

FILED MAR 2 1988

*Reprinted 3/88*

SENATE FILE **2259**  
BY COMMITTEE ON JUDICIARY

*Approved (p. 587)*  
**(formerly 55B 2192)**

Passed Senate, Date 3/14/88 (p. 776)  
Vote: Ayes 46 Nays 0

Passed House, Date 3/31/88 p. 1285  
Vote: Ayes 95 Nays 0

Approved May 2, 1988

*Motion to reconsider (p. 811)  
" prevailed 3/15 (p. 814)*

*Reconsidered, amended & Passed Senate  
3-15-88 (p. 815)  
46-0*

**A BILL FOR**

1 An Act relating to the disposal of abandoned personal property,  
2 including abandoned mobile homes.

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

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**SF 2259**

5361 amended  
see

1 Section 1. Section 556B.1, Code 1987, is amended by  
2 striking the section and inserting in lieu thereof the  
3 following:

4 556B.1 DEFINITIONS.

5 Unless the context otherwise requires, in this chapter:

6 1. "Demolisher" means demolisher as defined in section  
7 321.89.

8 2. "Junkyard" means junkyard as defined in section 306C.1.

9 3. "Lienholder" includes any government subdivision with  
10 authority to levy a tax on abandoned personal property.

11 4. "Real property owner" means the owner or other lawful  
12 possessor of real property.

13 Sec. 2. NEW SECTION. 556B.2 REMOVAL -- NOTICE TO  
14 SHERIFF.

15 1. A real property owner may remove or cause to be removed  
16 a motor vehicle or other personal property which is unlawfully  
17 parked or placed on that real property, and may cause the  
18 personal property to be placed in storage until the owner of  
19 the personal property pays a fair and reasonable charge for  
20 removal, storage, or other expense incurred, including  
21 reasonable attorneys' fees, or until a judgment of abandonment  
22 is entered pursuant to section 556B.8. The real property  
23 owner or the real property owner's agent is not liable for  
24 damages caused to the personal property by the removal or  
25 storage unless the damage is caused willfully or by gross  
26 negligence.

27 2. The real property owner shall notify the sheriff of the  
28 county where the real property is located of the removal of a  
29 motor vehicle or other personal property.

30 a. If the personal property owner can be determined, and  
31 if the real property owner so requests, the sheriff shall  
32 notify the personal property owner of the removal by  
33 restricted certified mail. If the personal property owner  
34 cannot be determined, and the real property owner so requests,  
35 the sheriff shall give notice by one publication in one

1 newspaper of general circulation in the area where the  
2 personal property was unlawfully parked or placed. If the  
3 personal property has not been claimed by the owner within six  
4 months after notice is given, the personal property shall be  
5 sold by the sheriff at a public or private sale. After  
6 deducting costs of the sale the net proceeds shall be applied  
7 to the cost of removal and storage of the property. The  
8 remainder, if any, shall be paid to the county treasurer.

9 b. If the real property owner removes the personal  
10 property but does not request that the sheriff notify the  
11 personal property owner, the real property owner shall proceed  
12 with an action for abandonment as provided in sections 556B.3  
13 through 556B.9.

14 Sec. 3. NEW SECTION. 556B.3 ACTION FOR ABANDONMENT --  
15 JURISDICTION.

16 A real property owner not requesting notification by the  
17 sheriff as provided in section 556B.2 may bring an action  
18 alleging abandonment in the court within the county where the  
19 real property is located. The action shall be tried as an  
20 equitable action. Unless commenced as a small claim, the  
21 petition shall be presented to a district judge. Upon receipt  
22 of the petition, the court shall order a hearing not later  
23 than fourteen days from the date of the order.

24 Sec. 4. NEW SECTION. 556B.4 NOTICE.

25 1. Personal service pursuant to rule of civil procedure  
26 56.1 shall be made upon the personal property owner not less  
27 than ten days before the hearing. If personal service cannot  
28 be completed in time to give the personal property owner the  
29 minimum notice required by this section, the court may set a  
30 new hearing date.

31 2. If personal service cannot be made on the personal  
32 property owner because the personal property owner is avoiding  
33 service or cannot be found, service may be made by mailing a  
34 copy of the petition and notice of hearing to the personal  
35 property owner's last known address and publishing the notice

1 in one newspaper of general circulation in the county where  
2 the petition is filed. If the personal property owner's  
3 address is not known to the real property owner, service may  
4 be made pursuant to rule of civil procedure 60 except that  
5 service is complete seven days after the initial publication.  
6 The court shall set a new hearing date if necessary to allow  
7 the ten-day minimum notice required under subsection 1 of this  
8 section.

9 3. In addition to notifying the personal property owner,  
10 the real property owner shall notify all lienholders of record  
11 and any other known claimant to the personal property by  
12 restricted certified mail addressed to the last known address  
13 of record and sent not less than ten days before the hearing.  
14 The notice shall describe the personal property and shall  
15 state the date and time at which the hearing is scheduled, and  
16 the lienholder's or claimant's right to assert a claim to the  
17 personal property at the hearing. The notice shall also state  
18 that the failure of the lienholder or claimant to assert a  
19 claim to the personal property is deemed a waiver of all  
20 right, title, claim, and interest in the personal property and  
21 is deemed consent to the sale or disposal of the personal  
22 property. If it is impossible to determine with reasonable  
23 certainty the identity or address of all lienholders, notice  
24 shall be made pursuant to rule of civil procedure 61.

25 Sec. 5. NEW SECTION. 556B.5 CHANGE OF VENUE.

26 In an action under this chapter a change of place of trial  
27 may be had as in other cases.

28 Sec. 6. NEW SECTION. 556B.6 PRIORITY OF ASSIGNMENT.

29 An action under this chapter shall be accorded reasonable  
30 priority for assignment to assure prompt disposition.

31 Sec. 7. NEW SECTION. 556B.7 REMEDY NOT EXCLUSIVE.

32 An action under this chapter may be brought in connection  
33 with a claim for monetary damages, possession, or recovery as  
34 provided in section 562B.25 or 562B.30 or chapter 648.

35 Sec. 8. NEW SECTION. 556B.8 JUDGMENT.

1 1. If the court determines that the personal property has  
2 been abandoned, judgment shall be entered in favor of the real  
3 property owner for the reasonable costs of removal, storage,  
4 notice, and attorneys' fees; any other expenses incurred for  
5 preserving the personal property or for bringing the action;  
6 and, if the action is brought in conjunction with one for  
7 monetary damages, the amount of monetary damages assessed.

8 2. If the personal property owner, lienholder, or other  
9 claimant asserts a claim to the property, the judgment shall  
10 be satisfied before the personal property owner, lienholder,  
11 or other claimant may take possession of the personal  
12 property.

13 3. If no claim is asserted to the property or if the  
14 judgment is not satisfied at the time of entry, an order shall  
15 be entered allowing the real property owner to sell or  
16 otherwise dispose of the personal property pursuant to section  
17 556B.9. If a claimant satisfies the judgment at the time of  
18 entry, the court shall enter an order permitting and directing  
19 the claimant to remove the personal property from its location  
20 within a reasonable time to be fixed by the court. The court  
21 shall also determine the amount of further rent or storage  
22 charges to be paid by the claimant to the real property owner  
23 at the time of removal.

24 Sec. 9. NEW SECTION. 556B.9 DISPOSAL -- PROCEEDS.

25 1. Pursuant to an order for disposal under section 556B.8,  
26 subsection 3, the real property owner shall dispose of the  
27 personal property by public or private sale in a commercially  
28 reasonable manner. If the personal property owner,  
29 lienholder, or other claimant has asserted a claim to the  
30 personal property, that person shall be notified of the sale  
31 by restricted certified mail not less than five days before  
32 the sale. The notice is deemed given upon the mailing. The  
33 real property owner may buy at any public sale, and if the  
34 personal property is of a type customarily sold in a  
35 recognized market or is the subject of widely distributed

1 standard price quotations, the real property owner may buy at  
2 a private sale.

3 2. A sale pursuant to subsection 1 transfers to the  
4 purchaser for value, all of the personal property owner's  
5 right in the personal property, and discharges the real  
6 property owner's interest in the property and any security  
7 interest or lien whose holder was given notice of the sale as  
8 provided in subsection 1. The purchaser takes free of all  
9 rights and interests even though the real property owner fails  
10 to comply with the requirements of this chapter or of any  
11 judicial proceedings, if the purchaser acts in good faith.

12 3. The proceeds of the sale of personal property shall be  
13 distributed as follows:

14 a. First, to satisfy the real property owner's judgment  
15 obtained under section 556B.8.

16 b. Second, to satisfy any indebtedness secured by a  
17 security interest or lien in the personal property if written  
18 notification of demand of the secured interest or lien is  
19 received before distribution of the proceeds is completed. If  
20 requested by the real property owner, the holder of a security  
21 interest or lien shall furnish reasonable proof of the  
22 interest, and unless done, the real property owner need not  
23 comply with the demand. In cases of uncertainty, the real  
24 property owner may pay the amount demanded, or so much thereof  
25 as is available from remaining proceeds, to the sheriff for  
26 disbursement as the court subsequently directs.

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

34 4. Notwithstanding subsections 1 through 3, the real  
35 property owner may propose to retain the personal property in

1 satisfaction of the judgment obtained pursuant to section  
2 556B.8. Written notice of the proposal shall be sent to the  
3 personal property owner, lienholder, or other claimant, if  
4 that person has asserted a claim to the personal property in  
5 the judicial proceedings. If the real property owner receives  
6 objection in writing from a person entitled to be sent notice  
7 within twenty-one days after the notice was sent, the real  
8 property owner shall dispose of the personal property pursuant  
9 to subsection 1. If no written objection is received by the  
10 real property owner within twenty-one days after the notice  
11 was sent, the personal property may be retained. Retention of  
12 the personal property discharges the judgment against the  
13 personal property owner and any security interest or lien in  
14 the personal property whose holder was given notice as  
15 provided in this subsection.

16 5. If the real property owner has made a good faith  
17 attempt to sell the personal property pursuant to subsection 1  
18 but is unsuccessful and elects not to retain the personal  
19 property pursuant to subsection 4, the real property owner may  
20 dispose of the personal property to a demolisher or junkyard.  
21 Proceeds from the disposition shall be distributed pursuant to  
22 subsection 3. If the personal property is a motor vehicle to  
23 which section 321.90 applies, the real property owner shall  
24 present the order for disposal obtained pursuant to section  
25 556B.8, subsection 2, to the police authority to obtain a  
26 certificate of authority to dispose of the motor vehicle  
27 pursuant to section 321.90, subsection 3.

28 Sec. 10. NEW SECTION. 556B.10 LIMITATION ON LIABILITY.

29 A real property owner who disposes of personal property in  
30 accordance with this chapter is not liable for damages by  
31 reason of the removal, sale, or disposal of the property  
32 unless the damage is caused willfully or by gross negligence.  
33 Upon a motion to the district court and a showing that the  
34 real property owner is not proceeding in accordance with this  
35 chapter, the court may enjoin the real property owner from

1 proceeding further and a determination for the proper  
2 disposition of the personal property shall be made.

3 Sec. 11. Section 135D.24, subsection 6, Code Supplement  
4 1987, is amended to read as follows:

5260 5 6. Before a mobile home may be moved from its present site  
6 by the owner or the owner's assignee, a tax clearance  
7 statement in the name of the owner must be obtained from the  
8 county treasurer of the county where the present site is  
9 located certifying that taxes are not owing under this section  
10 for previous years and that the taxes have been paid for the  
11 current tax period. However, a tax clearance statement ~~shall~~  
12 is not ~~be~~ required for a mobile home in a manufacturer's or  
13 dealer's stock which is not used as a place for human  
14 habitation. ~~A tax clearance form is not required to move an~~  
15 ~~abandoned mobile home.~~ A tax clearance form is not required  
16 in eviction cases provided the mobile home park owner or  
17 manager advises the county treasurer that the tenant is being  
18 evicted. If a dealer acquires a mobile home from a person  
19 other than a manufacturer, the person shall provide a tax  
20 clearance statement in the name of the owner of record to the  
21 dealer. The tax clearance statement shall be provided by the  
22 county treasurer and shall be made out in quadruplicate. Two  
23 copies are to be provided to the company or person  
24 transporting the mobile home with one copy to be carried in  
25 the vehicle transporting the mobile home. One copy is to be  
26 forwarded to the county treasurer of the county in which the  
27 mobile home is to be relocated and one copy is to be retained  
28 by the county treasurer issuing the tax clearance statement.

