

Sec. 6. This act is effective upon approval by the city council of the city of Duluth, and upon compliance with Minnesota Statutes, Section 645.021.

Approved June 4, 1975.

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#### CHAPTER 409—H.F.No.1140

[Coded]

*An act relating to health; providing for a program of treatment for adults having cystic fibrosis; appropriating money; amending Minnesota Statutes 1974, Chapter 144, by adding a section.*

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

Section 1. Minnesota Statutes 1974, Chapter 144, is amended by adding a section to read:

**[144.146] HEALTH; CYSTIC FIBROSIS; TREATMENT.** [Subdivision 1.] **PROGRAM.** The board of health shall develop and conduct a program including medical care and hospital treatment for persons aged 21 or over who are suffering from cystic fibrosis.

Sec. 2. **[144.146] [Subd. 2.] APPROPRIATION.** There is appropriated annually from the general fund in the state treasury the sum of \$40,000 or as much of that amount as is necessary for the year to the department of health for the development of the program of treatment for cystic fibrosis.

Approved June 4, 1975.

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#### CHAPTER 410—H.F.No.1146

[Coded in Part]

*An act relating to landlords and tenants; providing additional remedies for landlords and tenants; security deposits; withholding rent for last payment period; providing penalties; amending Minnesota Statutes 1974, Sections 487.17; 488A.01, Subdivision 5; 488A.18, Subdivision 6; 504.20, by adding a subdivision; Chapter 504, by adding sections; Chapter 566, by adding a section.*

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

Section 1. Minnesota Statutes 1974, Chapter 504, is amended by adding a section to read:

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**[504.24] LANDLORD AND TENANT; ADDITIONAL REMEDIES; PROPERTY ABANDONMENT.** Subdivision 1. If a tenant abandons rented premises the landlord may take possession of the tenant's personal property remaining on the premises, and shall store and care for the property. The landlord has a claim against the tenant for reasonable costs and expenses incurred in removing the tenant's property and in storing and caring for the property. The landlord may sell or otherwise dispose of the property 60 days after the landlord receives actual notice of the abandonment or 60 days after it reasonably appears to the landlord that the tenant has abandoned the premises whichever occurs last and may apply a reasonable amount of the proceeds of the sale to the removal, care, and storage costs and expenses or to any claims authorized pursuant to section 504.20, subdivision 3, clauses (a) and (b). Any remaining proceeds of the sale shall be paid to the tenant upon written demand. Prior to the sale the landlord shall make reasonable efforts to notify the tenant of the sale at least 14 days prior to the sale, by personal service in writing or sending written notification of the sale by certified mail, return receipt requested, to the tenant's last known address or usual place of abode, if known by the landlord, and by posting notice of the sale in a conspicuous place on the premises for at least two weeks.

Subd. 2. If a landlord, his agent or person acting under the landlord's direction or control, in possession of a tenant's personal property, fails to allow the tenant to retake possession of the property within 24 hours after written demand by the tenant or his duly authorized representative or within 48 hours, exclusive of weekends and holidays, after written demand by the tenant or his duly authorized representative when the landlord, his agent or person acting under the landlord's direction or control has removed and stored the personal property in accordance with subdivision 1 in a location other than the premises, the tenant shall recover from the landlord punitive damages not to exceed \$300 in addition to actual damages and reasonable attorney's fees. In determining the amount of punitive damages the court shall consider (a) the nature and value of the property; (b) the effect the deprivation of the property has had on the tenant; (c) if the landlord, his agent or person acting under the landlord's direction or control unlawfully took possession of the tenant's property; and (d) if the landlord, his agent or person under the landlord's direction or control acted in bad faith in failing to allow the tenant to retake possession of the property. The provisions of this subdivision shall not apply to personal property which has been sold or otherwise disposed of by the landlord in accordance with subdivision 1, or to landlords who are housing authorities, created or authorized to be created by sections 462.415 to 462.711, and their agents and employees, in possession of a tenant's personal property, except that housing authorities must allow the tenant to retake possession of the property in accordance with this subdivision.

Subd. 3. If the landlord, his agent or person acting under the landlord's direction or control has unlawfully taken possession of a

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tenant's personal property the landlord shall be responsible for paying the cost and expenses relating to the removal, storage or care of the property.

Sec. 2. Minnesota Statutes 1974, Chapter 504, is amended by adding a section to read:

**[504.25] UNLAWFUL OUSTER OR EXCLUSION; PENALTY.** A landlord, agent of the landlord or person acting under the landlord's direction or control who unlawfully and intentionally removes or excludes a tenant from lands or tenements or intentionally interrupts or causes the interruption of electrical, heat, gas or water services to the tenant with intent to unlawfully remove or exclude the tenant from lands or tenements is guilty of a misdemeanor. In any trial under this subdivision, it shall be presumed that the landlord, agent or other person acting under the landlord's direction or control interrupted or caused the interruption of the service with intent to unlawfully remove or exclude the tenant from lands or tenements, if it is established by evidence that the landlord, his agent or a person acting under the landlord's direction or control intentionally interrupted or caused the interruption of the service to the tenant. The burden is upon the landlord to rebut the presumption.

