

SENATE FILE 359
BY COMMITTEE ON JUDICIARY
Action deferred 3/24/03
(SUCCESSOR TO SSB 1146)

Passed Senate, Date _____ Passed House, 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:

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SENATE FILE 359

S-3078

1 Amend Senate File 359 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. NEW SECTION. 29A.101A TERMINATION OF
5 LEASE OR RENTAL AGREEMENT BY SERVICE MEMBER.

6 1. A service member may terminate the lease or
7 rental agreement for any premises used as a dwelling
8 by the service member or the service member's
9 dependents at any time during the service member's
10 period of military service if the rent on the premises
11 occupied by the service member or the service member's
12 dependents is less than one thousand two hundred
13 dollars per month.

14 2. Any provisions in chapter 562A not in conflict
15 with this section shall apply."

16 2. By renumbering as necessary.

By DARYL BEALL
STEVEN H. WARNSTADT

S-3078 FILED MARCH 24, 2003
ADOPTED

JF 359

1 Section 1. Section 562A.28, Code 2003, is amended by
2 adding the following new paragraph:

3 NEW PARAGRAPH. Any person who deliberately destroys,
4 defaces, damages, impairs, or removes part of the premises may
5 be charged with criminal mischief under chapter 716.

6 Sec. 2. Section 562B.26, Code 2003, is amended by adding
7 the following new paragraph:

8 NEW PARAGRAPH. Any person who deliberately destroys,
9 defaces, damages, impairs, or removes part of the premises may
10 be charged with criminal mischief under chapter 716.

11 Sec. 3. Section 648.6, Code 2003, is amended to read as
12 follows:

13 648.6 ~~DELAYED-VACATION---~~ NOTICE TO LIENHOLDERS.

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

22 Sec. 4. Section 648.22A, Code 2003, is amended to read as
23 follows:

24 648.22A EXECUTIONS INVOLVING MOBILE HOMES AND MANUFACTURED
25 HOMES.

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

33 a. The plaintiff consents and the plaintiff has complied
34 with the provisions of section 648.6.

35 b. The party making the election files a written notice of

1 such election with the court and sends a copy of the notice of
2 election with a copy of the judgment to the sheriff, the other
3 party at the other party's last known address, each record
4 lienholder, and the county treasurer in the same manner as in
5 section 648.6.

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

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

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

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

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

32 a. The home, its contents, and any other property of the
33 defendant remaining on the premises shall become the property
34 of the plaintiff free and clear of all rights of the defendant
35 to the property and of all liens, claims, or encumbrances of

1 third parties, and any tax levied pursuant to chapter 435 may
2 be abated by the board of supervisors.

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

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

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

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

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

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

29 EXPLANATION

30 This bill provides for either party after judgment in an
31 action for forcible entry or detention to elect to delay the
32 removal of a manufactured or mobile home for 90 days if the
33 landlord agrees to the delay, all utilities are disconnected,
34 and a notice of the election is filed with the court and a
35 copy sent to all parties, lienholders, the county sheriff, and

1 the county treasurer. During the delay, the tenant may sell
2 or move the manufactured or mobile home, and the landlord may
3 have reasonable access to the home to assist showing the home
4 to potential buyers and to disconnect utilities. Thirty days'
5 peaceable possession would not apply and the exercise of
6 rights of lienholders under Code section 648.22B are not
7 precluded.

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

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

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

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24 **SENATE FILE 359**
25 **S-3086**

1 Amend Senate File 359 as follows:
2 1. Page 3, line 18, by striking the word "A" and
3 inserting the following: "A Nothing in this section
4 shall prevent the defendant from removing the mobile
5 home or manufactured home prior to the expiration of
6 three days after entry of judgment, after which time
7 a".

By KEITH A. KREIMAN

31 **S-3086** FILED MARCH 25, 2003
32 ADOPTED 3/25/03

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SENATE FILE 359

S-3079

- 1 Amend Senate File 359 as follows:
2 1. Page 1, by striking lines 1 through 10.
3 2. Page 1, line 31, by striking the word "ninety"
4 and inserting the following: "sixty".
5 3. Page 2, line 11, by striking the word "ninety-
6 day" and inserting the following: "sixty-day".
7 4. Page 2, line 19, by inserting after the word
8 "purchasers" the following: "sent by the defendant.
9 The plaintiff shall not have the right to sell the
10 home during the sixty-day period unless the defendant
11 enters into a written agreement for the plaintiff to
12 sell the home".
13 5. Page 2, line 20, by striking the word "ninety-
14 day" and inserting the following: "sixty-day".
15 6. Page 2, line 28, by striking the word "ninety-
16 day" and inserting the following: "sixty-day".
17 7. Page 3, line 22, by striking the word "ninety-
18 day" and inserting the following: "sixty-day".
19 8. By renumbering as necessary.

