

2009 HOUSE JUDICIARY

HB 1229

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1229


House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/21/09

Recorder Job Number: 7396

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on HB 1229.

Tom Balzer, ND Motor Carriers Association: Support. This bill mirrors that of the permanent storage industry, making allowances for the portable storage unit industry.

Portable storage is a container usually brought to a home or office and when it's packed up and ready to go, we go in and pick it up and move it for the customer. We would like to amend this bill so that we can repossess our property when it's on the customer's land.

Rep. Klemin: That's not in the bill now.

Tom Balzer: No, we would like the ability to repossess our property, like can be done with automobile repossessions.

Rep. Klemin: Automobile repossession has restrictions where and when you can do that. You can get it off the street but not if it is in the garage. You should probably check with an attorney when looking at an amendment like that.

Tom Balzer: Our intent was to mirror the permanent storage law as close as we can.

Chairman DeKrey: Thank you. Further testimony in support.

John Sullivan, Sullivan Storage: Support, we would like to see some teeth put into this bill.

If someone doesn't turn in the portable storage unit, I need to be able to get it back.

Chairman DeKrey: Thank you. Further testimony in support.

Walt Fredrickson, S & W Portable Storage, Inc.: Support.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition.

Linda Fisher, Unclaimed Property Administrator, ND State Land Dept.: We are not opposed to the bill in its entirety, but would like an amendment to clarify that any residual funds after the sale of the property in the portable storage unit is to be paid to the owner of the property. After six months, if the owner can't be found, the money should be forwarded to the Unclaimed Property division to be held for that owner.

Rep. Koppelman: The statute that was adopted in 1975, requires that after a certain period of time has elapsed, unclaimed financial assets must be reported to State Unclaimed Property Administrators. Are you saying that any unclaimed property must be reported to the Unclaimed Property Division.

Linda Fisher: Yes.

Rep. Koppelman: Gift cards are relatively new, are they part of the law.

Linda Fisher: They used to be part of the law, and then they were exempted in 1995. Then last session, the banking association brought in a bill to have them reintroduced as far as unclaimed property. That bill was not passed, and so we were left with the legislation that said they couldn't expire and they couldn't be service charged. The argument at the time was from retailers that said they had administrative issues relating to the fact that gift cards many times have no names associated with them, so who would be able to claim the funds.

Rep. Koppelman: If someone had their things in a portable storage container, and they owed the landlord some money, and this bill would pass. The landlord could sell the property inside the container, keep what is owed to them. Could they keep a couch that is in the container.

Linda Fisher: We actually have a storage unit for safety deposit boxes, we don't have room for a couch. We would urge the landlord to liquidate the couch and put the money into the unclaimed property division.

Chairman DeKrey: Thank you. Further testimony in support, opposition or neutral. We will close the hearing.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1229

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/27/09

Recorder Job Number: 7934

Committee Clerk Signature 

Minutes:

Chairman DeKrey: Let's take a look at HB 1229. What are the committee wishes.

Rep. Klemin: I move the Land Dept.'s amendments.

Rep. Wolf: Second.

Chairman DeKrey: Discussion, voice vote. Motion carried. We now have the bill before us as amended. What are the committee's wishes.

Rep. Klemin: I move to amend further on page 2, line 5, remove "regardless of the unit's" and page 2, line 6, remove "location."

Rep. Griffin: Second.

Chairman DeKrey: Discussion, voice vote. Motion carried. We now have the bill before us as re-amended.

Rep. Zaiser: I move a Do Pass as re-amended.

Rep. Griffin: Second.

13 YES 0 NO 0 ABSENT DO PASS AS AMENDED CARRIER: Rep. Griffin

VK
1/27/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1229

Page 2, line 5, remove ", regardless of the unit's"

Page 2, line 6, remove "location."

Page 3, line 10, replace "The owner may retain any balance unclaimed after the six-month period" with "Any amount not claimed by the lessee from the owner within the six-month period is subject to the reporting requirements of section 47-30.1-08"

Renumber accordingly

Date: 4/27/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1229

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By Rep. Zaiser Seconded By Rep. Griffin

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------|-----|----|-----------------|-----|----|
| Ch. DeKrey | ✓ | | Rep. Delmore | ✓ | |
| Rep. Klemin | ✓ | | Rep. Griffin | ✓ | |
| Rep. Boehning | ✓ | | Rep. Vig | ✓ | |
| Rep. Dahl | ✓ | | Rep. Wolf | ✓ | |
| Rep. Hatlestad | ✓ | | Rep. Zaiser | ✓ | |
| Rep. Kingsbury | ✓ | | | | |
| Rep. Koppelman | ✓ | | | | |
| Rep. Kretschmar | ✓ | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Total (Yes) 13 No 0

Absent 0

Floor Carrier: Rep. Griffin

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1229: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1229 was placed on the Sixth order on the calendar.

Page 2, line 5, remove ", regardless of the unit's"

Page 2, line 6, remove "location,"

Page 3, line 10, replace "The owner may retain any balance unclaimed after the six-month period" with "Any amount not claimed by the lessee from the owner within the six-month period is subject to the reporting requirements of section 47-30.1-08"

Renumber accordingly

2009 SENATE JUDICIARY

HB 1229

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1229

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: March 2, 2009

Recorder Job Number: 9941

Committee Clerk Signature



Minutes:

Senator Nething opens the hearing on HB 1229, relating to a lien on property stored in a portable storage unit.

