

*See Link Copy*

(P. 861) 3/29/93 Referred from Reg. Calendar to  
Judiciary Comm  
3/31/93 Return to Unfinished Calendar without  
Committee Recommendation for Passage  
4-1-93 Motion to 398 Passage by Rosenberg  
SENATE FILE 398 & Synonymical  
BY COMMITTEE ON LOCAL GOVERNMENT  
4-12-93 Motion to Rk. Withdrawn  
Substituted for HF 519 4-16-93  
(SUCCESSOR TO SSB 224)

Passed Senate, Date 4-1-93 Passed House, Date 4-12-93  
Vote: Ayes 47 Nays 1 Vote: Ayes 46 Nays 0  
Approved May 21, 1993

**A BILL FOR**

1 An Act relating to the rights of mobile home, personal property,  
2 and real property owners and claimants in actions for  
3 abandonment and under a lease agreement.

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

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*SF 398*

1 Section 1. Section 103A.9, subsection 4, Code 1993, is  
2 amended to read as follows:

3 4. All factory-built structures, without regard to  
4 manufacture date, shall be installed in accordance with the  
5 code in the governmental subdivisions which have adopted the  
6 state building code or any other building code. However, a  
7 governmental subdivision shall not require that a factory-  
8 built structure, that was manufactured in accordance with  
9 federally mandated standards, be renovated in accordance with  
10 the state building code or any other building code which the  
11 governmental subdivision has adopted when the factory-built  
12 structure is being moved from one lawful location within the  
13 state to another unless such required renovation is in  
14 conformity with those specifications for the factory-built  
15 structure which existed when it was manufactured or the  
16 factory-built structure is being rented for occupancy.

17 Existing factory-built structures not constructed to be in  
18 compliance with federally mandated standards may be moved from  
19 one established mobile home park to another within the state  
20 and shall not be required to be renovated to comply with the  
21 state building code or any other building code which the  
22 governmental subdivision has adopted unless the factory-built  
23 structure is being rented for occupancy or has been declared a  
24 public nuisance according to standards generally applied to  
25 housing.

26 Sec. 2. Section 321.47, unnumbered paragraph 1, Code 1993,  
27 is amended to read as follows:

28 In the event of the transfer of ownership of a vehicle by  
29 operation of law as upon inheritance, devise or bequest, order  
30 in bankruptcy, insolvency, replevin, foreclosure or execution  
31 sale, abandoned vehicle sale, or when the engine of a motor  
32 vehicle is replaced by another engine, or a vehicle is sold or  
33 transferred to satisfy an artisan's lien as provided in  
34 chapter 577, a landlord's lien as provided in chapter 570, or  
35 a storage lien as provided in chapter 579, a judgment in an

1 action for abandonment of a mobile home as provided in chapter  
2 555B, or repossession is had upon default in performance of  
3 the terms of a security agreement, the county treasurer in the  
4 transferee's county of residence, upon the surrender of the  
5 prior certificate of title or the manufacturer's or importer's  
6 certificate, or when that is not possible, upon presentation  
7 of satisfactory proof to the county treasurer of ownership and  
8 right of possession to the vehicle and upon payment of a fee  
9 of ten dollars and the presentation of an application for  
10 registration and certificate of title, may issue to the  
11 applicant a registration card for the vehicle and a  
12 certificate of title to it. The persons entitled under the  
13 laws of descent and distribution of an intestate's property to  
14 the possession and ownership of a vehicle owned in whole or in  
15 part by a decedent, upon filing an affidavit stating the name  
16 and date of death of the decedent, the right to possession and  
17 ownership of the persons filing the affidavit, and that there  
18 has been no administration of the decedent's estate, which  
19 instrument shall also contain an agreement to indemnify  
20 creditors of the decedent who would be entitled to levy  
21 execution upon the motor vehicle to the extent of the value of  
22 the motor vehicle, are entitled upon fulfilling the other  
23 requirements of this chapter, to the issuance of a  
24 registration card for the interest of the decedent in the  
25 vehicle and a certificate of title to it. If a decedent dies  
26 testate, and either the will is not probated or is admitted to  
27 probate without administration, the persons entitled to the  
28 possession and ownership of a vehicle owned in whole or in  
29 part by the decedent may file an affidavit, and upon  
30 fulfilling the other requirements of this chapter, are  
31 entitled to the issuance of a registration card for the  
32 interest of the decedent in the vehicle and a certificate of  
33 title to the vehicle. The affidavit shall contain the same  
34 information and indemnity agreement as is required in cases of  
35 intestacy pursuant to this section. No requirement of chapter

1 450 or 451 shall be considered satisfied by the filing of the  
2 affidavit provided for in this section. If, from the records  
3 in the office of the county treasurer, there appear to be any  
4 liens on the vehicle, the certificate of title shall contain a  
5 statement of ~~such~~ the liens unless the application is  
6 accompanied by proper evidence of their satisfaction or  
7 extinction. Evidence of extinction may consist of, but is not  
8 limited to, an affidavit of the applicant stating that a  
9 security interest was foreclosed as provided in Uniform  
10 Commercial Code, chapter 554, article 9, part 5.

11 Sec. 3. Section 335.30, Code 1993, is amended to read as  
12 follows:

13 335.30 MANUFACTURED HOME.

14 A county shall not adopt or enforce zoning regulations or  
15 other ordinances which disallow the plans and specifications  
16 of a proposed residential structure solely because the  
17 proposed structure is a manufactured home. However, a zoning  
18 ordinance or regulation shall require that a manufactured home  
19 be located and installed according to the same standards,  
20 including but not limited to, a foundation system, set-back,  
21 and minimum square footage which would apply to a site-built,  
22 single family dwelling on the same lot. A zoning ordinance or  
23 other regulation shall not require a foundation system for a  
24 manufactured home which is incompatible with the structural  
25 design of the manufactured home structure. When units are  
26 located outside a mobile home park, requirements may be  
27 imposed which ensure visual compatibility of the foundation  
28 system with surrounding residential structures. As used in  
29 this section, "manufactured home" means a factory-built  
30 structure, which is manufactured or constructed under the  
31 authority of 42 U.S.C. sec. 5403 and is to be used as a place  
32 for human habitation, but which is not constructed or equipped  
33 with a permanent hitch or other device allowing it to be moved  
34 other than for the purpose of moving to a permanent site, and  
35 which does not have permanently attached to its body or frame

1 any wheels or axles. A mobile home as defined in section  
2 435.1 is not a manufactured home, unless it has been converted  
3 to real property as provided in section 435.26, and shall be  
4 taxed as a site-built dwelling. This section shall not be  
5 construed as abrogating a recorded restrictive covenant.

6 Sec. 4. Section 414.28, Code 1993, is amended to read as  
7 follows:

8 414.28 MANUFACTURED HOME.

9 A city shall not adopt or enforce zoning regulations or  
10 other ordinances which disallow the plans and specifications  
11 of a proposed residential structure solely because the  
12 proposed structure is a manufactured home. However, a zoning  
13 ordinance or regulation shall require that a manufactured home  
14 be located and installed according to the same standards,  
15 including but not limited to, a foundation system, set-back,  
16 and minimum square footage which would apply to a site-built,  
17 single family dwelling on the same lot. A zoning ordinance or  
18 other regulation shall not require a foundation system for a  
19 manufactured home which is incompatible with the structural  
20 design of the manufactured home structure. When units are  
21 located outside a mobile home park, requirements may be  
22 imposed which ensure visual compatibility of the foundation  
23 system with surrounding residential structures. As used in  
24 this section, "manufactured home" means a factory-built  
25 structure, which is manufactured or constructed under the  
26 authority of 42 U.S.C. sec. 5403 and is to be used as a place  
27 for human habitation, but which is not constructed or equipped  
28 with a permanent hitch or other device allowing it to be moved  
29 other than for the purpose of moving to a permanent site, and  
30 which does not have permanently attached to its body or frame  
31 any wheels or axles. A mobile home as defined in section  
32 435.1 is not a manufactured home, unless it has been converted  
33 to real property as provided in section 435.26, and shall be  
34 taxed as a site-built dwelling. This section shall not be  
35 construed as abrogating a recorded restrictive covenant.

1 Sec. 5. Section 535.2, Code 1993, is amended by adding the  
2 following new subsection:

3 NEW SUBSECTION. 7. This section does not apply to a  
4 charge imposed for late payment of rent.

5 Sec. 6. Section 555B.1, subsection 1, Code 1993, is  
6 amended to read as follows:

7 1. "Claimant" includes but is not limited to any  
8 government subdivision with authority to levy a tax on  
9 abandoned personal property.

10 Sec. 7. Section 555B.1, Code 1993, is amended by adding  
11 the following new subsection:

12 NEW SUBSECTION. 6. "Abandoned" means abandoned as  
13 provided in section 562B.27, subsection 1.

14 Sec. 8. Section 555B.2, subsection 1, Code 1993, is  
15 amended to read as follows:

16 1. A real property owner may remove or cause to be removed  
17 a mobile home and other personal property which is unlawfully  
18 parked, placed, or abandoned on that real property, and may  
19 cause the mobile home and personal property to be placed in  
20 storage until the owner of the personal property pays a fair  
21 and reasonable charge for removal, storage, or other expense  
22 incurred, including reasonable attorneys' fees, or until a  
23 judgment of abandonment is entered pursuant to section 555B.8  
24 provided that there is no lien on the mobile home or personal  
25 property other than a tax lien pursuant to chapter 435. For  
26 purposes of this chapter, a lien other than a tax lien exists  
27 only if the real property owner receives notice of a lien on  
28 the standardized registration form completed by a tenant  
29 pursuant to section 562B.27, subsection 3, or a lien has been  
30 filed in state or county records on a date before the mobile  
31 home is considered to be abandoned. The real property owner  
32 or the real property owner's agent is not liable for damages  
33 caused to the mobile home and personal property by the removal  
34 or storage unless the damage is caused willfully or by gross  
35 negligence.

1 Sec. 9. Section 555B.2, subsection 2, paragraph a, Code  
2 1993, is amended to read as follows:

3 a. If the mobile home owner can be determined, and if the  
4 real property owner so requests, the sheriff shall notify the  
5 mobile home owner of the removal by restricted certified mail.  
6 If the mobile home owner cannot be determined, and the real  
7 property owner so requests, the sheriff shall give notice by  
8 one publication in one newspaper of general circulation in the  
9 area county where the mobile home and personal property was  
10 were unlawfully parked, placed, or abandoned. If the mobile  
11 home and personal property have not been claimed by the owner  
12 within six months after notice is given, the mobile home and  
13 personal property shall be sold by the sheriff at a public or  
14 private sale. After deducting costs of the sale the net  
15 proceeds shall be applied to the cost of removal, and storage  
16 of-the-property, notice, attorney fees, and any other expenses  
17 incurred for preserving the mobile home and personal property,  
18 including any rent owed by the mobile home owner to the real  
19 property owner in connection with the presence of the mobile  
20 home on the real property. The remaining net proceeds, if  
21 any, shall be paid to the county treasurer to satisfy any tax  
22 lien on the mobile home. The remainder, if any, shall be paid  
23 to retained by the county-treasurer real property owner.

