

SENATE

STATE OF MINNESOTA

EIGHTY-EIGHTH LEGISLATURE

S.F. No. 967

(SENATE AUTHORS: CHAMPION, Hayden, Torres Ray and Hawj)

DATE	D-PG	OFFICIAL STATUS
03/04/2013	471	Introduction and first reading Referred to Judiciary
03/18/2013		Comm report: To pass as amended Second reading

1.1

A bill for an act

1.2

relating to housing; landlord and tenant; changing motion requirements related

1.3

to eviction expungements; changing penalty and filing requirements for

1.4

wrongful entry by a landlord; changing notice requirements after conveyance

1.5

of real property; creating new emergency tenant remedies actions; repealing

1.6

requirements for section 8 eviction actions in foreclosed residential properties;

1.7

amending Minnesota Statutes 2012, sections 484.014, by adding a subdivision;

1.8

504B.161, by adding a subdivision; 504B.177; 504B.181, subdivision 1, by

1.9

adding a subdivision; 504B.211, subdivisions 2, 6; 504B.215, subdivision 1;

1.10

504B.285, subdivisions 1a, 1b; 504B.291, subdivision 1; 504B.371, subdivision

1.11

2; 504B.381, subdivision 1; 504B.385, subdivisions 1, 5; repealing Minnesota

1.12

Statutes 2012, section 504B.285, subdivision 1c.

1.13

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.14

Section 1. Minnesota Statutes 2012, section 484.014, is amended by adding a

1.15

subdivision to read:

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Subd. 4. **Hearing on motion.** The defendant may make a motion for an

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expungement while the eviction case is pending. The court shall rule on the request at

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the hearing on the eviction following the ruling on the eviction, unless there is good

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cause to hear it at a later time. A motion to expunge under this subdivision is available

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exclusively for the eviction case that is pending.

1.21

Sec. 2. Minnesota Statutes 2012, section 504B.161, is amended by adding a

1.22

subdivision to read:

1.23

Subd. 7. **Payment of rent into court.** A tenant or licensee is not required to pay

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rent into court in an eviction action under section 504B.285 or 504B.291 where the

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tenant or licensee:

1.26

(1) claims the landlord or licensor violated this section; and

(2) provides prima facie evidence of a defense to the action that, if proven at trial, would result in dismissal of the action or judgment in favor of the tenant or licensee.

Sec. 3. Minnesota Statutes 2012, section 504B.177, is amended to read:

504B.177 LATE FEES.

(a) A landlord of a residential building may not charge a late fee if the rent is paid after the due date, unless the tenant and landlord have agreed in writing that a late fee may be imposed. The agreement must specify when the late fee will be imposed. In no case may the late fee exceed eight percent of the overdue rent payment. Any late fee charged or collected is not considered to be either interest or liquidated damages. ~~For purposes of this paragraph, the "due date" does not include a date, earlier than the date contained in the written or oral lease by which, if the rent is paid, the tenant earns a discount.~~

(b) For the purpose of this section, where a residential lease provides for a discount if rent is paid earlier than the date rent is otherwise due, the discounted rent amount shall be deemed to be the rent and the difference between the discounted rent and the rent without the discount shall be deemed to be a late fee.

~~(b)~~ (c) Notwithstanding paragraph (a), if a federal statute, regulation, or handbook permitting late fees for a tenancy subsidized under a federal program conflicts with paragraph (a), then the landlord may publish and implement a late payment fee schedule that complies with the federal statute, regulation, or handbook.

Sec. 4. Minnesota Statutes 2012, section 504B.181, subdivision 1, is amended to read:

Subdivision 1. **Disclosure to tenant.** There shall be disclosed to the residential tenant either in the rental agreement or otherwise in writing prior to commencement of the tenancy ~~the name and address of:~~

(1) the name of the landlord;

~~(1)~~ (2) the name and street address of the person authorized to manage the premises;

and

~~(2)~~ (3) the street address of the landlord of the premises or the name and street address of an agent authorized by the landlord to accept service of process and receive and give receipt for notices and demands.

Sec. 5. Minnesota Statutes 2012, section 504B.181, is amended by adding a subdivision to read:

3.1 Subd. 1a. **Responsibilities and rights following conveyance of rental property.**

3.2 (a) Within a reasonable time after a conveyance, the successor in interest who obtains sole
3.3 or majority legal ownership interest in the property must provide to the tenant:

3.4 (1) written notice that ownership has been conveyed;

3.5 (2) the name and street address of the party to whom sole or majority ownership
3.6 interest has been conveyed;

3.7 (3) written notice of any changes regarding where or to whom rent payments are to
3.8 be made and when any changes are effective; and

3.9 (4) any updates of the disclosures required under subdivision 1.

