

Carroll, Chair
Hahn
Whitead

HSB 649

Suc LOCAL GOVERNMENT,

2443

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL
BY CHAIRPERSON HOUSER)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to landlord-tenant law, by allowing for notice of
2 and a surcharge for rent paid with a check returned for
3 insufficient funds, and making certain changes related to
4 forcible entry and detainer actions.

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

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1 Section 1. Section 554.3512, subsection 2, Code 1999, is
2 amended to read as follows:

3 2. a. The surcharge authorized by this section shall not
4 be assessed unless the holder clearly and conspicuously posts
5 a notice at the usual place of payment, or in the billing
6 statement of the holder, stating that a surcharge will be
7 assessed and the amount of the surcharge. However, the
8 surcharge shall not be assessed against the maker if the
9 reason for the dishonor of the check, draft, or order is that
10 the maker has stopped payment pursuant to section 554.4403.

11 b. In the case of a landlord-tenant relationship between
12 the holder and the maker, the posting requirement in paragraph
13 "a" may be satisfied by a clear and conspicuous notice in a
14 lease signed by the parties. If there is no written lease
15 signed by the parties, the posting requirement may be
16 satisfied by clear and conspicuous notice in a list of written
17 rules and regulations provided pursuant to section 562A.18 or
18 562B.19.

19 Sec. 2. NEW SECTION. 562A.27B SURCHARGE FOR DISHONORED
20 CHECK, DRAFT, OR ORDER.

21 1. If the written lease signed by the parties provides a
22 clear and conspicuous notice pursuant to section 554.3512
23 stating that a surcharge will be assessed in the event the
24 tenant makes a payment of rent with a dishonored check, draft,
25 or order, and providing the amount of the surcharge, then the
26 landlord may assess such a surcharge in accordance with
27 section 554.3512. The surcharge amount shall be added to the
28 total rent due from the tenant.

29 2. If there is no written lease signed by the parties, the
30 landlord may assess a surcharge in accordance with section
31 554.3512 if the landlord provides clear and conspicuous notice
32 in a list of written rules and regulations provided pursuant
33 to section 562A.18.

34 Sec. 3. NEW SECTION. 562B.25B SURCHARGE FOR DISHONORED
35 CHECK, DRAFT, OR ORDER.

1 1. If the written lease signed by the parties provides a
 2 clear and conspicuous notice pursuant to section 554.3512
 3 stating that a surcharge will be assessed in the event the
 4 tenant makes a payment of rent with a dishonored check, draft,
 5 or order, and providing the amount of the surcharge, then the
 6 landlord may assess such a surcharge in accordance with
 7 section 554.3512. The surcharge amount shall be added to the
 8 total rent due from the tenant.

9 2. If there is no written lease signed by the parties, the
 10 landlord may assess a surcharge in accordance with section
 11 554.3512 if the landlord provides clear and conspicuous notice
 12 in a list of written rules and regulations provided pursuant
 13 to section 562B.19.

14 Sec. 4. Section 648.19, Code 1999, is amended to read as
 15 follows:

16 648.19 NO JOINDER OR COUNTERCLAIM -- EXCEPTION.

17 1. An action ~~of this kind~~ under this chapter shall not be
 18 brought filed in connection with any other action, with the
 19 exception of a claim for rent or recovery as provided in
 20 section 555B.3, 562A.24, 562A.32, 562B.22, 562B.25, or
 21 562B.27, nor shall it be made the subject of counterclaim.

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

26 3. An action under this chapter that is brought in
 27 connection with another action in accordance with this section
 28 shall be treated only as a joint filing of separate cases
 29 assigned separate case numbers, but with a single filing fee.
 30 The court shall not merge the causes of action. The court
 31 shall consider the jointly filed cases separately and shall
 32 consider each case according to the rules applicable to that
 33 type of case.