29 Sec. 12. Section 321.90, subsection 2, paragraph b, Code  
30 1987, is amended to read as follows:

31 b. The application shall set out the name and address of  
32 the applicant, the year, make, model, and serial number of the  
33 motor vehicle, if ascertainable, together with any other  
34 identifying features, and shall contain a concise statement of  
35 the facts surrounding the abandonment, or a statement that the



1 title of the motor vehicle is lost or destroyed, or the  
2 reasons for the defect of title in the owner. The applicant  
3 shall execute an affidavit stating that the facts alleged are  
4 true and that no material fact has been withheld. An order  
5 for disposal obtained pursuant to section 556B.8, subsection  
6 3, satisfies the application requirements of this paragraph.

7 Sec. 13. Section 321.90, subsection 2, paragraph c, Code  
8 1987, is amended to read as follows:

9 c. If the police authority finds that the application is  
10 executed in proper form, and shows that the motor vehicle has  
11 been abandoned upon the property of the applicant, or if it  
12 shows that the motor vehicle is not abandoned but that the  
13 applicant appears to be the rightful owner, the police  
14 authority shall follow appropriate notification procedures as  
15 set forth in section 321.89, subsection 3, except that in the  
16 case of an order for disposal obtained pursuant to section  
17 556B.8, subsection 3, no notification is required.

18 Sec. 14. Section 321.90, subsection 2, paragraph g, Code  
19 1987, is amended to read as follows:

20 g. Any proceeds from the sale of an abandoned motor  
21 vehicle to a demolisher under this section, by one other than  
22 the owner of the vehicle, except the sale of a vehicle  
23 pursuant to an order for disposal obtained pursuant to section  
24 556B.8, subsection 3, shall first be applied to that person's  
25 expenses in effecting the sale, including storage, towing, and  
26 disposal charges, and any surplus shall be distributed in  
27 accordance with section 321.89, subsection 4. The proceeds  
28 from the sale of a vehicle disposed of pursuant to section  
29 556B.8, subsection 3, shall be distributed in accordance with  
30 section 556B.9.

31 Sec. 15. Section 562B.13, subsection 3, Code 1987, is  
32 amended by adding the following new paragraph:

33 NEW PARAGRAPH. c. To remove, store, and dispose of a  
34 mobile home if it is abandoned as defined in section 562B.27.

35 Sec. 16. Section 562B.27, Code 1987, is amended by

1 striking the section and inserting in lieu thereof the  
2 following:

3 562B.27 REMEDIES FOR ABANDONMENT -- REQUIRED REGISTRATION.

4 1. A tenant is considered to have abandoned a mobile home  
5 when the tenant has been absent from the mobile home without  
6 reasonable explanation for thirty days or more during which  
7 time there is a default of rent three days after rent is due,  
8 or the rental agreement is terminated pursuant to section  
9 562B.25.

10 2. When a mobile home is abandoned on a mobile home space:

11 a. The landlord shall follow the procedure in chapter 556B  
12 for disposing of abandoned personal property to dispose of the  
13 mobile home. However, in addition to any notice given  
14 pursuant to chapter 556B, the landlord may notify the legal  
15 owner or lienholder of the mobile home and communicate to that  
16 person that the person is liable for any costs incurred for  
17 the mobile home space, including rent and utilities due and  
18 owing. However, the person is only liable for costs incurred  
19 ninety days before the landlord's communication and costs for  
20 which liability is incurred after the landlord's  
21 communication.

22 b. The mobile home shall not be removed from the mobile  
23 home space without a signed written agreement from the  
24 landlord showing clearance for removal, that all debts are  
25 paid in full, or an agreement reached with the legal owner or  
26 lienholder and the landlord.

27 c. An action pursuant to chapter 556B may be combined with  
28 an action for possession under chapter 648 or an action for  
29 damages under section 562B.30.

30 3. A required standardized registration form shall be  
31 filled out by each tenant upon the rental of a mobile home  
32 space, showing the mobile home make, year, serial number, and  
33 license number, and also showing if the mobile home is paid  
34 for, if there is a lien on the mobile home, and if so the  
35 lienholder, and the name of the legal owner of the mobile

1 home. The registration forms shall be kept on file with the  
2 landlord as long as the mobile home is on the mobile home  
3 space within the mobile home park. The tenant shall give  
4 notice to the landlord within ten days of any new lien, change  
5 of existing lien, or settlement of lien.

6 Sec. 17. Section 648.19, Code 1987, is amended to read as  
7 follows:

8 648.19 NO JOINDER OR COUNTERCLAIM --EXCEPTION.

9 An action of this kind shall not be brought in connection  
10 with any other action, with the exception of a claim for rent  
11 or recovery as provided in sections 562A.24, 562A.32, 562B.22,  
12 or 562B.25, or 562B.27, nor shall it be made the subject of  
13 counterclaim.

14

#### EXPLANATION

15 Sections 1 through 10 of this bill create new chapter 556B  
16 to provide a judicially supervised method for disposing of  
17 abandoned personal property as an alternative to the present  
18 provision for disposal by sheriff's sale.

19 Section 11 amends section 135D.24, subsection 6, to provide  
20 that a tax clearance statement need be obtained before a  
21 mobile home is moved by the owner or a person taking title  
22 from the owner only, and need not be obtained when someone  
23 other than the owner or the owner's assignee moves the mobile  
24 home.

25 Sections 12 through 14 and 17 amend chapters 321 and 648 in  
26 accordance with the new chapter 556B provisions.

27 Section 15 amends section 562B.13, subsection 3, to allow  
28 the landlord to deduct from a tenant's deposit the amount  
29 necessary to remove, store, and dispose of a mobile home which  
30 has been abandoned.

31 Section 16 defines when a mobile home has been abandoned,  
32 directs a landlord to follow the procedures established in new  
33 chapter 556B in disposing of a mobile home abandoned on the  
34 landlord's property, and provides that a chapter 556B action  
35 may be combined with an action under chapter 648 or an action

1 for damages.

SUCCESSOR TO SSB 2192 (LSB 7865SC)

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S-5361

1 Amend Senate File 2259 as follows:

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

4 "Section 1. NEW SECTION. 562C.1 DEFINITIONS.

5 Unless the context otherwise requires, in this  
6 chapter:

7 1. "Demolisher" means demolisher as defined in  
8 section 321.89.

9 2. "Junkyard" means junkyard as defined in section  
10 306C.1.

11 3. "Lienholder" includes any government  
12 subdivision with authority to levy a tax on abandoned  
13 personal property.

14 4. "Personal property" includes personal property  
15 of the mobile home owner in the abandoned mobile home,  
16 on the mobile home lot, in the immediate vicinity of  
17 the abandoned mobile home and the mobile home lot, and  
18 in any storage area provided by the real property  
19 owner for the use of the mobile home owner.

20 5. "Real property owner" means the owner or other  
21 lawful possessor of real property upon which a mobile  
22 home is located.

23 Sec. 2. NEW SECTION. 562C.2 REMOVAL -- NOTICE TO  
24 SHERIFF.

25 1. A real property owner may remove or cause to be  
26 removed a mobile home and other personal property  
27 which is unlawfully parked, placed, or abandoned on  
28 that real property, and may cause the mobile home and  
29 personal property to be placed in storage until the  
30 owner of the personal property pays a fair and  
31 reasonable charge for removal, storage, or other  
32 expense incurred, including reasonable attorneys'  
33 fees, or until a judgment of abandonment is entered  
34 pursuant to section 562C.8. The real property owner  
35 or the real property owner's agent is not liable for  
36 damages caused to the mobile home and personal  
37 property by the removal or storage unless the damage  
38 is caused willfully or by gross negligence.

39 2. The real property owner shall notify the  
40 sheriff of the county where the real property is  
41 located of the removal of the mobile home and other  
42 personal property.

43 a. If the mobile home owner can be determined, and  
44 if the real property owner so requests, the sheriff  
45 shall notify the mobile home owner of the removal by  
46 restricted certified mail. If the mobile home owner  
47 cannot be determined, and the real property owner so  
48 requests, the sheriff shall give notice by one  
49 publication in one newspaper of general circulation in  
50 the area where the mobile home and personal property

1 was unlawfully parked, placed, or abandoned. If the  
2 mobile home and personal property have not been  
3 claimed by the owner within six months after notice is  
4 given, the mobile home and personal property shall be  
5 sold by the sheriff at a public or private sale.  
6 After deducting costs of the sale the net proceeds  
7 shall be applied to the cost of removal and storage of  
8 the property. The remainder, if any, shall be paid to  
9 the county treasurer.

10 b. If the real property owner removes the mobile  
11 home and personal property but does not request that  
12 the sheriff notify the mobile home owner, the real  
13 property owner shall proceed with an action for  
14 abandonment as provided in sections 562C.3 through  
15 562C.9.

16 Sec. 3. NEW SECTION. 562C.3 ACTION FOR  
17 ABANDONMENT -- JURISDICTION.

18 A real property owner not requesting notification  
19 by the sheriff as provided in section 562C.2 may bring  
20 an action alleging abandonment in the court within the  
21 county where the real property is located. The action  
22 shall be tried as an equitable action. Unless  
23 commenced as a small claim, the petition shall be  
24 presented to a district judge. Upon receipt of the  
25 petition, the court shall order a hearing not later  
26 than fourteen days from the date of the order.

27 Sec. 4. NEW SECTION. 562C.4 NOTICE.

28 1. Personal service pursuant to rule of civil  
29 procedure 56.1 shall be made upon the mobile home  
30 owner not less than ten days before the hearing. If  
31 personal service cannot be completed in time to give  
32 the mobile home owner the minimum notice required by  
33 this section, the court may set a new hearing date.

34 2. If personal service cannot be made on the  
35 mobile home owner because the mobile home owner is  
36 avoiding service or cannot be found, service may be  
37 made by mailing a copy of the petition and notice of  
38 hearing to the mobile home owner's last known address  
39 and publishing the notice in one newspaper of general  
40 circulation in the county where the petition is filed.  
41 If the mobile home owner's address is not known to the  
42 real property owner, service may be made pursuant to  
43 rule of civil procedure 60 except that service is  
44 complete seven days after the initial publication.  
45 The court shall set a new hearing date if necessary to  
46 allow the ten-day minimum notice required under  
47 subsection 1 of this section.

48 3. In addition to notifying the mobile home owner,  
49 the real property owner shall notify all lienholders  
50 of record and any other known claimant to the mobile

1 home or personal property by restricted certified mail  
2 addressed to the last known address of record and sent  
3 not less than ten days before the hearing. The notice  
4 shall describe the mobile home and personal property  
5 and shall state the date and time at which the hearing  
6 is scheduled, and the lienholder's or claimant's right  
7 to assert a claim to the mobile home or personal  
8 property at the hearing. The notice shall also state  
9 that the failure of the lienholder or claimant to  
10 assert a claim to the mobile home or personal property  
11 is deemed a waiver of all right, title, claim, and  
12 interest in the mobile home and personal property and  
13 is deemed consent to the sale or disposal of the  
14 mobile home and personal property. If it is  
15 impossible to determine with reasonable certainty the  
16 identity or address of all lienholders, notice shall  
17 be made pursuant to rule of civil procedure 61.

18 Sec. 5. NEW SECTION. 562C.5 CHANGE OF VENUE.

19 In an action under this chapter a change of place  
20 of trial may be had as in other cases.

21 Sec. 6. NEW SECTION. 562C.6 PRIORITY OF  
22 ASSIGNMENT.

23 An action under this chapter shall be accorded  
24 reasonable priority for assignment to assure prompt  
25 disposition.

26 Sec. 7. NEW SECTION. 562C.7 REMEDY NOT  
27 EXCLUSIVE.

28 An action under this chapter may be brought in  
29 connection with a claim for monetary damages,  
30 possession, or recovery as provided in section 562B.25  
31 or 562B.30 or chapter 648.

32 Sec. 8. NEW SECTION. 562C.8 JUDGMENT.

33 1. If the court determines that the mobile home  
34 and personal property have been abandoned, judgment  
35 shall be entered in favor of the real property owner  
36 for the reasonable costs of removal, storage, notice,  
37 and attorneys' fees; any other expenses incurred for  
38 preserving the mobile home and personal property or  
39 for bringing the action; and, if the action is brought  
40 in conjunction with one for monetary damages, the  
41 amount of monetary damages assessed.

42 2. If the mobile home owner, lienholder, or other  
43 claimant asserts a claim to the property, the judgment  
44 shall be satisfied before the mobile home owner,  
45 lienholder, or other claimant may take possession of  
46 the mobile home or personal property.

47 3. If no claim is asserted to the mobile home or  
48 personal property or if the judgment is not satisfied  
49 at the time of entry, an order shall be entered  
50 allowing the real property owner to sell or otherwise

1 dispose of the mobile home and personal property  
2 pursuant to section 562C.9. If a claimant satisfies  
3 the judgment at the time of entry, the court shall  
4 enter an order permitting and directing the claimant  
5 to remove the mobile home or personal property from  
6 its location within a reasonable time to be fixed by  
7 the court. The court shall also determine the amount  
8 of further rent or storage charges to be paid by the  
9 claimant to the real property owner at the time of  
10 removal.