By DONALD B. REDFERN

S-3079 FILED MARCH 24, 2003
ADOPTED

SENATE FILE 359

S-3089

- 1 Amend Senate File 359 as follows:
2 1. Page 1, by inserting after line 21 the
3 following:
4 "Sec. ____ . Section 648.22, Code 2003, is amended
5 to read as follows:
6 648.22 JUDGMENT -- EXECUTION -- COSTS.
7 If the defendant is found guilty, judgment shall be
8 entered that the defendant be removed from the
9 premises, and that the plaintiff be put in possession
10 of the premises, and an execution for the defendant's
11 removal within three days from the judgment shall
12 issue accordingly, to which shall be added a clause
13 commanding the officer to collect the costs as in
14 ordinary cases. However, where the action is brought
15 concerning a tenancy under chapter 562B, except those
16 brought pursuant to section 562B.25A, an execution
17 shall not issue for the defendant's removal until
18 after expiration of thirty days from the date of the
19 judgment and section 648.18 shall not apply."
20 2. By renumbering as necessary.

By JACK HATCH

S-3089 FILED MARCH 25, 2003
LOST 3/25/03

SENATE FILE 359
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1146)

(AS AMENDED AND PASSED BY THE SENATE MARCH 25, 2003)

- New Language by the Senate
- * - Language Stricken by the Senate

Passed Senate, Date Passed 4/23/03 Passed House, Date Passed 4/17/03
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved 5/30/03

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:

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SENATE FILE 359*

H-1219

1 Amend Senate File 359, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 3, line 15, by inserting after the word
 4 "subsection," the following: "and that no hardship
 5 order extending the time for sale or removal has been
 6 secured pursuant to paragraph "d"".
 7 2. Page 3, by inserting after line 16, the
 8 following:
 9 "d. Before expiration of the sixty-day period
 10 elected pursuant to this section, the defenoant may
 11 apply to the court entering judgment to grant an
 12 extension of time for sale or removal based upon
 13 hardship that could not have reasonably been avoided
 14 by the defendant."
 15 3. Page 3, line 29, by inserting after the word
 16 "period" the following: "or extended period".
 By SWAIM of Davis

H-1219 FILED APRIL 2, 2003

Withdrawn 4/17/03

S.F. 359

* 1 Section 1. NEW SECTION. 29A.101A TERMINATION OF LEASE OR
2 RENTAL AGREEMENT BY SERVICE MEMBER.

3 1. A service member may terminate the lease or rental
4 agreement for any premises used as a dwelling by the service
5 member or the service member's dependents at any time during
6 the service member's period of military service if the rent on
7 the premises occupied by the service member or the service
8 member's dependents is less than one thousand two hundred
9 dollars per month.

10 2. Any provisions in chapter 562A not in conflict with
11 this section shall apply.

12 Sec. 2. Section 648.6, Code 2003, is amended to read as
13 follows:

14 648.6 ~~DELAYED-VACATION---~~ NOTICE TO LIENHOLDERS.

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

23 Sec. 3. Section 648.22A, Code 2003, is amended to read as
24 follows:

25 648.22A EXECUTIONS INVOLVING MOBILE HOMES AND MANUFACTURED
26 HOMES.

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

34 a. The plaintiff consents and the plaintiff has complied
35 with the provisions of section 648.6.

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

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

12 2. During the thirty-day sixty-day period the defendant
13 may have reasonable access to the home site to show the home
14 to prospective purchasers, prepare the home for removal,
15 remove any personal property, or remove the home, provided
16 that the defendant gives the plaintiff and-sheriff at least
17 twenty-four hours' notice prior to each exercise of the
18 defendant's right of access. The plaintiff may also have
19 reasonable access to the home site to disconnect utilities and
20 to show the home to prospective purchasers sent by the
21 defendant. The plaintiff shall not have the right to sell the
22 home during the sixty-day period unless the defendant enters
23 into a written agreement for the plaintiff to sell the home.