34 Sec. 5. NEW SECTION. 648.22B CASES WHERE THE MOBILE OR
 35 MANUFACTURED HOME IS THE SUBJECT OF A FORECLOSURE ACTION.

1 Notwithstanding section 648.22A, when a mobile or
2 manufactured home is the subject of an action under this
3 chapter, and is also the subject of a foreclosure action by
4 the lienholder of the mobile or manufactured home:

5 1. If the plaintiff in the action under this chapter and
6 the lienholder enter into an agreement providing for payment
7 of rent and other charges related to the mobile or
8 manufactured home, and for the location of the home pending
9 resolution of the foreclosure action, the parties shall file a
10 copy of the agreement with the court.

11 a. The court shall have jurisdiction to enforce the terms
12 of the agreement. The prevailing party shall be entitled to
13 recover costs and attorney fees.

14 b. Expenditures made by a lienholder pursuant to such an
15 agreement shall be recoverable against the lien debtor in the
16 foreclosure proceedings as protective disbursements, whether
17 or not the lien documents provide for such recovery.

18 2. The court shall not order that the mobile or
19 manufactured home be removed from the premises within a
20 certain time after entry of judgment unless the plaintiff in
21 the action under this chapter, or the lienholder of the mobile
22 or manufactured home, requests such an order, or the agreement
23 between the parties provides for such an order.

24 3. The court may order, upon the request of the plaintiff
25 in the action under this chapter and the lienholder of the
26 mobile or manufactured home, that the mobile or manufactured
27 home remain on the premises for a certain time, as agreed by
28 the parties.

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EXPLANATION

30 This bill makes several changes relating to landlord-tenant
31 law.

32 The bill allows a landlord under Code chapters 562A
33 (uniform residential landlord-tenant law) and 562B (mobile
34 home parks residential landlord-tenant law) to charge a tenant
35 a fee when the tenant pays the rent with a check that is

1 returned for insufficient funds, provided that the landlord
2 has complied with specific notice provisions. The bill makes
3 a related change to the uniform commercial code, Code section
4 554.3512, to address the type of notice the landlord must give
5 in order to charge such a fee.

6 The bill also adds two provisions to Code chapter 648
7 regarding forcible entry and detainers. Code section 648.19
8 is amended to specify that certain actions which are jointly
9 filed must be treated separately by the court. Code section
10 648.22B is created to address the location of a mobile or
11 manufactured home pending resolution of a foreclosure action
12 on the home.

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3/16/00 Unfinished Business Calendar

Substituted for by SF 2214

3-30-00

(P. 1156) FEB 24 2000

Place On Calendar

HOUSE FILE **2443**
BY COMMITTEE ON
LOCAL GOVERNMENT

WITHDRAWN

(SUCCESSOR TO HSB 649)

3-30-00
(P. 1161)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to residential landlord-tenant law, by allowing
2 for notice of and a surcharge for payments with a check
3 returned for insufficient funds, and making certain changes
4 related to forcible entry and detainer actions.

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

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HF 2443

1 Section 1. Section 554.3512, subsection 2, Code 1999, is
2 amended to read as follows:

3 2. a. The surcharge authorized by this section shall not
4 be assessed unless the holder ~~clearly~~ and conspicuously posts
5 a notice at the usual place of ~~payment~~ ~~on~~ the billing
6 statement of the holder, stating that a surcharge will be
7 assessed and the amount of the surcharge. However, the
8 surcharge shall not be assessed against the maker if the
9 reason for the dishonor of the check, draft, or order is that
10 the maker has stopped payment pursuant to section 554.4403.

11 b. In the case of a landlord-tenant relationship between
12 the holder and the maker, the posting requirement in paragraph
13 "a" may be satisfied by a notice in a lease signed by the
14 parties. If there is no written lease signed by the parties,
15 the posting requirement may be satisfied by notice in a list
16 of written rules and regulations provided pursuant to section
17 562A.18 or 562B.19.