11 Sec. 9. NEW SECTION. 562C.9 DISPOSAL --  
12 PROCEEDS.

13 1. Pursuant to an order for disposal under section  
14 562C.8, subsection 3, the real property owner shall  
15 dispose of the mobile home and personal property by  
16 public or private sale in a commercially reasonable  
17 manner. If the personal property owner, lienholder,  
18 or other claimant has asserted a claim to the mobile  
19 home or personal property, that person shall be  
20 notified of the sale by restricted certified mail not  
21 less than five days before the sale. The notice is  
22 deemed given upon the mailing. The real property  
23 owner may buy at any public sale, and if the mobile  
24 home or personal property is of a type customarily  
25 sold in a recognized market or is the subject of  
26 widely distributed standard price quotations, the real  
27 property owner may buy at a private sale.

28 2. A sale pursuant to subsection 1 transfers to  
29 the purchaser for value, all of the mobile home  
30 owner's rights in the mobile home and personal  
31 property, and discharges the real property owner's  
32 interest in the mobile home and personal property and  
33 any security interest or lien whose holder was given  
34 notice of the sale as provided in subsection 1. The  
35 purchaser takes free of all rights and interests even  
36 though the real property owner fails to comply with  
37 the requirements of this chapter or of any judicial  
38 proceedings, if the purchaser acts in good faith.

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

41 a. First, to satisfy the real property owner's  
42 judgment obtained under section 562C.8.

43 b. Second, to satisfy any indebtedness secured by  
44 a security interest or lien in the mobile home or  
45 personal property if written notification of demand of  
46 the secured interest or lien is received before  
47 distribution of the proceeds is completed. If  
48 requested by the real property owner, the holder of a  
49 security interest or lien shall furnish reasonable  
50 proof of the interest, and unless done, the real



1 property owner need not comply with the demand. In  
2 cases of uncertainty, the real property owner may pay  
3 the amount demanded, or so much thereof as is  
4 available from remaining proceeds, to the sheriff for  
5 disbursement as the court subsequently directs.

6 c. Any surplus remaining after the proceeds are  
7 distributed shall be held by the real property owner  
8 for one year. If the mobile home owner fails to claim  
9 the surplus in that time, the surplus may be retained  
10 by the real property owner. If a deficiency remains  
11 after distribution of the proceeds, the mobile home  
12 owner is liable for the amount of the deficiency.

13 4. Notwithstanding subsections 1 through 3, the  
14 real property owner may propose to retain the mobile  
15 home and personal property in satisfaction of the  
16 judgment obtained pursuant to section 562C.8. Written  
17 notice of the proposal shall be sent to the mobile  
18 home owner, lienholder, or other claimant, if that  
19 person has asserted a claim to the mobile home or  
20 personal property in the judicial proceedings. If the  
21 real property owner receives objection in writing from  
22 a person entitled to be sent notice, within twenty-one  
23 days after the notice was sent, the real property  
24 owner shall dispose of the mobile home and personal  
25 property pursuant to subsection 1. If no written  
26 objection is received by the real property owner  
27 within twenty-one days after the notice was sent, the  
28 mobile home and personal property may be retained.  
29 Retention of the mobile home and personal property  
30 discharges the judgment of the mobile home owner and  
31 any security interest or lien in the mobile home or  
32 personal property whose holder was given notice as  
33 provided in this subsection.

34 5. If the real property owner has made a good  
35 faith attempt to sell the mobile home and personal  
36 property pursuant to subsection 1 but is unsuccessful  
37 and elects not to retain the mobile home and personal  
38 property pursuant to subsection 4, the real property  
39 owner may dispose of the mobile home and personal  
40 property to a demolisher or junkyard. Proceeds from  
41 the disposition shall be distributed pursuant to  
42 subsection 3.

43 Sec. 10. NEW SECTION. 562C.10 LIMITATION ON  
44 LIABILITY.

45 1. A real property owner who disposes of a mobile  
46 home or personal property in accordance with this  
47 chapter is not liable for damages by reason of the  
48 removal, sale, or disposal of the mobile home and  
49 personal property unless the damage is caused  
50 willfully or by gross negligence. Upon a motion to

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1 the district court and a showing that the real  
2 property owner is not proceeding in accordance with  
3 this chapter, the court may enjoin the real property  
4 owner from proceeding further and a determination for  
5 the proper disposition of the mobile home and personal  
6 property shall be made. If disposition of the  
7 personal property has not occurred in accordance with  
8 this chapter, the personal property owner has a right  
9 to recover from the real property owner, any loss  
10 caused by failure to comply with this chapter.

11 2. The fact that a better price could have been  
12 obtained by a sale at a different time or in a  
13 different method from that selected by the real  
14 property owner is not of itself sufficient to  
15 establish that the sale was not made in a commercially  
16 reasonable manner. If the real property owner sells  
17 the mobile home and personal property in the usual  
18 manner in any recognized market or if the real  
19 property owner sells at the price current in the  
20 market at the time of the real property owner's sale  
21 or if the real property owner has otherwise sold in  
22 conformity with reasonable commercial practices among  
23 dealers in the type of mobile home or personal  
24 property sold, the real property owner has sold in a  
25 commercially reasonable manner.

26 Sec. 11. Section 135D.24, subsection 6, Code  
27 Supplement 1987, is amended to read as follows:

28 6. Before a mobile home may be moved from its  
29 present site by the owner or the owner's assignee, a  
30 tax clearance statement in the name of the owner must  
31 be obtained from the county treasurer of the county  
32 where the present site is located certifying that  
33 taxes are not owing under this section for previous  
34 years and that the taxes have been paid for the  
35 current tax period. However, a tax clearance  
36 statement ~~shall~~ is not be required for a mobile home  
37 in a manufacturer's or dealer's stock which is not  
38 used as a place for human habitation. A tax clearance  
39 form is not required to move an abandoned mobile home.  
40 A tax clearance form is not required in eviction cases  
41 provided the mobile home park owner or manager advises  
42 the county treasurer that the tenant is being evicted.  
43 If a dealer acquires a mobile home from a person other  
44 than a manufacturer, the person shall provide a tax  
45 clearance statement in the name of the owner of record  
46 to the dealer. The tax clearance statement shall be  
47 provided by the county treasurer ~~and shall be made out~~  
48 in quadruplicate in a method prescribed by the  
49 department of transportation. Two copies are to be  
50 provided to the company or person transporting the

1 mobile home with one copy to be carried in the vehicle  
2 transporting the mobile home. One copy is to be  
3 forwarded to the county treasurer of the county in  
4 which the mobile home is to be relocated and one copy  
5 is to be retained by the county treasurer issuing the  
6 tax clearance statement.

7 Sec. 12. Section 321.90, subsection 2, paragraph  
8 b, Code 1987, is amended to read as follows:

9 b. The application shall set out the name and  
10 address of the applicant, and the year, make, model,  
11 and serial number of the motor vehicle, if  
12 ascertainable, together with any other identifying  
13 features, and shall contain a concise statement of the  
14 facts surrounding the abandonment, or a statement that  
15 the title of the motor vehicle is lost or destroyed,  
16 or the reasons for the defect of title in the owner.  
17 The applicant shall execute an affidavit stating that  
18 the facts alleged are true and that no material fact  
19 has been withheld. An order for disposal obtained  
20 pursuant to section 562C.8, subsection 3, satisfies  
21 the application requirements of this paragraph.

22 Sec. 13. Section 321.90, subsection 2, paragraph  
23 c, Code 1987, is amended to read as follows:

24 c. If the police authority finds that the  
25 application is executed in proper form, and shows that  
26 the motor vehicle has been abandoned upon the property  
27 of the applicant, or if it shows that the motor  
28 vehicle is not abandoned but that the applicant  
29 appears to be the rightful owner, the police authority  
30 shall follow appropriate notification procedures as  
31 set forth in section 321.89, subsection 3, except that  
32 in the case of an order for disposal obtained pursuant  
33 to section 562C.8, subsection 3, no notification is  
34 required.

35 Sec. 14. Section 321.90, subsection 2, paragraph  
36 g, Code 1987, is amended to read as follows:

37 g. Any proceeds from the sale of an abandoned  
38 motor vehicle to a demolisher under this section, by  
39 one other than the owner of the vehicle, except the  
40 sale of a vehicle pursuant to an order for disposal  
41 obtained pursuant to section 562C.8, subsection 3,  
42 shall first be applied to that person's expenses in  
43 effecting the sale, including storage, towing, and  
44 disposal charges, and any surplus shall be distributed  
45 in accordance with section 321.89, subsection 4. The  
46 proceeds from the sale of a vehicle disposed of  
47 pursuant to section 562C.8, subsection 3, shall be  
48 distributed in accordance with section 562C.9.

49 Sec. 15. Section 562B.13, subsection 3, Code 1987,  
50 is amended by adding the following new paragraph:

1 NEW PARAGRAPH. c. To remove, store, and dispose  
2 of a mobile home if it is abandoned as defined in  
3 section 562B.27.

4 Sec. 16. Section 562B.27, Code 1987, is amended by  
5 striking the section and inserting in lieu thereof the  
6 following:

7 562B.27 REMEDIES FOR ABANDONMENT -- REQUIRED  
8 REGISTRATION.

9 1. A tenant is considered to have abandoned a  
10 mobile home when the tenant has been absent from the  
11 mobile home without reasonable explanation for thirty  
12 days or more during which time there is a default of  
13 rent three days after rent is due, or the rental  
14 agreement is terminated pursuant to section 562B.25.

15 2. When a mobile home is abandoned on a mobile  
16 home space:

17 a. The landlord shall follow the procedure in  
18 chapter 562C for disposing of abandoned personal  
19 property to dispose of the mobile home. However, in  
20 addition to any notice given pursuant to chapter 562C,  
21 the landlord may notify the legal owner or lienholder  
22 of the mobile home and communicate to that person that  
23 the person is liable for any costs incurred for the  
24 mobile home space, including rent and utilities due  
25 and owing. However, the person is only liable for  
26 costs incurred ninety days before the landlord's  
27 communication and costs for which liability is  
28 incurred after the landlord's communication.

29 b. The mobile home shall not be removed from the  
30 mobile home space without a signed written agreement  
31 from the landlord showing clearance for removal, that  
32 all debts are paid in full, or an agreement reached  
33 with the legal owner or lienholder and the landlord.

34 c. An action pursuant to chapter 562C may be  
35 combined with an action for possession under chapter  
36 648 or an action for damages under section 562B.30.

37 3. A required standardized registration form shall  
38 be filled out by each tenant upon the rental of a  
39 mobile home space, showing the mobile home make, year,  
40 serial number, and also showing if the mobile home is  
41 paid for, if there is a lien on the mobile home, and  
42 if so the lienholder, and the name of the legal owner  
43 of the mobile home. The registration forms shall be  
44 kept on file with the landlord as long as the mobile  
45 home is on the mobile home space within the mobile  
46 home park. The tenant shall give notice to the  
47 landlord within ten days of any new lien, change of  
48 existing lien, or settlement of lien.

49 Sec. 17. Section 648.19, Code 1987, is amended to  
50 read as follows:

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1 648.19 NO JOINDER OR COUNTERCLAIM -- EXCEPTION.  
2 An action of this kind shall not be brought in  
3 connection with any other action, with the exception  
4 of a claim for rent or recovery as provided in  
5 sections 562A.24, 562A.32, 562B.22, or 562B.25, or  
6 562B.27, nor shall it be made the subject of  
7 counterclaim."  
8 2. Title page, by striking lines 1 and 2 and  
9 inserting the following: "An Act relating to the  
10 disposal of abandoned mobile homes and abandoned  
11 personal property of the abandoned mobile home owner."

S-5361

Filed March 14, 1988

BY RICHARD VARN

*Adopted 3/15 (p. 911)*

SENATE FILE 2259

S-5260

1 Amend Senate File 2259 as follows:  
2 1. Page 7, by striking lines 14 and 15 and  
3 inserting the following: "habitation. A tax  
4 clearance form is not required to move an abandoned  
5 mobile home. A tax clearance form, is not required".

