HOUSE FILE 2562
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2441)
(SUCCESSOR TO HF 833)
(SUCCESSOR TO HF 442)

(As Amended and Passed by the House April 5, 2022)
[= New Language by the House
* = Language Stricken by the House

A BILL FOR

An Act relating to property law, including mobile homes and manufactured housing, rental agreements, landlord and tenant remedies for retaliation, wrongful failure to provide essential services, rent increases, the sale of manufactured home community or mobile home park, [regulation by counties and cities of continuing nonconforming uses of manufactured, modular, and mobile homes,] forcible entry and detainer actions, abandoned mobile homes, and including effective date and applicability provisions.

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

DIVISION I

RETALIATION

Section 1. Section 562B.32, subsection 1, paragraph d, Code 2022, is amended to read as follows:

d. For exercising any of the rights and remedies pursuant to this chapter or chapter 216.

Sec. 2. Section 562B.32, subsection 2, Code 2022, is amended to read as follows:

2. If the landlord acts in violation of subsection 1 of this section, the tenant is entitled to the remedies provided in section 562B.24 and has a defense in an action for possession. In an action by or against the tenant, evidence of a complaint within ~~six months~~ one year prior to the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of termination of the rental agreement. For the purpose of this subsection, "*presumption*" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

DIVISION II

RENTAL AGREEMENTS

Sec. 3. Section 562B.7, subsection 10, Code 2022, is amended to read as follows:

10. "*Rent*" means a payment to be made to the landlord under the rental agreement, including base rent, utilities, late fees, and other payments made by the tenant to the landlord under the rental agreement.

Sec. 4. Section 562B.10, subsection 5, Code 2022, is amended to read as follows:

5. Rental agreements shall be for a term of one year unless otherwise specified in the rental agreement. Rental agreements shall be canceled by at least ~~sixty~~ ninety days' written notice given by either party. A landlord shall not cancel a rental agreement solely for the purpose of making the tenant's mobile

home space available for another mobile home.

Sec. 5. Section 562B.14, subsection 7, Code 2022, is amended to read as follows:

7. Each tenant shall be notified, in writing, of any rent increase at least ~~sixty~~ ninety days before the effective date. Such effective date shall not be sooner than the expiration date of the original rental agreement or any renewal or extension thereof.

Sec. 6. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 7. APPLICABILITY. This division of this Act applies to rent increases first noticed under chapter 562B occurring on or after the effective date of this division of this Act.

DIVISION III

DISCLOSURE OF UTILITY CHARGES

Sec. 8. Section 562B.14, subsection 6, Code 2022, is amended to read as follows:

6. *a.* The landlord or any person authorized to enter into a rental agreement on the landlord's behalf shall provide a written explanation of utility rates, charges and services to the prospective tenant before the rental agreement is signed unless the utility charges are paid by the tenant directly to the utility company.

b. Tenants shall be notified of any increase in utility rates or charges in the manner set forth in subsection 7 for rent increases, unless the landlord does not receive at least ninety days prior notice of such increase from the utility provider, in which case no prior notice of the increase from the landlord to the tenant is required for the increase to be effective.

c. Nothing in this chapter shall authorize a landlord to meter a premises contrary to applicable law, rule, or tariff, or assess a utility charge to the tenant contrary to applicable law, rule, or tariff.

DIVISION IV

WRONGFUL FAILURE TO PROVIDE ESSENTIAL SERVICES

Sec. 9. NEW SECTION. **562B.23A Wrongful failure to supply running water or essential services.**

1. If contrary to the rental agreement or section 562B.16 the landlord deliberately or negligently fails to supply running water or other essential services, the tenant may give written notice to the landlord specifying the breach and may do one of the following:

a. Procure reasonable amounts of water or other essential services during the period of the landlord's noncompliance and deduct the actual and reasonable cost from the rent.

b. Recover damages based upon the diminution in the fair market value of the mobile home space.

c. Recover any rent already paid for the period of the landlord's noncompliance which shall be reimbursed on a pro rata basis.

2. If the tenant proceeds under this section, the tenant may not proceed under section 562B.22 as to that breach.

3. The rights under this section do not arise until the tenant has given notice to the landlord or if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of the tenant's family, or other person on the premises with the consent of the tenant.

Sec. 10. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION V

DENIAL OF RENTAL OR REFUSAL OF SALE

Sec. 11. Section 562B.19, subsection 3, paragraph c, Code 2022, is amended to read as follows:

c. Deny any resident of a manufactured home community or mobile home park the right to sell that person's mobile home at a price of the person's own choosing, but may reserve the right to approve the purchaser of such mobile home as a tenant but such permission may not be unreasonably withheld, provided however, that the landlord may, in the event of a

sale to a third party, in order to upgrade the quality of the manufactured home community or mobile home park, require that any mobile home in a rundown condition or in disrepair be removed from the manufactured home community or park within sixty days. If the landlord does not approve the purchaser as a tenant, the landlord shall provide the purchaser with written notice of such denial and the general reason for the denial, but the landlord shall not be required to provide a specific reason for the denial.

