

**House File 638 - Introduced**

HOUSE FILE 638  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 116)

**A BILL FOR**

1 An Act relating to landlord remedies and procedures relating to  
2 failure to timely pay rent, abandonment, and forcible entry  
3 and detainer.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 555B.3, Code 2019, is amended to read as  
2 follows:

3 **555B.3 Action for abandonment — jurisdiction.**

4 A real property owner not requesting notification by the  
5 sheriff as provided in [section 555B.2](#) may bring an action  
6 alleging abandonment in the court within the county where the  
7 real property is located ~~provided that there is no lien on~~  
8 ~~the mobile home or personal property other than a tax lien~~  
9 ~~pursuant to [chapter 435](#).~~ The action shall be tried as an  
10 equitable action. Unless commenced as a small claim, the  
11 petition shall be presented to a district judge. Upon receipt  
12 of the petition, either the court or the clerk of the district  
13 court shall set a date for a hearing not later than fourteen  
14 days from the date of the receipt of the petition, except when  
15 there is a lien on the mobile home or personal property, other  
16 than a tax lien, the court or the clerk of the district court  
17 shall set a date for a hearing no sooner than twenty-five days  
18 from the date of the receipt of the petition so as to allow for  
19 service on the lienholder.

20 Sec. 2. Section 555B.4, Code 2019, is amended by adding the  
21 following new subsection:

22 NEW SUBSECTION. 4. If a lien, other than a tax lien, exists  
23 on the mobile home or personal property at the time an action  
24 for abandonment is initiated, personal service pursuant to rule  
25 of civil procedure 1.305 shall be made upon the lienholder  
26 no less than twenty days before the hearing. The notice to  
27 the lienholder shall describe the mobile home and shall state  
28 the docket, case number, date, time at which the hearing is  
29 scheduled, and the lienholder's right to assert a claim to  
30 the mobile home at the hearing. The notice shall also state  
31 that failure to assert a claim to the mobile home within the  
32 judicial proceedings is deemed a waiver of all right, title,  
33 claim, and interest in the mobile home and is deemed consent to  
34 the sale or disposal of the mobile home. If personal service  
35 upon the lienholder cannot be completed in time to give the

1 lienholder the minimum notice required by this section, the  
2 court may set a new hearing date.

3 Sec. 3. Section 555B.8, subsections 2 and 3, Code 2019, are  
4 amended to read as follows:

5 2. If Except as otherwise ordered by the court, if the  
6 mobile home owner or other claimant asserts a claim to the  
7 property, the judgment shall be satisfied before the mobile  
8 home owner or other claimant may take possession of the mobile  
9 home or personal property.

10 3. If no claim is asserted to the mobile home or personal  
11 property or if the judgment is not satisfied at the time of  
12 entry, an order shall be entered allowing the real property  
13 owner to sell or otherwise dispose of the mobile home and  
14 personal property pursuant to [section 555B.9](#). If Except as  
15 otherwise ordered by the court, if a claimant satisfies the  
16 judgment at the time of entry, the court shall enter an order  
17 permitting and directing the claimant to remove the mobile home  
18 or personal property from its location within a reasonable time  
19 to be fixed by the court. The court shall also determine the  
20 amount of further rent or storage charges to be paid by the  
21 claimant to the real property owner at the time of removal.

22 Sec. 4. Section 555B.9, subsections 1, 2, 3, and 4, Code  
23 2019, are amended to read as follows:

24 1. Pursuant to an order for disposal under section 555B.8,  
25 subsection 3, the real property owner shall dispose of the  
26 mobile home and personal property by public or private sale in  
27 a commercially reasonable manner. If the personal property,  
28 lienholder, owner or other claimant has asserted a claim to  
29 the mobile home or personal property within the judicial  
30 proceedings, that person shall be notified of the sale by  
31 restricted certified mail not less than five days before the  
32 sale. The notice is deemed given upon the mailing. The real  
33 property owner may buy at any public sale, and if the mobile  
34 home or personal property is of a type customarily sold in  
35 a recognized market or is the subject of widely distributed

1 standard price quotations, the real property owner may buy at a  
2 private sale.

