

House File 833

H-1325

1 Amend House File 833 as follows:

2 1. By striking everything after the enacting clause and  
3 inserting:

4 <DIVISION I

5 RENTAL AGREEMENTS

6 Section 1. Section 562B.7, subsection 10, Code 2021, is  
7 amended to read as follows:

8 10. "*Rent*" means a payment to be made to the landlord under  
9 the rental agreement, including utility costs.

10 Sec. 2. Section 562B.10, subsection 5, Code 2021, is amended  
11 to read as follows:

12 5. Rental agreements shall be for a term of one year unless  
13 otherwise specified in the rental agreement. Rental agreements  
14 shall be canceled by at least ~~sixty~~ ninety days' written notice  
15 given by either party. A landlord shall not cancel a rental  
16 agreement solely for the purpose of making the tenant's mobile  
17 home space available for another mobile home.

18 DIVISION II

19 RETALIATION

20 Sec. 3. Section 562B.32, subsection 1, paragraph d, Code  
21 2021, is amended to read as follows:

22 *d.* For exercising any of the rights and remedies pursuant  
23 to this chapter or chapter 216.

24 Sec. 4. Section 562B.32, subsection 2, Code 2021, is amended  
25 to read as follows:

26 2. If the landlord acts in violation of subsection 1  
27 of this section, the tenant is entitled to the remedies  
28 provided in section 562B.24 and has a defense in an action for  
29 possession. In an action by or against the tenant, evidence  
30 of a complaint within ~~six months~~ one year prior to the alleged  
31 act of retaliation creates a presumption that the landlord's  
32 conduct was in retaliation. The presumption does not arise  
33 if the tenant made the complaint after notice of termination  
34 of the rental agreement. For the purpose of this subsection,  
35 "*presumption*" means that the trier of fact must find the

1 existence of the fact presumed unless and until evidence is  
2 introduced which would support a finding of its nonexistence.

3 Sec. 5. EFFECTIVE DATE. This division of this Act, being  
4 deemed of immediate importance, takes effect upon enactment.

5 DIVISION III

6 CONSUMER FRAUD

7 Sec. 6. Section 562B.4, Code 2021, is amended by adding the  
8 following new subsection:

9 NEW SUBSECTION. 3. A violation of this chapter by a  
10 landlord, or an agent of the landlord, is an unlawful practice  
11 under section 714.16.

12 DIVISION IV

13 RENT INCREASES

14 Sec. 7. Section 562B.14, subsection 7, Code 2021, is amended  
15 by striking the subsection and inserting in lieu thereof the  
16 following:

17 7. *a.* A landlord shall not increase the amount of rent  
18 due by any tenant in a manufactured home community or mobile  
19 home park unless the tenant is notified, in writing, of the  
20 rent increase at least ninety days before the effective date  
21 of the rent increase. The effective date of any increase in  
22 the amount of rent shall not be less than one year after either  
23 the effective date of the most recent rent increase or the  
24 beginning of the tenancy, whichever is later.

25 *b.* A landlord that ceases to provide an amenity, service,  
26 or utility which was provided for under the rental agreement  
27 without a corresponding and proportionate reduction in rent  
28 shall be considered to have increased rent for the purposes of  
29 this chapter and the notice requirements provided in paragraph  
30 "a" shall apply.

31 DIVISION V

32 TENANT COUNTERCLAIM FOR LANDLORD NONCOMPLIANCE

33 Sec. 8. Section 562B.25, Code 2021, is amended by adding the  
34 following new subsection:

35 NEW SUBSECTION. 5. *a.* In an action for possession based

1 upon nonpayment of the rent or in an action for rent where the  
2 tenant is in possession, the tenant may counterclaim for an  
3 amount which the tenant may recover under the rental agreement  
4 or this chapter. In that event, the court from time to time  
5 may order the tenant to pay into court all or part of the rent  
6 accrued and thereafter accruing, and shall determine the amount  
7 due to each party. The party to whom a net amount is owed  
8 shall be paid first from the money paid into court, and the  
9 balance by the other party. If rent does not remain due after  
10 application of this section, judgment shall be entered for  
11 the tenant in the action for possession. If the defense or  
12 counterclaim by the tenant is without merit and is not raised  
13 in good faith, the landlord may recover reasonable attorney  
14 fees.