S-5260

Filed March 8, 1988

BY C. JOSEPH COLEMAN

*Adopted 3/4 (p. 776)  
w/2 3/15 (p. 811)*

Amended 3/15/88 - 2nd Reading 3/20/88 (p. 1128)

SENATE FILE 2259  
BY COMMITTEE ON JUDICIARY

(AS AMENDED AND PASSED BY THE SENATE MARCH 15, 1988)

ALL New Language by the Senate

Passed Senate, Date 4/8/88 (p. 1251) Passed House, Date 3/21/88 (p. 1085)  
Vote: Ayes 45 Nays 0 Vote: Ayes 95 Nays 0  
Approved May 2, 1988

A BILL FOR

1 An Act relating to the disposal of abandoned mobile homes and  
2 abandoned personal property of the abandoned mobile home  
3 owner.

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

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1 Section 1. NEW SECTION. 562C.1 DEFINITIONS.

2 Unless the context otherwise requires, in this chapter:

3 1. "Demolisher" means demolisher as defined in section  
4 321.89.

5 2. "Junkyard" means junkyard as defined in section 306C.1.

6 3. "Lienholder" includes any government subdivision with  
7 authority to levy a tax on abandoned personal property.

8 4. "Personal property" includes personal property of the  
9 mobile home owner in the abandoned mobile home, on the mobile  
10 home lot, in the immediate vicinity of the abandoned mobile  
11 home and the mobile home lot, and in any storage area provided  
12 by the real property owner for the use of the mobile home  
13 owner.

14 5. "Real property owner" means the owner or other lawful  
15 possessor of real property upon which a mobile home is  
16 located.

17 Sec. 2. NEW SECTION. 562C.2 REMOVAL -- NOTICE TO  
18 SHERIFF.

19 1. A real property owner may remove or cause to be removed  
20 a mobile home and other personal property which is unlawfully  
21 parked, placed, or abandoned on that real property, and may  
22 cause the mobile home and personal property to be placed in  
23 storage until the owner of the personal property pays a fair  
24 and reasonable charge for removal, storage, or other expense  
25 incurred, including reasonable attorneys' fees, or until a  
26 judgment of abandonment is entered pursuant to section 562C.8.  
27 The real property owner or the real property owner's agent is  
28 not liable for damages caused to the mobile home and personal  
29 property by the removal or storage unless the damage is caused  
30 willfully or by gross negligence.

31 2. The real property owner shall notify the sheriff of the  
32 county where the real property is located of the removal of  
33 the mobile home and other personal property.

34 a. If the mobile home owner can be determined, and if the  
35 real property owner so requests, the sheriff shall notify the

1 mobile home owner of the removal by restricted certified mail.  
2 If the mobile home owner cannot be determined, and the real  
3 property owner so requests, the sheriff shall give notice by  
4 one publication in one newspaper of general circulation in the  
5 area where the mobile home and personal property was  
6 unlawfully parked, placed, or abandoned. If the mobile home  
7 and personal property have not been claimed by the owner  
8 within six months after notice is given, the mobile home and  
9 personal property shall be sold by the sheriff at a public or  
10 private sale. After deducting costs of the sale the net  
11 proceeds shall be applied to the cost of removal and storage  
12 of the property. The remainder, if any, shall be paid to the  
13 county treasurer.

14 b. If the real property owner removes the mobile home and  
15 personal property but does not request that the sheriff notify  
16 the mobile home owner, the real property owner shall proceed  
17 with an action for abandonment as provided in sections 562C.3  
18 through 562C.9.

19 Sec. 3. NEW SECTION. 562C.3 ACTION FOR ABANDONMENT --  
20 JURISDICTION.

21 A real property owner not requesting notification by the  
22 sheriff as provided in section 562C.2 may bring an action  
23 alleging abandonment in the court within the county where the  
24 real property is located. The action shall be tried as an  
25 equitable action. Unless commenced as a small claim, the  
26 petition shall be presented to a district judge. Upon receipt  
27 of the petition, the court shall order a hearing not later  
28 than fourteen days from the date of the order.

29 Sec. 4. NEW SECTION. 562C.4 NOTICE.

30 1. Personal service pursuant to rule of civil procedure  
31 56.1 shall be made upon the mobile home owner not less than  
32 ten days before the hearing. If personal service cannot be  
33 completed in time to give the mobile home owner the minimum  
34 notice required by this section, the court may set a new  
35 hearing date.



1 2. If personal service cannot be made on the mobile home  
2 owner because the mobile home owner is avoiding service or  
3 cannot be found, service may be made by mailing a copy of the  
4 petition and notice of hearing to the mobile home owner's last  
5 known address and publishing the notice in one newspaper of  
6 general circulation in the county where the petition is filed.  
7 If the mobile home owner's address is not known to the real  
8 property owner, service may be made pursuant to rule of civil  
9 procedure 60 except that service is complete seven days after  
10 the initial publication. The court shall set a new hearing  
11 date if necessary to allow the ten-day minimum notice required  
12 under subsection 1 of this section.

13 3. In addition to notifying the mobile home owner, the  
14 real property owner shall notify all lienholders of record and  
15 any other known claimant to the mobile home or personal  
16 property by restricted certified mail addressed to the last  
17 known address of record and sent not less than ten days before  
18 the hearing. The notice shall describe the mobile home and  
19 personal property and shall state the date and time at which  
20 the hearing is scheduled, and the lienholder's or claimant's  
21 right to assert a claim to the mobile home or personal  
22 property at the hearing. The notice shall also state that the  
23 failure of the lienholder or claimant to assert a claim to the  
24 mobile home or personal property is deemed a waiver of all  
25 right, title, claim, and interest in the mobile home and  
26 personal property and is deemed consent to the sale or  
27 disposal of the mobile home and personal property. If it is  
28 impossible to determine with reasonable certainty the identity  
29 or address of all lienholders, notice shall be made pursuant  
30 to rule of civil procedure 61.

31 Sec. 5. NEW SECTION. 562C.5 CHANGE OF VENUE.

32 In an action under this chapter a change of place of trial  
33 may be had as in other cases.

34 Sec. 6. NEW SECTION. 562C.6 PRIORITY OF ASSIGNMENT.

35 An action under this chapter shall be accorded reasonable

1 priority for assignment to assure prompt disposition.

2 Sec. 7. NEW SECTION. 562C.7 REMEDY NOT EXCLUSIVE.

3 An action under this chapter may be brought in connection  
4 with a claim for monetary damages, possession, or recovery as  
5 provided in section 562B.25 or 562B.30 or chapter 648.

6 Sec. 8. NEW SECTION. 562C.8 JUDGMENT.

7 1. If the court determines that the mobile home and  
8 personal property have been abandoned, judgment shall be  
9 entered in favor of the real property owner for the reasonable  
10 costs of removal, storage, notice, and attorneys' fees; any  
11 other expenses incurred for preserving the mobile home and  
12 personal property or for bringing the action; and, if the  
13 action is brought in conjunction with one for monetary  
14 damages, the amount of monetary damages assessed.

15 2. If the mobile home owner, lienholder, or other claimant  
16 asserts a claim to the property, the judgment shall be  
17 satisfied before the mobile home owner, lienholder, or other  
18 claimant may take possession of the mobile home or personal  
19 property.

20 3. If no claim is asserted to the mobile home or personal  
21 property or if the judgment is not satisfied at the time of  
22 entry, an order shall be entered allowing the real property  
23 owner to sell or otherwise dispose of the mobile home and  
24 personal property pursuant to section 562C.9. If a claimant  
25 satisfies the judgment at the time of entry, the court shall  
26 enter an order permitting and directing the claimant to remove  
27 the mobile home or personal property from its location within  
28 a reasonable time to be fixed by the court. The court shall  
29 also determine the amount of further rent or storage charges  
30 to be paid by the claimant to the real property owner at the  
31 time of removal.

32 Sec. 9. NEW SECTION. 562C.9 DISPOSAL --PROCEEDS.

33 1. Pursuant to an order for disposal under section 562C.8,  
34 subsection 3, the real property owner shall dispose of the  
35 mobile home and personal property by public or private sale in

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

548 11 2. A sale pursuant to subsection 1 transfers to the  
12 purchaser for value, all of the mobile home owner's rights in  
13 the mobile home and personal property, and discharges the real  
14 property owner's interest in the mobile home and personal  
15 property and any security interest or lien whose holder was  
16 given notice of the sale as provided in subsection 1. The  
17 purchaser takes free of all rights and interests even though  
18 the real property owner fails to comply with the requirements  
19 of this chapter or of any judicial proceedings, if the  
20 purchaser acts in good faith.

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

23 a. First, to satisfy the real property owner's judgment  
24 obtained under section 562C.8.

548 25 b. Second, to satisfy any indebtedness secured by a  
26 security interest or lien in the mobile home or personal  
27 property if written notification of demand of the secured  
28 interest or lien is received before distribution of the  
29 proceeds is completed. If requested by the real property  
30 owner, the holder of a security interest or lien shall furnish  
31 reasonable proof of the interest, and unless done, the real  
32 property owner need not comply with the demand. In cases of  
33 uncertainty, the real property owner may pay the amount  
34 demanded, or so much thereof as is available from remaining  
35 proceeds, to the sheriff for disbursement as the court

1 subsequently directs.

5942 c. Any surplus remaining after the proceeds are  
3 distributed shall be held by the real property owner for one  
4 year. If the mobile home owner fails to claim the surplus in  
5 that time, the surplus may be retained by the real property  
6 owner. If a deficiency remains after distribution of the  
7 proceeds, the mobile home owner is liable for the amount of  
8 the deficiency.

5943 4. Notwithstanding subsections 1 through 3, the real  
10 property owner may propose to retain the mobile home and  
11 personal property in satisfaction of the judgment obtained  
12 pursuant to section 562C.8. Written notice of the proposal  
13 shall be sent to the mobile home owner, lienholder, or other  
14 claimant, if that person has asserted a claim to the mobile  
15 home or personal property in the judicial proceedings. If the  
16 real property owner receives objection in writing from a  
17 person entitled to be sent notice, within twenty-one days  
18 after the notice was sent, the real property owner shall  
19 dispose of the mobile home and personal property pursuant to  
20 subsection 1. If no written objection is received by the real  
21 property owner within twenty-one days after the notice was  
22 sent, the mobile home and personal property may be retained.  
23 Retention of the mobile home and personal property discharges  
24 the judgment of the mobile home owner and any security  
25 interest or lien in the mobile home or personal property whose  
26 holder was given notice as provided in this subsection.

27 5. If the real property owner has made a good faith  
28 attempt to sell the mobile home and personal property pursuant  
29 to subsection 1 but is unsuccessful and elects not to retain  
30 the mobile home and personal property pursuant to subsection  
31 4, the real property owner may dispose of the mobile home and  
32 personal property to a demolisher or junkyard. Proceeds from  
5944 33 the disposition shall be distributed pursuant to subsection 3.

34 Sec. 10. NEW SECTION. 562C.10 LIMITATION ON LIABILITY.

35 1. A real property owner who disposes of a mobile home or

1 personal property in accordance with this chapter is not  
2 liable for damages by reason of the removal, sale, or disposal  
3 of the mobile home and personal property unless the damage is  
4 caused willfully or by gross negligence. Upon a motion to the  
5 district court and a showing that the real property owner is  
6 not proceeding in accordance with this chapter, the court may  
7 enjoin the real property owner from proceeding further and a  
8 determination for the proper disposition of the mobile home  
9 and personal property shall be made. If disposition of the  
10 personal property has not occurred in accordance with this  
11 chapter, the personal property owner has a right to recover  
12 from the real property owner, any loss caused by failure to  
13 comply with this chapter.

14 2. The fact that a better price could have been obtained  
15 by a sale at a different time or in a different method from  
16 that selected by the real property owner is not of itself  
17 sufficient to establish that the sale was not made in a  
18 commercially reasonable manner. If the real property owner  
19 sells the mobile home and personal property in the usual  
20 manner in any recognized market or if the real property owner  
21 sells at the price current in the market at the time of the  
22 real property owner's sale or if the real property owner has  
23 otherwise sold in conformity with reasonable commercial  
24 practices among dealers in the type of mobile home or personal  
25 property sold, the real property owner has sold in a  
26 commercially reasonable manner.