24 Sec. 10. Section 555B.3, Code 1993, is amended to read as  
25 follows:

26 555B.3 ACTION FOR ABANDONMENT -- JURISDICTION.

27 A real property owner not requesting notification by the  
28 sheriff as provided in section 555B.2 may bring an action  
29 alleging abandonment in the court within the county where the  
30 real property is located provided that there is no lien on the  
31 mobile home or personal property other than a tax lien  
32 pursuant to chapter 435. The action shall be tried as an  
33 equitable action. Unless commenced as a small claim, the  
34 petition shall be presented to a district judge. Upon receipt  
35 of the petition, either the court or the clerk of the district

1 court shall order set a date for a hearing not later than  
2 fourteen days from the date of the order receipt of the  
3 petition.

4 Sec. 11. Section 555B.4, subsection 3, Code 1993, is  
5 amended to read as follows:

6 3. If a tax lien exists on the mobile home or personal  
7 property at the time an action for abandonment is initiated,  
8 the real property owner shall notify the county treasurer of  
9 each county in which a tax lien appears by restricted  
10 certified mail sent not less than ten days before the hearing.  
11 The notice shall describe the mobile home and shall state the  
12 date and time at which the hearing is scheduled, and the  
13 county treasurer's right to assert a claim to the mobile home  
14 at the hearing. The notice shall also state that failure to  
15 assert a claim to the mobile home is deemed a waiver of all  
16 right, title, claim, and interest in the mobile home and is  
17 deemed consent to the sale or disposal of the mobile home.

18 Sec. 12. Section 555B.10, subsection 1, Code 1993, is  
19 amended to read as follows:

20 1. A real property owner who disposes of a mobile home or  
21 personal property in accordance with this chapter is not  
22 liable for damages by reason of the removal, sale, or disposal  
23 of the mobile home and personal property unless the damage is  
24 caused willfully or by gross negligence. Upon a motion to the  
25 district court and a showing that the real property owner is  
26 not proceeding in accordance with this chapter, the court may  
27 enjoin the real property owner from proceeding further and a  
28 determination for the proper disposition of the mobile home  
29 and personal property shall be made. If disposition of the  
30 mobile home or personal property has not occurred in  
31 accordance with this chapter, the ~~personal-property~~ owner  
32 thereof has a right to recover from the real property owner,  
33 any loss caused by failure to comply with this chapter. The  
34 burden of proof shall be upon the mobile home or personal  
35 property owner to show that the real property owner has not



1 complied with this chapter in disposing of a mobile home or  
2 personal property.

3 Sec. 13. Section 562A.12, subsection 1, Code 1993, is  
4 amended to read as follows:

5 1. A landlord shall not demand or receive as rental  
6 deposit ~~and-prepaid-rent~~ an amount or value in excess of two  
7 months' rent.

8 Sec. 14. Section 562B.25, subsection 1, Code 1993, is  
9 amended to read as follows:

10 1. Except as provided in this chapter, if there is a  
11 material noncompliance by the tenant with the rental  
12 agreement, the landlord may deliver a written notice to the  
13 tenant specifying the acts and omissions constituting the  
14 breach and that the rental agreement will terminate upon a  
15 date not less than thirty days after receipt of the notice if  
16 the breach is not remedied in fourteen days. If there is a  
17 noncompliance by the tenant with section 562B.18 materially  
18 affecting health and safety, the landlord may deliver a  
19 written notice to the tenant specifying the acts and omissions  
20 constituting the breach and that the rental agreement will  
21 terminate upon a date not less than thirty days after receipt  
22 of the notice if the breach is not remedied in fourteen days.  
23 However, if the breach is remediable by repair or the payment  
24 of damages or otherwise, and the tenant adequately remedies  
25 the breach prior to the date specified in the notice, the  
26 rental agreement will not terminate. If substantially the  
27 same act or omission, which constituted a prior noncompliance  
28 of which notice was given, recurs within six months, the  
29 landlord may terminate the rental agreement upon at least  
30 fourteen days' written notice specifying the breach and the  
31 date of termination of the rental agreement.

32 Sec. 15. Section 562B.27, subsection 1, Code 1993, is  
33 amended to read as follows:

34 1. A tenant is considered to have abandoned a mobile home  
35 when either the tenant has been absent from the mobile home

1 without reasonable explanation for thirty days or more during  
2 which time there is a default of rent three days after rent is  
3 due, or the rental agreement is terminated pursuant to section  
4 562B.25. A tenant's return to the mobile home does not change  
5 its status as abandoned unless the tenant pays to the landlord  
6 all costs incurred for the mobile home space, including costs  
7 of removal, storage, notice, attorneys' fees, and all rent and  
8 utilities due and owing.

9 Sec. 16. Section 562B.27, subsection 2, paragraph a, Code  
10 1993, is amended to read as follows:

11 a. ~~If a tenant abandons a mobile home on a mobile home~~  
12 ~~space, the~~ The landlord shall notify the mobile home owner or  
13 other claimant of the mobile home and communicate to that  
14 person that the person is liable for any costs incurred for  
15 the mobile home space, including rent and utilities due and  
16 owing. However, the person is only liable for costs incurred  
17 up to ninety days before the landlord's communication. After  
18 the landlord's communication, costs for which liability is  
19 incurred ~~shall then~~ become the responsibility of the mobile  
20 home owner or other claimant of the mobile home, jointly and  
21 severally. The mobile home owner or other claimant shall not  
22 avoid the continuing liability imposed by this section by  
23 conveying or releasing the interest in the mobile home after  
24 notification of abandonment is given by the landlord. The  
25 mobile home shall not be removed from the mobile home space  
26 without a signed written agreement from the landlord showing  
27 clearance for removal, and that all debts are paid in full, or  
28 an agreement reached with the mobile home owner or other  
29 claimant and the landlord. For the purposes of this section,  
30 "claimant" includes all lienholders on the mobile home other  
31 than the possessor of a tax lien.

32 Sec. 17. Section 562B.27, subsection 2, paragraph b, Code  
33 1993, is amended to read as follows:

34 b. If there is no lien on the mobile home other than a  
35 lien for taxes, the landlord ~~shall~~ may follow the procedure in

1 chapter 555B to dispose of the mobile home.

2 Sec. 18. NEW SECTION. 562B.29 REMOVAL OF MOBILE HOME  
3 PROHIBITED WHEN COSTS OWED.

4 If costs have been incurred for the mobile home space,  
5 including rent and utilities due and owing, the mobile home  
6 shall not be removed from the mobile home space by the mobile  
7 home owner without a signed, written statement from the  
8 landlord showing clearance for removal and that all costs are  
9 paid in full or an agreement reached with the mobile home  
10 owner and the landlord.

11 Sec. 19. Section 562B.32, subsection 1, paragraph b, Code  
12 1993, is amended to read as follows:

13 b. The tenant has complained to the landlord of a  
14 violation under section 562B.16 which actually existed at the  
15 time of the tenant's complaint.

16 Sec. 20. Section 562B.32, subsection 2, Code 1993, is  
17 amended to read as follows:

18 2. If the landlord acts in violation of subsection 1 of  
19 this section, the tenant is entitled to the remedies provided  
20 in section 562B.24 and has a defense in an action for  
21 possession. In an action by or against the tenant, evidence  
22 of a valid complaint referred to in subsection 1, paragraph  
23 "a", or "b", within six months prior to the alleged act of  
24 retaliation creates a presumption that the landlord's conduct  
25 was in retaliation. The presumption does not arise if the  
26 tenant made the complaint after notice of termination of the  
27 rental agreement or if the landlord can show one or more  
28 nonretaliatory reasons for the landlord's actions. For the  
29 purpose of this subsection, "presumption" means that the trier  
30 of fact must find the existence of the fact presumed unless  
31 and until evidence is introduced which would support a finding  
32 of its nonexistence.

33 Sec. 21. Section 631.1, Code 1993, is amended by adding  
34 the following new subsection:

35 NEW SUBSECTION. 5. The district court sitting in small

1 claims has concurrent jurisdiction of an action for  
2 abandonment of a mobile home or personal property pursuant to  
3 section 555B.3, if no money judgment in excess of two thousand  
4 dollars is sought. If commenced under this chapter, the  
5 action is a small claim for the purposes of this chapter.

6 Sec. 22. Section 631.4, subsection 2, Code 1993, is  
7 amended by adding the following new paragraph:

8 NEW PARAGRAPH. c. If personal service cannot be made upon  
9 each defendant, as provided in rule of civil procedure 56.1,  
10 the plaintiff may elect to post, after at least three attempts  
11 to perfect service upon each defendant, one or more copies of  
12 the original notice upon the real property being detained by  
13 each defendant at least five days prior to the date set for  
14 hearing. In such instances, the plaintiff shall also mail, by  
15 certified mail and first class mail, to each defendant, at the  
16 place held out by each defendant as the place for receipt of  
17 such communications or, in the absence of such designation, at  
18 each defendant's last know place of residence, a copy of the  
19 original notice at least five days prior to the date set for  
20 hearing. Under this paragraph, service shall be deemed  
21 complete upon each defendant by the filing with the clerk of  
22 the district court of one or more affidavits indicating that a  
23 copy of the original notice was both posted and mailed to each  
24 defendant as provided in this paragraph.

25 Sec. 23. Section 631.4, Code 1993, is amended by adding  
26 the following new subsection:

27 NEW SUBSECTION. 3. ACTIONS FOR ABANDONMENT OF MOBILE  
28 HOMES OR PERSONAL PROPERTY PURSUANT TO CHAPTER 555B.

29 a. In an action for abandonment of a mobile home or  
30 personal property, the clerk shall set a date, time, and place  
31 for hearing, and shall cause service to be made as provided in  
32 this subsection.

33 b. Original notice shall be served personally on each  
34 defendant as provided in section 555B.4.

35 Sec. 24. Section 631.5, unnumbered paragraph 1, Code 1993,

1 is amended to read as follows:

2 This section ~~shall apply~~ applies to all small claims except  
3 actions for forcible entry or detention of real property and  
4 actions for abandonment of mobile homes or personal property  
5 pursuant to chapter 555B.

6 Sec. 25. Section 648.19, Code 1993, 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 562B.25, ~~or~~ 562B.27, or 555B.3 nor shall it be made the  
13 subject of counterclaim. When joined with an action for rent  
14 or recovery as provided in section 555B.3, 562A.32, 562B.25,  
15 or 562B.27, notice of hearing as provided in section 648.5 is  
16 sufficient.

17 EXPLANATION

18 Section 103A.9 of the state building code is amended to  
19 prohibit a governmental subdivision from requiring that a  
20 factory-built structure manufactured in accordance with  
21 federal standards, which is being moved from one place in the  
22 governmental subdivision to another, be renovated to bring it  
23 into compliance with the state building code or another  
24 building code adopted by the subdivision unless the renovation  
25 is within the specifications of the structure when it was  
26 manufactured. Factory-built structures not constructed in  
27 compliance with federal standards may be moved between mobile  
28 home parks unless the struct is a rental unit or a nuisance.

29 Section 321.47 is amended to permit the transfer of title  
30 of a mobile home which is determined to be abandoned by an  
31 action for attachment in the same manner as a landlord's lien  
32 is enforced.

