

Senate Study Bill 2283

Conference Committee Text

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1 1 Section 1. NEW SECTION. 562A.27B TERMINATION FOR FAILURE
1 2 TO GIVE LAWFUL ACCESS.

1 3 Notwithstanding section 562A.27 or section 648.3, if a
1 4 tenant refuses to provide the landlord access to the dwelling
1 5 in accordance with section 562A.19, the landlord, after a
1 6 single three days' written notice of termination and notice to
1 7 quit, may file suit against the tenant for recovery of
1 8 possession of the premises pursuant to chapter 648. The
1 9 tenant shall be given the opportunity to contest the
1 10 termination in the court proceedings by notice thereof at
1 11 least five days prior to the hearing.

1 12 Sec. 2. Section 562A.29A, unnumbered paragraph 1, Code
1 13 1995, is amended to read as follows:

1 14 Notwithstanding sections 631.4 and 648.5, the written
1 15 notice of termination required by section 562A.27, subsection
1 16 1 or 2, a notice of termination and notice to quit under
1 17 section 562A.27A, a notice to quit as required by section
1 18 648.3, or a petition for forcible entry and detainer pursuant
1 19 to chapter 648, may be served upon the tenant in any of the
1 20 following ways:

1 21 Sec. 3. Section 562A.34, subsection 2, Code 1995, is
1 22 amended by striking the subsection and inserting in lieu
1 23 thereof the following:

1 24 2. The landlord or the tenant may terminate a month-to-
1 25 month tenancy by giving a written notice to the other at least
1 26 thirty days prior to the date of termination specified in the
1 27 notice.

1 28 Sec. 4. Section 562B.27A, unnumbered paragraph 1, Code
1 29 1995, is amended to read as follows:

1 30 Notwithstanding sections 631.4 and 648.5, the written
1 31 notice of termination required by section 562B.25, subsection
1 32 1 or 2, a notice of termination and notice to quit under
1 33 section 562B.25A, a notice to quit as required by section
1 34 648.3, or a petition for forcible entry and detainer pursuant
1 35 to chapter 648, may be served upon the tenant in any of the
2 1 following ways:

2 2 Sec. 5. Section 631.4, subsection 2, paragraph c, Code
2 3 Supplement 1995, is amended to read as follows:

2 4 c. If personal service cannot be made upon each defendant,
2 5 as provided in rule of civil procedure 56.1, the plaintiff may
2 6 elect to post, after at least

~~three~~

~~two attempts to perfect~~

2 7 service upon each defendant, one or more copies of the
2 8 original notice upon the real property being detained by each
2 9 defendant at least five days prior to the date set for
2 10 hearing. The attempts to perfect personal service may be made
2 11 on the same day. In

~~such instances~~

~~addition to posting, the~~

2 12 plaintiff shall also mail, by certified mail

~~and first class~~

-

~~mail~~

-, to each defendant, at the place held out by each
2 14 defendant as the place for receipt of such communications or,
2 15 in the absence of such designation, at each defendant's last
2 16 known place of residence, a copy of the original notice at
2 17 least five days prior to the date set for hearing. Under this
2 18 paragraph, service shall be deemed complete upon each
2 19 defendant by the filing with the clerk of the district court
2 20 of one or more affidavits indicating that a copy of the
2 21 original notice was both posted and mailed to each defendant
2 22 as provided in this paragraph, whether or not the defendant
2 23 signs a receipt for the notice.

EXPLANATION

2 25 This bill provides that a landlord under chapter 562A may
2 26 file suit against a tenant to regain possession of the rental
2 27 unit if the tenant has denied the landlord lawful access to
2 28 the rental unit. With few exceptions, to be lawful under
2 29 section 562A.19, access must be reasonable, not used to harass
2 30 the tenant, and be requested at least 24 hours in advance.

2 31 The bill also provides that the notice of termination of
2 32 the rental agreement for failure to pay rent after written
2 33 notice may be provided by personal service or by mail. This
2 34 applies in both residential and mobile home rental situations
2 35 under chapters 562A and 562B.

3 1 In addition, the bill provides that a month-to-month
3 2 tenancy under chapter 562A may be terminated by either party
3 3 by written notice to the other party at least 30 days prior to
3 4 the date of termination specified in the notice. Currently,
3 5 the notice must be provided at least 30 days prior to the
3 6 monthly rental date for payment of rent.

3 7 The bill also provides that, in actions for forcible entry
3 8 and detention under chapter 631, service by posting and mail
3 9 may be made after two attempts at personal service of notice
3 10 which may be made on the same day. Currently, three attempts
3 11 at personal service are required and the Code is silent
3 12 regarding whether the attempts can be made the same day. The
3 13 bill requires notice to be sent by certified mail and allows
3 14 service to be deemed complete upon the filing of affidavits
3 15 regarding service by posting and mail, regardless of whether
3 16 the defendant signs a receipt for the notice.

3 17 LSB 4087SC 76

3 18 mk/cf/24