27 Sec. 11. Section 135D.24, subsection 6, Code Supplement  
28 1987, is amended to read as follows:

29 6. Before a mobile home may be moved from its present site  
30 by the owner or the owner's assignee, a tax clearance  
31 statement in the name of the owner must be obtained from the  
32 county treasurer of the county where the present site is  
33 located certifying that taxes are not owing under this section  
34 for previous years and that the taxes have been paid for the  
35 current tax period. However, a tax clearance statement shall

1 is not be required for a mobile home in a manufacturer's or  
2 dealer's stock which is not used as a place for human  
3 habitation. A tax clearance form is not required to move an  
4 abandoned mobile home. A tax clearance form is not required  
5 in eviction cases provided the mobile home park owner or  
6 manager advises the county treasurer that the tenant is being  
7 evicted. If a dealer acquires a mobile home from a person  
8 other than a manufacturer, the person shall provide a tax  
9 clearance statement in the name of the owner of record to the  
10 dealer. The tax clearance statement shall be provided by the  
11 county treasurer ~~and shall be made out in quadruplicate~~ in a  
12 method prescribed by the department of transportation. Two  
13 copies are to be provided to the company or person  
14 transporting the mobile home with one copy to be carried in  
15 the vehicle transporting the mobile home. One copy is to be  
16 forwarded to the county treasurer of the county in which the  
17 mobile home is to be relocated and one copy is to be retained  
18 by the county treasurer issuing the tax clearance statement.  
19 Sec. 12. Section 321.90, subsection 2, paragraph b, Code  
20 1987, is amended to read as follows:

21 b. The application shall set out the name and address of  
22 the applicant, and the year, make, model, and serial number of  
23 the motor vehicle, if ascertainable, together with any other  
24 identifying features, and shall contain a concise statement of  
25 the facts surrounding the abandonment, or a statement that the  
26 title of the motor vehicle is lost or destroyed, or the  
27 reasons for the defect of title in the owner. The applicant  
28 shall execute an affidavit stating that the facts alleged are  
29 true and that no material fact has been withheld. An order  
30 for disposal obtained pursuant to section 562C.8, subsection  
31 3, satisfies the application requirements of this paragraph.

32 Sec. 13. Section 321.90, subsection 2, paragraph c, Code  
33 1987, is amended to read as follows:

34 c. If the police authority finds that the application is  
35 executed in proper form, and shows that the motor vehicle has

1 been abandoned upon the property of the applicant, or if it  
2 shows that the motor vehicle is not abandoned but that the  
3 applicant appears to be the rightful owner, the police  
4 authority shall follow appropriate notification procedures as  
5 set forth in section 321.89, subsection 3, except that in the  
6 case of an order for disposal obtained pursuant to section  
7 562C.8, subsection 3, no notification is required.

8 Sec. 14. Section 321.90, subsection 2, paragraph g, Code  
9 1987, is amended to read as follows:

10 g. Any proceeds from the sale of an abandoned motor  
11 vehicle to a demolisher under this section, by one other than  
12 the owner of the vehicle, except the sale of a vehicle  
13 pursuant to an order for disposal obtained pursuant to section  
14 562C.8, subsection 3, shall first be applied to that person's  
15 expenses in effecting the sale, including storage, towing, and  
16 disposal charges, and any surplus shall be distributed in  
17 accordance with section 321.89, subsection 4. The proceeds  
18 from the sale of a vehicle disposed of pursuant to section  
19 562C.8, subsection 3, shall be distributed in accordance with  
20 section 562C.9.

21 Sec. 15. Section 562B.13, subsection 3, Code 1987, is  
22 amended by adding the following new paragraph:

23 NEW PARAGRAPH. c. To remove, store, and dispose of a  
24 mobile home if it is abandoned as defined in section 562B.27.

25 Sec. 16. Section 562B.27, Code 1987, is amended by  
26 striking the section and inserting in lieu thereof the  
27 following:

28 562B.27 REMEDIES FOR ABANDONMENT -- REQUIRED REGISTRATION.

29 1. A tenant is considered to have abandoned a mobile home  
30 when the tenant has been absent from the mobile home without  
31 reasonable explanation for thirty days or more during which  
32 time there is a default of rent three days after rent is due,  
33 or the rental agreement is terminated pursuant to section  
34 562B.25.

35 2. When a mobile home is abandoned on a mobile home space:

1 a. The landlord shall follow the procedure in chapter 562C  
2 for disposing of abandoned personal property to dispose of the  
3 mobile home. However, in addition to any notice given  
4 pursuant to chapter 562C, the landlord may notify the legal  
5 owner or lienholder of the mobile home and communicate to that  
6 person that the person is liable for any costs incurred for  
7 the mobile home space, including rent and utilities due and  
8 owing. However, the person is only liable for costs incurred  
9 ninety days before the landlord's communication and costs for  
10 which liability is incurred after the landlord's  
11 communication.

12 b. The mobile home shall not be removed from the mobile  
13 home space without a signed written agreement from the  
14 landlord showing clearance for removal, that all debts are  
15 paid in full, or an agreement reached with the legal owner or  
16 lienholder and the landlord.

17 c. An action pursuant to chapter 562C may be combined with  
18 an action for possession under chapter 648 or an action for  
19 damages under section 562B.30.

20 3. A required standardized registration form shall be  
21 filled out by each tenant upon the rental of a mobile home  
22 space, showing the mobile home make, year, serial number, and  
23 also showing if the mobile home is paid for, if there is a  
24 lien on the mobile home, and if so the lienholder, and the  
25 name of the legal owner of the mobile home. The registration  
26 forms shall be kept on file with the landlord as long as the  
27 mobile home is on the mobile home space within the mobile home  
28 park. The tenant shall give notice to the landlord within ten  
29 days of any new lien, change of existing lien, or settlement  
30 of lien.

31 Sec. 17. Section 648.19, Code 1987, is amended to read as  
32 follows:

33 648.19 NO JOINDER OR COUNTERCLAIM -- EXCEPTION.

34 An action of this kind shall not be brought in connection  
35 with any other action, with the exception of a claim for rent



1 or recovery as provided in sections 562A.24, 562A.32, 562B.22,  
2 or 562B.25, or 562B.27, nor shall it be made the subject of  
3 counterclaim.

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HOUSE AMENDMENT TO  
SENATE FILE 2259

71

1 Amend Senate File 2259 as amended, passed, and  
2 reprinted by the Senate as follows:

3 1. Page 1, line 6, by striking the word  
4 "Lienholder" and inserting the following: "Claimant".

5 2. Page 1, line 26, by inserting after the figure  
6 "562C.8" the following: "provided that there is no  
7 lien on the mobile home or personal property other  
8 than a tax lien pursuant to chapter 135D. For  
9 purposes of this chapter, a lien exists only if the  
10 real property owner receives notice of a lien on the  
11 standardized registration form completed by a tenant  
12 pursuant to section 562B.27, subsection 3, or a lien  
13 has been filed in state or county records on a date  
14 before the mobile home is considered to be abandoned."

15 3. Page 2, line 24, by inserting after the word  
16 "located" the following: "provided that there is no  
17 lien on the mobile home or personal property other  
18 than a tax lien pursuant to chapter 135D".

19 4. Page 3, line 9, by striking the figure "60"  
20 and inserting the following: "62".

21 5. Page 3, by striking lines 13 through 30 and  
22 inserting the following:

23 "3. If a lien exists on the mobile home or  
24 personal property, the real property owner shall  
25 notify the county treasurer of each county in which a  
26 tax lien appears by restricted certified mail sent not  
27 less than ten days before the hearing. The notice  
28 shall describe the mobile home and shall state the  
29 date and time at which the hearing is scheduled, and  
30 the county treasurer's right to assert a claim to the  
31 mobile home at the hearing. The notice shall also  
32 state that failure to assert a claim to the mobile  
33 home is deemed a waiver of all right, title, claim,  
34 and interest in the mobile home and is deemed consent  
35 to the sale or disposal of the mobile home."

36 6. Page 4, line 15, by striking the word "  
37 lienholder,".

38 7. Page 4, line 17, by striking the word "  
39 lienholder,".

40 8. Page 5, line 2, by striking the word "  
41 lienholder,".

42 9. Page 5, by striking lines 15 and 16 and  
43 inserting the following: "property and any tax lien.  
44 The".

45 10. By striking page 5, line 25 through page 6,  
46 line 1 and inserting the following:

47 "b. Second, to satisfy any tax lien for which a  
48 claim was asserted pursuant to section 562C.4,  
49 subsection 3."

50 11. Page 6, lines 3 and 4, by striking the words

1 "one year" and inserting the following: "six months".

2 12. Page 6, line 13, by striking the word ",  
3 lienholder,".

4 13. Page 6, lines 16 and 17 by striking the words  
5 "a person entitled to be sent notice," and inserting  
6 the following: "the mobile home owner or other  
7 claimant".

8 14. Page 6, by striking lines 24 through 26 and  
9 inserting the following: "the judgment of the real  
10 property owner and any tax lien."

11 15. Page 6, line 33, by inserting the figure "3."  
12 the following: "If the personal property is a motor  
13 vehicle to which section 321.90 applies, the real  
14 property owner shall present the order for disposal  
15 obtained pursuant to section 562C.8, subsection 3, to  
16 the police authority to obtain a certificate of  
17 authority to dispose of the motor vehicle pursuant to  
18 section 321.90, subsection 2."

19 16. Page 7, line 26, by inserting after the word  
20 "manner." the following: "A disposition approved in  
21 any judicial proceeding shall be deemed conclusively  
22 to be commercially reasonable."

23 17. Page 8, by striking lines 12 through 18 and  
24 inserting the following: "method prescribed by the  
25 department of transportation. Two copies are to be  
26 provided to the company or person transporting the  
27 mobile home with one copy to be carried in the vehicle  
28 transporting the mobile home. One copy is to be  
29 forwarded to the county treasurer of the county in  
30 which the mobile home is to be relocated and one copy  
31 is to be retained by the county treasurer issuing the  
32 tax clearance statement."

33 18. Page 10, by striking lines 1 through 16 and  
34 inserting the following:

35 "a. If a tenant abandons a mobile home on a mobile  
36 home space, the landlord shall notify the mobile home  
37 owner or other claimant of the mobile home and  
38 communicate to that person that the person is liable  
39 for any costs incurred for the mobile home space,  
40 including rent and utilities due and owing. However,  
41 the person is only liable for costs incurred ninety  
42 days before the landlord's communication. After the  
43 landlord's communication, costs for which liability is  
44 incurred shall then become the responsibility of the  
45 mobile home owner or other claimant of the mobile  
46 home. The mobile home shall not be removed from the  
47 mobile home space without a signed written agreement  
48 from the landlord showing clearance for removal, and  
49 that all debts are paid in full, or an agreement  
50 reached with the mobile home owner or other claimant

1 and the landlord.

2 b. If there is no lien on the mobile home other  
3 than a lien for taxes, the landlord shall follow the  
4 procedure in chapter 562C to dispose of the mobile  
5 home."

6 19. Page 11, by inserting after line 3 the  
7 following:

8 "Sec. \_\_\_\_ . Section 135D.24, subsection 4, Code  
9 Supplement 1987, is amended to read as follows:

10 4. The tax is a lien on the vehicle senior to any  
11 other lien upon it except a judgment obtained in an  
12 action to dispose of an abandoned mobile home under  
13 section 562C.8. The mobile home bearing a current  
14 registration issued by any other state and remaining  
15 within this state for an accumulated period not to  
16 exceed ninety days in any twelve-month period is not  
17 subject to Iowa tax. However, when one or more  
18 persons occupying a mobile home bearing a foreign  
19 registration are employed in this state, there is no  
20 exemption from the Iowa tax. This tax is in lieu of  
21 all other taxes general or local on a mobile home."

22 20. By renumbering, relettering, or redesignating  
23 and correcting internal references as necessary.

S-5771

Filed April 5, 1988

*Senate Committee 4/8 (p. 135)*

RECEIVED FROM THE HOUSE

SENATE FILE 2259

H-5918

1 Amend Senate File 2259 as amended, passed, and  
2 reprinted by the Senate as follows:

3 1. Page 1, line 6, by striking the word  
4 "Lienholder" and inserting the following: "Claimant".

5 2. Page 1, line 26, by inserting after the figure  
6 "562C.8" the following: "provided that there is no  
7 lien on the mobile home or personal property other  
8 than a tax lien pursuant to chapter 135D. For  
9 purposes of this chapter, a lien exists only if the  
10 real property owner receives notice of a lien on the  
11 standardized registration form completed by a tenant  
12 pursuant to section 562B.27, subsection 3, or a lien  
13 has been filed in state or county records on a date  
14 before the mobile home is considered to be abandoned."

15 3. Page 2, line 24, by inserting after the word  
16 "located" the following: "provided that there is no  
17 lien on the mobile home or personal property other  
18 than a tax lien pursuant to chapter 135D".

19 4. Page 3, line 9, by striking the figure "60"  
20 and inserting the following: "62".

21 5. Page 3, by striking lines 13 through 30 and  
22 inserting the following:

23 "3. If a lien exists on the mobile home or  
24 personal property, the real property owner shall  
25 notify the county treasurer of each county in which a  
26 tax lien appears by restricted certified mail sent not  
27 less than ten days before the hearing. The notice  
28 shall describe the mobile home and shall state the  
29 date and time at which the hearing is scheduled, and  
30 the county treasurer's right to assert a claim to the  
31 mobile home at the hearing. The notice shall also  
32 state that failure to assert a claim to the mobile  
33 home is deemed a waiver of all right, title, claim,  
34 and interest in the mobile home and is deemed consent  
35 to the sale or disposal of the mobile home."