33 Sections 335.30 and 414.28 are amended to prohibit zoning  
34 regulations from requiring foundations for manufactured homes  
35 which are incompatible with the design specifications of the

1 manufactured home unless the unit is located outside a mobile  
2 home park, in that case, visual compatibility requirements may  
3 be imposed.

4 Section 535.2 has a new subsection added which provides  
5 that a charge for late payment of rent is not subject to the  
6 restrictions on the permissible rates of interest contained in  
7 the state usury law.

8 Section 555B.1 is amended to provide that, for the purposes  
9 of the disposal of abandoned mobile homes and personal  
10 property, "claimant" includes entities other than governmental  
11 subdivisions and that "abandoned" has the same definition as  
12 it does in chapter 562B regarding mobile home landlords and  
13 tenants.

14 Section 555B.2 is amended to provide that the term "lien"  
15 does not include a tax lien and that proceeds from the sale of  
16 an abandoned mobile home or personal property are first  
17 applied to the expenses incurred by the real property owner in  
18 disposing of the property, including rent owed, then to the  
19 county treasurer for any outstanding tax lien, with any  
20 remainder being retained by the real property owner.

21 Section 555B.3 is amended to allow the clerk of the  
22 district court in the county where an action for abandonment  
23 is filed to set the date for hearing on the action not less  
24 than 14 days following the date of receipt of the petition.

25 Section 555B.4 is amended to provide that a tax lien must  
26 exist at the time the action for abandonment is filed in order  
27 for the county treasurer to assert a claim against the  
28 abandoned property.

29 Section 555B.10 is amended to place the burden of proof on  
30 the owner of the mobile home or personal property to show that  
31 the real property owner has not complied with the provisions  
32 of chapter 555B in disposing of the mobile home or personal  
33 property.

34 Section 562A.12 is amended to allow a landlord to require  
35 more than two months of prepaid rent as a deposit.

1 Section 562B.25 is amended to allow the landlord to  
2 terminate the rental agreement with a mobile home tenant on 14  
3 days notice for the recurrence of a violation of the lease,  
4 for which the landlord previously provided notice to the  
5 tenant, within six months of the second violation.

6 Section 562B.27 is amended to provide that once a landlord  
7 considers a mobile home to be abandoned, the return of the  
8 tenant to the mobile home does not change its status as  
9 abandoned unless the tenant reimburses the landlord for the  
10 expenses incurred, including back rent, as a result of the  
11 tenant's abandoning the mobile home. This section is also  
12 amended to provide that a mobile home owner or lienholder  
13 cannot avoid the liability imposed for abandonment by  
14 transferring or releasing the mobile home after the landlord  
15 has sent notice of abandonment. In addition this section is  
16 amended to allow the landlord to follow either the procedure  
17 set out in chapter 555B or seek a remedy in small claims  
18 court.

19 A new section, 562B.29, is created which prohibits a mobile  
20 home owner from removing a mobile home from the mobile home  
21 space when costs, including rent and utilities, are owed the  
22 landlord in connection with the mobile home.

23 Section 562B.32 is amended to limit the situations in which  
24 the existing presumption of retaliatory conduct by the  
25 landlord may shift the burden of proof to the landlord. The  
26 bill requires that a violation by the landlord actually exist  
27 at the time of the complaint in order for the presumption of  
28 retaliation to apply and that no presumption of retaliation  
29 will arise if the landlord can show one or more nonretaliatory  
30 reasons for the landlord's actions.

31 Chapter 631 is amended to provide concurrent jurisdiction  
32 to the small claims court for an action for abandonment of a  
33 mobile home or personal property where the amount sought is  
34 not more than \$2000, that the requirements for appearance and  
35 default before the small claims court are the same as for

1 forcible entry and detainer actions, and that service of  
2 notice is the same as in section 555B.4. Also, if personal  
3 service cannot be made on each defendant, service may be made  
4 by posting notice upon the property being detained by the  
5 defendant and by mailing notice to each defendant by regular  
6 and certified mail.

7 Finally, section 648.19, regarding joinder or counterclaims  
8 by defendants, is amended to treat small claims action for  
9 abandonment of a mobile home the same as an action for back  
10 rent under chapter 562B.

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SENATE FILE 398

S-3207

- 1 Amend Senate File 398 as follows:
- 2 1. Page 8, line 5, by striking the word "rental"
- 3 and inserting the following: "rental a security".
- 4 2. Page 8, by inserting after line 7, the
- 5 following:
- 6 "Sec. \_\_\_\_ . Section 562B.13, subsection 1, Code
- 7 1993, is amended to read as follows:
- 8 1. A landlord shall not demand or receive as
- 9 rental a security deposit an amount or value in excess
- 10 of two months' rent."
- 11 3. Page 11, line 18, by striking the word "know"
- 12 and inserting the following: "known".
- 13 4. By renumbering as necessary.

*Adopted 4-1-93 (P940)* By ELAINE SZYMONIAK  
S-3207 FILED MARCH 23, 1993

SENATE FILE 398

S-3435

- 1 Amend Senate File 398 as follows:
- 2 1. Page 5, line 4, by inserting after the word
- 3 "rent." the following: "However, a late payment fee
- 4 shall not exceed five dollars or two percent of the
- 5 monthly rent, whichever is higher."
- 6 2. Page 8, by striking lines 3 through 7.
- 7 3. Page 8, line 35, by striking the word
- 8 "either".
- 9 4. Page 9, line 2, by inserting after the words
- 10 "there is" the following: "either".
- 11 5. Page 10, by striking lines 11 through 32.
- 12 6. Page 12, line 11, by striking the figures
- 13 "~~562A.24, 562A.32, 562B.22~~" and inserting the
- 14 following: "562A.24, 562A.32, 562B.22".
- 15 7. Page 12, line 14, by striking the figure
- 16 "562A.32," and inserting the following: "562A.24,
- 17 562A.32, 562B.22".

By RALPH ROSENBERG

S-3435 FILED APRIL 7, 1993

WITHDRAWN  
4-12-93

WITHDRAWN

S-3466

- 1 Amend Senate File 398 as follows:
- 2 1. Page 5, line 4, by inserting after the word
- 3 "rent." the following: "However, a late payment fee
- 4 shall not exceed three dollars a day for the first
- 5 five days the rent is late and one dollar a day for
- 6 the next twenty-five days."
- 7 2. Page 8, line 35, by striking the word
- 8 "either".
- 9 3. Page 9, line 2, by inserting after the words
- 10 "there is" the following: "either".
- 11 4. Page 10, by striking lines 11 through 15.
- 12 5. Page 10, by striking lines 22 and 23 and
- 13 inserting the following: "of a complaint within six
- 14 months prior to the alleged act of".
- 15 6. Page 10, line 28, by inserting after the word
- 16 "reasons" the following: ", which existed prior to
- 17 the time of the tenant's complaint,".
- 18 7. Page 12, line 11, by striking the figures
- 19 "562A-24, 562A.32, 562B-22," and inserting the
- 20 following: "562A.24, 562A.32, 562B.22,".
- 21 8. Page 12, line 14, by striking the figure
- 22 "562A.32," and inserting the following: "562A.24,
- 23 562A.32, 562B.22,".

By RALPH ROSENBERG  
ELAINE SZYMONIAK

S-3466 FILED APRIL 8, 1993

RECEIVED  
APR 12 1993

Adopted  
4-12-93  
(p. 1114)

SENATE FILE 398  
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO SSB 224)

(AS AMENDED AND PASSED BY THE SENATE APRIL 12, 1993)

\_\_\_\_\_ - New Language by the Senate

\* - Language Stricken by the Senate

Re-Passed Senate, Date 4/27/93 (p.1381) Passed House, Date 4/26/93  
Vote: Ayes 48 Nays 0 Vote: Ayes 83 Nays 15  
Approved May 21, 1993

A BILL FOR

1 An Act relating to the rights of mobile home, personal property,  
2 and real property owners and claimants in actions for  
3 abandonment and under a lease agreement.

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

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S.F. 398

1 Section 1. Section 103A.9, subsection 4, Code 1993, is  
2 amended to read as follows:

3 4. All factory-built structures, without regard to  
4 manufacture date, shall be installed in accordance with the  
5 code in the governmental subdivisions which have adopted the  
6 state building code or any other building code. However, a  
7 governmental subdivision shall not require that a factory-  
8 built structure, that was manufactured in accordance with  
9 federally mandated standards, be renovated in accordance with  
10 the state building code or any other building code which the  
11 governmental subdivision has adopted when the factory-built  
12 structure is being moved from one lawful location within the  
13 state to another unless such required renovation is in  
14 conformity with those specifications for the factory-built  
15 structure which existed when it was manufactured or the  
16 factory-built structure is being rented for occupancy.

17 Existing factory-built structures not constructed to be in  
18 compliance with federally mandated standards may be moved from  
19 one established mobile home park to another within the state  
20 and shall not be required to be renovated to comply with the  
21 state building code or any other building code which the  
22 governmental subdivision has adopted unless the factory-built  
23 structure is being rented for occupancy or has been declared a  
24 public nuisance according to standards generally applied to  
25 housing.

26 Sec. 2. Section 321.47, unnumbered paragraph 1, Code 1993,  
27 is amended to read as follows:

28 In the event of the transfer of ownership of a vehicle by  
29 operation of law as upon inheritance, devise or bequest, order  
30 in bankruptcy, insolvency, replevin, foreclosure or execution  
31 sale, abandoned vehicle sale, or when the engine of a motor  
32 vehicle is replaced by another engine, or a vehicle is sold or  
33 transferred to satisfy an artisan's lien as provided in  
34 chapter 577, a landlord's lien as provided in chapter 570, or  
35 a storage lien as provided in chapter 579, a judgment in an

1 action for abandonment of a mobile home as provided in chapter  
2 555B, or repossession is had upon default in performance of  
3 the terms of a security agreement, the county treasurer in the  
4 transferee's county of residence, upon the surrender of the  
5 prior certificate of title or the manufacturer's or importer's  
6 certificate, or when that is not possible, upon presentation  
7 of satisfactory proof to the county treasurer of ownership and  
8 right of possession to the vehicle and upon payment of a fee  
9 of ten dollars and the presentation of an application for  
10 registration and certificate of title, may issue to the  
11 applicant a registration card for the vehicle and a  
12 certificate of title to it. The persons entitled under the  
13 laws of descent and distribution of an intestate's property to  
14 the possession and ownership of a vehicle owned in whole or in  
15 part by a decedent, upon filing an affidavit stating the name  
16 and date of death of the decedent, the right to possession and  
17 ownership of the persons filing the affidavit, and that there  
18 has been no administration of the decedent's estate, which  
19 instrument shall also contain an agreement to indemnify  
20 creditors of the decedent who would be entitled to levy  
21 execution upon the motor vehicle to the extent of the value of  
22 the motor vehicle, are entitled upon fulfilling the other  
23 requirements of this chapter, to the issuance of a  
24 registration card for the interest of the decedent in the  
25 vehicle and a certificate of title to it. If a decedent dies  
26 testate, and either the will is not probated or is admitted to  
27 probate without administration, the persons entitled to the  
28 possession and ownership of a vehicle owned in whole or in  
29 part by the decedent may file an affidavit, and upon  
30 fulfilling the other requirements of this chapter, are  
31 entitled to the issuance of a registration card for the  
32 interest of the decedent in the vehicle and a certificate of  
33 title to the vehicle. The affidavit shall contain the same  
34 information and indemnity agreement as is required in cases of  
35 intestacy pursuant to this section. No requirement of chapter

1 450 or 451 shall be considered satisfied by the filing of the  
2 affidavit provided for in this section. If, from the records  
3 in the office of the county treasurer, there appear to be any  
4 liens on the vehicle, the certificate of title shall contain a  
5 statement of such the liens unless the application is  
6 accompanied by proper evidence of their satisfaction or  
7 extinction. Evidence of extinction may consist of, but is not  
8 limited to, an affidavit of the applicant stating that a  
9 security interest was foreclosed as provided in Uniform  
10 Commercial Code, chapter 554, article 9, part 5.