3 2. A sale pursuant to [subsection 1](#) transfers to the  
4 purchaser for value, all of the mobile home owner's rights  
5 in the mobile home and personal property, and discharges the  
6 real property owner's interest in the mobile home and personal  
7 property, and any tax lien, and any other lien. The purchaser  
8 takes free of all rights and interests even though the real  
9 property owner fails to comply with the requirements of this  
10 chapter or of any judicial proceedings, if the purchaser acts  
11 in good faith.

12 3. The proceeds of the sale of mobile home and personal  
13 property shall be distributed as follows:

14 a. First, to satisfy the real property owner's judgment  
15 obtained under [section 555B.8](#).

16 b. Second, to satisfy any tax lien for which a claim was  
17 asserted pursuant to [section 555B.4, subsection 3](#).

18 c. Third, to satisfy any other lien for which a claim was  
19 asserted pursuant to section 555B.4, subsection 4.

20 ~~e.~~ d. Any surplus remaining after the proceeds are  
21 distributed shall be held by the real property owner for six  
22 months. If the mobile home owner fails to claim the surplus  
23 in that time, the surplus may be retained by the real property  
24 owner. If a deficiency remains after distribution of the  
25 proceeds, the mobile home owner is liable for the amount of the  
26 deficiency.

27 4. Notwithstanding [subsections 1 through 3](#), the real  
28 property owner may propose to retain the mobile home and  
29 personal property in satisfaction of the judgment obtained  
30 pursuant to [section 555B.8](#). Written notice of the proposal  
31 shall be sent to the mobile home owner, lienholder, or other  
32 claimant, if that person has asserted a claim to the mobile  
33 home or personal property in the judicial proceedings. If  
34 the real property owner receives objection in writing from  
35 the mobile home owner, lienholder, or other claimant within

1 twenty-one days after the notice was sent, the real property  
2 owner shall dispose of the mobile home and personal property  
3 pursuant to [subsection 1](#). If no written objection is received  
4 by the real property owner within twenty-one days after the  
5 notice was sent, the mobile home and personal property may be  
6 retained. Retention of the mobile home and personal property  
7 discharges the judgment of the real property owner, and any tax  
8 lien, and any other lien.

9 Sec. 5. Section 562A.9, subsection 4, Code 2019, is amended  
10 to read as follows:

11 4. For rental agreements in which the rent does not exceed  
12 seven hundred dollars per month, a rental agreement shall not  
13 provide for a late fee that exceeds twelve dollars per day or a  
14 total amount of sixty dollars per month. For rental agreements  
15 in which the rent is greater than seven hundred dollars per  
16 month but less than one thousand four hundred dollars per  
17 month, a rental agreement shall not provide for a late fee that  
18 exceeds twenty dollars per day or a total amount of one hundred  
19 dollars per month. For rental agreements in which the rent is  
20 at least one thousand four hundred dollars per month, a rental  
21 agreement shall not provide for a late fee that exceeds two  
22 percent of the rent per day or a total amount of ten percent of  
23 the rent per month.

24 Sec. 6. Section 562B.10, subsections 4 and 7, Code 2019, are  
25 amended to read as follows:

26 4. For rental agreements in which the rent does not exceed  
27 seven hundred dollars per month, a rental agreement shall not  
28 provide for a late fee that exceeds twelve dollars per day or a  
29 total amount of sixty dollars per month. For rental agreements  
30 in which the rent is greater than seven hundred dollars per  
31 month but less than one thousand four hundred dollars per  
32 month, a rental agreement shall not provide for a late fee that  
33 exceeds twenty dollars per day or a total amount of one hundred  
34 dollars per month. For rental agreements in which the rent is  
35 at least one thousand four hundred dollars per month, a rental

1 agreement shall not provide for a late fee that exceeds two  
2 percent of the rent per day or a total amount of ten percent of  
3 the rent per month.

4 7. a. If a tenant who was sole owner of a mobile home dies  
5 during the term of a rental agreement then that person's heirs  
6 or legal representative or the landlord shall have the right  
7 to cancel the tenant's lease by giving sixty days' written  
8 notice to the person's heirs or legal representative or to  
9 the landlord, whichever is appropriate, and the heirs or the  
10 legal representative shall have the same rights, privileges and  
11 liabilities of the original tenant.