36 6. Page 4, line 15, by striking the word "  
37 Lienholder,".

38 7. Page 4, line 17, by striking the word "  
39 Lienholder,".

40 8. Page 5, line 2, by striking the word "  
41 Lienholder,".

42 9. Page 5, by striking lines 15 and 16 and  
43 inserting the following: "property and any tax lien.  
44 The".

45 10. By striking page 5, line 25 through page 5,  
46 line 1 and inserting the following:

47 "B. Second, to satisfy any tax lien for which a  
48 claim was asserted pursuant to section 562C.4,  
49 subsection 3."

50 11. Page 6, lines 3 and 4, by striking the words

1 "one year" and inserting the following: "six months".

2 12. Page 6, line 13, by striking the word "  
3 lienholder,".

4 13. Page 6, lines 16 and 17 by striking the words  
5 "a person entitled to be sent notice," and inserting  
6 the following: "the mobile home owner or other  
7 claimant".

8 14. Page 6, by striking lines 24 through 26 and  
9 inserting the following: "the judgment of the real  
10 property owner and any tax lien."

11 15. Page 6, line 33, by inserting the figure "3."  
12 the following: "If the personal property is a motor  
13 vehicle to which section 321.90 applies, the real  
14 property owner shall present the order for disposal  
15 obtained pursuant to section 562C.8, subsection 3, to  
16 the police authority to obtain a certificate of  
17 authority to dispose of the motor vehicle pursuant to  
18 section 321.90, subsection 2."

19 16. Page 7, line 26, by inserting after the word  
20 "manner." the following: "A disposition approved in  
21 any judicial proceeding shall be deemed conclusively  
22 to be commercially reasonable."

23 17. Page 10, by striking lines 1 through 16 and  
24 inserting the following:

25 "a. If a tenant abandons a mobile home on a mobile  
26 home space, the landlord shall notify the mobile home  
27 owner or other claimant of the mobile home and  
28 communicate to that person that the person is liable  
29 for any costs incurred for the mobile home space,  
30 including rent and utilities due and owing. However,  
31 the person is only liable for costs incurred ninety  
32 days before the landlord's communication. After the  
33 landlord's communication, costs for which liability is  
34 incurred shall then become the responsibility of the  
35 mobile home owner or other claimant of the mobile  
36 home. The mobile home shall not be removed from the  
37 mobile home space without a signed written agreement  
38 from the landlord showing clearance for removal, and  
39 that all debts are paid in full, or an agreement  
40 reached with the mobile home owner or other claimant  
41 and the landlord.

42 b. If there is no lien on the mobile home other  
43 than a lien for taxes, the landlord shall follow the  
44 procedure in chapter 562C to dispose of the mobile  
45 home."

46 18. Page 11, by inserting after line 3 the  
47 following:

48 "Sec. \_\_\_\_ . Section 135D.24, subsection 4, Code  
49 Supplement 1987, is amended to read as follows:

50 4. The tax is a lien on the vehicle senior to any

H-5918

Page 3

other lien upon it except a judgment obtained in an  
 action to dispose of an abandoned mobile home under  
 section 562C.8. The mobile home bearing a current  
 registration issued by any other state and remaining  
 within this state for an accumulated period not to  
 exceed ninety days in any twelve-month period is not  
 subject to Iowa tax. However, when one or more  
 persons occupying a mobile home bearing a foreign  
 registration are employed in this state, there is no  
 exemption from the Iowa tax. This tax is in lieu of  
 all other taxes general or local on a mobile home."

19. By renumbering as necessary.

By COMMITTEE ON JUDICIARY AND LAW  
 ENFORCEMENT

JAY of Appanoose, Chairperson

H-5918 FILED MARCH 28, 1988

*Adopted 3/21 (p. 1252)*

SENATE FILE 2259

H-6066

Amend Senate File 2259, as amended, passed, and re-  
 printed by the Senate, as follows:

1. Page 8, by striking lines 12 through 18 and  
 inserting the following: "method prescribed by the  
department of transportation. Two copies are to be  
~~provided to the company or person transporting the~~  
~~mobile home with one copy to be carried in the vehicle~~  
~~transporting the mobile home. One copy is to be~~  
~~forwarded to the county treasurer of the county in~~  
~~which the mobile home is to be reloaded and one copy~~  
~~is to be retained by the county treasurer issuing the~~  
~~tax clearance statement."~~

H-6066 FILED MARCH 30, 1988 BY HALVORSON of Clayton

*Adopted 3/21 (p. 1284)*

L - 10

SSB 2192

Coleman, Ch.  
Varn  
Drake

SSB 2192

JUDICIARY

JUDICIARY: Coleman, Chair; Varn and Drake

SENATE FILE 2259

BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL)

Passed Senate, Date \_\_\_\_\_

Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

### A BILL FOR

1 An Act relating to the disposal of abandoned personal property,  
2 including abandoned mobile homes.

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

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1 Section 1. Section 556B.1, Code 1987, is amended by  
2 striking the section and inserting in lieu thereof the  
3 following:

4 556B.1 DEFINITIONS.

5 Unless the context otherwise requires, in this chapter:

- 6 1. "Demolisher" means demolisher as defined in section  
7 321.89.  
8 2. "Junkyard" means junkyard as defined in section 306C.1.  
9 3. "Lienholder" includes any government subdivision with  
10 authority to levy a tax on abandoned personal property.  
11 4. "Real property owner" means the owner or other lawful  
12 possessor of real property.

13 Sec. 2. NEW SECTION. 556B.2 REMOVAL -- NOTICE TO  
14 SHERIFF.

15 1. A real property owner may remove or cause to be removed  
16 a motor vehicle or other personal property which is unlawfully  
17 parked or placed on that real property, and may cause the  
18 personal property to be placed in storage until the owner of  
19 the personal property pays a fair and reasonable charge for  
20 removal, storage, or other expense incurred, including  
21 reasonable attorneys' fees, or until a judgment of abandonment  
22 is entered pursuant to section 556B.8. The real property  
23 owner or the real property owner's agent is not liable for  
24 damages caused to the personal property by the removal or  
25 storage unless the damage is caused willfully or by gross  
26 negligence.

27 2. The real property owner shall notify the sheriff of the  
28 county where the real property is located of the removal of a  
29 motor vehicle or other personal property.

30 a. If the personal property owner can be determined, and  
31 if the real property owner so requests, the sheriff shall  
32 notify the personal property owner of the removal by  
33 restricted certified mail. If the personal property owner  
34 cannot be determined, and the real property owner so requests,  
35 the sheriff shall give notice by one publication in one

1 newspaper of general circulation in the area where the  
2 personal property was unlawfully parked or placed. If the  
3 personal property has not been claimed by the owner within six  
4 months after notice is given, the personal property shall be  
5 sold by the sheriff at a public or private sale. After  
6 deducting costs of the sale the net proceeds shall be applied  
7 to the cost of removal and storage of the property. The  
8 remainder, if any, shall be paid to the county treasurer.

9 b. If the real property owner removes the personal  
10 property but does not request that the sheriff notify the  
11 personal property owner, the real property owner shall proceed  
12 with an action for abandonment as provided in sections 556B.3  
13 through 556B.9.

14 Sec. 3. NEW SECTION. 556B.3 ACTION FOR ABANDONMENT --  
15 JURISDICTION.

16 A real property owner not requesting notification by the  
17 sheriff as provided in section 556B.2 may bring an action  
18 alleging abandonment in the court within the county where the  
19 real property is located. The action shall be tried as an  
20 equitable action. Unless commenced as a small claim, the  
21 petition shall be presented to a district judge. Upon receipt  
22 of the petition, the court shall order a hearing not later  
23 than fourteen days from the date of the order.

24 Sec. 4. NEW SECTION. 556B.4 NOTICE.

25 1. Personal service pursuant to rule of civil procedure  
26 56.1 shall be made upon the personal property owner not less  
27 than ten days before the hearing. If personal service cannot  
28 be completed in time to give the personal property owner the  
29 minimum notice required by this section, the court may set a  
30 new hearing date.

31 2. If personal service cannot be made on the personal  
32 property owner because the personal property owner is avoiding  
33 service or cannot be found, service may be made by mailing a  
34 copy of the petition and notice of hearing to the personal  
35 property owner's last known address and publishing the notice.

1 in one newspaper of general circulation in the county where  
2 the petition is filed. If the personal property owner's  
3 address is not known to the real property owner, service may  
4 be made pursuant to rule of civil procedure 60 except that  
5 service is complete seven days after the initial publication.  
6 The court shall set a new hearing date if necessary to allow  
7 the ten-day minimum notice required under subsection 1 of this  
8 section.

9 3. In addition to notifying the personal property owner,  
10 the real property owner shall notify all lienholders of record  
11 and any other known claimant to the personal property by  
12 restricted certified mail addressed to the last known address  
13 of record and sent not less than ten days before the hearing.  
14 The notice shall describe the personal property and shall  
15 state the date and time at which the hearing is scheduled, and  
16 the lienholder's or claimant's right to assert a claim to the  
17 personal property at the hearing. The notice shall also state  
18 that the failure of the lienholder or claimant to assert a  
19 claim to the personal property is deemed a waiver of all  
20 right, title, claim, and interest in the personal property and  
21 is deemed consent to the sale or disposal of the personal  
22 property. If it is impossible to determine with reasonable  
23 certainty the identity or address of all lienholders, notice  
24 shall be made pursuant to rule of civil procedure 61.

25 Sec. 5. NEW SECTION. 556B.5 CHANGE OF VENUE.

26 In an action under this chapter a change of place of trial  
27 may be had as in other cases.

28 Sec. 6. NEW SECTION. 556B.6 PRIORITY OF ASSIGNMENT.

29 An action under this chapter shall be accorded reasonable  
30 priority for assignment to assure prompt disposition.

31 Sec. 7. NEW SECTION. 556B.7 REMEDY NOT EXCLUSIVE.

32 An action under this chapter may be brought in connection  
33 with a claim for monetary damages, possession, or recovery as  
34 provided in section 562B.25 or 562B.30 or chapter 648.

35 Sec. 8. NEW SECTION. 556B.8 JUDGMENT.

1 1. If the court determines that the personal property has  
2 been abandoned, judgment shall be entered in favor of the real  
3 property owner for the reasonable costs of removal, storage,  
4 notice, and attorneys' fees; any other expenses incurred for  
5 preserving the personal property or for bringing the action;  
6 and, if the action is brought in conjunction with one for  
7 monetary damages, the amount of monetary damages assessed.

8 2. If the personal property owner, lienholder, or other  
9 claimant asserts a claim to the property, the judgment shall  
10 be satisfied before the personal property owner, lienholder,  
11 or other claimant may take possession of the personal  
12 property.

13 3. If no claim is asserted to the property or if the  
14 judgment is not satisfied at the time of entry, an order shall  
15 be entered allowing the real property owner to sell or  
16 otherwise dispose of the personal property pursuant to section  
17 556B.9. If a claimant satisfies the judgment at the time of  
18 entry, the court shall enter an order permitting and directing  
19 the claimant to remove the personal property from its location  
20 within a reasonable time to be fixed by the court. The court  
21 shall also determine the amount of further rent or storage  
22 charges to be paid by the claimant to the real property owner  
23 at the time of removal.

24 Sec. 9. NEW SECTION. 556B.9 DISPOSAL -- PROCEEDS.

25 1. Pursuant to an order for disposal under section 556B.8,  
26 subsection 3, the real property owner shall dispose of the  
27 personal property by public or private sale in a commercially  
28 reasonable manner. If the personal property owner,  
29 lienholder, or other claimant has asserted a claim to the  
30 personal property, that person shall be notified of the sale  
31 by restricted certified mail not less than five days before  
32 the sale. The notice is deemed given upon the mailing. The  
33 real property owner may buy at any public sale, and if the  
34 personal property is of a type customarily sold in a  
35 recognized market or is the subject of widely distributed

1 standard price quotations, the real property owner may buy at  
2 a private sale.

3 2. A sale pursuant to subsection 1 transfers to the  
4 purchaser for value, all of the personal property owner's  
5 right in the personal property, and discharges the real  
6 property owner's interest in the property and any security  
7 interest or lien whose holder was given notice of the sale as  
8 provided in subsection 1. The purchaser takes free of all  
9 rights and interests even though the real property owner fails  
10 to comply with the requirements of this chapter or of any  
11 judicial proceedings, if the purchaser acts in good faith.

12 3. The proceeds of the sale of personal property shall be  
13 distributed as follows:

14 a. First, to satisfy the real property owner's judgment  
15 obtained under section 556B.8.

