

3/21/00 Removed from Calendar

FEB 29 2000

Place On Calendar

HOUSE FILE 2509
BY COMMITTEE ON LOCAL
GOVERNMENT

(SUCCESSOR TO HF 2201)

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:

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HF 2509

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 signed, written statement
8 by the tenant indicating an intent to abandon the dwelling
9 unit.

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

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

18 b. Notwithstanding section 562A.31, the landlord may enter
19 and take possession of any property of the tenant found in the
20 dwelling unit and may store the property in a secure place, as
21 follows:

22 (1) For property with a total value of less than two
23 hundred dollars:

24 (a) The landlord shall provide a notice to the tenant of
25 the name and address of the landlord, the place where the
26 property is stored, that a sale or disposal of the property
27 shall take place according to this subsection, the day set for
28 the sale or disposal of the property, and any action the
29 tenant must take to retrieve the property prior to its sale or
30 disposal.

31 (b) The landlord shall provide the notice by doing all of
32 the following:

33 (i) Prominently posting the notice for five days at the
34 abandoned dwelling.

35 (ii) Sending the notice by certified mail to the tenant's

1 last known address, to any other address provided in writing
2 by the tenant, and to any other address actually known to the
3 landlord where the tenant is likely to receive the notice, not
4 less than fourteen days after the earlier of the posting of
5 the notice or the sending of the certified mail.

6 (c) The landlord may sell or dispose of the property after
7 fourteen days from the date notice was mailed to the tenant.

8 (2) For property with a total value of two hundred dollars
9 or more:

10 (a) The landlord shall provide a notice to the tenant of
11 the name and address of the landlord, the place where the
12 property is stored, that a sale or disposal of the property
13 shall take place according to this subsection, and the date of
14 the sale or disposal, and any action that the tenant must take
15 to retrieve the property prior to its sale or disposal.

16 (b) The landlord shall provide the notice by doing all of
17 the following:

18 (i) Prominently posting the notice for five days at the
19 abandoned dwelling.

20 (ii) Sending the notice by certified mail to the tenant's
21 last known address, to any other address provided in writing
22 by the tenant, and to any other address actually known to the
23 landlord where the tenant is likely to receive the notice, at
24 least thirty days prior to the day set for sale or disposal of
25 the property.

26 (iii) Publish a notice once in a newspaper of general
27 circulation in the county at least thirty days prior to the
28 day set for sale or disposal of the property.

29 (c) The landlord may sell or dispose of the property after
30 thirty days from the later of the publishing or mailing of the
31 notice.

32 (3) The landlord shall return the property to the tenant
33 after the tenant has paid the reasonable moving and storage
34 fees and costs associated with the property, if the tenant
35 makes a written request for the return of the property before

1 the landlord has sold or disposed of the property.

2 (4) The landlord may apply any income derived from the
3 sale of the property to amounts due to the landlord, including
4 the reasonable moving and storage fees and costs associated
5 with the sale or disposal of the property. Any income derived
6 from the sale in excess of amounts due to the landlord shall
7 be held by the landlord for the benefit of the tenant for one
8 year from the date of sale. If no communication from the
9 tenant is made during that time in relation to the tenant's
10 property, the balance of income derived from the sale shall be
11 the property of the landlord, including any interest earned.

12 c. The landlord shall make reasonable efforts to rent it
13 the dwelling unit at a fair rental. If the landlord rents the
14 dwelling unit for a term beginning prior to the expiration of
15 the rental agreement, it is deemed to be terminated as of the
16 date the new tenancy begins. The rental agreement is deemed
17 to be terminated by the landlord as of the date the landlord
18 has notice of the abandonment, if the landlord fails to use
19 reasonable efforts to rent the dwelling unit at a fair rental
20 or if the landlord accepts the abandonment as a surrender. If
21 the tenancy is from month-to-month, or week-to-week, the term
22 of the rental agreement for this purpose shall be deemed to be
23 a month or a week, as the case may be.

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

26 562A.31 LANDLORD LIENS -- DISTRESS FOR RENT.

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

31 2. Distraint for rent is abolished.

32 Sec. 3. Section 570.1, Code 1999, is amended to read as
33 follows:

34 570.1 LIEN CREATED -- PROPERTY SUBJECTED.

35 1. A landlord shall have a lien for the rent upon all

1 crops grown upon the leased premises, and upon any other
2 personal property of the tenant which has been used or kept
3 thereon during the term and which is not exempt from
4 execution.

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

7 EXPLANATION

8 This bill amends Code section 562A.29 relating to a
9 landlord's remedies when a tenant has abandoned rental
10 property.

11 The Code section currently provides an obligation of the
12 landlord to make reasonable efforts to rent the premises; the
13 bill adds a standard for determining when the premises are
14 deemed abandoned, as well as a procedure for removal, storage,
15 notice, and sale or disposal of any personal property
16 abandoned by the tenant on the premises, according to the
17 value of the property.

18 Related changes are made to Code sections 562A.31 and
19 570.1, regarding landlord's liens, to specify that the
20 procedure added by this bill applies to tenant's personal
21 property, rather than any former laws relating to landlord
22 liens.

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