11 Sec. 3. Section 335.30, Code 1993, is amended to read as  
12 follows:

13 335.30 MANUFACTURED HOME.

14 A county shall not adopt or enforce zoning regulations or  
15 other ordinances which disallow the plans and specifications  
16 of a proposed residential structure solely because the  
17 proposed structure is a manufactured home. However, a zoning  
18 ordinance or regulation shall require that a manufactured home  
19 be located and installed according to the same standards,  
20 including but not limited to, a foundation system, set-back,  
21 and minimum square footage which would apply to a site-built,  
22 single family dwelling on the same lot. A zoning ordinance or  
23 other regulation shall not require a foundation system for a  
24 manufactured home which is incompatible with the structural  
25 design of the manufactured home structure. When units are  
26 located outside a mobile home park, requirements may be  
27 imposed which ensure visual compatibility of the foundation  
28 system with surrounding residential structures. As used in  
29 this section, "manufactured home" means a factory-built  
30 structure, which is manufactured or constructed under the  
31 authority of 42 U.S.C. sec. 5403 and is to be used as a place  
32 for human habitation, but which is not constructed or equipped  
33 with a permanent hitch or other device allowing it to be moved  
34 other than for the purpose of moving to a permanent site, and  
35 which does not have permanently attached to its body or frame

1 any wheels or axles. A mobile home as defined in section  
2 435.1 is not a manufactured home, unless it has been converted  
3 to real property as provided in section 435.26, and shall be  
4 taxed as a site-built dwelling. This section shall not be  
5 construed as abrogating a recorded restrictive covenant.

6 Sec. 4. Section 414.28, Code 1993, is amended to read as  
7 follows:

8 414.28 MANUFACTURED HOME.

9 A city shall not adopt or enforce zoning regulations or  
10 other ordinances which disallow the plans and specifications  
11 of a proposed residential structure solely because the  
12 proposed structure is a manufactured home. However, a zoning  
13 ordinance or regulation shall require that a manufactured home  
14 be located and installed according to the same standards,  
15 including but not limited to, a foundation system, set-back,  
16 and minimum square footage which would apply to a site-built,  
17 single family dwelling on the same lot. A zoning ordinance or  
18 other regulation shall not require a foundation system for a  
19 manufactured home which is incompatible with the structural  
20 design of the manufactured home structure. When units are  
21 located outside a mobile home park, requirements may be  
22 imposed which ensure visual compatibility of the foundation  
23 system with surrounding residential structures. As used in  
24 this section, "manufactured home" means a factory-built  
25 structure, which is manufactured or constructed under the  
26 authority of 42 U.S.C. sec. 5403 and is to be used as a place  
27 for human habitation, but which is not constructed or equipped  
28 with a permanent hitch or other device allowing it to be moved  
29 other than for the purpose of moving to a permanent site, and  
30 which does not have permanently attached to its body or frame  
31 any wheels or axles. A mobile home as defined in section  
32 435.1 is not a manufactured home, unless it has been converted  
33 to real property as provided in section 435.26, and shall be  
34 taxed as a site-built dwelling. This section shall not be  
35 construed as abrogating a recorded restrictive covenant.

1 Sec. 5. Section 535.2, Code 1993, is amended by adding the  
2 following new subsection:

3 NEW SUBSECTION. 7. This section does not apply to a  
4 charge imposed for late payment of rent. However, a late  
5 payment fee shall not exceed three dollars a day for the first  
6 five days the rent is late and one dollar a day for the next  
7 twenty-five days.

8 Sec. 6. Section 555B.1, subsection 1, Code 1993, is  
9 amended to read as follows:

10 1. "Claimant" includes but is not limited to any  
11 government subdivision with authority to levy a tax on  
12 abandoned personal property.

13 Sec. 7. Section 555B.1, Code 1993, is amended by adding  
14 the following new subsection:

15 NEW SUBSECTION. 6. "Abandoned" means abandoned as  
16 provided in section 562B.27, subsection 1.

17 Sec. 8. Section 555B.2, subsection 1, Code 1993, is  
18 amended to read as follows:

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 555B.8  
27 provided that there is no lien on the mobile home or personal  
28 property other than a tax lien pursuant to chapter 435. For  
29 purposes of this chapter, a lien other than a tax lien exists  
30 only if the real property owner receives notice of a lien on  
31 the standardized registration form completed by a tenant  
32 pursuant to section 562B.27, subsection 3, or a lien has been  
33 filed in state or county records on a date before the mobile  
34 home is considered to be abandoned. The real property owner  
35 or the real property owner's agent is not liable for damages



1 caused to the mobile home and personal property by the removal  
2 or storage unless the damage is caused willfully or by gross  
3 negligence.

4 Sec. 9. Section 555B.2, subsection 2, paragraph a, Code  
5 1993, is amended to read as follows:

6 a. If the mobile home owner can be determined, and if the  
7 real property owner so requests, the sheriff shall notify the  
8 mobile home owner of the removal by restricted certified mail.  
9 If the mobile home owner cannot be determined, and the real  
10 property owner so requests, the sheriff shall give notice by  
11 one publication in one newspaper of general circulation in the  
12 area county where the mobile home and personal property ~~was~~  
13 were unlawfully parked, placed, or abandoned. If the mobile  
14 home and personal property have not been claimed by the owner  
15 within six months after notice is given, the mobile home and  
16 personal property shall be sold by the sheriff at a public or  
17 private sale. After deducting costs of the sale the net  
18 proceeds shall be applied to the cost of removal, ~~and storage~~  
19 of-the-property, notice, attorney fees, and any other expenses  
20 incurred for preserving the mobile home and personal property,  
21 including any rent owed by the mobile home owner to the real  
22 property owner in connection with the presence of the mobile  
23 home on the real property. The remaining net proceeds, if  
24 any, shall be paid to the county treasurer to satisfy any tax  
25 lien on the mobile home. The remainder, if any, shall be paid  
26 to retained by the county-treasurer real property owner.

27 Sec. 10. Section 555B.3, Code 1993, is amended to read as  
28 follows:

29 555B.3 ACTION FOR ABANDONMENT -- JURISDICTION.

30 A real property owner not requesting notification by the  
31 sheriff as provided in section 555B.2 may bring an action  
32 alleging abandonment in the court within the county where the  
33 real property is located provided that there is no lien on the  
34 mobile home or personal property other than a tax lien  
35 pursuant to chapter 435. The action shall be tried as an

1 equitable action. Unless commenced as a small claim, the  
2 petition shall be presented to a district judge. Upon receipt  
3 of the petition, either the court or the clerk of the district  
4 court shall order set a date for a hearing not later than  
5 fourteen days from the date of the order receipt of the  
6 petition.

7 Sec. 11. Section 555B.4, subsection 3, Code 1993, is  
8 amended to read as follows:

9 3. If a tax lien exists on the mobile home or personal  
10 property at the time an action for abandonment is initiated,  
11 the real property owner shall notify the county treasurer of  
12 each county in which a tax lien appears by restricted  
13 certified mail sent not less than ten days before the hearing.  
14 The notice shall describe the mobile home and shall state the  
15 date and time at which the hearing is scheduled, and the  
16 county treasurer's right to assert a claim to the mobile home  
17 at the hearing. The notice shall also state that failure to  
18 assert a claim to the mobile home is deemed a waiver of all  
19 right, title, claim, and interest in the mobile home and is  
20 deemed consent to the sale or disposal of the mobile home.

21 Sec. 12. Section 555B.10, subsection 1, Code 1993, is  
22 amended to read as follows:

23 1. A real property owner who disposes of a mobile home or  
24 personal property in accordance with this chapter is not  
25 liable for damages by reason of the removal, sale, or disposal  
26 of the mobile home and personal property unless the damage is  
27 caused willfully or by gross negligence. Upon a motion to the  
28 district court and a showing that the real property owner is  
29 not proceeding in accordance with this chapter, the court may  
30 enjoin the real property owner from proceeding further and a  
31 determination for the proper disposition of the mobile home  
32 and personal property shall be made. If disposition of the  
33 mobile home or personal property has not occurred in  
34 accordance with this chapter, the personal-property owner  
35 thereof has a right to recover from the real property owner,

1 any loss caused by failure to comply with this chapter. The  
2 burden of proof shall be upon the mobile home or personal  
3 property owner to show that the real property owner has not  
4 complied with this chapter in disposing of a mobile home or  
5 personal property.

6 Sec. 13. Section 562A.12, subsection 1, Code 1993, is  
7 amended to read as follows:

8 1. A landlord shall not demand or receive as rent a  
9 security deposit and-prepaid-rent an amount or value in excess  
10 of two months' rent.

11 Sec. 14. Section 562B.13, subsection 1, Code 1993, is  
12 amended to read as follows:

13 1. A landlord shall not demand or receive as rent a  
14 security deposit an amount or value in excess of two months'  
15 rent.

16 Sec. 15. Section 562B.25, subsection 1, Code 1993, is  
17 amended to read as follows:

18 1. Except as provided in this chapter, if there is a  
19 material noncompliance by the tenant with the rental  
20 agreement, the landlord may deliver a written notice to the  
21 tenant specifying the acts and omissions constituting the  
22 breach and that the rental agreement will terminate upon a  
23 date not less than thirty days after receipt of the notice if  
24 the breach is not remedied in fourteen days. If there is a  
25 noncompliance by the tenant with section 562B.18 materially  
26 affecting health and safety, the landlord may deliver a  
27 written notice to the tenant specifying the acts and omissions  
28 constituting the breach and that the rental agreement will  
29 terminate upon a date not less than thirty days after receipt  
30 of the notice if the breach is not remedied in fourteen days.  
31 However, if the breach is remediable by repair or the payment  
32 of damages or otherwise, and the tenant adequately remedies  
33 the breach prior to the date specified in the notice, the  
34 rental agreement will not terminate. If substantially the  
35 same act or omission, which constituted a prior noncompliance

1 of which notice was given, recurs within six months, the  
2 landlord may terminate the rental agreement upon at least  
3 fourteen days' written notice specifying the breach and the  
4 date of termination of the rental agreement.

5 Sec. 16. Section 562B.27, subsection 1, Code 1993, is  
6 amended to read as follows:

7 1. A tenant is considered to have abandoned a mobile home  
\* 8 when the tenant has been absent from the mobile home without  
9 reasonable explanation for thirty days or more during which  
10 time there is either a default of rent three days after rent  
11 is due, or the rental agreement is terminated pursuant to  
12 section 562B.25. A tenant's return to the mobile home does  
13 not change its status as abandoned unless the tenant pays to  
14 the landlord all costs incurred for the mobile home space,  
15 including costs of removal, storage, notice, attorneys' fees,  
16 and all rent and utilities due and owing.

