

House Study Bill 262

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON MADDOX)

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

A BILL FOR

1 An Act relating to landlords, tenants, and actions for forcible
2 entry or detention.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2383HC 80
5 kk/sh/8

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1 1 Section 1. Section 562A.28, Code 2003, is amended by
1 2 adding the following new paragraph:
1 3 NEW PARAGRAPH. Any person who deliberately destroys,
1 4 defaces, damages, impairs, or removes part of the premises may
1 5 be charged with criminal mischief under chapter 716.
1 6 Sec. 2. Section 562B.26, Code 2003, is amended by adding
1 7 the following new paragraph:
1 8 NEW PARAGRAPH. Any person who deliberately destroys,
1 9 defaces, damages, impairs, or removes part of the premises may
1 10 be charged with criminal mischief under chapter 716.
1 11 Sec. 3. Section 648.6, Code 2003, is amended to read as
1 12 follows:

1 13 648.6 ~~DELAYED VACATION~~ -- NOTICE TO LIENHOLDERS.
1 14 In cases covered by chapter 562B, a plaintiff ~~may preserve~~
~~1 15 the option of consenting to delayed vacation of a premises as~~
~~1 16 provided in section 648.22A, by sending~~ shall send a copy of
1 17 the petition, prior to the date set for hearing, by regular,
1 18 certified, or restricted certified mail to the county
1 19 treasurer and to each lienholder whose name and address are of
1 20 record in the office of the county treasurer of the county
1 21 where the mobile home or manufactured home is located.

1 22 Sec. 4. Section 648.22A, Code 2003, is amended to read as
1 23 follows:
1 24 648.22A EXECUTIONS INVOLVING MOBILE HOMES AND MANUFACTURED
1 25 HOMES.

1 26 1. In cases covered by chapter 562B, ~~upon~~ prior to the
1 27 expiration of three days from the date the judgment is entered
1 28 pursuant to section 648.22, the plaintiff or defendant may
1 29 elect to leave a mobile home or manufactured home and its
1 30 contents in the manufactured home community or mobile home
1 31 park for up to ~~thirty~~ ninety days after the date of the
1 32 judgment provided all of the following occur:

1 33 a. The plaintiff consents and the plaintiff has complied
1 34 with the provisions of section 648.6.
1 35 b. ~~The party making the election files a written notice of~~
2 1 such election with the court and sends a copy of the notice of
2 2 election with a copy of the judgment to the sheriff, the other
2 3 party at the other party's last known address, each record
2 4 lienholder, and the county treasurer in the same manner as in
2 5 section 648.6.

2 6 ~~b. c.~~ All utilities to the mobile home or manufactured
2 7 home are disconnected prior to expiration of three days from
2 8 the ~~entry of judgment~~ filing of the election. Payment of any
2 9 reasonable costs incurred in disconnecting utilities is the
2 10 responsibility of the defendant.

2 11 2. During the ~~thirty-day~~ ninety-day period the defendant
2 12 may have reasonable access to the home site to show the home
2 13 to prospective purchasers, prepare the home for removal,
2 14 remove any personal property, or remove the home, provided
2 15 that the defendant gives the plaintiff ~~and sheriff~~ at least
2 16 twenty-four hours' notice prior to each exercise of the
2 17 defendant's right of access. The plaintiff may also have
2 18 reasonable access to the home site to disconnect utilities and
2 19 to show the home to prospective purchasers.

2 20 3. During the ~~thirty-day~~ ninety-day period the defendant
2 21 shall not occupy the home or be present on the premises
2 22 between the hours of seven p.m. and seven a.m. A violation of

2 23 this subsection shall be punishable as contempt.

2 24 4. If the plaintiff or defendant finds a purchaser of the
2 25 home, who is a prospective tenant of the manufactured home
2 26 community or mobile home park, the provisions of section
2 27 562B.19, subsection 3, paragraph "c", shall apply.

2 28 5. If, within the ~~thirty-day~~ ninety-day period, the home
2 29 is not sold to an approved purchaser or removed from the
2 30 manufactured home community or mobile home park, all of the
2 31 following shall occur:

2 32 a. The home, its contents, and any other property of the
2 33 defendant remaining on the premises shall become the property
2 34 of the plaintiff free and clear of all rights of the defendant
2 35 to the property and of all liens, claims, or encumbrances of
3 1 third parties, and any tax levied pursuant to chapter 435 may
3 2 be abated by the board of supervisors.

3 3 b. Any money judgment against the defendant and in favor
3 4 of the plaintiff relating to the previous tenancy shall be
3 5 deemed satisfied, except those arising from independent torts.

3 6 c. The county treasurer, upon receipt of a fee equal to
3 7 the fee specified in section 321.42 for replacement of
3 8 certificates of title for motor vehicles, and upon receipt of
3 9 an affidavit submitted by the plaintiff verifying that the
3 10 home was not sold to an approved purchaser or removed within
3 11 the time specified in this subsection, shall issue to the
3 12 plaintiff a new title for the home.

3 13 6. A purchaser of the home shall be liable for any unpaid
3 14 sums due the plaintiff, sheriff, or county treasurer. For the
3 15 purposes of this section, "purchaser" includes a lienholder or
3 16 other claimant acquiring title to the home in whole or in part
3 17 by reason of a lien or other claim.

3 18 7. A mobile home or manufactured home shall not be removed
3 19 without the prior payment to the plaintiff of all sums owing
3 20 at the time of entry of judgment, interest accrued on such
3 21 sums as provided by law, and per diem rent for that portion of
3 22 the ~~thirty-day~~ ninety-day period which has expired prior to
3 23 removal, and payment of any taxes due on the home which are
3 24 not abated pursuant to subsection 5.

3 25 8. In any case where this section has become operative,
3 26 section 648.18 does not apply.

3 27 9. This section does not preclude the exercise of a
3 28 lienholder's rights under 648.22B.

3 29 EXPLANATION

3 30 This bill provides for either party after judgment in an
3 31 action for forcible entry or detention to elect to delay the
3 32 removal of a manufactured or mobile home for 90 days if the
3 33 landlord agrees to the delay, all utilities are disconnected,
3 34 and a notice of the election is filed with the court and a
3 35 copy sent to all parties, lienholders, the county sheriff, and
4 1 the county treasurer. During the delay, the tenant may sell
4 2 or move the manufactured or mobile home, and the landlord may
4 3 have reasonable access to the home to assist showing the home
4 4 to potential buyers and to disconnect utilities. Thirty days'
4 5 peaceable possession would not apply and the exercise rights
4 6 of lienholders under Code section 648.22B are not precluded.

4 7 The bill clarifies that the deliberate destruction of
4 8 rental properties may result in a charge of criminal mischief.

4 9 The bill requires a landlord who brings an action for
4 10 forcible entry or detention to send a copy of the petition of
4 11 the action to the county treasurer and any record lienholders
4 12 of the manufactured or mobile home prior to the hearing date.
4 13 This notice to lienholders and the county treasurer must be
4 14 completed in order for either party to elect to delay the
4 15 removal.

4 16 The bill provides that the release from judgments relating
4 17 to the tenancy against a tenant would not include those
4 18 judgments arising out of tort.

4 19 LSB 2383HC 80

4 20 kk/sh/8