24 3. During the thirty-day sixty-day period the defendant
25 shall not occupy the home or be present on the premises
26 between the hours of seven p.m. and seven a.m. A violation of
27 this subsection shall be punishable as contempt.

28 4. If the plaintiff or defendant finds a purchaser of the
29 home, who is a prospective tenant of the manufactured home
30 community or mobile home park, the provisions of section
31 562B.19, subsection 3, paragraph "c", shall apply.

32 5. If, within the thirty-day sixty-day period, the home is
33 not sold to an approved purchaser or removed from the
34 manufactured home community or mobile home park, all of the
35 following shall occur:

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

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

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

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

22 7. A Nothing in this section shall prevent the defendant
23 from removing the mobile home or manufactured home prior to
24 the expiration of three days after entry of judgment, after
25 which time a mobile home or manufactured home shall not be
26 removed without the prior payment to the plaintiff of all sums
27 owing at the time of entry of judgment, interest accrued on
28 such sums as provided by law, and per diem rent for that
29 portion of the ~~thirty-day~~ sixty-day period which has expired
30 prior to removal, and payment of any taxes due on the home
31 which are not abated pursuant to subsection 5.

32 8. In any case where this section has become operative,
33 section 648.18 does not apply.

34 9. This section does not preclude the exercise of a
35 lienholder's rights under 648.22B.

H-1285

1 Amend Senate File 359, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 3 through 11, and
4 inserting the following:

5 "1. As used in this section, "lease" or "rental
6 agreement" means any lease or rental agreement
7 covering premises occupied for dwelling, professional,
8 business, agricultural, or similar purposes if both of
9 the following conditions are met:

10 a. The lease or rental agreement was executed by
11 or on behalf of a service member who, after the
12 execution of the lease or rental agreement, entered
13 military service.

14 b. The service member or the service member's
15 dependents occupy the premises for the purposes set
16 forth in this subsection.

17 2. a. A service member may terminate a lease or
18 rental agreement by providing written notice to the
19 lessor or the lessor's agent at any time following the
20 date of the beginning of the service member's period
21 of military service. The notice may be delivered by
22 placing it in an envelope properly stamped and
23 addressed to the lessor or the lessor's agent and
24 depositing the notice in the United States mail.

25 b. Termination of a month-to-month lease or rental
26 agreement shall not be effective until thirty days
27 after the first day on which the next rental payment
28 is due and payable after the date when notice is
29 delivered or mailed. As to all other leases or rental
30 agreements, termination shall be effective on the last
31 day of the month following the month in which notice
32 is delivered or mailed. Any unpaid rent for the
33 period preceding the termination in such cases shall
34 be computed on a pro rata basis and any rent paid in
35 advance after termination shall be refunded by the
36 lessor or the lessor's agent.

37 c. Upon application by the lessor and prior to the
38 termination period provided in the notice, a court may
39 modify or restrict any relief granted in this
40 subsection as the interests of justice and equity
41 require.

42 3. A person who knowingly seizes, holds, or
43 detains the personal effects, clothing, furniture, or
44 other property of any person who has lawfully
45 terminated a lease or rental agreement covered under
46 this section or who interferes in any manner with the
47 removal of property from the premises for the purposes
48 of subjecting the property to a claim for rent
49 accruing subsequent to the date of termination of the
50 lease or rental agreement commits a simple

H-1285

H-1285

Page 2

1 misdemeanor."

2 2. Title page, line 2, by inserting after the
3 word "detention" the following: "and providing a
4 penalty".

By EICHHORN of Hamilton

H-1285 FILED APRIL 8, 2003

Adopted 4/17/03

SENATE FILE 359

H-1282

1 Amend Senate File 359, as amended, **passed**, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting after line 11, the
4 following:

5 "Sec. ____ . Section 562A.27, Code 2003, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 5. Notwithstanding any other
8 provisions of this chapter, a municipal housing agency
9 established pursuant to chapter 403A may issue a
10 thirty-day notice of lease termination for a violation
11 of a rental agreement by the tenant when the violation
12 is a violation of a federal regulation governing the
13 tenant's eligibility for or continued participation in
14 a public housing program. The municipal housing
15 agency shall not be required to provide the tenant
16 with a right or opportunity to remedy the violation or
17 to give any notice that the tenant has such a right or
18 opportunity when the notice cites the federal
19 regulation as authority.