3.10 (b) Within 120 days of a transfer in interest or 90 days of receipt of the notice
3.11 required under paragraph (a), whichever comes later, a tenant may deposit the amount of
3.12 rent due under the terms of the lease with the court administrator to be held in escrow, as
3.13 provided under section 504B.385, subdivision 1, paragraph (e), if:

3.14 (1) two or more adverse parties claim the right to demand and demand rent from a
3.15 tenant; or

3.16 (2) a party demands rent and the tenant reasonably believes that party is not legally
3.17 entitled to rent from the tenant and the tenant presents evidence that rent is legally due
3.18 to a different party.

3.19 There shall be a presumption that rent is current and paid in full and the tenant is relieved
3.20 of liability for that rent payment if the tenant can show substantial evidence that full
3.21 payment of rent to the predecessor in interest was made prior to receiving the notice
3.22 required under paragraph (a).

3.23 Sec. 6. Minnesota Statutes 2012, section 504B.211, subdivision 2, is amended to read:

3.24 Subd. 2. **Entry by landlord.** Except as provided in subdivision 5, a landlord may
3.25 enter the premises rented by a residential tenant only for a reasonable business purpose and
3.26 after ~~making a good faith effort to give~~ giving the residential tenant ~~reasonable~~ 24-hour
3.27 advance notice ~~under the circumstances~~ of the intent to enter. The landlord's notice must
3.28 also provide the earliest and latest time, within no greater than a five-hour period, that the
3.29 landlord intends to enter. A residential tenant may not waive and the landlord may not
3.30 require the residential tenant to waive the residential tenant's right to prior notice of entry
3.31 under this section as a condition of entering into or maintaining the lease.

3.32 Sec. 7. Minnesota Statutes 2012, section 504B.211, subdivision 6, is amended to read:

3.33 Subd. 6. **Penalty.** If a landlord substantially violates subdivision 2, the residential
3.34 tenant is entitled to a penalty which may include a rent reduction up to full rescission

of the lease, recovery of any damage deposit less any amount retained under section 504B.178, and up to a ~~\$100~~ \$500 civil penalty for each violation. If a landlord violates subdivision 5, the residential tenant is entitled to up to a ~~\$100~~ \$500 civil penalty for each violation. To enforce the provisions of this section, a residential tenant shall may either follow the procedures in sections 504B.381, 504B.385, and 504B.395 to 504B.471 to enforce the provisions of this section or, following the termination of the tenancy, take an action in district or conciliation court for relief that shall be limited to all relief available under this subdivision except for rescission of the lease. The tenant does not have to give the notice required under sections 504B.385, subdivision 1, paragraph (c), and 504B.395, subdivision 4, in order to seek relief under this section.

Sec. 8. Minnesota Statutes 2012, section 504B.215, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of this section, "single-metered residential building" means ~~a multiunit rental building with one or more separate residential living units where the utility service measured through any structure in which tenants reside containing a single meter provides service to an individual unit and to all or parts of common areas or other units~~ which measures utility service to a tenant's dwelling unit and any area outside the tenant's dwelling unit.

Sec. 9. Minnesota Statutes 2012, section 504B.285, subdivision 1a, is amended to read:

Subd. 1a. **Grounds when the person holding over is a tenant in a foreclosed residential property.** ~~(a) For any eviction action commenced on or before December 31, 2014,~~ With respect to residential real property or a dwelling where the person holding the residential real property or dwelling after the expiration of the time for redemption on foreclosure of a mortgage was a tenant during the redemption period under a lease of any duration, and the lease began after the date the mortgage was executed, but prior to the expiration of the time for redemption, the immediate successor in interest must provide at least 90 days' written notice to vacate, given no sooner than the date of the expiration of the time for redemption, and effective no sooner than 90 days after the date of the expiration of the time for redemption, provided that the tenant pays the rent and abides by all terms of the lease.

~~(b) For any eviction action commenced on or before December 31, 2014,~~ With respect to residential real property or a dwelling where the term of a bona fide lease extends more than 90 days beyond the date of the expiration of the time for redemption, the immediate successor in interest must allow the tenant to occupy the premises until the end of the remaining term of the lease, and provide at least 90 days' written notice to

vacate, effective no sooner than the date the lease expires, provided that the tenant pays the rent and abides by all terms of the lease, except if the immediate successor in interest or an immediate subsequent bona fide purchaser will occupy the unit as the primary residence, the immediate successor in interest must provide at least 90 days' written notice to vacate, given no sooner than the date of the expiration of the time for redemption, effective no sooner than 90 days after the date of the expiration of the time for redemption, provided that the tenant pays the rent and abides by all terms of the lease.

For purposes of this section, a "bona fide lease" means:

(1) the mortgagor or the child, spouse, or parent of the mortgagor is not the tenant;

(2) the lease or tenancy was the result of an arm's-length transaction; and

(3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized by a federal, state, or local subsidy.