Tom Balzer, North Dakota Motor Carriers Association, the bill defines or gives renters of portable storage units the same rights as the folks who have permanent storage units. A portable storage unit can be anything from the pods you see dropped off in a driveway to a container unit to a semi trailer. If someone becomes delinquent on their payment that gives the owner of the units the same rights as permanent storage unit owners.

Senator Nething is anyone going to walk us through the bill?

Tom Balzer section 1 is just definitions to define personal property etc. the second part is the lien on the property. The bottom half on page two is the process in which they have to go through if they are intending to make a sale of the property. Page 3 talks about some of the legal catch alls to make sure the property is disposed of in a proper manner.

Senator Nething I was wondering why we don't just add portable to the existing law?

Tom Balzer I am not sure why.

Senator Schneider do you have an idea of how long individuals typically rent these portable storage units?

Tom Balzer the length of the rental can vary. There are cases where business will rent thses as additional storage for a longer period of time.

Senator Fieberg the definition of a portable storage unit includes a portable container. What does it mean?

Tom Balzer in our industry it is considered a large vessel.

Senator Nething closed the hearing on HB1229.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB1229

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/11/09

Recorder Job Number: 10669

Committee Clerk Signature



Minutes: **Senator Nething, Chairman**

Committee work

Senator Lyson discusses the amendments and relates why it is necessary.

Senator Lyson moves the amendment

Senator Olafson seconds

Discussion

Senator Lyson speaks of a circumstance that he came across that prompted this.

Senator Nething clarifies the rights of the bank are not affected by this transfer and the Dept. may not remove a bank's lien in this transfer of title without a release from the bank.

Senator Schneider asks, would a prior listed lien holder have a perfected security interest?

Senator Lyson says it clarifies a prior lien holder has the rights.

Verbal vote on the amendment, all yes.

Senator Lyson motions do pass as amended

Senator Schneider seconds

Vote – 6-0

Senator Lyson will carry

AB 1229

90534.0201
Title.

Prepared by the Legislative Council staff for
Senator Lyson

March 4, 2009

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1229

Page 3, line 25, after the underscored period insert "However, the rights of a prior listed lienholder are not affected by this transfer and the department may not remove a prior lienholder in this transfer of title without a release from the lienholder."

Renumber accordingly

Date: 3/11/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

HB 1229
Amendment
Committee

Senate JUDICIARY

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen Lyson Seconded By Sen. Olafson

| Senators | Yes | No | Senators | Yes | No |
|---------------------------------|-----|----|---------------------|-----|----|
| Sen. Dave Nething – Chairman | | | Sen. Tom Fiebiger | | |
| Sen. Curtis Olafson – V. Chair. | | | Sen. Carolyn Nelson | | |
| Sen. Stanley W. Lyson | | | Sen. Mac Schneider | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Total (Yes) _____ (N) _____

Absent _____

Floor Assignment Sen.

If the vote is on an amendment, briefly indicate intent:

Verbal - yes

Date: 3/11/09
 Roll Call Vote #: 2
AB 1229

**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.**

Senate JUDICIARY Committee

Check here for Conference Committee

Re-referred app

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen Lyson Seconded By Sen Schneider

| Senators | Yes | No | Senators | Yes | No |
|---------------------------------|-----|----|---------------------|-----|----|
| Sen. Dave Nething – Chairman | X | | Sen. Tom Fiebiger | X | |
| Sen. Curtis Olafson – V. Chair. | X | | Sen. Carolyn Nelson | X | |
| Sen. Stanley W. Lyson | X | | Sen. Mac Schneider | X | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Total (Yes) 6 (N) 0

Absent _____

Floor Assignment Sen. Lyson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1229, as engrossed: Judiciary Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1229 was placed on the Sixth order on the calendar.

Page 3, line 25, after the underscored period insert "However, the rights of a prior listed lienholder are not affected by this transfer and the department may not remove a prior lienholder in this transfer of title without a release from the lienholder."

Renumber accordingly

2009 TESTIMONY

HB 1229

1707 North 9th Street
PO Box 5523
Bismarck, ND 58506-5523
Phone: (701) 328-2800
Fax: (701) 328-3650



www.land.nd.gov
www.nd.gov

Gary D. Preszler, Commissioner

TESTIMONY OF LINDA FISHER
Unclaimed Property Administrator
North Dakota State Land Department

IN OPPOSITION TO HOUSE BILL NO. 1229

House Judiciary Committee
January 21, 2009

The Uniform Unclaimed Property Act (the Act), enacted in all 50 states and in effect in North Dakota since 1975, requires that after a certain period of time has elapsed, unclaimed financial assets must be reported to State Unclaimed Property Administrators. The unclaimed assets we are referring to in this context generally consist of uncashed vendor or payroll checks, dormant bank accounts, undeliverable securities, etc.

The underlying intent of the Act is to provide a mechanism whereby individuals and businesses have an opportunity to claim assets that are rightfully theirs.

As proposed, HB 1229 would allow property – sales proceeds in this case – to be retained by someone other than the rightful owner.

Certainly we have no objection to the owner of the storage unit retaining fees to cover administrative costs associated with selling the property, but it seems that if any money remains after costs, the lessee should be entitled to the remaining funds.

With that in mind, we are offering an amendment to the bill that would require any residual funds to be reported to the North Dakota Unclaimed Property Division in accordance with North Dakota Century Code 47-30.1-08.

State Land Department
Unclaimed Property Division
January 21, 2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1229

Page 3, line 10, replace "The owner may retain any balance unclaimed after the six-month period." with "Any amounts not claimed from the owner by the lessee within the six-month period are subject to the reporting requirements of section 47-30.1-08."

Renumber Accordingly