20 Sec. ____ . NEW SECTION. 648.1A NONPROFIT
21 TRANSITIONAL HOUSING EXEMPTED.

22 This chapter shall not apply to occupancy in
23 housing owned by a nonprofit organization whose
24 purpose is to provide transitional housing for persons
25 released from drug or alcohol treatment facilities or
26 to provide housing for homeless persons. Absent an
27 applicable provision in a lease, contract, or other
28 agreement, a person who unlawfully remains on the
29 premises of such housing may be subject to criminal
30 trespass penalties pursuant to section 716.8."

By PAULSEN of Linn

STRUYK of Pottawattamie

H-1282 FILED APRIL 7, 2003

Adopted 4/17/03

SENATE FILE 359

H-1355

1 Amend Senate File 359, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, line 10, by inserting after the word
4 "utilities" the following: "and protecting the home
5 from damage".

6 2. Page 2, line 34, by inserting after the word
7 "park," the following: "the plaintiff may sell or
8 dispose of the home in accordance with the provisions
9 of section 555B.9 without an order for disposal, or
10 chapter 555C, and may do so free and clear of all
11 liens, claims, or encumbrances of third parties except
12 any tax lien, at which time".

13 3. Page 3, by striking lines 1 through 6 and
14 inserting the following:

15 ~~"a. The home, its contents, and any other property~~
16 ~~of the defendant remaining on the premises shall~~
17 ~~become the property of the plaintiff free and clear of~~
18 ~~all rights of the defendant to the property and of all~~
19 ~~liens, claims, or encumbrances of third parties, and~~
20 ~~any tax levied pursuant to chapter 435 may be abated~~
21 ~~by the board of supervisors. The proceeds from the~~
22 ~~sale shall first be applied to any judgments against~~
23 ~~the defendant obtained by the plaintiff, any unpaid~~
24 ~~rent or additional costs incurred by plaintiff, and~~
25 ~~reasonable attorney fees. Any remaining proceeds~~
26 ~~shall next be applied to any tax lien with the~~
27 ~~remainder to be held in accordance with section~~
28 ~~555B.9, subsection 3, paragraph "c"."~~

29 4. Page 3, line 10, by striking the word "The"
30 and inserting the following: "If plaintiff elects
31 to retain the home pursuant to section 555B.9, the".

By EICHHORN of Hamilton

H-1355 FILED APRIL 16, 2003

Adopted 4/17/03

HOUSE AMENDMENT TO
SENATE FILE 359

S-3251

1 Amend Senate File 359, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 3 through 11, and
4 inserting the following:

5 "1. As used in this section, "lease" or "rental
6 agreement" means any lease or rental agreement
7 covering premises occupied for dwelling, professional,
8 business, agricultural, or similar purposes if both of
9 the following conditions are met:

10 a. The lease or rental agreement was executed by
11 or on behalf of a service member who, after the
12 execution of the lease or rental agreement, entered
13 military service.

14 b. The service member or the service member's
15 dependents occupy the premises for the purposes set
16 forth in this subsection.

17 2. a. A service member may terminate a lease or
18 rental agreement by providing written notice to the
19 lessor or the lessor's agent at any time following the
20 date of the beginning of the service member's period
21 of military service. The notice may be delivered by
22 placing it in an envelope properly stamped and
23 addressed to the lessor or the lessor's agent and
24 depositing the notice in the United States mail.

25 b. Termination of a month-to-month lease or rental
26 agreement shall not be effective until thirty days
27 after the first day on which the next rental payment
28 is due and payable after the date when notice is
29 delivered or mailed. As to all other leases or rental
30 agreements, termination shall be effective on the last
31 day of the month following the month in which notice
32 is delivered or mailed. Any unpaid rent for the
33 period preceding the termination in such cases shall
34 be computed on a pro rata basis and any rent paid in
35 advance after termination shall be refunded by the
36 lessor or the lessor's agent.

37 c. Upon application by the lessor and prior to the
38 termination period provided in the notice, a court may
39 modify or restrict any relief granted in this
40 subsection as the interests of justice and equity
41 require.

