

FEB 9 2000

LOCAL GOVERNMENT

HOUSE FILE

2201

BY VAN ENGELENHOVEN

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to a landlord's sale or disposal of a tenant's
2 personal property abandoned by the tenant on rented premises
3 and making related changes.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

HF 2201

1 Section 1. Section 562A.29, subsection 3, Code 1999, is
2 amended to read as follows:

3 3. If the tenant abandons the dwelling unit, the following
4 shall apply:

5 a. For purposes of determining abandonment under this
6 subsection:

7 (1) The landlord may rely on a statement by the tenant
8 indicating an intent to abandon the dwelling unit.

9 (2) The landlord may rely upon an inference of intent by
10 the tenant to abandon the dwelling unit if the tenant is
11 continuously absent from the dwelling unit without payment of
12 rent for a full rental period.

13 (3) The landlord may rely upon a court order holding that
14 the dwelling unit has been abandoned upon substantial proof to
15 the court that the dwelling unit has been abandoned.

16 b. Notwithstanding section 562A.31, the landlord may enter
17 and take possession of any property of the tenant found in the
18 dwelling unit and may store the property in a secure place.

19 (1) The landlord shall make reasonable efforts to provide
20 the tenant with a notice containing the name and address of
21 the landlord and the place where the property is stored, and
22 informing the tenant that a sale or disposal of the property
23 shall take place pursuant to this subsection, and the date of
24 the sale or disposal, and further informing the tenant of any
25 action the tenant must take to retrieve the property prior to
26 its sale or disposal.

27 (2) The landlord's effort to notify the tenant under this
28 subsection shall be satisfied by complying with both of the
29 following:

30 (a) Mailing the notice via first class mail, postage
31 prepaid, to the tenant's last known address, to any other
32 address provided in writing by the tenant, or to any other
33 address actually known to the landlord where the tenant might
34 receive the notice, at least forty-five days prior to the day
35 set for sale or disposal of the property.

1 (b) Publishing a notice once in a newspaper of general
2 circulation in the county at least forty-five days prior to
3 the day set for sale or disposal of the property.

4 (3) The landlord shall return the property to the tenant
5 after the tenant has paid the reasonable moving and storage
6 fees and costs associated with the property, if the tenant
7 makes a written request for the return of the property before
8 the landlord has sold or disposed of the property.

9 (4) After forty-five days from the last date of notice
10 published and mailed to the tenant, the landlord may dispose
11 of the property. The landlord may apply any income derived
12 from the sale of the property to amounts due to the landlord,
13 including the reasonable moving and storage fees and costs
14 associated with the sale or disposal of the property. Any
15 income derived from the sale in excess of amounts due to the
16 landlord shall be held by the landlord for the benefit of the
17 tenant for one year from the date of sale. If no
18 communication from the tenant is made during that time in
19 relation to the tenant's property, the balance of income
20 derived from the sale shall be the property of the landlord,
21 including any interest earned.

22 c. The landlord shall make reasonable efforts to rent it
23 the dwelling unit at a fair rental. If the landlord rents the
24 dwelling unit for a term beginning prior to the expiration of
25 the rental agreement, it is deemed to be terminated as of the
26 date the new tenancy begins. The rental agreement is deemed
27 to be terminated by the landlord as of the date the landlord
28 has notice of the abandonment, if the landlord fails to use
29 reasonable efforts to rent the dwelling unit at a fair rental
30 or if the landlord accepts the abandonment as a surrender. If
31 the tenancy is from month-to-month, or week-to-week, the term
32 of the rental agreement for this purpose shall be deemed to be
33 a month or a week, as the case may be.

34 Sec. 2. Section 562A.31, Code 1999, is amended to read as
35 follows:

1 562A.31 LANDLORD LIENS -- DISTRESS FOR RENT.

2 1. A lien on behalf of the landlord on the tenant's
3 household goods is not enforceable ~~unless-perfected-before~~
4 January-17-1979. Chapter 570 shall not apply to landlord-
5 tenant relationships covered by this chapter.

6 2. Distraint for rent is abolished.

7 Sec. 3. Section 570.1, Code 1999, is amended to read as
8 follows:

9 570.1 LIEN CREATED -- PROPERTY SUBJECTED.

10 1. A landlord shall have a lien for the rent upon all
11 crops grown upon the leased premises, and upon any other
12 personal property of the tenant which has been used or kept
13 thereon during the term and which is not exempt from
14 execution.

15 2. This chapter shall not apply to landlord-tenant
16 relationships covered by chapter 562A.

17 EXPLANATION

18 This bill amends Code section 562A.29 relating to a
19 landlord's remedies when a tenant has abandoned rental
20 property.

21 The Code section currently provides an obligation of the
22 landlord to make reasonable efforts to rent the premises; the
23 amendment provides a standard for determining when the
24 premises are deemed abandoned, as well as a procedure for
25 removal, storage, notice, and sale or disposal of any personal
26 property abandoned by the tenant on the premises.

27 Related changes are made to Code sections 562A.31 and
28 570.1, regarding landlord's liens, to specify that the
29 procedure added by this bill applies to tenant's personal
30 property, rather than any former laws relating to landlord
31 liens.

32

33

34

35