DIVISION VI

PROHIBITED RENTAL AGREEMENT PROVISION — HOME EQUIPMENT

Sec. 12. Section 562B.11, subsection 1, Code 2022, is amended by adding the following new paragraph:

NEW PARAGRAPH. *e.* Agrees to modify the mobile home, manufactured home, or modular home in a way that would substantially impair the ability of the tenant to move the home from the mobile home space, unless such modification is required by federal law, including but not limited to the model manufactured home installation standards, 24 C.F.R. pt. 3285, the manufactured home construction and safety standards, 24 C.F.R. pt. 3280, or the manufactured home procedural and enforcement regulations, 24 C.F.R. pt. 3282, or by state or local law, the manufacturer's installation instructions, any requirement arising from the landlord's financing of the home or of the mobile home park or manufactured home community in which the home is located, or unless such modification is otherwise necessary for the safe and proper installation of the home.

DIVISION VII

LANDLORD SALES

Sec. 13. NEW SECTION. **562B.17A Sale of mobile home by landlord.**

1. Any sale of a mobile home located in a manufactured home community or mobile home park by a landlord or landlord's agent shall be by written agreement and the landlord shall, upon the

buyer's fulfillment of all payment and other terms under the agreement, produce and assign the current certificate of title obtained from the department of transportation. The agreement shall state the basic terms of sale, including the total cost of the mobile home, and, in the case of an installment contract, finance charges, annual percentage rate, and the frequency and amount of each installment payment.

2. If such sale does not comply with this section, the court may award monetary or equitable relief, including voiding the sale, and the buyer may recover damages incurred, amounts paid as a rental deposit in excess of two months' rent, and reasonable attorney fees.

3. A claim under subsection 2 may be combined with an action under chapter 648.

Sec. 14. Section 648.19, subsection 1, Code 2022, is amended to read as follows:

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

DIVISION VIII

SALE OF MANUFACTURED HOME COMMUNITY OR MOBILE HOME PARK

Sec. 15. NEW SECTION. **562B.16A Sale of manufactured home community or mobile home park — notices.**

Upon termination of the landlord's interest in the manufactured home community or mobile home park, the landlord's successor in interest shall have the same legal obligations, rights, and remedies of the landlord, including with respect to all rental agreements.

Sec. 16. APPLICABILITY. This division of this Act applies to manufactured home community or mobile home park sale transactions made on or after the effective date of this division of this Act.

* [DIVISION IX

REGULATION BY COUNTIES AND CITIES — CONTINUING NONCONFORMING USES

Sec. 17. Section 335.3, subsection 2, Code 2022, is amended to read as follows:

2. *a.* ~~When~~ Except as provided in paragraph "*b*", when there is a replacement of a preexisting manufactured, modular, or mobile home with ~~another~~ any other manufactured, modular, or mobile home containing no more than the original number of dwelling units, or a replacement of a preexisting site-built dwelling unit with a manufactured, modular, or mobile home or site-built dwelling unit, within a manufactured home community or a mobile home park, the board of supervisors shall not adopt or enforce any ordinance, regulation, or restriction, or impose any conditions on the replacement home, home site upon which the home sits, or the owner's property that were not required of the preexisting home, home site, or property, that would prevent the continuance of the property owner's lawful nonconforming use that had existed relating to the preexisting home ~~unless any of the following apply:~~, home site upon which the home sat, or the owner's property.

b. Paragraph "*a*" does not apply if any of the following conditions exist:

~~*a.*~~ (1) ~~A discontinuance is necessary for~~ The replacement of the preexisting home with the replacement home would substantially increase the risk to the safety of life or property.

~~*b.*~~ (2) The property owner has discontinued and abandoned the nonconforming use ~~has been discontinued~~ for the period of time established by ordinance, unless such discontinuance is caused by circumstances outside the control of the property owner. The period of time so established shall be not less than one year. For purposes of this subparagraph, circumstances outside the control of the property owner include floods, fires, destructive thunderstorm events such as derechos and tornadoes, and similar catastrophic events

causing widespread or localized severe property damage. For purposes of this subparagraph, a property owner shall not be considered to have discontinued and abandoned the nonconforming use if the property owner demonstrates that the applicable home site continues to be available for use as a home site for a replacement home.

~~c.~~ (3) The replacement results in the overall nature and character of the present use being substantially or entirely different from the original lawful preexisting nonconforming use.

