobile home park* means the same as defined in section
4 562B.7 and also includes a *manufactured home community*, as
5 defined in section 562B.7.

6 (3) *Piped distribution system* includes a submetered
7 distribution system.

8 (4) *Tenant* means the same as defined in section 562B.7.

9 (5) *Water utility* means a public utility as defined in
10 section 476.1 that furnishes water by a piped distribution
11 system to the public for compensation.

12 3. Water service furnished by a mobile home park that does
13 not engage in the sale of water service. For purposes of this
14 subsection, a mobile home park does not engage in the sale of
15 water service if all of the following apply:

16 a. The water service is not furnished to tenants for a
17 separately itemized price.

18 b. The water service is not otherwise identifiable from
19 an invoice, bill, catalogue, price list, rate card, receipt,
20 agreement, or other similar document, including where the total
21 sales price increases when water service is included in the
22 sale to tenants.

23 c. The water service is incidental to the rental of real
24 property.

25 Sec. _____. Section 455B.171, subsection 26, Code 2020, is
26 amended to read as follows:

27 26. *Public water supply system* means, except as provided
28 in section 455B.200, a system for the provision to the public
29 of piped water for human consumption, if the system has at
30 least fifteen service connections or regularly serves at least
31 twenty-five individuals. The term includes any source of
32 water and any collection, treatment, storage, and distribution
33 facilities under control of the operator of the system and used
34 primarily in connection with the system, and any collection or
35 pretreatment storage facilities not under such control which

1 are used primarily in connection with the system.

2 Sec. _____. NEW SECTION. 455B.200 Mobile home parks.

3 1. As used in this section:

4 a. "Mobile home park" means the same as defined in section
5 423G.4.

6 b. "Tenant" means the same as defined in section 562B.7.

7 c. "Water utility" means a public utility as defined in
8 section 476.1 that furnishes water by a piped distribution
9 system to the public for compensation.

10 2. For purposes of this part 1, a mobile home park shall
11 not be considered a public water supply system if the mobile
12 home park sells or furnishes water to a tenant and all of the
13 following apply:

14 a. The water was obtained from a water utility prior to
15 selling or furnishing the water to a tenant.

16 b. The tenant is not charged more than the rate the tenant
17 would be charged for consuming or using water from the water
18 utility, plus an administrative fee under section 562B.16,
19 subsection 3, not to exceed five dollars per month.

20 Sec. _____. Section 562B.14, subsection 6, Code 2020, is
21 amended to read as follows:

22 6. The landlord or any person authorized to enter into
23 a rental agreement on the landlord's behalf shall provide
24 a written explanation of utility rates, fees, charges, and
25 services, subject to section 562B.16, subsection 3, to the
26 prospective tenant before the rental agreement is signed unless
27 the utility charges are paid by the tenant directly to the
28 utility company.

29 Sec. _____. Section 562B.16, Code 2020, is amended by adding
30 the following new subsection:

31 NEW SUBSECTION. 3. A landlord that is responsible for
32 payment of utilities being provided to the tenant shall not
33 charge to the tenant an amount in excess of the actual cost of
34 the utility and as specified in writing under section 562B.14,
35 subsection 6. However, in addition to the actual cost of the

1 utility, a landlord that is responsible for the payment of one
2 or more utilities being provided to the tenant may impose a
3 monthly utility administration fee to each tenant not to exceed
4 five dollars per month.

5 Sec. _____. Section 562B.25, Code 2020, is amended by adding
6 the following new subsection:

7 NEW SUBSECTION. 2A. The failure of a tenant to pay utility
8 charges that exceed the actual cost of the utility provided
9 as required by section 562B.16, subsection 3, shall not be
10 considered noncompliance with the rental agreement.>

11 2. Page 2, by striking lines 20 through 22 and inserting <An
12 Act relating to property law by modifying provisions relating
13 to rental properties, manufactured home communities, mobile
14 home parks, and manufactured mobile home communities, modifying
15 provisions governing water service and actions relating to such
16 properties, and including effective date and applicability
17 provisions.>>

18 3. By renumbering as necessary.

LOHSE of Polk