15 *b.* In an action for rent where the tenant is not in  
16 possession, the tenant may counterclaim as provided in  
17 paragraph "a", but the tenant is not required to pay any rent  
18 into court.

19 DIVISION VI

20 DISCLOSURE OF UTILITY CHARGES

21 Sec. 9. Section 562B.14, subsection 6, Code 2021, is amended  
22 to read as follows:

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

29 *b.* If a landlord obtains a utility service from a utility  
30 provider and furnishes the utility to the tenant and the  
31 landlord's charge to the tenant is based upon the utility  
32 provider's charge or rate for the use of such utility to  
33 consumers and the utility provider increases the charge or  
34 rate, the landlord shall notify tenants of such increase within  
35 five days of the landlord receiving the utility provider's

1 notice of the increase. An increase in the landlord's charge  
2 to a tenant for the utility that corresponds to the same  
3 increase in the utility provider's charge or rate to the  
4 landlord shall be effective thirty days after the landlord  
5 provides the written notice of such increase to the tenant,  
6 unless the landlord does not receive at least sixty days' prior  
7 notice of such increase from the utility provider in which case  
8 no prior notice of the increase from the landlord to the tenant  
9 is required for the increase to be effective.

10 DIVISION VII

11 FURNISHING OF WATER AND UTILITY CHARGES

12 Sec. 10. Section 423.3, subsection 103, Code 2021, is  
13 amended to read as follows:

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

17 (2) Water service furnished by a mobile home park that does  
18 not engage in the sale of water service. For purposes of this  
19 subsection, a mobile home park does not engage in the sale of  
20 water service if all of the following apply:

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

23 (b) The water service is not otherwise identifiable from  
24 an invoice, bill, catalogue, price list, rate card, receipt,  
25 agreement, or other similar document, including where the total  
26 sales price increases when water service is included in the  
27 sale to tenants.

28 (c) The water service is incidental to the rental of real  
29 property.

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

31 (1) "Mobile home park" means the same as defined in section  
32 562B.7.

33 ~~(1)~~ (2) "Water service" means the delivery of water by  
34 piped distribution system.

35 ~~(2)~~ (3) "Water utility" means a public utility as defined

1 in [section 476.1](#) that furnishes water by piped distribution  
2 system to the public for compensation.

3 Sec. 11. Section 423G.4, Code 2021, is amended by striking  
4 the section and inserting in lieu thereof the following:

5 **423G.4 Exemptions.**

6 There is exempted from the tax imposed by this chapter the  
7 following:

8 1. The sales price from transactions exempt from state  
9 sales tax under section 423.3. However, the sales price from  
10 transactions exempt from state sales tax under section 423.3,  
11 subsection 103, shall not be exempt unless as provided in  
12 subsection 2 or 3.

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

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

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

22 (3) The tenant is not charged for water by the mobile home  
23 park in an amount that is more than the rate the tenant would be  
24 charged for consuming or using water from the water utility,  
25 plus an administrative fee under section 562B.16, subsection  
26 3, not to exceed five dollars per month or ten percent of  
27 the total amount of the utility bill per month, whichever is  
28 greater.

29 *b.* As used in this section:

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

32 (2) "*Mobile home park*" means the same as defined in section  
33 562B.7 and also includes a "*manufactured home community*", as  
34 defined in section 562B.7.

35 (3) "*Piped distribution system*" includes a submetered

1 distribution system.

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

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

6 3. Water service furnished by a mobile home park that does  
7 not engage in the sale of water service. For purposes of this  
8 subsection, a mobile home park does not engage in the sale of  
9 water service if all of the following apply:

10 a. The water service is not furnished to tenants for a  
11 separately itemized price.

12 b. The water service is not otherwise identifiable from  
13 an invoice, bill, catalogue, price list, rate card, receipt,  
14 agreement, or other similar document, including where the total  
15 sales price increases when water service is included in the  
16 sale to tenants.

17 c. The water service is incidental to the rental of real  
18 property.

19 Sec. 12. Section 455B.171, subsection 26, Code 2021, is  
20 amended to read as follows:

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

31 Sec. 13. NEW SECTION. **455B.200 Mobile home parks.**

32 1. As used in this section:

33 a. *Mobile home park* means the same as defined in section  
34 423G.4.