17 Sec. 17. Section 562B.27, subsection 2, paragraph a, Code  
18 1993, is amended to read as follows:

19 a. ~~if-a-tenant-abandons-a-mobile-home-on-a-mobile-home~~  
20 ~~space,-the~~ The landlord shall notify the mobile home owner or  
21 other claimant of the mobile home and communicate to that  
22 person that the person is liable for any costs incurred for  
23 the mobile home space, including rent and utilities due and  
24 owing. However, the person is only liable for costs incurred  
25 up to ninety days before the landlord's communication. After  
26 the landlord's communication, costs for which liability is  
27 incurred ~~shall-then~~ become the responsibility of the mobile  
28 home owner or other claimant of the mobile home, jointly and  
29 severally. The mobile home owner or other claimant shall not  
30 avoid the continuing liability imposed by this section by  
31 conveying or releasing the interest in the mobile home after  
32 notification of abandonment is given by the landlord. The  
33 mobile home shall not be removed from the mobile home space  
34 without a signed written agreement from the landlord showing  
35 clearance for removal, and that all debts are paid in full, or

1 an agreement reached with the mobile home owner or other  
2 claimant and the landlord. For the purposes of this section,  
3 "claimant" includes all lienholders on the mobile home other  
4 than the possessor of a tax lien.

5 Sec. 18. Section 562B.27, subsection 2, paragraph b, Code  
6 1993, is amended to read as follows:

7 b. If there is no lien on the mobile home other than a  
8 lien for taxes, the landlord ~~shall~~ may follow the procedure in  
9 chapter 555B to dispose of the mobile home.

10 Sec. 19. NEW SECTION. 562B.29 REMOVAL OF MOBILE HOME  
11 PROHIBITED WHEN COSTS OWED.

12 If costs have been incurred for the mobile home space,  
13 including rent and utilities due and owing, the mobile home  
14 shall not be removed from the mobile home space by the mobile  
15 home owner without a signed, written statement from the  
16 landlord showing clearance for removal and that all costs are  
17 paid in full or an agreement reached with the mobile home  
18 owner and the landlord.

19 Sec. 20. Section 562B.32, subsection 2, Code 1993, is  
20 amended to read as follows:

21 2. If the landlord acts in violation of subsection 1 of  
22 this section, the tenant is entitled to the remedies provided  
23 in section 562B.24 and has a defense in an action for  
24 possession. In an action by or against the tenant, evidence  
25 of a complaint within six months prior to the alleged act of  
26 retaliation creates a presumption that the landlord's conduct  
27 was in retaliation. The presumption does not arise if the  
28 tenant made the complaint after notice of termination of the  
29 rental agreement or if the landlord can show one or more  
30 nonretaliatory reasons, which existed prior to the time of the  
31 tenant's complaint, for the landlord's actions. For the  
32 purpose of this subsection, "presumption" means that the trier  
33 of fact must find the existence of the fact presumed unless  
34 and until evidence is introduced which would support a finding  
35 of its nonexistence.

1 Sec. 21. Section 631.1, Code 1993, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 5. The district court sitting in small  
4 claims has concurrent jurisdiction of an action for  
5 abandonment of a mobile home or personal property pursuant to  
6 section 555B.3, if no money judgment in excess of two thousand  
7 dollars is sought. If commenced under this chapter, the  
8 action is a small claim for the purposes of this chapter.

9 Sec. 22. Section 631.4, subsection 2, Code 1993, is  
10 amended by adding the following new paragraph:

11 NEW PARAGRAPH. c. If personal service cannot be made upon  
12 each defendant, as provided in rule of civil procedure 56.1,  
13 the plaintiff may elect to post, after at least three attempts  
14 to perfect service upon each defendant, one or more copies of  
15 the original notice upon the real property being detained by  
16 each defendant at least five days prior to the date set for  
17 hearing. In such instances, the plaintiff shall also mail, by  
18 certified mail and first class mail, to each defendant, at the  
19 place held out by each defendant as the place for receipt of  
20 such communications or, in the absence of such designation, at  
21 each defendant's last known place of residence, a copy of the  
22 original notice at least five days prior to the date set for  
23 hearing. Under this paragraph, service shall be deemed  
24 complete upon each defendant by the filing with the clerk of  
25 the district court of one or more affidavits indicating that a  
26 copy of the original notice was both posted and mailed to each  
27 defendant as provided in this paragraph.

28 Sec. 23. Section 631.4, Code 1993, is amended by adding  
29 the following new subsection:

30 NEW SUBSECTION. 3. ACTIONS FOR ABANDONMENT OF MOBILE  
31 HOMES OR PERSONAL PROPERTY PURSUANT TO CHAPTER 555B.

32 a. In an action for abandonment of a mobile home or  
33 personal property, the clerk shall set a date, time, and place  
34 for hearing, and shall cause service to be made as provided in  
35 this subsection.

1 b. Original notice shall be served personally on each  
2 defendant as provided in section 555B.4.

3 Sec. 24. Section 631.5, unnumbered paragraph 1, Code 1993,  
4 is amended to read as follows:

5 This section ~~shall apply~~ applies to all small claims except  
6 actions for forcible entry or detention of real property and  
7 actions for abandonment of mobile homes or personal property  
8 pursuant to chapter 555B.

9 Sec. 25. Section 648.19, Code 1993, is amended to read as  
10 follows:

11 648.19 NO JOINDER OR COUNTERCLAIM -- EXCEPTION.

12 An action of this kind shall not be brought in connection  
13 with any other action, with the exception of a claim for rent  
14 or recovery as provided in sections 562A.24, 562A.32, 562B.22,  
15 562B.25, or 562B.27, or 555B.3 nor shall it be made the  
16 subject of counterclaim. When joined with an action for rent  
17 or recovery as provided in section 555B.3, 562A.24, 562A.32,  
18 562B.22, 562B.25, or 562B.27, notice of hearing as provided in  
19 section 648.5 is sufficient.

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HOUSE AMENDMENT TO  
SENATE FILE 398

S-3638

- 1 Amend Senate File 398, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 5, line 4, by inserting after the word
- 4 "However," the following: "in the case of a
- 5 residential lease,".
- 6 2. Page 6, line 26, by striking the words "county
- 7 ~~treasurer real property owner~~" and inserting the
- 8 following: "county treasurer".
- 9 3. By striking page 9, line 17 through page 10,
- 10 line 4.
- 11 4. Page 10, by striking lines 10 through 18.
- 12 5. Page 10, by striking lines 19 through 35.
- 13 6. By renumbering, relettering, or redesignating
- 14 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-3638 FILED APRIL 26, 1993

*Senate concurred 4/27/93*



SENATE FILE 398

H-4139

1 Amend Senate File 398, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 8, line 10, by striking the words "two  
4 months'" and inserting the following: "two-months+  
5 one month's".

6 2. Page 8, line 14, by striking the words "two  
7 months'" and inserting the following: "two-months+  
8 one month's".

By KREIMAN of Davis  
BEATTY of Warren

H-4139 FILED APRIL 21, 1993

(P. 1670) *Lost 4/26/93*

SENATE FILE 398

H-4148

1 Amend Senate File 398, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 6, line 26, by striking the words "county  
4 treasurer real property owner" and inserting the  
5 following: "county treasurer".

By KREIMAN of Davis

H-4148 FILED APRIL 22, 1993

(P. 1670) *Adopted 4-26-93*

SENATE FILE 398

H-3975

- 1 Amend Senate File 398, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 5, line 4, by inserting after the word
- 4 "However," the following: "in the case of a
- 5 residential lease,".

By IVERSON of Wright

H-3975 FILED APRIL 14, 1993

**WITHDRAWN**

*4/26/93*

SENATE FILE 398

H-3999

- 1 Amend Senate File 398, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 5, line 4, by inserting after the word
- 4 "However," the following: "in the case of a
- 5 residential lease,".

By IVERSON of Wright

H-3999 FILED APRIL 15, 1993

**WITHDRAWN**

*4.24.93*

SENATE FILE 398

H-4029

- 1 Amend Senate File 398, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 5, line 4, by inserting after the word
- 4 "However," the following: "in the case of a
- 5 residential lease,".

By IVERSON of Wright

H-4029 FILED APRIL 16, 1993

*A. adopted 4/26/93 (P 1670)*  
*B. adopted*

SENATE FILE 398

H-4073

- 1 Amend Senate File 398, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. By striking page 9, line 17 through page 10,
- 4 line 4.
- 5 2. Page 10, by striking lines 10 through 18.
- 6 3. By renumbering as necessary.

By IVERSON of Wright

H-4073 FILED APRIL 20, 1993

*(P. 1671) adopted 4/26/93*

SENATE FILE 398

H-4109

- 1 Amend Senate File 398, as amended, passed, and re-
- 2 printed by the Senate, as follows:
- 3 1. Page 1, line 13, by striking the word "state"
- 4 and inserting the following: "governmental
- 5 subdivision".

By BLODGETT of Cerro Gordo

H-4109 FILED APRIL 21, 1993

*(P. 1669) Lost 4/26/93*

Szymoniak, Ch.  
Vilsack  
JENSEN

SSB 224  
LOCAL GOVERNMENT

SENATE FILE 398  
BY (PROPOSED COMMITTEE ON LOCAL  
GOVERNMENT BILL BY  
CHAIRPERSON SORENSEN)

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

A BILL FOR

1 An Act relating to the rights of mobile home, personal property,  
2 and real property owners and claimants in actions for  
3 abandonment and under a lease agreement.

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

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1 Section 1. Section 103A.9, subsection 4, Code 1993, is  
2 amended to read as follows:

3 4. All factory-built structures, without regard to  
4 manufacture date, shall be installed in accordance with the  
5 code in the governmental subdivisions which have adopted the  
6 state building code or any other building code. However, a  
7 governmental subdivision shall not require that a factory-  
8 built structure be renovated in accordance with the state  
9 building code or any other building code which the  
10 governmental subdivision has adopted when the factory-build  
11 structure is being moved from one lawful location within the  
12 state to another unless such required renovation is in  
13 conformity with those specifications for the factory-built  
14 structure which existed when it was manufactured or the  
15 factory-built structure is being rented for occupancy.