16 b. Second, to satisfy any indebtedness secured by a  
17 security interest or lien in the personal property if written  
18 notification of demand of the secured interest or lien is  
19 received before distribution of the proceeds is completed. If  
20 requested by the real property owner, the holder of a security  
21 interest or lien shall furnish reasonable proof of the  
22 interest, and unless done, the real property owner need not  
23 comply with the demand. In cases of uncertainty, the real  
24 property owner may pay the amount demanded, or so much thereof  
25 as is available from remaining proceeds, to the sheriff for  
26 disbursement as the court subsequently directs.

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

34 4. Notwithstanding subsections 1 through 3, the real  
35 property owner may propose to retain the personal property in

1 satisfaction of the judgment obtained pursuant to section  
2 556B.8. Written notice of the proposal shall be sent to the  
3 personal property owner, lienholder, or other claimant, if  
4 that person has asserted a claim to the personal property in  
5 the judicial proceedings. If the real property owner receives  
6 objection in writing from a person entitled to be sent notice  
7 within twenty-one days after the notice was sent, the real  
8 property owner shall dispose of the personal property pursuant  
9 to subsection 1. If no written objection is received by the  
10 real property owner within twenty-one days after the notice  
11 was sent, the personal property may be retained. Retention of  
12 the personal property discharges the judgment against the  
13 personal property owner and any security interest or lien in  
14 the personal property whose holder was given notice as  
15 provided in this subsection.

16 5. If the real property owner has made a good faith  
17 attempt to sell the personal property pursuant to subsection 1  
18 but is unsuccessful and elects not to retain the personal  
19 property pursuant to subsection 4, the real property owner may  
20 dispose of the personal property to a demolisher or junkyard.  
21 Proceeds from the disposition shall be distributed pursuant to  
22 subsection 3. If the personal property is a motor vehicle to  
23 which section 321.90 applies, the real property owner shall  
24 present the order for disposal obtained pursuant to section  
25 556B.8, subsection 2, to the police authority to obtain a  
26 certificate of authority to dispose of the motor vehicle  
27 pursuant to section 321.90, subsection 3.

28 Sec. 10. NEW SECTION. 556B.10 LIMITATION ON LIABILITY.

29 A real property owner who disposes of personal property in  
30 accordance with this chapter is not liable for damages by  
31 reason of the removal, sale, or disposal of the property  
32 unless the damage is caused willfully or by gross negligence.  
33 Upon a motion to the district court and a showing that the  
34 real property owner is not proceeding in accordance with this  
35 chapter, the court may enjoin the real property owner from

1 proceeding further and a determination for the proper  
2 disposition of the personal property shall be made.

3 Sec. 11. Section 135D.24, subsection 6, Code Supplement  
4 1987, is amended to read as follows:

5 6. Before a mobile home may be moved from its present site  
6 by the owner or the owner's assignee, a tax clearance  
7 statement in the name of the owner must be obtained from the  
8 county treasurer of the county where the present site is  
9 located certifying that taxes are not owing under this section  
10 for previous years and that the taxes have been paid for the  
11 current tax period. However, a tax clearance statement shall  
12 is not be required for a mobile home in a manufacturer's or  
13 dealer's stock which is not used as a place for human  
14 habitation. ~~A tax clearance form is not required to move an~~  
15 ~~abandoned mobile home.~~ A tax clearance form is not required  
16 in eviction cases provided the mobile home park owner or  
17 manager advises the county treasurer that the tenant is being  
18 evicted. If a dealer acquires a mobile home from a person  
19 other than a manufacturer, the person shall provide a tax  
20 clearance statement in the name of the owner of record to the  
21 dealer. The tax clearance statement shall be provided by the  
22 county treasurer and shall be made out in quadruplicate. Two  
23 copies are to be provided to the company or person  
24 transporting the mobile home with one copy to be carried in  
25 the vehicle transporting the mobile home. One copy is to be  
26 forwarded to the county treasurer of the county in which the  
27 mobile home is to be relocated and one copy is to be retained  
28 by the county treasurer issuing the tax clearance statement.

29 Sec. 12. Section 321.90, subsection 2, paragraph b, Code  
30 1987, is amended to read as follows:

31 b. The application shall set out the name and address of  
32 the applicant, the year, make, model, and serial number of the  
33 motor vehicle, if ascertainable, together with any other  
34 identifying features, and shall contain a concise statement of  
35 the facts surrounding the abandonment, or a statement that the

1 title of the motor vehicle is lost or destroyed, or the  
2 reasons for the defect of title in the owner. The applicant  
3 shall execute an affidavit stating that the facts alleged are  
4 true and that no material fact has been withheld. An order  
5 for disposal obtained pursuant to section 556B.8, subsection  
6 3, satisfies the application requirements of this paragraph.

7 Sec. 13. Section 321.90, subsection 2, paragraph c, Code  
8 1987, is amended to read as follows:

9 c. If the police authority finds that the application is  
10 executed in proper form, and shows that the motor vehicle has  
11 been abandoned upon the property of the applicant, or if it  
12 shows that the motor vehicle is not abandoned but that the  
13 applicant appears to be the rightful owner, the police  
14 authority shall follow appropriate notification procedures as  
15 set forth in section 321.89, subsection 3, except that in the  
16 case of an order for disposal obtained pursuant to section  
17 556B.8, subsection 3, no notification is required.

18 Sec. 14. Section 321.90, subsection 2, paragraph g, Code  
19 1987, is amended to read as follows:

20 g. Any proceeds from the sale of an abandoned motor  
21 vehicle to a demolisher under this section, by one other than  
22 the owner of the vehicle, except the sale of a vehicle  
23 pursuant to an order for disposal obtained pursuant to section  
24 556B.8, subsection 3, shall first be applied to that person's  
25 expenses in effecting the sale, including storage, towing, and  
26 disposal charges, and any surplus shall be distributed in  
27 accordance with section 321.89, subsection 4. The proceeds  
28 from the sale of a vehicle disposed of pursuant to section  
29 556B.8, subsection 3, shall be distributed in accordance with  
30 section 556B.9.

31 Sec. 15. Section 562B.13, subsection 3, Code 1987, is  
32 amended by adding the following new paragraph:

33 NEW PARAGRAPH. c. To remove, store, and dispose of a  
34 mobile home if it is abandoned as defined in section 562B.27.

35 Sec. 16. Section 562B.27, Code 1987, is amended by



1 striking the section and inserting in lieu thereof the  
2 following:

3 562B.27 REMEDIES FOR ABANDONMENT -- REQUIRED REGISTRATION.

4 1. A tenant is considered to have abandoned a mobile home  
5 when the tenant has been absent from the mobile home without  
6 reasonable explanation for thirty days or more during which  
7 time there is a default of rent three days after rent is due,  
8 or the rental agreement is terminated pursuant to section  
9 562B.25.

10 2. When a mobile home is abandoned on a mobile home space:

11 a. The landlord shall follow the procedure in chapter 556B  
12 for disposing of abandoned personal property to dispose of the  
13 mobile home. However, in addition to any notice given  
14 pursuant to chapter 556B, the landlord may notify the legal  
15 owner or lienholder of the mobile home and communicate to that  
16 person that the person is liable for any costs incurred for  
17 the mobile home space, including rent and utilities due and  
18 owing. However, the person is only liable for costs incurred  
19 ninety days before the landlord's communication and costs for  
20 which liability is incurred after the landlord's  
21 communication.

22 b. The mobile home shall not be removed from the mobile  
23 home space without a signed written agreement from the  
24 landlord showing clearance for removal, that all debts are  
25 paid in full, or an agreement reached with the legal owner or  
26 lienholder and the landlord.

27 c. An action pursuant to chapter 556B may be combined with  
28 an action for possession under chapter 648 or an action for  
29 damages under section 562B.30.

30 3. A required standardized registration form shall be  
31 filled out by each tenant upon the rental of a mobile home  
32 space, showing the mobile home make, year, serial number, and  
33 license number, and also showing if the mobile home is paid  
34 for, if there is a lien on the mobile home, and if so the  
35 lienholder, and the name of the legal owner of the mobile

1 home. The registration forms shall be kept on file with the  
2 landlord as long as the mobile home is on the mobile home  
3 space within the mobile home park. The tenant shall give  
4 notice to the landlord within ten days of any new lien, change  
5 of existing lien, or settlement of lien.

6 Sec. 17. Section 648.19, Code 1987, is amended to read as  
7 follows:

8 648.19 NO JOINDER OR COUNTERCLAIM --EXCEPTION.

9 An action of this kind shall not be brought in connection  
10 with any other action, with the exception of a claim for rent  
11 or recovery as provided in sections 562A.24, 562A.32, 562B.22,  
12 or 562B.25, or 562B.27, nor shall it be made the subject of  
13 counterclaim.

14

#### EXPLANATION

15 Sections 1 through 10 of this bill create new chapter 556B  
16 to provide a judicially supervised method for disposing of  
17 abandoned personal property as an alternative to the present  
18 provision for disposal by sheriff's sale.

19 Section 11 amends section 135D.24, subsection 6, to provide  
20 that a tax clearance statement need be obtained before a  
21 mobile home is moved by the owner or a person taking title  
22 from the owner only, and need not be obtained when someone  
23 other than the owner or the owner's assignee moves the mobile  
24 home.

25 Sections 12 through 14 and 17 amend chapters 321 and 648 in  
26 accordance with the new chapter 556B provisions.

27 Section 15 amends section 562B.13, subsection 3, to allow  
28 the landlord to deduct from a tenant's deposit the amount  
29 necessary to remove, store, and dispose of a mobile home which  
30 has been abandoned.

31 Section 16 defines when a mobile home has been abandoned,  
32 directs a landlord to follow the procedures established in new  
33 chapter 556B in disposing of a mobile home abandoned on the  
34 landlord's property, and provides that a chapter 556B action  
35 may be combined with an action under chapter 648 or an action

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

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SENATE FILE 2259

AN ACT

RELATING TO THE DISPOSAL OF ABANDONED MOBILE HOMES AND ABANDONED  
PERSONAL PROPERTY OF THE ABANDONED MOBILE HOME OWNER.

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

Section 1. NEW SECTION. 562C.1 DEFINITIONS.

Unless the context otherwise requires, in this chapter:

1. "Demolisher" means demolisher as defined in section 321.89.
2. "Junkyard" means junkyard as defined in section 306C.1.
3. "Claimant" includes any government subdivision with authority to levy a tax on abandoned personal property.
4. "Personal property" includes personal property of the mobile home owner in the abandoned mobile home, on the mobile home lot, in the immediate vicinity of the abandoned mobile home and the mobile home lot, and in any storage area provided

by the real property owner for the use of the mobile home owner.

5. "Real property owner" means the owner or other lawful possessor of real property upon which a mobile home is located.

Sec. 2. NEW SECTION. 562C.2 REMOVAL -- NOTICE TO SHERIFF.

1. A real property owner may remove or cause to be removed a mobile home and other personal property which is unlawfully parked, placed, or abandoned on that real property, and may cause the mobile home and personal property to be placed in storage until the owner of the personal property pays a fair and reasonable charge for removal, storage, or other expense incurred, including reasonable attorneys' fees, or until a judgment of abandonment is entered pursuant to section 562C.8 provided that there is no lien on the mobile home or personal property other than a tax lien pursuant to chapter 135D. For purposes of this chapter, a lien exists only if the real property owner receives notice of a lien on the standardized registration form completed by a tenant pursuant to section 562B.27, subsection 3, or a lien has been filed in state or county records on a date before the mobile home is considered to be abandoned. The real property owner or the real property owner's agent is not liable for damages caused to the mobile home and personal property by the removal or storage unless the damage is caused willfully or by gross negligence.

2. The real property owner shall notify the sheriff of the county where the real property is located of the removal of the mobile home and other personal property.

a. If the mobile home owner can be determined, and if the real property owner so requests, the sheriff shall notify the mobile home owner of the removal by restricted certified mail. If the mobile home owner cannot be determined, and the real property owner so requests, the sheriff shall give notice by one publication in one newspaper of general circulation in the

area where the mobile home and personal property was unlawfully parked, placed, or abandoned. If the mobile home and personal property have not been claimed by the owner within six months after notice is given, the mobile home and personal property shall be sold by the sheriff at a public or private sale. After deducting costs of the sale the net proceeds shall be applied to the cost of removal and storage of the property. The remainder, if any, shall be paid to the county treasurer.

b. If the real property owner removes the mobile home and personal property but does not request that the sheriff notify the mobile home owner, the real property owner shall proceed with an action for abandonment as provided in sections 562C.3 through 562C.9.

Sec. 3. NEW SECTION. 562C.3 ACTION FOR ABANDONMENT -- JURISDICTION.