35 b. *Tenant* means the same as defined in section 562B.7.

1     *c.* "Water utility" means a public utility as defined in  
2 section 476.1 that furnishes water by a piped distribution  
3 system to the public for compensation.

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

8     *a.* The water was obtained from a water utility prior to  
9 selling or furnishing the water to a tenant.

10    *b.* The tenant is not charged more than the rate the tenant  
11 would be charged for consuming or using water from the water  
12 utility, plus an administrative fee under section 562B.16,  
13 subsection 3, not to exceed five dollars per month or ten  
14 percent of the total amount of the utility bill per month,  
15 whichever is greater.

16    Sec. 14. Section 562B.14, subsection 6, Code 2021, is  
17 amended to read as follows:

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

25    Sec. 15. Section 562B.16, Code 2021, is amended by adding  
26 the following new subsection:

27    NEW SUBSECTION. 3. A landlord that is responsible for  
28 payment of utilities being provided to the tenant shall not  
29 charge to the tenant an amount in excess of the actual cost of  
30 the utility and as specified in writing under section 562B.14,  
31 subsection 6. However, in addition to the actual cost of the  
32 utility, a landlord that is responsible for the payment of one  
33 or more utilities being provided to the tenant may impose a  
34 monthly utility administration fee to each tenant not to exceed  
35 five dollars per month.

1     Sec. 16. Section 562B.25, Code 2021, is amended by adding  
2 the following new subsection:

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

7                                   DIVISION VIII

8                                   UNLAWFUL OUSTER

9     Sec. 17. Section 562B.24, Code 2021, is amended to read as  
10 follows:

11     **562B.24 Tenant's remedies for landlord's unlawful ouster,  
12 exclusion or diminution of services.**

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

24                                   DIVISION IX

25                                   WRONGFUL FAILURE TO PROVIDE ESSENTIAL SERVICES

26     Sec. 18. 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     *b.* Recover damages based upon the diminution in the fair  
2 market value of the mobile home space.

3     *c.* Recover any rent already paid for the period of the  
4 landlord's noncompliance which shall be reimbursed on a pro  
5 rata basis.

6     2. If the tenant proceeds under this section, the tenant may  
7 not proceed under section 562B.22 as to that breach.

8     3. The rights under this section do not arise until the  
9 tenant has given notice to the landlord or if the condition was  
10 caused by the deliberate or negligent act or omission of the  
11 tenant, a member of the tenant's family, or other person on the  
12 premises with the consent of the tenant.

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#### DIVISION X

14         PROHIBITED RENTAL AGREEMENT PROVISION — HOME EQUIPMENT

15     Sec. 19. Section 562B.11, subsection 1, Code 2021, is  
16 amended by adding the following new paragraph:

17     NEW PARAGRAPH. *e.* Agrees to modify the mobile home,  
18 manufactured home, or modular home in a way that would  
19 substantially impair the ability of the tenant to move the  
20 home from the mobile home space, unless such modification is  
21 required by federal law, including but not limited to the  
22 model manufactured home installation standards, 24 C.F.R. pt.  
23 3285, the manufactured home construction and safety standards,  
24 24 C.F.R. pt. 3280, or the manufactured home procedural and  
25 enforcement regulations, 24 C.F.R. pt. 3282, or by state or  
26 local law, the manufacturer's installation instructions, any  
27 requirement arising from the landlord's financing of the home  
28 or of the mobile home park or manufactured home community in  
29 which the home is located, or unless such modification is  
30 otherwise necessary for the safe and proper installation of the  
31 home.

32

#### DIVISION XI

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#### LANDLORD SALES

34     Sec. 20. NEW SECTION. **562B.17A Sale of mobile home by**  
35 **landlord.**

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

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

15 3. A claim under subsection 2 may be combined with an action  
16 under chapter 648.

17 Sec. 21. Section 648.19, subsection 1, Code 2021, is amended  
18 to read as follows:

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

24 2. Title page, by striking lines 1 and 2 and inserting <An  
25 Act relating to property law by modifying provisions relating  
26 to rental properties, manufactured home communities, mobile  
27 home parks, and manufactured mobile home communities, modifying  
28 provisions governing actions relating to such properties, and  
29 including effective date provisions.>

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LOHSE of Polk