42 3. A person who knowingly seizes, holds, or
43 detains the personal effects, clothing, furniture, or
44 other property of any person who has lawfully
45 terminated a lease or rental agreement covered under
46 this section or who interferes in any manner with the
47 removal of property from the premises for the purposes
48 of subjecting the property to a claim for rent
49 accruing subsequent to the date of termination of the
50 lease or rental agreement commits a simple

S-3251

1 misdemeanor."

2 2. Page 1, by inserting before line 12, the
3 following:

4 "Sec. ____ . Section 562A.27, Code 2003, is amended
5 by adding the following new subsection:

6 NEW SUBSECTION. 5. Notwithstanding any other
7 provisions of this chapter, a municipal housing agency
8 established pursuant to chapter 403A may issue a
9 thirty-day notice of lease termination for a violation
10 of a rental agreement by the tenant when the violation
11 is a violation of a federal regulation governing the
12 tenant's eligibility for or continued participation in
13 a public housing program. The municipal housing
14 agency shall not be required to provide the tenant
15 with a right or opportunity to remedy the violation or
16 to give any notice that the tenant has such a right or
17 opportunity when the notice cites the federal
18 regulation as authority.

19 Sec. ____ . NEW SECTION. 648.1A NONPROFIT
20 TRANSITIONAL HOUSING EXEMPTED.

21 This chapter shall not apply to occupancy in
22 housing owned by a nonprofit organization whose
23 purpose is to provide transitional housing for persons
24 released from drug or alcohol treatment facilities or
25 to provide housing for homeless persons. Absent an
26 applicable provision in a lease, contract, or other
27 agreement, a person who unlawfully remains on the
28 premises of such housing may be subject to criminal
29 trespass penalties pursuant to section 716.8."

30 3. Page 2, line 10, by inserting after the word
31 "utilities" the following: "and protecting the home
32 from damage".

33 4. Page 2, line 34, by inserting after the word
34 "park," the following: "the plaintiff may sell or
35 dispose of the home in accordance with the provisions
36 of section 555B.9 without an order for disposal, or
37 chapter 555C, and may do so free and clear of all
38 liens, claims, or encumbrances of third parties except
39 any tax lien, at which time".

40 5. Page 3, by striking lines 1 through 6 and
41 inserting the following:

42 ~~"a. The home, its contents, and any other property~~
43 ~~of the defendant remaining on the premises shall~~
44 ~~become the property of the plaintiff free and clear of~~
45 ~~all rights of the defendant to the property and of all~~
46 ~~liens, claims, or encumbrances of third parties, and~~
47 ~~any tax levied pursuant to chapter 435 may be abated~~
48 ~~by the board of supervisors. The proceeds from the~~
49 ~~sale shall first be applied to any judgments against~~
50 ~~the defendant obtained by the plaintiff, any unpaid~~

S-3251

Page 3

1 rent or additional costs incurred by plaintiff, and
2 reasonable attorney fees. Any remaining proceeds
3 shall next be applied to any tax lien with the
4 remainder to be held in accordance with section
5 555B.9, subsection 3, paragraph "c".

6 6. Page 3, line 10, by striking the word "The"
7 and inserting the following: "The If plaintiff elects
8 to retain the home pursuant to section 555B.9, the".

9 7. Title page, line 2, by inserting after the
10 word "detention" the following: "and providing a
11 penalty".

12 8. By renumbering, relettering, or redesignating
13 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-3251 FILED APRIL 17, 2003

Senate concurred 4/23/03

SENATE FILE 359

S-3271

1 Amend the House amendment, S-3251, to Senate File
2 359, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 2, by striking lines 19 through 29.

By JACK HOLVECK
KEITH A. KREIMAN

S-3271 FILED APRIL 22, 2003

Lost 4/23/03

Redfern
Larson
McCoy

Judiciary

SSB 1146
Sponsored by
SF/HF 359

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON REDFERN)

Passed Senate, Date _____ Passed House, 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:

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1 Section 1. Section 562A.28, Code 2003, is amended by
2 adding the following new paragraph:

3 NEW PARAGRAPH. Any person who deliberately destroys,
4 defaces, damages, impairs, or removes part of the premises may
5 be charged with criminal mischief under chapter 716.

6 Sec. 2. Section 562B.26, Code 2003, is amended by adding
7 the following new paragraph:

8 NEW PARAGRAPH. Any person who deliberately destroys,
9 defaces, damages, impairs, or removes part of the premises may
10 be charged with criminal mischief under chapter 716.

