

See Judiciary 3/10/83

Senate File 325

Judiciary and Law Enforcement: Haverland, Chair; Corey and McIntee.

SENATE FILE 325

To Pass per 3563 4/6 (p. 1314)

FILED MAR 1 1983

BY COMMITTEE ON JUDICIARY
Approved 3/1/83 (p. 574)

Passed Senate, Date 2-7-83 (p. 647) Passed House, Date 4-14-83 (p. 1314)

Vote: Ayes 46 Nays 0 Vote: Ayes 96 Nays 4

Repassed Senate as amended Approved May 26, 1983
By House
4-19-83 (p. 1309)

44-0

A BILL FOR

1An Act relating to the service of notices terminating real
2 estate tenancies.

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

SENATE FILE 325

H-3563

- 1 Amend Senate File 325 as follows:
- 2 1. Page 2, line 7, by striking the word "as" and
- 3 inserting in lieu thereof the words: "by using one
- 4 of the following methods:".
- 5 2. Page 2, line 8, by striking the word "follows:".
- 6 3. Page 2, line 12, by striking the word "either".
- 7 4. Page 2, line 13, by striking the word "or"
- 8 and inserting in lieu thereof the following: ", or
- 9 if personal service has been tried and cannot be
- 10 achieved,".

H-3563 FILED APRIL 7, 1983
Adopted 4/14/83 (p. 1315)

BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

HOUSE AMENDMENT TO SENATE FILE 325

S-3593

- 1 Amend Senate File 325 as follows:
- 2 1. Page 2, line 7, by striking the word "as" and
- 3 inserting in lieu thereof the words: "by using one
- 4 of the following methods:".
- 5 2. Page 2, line 8, by striking the word "follows:".
- 6 3. Page 2, line 12, by striking the word "either".
- 7 4. Page 2, line 13, by striking the word "or"
- 8 and inserting in lieu thereof the following: ", or
- 9 if personal service has been tried and cannot be
- 10 achieved,".

S-3593 FILED
APRIL 18, 1983

RECEIVED FROM THE HOUSE

Senate concurred 4/19/83 (p. 1309)

1 Section 1. Section 562.2, Code 1983, is amended to read
2 as follows:

3 562.2 DOUBLE RENTAL VALUE--LIABILITY. A tenant ~~giving~~
4 giving notice of ~~his~~ intention to quit leased premises at
5 a time named, and holding over after ~~such~~ the time, and a
6 tenant or ~~his~~ the tenant's assignee willfully holding over
7 after the term, and after notice to quit, shall pay double
8 the rental value ~~thereof~~ of the leased premises during the
9 time ~~he~~ the tenant holds over to the person entitled ~~thereto~~
10 to the rent.

11 Sec. 2. Section 562.4, Code 1983, is amended to read as
12 follows:

13 562.4 TENANT AT WILL--NOTICE TO TERMINATE. Any A person
14 in the possession of real estate, with the assent of the
15 owner, is presumed to be a tenant at will until the contrary
16 is shown, and thirty days' notice in writing must be ~~given~~
17 by served upon either party or a successor of the party before
18 ~~he can terminate such a~~ termination of the tenancy, ~~but when~~
19 ~~in any case~~, However, if a rent is reserved payable at
20 intervals of less than thirty days, the length of notice need
21 not be greater than ~~such~~ the interval.

22 Sec. 3. Section 562.6, Code 1983, is amended to read as
23 follows:

24 562.6 AGREEMENT FOR TERMINATION. ~~Where~~ If an agreement
25 is made fixing the time of the termination of the tenancy,
26 whether in writing or not, ~~it~~ the tenancy shall cease at the
27 time agreed upon, without notice. In the case of farm tenants,
28 except mere croppers, occupying and cultivating an acreage
29 of forty acres or more, the tenancy shall continue beyond
30 the agreed term for the following crop year and otherwise
31 upon the same terms and conditions as the original lease
32 unless written notice for termination is ~~given by~~ served upon
33 either party ~~to the other~~ or a successor of the party in the
34 manner provided in section 562.7, whereupon the tenancy shall
35 terminate March 1 following, ~~provided further~~. However, the

1 tenancy shall not continue because of absence of notice in
2 ease if there be is default in the performance of the existing
3 rental agreement.

4 Sec. 4. Section 562.7, Code 1983, is amended by striking
5 the section and inserting in lieu thereof the following:

6 562.7 NOTICE--HOW AND WHEN SERVED. Written notice shall
7 be served upon either party or a successor of the party as
8 follows:

9 1. By delivery of the notice, on or before September 1,
10 with acceptance of service to be signed by the party to the
11 lease or a successor of the party, receiving the notice.

12 2. By serving the notice, on or before September 1, either
13 personally or by publication, on the same conditions, and
14 in the same manner as is provided for the service of original
15 notices, except that when the notice is served by publication
16 no affidavit is required. Service by publication is completed
17 on the day of the last publication.

18 3. By mailing the notice before September 1 by certified
19 mail. Notice served by certified mail is made and completed
20 when the notice is enclosed in a sealed envelope, with the
21 proper postage on the envelope, addressed to the party or
22 a successor of the party at the last known mailing address
23 and deposited in a mail receptacle provided by the United
24 States postal service.