18 Sec. 2. NEW SECTION. 562A.27B SURCHARGE FOR DISHONORED
19 CHECK, DRAFT, OR ORDER.

20 1. If the written lease signed by the parties provides a
21 notice pursuant to section 554.3512 stating that a surcharge
22 will be assessed in the event the tenant makes a payment of
23 rent with a dishonored check, draft, or order, and providing
24 the amount of the surcharge, then the landlord may assess such
25 a surcharge in accordance with section 554.3512. The
26 surcharge amount shall be added to the total rent due from the
27 tenant.

28 2. If there is no written lease signed by the parties, the
29 landlord may assess a surcharge in accordance with section
30 554.3512 if the landlord provides notice in a list of written
31 rules and regulations provided pursuant to section 562A.18.

32 Sec. 3. NEW SECTION. 562B.25B SURCHARGE FOR DISHONORED
33 CHECK, DRAFT, OR ORDER.

34 1. If the written lease signed by the parties provides a
35 notice pursuant to section 554.3512 stating that a surcharge

1 will be assessed in the event the tenant makes a payment of
2 rent or other amounts owed to the landlord with a dishonored
3 check, draft, or order, and providing the amount of the
4 surcharge, then the landlord may assess such a surcharge in
5 accordance with section 554.3512. The surcharge amount shall
6 be added to the total due from the tenant.

7 2. If there is no written lease signed by the parties, the
8 landlord may assess a surcharge in accordance with section
9 554.3512 if the landlord provides notice in a list of written
10 rules and regulations provided pursuant to section 562B.19.

11 Sec. 4. Section 648.19, Code 1999, is amended to read as
12 follows:

13 648.19 NO JOINDER OR COUNTERCLAIM -- EXCEPTION.

14 1. An action of-this-kind under this chapter shall not be
15 brought filed in connection with any other action, with the
16 exception of a claim for rent or recovery as provided in
17 section 555B.3, 562A.24, 562A.32, 562B.22, 562B.25, or
18 562B.27, nor shall it be made the subject of counterclaim.

19 2. When joined filed with an action for rent or recovery
20 as provided in section 555B.3, 562A.24, 562A.32, 562B.22,
21 562B.25, or 562B.27, notice of hearing as provided in section
22 648.5 is sufficient.

23 3. An action under this chapter that is brought in
24 connection with another action in accordance with this section
25 shall be treated only as a joint filing of separate cases,
26 assigned separate case numbers, but with a single filing fee.
27 The court shall not merge the causes of action. The court
28 shall consider the jointly filed cases separately and shall
29 consider each case according to the rules applicable to that
30 type of case.

31 Sec. 5. NEW SECTION. 648.22B CASES WHERE THE MOBILE OR
32 MANUFACTURED HOME IS THE SUBJECT OF A FORECLOSURE ACTION.

33 1. When a mobile or manufactured home located in a land-
34 leased community is the subject of an action by a lienholder
35 to foreclose a lienhold interest, the plaintiff may advance

1 all moneys due and owing to the landlord and enter into an
2 agreement with the court to pay to the landlord before
3 delinquency all rent, upkeep, and other charges thereafter
4 accruing on the home and space that it occupies, in which case
5 any writ of execution on a judgment under this chapter will be
6 stayed until the home is sold in place as provided by law or
7 removed from the land-leased community at the plaintiff's
8 expense.

9 2. When the conditions of subsection 1 have been
10 satisfied, the clerk of court shall so notify the sheriff of
11 the county in which the mobile or manufactured home is
12 located.

13 3. The landlord shall have standing to intervene in the
14 foreclosure proceedings or to file a separate action to compel
15 compliance with the lienholder's agreement pursuant to
16 subsection 1 and shall be entitled to recover costs and
17 attorney fees incurred.

18 4. All expenditures made by a lienholder pursuant to this
19 section shall be recoverable from the lien debtor in the
20 foreclosure proceedings as protective disbursements whether or
21 not provision is made for such recovery in the documentation
22 of the subject lien.