16 Sec. 2. Section 321.47, unnumbered paragraph 1, Code 1993,  
17 is amended to read as follows:

18 In the event of the transfer of ownership of a vehicle by  
19 operation of law as upon inheritance, devise or bequest, order  
20 in bankruptcy, insolvency, replevin, foreclosure or execution  
21 sale, abandoned vehicle sale, or when the engine of a motor  
22 vehicle is replaced by another engine, or a vehicle is sold or  
23 transferred to satisfy an artisan's lien as provided in  
24 chapter 577, a landlord's lien as provided in chapter 570, or  
25 a storage lien as provided in chapter 579, a judgment in an  
26 action for abandonment of a mobile home as provided in chapter  
27 555B, or repossession is had upon default in performance of  
28 the terms of a security agreement, the county treasurer in the  
29 transferee's county of residence, upon the surrender of the  
30 prior certificate of title or the manufacturer's or importer's  
31 certificate, or when that is not possible, upon presentation  
32 of satisfactory proof to the county treasurer of ownership and  
33 right of possession to the vehicle and upon payment of a fee  
34 of ten dollars and the presentation of an application for  
35 registration and certificate of title, may issue to the

1 applicant a registration card for the vehicle and a  
2 certificate of title to it. The persons entitled under the  
3 laws of descent and distribution of an intestate's property to  
4 the possession and ownership of a vehicle owned in whole or in  
5 part by a decedent, upon filing an affidavit stating the name  
6 and date of death of the decedent, the right to possession and  
7 ownership of the persons filing the affidavit, and that there  
8 has been no administration of the decedent's estate, which  
9 instrument shall also contain an agreement to indemnify  
10 creditors of the decedent who would be entitled to levy  
11 execution upon the motor vehicle to the extent of the value of  
12 the motor vehicle, are entitled upon fulfilling the other  
13 requirements of this chapter, to the issuance of a  
14 registration card for the interest of the decedent in the  
15 vehicle and a certificate of title to it. If a decedent dies  
16 testate, and either the will is not probated or is admitted to  
17 probate without administration, the persons entitled to the  
18 possession and ownership of a vehicle owned in whole or in  
19 part by the decedent may file an affidavit, and upon  
20 fulfilling the other requirements of this chapter, are  
21 entitled to the issuance of a registration card for the  
22 interest of the decedent in the vehicle and a certificate of  
23 title to the vehicle. The affidavit shall contain the same  
24 information and indemnity agreement as is required in cases of  
25 intestacy pursuant to this section. No requirement of chapter  
26 450 or 451 shall be considered satisfied by the filing of the  
27 affidavit provided for in this section. If, from the records  
28 in the office of the county treasurer, there appear to be any  
29 liens on the vehicle, the certificate of title shall contain a  
30 statement of such the liens unless the application is  
31 accompanied by proper evidence of their satisfaction or  
32 extinction. Evidence of extinction may consist of, but is not  
33 limited to, an affidavit of the applicant stating that a  
34 security interest was foreclosed as provided in Uniform  
35 Commercial Code, chapter 554, article 9, part 5.

1 Sec. 3. Section 335.30, Code 1993, is amended to read as  
2 follows:

3 335.30 MANUFACTURED HOME.

4 A county shall not adopt or enforce zoning regulations or  
5 other ordinances which disallow the plans and specifications  
6 of a proposed residential structure solely because the  
7 proposed structure is a manufactured home. However, a zoning  
8 ordinance or regulation shall require that a manufactured home  
9 be located and installed according to the same standards,  
10 including but not limited to, a foundation system, set-back,  
11 and minimum square footage which would apply to a site-built,  
12 single family dwelling on the same lot. A zoning ordinance or  
13 other regulation shall not require a foundation system for a  
14 manufactured home which is either incompatible with the  
15 structural design or installation specifications of the  
16 manufactured home or which imposes additional structural  
17 design or installation specifications which are not required  
18 by the structural design or installation specifications of the  
19 manufactured home. As used in this section, "manufactured  
20 home" means a factory-built structure, which is manufactured  
21 or constructed under the authority of 42 U.S.C. sec. 5403 and  
22 is to be used as a place for human habitation, but which is  
23 not constructed or equipped with a permanent hitch or other  
24 device allowing it to be moved other than for the purpose of  
25 moving to a permanent site, and which does not have  
26 permanently attached to its body or frame any wheels or axles.  
27 A mobile home as defined in section 435.1 is not a  
28 manufactured home, unless it has been converted to real  
29 property as provided in section 435.26, and shall be taxed as  
30 a site-built dwelling. This section shall not be construed as  
31 abrogating a recorded restrictive covenant.

32 Sec. 4. Section 414.28, Code 1993, is amended to read as  
33 follows:

34 414.28 MANUFACTURED HOME.

35 A city shall not adopt or enforce zoning regulations or

1 other ordinances which disallow the plans and specifications  
2 of a proposed residential structure solely because the  
3 proposed structure is a manufactured home. However, a zoning  
4 ordinance or regulation shall require that a manufactured home  
5 be located and installed according to the same standards,  
6 including but not limited to, a foundation system, set-back,  
7 and minimum square footage which would apply to a site-built,  
8 single family dwelling on the same lot. A zoning ordinance or  
9 other regulation shall not require a foundation system for a  
10 manufactured home which is either incompatible with the  
11 structural design or installation specifications of the  
12 manufactured home or which imposes additional structural  
13 design or installation specifications which are not required  
14 by the structural design or installation specifications of the  
15 manufactured home. As used in this section, "manufactured  
16 home" means a factory-built structure, which is manufactured  
17 or constructed under the authority of 42 U.S.C. sec. 5403 and  
18 is to be used as a place for human habitation, but which is  
19 not constructed or equipped with a permanent hitch or other  
20 device allowing it to be moved other than for the purpose of  
21 moving to a permanent site, and which does not have  
22 permanently attached to its body or frame any wheels or axles.  
23 A mobile home as defined in section 435.1 is not a  
24 manufactured home, unless it has been converted to real  
25 property as provided in section 435.26, and shall be taxed as  
26 a site-built dwelling. This section shall not be construed as  
27 abrogating a recorded restrictive covenant.

28 Sec. 5. Section 535.2, Code 1993, is amended by adding the  
29 following new subsection:

30 NEW SUBSECTION. 7. This section does not apply to a  
31 charge imposed for late payment of rent.

32 Sec. 6. Section 555B.1, subsection 1, Code 1993, is  
33 amended to read as follows:

34 1. "Claimant" includes but is not limited to any  
35 government subdivision with authority to levy a tax on

1 abandoned personal property.

2 Sec. 7. Section 555B.1, Code 1993, is amended by adding  
3 the following new subsection:

4 NEW SUBSECTION. 6. "Abandoned" means abandoned as  
5 provided in section 562B.27, subsection 1.

6 Sec. 8. Section 555B.2, subsection 1, Code 1993, is  
7 amended to read as follows:

8 1. A real property owner may remove or cause to be removed  
9 a mobile home and other personal property which is unlawfully  
10 parked, placed, or abandoned on that real property, and may  
11 cause the mobile home and personal property to be placed in  
12 storage until the owner of the personal property pays a fair  
13 and reasonable charge for removal, storage, or other expense  
14 incurred, including reasonable attorneys' fees, or until a  
15 judgment of abandonment is entered pursuant to section 555B.8  
16 provided that there is no lien on the mobile home or personal  
17 property other than a tax lien pursuant to chapter 435. For  
18 purposes of this chapter, a lien other than a tax lien exists  
19 only if the real property owner receives notice of a lien on  
20 the standardized registration form completed by a tenant  
21 pursuant to section 562B.27, subsection 3, or a lien has been  
22 filed in state or county records on a date before the mobile  
23 home is considered to be abandoned. The real property owner  
24 or the real property owner's agent is not liable for damages  
25 caused to the mobile home and personal property by the removal  
26 or storage unless the damage is caused willfully or by gross  
27 negligence.

28 Sec. 9. Section 555B.2, subsection 2, paragraph a, Code  
29 1993, is amended to read as follows:

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



1 area county where the mobile home and personal property was  
2 were unlawfully parked, placed, or abandoned. If the mobile  
3 home and personal property have not been claimed by the owner  
4 within six months after notice is given, the mobile home and  
5 personal property shall be sold by the sheriff at a public or  
6 private sale. After deducting costs of the sale the net  
7 proceeds shall be applied to the cost of removal, and storage  
8 of-the-property, notice, attorney fees, and any other expenses  
9 incurred for preserving the mobile home and personal property,  
10 including any rent owed by the mobile home owner to the real  
11 property owner in connection with the presence of the mobile  
12 home on the real property. The remaining net proceeds, if  
13 any, shall be paid to the county treasurer to satisfy any tax  
14 lien on the mobile home. The remainder, if any, shall be paid  
15 to retained by the county-treasurer real property owner.

16 Sec. 10. Section 555B.3, Code 1993, is amended to read as  
17 follows:

18 555B.3 ACTION FOR ABANDONMENT -- JURISDICTION.

19 A real property owner not requesting notification by the  
20 sheriff as provided in section 555B.2 may bring an action  
21 alleging abandonment in the court within the county where the  
22 real property is located provided that there is no lien on the  
23 mobile home or personal property other than a tax lien  
24 pursuant to chapter 435. 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, either the court or the clerk of the district  
28 court shall order set a date for a hearing not later than  
29 fourteen days from the date of the order receipt of the  
30 petition.

31 Sec. 11. Section 555B.4, subsection 3, Code 1993, is  
32 amended to read as follows:

33 3. If a tax lien exists on the mobile home or personal  
34 property at the time an action for abandonment is initiated,  
35 the real property owner shall notify the county treasurer of

1 each county in which a tax lien appears by restricted  
2 certified mail sent not less than ten days before the hearing.  
3 The notice shall describe the mobile home and shall state the  
4 date and time at which the hearing is scheduled, and the  
5 county treasurer's right to assert a claim to the mobile home  
6 at the hearing. The notice shall also state that failure to  
7 assert a claim to the mobile home is deemed a waiver of all  
8 right, title, claim, and interest in the mobile home and is  
9 deemed consent to the sale or disposal of the mobile home.

10 Sec. 12. Section 555B.10, subsection 1, Code 1993, is  
11 amended to read as follows:

12 1. A real property owner who disposes of a mobile home or  
13 personal property in accordance with this chapter is not  
14 liable for damages by reason of the removal, sale, or disposal  
15 of the mobile home and personal property unless the damage is  
16 caused willfully or by gross negligence. Upon a motion to the  
17 district court and a showing that the real property owner is  
18 not proceeding in accordance with this chapter, the court may  
19 enjoin the real property owner from proceeding further and a  
20 determination for the proper disposition of the mobile home  
21 and personal property shall be made. If disposition of the  
22 mobile home or personal property has not occurred in  
23 accordance with this chapter, the ~~personal-property~~ owner  
24 thereof has a right to recover from the real property owner,  
25 any loss caused by failure to comply with this chapter. The  
26 burden of proof shall be upon the mobile home or personal  
27 property owner to show that the real property owner has not  
28 complied with this chapter in disposing of a mobile home or  
29 personal property.

30 Sec. 13. Section 562A.12, subsection 1, Code 1993, is  
31 amended to read as follows:

32 1. A landlord shall not demand or receive as rental  
33 deposit ~~and-prepaid-rent~~ an amount or value in excess of two  
34 months' rent.

35 Sec. 14. Section 562B.25, subsection 1, Code 1993, is

1 amended to read as follows:

2 1. Except as provided in this chapter, if there is a  
3 material noncompliance by the tenant with the rental  
4 agreement, the landlord may deliver a written notice to the  
5 tenant specifying the acts and omissions constituting the  
6 breach and that the rental agreement will terminate upon a  
7 date not less than thirty days after receipt of the notice if  
8 the breach is not remedied in fourteen days. If there is a  
9 noncompliance by the tenant with section 562B.18 materially  
10 affecting health and safety, the landlord may deliver a  
11 written notice to the tenant specifying the acts and omissions  
12 constituting the breach and that the rental agreement will  
13 terminate upon a date not less than thirty days after receipt  
14 of the notice if the breach is not remedied in fourteen days.  
15 However, if the breach is remediable by repair or the payment  
16 of damages or otherwise, and the tenant adequately remedies  
17 the breach prior to the date specified in the notice, the  
18 rental agreement will not terminate. If substantially the  
19 same act or omission, which constituted a prior noncompliance  
20 of which notice was given, recurs within six months, the  
21 landlord may terminate the rental agreement upon at least  
22 fourteen days' written notice specifying the breach and the  
23 date of termination of the rental agreement.