11 Sec. 3. Section 648.6, Code 2003, is amended to read as
12 follows:

13 648.6 ~~DELAYED-VACATION---~~ NOTICE TO LIENHOLDERS.

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

22 Sec. 4. Section 648.22A, Code 2003, is amended to read as
23 follows:

24 648.22A EXECUTIONS INVOLVING MOBILE HOMES AND MANUFACTURED
25 HOMES.

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

33 a. The plaintiff consents and the plaintiff has complied
34 with the provisions of section 648.6.

35 b. The party making the election files a written notice of

1 such election with the court and sends a copy of the notice of
2 election with a copy of the judgment to the sheriff, the other
3 party at the other party's last known address, each record
4 lienholder, and the county treasurer in the same manner as in
5 section 648.6.

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

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

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

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

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

32 a. The home, its contents, and any other property of the
33 defendant remaining on the premises shall become the property
34 of the plaintiff free and clear of all rights of the defendant
35 to the property and of all liens, claims, or encumbrances of

1 third parties, and any tax levied pursuant to chapter 435 may
2 be abated by the board of supervisors.

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

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

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

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

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

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

29 EXPLANATION

30 This bill provides for either party after judgment in an
31 action for forcible entry or detention to elect to delay the
32 removal of a manufactured or mobile home for 90 days if the
33 landlord agrees to the delay, all utilities are disconnected,
34 and a notice of the election is filed with the court and a
35 copy sent to all parties, lienholders, the county sheriff, and

1 the county treasurer. During the delay, the tenant may sell
2 or move the manufactured or mobile home, and the landlord may
3 have reasonable access to the home to assist showing the home
4 to potential buyers and to disconnect utilities. Thirty days'
5 peaceable possession would not apply and the exercise rights
6 of lienholders under Code section 648.22B are not precluded.

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

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

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

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SENATE FILE 359

AN ACT

RELATING TO LANDLORDS, TENANTS, AND ACTIONS FOR FORCIBLE
ENTRY OR DETENTION AND PROVIDING A PENALTY.

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

Section 1. NEW SECTION. 29A.101A TERMINATION OF LEASE OR
RENTAL AGREEMENT BY SERVICE MEMBER.

1. As used in this section, "lease" or "rental agreement" means any lease or rental agreement covering premises occupied for dwelling, professional, business, agricultural, or similar purposes if both of the following conditions are met:

a. The lease or rental agreement was executed by or on behalf of a service member who, after the execution of the lease or rental agreement, entered military service.

b. The service member or the service member's dependents occupy the premises for the purposes set forth in this subsection.

2. a. A service member may terminate a lease or rental agreement by providing written notice to the lessor or the lessor's agent at any time following the date of the beginning of the service member's period of military service. The notice may be delivered by placing it in an envelope properly stamped and addressed to the lessor or the lessor's agent and depositing the notice in the United States mail.

b. Termination of a month-to-month lease or rental agreement shall not be effective until thirty days after the first day on which the next rental payment is due and payable after the date when notice is delivered or mailed. As to all other leases or rental agreements, termination shall be effective on the last day of the month following the month in

which notice is delivered or mailed. Any unpaid rent for the period preceding the termination in such cases shall be computed on a pro rata basis and any rent paid in advance after termination shall be refunded by the lessor or the lessor's agent.

c. Upon application by the lessor and prior to the termination period provided in the notice, a court may modify or restrict any relief granted in this subsection as the interests of justice and equity require.

3. A person who knowingly seizes, holds, or detains the personal effects, clothing, furniture, or other property of any person who has lawfully terminated a lease or rental agreement covered under this section or who interferes in any manner with the removal of property from the premises for the purposes of subjecting the property to a claim for rent accruing subsequent to the date of termination of the lease or rental agreement commits a simple misdemeanor.

Sec. 2. Section 562A.27, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding any other provisions of this chapter, a municipal housing agency established pursuant to chapter 403A may issue a thirty-day notice of lease termination for a violation of a rental agreement by the tenant when the violation is a violation of a federal regulation governing the tenant's eligibility for or continued participation in a public housing program. The municipal housing agency shall not be required to provide the tenant with a right or opportunity to remedy the violation or to give any notice that the tenant has such a right or opportunity when the notice cites the federal regulation as authority.