~~(c) For any eviction action commenced on or before December 31, 2014,~~ With respect to residential real property or a dwelling involving a tenancy subject to section 8 of the United States Housing Act of 1937, as amended, where the term of the lease extends more than 90 days beyond the date of the expiration of the time for redemption, the immediate successor in interest must allow the tenant to occupy the premises until the end of the remaining term of the lease and provide at least 90 days' written notice to vacate, effective no sooner than the date the lease expires, provided that the tenant pays the rent and abides by all terms of the lease, except if the immediate successor in interest will occupy the unit as the primary residence, the immediate successor in interest must provide at least 90 days' written notice to vacate, given no sooner than the date of the expiration of the time for redemption, effective no sooner than 90 days after the date of the expiration of the time for redemption, provided that the tenant pays the rent and abides by all terms of the lease.

Sec. 10. Minnesota Statutes 2012, section 504B.285, subdivision 1b, is amended to read:

Subd. 1b. **Grounds when the person holding over is a tenant in a property subject to a contract for deed.** ~~For any eviction action commenced on or before December 31, 2014,~~ The person entitled to the premises may recover possession by eviction when any person holds over real property after termination of contract to convey the property, provided that if the person holding the real property after the expiration of the time for termination was a tenant during the termination period under a lease of any duration and the lease began after the date the contract for deed was executed but prior to the expiration of the time for termination, and the person has received:

(1) at least two months' written notice to vacate no sooner than one month after the expiration of the time for termination, provided that the tenant pays the rent and abides by all terms of the lease; or

(2) at least two months' written notice to vacate no later than the date of the expiration of the time for termination, which notice shall also state that the sender will hold the tenant harmless for breaching the lease by vacating the premises if the contract is reinstated.

Sec. 11. Minnesota Statutes 2012, section 504B.291, subdivision 1, is amended to read:

Subdivision 1. **Action to recover.** (a) A landlord may bring an eviction action for nonpayment of rent irrespective of whether the lease contains a right of reentry clause. Such an eviction action is equivalent to a demand for the rent. There is a rebuttable presumption that the rent has been paid if the tenant produces a copy or copies of one or more money orders or produces one or more original receipt stubs evidencing the purchase of a money order, if the documents: (i) total the amount of the rent; (ii) include a date or dates approximately corresponding with the date rent was due; and (iii) in the case of copies of money orders, are made payable to the landlord. This presumption is rebutted if the landlord produces a business record that shows that the tenant has not paid the rent. The landlord is not precluded from introducing other evidence that rebuts this presumption.

(b) In such an action brought under this section, unless the landlord has also sought to evict the tenant by alleging a material violation of the lease under section 504B.285, subdivision 5, the tenant may, at any time before possession has been delivered, redeem the tenancy and be restored to possession by paying to the landlord or bringing to court the amount of the rent that is in arrears, with interest, costs of the action, and an attorney's fee not to exceed \$5, and by performing any other covenants of the lease. If the tenant shows by a preponderance of the evidence that the landlord has violated section 504B.211, the court must reduce the amount of rent the tenant is required to pay to redeem the tenancy by up to \$500 per violation.

~~(b)~~ (c) If the tenant has paid to the landlord or brought into court the amount of rent in arrears but is unable to pay the interest, costs of the action, and attorney's fees required by paragraph (a), the court may permit the tenant to pay these amounts into court and be restored to possession within the same period of time, if any, for which the court stays the issuance of the order to vacate under section 504B.345.

~~(e)~~ (d) Prior to or after commencement of an action to recover possession for nonpayment of rent, the parties may agree only in writing that partial payment of rent in arrears which is accepted by the landlord prior to issuance of the order granting restitution of

the premises pursuant to section 504B.345 may be applied to the balance due and does not waive the landlord's action to recover possession of the premises for nonpayment of rent.

~~(d)~~ (e) Rental payments under this subdivision must first be applied to rent claimed as due in the complaint from prior rental periods before applying any payment toward rent claimed in the complaint for the current rental period, unless the court finds that under the circumstances the claim for rent from prior rental periods has been waived.

Sec. 12. Minnesota Statutes 2012, section 504B.371, subdivision 2, is amended to read:

Subd. 2. **Time for appeal.** A party who feels aggrieved by the judgment may appeal within ~~ten~~ 15 days as provided for civil actions in district court.

Sec. 13. Minnesota Statutes 2012, section 504B.381, subdivision 1, is amended to read:

Subdivision 1. **Petition.** A person authorized to bring an action under section 504B.395, subdivision 1, may petition the court for relief in cases of emergency involving:

(1) the loss of running water, hot water, heat, electricity, sanitary facilities, or other essential services or facilities that the landlord is responsible for providing; or

(2) an order by a unit of government:

(i) declaring a residential building occupied by a residential tenant unfit for human habitation or expressing the intent to condemn the residential building;

(ii) directing a residential tenant to vacate a residential building within 60 or fewer days due to the landlord's violation of a local code regulating residential buildings,

including the failure to obtain a rental dwelling license or certificate of occupancy; or

(iii) condemning the residential rental property occupied by a residential tenant.