24 Sec. 15. Section 562B.27, subsection 1, Code 1993, is  
25 amended to read as follows:

26 1. A tenant is considered to have abandoned a mobile home  
27 when either the tenant has been absent from the mobile home  
28 without reasonable explanation for thirty days or more during  
29 which time there is a default of rent three days after rent is  
30 due, or the rental agreement is terminated pursuant to section  
31 562B.25. A tenant's return to the mobile home does not change  
32 its status as abandoned unless the tenant pays to the landlord  
33 all costs incurred for the mobile home space, including costs  
34 of removal, storage, notice, attorneys' fees, and all rent and  
35 utilities due and owing.

1 Sec. 16. Section 562B.27, subsection 2, paragraph a, Code  
2 1993, is amended to read as follows:

3 a. ~~If a tenant abandons a mobile home on a mobile home~~  
4 ~~space, the~~ The landlord shall notify the mobile home owner or  
5 other claimant 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 up to ninety days before the landlord's communication. After  
10 the landlord's communication, costs for which liability is  
11 incurred ~~shall then~~ become the responsibility of the mobile  
12 home owner or other claimant of the mobile home, jointly and  
13 severally. The mobile home owner or other claimant shall not  
14 avoid the continuing liability imposed by this section by  
15 conveying or releasing the interest in the mobile home after  
16 notification of abandonment is given by the landlord. The  
17 mobile home shall not be removed from the mobile home space  
18 without a signed written agreement from the landlord showing  
19 clearance for removal, and that all debts are paid in full, or  
20 an agreement reached with the mobile home owner or other  
21 claimant and the landlord. For the purposes of this section,  
22 "claimant" includes all lienholders on the mobile home other  
23 than the possessor of a tax lien.

24 Sec. 17. Section 562B.27, subsection 2, paragraph b, Code  
25 1993, is amended to read as follows:

26 b. If there is no lien on the mobile home other than a  
27 lien for taxes, the landlord ~~shall~~ may follow the procedure in  
28 chapter 555B to dispose of the mobile home.

29 Sec. 18. NEW SECTION. 562B.29 REMOVAL OF MOBILE HOME  
30 PROHIBITED WHEN COSTS OWED.

31 If costs have been incurred for the mobile home space,  
32 including rent and utilities due and owing, the mobile home  
33 shall not be removed from the mobile home space by the mobile  
34 home owner without a signed, written statement from the  
35 landlord showing clearance for removal and that all costs are

1 paid in full or an agreement reached with the mobile home  
2 owner and the landlord.

3 Sec. 19. Section 562B.32, subsection 1, paragraph b, Code  
4 1993, is amended to read as follows:

5 b. The tenant has complained to the landlord of a  
6 violation under section 562B.16 which actually existed at the  
7 time of the tenant's complaint.

8 Sec. 20. Section 562B.32, subsection 2, Code 1993, is  
9 amended to read as follows:

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

25 Sec. 21. Section 631.1, Code 1993, is amended by adding  
26 the following new subsection:

27 NEW SUBSECTION. 5. The district court sitting in small  
28 claims has concurrent jurisdiction of an action for  
29 abandonment of a mobile home or personal property pursuant to  
30 section 555B.3, if no money judgment in excess of two thousand  
31 dollars is sought. If commenced under this chapter, the  
32 action is a small claim for the purposes of this chapter.

33 Sec. 22. Section 631.4, subsection 2, Code 1993, is  
34 amended by adding the following new paragraph:

35 NEW PARAGRAPH. c. If personal service cannot be made upon

1 each defendant, as provided in rule of civil procedure 56.1,  
2 the plaintiff may elect to post, after at least three attempts  
3 to perfect service upon each defendant, one or more copies of  
4 the original notice upon the real property being detained by  
5 each defendant at least five days prior to the date set for  
6 hearing. In such instances, the plaintiff shall also mail, by  
7 certified mail and first class mail, to each defendant, at the  
8 place held out by each defendant as the place for receipt of  
9 such communications or, in the absence of such designation, at  
10 each defendant's last know place of residence, a copy of the  
11 original notice at least five days prior to the date set for  
12 hearing. Under this paragraph, service shall be deemed  
13 complete upon each defendant by the filing with the clerk of  
14 the district court of one or more affidavits indicating that a  
15 copy of the original notice was both posted and mailed to each  
16 defendant as provided in this paragraph.

17 Sec. 23. Section 631.4, Code 1993, is amended by adding  
18 the following new subsection:

19 NEW SUBSECTION. 3. ACTIONS FOR ABANDONMENT OF MOBILE  
20 HOMES OR PERSONAL PROPERTY PURSUANT TO CHAPTER 555B.

21 a. In an action for abandonment of a mobile home or  
22 personal property, the clerk shall set a date, time, and place  
23 for hearing, and shall cause service to be made as provided in  
24 this subsection.

25 b. Original notice shall be served personally on each  
26 defendant as provided in section 555B.4.

27 Sec. 24. Section 631.5, unnumbered paragraph 1, Code 1993,  
28 is amended to read as follows:

29 This section ~~shall apply~~ applies to all small claims except  
30 actions for forcible entry or detention of real property and  
31 actions for abandonment of mobile homes or personal property  
32 pursuant to chapter 555B.

33 Sec. 25. Section 648.19, Code 1993, is amended to read as  
34 follows:

35 648.19 NO JOINDER OR COUNTERCLAIM -- EXCEPTION.

1 An action of this kind shall not be brought in connection  
2 with any other action, with the exception of a claim for rent  
3 or recovery as provided in sections 562A-24, 562A.32, 562B-22,  
4 562B.25, or 562B.27, or 555B.3 nor shall it be made the  
5 subject of counterclaim. When joined with an action for rent  
6 or recovery as provided in section 555B.3, 562A.32, 562B.25,  
7 or 562B.27, notice of hearing as provided in section 648.5 is  
8 sufficient.

9

## EXPLANATION

10 Section 103A.9 of the state building code is amended to  
11 prohibit a governmental subdivision from requiring that a  
12 factory-built structure, which is being moved from one place  
13 in the governmental subdivision to another, be renovated to  
14 bring it into compliance with the state building code or  
15 another building code adopted by the subdivision unless the  
16 renovation is within the specifications of the structure when  
17 it was manufactured.

18 Section 321.47 is amended to permit the transfer of title  
19 of a mobile home which is determined to be abandoned by an  
20 action for attachment in the same manner as a landlord's lien  
21 is enforced.

22 Sections 335.30 and 414.28 are amended to prohibit zoning  
23 regulations from requiring foundations for manufactured homes  
24 which are incompatible with the design or installation  
25 specifications or which impose additional structural  
26 requirements not required by the design or installation  
27 specifications of the manufactured home.

28 Section 535.2 has a new subsection added which provides  
29 that a charge for late payment of rent is not subject to the  
30 restrictions on the permissible rates of interest contained in  
31 the state usury law.

32 Section 555B.1 is amended to provide that, for the purposes  
33 of the disposal of abandoned mobile homes and personal  
34 property, "claimant" includes entities other than governmental  
35 subdivisions and that "abandoned" has the same definition as

1 it does in chapter 562B regarding mobile home landlords and  
2 tenants.

3 Section 555B.2 is amended to provide that the term "lien"  
4 does not include a tax lien and that proceeds from the sale of  
5 an abandoned mobile home or personal property are first  
6 applied to the expenses incurred by the real property owner in  
7 disposing of the property, including rent owed, then to the  
8 county treasurer for any outstanding tax lien, with any  
9 remainder being retained by the real property owner.

10 Section 555B.3 is amended to allow the clerk of the  
11 district court in the county where an action for abandonment  
12 is filed to set the date for hearing on the action not less  
13 than 14 days following the date of receipt of the petition.

14 Section 555B.4 is amended to provide that a tax lien must  
15 exist at the time the action for abandonment is filed in order  
16 for the county treasurer to assert a claim against the  
17 abandoned property.

18 Section 555B.10 is amended to place the burden of proof on  
19 the owner of the mobile home or personal property to show that  
20 the real property owner has not complied with the provisions  
21 of chapter 555B in disposing of the mobile home or personal  
22 property.

23 Section 562A.12 is amended to allow a landlord to require  
24 more than two months of prepaid rent as a deposit.

25 Section 562B.25 is amended to allow the landlord to  
26 terminate the rental agreement with a mobile home tenant on 14  
27 days notice for the recurrence of a violation of the lease,  
28 for which the landlord previously provided notice to the  
29 tenant, within six months of the second violation.

30 Section 562B.27 is amended to provide that once a landlord  
31 considers a mobile home to be abandoned, the return of the  
32 tenant to the mobile home does not change its status as  
33 abandoned unless the tenant reimburses the landlord for the  
34 expenses incurred, including back rent, as a result of the  
35 tenant's abandoning the mobile home. This section is also



1 amended to provide that a mobile home owner or lienholder  
2 cannot avoid the liability imposed for abandonment by  
3 transferring or releasing the mobile home after the landlord  
4 has sent notice of abandonment. In addition this section is  
5 amended to allow the landlord to follow either the procedure  
6 set out in chapter 555B or seek a remedy in small claims  
7 court.

8 A new section, 562B.29, is created which prohibits a mobile  
9 home owner from removing a mobile home from the mobile home  
10 space when costs, including rent and utilities, are owed the  
11 landlord in connection with the mobile home.

12 Section 562B.32 is amended to limit the situations in which  
13 the existing presumption of retaliatory conduct by the  
14 landlord may shift the burden of proof to the landlord. The  
15 bill requires that a violation by the landlord actually exist  
16 at the time of the complaint in order for the presumption of  
17 retaliation to apply and that no presumption of retaliation  
18 will arise if the landlord can show one or more nonretaliatory  
19 reasons for the landlord's actions.

20 Chapter 631 is amended to provide concurrent jurisdiction  
21 to the small claims court for an action for abandonment of a  
22 mobile home or personal property where the amount sought is  
23 not more than \$2000, that the requirements for appearance and  
24 default before the small claims court are the same as for  
25 forcible entry and detainer actions, and that service of  
26 notice is the same as in section 555B.4. Also, if personal  
27 service cannot be made on each defendant, service may be made  
28 by posting notice upon the property being detained by the  
29 defendant and by mailing notice to each defendant by regular  
30 and certified mail.

31 Finally, section 648.19, regarding joinder or counterclaims  
32 by defendants, is amended to treat small claims action for  
33 abandonment of a mobile home the same as an action for back  
34 rent under chapter 562B.

35

SENATE FILE 398

AN ACT

RELATING TO THE RIGHTS OF MOBILE HOME, PERSONAL PROPERTY, AND REAL PROPERTY OWNERS AND CLAIMANTS IN ACTIONS FOR ABANDONMENT AND UNDER A LEASE AGREEMENT.