A real property owner not requesting notification by the sheriff as provided in section 562C.2 may bring an action alleging abandonment in the court within the county where the real property is located provided that there is no lien on the mobile home or personal property other than a tax lien pursuant to chapter 135D. The action shall be tried as an equitable action. Unless commenced as a small claim, the petition shall be presented to a district judge. Upon receipt of the petition, the court shall order a hearing not later than fourteen days from the date of the order.

Sec. 4. NEW SECTION. 562C.4 NOTICE.

1. Personal service pursuant to rule of civil procedure 56.1 shall be made upon the mobile home owner not less than ten days before the hearing. If personal service cannot be completed in time to give the mobile home owner the minimum notice required by this section, the court may set a new hearing date.

2. If personal service cannot be made on the mobile home owner because the mobile home owner is avoiding service or

cannot be found, service may be made by mailing a copy of the petition and notice of hearing to the mobile home owner's last known address and publishing the notice in one newspaper of general circulation in the county where the petition is filed. If the mobile home owner's address is not known to the real property owner, service may be made pursuant to rule of civil procedure 62 except that service is complete seven days after the initial publication. The court shall set a new hearing date if necessary to allow the ten-day minimum notice required under subsection 1 of this section.

3. If a lien exists on the mobile home or personal property, the real property owner shall notify the county treasurer of each county in which a tax lien appears by restricted certified mail sent not less than ten days before the hearing. The notice shall describe the mobile home and shall state the date and time at which the hearing is scheduled, and the county treasurer's right to assert a claim to the mobile home at the hearing. The notice shall also state that failure to assert a claim to the mobile home is deemed a waiver of all right, title, claim, and interest in the mobile home and is deemed consent to the sale or disposal of the mobile home.

Sec. 5. NEW SECTION. 562C.5 CHANGE OF VENUE.

In an action under this chapter a change of place of trial may be had as in other cases.

Sec. 6. NEW SECTION. 562C.6 PRIORITY OF ASSIGNMENT.

An action under this chapter shall be accorded reasonable priority for assignment to assure prompt disposition.

Sec. 7. NEW SECTION. 562C.7 REMEDY NOT EXCLUSIVE.

An action under this chapter may be brought in connection with a claim for monetary damages, possession, or recovery as provided in section 562B.25 or 562B.30 or chapter 648.

Sec. 8. NEW SECTION. 562C.8 JUDGMENT.

1. If the court determines that the mobile home and personal property have been abandoned, judgment shall be

entered in favor of the real property owner for the reasonable costs of removal, storage, notice, and attorneys' fees; any other expenses incurred for preserving the mobile home and personal property or for bringing the action; and, if the action is brought in conjunction with one for monetary damages, the amount of monetary damages assessed.

2. If the mobile home owner or other claimant asserts a claim to the property, the judgment shall be satisfied before the mobile home owner or other claimant may take possession of the mobile home or personal property.

3. If no claim is asserted to the mobile home or personal property or if the judgment is not satisfied at the time of entry, an order shall be entered allowing the real property owner to sell or otherwise dispose of the mobile home and personal property pursuant to section 562C.9. If a claimant satisfies the judgment at the time of entry, the court shall enter an order permitting and directing the claimant to remove the mobile home or personal property from its location within a reasonable time to be fixed by the court. The court shall also determine the amount of further rent or storage charges to be paid by the claimant to the real property owner at the time of removal.

Sec. 9. NEW SECTION. 562C.9 DISPOSAL -- PROCEEDS.

1. Pursuant to an order for disposal under section 562C.8, subsection 3, the real property owner shall dispose of the mobile home and personal property by public or private sale in a commercially reasonable manner. If the personal property owner or other claimant has asserted a claim to the mobile home or personal property, that person shall be notified of the sale by restricted certified mail not less than five days before the sale. The notice is deemed given upon the mailing. The real property owner may buy at any public sale, and if the mobile home or personal property is of a type customarily sold in a recognized market or is the subject of widely distributed standard price quotations, the real property owner may buy at a private sale.

2. A sale pursuant to subsection 1 transfers to the purchaser for value, all of the mobile home owner's rights in the mobile home and personal property, and discharges the real property owner's interest in the mobile home and personal property and any tax lien. The purchaser takes free of all rights and interests even though the real property owner fails to comply with the requirements of this chapter or of any judicial proceedings, if the purchaser acts in good faith.

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

a. First, to satisfy the real property owner's judgment obtained under section 562C.8.

b. Second, to satisfy any tax lien for which a claim was asserted pursuant to section 562C.4, subsection 3.

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

4. Notwithstanding subsections 1 through 3, the real property owner may propose to retain the mobile home and personal property in satisfaction of the judgment obtained pursuant to section 562C.8. Written notice of the proposal shall be sent to the mobile home owner or other claimant, if that person has asserted a claim to the mobile home or personal property in the judicial proceedings. If the real property owner receives objection in writing from the mobile home owner or other claimant within twenty-one days after the notice was sent, the real property owner shall dispose of the mobile home and personal property pursuant to subsection 1. If no written objection is received by the real property owner within twenty-one days after the notice was sent, the mobile home and personal property may be retained. Retention of the

mobile home and personal property discharges the judgment of the real property owner and any tax lien.

5. If the real property owner has made a good faith attempt to sell the mobile home and personal property pursuant to subsection 1 but is unsuccessful and elects not to retain the mobile home and personal property pursuant to subsection 4, the real property owner may dispose of the mobile home and personal property to a demolisher or junkyard. Proceeds from the disposition shall be distributed pursuant to subsection 3. If the personal property is a motor vehicle to which section 321.90 applies, the real property owner shall present the order for disposal obtained pursuant to section 562C.8, subsection 3, to the police authority to obtain a certificate of authority to dispose of the motor vehicle pursuant to section 321.90, subsection 2.

Sec. 10. NEW SECTION. 562C.10 LIMITATION ON LIABILITY.

1. A real property owner who disposes of a mobile home or personal property in accordance with this chapter is not liable for damages by reason of the removal, sale, or disposal of the mobile home and personal property unless the damage is caused willfully or by gross negligence. Upon a motion to the district court and a showing that the real property owner is not proceeding in accordance with this chapter, the court may enjoin the real property owner from proceeding further and a determination for the proper disposition of the mobile home and personal property shall be made. If disposition of the personal property has not occurred in accordance with this chapter, the personal property owner has a right to recover from the real property owner, any loss caused by failure to comply with this chapter.

2. The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the real property owner is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the real property owner

sells the mobile home and personal property in the usual manner in any recognized market or if the real property owner sells at the price current in the market at the time of the real property owner's sale or if the real property owner has otherwise sold in conformity with reasonable commercial practices among dealers in the type of mobile home or personal property sold, the real property owner has sold in a commercially reasonable manner. A disposition approved in any judicial proceeding shall be deemed conclusively to be commercially reasonable.

Sec. 11. Section 135D.24, subsection 6, Code Supplement 1987, is amended to read as follows:

6. Before a mobile home may be moved from its present site by the owner or the owner's assignee, a tax clearance statement in the name of the owner must be obtained from the county treasurer of the county where the present site is located certifying that taxes are not owing under this section for previous years and that the taxes have been paid for the current tax period. However, a tax clearance statement ~~shall~~ is not be required for a mobile home in a manufacturer's or dealer's stock which is not used as a place for human habitation. A tax clearance form is not required to move an abandoned mobile home. A tax clearance form is not required in eviction cases provided the mobile home park owner or manager advises the county treasurer that the tenant is being evicted. If a dealer acquires a mobile home from a person other than a manufacturer, the person shall provide a tax clearance statement in the name of the owner of record to the dealer. The tax clearance statement shall be provided by the county treasurer ~~and shall be made out in quadruplicate in a method prescribed by the department of transportation.~~ Two copies are to be provided to the company or person transporting the mobile home with one copy to be carried in the vehicle transporting the mobile home. One copy is to be forwarded to the county treasurer of the county in which the

~~mobile home is to be relocated and one copy is to be retained by the county treasurer issuing the tax clearance statement.~~

Sec. 12. Section 321.90, subsection 2, paragraph b, Code 1987, is amended to read as follows:

b. The application shall set out the name and address of the applicant, and the year, make, model, and serial number of the motor vehicle, if ascertainable, together with any other identifying features, and shall contain a concise statement of the facts surrounding the abandonment, or a statement that the title of the motor vehicle is lost or destroyed, or the reasons for the defect of title in the owner. The applicant shall execute an affidavit stating that the facts alleged are true and that no material fact has been withheld. An order for disposal obtained pursuant to section 562C.8, subsection 3, satisfies the application requirements of this paragraph.

Sec. 13. Section 321.90, subsection 2, paragraph c, Code 1987, is amended to read as follows:

c. If the police authority finds that the application is executed in proper form, and shows that the motor vehicle has been abandoned upon the property of the applicant, or if it shows that the motor vehicle is not abandoned but that the applicant appears to be the rightful owner, the police authority shall follow appropriate notification procedures as set forth in section 321.89, subsection 3, except that in the case of an order for disposal obtained pursuant to section 562C.8, subsection 3, no notification is required.

Sec. 14. Section 321.90, subsection 2, paragraph g, Code 1987, is amended to read as follows:

g. Any proceeds from the sale of an abandoned motor vehicle to a demolisher under this section, by one other than the owner of the vehicle, except the sale of a vehicle pursuant to an order for disposal obtained pursuant to section 562C.8, subsection 3, shall first be applied to that person's expenses in effecting the sale, including storage, towing, and disposal charges, and any surplus shall be distributed in

accordance with section 321.89, subsection 4. The proceeds from the sale of a vehicle disposed of pursuant to section 562C.8, subsection 3, shall be distributed in accordance with section 562C.9.

Sec. 15. Section 562B.13, subsection 3, Code 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. To remove, store, and dispose of a mobile home if it is abandoned as defined in section 562B.27.

Sec. 16. Section 562B.27, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

562B.27 REMEDIES FOR ABANDONMENT -- REQUIRED REGISTRATION.

1. A tenant is considered to have abandoned a mobile home when the tenant has been absent from the mobile home without reasonable explanation for thirty days or more during which time there is a default of rent three days after rent is due, or the rental agreement is terminated pursuant to section 562B.25.

2. When a mobile home is abandoned on a mobile home space:

a. If a tenant abandons a mobile home on a mobile home space, the landlord shall notify the mobile home owner or other claimant of the mobile home and communicate to that person that the person is liable for any costs incurred for the mobile home space, including rent and utilities due and owing. However, the person is only liable for costs incurred ninety days before the landlord's communication. After the landlord's communication, costs for which liability is incurred shall then become the responsibility of the mobile home owner or other claimant of the mobile home. The mobile home shall not be removed from the mobile home space without a signed written agreement from the landlord showing clearance for removal, and that all debts are paid in full, or an agreement reached with the mobile home owner or other claimant and the landlord.



b. If there is no lien on the mobile home other than a lien for taxes, the landlord shall follow the procedure in chapter 562C to dispose of the mobile home.

c. An action pursuant to chapter 562C may be combined with an action for possession under chapter 648 or an action for damages under section 562B.30.

3. A required standardized registration form shall be filled out by each tenant upon the rental of a mobile home space, showing the mobile home make, year, serial number, and also showing if the mobile home is paid for, if there is a lien on the mobile home, and if so the lienholder, and the name of the legal owner of the mobile home. The registration forms shall be kept on file with the landlord as long as the mobile home is on the mobile home space within the mobile home park. The tenant shall give notice to the landlord within ten days of any new lien, change of existing lien, or settlement of lien.

Sec. 17. Section 648.19, Code 1987, is amended to read as follows:

648.19 NO JOINDER OR COUNTERCLAIM -- EXCEPTION.

An action of this kind shall not be brought in connection with any other action, with the exception of a claim for rent or recovery as provided in sections 562A.24, 562A.32, 562B.22, or 562B.25, or 562B.27, nor shall it be made the subject of counterclaim.

Sec. 18. Section 135D.24, subsection 4, Code Supplement 1987, is amended to read as follows:

4. The tax is a lien on the vehicle senior to any other lien upon it except a judgment obtained in an action to dispose of an abandoned mobile home under section 562C.8. The mobile home bearing a current registration issued by any other state and remaining within this state for an accumulated period not to exceed ninety days in any twelve-month period is not subject to Iowa tax. However, when one or more persons occupying a mobile home bearing a foreign registration are

employed in this state, there is no exemption from the Iowa tax. This tax is in lieu of all other taxes general or local on a mobile home.

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JO ANN ZIMMERMAN  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2259, Seventy-second General Assembly.

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JOHN P. DWYER  
Secretary of the Senate

Approved \_\_\_\_\_, 1988

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TERRY E. BRANSTAD  
Governor