Sec. 14. Minnesota Statutes 2012, section 504B.385, subdivision 1, is amended to read:

Subdivision 1. **Escrow of rent.** (a) If a violation exists in a residential building, a residential tenant may deposit the amount of rent due to the landlord with the court administrator using the procedures described in paragraphs (b) to (d).

(b) For a violation as defined in section 504B.001, subdivision 14, clause (1), the residential tenant may deposit with the court administrator the rent due to the landlord along with a copy of the written notice of the code violation as provided in section 504B.185, subdivision 2. The residential tenant may not deposit the rent or file the written notice of the code violation until the time granted to make repairs has expired without satisfactory repairs being made, unless the residential tenant alleges that the time granted is excessive.

(c) For a violation as defined in section 504B.001, subdivision 14, clause (2) or (3), the residential tenant must give written notice to the landlord specifying the violation. The

notice must be delivered personally or sent to the person or place where rent is normally paid. If the violation is not corrected within 14 days, the residential tenant may deposit the amount of rent due to the landlord with the court administrator along with an affidavit specifying the violation. The court must provide a simplified form affidavit for use under this paragraph.

(d) The residential tenant need not deposit rent if none is due to the landlord at the time the residential tenant files the notice required by paragraph (b) or (c). All rent which becomes due to the landlord after that time but before the hearing under subdivision 6 must be deposited with the court administrator. As long as proceedings are pending under this section, the residential tenant must pay rent to the landlord or as directed by the court and may not withhold rent to remedy a violation.

(e) A residential tenant exercising rights conferred under section 504B.181, subdivision 1a, paragraph (b), may deposit the disputed rent amount with the court administrator to be held in escrow. The court administrator shall release the rent to the landlord entitled to it:

(1) upon order by the court; or

(2) upon production of a signed release by the tenant.

Sec. 15. Minnesota Statutes 2012, section 504B.385, subdivision 5, is amended to read:

Subd. 5. **Notice of hearing.** (a) A hearing must be held within ten to 14 days from the day a residential tenant:

(1) deposits rent with the court administrator; or

(2) files the notice required under subdivision 1, paragraph (b) or (c), if the tenant is not required to deposit rent with the court administrator under subdivision 1, paragraph (d). Nothing in this subdivision relieves the tenant of the obligation to deposit rent with the court administrator that becomes due to the landlord after the filing but before the hearing.

(b) If the cost of remedying the violation, as estimated by the residential tenant, is within the jurisdictional limit for conciliation court, the court administrator shall notify the landlord and the residential tenant of the time and place of the hearing by first class mail.

(c) The residential tenant must provide the court administrator with the landlord's name and address. If the landlord has disclosed a post office box as the landlord's address under section 504B.181, notice of the hearing may be mailed to the post office box.

(d) If the cost of remedying the violation, as estimated by the tenant, is above the jurisdictional limit for conciliation court, the tenant must serve the notice of hearing according to the Minnesota Rules of Civil Procedure.

9.1 (e) The notice of hearing must specify the amount the residential tenant has
9.2 deposited with the court administrator and must inform the landlord that possession of the
9.3 premises will not be in issue at the hearing unless the landlord files a counterclaim for
9.4 possession or an eviction action.

9.5 Sec. 16. **REPEALER.**

9.6 Minnesota Statutes 2012, section 504B.285, subdivision 1c, is repealed.

9.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

**504B.285 EVICTION ACTIONS; GROUNDS; RETALIATION DEFENSE;
COMBINED ALLEGATIONS.**

Subd. 1c. **Grounds for evictions on or after January 1, 2015.** For any eviction action commenced on or after January 1, 2015, the person entitled to the premises may recover possession by eviction when any person holds over real property after the expiration of the time for redemption on foreclosure of a mortgage, or after termination of contract to convey the property, provided that if the person holding the real property after the expiration of the time for redemption or termination was a tenant during the redemption or termination period under a lease of any duration, and the lease began after the date the mortgage or contract for deed was executed, but prior to the expiration of the time for redemption or termination and the person holding the premises has received:

(1) at least two months' written notice to vacate no sooner than one month after the expiration of the time for redemption or termination, provided that the tenant pays the rent and abides by all terms of the lease; or

(2) at least two months' written notice to vacate no later than the date of the expiration of the term for redemption or termination, which notice shall also state that the sender will hold the tenant harmless for breaching the lease by vacating the premises if the mortgage is redeemed or the contract is reinstated.