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

Section 1. Section 103A.9, subsection 4, Code 1993, is amended to read as follows:

4. All factory-built structures, without regard to manufacture date, shall be installed in accordance with the code in the governmental subdivisions which have adopted the state building code or any other building code. However, a governmental subdivision shall not require that a factory-built structure, that was manufactured in accordance with federally mandated standards, be renovated in accordance with the state building code or any other building code which the governmental subdivision has adopted when the factory-built structure is being moved from one lawful location within the state to another unless such required renovation is in conformity with those specifications for the factory-built structure which existed when it was manufactured or the factory-built structure is being rented for occupancy.

Existing factory-built structures not constructed to be in compliance with federally mandated standards may be moved from one established mobile home park to another within the state and shall not be required to be renovated to comply with the state building code or any other building code which the governmental subdivision has adopted unless the factory-built structure is being rented for occupancy or has been declared a public nuisance according to standards generally applied to housing.

Sec. 2. Section 321.47, unnumbered paragraph 1, Code 1993, is amended to read as follows:

In the event of the transfer of ownership of a vehicle by operation of law as upon inheritance, devise or bequest, order in bankruptcy, insolvency, replevin, foreclosure or execution sale, abandoned vehicle sale, or when the engine of a motor vehicle is replaced by another engine, or a vehicle is sold or transferred to satisfy an artisan's lien as provided in chapter 577, a landlord's lien as provided in chapter 570, or a storage lien as provided in chapter 579, a judgment in an action for abandonment of a mobile home as provided in chapter 555B, or repossession is had upon default in performance of the terms of a security agreement, the county treasurer in the transferee's county of residence, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof to the county treasurer of ownership and right of possession to the vehicle and upon payment of a fee of ten dollars and the presentation of an application for registration and certificate of title, may issue to the applicant a registration card for the vehicle and a certificate of title to it. The persons entitled under the laws of descent and distribution of an intestate's property to the possession and ownership of a vehicle owned in whole or in part by a decedent, upon filing an affidavit stating the name and date of death of the decedent, the right to possession and ownership of the persons filing the affidavit, and that there has been no administration of the decedent's estate, which instrument shall also contain an agreement to indemnify creditors of the decedent who would be entitled to levy execution upon the motor vehicle to the extent of the value of the motor vehicle, are entitled upon fulfilling the other requirements of this chapter, to the issuance of a registration card for the interest of the decedent in the vehicle and a certificate of title to it. If a decedent dies testate, and either the will is not probated or is admitted to probate without administration, the persons entitled to the possession and ownership of a vehicle owned in whole or in

part by the decedent may file an affidavit, and upon fulfilling the other requirements of this chapter, are entitled to the issuance of a registration card for the interest of the decedent in the vehicle and a certificate of title to the vehicle. The affidavit shall contain the same information and indemnity agreement as is required in cases of intestacy pursuant to this section. No requirement of chapter 450 or 451 shall be considered satisfied by the filing of the affidavit provided for in this section. If, from the records in the office of the county treasurer, there appear to be any liens on the vehicle, the certificate of title shall contain a statement of such the liens unless the application is accompanied by proper evidence of their satisfaction or extinction. Evidence of extinction may consist of, but is not limited to, an affidavit of the applicant stating that a security interest was foreclosed as provided in Uniform Commercial Code, chapter 554, article 9, part 5.

Sec. 3. Section 335.30, Code 1993, is amended to read as follows:

335.30 MANUFACTURED HOME.

A county shall not adopt or enforce zoning regulations or other ordinances which disallow the plans and specifications of a proposed residential structure solely because the proposed structure is a manufactured home. However, a zoning ordinance or regulation shall require that a manufactured home be located and installed according to the same standards, including but not limited to, a foundation system, set-back, and minimum square footage which would apply to a site-built, single family dwelling on the same lot. A zoning ordinance or other regulation shall not require a foundation system for a manufactured home which is incompatible with the structural design of the manufactured home structure. When units are located outside a mobile home park, requirements may be imposed which ensure visual compatibility of the foundation system with surrounding residential structures. As used in this section, "manufactured home" means a factory-built

structure, which is manufactured or constructed under the authority of 42 U.S.C. sec. 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home as defined in section 435.1 is not a manufactured home, unless it has been converted to real property as provided in section 435.26, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.

Sec. 4. Section 414.28, Code 1993, is amended to read as follows:

414.28 MANUFACTURED HOME.

A city shall not adopt or enforce zoning regulations or other ordinances which disallow the plans and specifications of a proposed residential structure solely because the proposed structure is a manufactured home. However, a zoning ordinance or regulation shall require that a manufactured home be located and installed according to the same standards, including but not limited to, a foundation system, set-back, and minimum square footage which would apply to a site-built, single family dwelling on the same lot. A zoning ordinance or other regulation shall not require a foundation system for a manufactured home which is incompatible with the structural design of the manufactured home structure. When units are located outside a mobile home park, requirements may be imposed which ensure visual compatibility of the foundation system with surrounding residential structures. As used in this section, "manufactured home" means a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. sec. 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame

any wheels or axles. A mobile home as defined in section 435.1 is not a manufactured home, unless it has been converted to real property as provided in section 435.26, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.

Sec. 5. Section 535.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. This section does not apply to a charge imposed for late payment of rent. However, in the case of a residential lease, a late payment fee shall not exceed three dollars a day for the first five days the rent is late and one dollar a day for the next twenty-five days.

Sec. 6. Section 555B.1, subsection 1, Code 1993, is amended to read as follows:

1. "Claimant" includes but is not limited to any government subdivision with authority to levy a tax on abandoned personal property.

Sec. 7. Section 555B.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 6. "Abandoned" means abandoned as provided in section 562B.27, subsection 1.

Sec. 8. Section 555B.2, subsection 1, Code 1993, is amended to read as follows:

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 555B.8 provided that there is no lien on the mobile home or personal property other than a tax lien pursuant to chapter 435. For purposes of this chapter, a lien other than a tax 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.

Sec. 9. Section 555B.2, subsection 2, paragraph a, Code 1993, is amended to read as follows:

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 county where the mobile home and personal property was were 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, notice, attorney fees, and any other expenses incurred for preserving the mobile home and personal property, including any rent owed by the mobile home owner to the real property owner in connection with the presence of the mobile home on the real property. The remaining net proceeds, if any, shall be paid to the county treasurer to satisfy any tax lien on the mobile home. The remainder, if any, shall be paid to retained by the county treasurer.

Sec. 10. Section 555B.3, Code 1993, is amended to read as follows:

555B.3 ACTION FOR ABANDONMENT -- JURISDICTION.

A real property owner not requesting notification by the sheriff as provided in section 555B.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 435. 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, either the court or the clerk of the district court shall order set a date for a hearing not later than fourteen days from the date of the order receipt of the petition.

Sec. 11. Section 555B.4, subsection 3, Code 1993, is amended to read as follows:

3. If a tax lien exists on the mobile home or personal property at the time an action for abandonment is initiated, 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. 12. Section 555B.10, subsection 1, Code 1993, is amended to read as follows:

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 mobile home or personal property has not occurred in

accordance with this chapter, the personal-property owner thereof has a right to recover from the real property owner, any loss caused by failure to comply with this chapter. The burden of proof shall be upon the mobile home or personal property owner to show that the real property owner has not complied with this chapter in disposing of a mobile home or personal property.

Sec. 13. Section 562A.12, subsection 1, Code 1993, is amended to read as follows:

1. A landlord shall not demand or receive as rental a security deposit and prepaid-rent an amount or value in excess of two months' rent.

Sec. 14. Section 562B.13, subsection 1, Code 1993, is amended to read as follows:

1. A landlord shall not demand or receive as rental a security deposit an amount or value in excess of two months' rent.

Sec. 15. Section 562B.25, subsection 1, Code 1993, is amended to read as follows:

1. Except as provided in this chapter, if there is a material noncompliance by the tenant with the rental agreement, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days. If there is a noncompliance by the tenant with section 562B.18 materially affecting health and safety, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days. However, if the breach is remediable by repair or the payment of damages or otherwise, and the tenant adequately remedies the breach prior to the date specified in the notice, the rental agreement will not terminate. if substantially the

same act or omission, which constituted a prior noncompliance of which notice was given, recurs within six months, the landlord may terminate the rental agreement upon at least fourteen days' written notice specifying the breach and the date of termination of the rental agreement.

Sec. 16. Section 562B.27, subsection 1, Code 1993, is amended to read as follows:

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 either a default of rent three days after rent is due, or the rental agreement is terminated pursuant to section 562B.25. A tenant's return to the mobile home does not change its status as abandoned unless the tenant pays to the landlord all costs incurred for the mobile home space, including costs of removal, storage, notice, attorneys' fees, and all rent and utilities due and owing.

Sec. 17. Section 562B.27, subsection 2, paragraph b, Code 1993, is amended to read as follows:

b. If there is no lien on the mobile home other than a lien for taxes, the landlord ~~shall~~ may follow the procedure in chapter 555B to dispose of the mobile home.

Sec. 18. Section 631.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The district court sitting in small claims has concurrent jurisdiction of an action for abandonment of a mobile home or personal property pursuant to section 555B.3, if no money judgment in excess of two thousand dollars is sought. If commenced under this chapter, the action is a small claim for the purposes of this chapter.

Sec. 19. Section 631.4, subsection 2, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. If personal service cannot be made upon each defendant, as provided in rule of civil procedure 56.1, the plaintiff may elect to post, after at least three attempts to perfect service upon each defendant, one or more copies of

the original notice upon the real property being detained by each defendant at least five days prior to the date set for hearing. In such instances, the plaintiff shall also mail, by certified mail and first class mail, to each defendant, at the place held out by each defendant as the place for receipt of such communications or, in the absence of such designation, at each defendant's last known place of residence, a copy of the original notice at least five days prior to the date set for hearing. Under this paragraph, service shall be deemed complete upon each defendant by the filing with the clerk of the district court of one or more affidavits indicating that a copy of the original notice was both posted and mailed to each defendant as provided in this paragraph.

Sec. 20. Section 631.4, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. ACTIONS FOR ABANDONMENT OF MOBILE HOMES OR PERSONAL PROPERTY PURSUANT TO CHAPTER 555B.

a. In an action for abandonment of a mobile home or personal property, the clerk shall set a date, time, and place for hearing, and shall cause service to be made as provided in this subsection.

b. Original notice shall be served personally on each defendant as provided in section 555B.4.

Sec. 21. Section 631.5, unnumbered paragraph 1, Code 1993, is amended to read as follows:

This section ~~shall apply~~ applies to all small claims except actions for forcible entry or detention of real property and actions for abandonment of mobile homes or personal property pursuant to chapter 555B.

Sec. 22. Section 648.19, Code 1993, 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, 562B.25, or 562B.27, or 555B.3 nor shall it be made the

subject of counterclaim. When joined with an action for rent or recovery as provided in section 555B.3, 562A.24, 562A.32, 562B.22, 562B.25, or 562B.27, notice of hearing as provided in section 648.5 is sufficient.

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LEONARD L. BOSWELL  
President of the Senate

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HAROLD VAN MAANEN  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 398, Seventy-fifth General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved May 21, 1993

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TERRY E. BRANSTAD  
Governor