23 EXPLANATION

24 This bill makes several changes relating to landlord-tenant
25 law.

26 The bill allows a landlord under Code chapters 562A
27 (uniform residential landlord-tenant law) and 562B (mobile
28 home parks residential landlord-tenant law) to charge a tenant
29 a fee when the tenant makes payments with a check that is
30 returned for insufficient funds, provided that the landlord
31 has complied with specific notice provisions. The bill makes
32 a related change to the uniform commercial code, Code section
33 554.3512, to address the type of notice the landlord must give
34 in order to charge such a fee.

35 The bill also adds two provisions to Code chapter 648

1 regarding forcible entry and detainers. Code section 648.19
2 is amended to specify that certain actions which are jointly
3 filed must be treated separately by the court. Code section
4 648.22B is created to address the location of a mobile or
5 manufactured home pending resolution of a foreclosure action
6 on the home.

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HOUSE FILE 2443

H-8568

1 Amend House File 2443 as follows:
2 1. Page 2, line 23, by striking the word
3 "brought", and inserting the following: "filed".
4 2. Page 3, by inserting after line 22 the
5 following:
6 "5. In any case where this section has become
7 operative, the provisions of section 648.18 shall not
8 apply."

By CARROLL of Poweshiek

H-8568 FILED MARCH 28, 2000

Adopted
3-30-00 (P.1156)

HOUSE FILE 2443

H-8606

1 Amend the amendment, H-8568, to House File 2443, as
2 follows:
3 1. Page 1, by inserting after line 3 the
4 following:
5 "____. Page 3, line 2, by striking the word
6 "agreement" and inserting the following:
7 "undertaking"."

By FALLON of Polk

H-8606 FILED MARCH 28, 2000

Adopted
3/30/00
(P.1156)

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HOUSE FILE 2443

H-8356

- 1 Amend House File 2443 as follows:
 2 1. Page 1, line 26, by inserting after the word
 3 "shall" the following: "not".
 4 2. Page 2, line 5, by inserting after the word
 5 "shall" the following: "not".
 6 3. Page 2, line 6, by inserting after the word
 7 "total" the following: "rent".

By FALLON of Polk

H-8356 FILED MARCH 14, 2000

W/D

3/30/00 (P.1155)

HOUSE FILE 2443

H-8357

- 1 Amend House File 2443 as follows:
 2 1. Page 1, line 13, by inserting after the words
 3 "by a" the following: "clear and conspicuous".
 4 2. Page 1, line 15, by inserting after the word
 5 "by" the following: "clear and conspicuous".
 6 3. Page 1, line 21, by inserting before the word
 7 "notice" the following: "clear and conspicuous".
 8 4. Page 1, line 30, by inserting before the word
 9 "notice" the following: "clear and conspicuous".
 10 5. Page 1, line 35, by inserting before the word
 11 "notice" the following: "clear and conspicuous".
 12 6. Page 2, line 9, by inserting after the word
 13 "provides" the following: "clear and conspicuous".

By FALLON of Polk

H-8357 FILED MARCH 14, 2000

W/D

3/30/00 (P.1155)

HOUSE FILE 2443

H-8358

- 1 Amend House File 2443 as follows:
 2 1. Page 1, line 23, by inserting after the word
 3 "rent" the following: "or other amounts owed to the
 4 landlord".

By FALLON of Polk

H-8358 FILED MARCH 14, 2000

W/D

3/30/00 (P.1155)

HOUSE FILE 2443

H-8355

- 1 Amend House File 2443 as follows:
 2 1. Page 1, line 13, by striking the word "may"
 3 and inserting the following: "shall".
 4 2. Page 1, line 15, by striking the word "may"
 5 and inserting the following: "shall".

By FALLON of Polk

H-8355 FILED MARCH 14, 2000

W/D 3/30/00 (P.1155)