Sec. 3. Minnesota Statutes 1974, Chapter 504, is amended by adding a section to read:

**[504.26] UNLAWFUL TERMINATION OF UTILITIES.** Except as otherwise provided in this subdivision, if a landlord, his agent or a person acting under the landlord's direction or control, interrupts or causes the interruption of electricity, heat, gas, or water services to the tenant, the tenant may recover from the landlord treble damages and reasonable attorney's fees. It is a defense to any action brought under this subdivision that the interruption was the result of the deliberate or negligent act or omission of a tenant or anyone acting under his direction or control. The tenant may recover only actual damages under this subdivision if:

(a) the tenant has not given the landlord, his agent or person acting under the landlord's direction or control, notice of the interruption; or

(b) the landlord, his agent or person acting under the landlord's direction or control, after receiving notice of the interruption from the tenant and within a reasonable period of time after the interruption, taking into account the nature of the service interrupted and the effect of the interrupted service on the health, welfare and safety of the tenants, has reinstated or made a good faith effort to reinstate the service or has taken other remedial action; or

(c) the interruption was for the purpose of repairing or correcting faulty or defective equipment or protecting the health and safety of the

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occupants of the premises involved and the service was reinstated or a good faith effort was made to reinstate the service or other remedial action was taken by the landlord, his agent, or person acting under the landlord's direction or control within a reasonable period of time, taking into account the nature of the defect, the nature of the service interrupted and the effect of the interrupted service on the health, welfare and safety of the tenants.

Sec. 4. Minnesota Statutes 1974, Chapter 504, is amended by adding a section to read:

**[504.27] REMEDIES ARE ADDITIONAL.** The remedies provided in sections 1, 2 and 3 are in addition to and shall not limit other rights or remedies available to landlords and tenants. Any provision, whether oral or written, of any lease or other agreement, whereby any provision of sections 1 to 4 is waived by a tenant is contrary to public policy and void. The provisions of sections 1 to 4 shall apply only to tenants as that term is defined in section 566.18, subdivision 2, and buildings as that term is defined in section 566.18, subdivision 7.

Sec. 5. Minnesota Statutes 1974, Chapter 566, is amended by adding a section to read:

**[566.175] UNLAWFUL REMOVAL OR EXCLUSION; RECOVERY OF POSSESSION.** Subdivision 1. Any tenant who is unlawfully removed or excluded from lands or tenements which are demised or let to him may recover possession of the premises in the following manner:

(a) The tenant shall present a verified petition to the county or municipal court of the county in which the premises are located, which petition shall:

(1) describe the premises of which possession is claimed and the owner, as defined in section 566.18, subdivision 3, of the premises;

(2) specifically state the facts and grounds that demonstrate that the removal or exclusion was unlawful including a statement that no judgment and writ of restitution have been issued under section 566.09 in favor of the owner and against petitioner as to the premises and executed in accordance with section 566.17; and

(3) ask for possession thereof.

(b) If it clearly appears from the specific grounds and facts stated in the verified petition or by separate affidavit of petitioner or his counsel or agent that the removal or exclusion was unlawful, the court shall immediately order that petitioner have possession of the premises.

(c) The petitioner shall furnish monetary or other security if any

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as the court deems appropriate under the circumstances for payment of all costs and damages the defendant may sustain if the order is subsequently found to have been obtained wrongfully. In determining the appropriateness of any security the court shall consider petitioner's ability to afford monetary security.

(d) The court shall direct the order to the sheriff or any constable of the county in which the premises is located and the sheriff or constable shall execute the order immediately by making a demand upon the defendant, if he can be found, or his agent or other person in charge of the premises, for possession of the premises. If the defendant fails to comply with the demand, the officer shall take with him whatever assistance may be necessary and immediately place the petitioner in possession of the premises. If the defendant or his agent or other person in control of the premises cannot be found and if there is no person in charge of the premises detained so that no demand can be made, the officer shall immediately enter into possession of the premises and place the petitioner in possession of the premises. The officer shall also serve the order and verified petition or affidavit without delay upon the defendant or upon his agent, in the same manner as a summons is required to be served in a civil action in district court.

Subd. 2. The defendant by written motion and notice served by mail or personally upon petitioner or his attorney at least two days prior to the hearing date on the motion may obtain dissolution or modification of the order for possession, issued pursuant to subdivision 1, clause (b), unless the petitioner proves the facts and grounds upon which the writ is issued. A defendant bringing a motion pursuant to this subdivision may recover possession of the premises only in accordance with sections 566.03 to 566.17 or otherwise provided by law. Upon the dissolution of the order, the court shall tax costs to petitioner, subject to the provisions of section 563.01, and may allow damages and reasonable attorney's fees for the wrongful granting of the order for possession. If the order is affirmed the court shall tax costs against defendant and may allow petitioner reasonable attorney's fees.