~~d.~~ (4) The replacement results in an obstruction to a shared driveway or shared sidewalk providing vehicular or pedestrian access to other homes and uses unless the property owner makes modifications to such shared driveway or sidewalk that extinguishes such obstruction or the effects of such obstruction.

Sec. 18. Section 414.1, subsection 1, paragraph c, Code 2022, is amended to read as follows:

c. (1) ~~When~~ Except when provided in subparagraph (2), when there is a replacement of a preexisting manufactured, modular, or mobile home with ~~another~~ any other manufactured, modular, or mobile home containing no more than the original number of dwelling units, or a replacement of a preexisting site-built dwelling unit with a manufactured, modular, or mobile home or site-built dwelling unit, within a manufactured home community or a mobile home park, the city shall not adopt or enforce any ordinance, regulation, or restriction, or impose any conditions on the replacement home, home site upon which the home sits, or the owner's property that were not required of the preexisting home, home site, or property, that would prevent the continuance of the property owner's lawful nonconforming use that had existed relating to the preexisting home ~~unless any of the following apply:~~, home site upon which the home sat, or the owner's property.

(2) Subparagraph (1) does not apply if any of the following

conditions exist:

~~(1)~~ (a) ~~A discontinuance is necessary for~~ The replacement of the preexisting home with the replacement home would substantially increase the risk to the safety of life or property.

~~(2)~~ (b) The property owner has discontinued and abandoned the nonconforming use ~~has been discontinued~~ for the period of time established by ordinance, unless such discontinuance is caused by circumstances outside the control of the property owner. The period of time so established shall be not less than one year. For purposes of this subparagraph division, circumstances outside the control of the property owner include floods, fires, destructive thunderstorm events such as derechos and tornadoes, and similar catastrophic events causing widespread or localized severe property damage. For purposes of this subparagraph division, a property owner shall not be considered to have discontinued and abandoned the nonconforming use if the property owner demonstrates that the applicable home site continues to be available for use as a home site for a replacement home.

~~(3)~~ (c) The replacement results in the overall nature and character of the present use being substantially or entirely different from the original lawful preexisting nonconforming use.

~~(4)~~ (d) The replacement results in an obstruction to a shared driveway or shared sidewalk providing vehicular or pedestrian access to other homes and uses unless the property owner makes modifications to such shared driveway or sidewalk that extinguishes such obstruction or the effects of such obstruction.

DIVISION X

FORCIBLE ENTRY AND DETAINER

Sec. 19. Section 648.5, subsections 1 and 3, Code 2022, are amended to read as follows:

1. *a.* An action for forcible entry and detainer shall

be brought in a county where all or part of the premises is located. Such an action shall be tried as an equitable action. Upon receipt of the petition, the court shall set a date, time, and place for hearing. The court shall set the date of hearing no later than eight days from the filing date, except that the court shall set a later hearing date no later than fifteen days from the date of filing if the plaintiff requests or consents to the later date of hearing.

b. The requirement regarding the setting of the initial hearing in paragraph "*a*" is not a jurisdictional requirement and does not affect the court's subject matter jurisdiction to hear the action for forcible entry and detainer.

3. Service of original notice by mail is deemed completed four days after the notice is deposited in the mail and postmarked for delivery, whether or not the recipient signs a receipt for the original notice. In computing the time for completion of service, the first day shall be excluded and the final day shall be included regardless of whether the fourth day is a Saturday, Sunday, or federal holiday.

DIVISION XI

ABANDONED MOBILE HOMES

Sec. 20. Section 555B.3, Code 2022, is amended to read as follows:

555B.3 Action for abandonment — jurisdiction.

A real property owner not requesting notification by the sheriff as provided in section 555B.2 may bring an action alleging abandonment in the court within the county where the real property is located ~~provided that there is no lien on the mobile home or personal property other than a tax lien pursuant to chapter 435~~. The action shall be tried as an equitable action. Unless commenced as a small claim, the petition shall be presented to a district judge. Upon receipt of the petition, either the court or the clerk of the district court shall set a date for a hearing not later than fourteen days from the date of the receipt of the petition, except where

there is a lien on the mobile home or personal property other than a tax lien, the court or the clerk of the district court shall set a date for a hearing no sooner than twenty-five days from the date of the receipt of the petition so as to allow for service on the lienholder.

Sec. 21. Section 555B.4, Code 2022, is amended by adding the following new subsections:

NEW SUBSECTION. 4. If a lien other than a tax lien exists on the mobile home or personal property at the time an action for abandonment is initiated, the personal service pursuant to the Iowa rules of civil procedure shall be made upon the lienholder no less than twenty days before the hearing. The notice to the lienholder shall describe the mobile home and shall state the docket, case number, date, and time at which the hearing is scheduled, and the lienholder's right to assert a claim to the mobile home at the hearing. The notice shall state that failure to assert a claim to the mobile home within the judicial proceedings is deemed a waiver of all rights, title, claims, and interest in the mobile home and deemed to be consent to the sale or disposal of the mobile home. If personal service cannot be completed in time to give the lienholder the minimum notice required by this subsection, the court may set a new hearing date.