25 Sec. 5. Section 562.8, Code 1983, is amended to read as
26 follows:

27 562.8 TERMINATION OF LIFE ESTATE--FARM TENANCY. Upon
28 the termination of a life estate, a farm tenancy granted by
29 the life tenant shall continue until the following March 1
30 except that if the life estate terminates between September
31 1 and the following March 1 inclusively, then the farm tenancy
32 shall continue for that year as provided by section 562.6
33 and continue until ~~notice-of-termination-is-given-by-the~~
34 holder-of-the-estate the holder of the successor interest
35 serves notice of termination of the interest in the manner

1 provided by section 562.7. However, if the lease is binding
2 upon the holder of the successor interest by the provision
3 of a trust or by specific commitment of the holder of the
4 successor interest, the lease shall terminate as provided
5 by that provision or commitment. This section ~~shall~~ does
6 not ~~be-constructed-to~~ abrogate the common law doctrine of
7 emblements.

8 EXPLANATION

9 This bill is intended to reverse the decision in Escher
10 v. Morrison, 278 N.W. 2d 9 (1979). The bill provides for
11 the serving of notice to terminate a tenancy. Service is
12 complete by delivery of the notice, by personal service or
13 by publication as permitted for service of original notices,
14 or by depositing a certified letter in the mail.

15 This bill becomes effective July 1 following enactment.

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SENATE FILE 325

AN ACT
RELATING TO THE SERVICE OF NOTICES TERMINATING REAL ESTATE
TENANCIES.

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

Section 1. Section 562.2, Code 1983, is amended to read as follows:

562.2 DOUBLE RENTAL VALUE--LIABILITY. A tenant ~~giving~~ giving notice of his intention to quit leased premises at a time named, and holding over after ~~such the~~ time, and a tenant or his ~~the~~ tenant's assignee willfully holding over after the term, and after notice to quit, shall pay double the rental value ~~thereof of the leased premises~~ during the time ~~he the tenant~~ holds over to the person entitled ~~thereto~~ to the rent.

Sec. 2. Section 562.4, Code 1983, is amended to read as follows:

562.4 TENANT AT WILL--NOTICE TO TERMINATE. Any A person in the possession of real estate, with the assent of the owner, is presumed to be a tenant at will until the contrary is shown, and thirty days' notice in writing must be ~~given~~ by served upon either party or a successor of the party before ~~he can terminate such a~~ termination of the tenancy; but when in any case;. However, if a rent is reserved payable at intervals of less than thirty days, the length of notice need not be greater than ~~such the~~ the interval.

Sec. 3. Section 562.6, Code 1983, is amended to read as follows:

562.6 AGREEMENT FOR TERMINATION. ~~Where~~ Where if an agreement is made fixing the time of the termination of the tenancy, whether in writing or not, ~~at the~~ the tenancy shall cease at the time agreed upon, without notice. In the case of farm tenants, except mere croppers, occupying and cultivating an acreage of forty acres or more, the tenancy shall continue beyond

the agreed term for the following crop year and otherwise upon the same terms and conditions as the original lease unless written notice for termination is ~~given by~~ served upon either party ~~to the other or a successor of the party in the manner provided in section 562.7,~~ whereupon the tenancy shall terminate March 1 following; ~~provided further,~~ However, the tenancy shall not continue because of absence of notice ~~in case~~ if there be is default in the performance of the existing rental agreement.

Sec. 4. Section 562.7, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

562.7 NOTICES--HOW AND WHEN SERVED. Written notice shall be served upon either party or a successor of the party by using one of the following methods:

1. By delivery of the notice, on or before September 1, with acceptance of service to be signed by the party to the lease or a successor of the party, receiving the notice.
2. By serving the notice, on or before September 1, personally, or if personal service has been tried and cannot be achieved, by publication, on the same conditions, and in the same manner as is provided for the service of original notices, except that when the notice is served by publication no affidavit is required. Service by publication is completed on the day of the last publication.
3. By mailing the notice before September 1 by certified mail. Notice served by certified mail is made and completed when the notice is enclosed in a sealed envelope, with the proper postage on the envelope, addressed to the party or a successor of the party at the last known mailing address and deposited in a mail receptacle provided by the United States postal service.

Sec. 5. Section 562.8, Code 1983, is amended to read as follows:

562.8 TERMINATION OF LIFE ESTATE--FARM TENANCY. Upon the termination of a life estate, a farm tenancy granted by the life tenant shall continue until the following March 1 except that if the life estate terminates between September

1 and the following March 1 inclusively, then the farm tenancy shall continue for that year as provided by section 562.6 and continue until ~~notice-of-termination-is-given-by-the holder-of-the-successor~~ the holder of the successor interest serves notice of termination of the interest in the manner provided by section 562.7. However, if the lease is binding upon the holder of the successor interest by the provision of a trust or by specific commitment of the holder of the successor interest, the lease shall terminate as provided by that provision or commitment. This section ~~shall~~ does not be ~~construed to~~ abrogate the common law doctrine of emblements.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 325, Seventieth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved May 26, 1983

TERRY E. BRANSTAD
Governor