Subd. 3. An order issued under subdivision 1, clause (b), or affirmed, modified or dissolved under subdivision 2 is a final order for purposes of appeal and either party aggrieved by the order may appeal within ten days after the entry of the order. If the party appealing remains in possession of the premises, his bond shall be conditioned to pay all costs of the appeal, to abide by the order the court may make and to pay all rent and other damages justly accruing to the party excluded from possession during the pendency of the appeal.

Subd. 4. Any provisions, whether oral or written, of any lease or other agreement whereby any provision of this section is waived by a tenant is contrary to public policy and void.

Subd. 5. The purpose of this section is to provide an additional and summary remedy for tenants unlawfully removed or excluded

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from rental property and except as where expressly provided in this section, sections 566.03 to 566.17 shall not apply to proceedings under this section.

Subd. 6. The provisions of this section shall apply only to tenants as that term is defined in section 566.18, subdivision 2, and buildings as that term is defined in section 566.18, subdivision 7.

Sec. 6. Minnesota Statutes 1974, Section 487.17, is amended to read:

**487.17 FORCIBLE ENTRY AND UNLAWFUL DETAINER.** Whether or not title to real estate is involved, the county court has jurisdiction of actions of forcible entry and unlawful detainer or actions for unlawful removal or exclusion pursuant to section 2 of this act, involving land located wholly or partly within the county court district and of actions seeking relief for code violations pursuant to sections 566.18 to 566.33 involving premises located wholly or partly within the county court district.

Sec. 7. Minnesota Statutes 1974, Section 488A.01, Subdivision 5, is amended to read:

**Subd. 5. FORCIBLE ENTRY AND UNLAWFUL DETAINER OR UNLAWFUL REMOVAL OR EXCLUSION.** Whether or not the title to real estate is involved, the court has jurisdiction of actions of forcible entry and unlawful detainer or actions for unlawful removal or exclusion pursuant to section 2 of this act, involving land located wholly or in part within Hennepin county and, notwithstanding any provision of subdivision 7 to the contrary, of actions seeking relief for code violations pursuant to sections 566.18 to 566.33 involving premises located wholly or partly within Hennepin county.

Sec. 8. Minnesota Statutes 1974, Section 488A.18, Subdivision 6, is amended to read:

**Subd. 6. FORCIBLE ENTRY AND UNLAWFUL DETAINER OR UNLAWFUL REMOVAL OR EXCLUSION.** Whether or not the title to real estate is involved, the court has jurisdiction of actions of forcible entry and unlawful detainer or actions for unlawful removal or exclusion pursuant to section 2 of this act, involving land located wholly or in part within Ramsey county and, notwithstanding any provision of subdivision 8 to the contrary, of actions seeking relief for code violations pursuant to sections 566.18 to 566.33 involving premises located wholly or partly within Ramsey county.

Sec. 9. Minnesota Statutes 1974, Section 504.20, is amended by adding a subdivision to read:

Subd. 7a. No tenant may withhold payment of all or any portion of rent for the last payment period of a residential rental agreement.

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except an oral or written month to month residential rental agreement concerning which neither the tenant nor landlord has served a notice to quit, on the grounds that such deposit should serve as payment for the rent. Withholding all or any portion of rent for the last payment period of the residential rental agreement creates a rebuttable presumption that the tenant withheld the last payment on the grounds that such deposit should serve as payment for the rent. Violation of this subdivision after written demand and notice of this subdivision shall subject the tenant to damages of twice the deposit and forfeiture of any interest due on the deposit in addition to any actual damages.

Approved June 4, 1975.

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CHAPTER 411—H.F.No.1160

[Not Coded]

*An act relating to the American revolution bicentennial; creating a commission; authorizing governmental units to furnish services, property and money in connection with bicentennial projects; validating prior expenditures.*

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

Section 1. **BICENTENNIAL PROJECTS; APPROPRIATIONS; TAX LEVIES.** Subdivision 1. A governmental unit which has been duly approved as a bicentennial community by the state bicentennial commission and the federal bicentennial administration may furnish services and property and may expend money in connection with any project which accomplishes a public purpose and is certified by the state bicentennial commission as furthering an overall program for commemorating the two-hundredth anniversary of the founding of the United States of America. The term "governmental unit" as used in this section means a county, city, or town.

Subd. 2. A governmental unit may furnish services and property and contribute money to any bicentennial group or community in this state which is duly approved as such by the state bicentennial commission and the federal bicentennial administration. The services, property and money furnished shall be used solely for a project satisfying the requirements of subdivision 1.

Subd. 3. Any appropriation and expenditure of funds made by a governmental unit prior to the effective date of this act for a bicentennial project is hereby validated.

Subd. 4. This section is effective on the day following its final enactment and shall expire on July 1, 1977.

Sec. 2. **MINNESOTA AMERICAN REVOLUTION BICENTEN-**

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