NEW SUBSECTION. 5. In the event a tenant who was sole owner of a mobile home dies during the term of the rental agreement resulting in the mobile home being abandoned, service shall be made in accordance with section 562B.10, subsection 7.

Sec. 22. Section 555B.8, subsections 2 and 3, Code 2022, are amended to read as follows:

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

3. If no claim is asserted to the mobile home or personal

property or if the judgment is not satisfied at the time of entry, an order shall be entered allowing the real property owner to sell or otherwise dispose of the mobile home and personal property pursuant to section 555B.9. ~~If~~ Except as otherwise ordered by the court, if a claimant satisfies the judgment at the time of entry, the court shall enter an order permitting and directing the claimant to remove the mobile home or personal property from its location within a reasonable time to be fixed by the court. The court shall also determine the amount of further rent or storage charges to be paid by the claimant to the real property owner at the time of removal.

Sec. 23. Section 555B.9, subsections 1, 2, and 4, Code 2022, are amended to read as follows:

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

2. A sale pursuant to subsection 1 transfers to the purchaser for value, all of the mobile home owner's rights in the mobile home and personal property, and discharges the real property owner's interest in the mobile home and personal property, ~~and~~ any tax lien, and any other lien. The purchaser takes free of all rights and interests even though the real property owner fails to comply with the requirements of this chapter or of any judicial proceedings, if the purchaser acts

in good faith.

4. Notwithstanding subsections 1 through 3, the real property owner may propose to retain the mobile home and personal property in satisfaction of the judgment obtained pursuant to section 555B.8. Written notice of the proposal shall be sent to the mobile home owner, lienholder, or other claimant, if that person has asserted a claim to the mobile home or personal property in the judicial proceedings. If the real property owner receives objection in writing from the mobile home owner, lienholder, or other claimant within twenty-one days after the notice was sent, the real property owner shall dispose of the mobile home and personal property pursuant to subsection 1. If no written objection is received by the real property owner within twenty-one days after the notice was sent, the mobile home and personal property may be retained. Retention of the mobile home and personal property discharges the judgment of the real property owner, ~~and~~ any tax lien, and any other lien.

Sec. 24. Section 555B.9, subsection 3, Code 2022, is amended by adding the following new paragraph:

NEW PARAGRAPH. *0c.* Third, to satisfy any other lien for which a claim was asserted pursuant to section 555B.4, subsection 4.

Sec. 25. Section 562B.10, subsection 7, Code 2022, is amended to read as follows:

7. *a.* If a tenant who was sole owner of a mobile home dies during the term of a rental agreement then that person's heirs at law or ~~legal~~ the personal representative of the decedent's estate, or the landlord shall have the right to cancel the tenant's lease by giving sixty days' written notice to the person's heirs at law or ~~legal~~ the personal representative of the decedent's estate, or to the landlord, whichever is appropriate, and the heirs at law or the ~~legal~~ personal representative of the decedent's estate, shall have the same rights, privileges and liabilities of the original tenant,

provided that such heirs at law and personal representative of the estate shall not have the right to occupy or otherwise use the home or mobile home space as a tenant unless approved by the landlord as a tenant. In the event the landlord, after such a written notice is given and the tenant's lease is canceled, brings an action for forcible entry and detainer or action for abandonment, the estate of the tenant and the person's located heirs at law or personal representative shall be named as defendants in the action. The landlord may serve notice upon such defendants pursuant to the method set forth in section 562B.27A, subsection 1, paragraph "c", or by mailing notice by both regular mail and certified mail, as defined in section 618.15, to the defendant's last known address.

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

(2) Publication of original notice shall be made once each week for three consecutive weeks in a newspaper of general circulation published in the county where the petition is filed, pursuant to the Iowa rules of civil procedure. Service is complete after the third consecutive weekly publication.

(3) In the event any tax lien or other liens exist on the mobile home, the landlord may proceed with an action for abandonment as provided in section 555B.3, except that the notice shall be provided to the county treasurer as provided

in section 555B.4, subsection 3, if a tax lien exists, and personal service pursuant to the Iowa rules of civil procedure shall be made upon any lienholder no less than twenty days before the hearing. Any notice to a lienholder shall state that failure to assert a claim to the mobile home is deemed a waiver of all rights, title, claims, and interest in the mobile home and is deemed consent to the sale or disposal of the mobile home. If personal service upon the lienholder cannot be completed in time to give the lienholder the minimum notice required by this subsection, the court may set a new hearing date.