Sec. 3. NEW SECTION. 648.1A NONPROFIT TRANSITIONAL HOUSING EXEMPTED.

This chapter shall not apply to occupancy in housing owned by a nonprofit organization whose purpose is to provide transitional housing for persons released from drug or alcohol

treatment facilities or to provide housing for homeless persons. Absent an applicable provision in a lease, contract, or other agreement, a person who unlawfully remains on the premises of such housing may be subject to criminal trespass penalties pursuant to section 716.8.

Sec. 4. Section 648.6, Code 2003, is amended to read as follows:

648.6 ~~DEBAYED-VACATION~~--- NOTICE TO LIENHOLDERS.

In cases covered by chapter 562B, a plaintiff ~~may preserve the option of consenting to delayed vacation of a premises as provided in section 648.22A, by sending~~ shall send a copy of the petition, prior to the date set for hearing, by regular, certified, or restricted certified mail to the county treasurer and to each lienholder whose name and address are of record in the office of the county treasurer of the county where the mobile home or manufactured home is located.

Sec. 5. Section 648.22A, Code 2003, is amended to read as follows:

648.22A EXECUTIONS INVOLVING MOBILE HOMES AND MANUFACTURED HOMES.

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

a. The plaintiff consents and the plaintiff has complied with the provisions of section 648.6.

b. The party making the election files a written notice of such election with the court and sends a copy of the notice of election with a copy of the judgment to the sheriff, the other party at the other party's last known address, each record lienholder, and the county treasurer in the same manner as in section 648.6.

b. c. All utilities to the mobile home or manufactured home are disconnected prior to expiration of three days from the entry-of-judgment filing of the election. Payment of any reasonable costs incurred in disconnecting utilities and protecting the home from damage is the responsibility of the defendant.

2. During the thirty-day sixty-day period the defendant may have reasonable access to the home site to show the home to prospective purchasers, prepare the home for removal, remove any personal property, or remove the home, provided that the defendant gives the plaintiff and-sheriff at least twenty-four hours' notice prior to each exercise of the defendant's right of access. The plaintiff may also have reasonable access to the home site to disconnect utilities and to show the home to prospective purchasers sent by the defendant. The plaintiff shall not have the right to sell the home during the sixty-day period unless the defendant enters into a written agreement for the plaintiff to sell the home.

3. During the thirty-day sixty-day period the defendant shall not occupy the home or be present on the premises between the hours of seven p.m. and seven a.m. A violation of this subsection shall be punishable as contempt.

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

5. If, within the thirty-day sixty-day period, the home is not sold to an approved purchaser or removed from the manufactured home community or mobile home park, the plaintiff may sell or dispose of the home in accordance with the provisions of section 555B.9 without an order for disposal, or chapter 555C, and may do so free and clear of all liens, claims, or encumbrances of third parties except any tax lien, at which time all of the following shall occur:

a. ~~The home, its contents, and any other property of the defendant remaining on the premises shall become the property of the plaintiff free and clear of all rights of the defendant to the property and of all liens, claims, or encumbrances of third parties, and any tax levied pursuant to chapter 435 may be abated by the board of supervisors. The proceeds from the sale shall first be applied to any judgments against the defendant obtained by the plaintiff, any unpaid rent or additional costs incurred by plaintiff, and reasonable attorney fees. Any remaining proceeds shall next be applied to any tax lien with the remainder to be held in accordance with section 555B.9, subsection 3, paragraph "c".~~

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

c. The If plaintiff elects to retain the home pursuant to section 555B.9, the county treasurer, upon receipt of a fee equal to the fee specified in section 321.42 for replacement of certificates of title for motor vehicles, and upon receipt of an affidavit submitted by the plaintiff verifying that the home was not sold to an approved purchaser or removed within the time specified in this subsection, shall issue to the plaintiff a new title for the home.

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

7. A Nothing in this section shall prevent the defendant from removing the mobile home or manufactured home prior to the expiration of three days after entry of judgment, after which time a mobile home or manufactured home shall not be removed without the prior payment to the plaintiff of all sums owing at the time of entry of judgment, interest accrued on such sums as provided by law, and per diem rent for that

portion of the ~~thirty-day~~ sixty-day period which has expired prior to removal, and payment of any taxes due on the home which are not abated pursuant to subsection 5.

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

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

MARY E. KRAMER
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 359, Eightieth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2003

THOMAS J. VILSACK
Governor