12 b. (1) If a tenant who was sole owner of a mobile home dies  
13 during the term of a rental agreement resulting in the mobile  
14 home being abandoned as provided in section 562B.27, subsection  
15 1, and the landlord cannot, despite due diligence, locate such  
16 tenant's heirs or legal representatives, then the landlord may  
17 bring an action for abandonment as provided in section 555B.3,  
18 naming as defendants the estate of the tenant and any and all  
19 unknown heirs of the tenant and, upon the landlord's filing  
20 of an affidavit that personal service cannot be had on any  
21 heir, legal representative, or estate of the tenant, the court  
22 shall permit original notice of such action to be served by  
23 publication pursuant to subparagraph (2) of this paragraph.

24 (2) Publication of the original notice shall be made  
25 once each week for three consecutive weeks in a newspaper of  
26 general circulation published in the county where the petition  
27 is filed, as provided in rules of civil procedure 1.313 and  
28 1.314. Service is complete after the third consecutive weekly  
29 publication.

30 (3) In the event any tax lien or other lien exists on  
31 the mobile home, the landlord may proceed with an action for  
32 abandonment as provided in section 555B.3, except that:

33 (a) Notice shall be provided to the county treasurer as  
34 provided in section 555B.4, subsection 3, if a tax lien exists.

35 (b) Personal service pursuant to rule of civil procedure

1 1.305 shall be made upon any lienholder no less than twenty  
2 days before the hearing.

3 (4) Any notice to a lienholder shall state that failure  
4 to assert a claim to the mobile home is deemed a waiver of  
5 all right, title, claim, and interest in the mobile home and  
6 is deemed consent to the sale or disposal of the mobile home.  
7 If personal service upon the lienholder cannot be completed  
8 in time to give the lienholder the minimum notice required by  
9 subparagraph (3), the court may set a new hearing date.

10 Sec. 7. Section 648.5, subsection 1, Code 2019, is amended  
11 to read as follows:

12 1. An action for forcible entry and detainer shall be  
13 brought in a county where all or part of the premises is  
14 located. Such an action shall be tried as an equitable action.  
15 Upon receipt of the petition, the court shall set a date,  
16 time, and place for hearing. The court shall set the date  
17 of hearing no later than eight days from the filing date,  
18 except that the court shall set a later hearing date no later  
19 than fifteen days from the date of filing if the plaintiff  
20 requests or consents to the later date of hearing. The  
21 requirement regarding the setting of the initial hearing is not  
22 a jurisdictional requirement and does not affect the court's  
23 subject matter jurisdiction to hear the action for forcible  
24 entry and detainer.

25 EXPLANATION

26 The inclusion of this explanation does not constitute agreement with  
27 the explanation's substance by the members of the general assembly.

28 This bill relates to landlord remedies and procedures  
29 relating to failure to timely pay rent, abandonment, and  
30 forcible entry and detainer.

31 Current law caps late fees on rental agreements in which  
32 rent is greater than \$700 per month at \$20 per day and \$100  
33 per month. Current law also allows an aggrieved party to  
34 recover actual damages in certain situations when a prohibited  
35 provision is willingly or knowingly used in a rental agreement.

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1 The bill allows a rental agreement to provide for late fees  
2 not to exceed 2 percent of the rent per day and 10 percent of  
3 the rent per month when rent exceeds \$1,400 per month.

4 The bill makes changes to the process for an action for  
5 abandonment of mobile homes. The bill extends the time by  
6 which a district court shall set a hearing after receiving a  
7 petition from not later than 14 days to no sooner than 25 days  
8 when there is a lien other than a tax lien on the mobile home  
9 or personal property. The bill provides notice, service, and  
10 publication procedures in an action for abandonment if the  
11 sole owner of a mobile home dies during the term of a rental  
12 agreement.

13 The bill also makes a procedural change relating to  
14 jurisdiction in actions for forcible entry and detainer.