

2013 HOUSE JUDICIARY

HB 1267

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1267
January 23, 2013
Job 17595

Conference Committee



Explanation or reason for introduction of bill/resolution:

Disposal of abandoned property by a lessor.

Minutes:

Testimony 1

Rep. K. Koppelman: Introduced HB 1267

Greg Thompson, ND Apartment Association: Supports HB 1267 Testimony 1. (ended 6:10)

Rep Klemin: Why does is state "vacate" and now "abandoned"?

Greg: The word vacated would probably cover more circumstances so I agree with that correction.

Rep Hogan: Is there a significant increase with this since the change in the demographics of ND?

Greg: Yes, definitely.

Rep Hogan: If the property is valued at more than \$2500, then what happens to it?

Greg: That situation is very rare, however they are told to give notification before doing anything with that property.

Rep Delmore: This bill would mean that they still had to make arrangements for items over the amount, what would the procedure be with those items?

Greg: The procedure I have for my clients is that if you have a forwarding address you must notify those individuals. Hold it at least 60 days

Rep Delmore: How is determined that it appears abandoned?

Greg: Case by case, it is usually obvious based on what is left in there. If there is clothes still there or if the utilities are still on then we would have to look into it more. If everything

is gone except 1 or 2 pieces of really old furniture that is not in good condition then we lean towards they have abandoned. Mail is another good indicator.

Chairman: In your opinion should there be something in law to deal with the rare situations when a larger amount is left. What is a landlord to do and should it be addressed.

Greg: I would say it happens so rarely, raising it to \$2500 we should be ok.

Lembke, ND Association of Realtors: Support HB 1267

Chairman: closed.

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1267
January 23, 2013
Job 17633

Conference Committee

Kristie Helzlsouer

Explanation or reason for introduction of bill/resolution:

Disposal of abandoned property by a lessor.

Minutes:

Chairman Koppelman: Opens.

Rep Klemin: Lines 11, 12 words abandoned should be vacated. Move to amend.

Rep Toman: Second.

Rep Hogan: Should the introduction of the bill on line 2 be changed also?

Rep Koppelman: We are talking about abandoned property.

Rep Delmore: Is there a big difference between the definitions so we don't change the intent of the bill?

Rep Klemin: It makes it clearer; Mr. Thompson agreed it was a good change.

Chairman Koppelman: Voice vote on Amendment.

12 Yah, 0 Nay

Rep Hanson: Motion to Do Pass as amended.

Rep Larson: Second.

Yes: 12 No: 0 Absent: 2

Carried by: Rep Hanson.

13.0495.01001
Title.02000

Adopted by the Judiciary Committee

January 23, 2013

*1/24/13
JSC*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1267

Page 1, line 11, replace "abandoned" with "vacated"

Page 1, line 12, replace "abandoned" with "vacated"

Renumber accordingly

Date: 1-23-13
Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO.**

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Klemin Seconded By Rep. Toman

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemin			Rep. Ben Hanson		
Rep. Randy Boehning			Rep. Kathy Hogan		
Rep. Roger Brabandt					
Rep. Karen Karls					
Rep. William Kretschmar					
Rep. Diane Larson					
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice vote - Carried

Date: 1-23-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1267

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Hanson Seconded By Rep. Larson

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore	/	
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson	/	
Rep. Randy Boehning	/		Rep. Kathy Hogan	/	
Rep. Roger Brabandt	/				
Rep. Karen Karls	/				
Rep. William Kretschmar	/				
Rep. Diane Larson	/				
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner	/				
Rep. Nathan Toman	/				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Hanson

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

REPORT OF STANDING COMMITTEE

HB 1267: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1267 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "abandoned" with "vacated"

Page 1, line 12, replace "abandoned" with "vacated"

Renumber accordingly

2013 SENATE GOVERNMENT AND VETERANS AFFAIRS

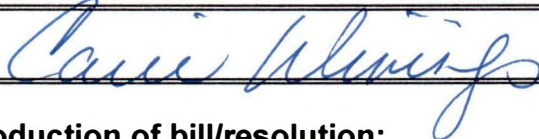
HB 1267

2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

HB 1267
03/28/2013
Job Number 20669

Conference Committee

Committee Clerk Signature	
---------------------------	--

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 47-16-30.1 of the North Dakota Century Code, relating to disposal of abandoned property by a lessor.

Minutes:

Chairman Dever: Opened the hearing on HB 1267. Prime sponsor was not available to testify on the bill and there was no other testimony present, so the hearing was recessed until a later date.

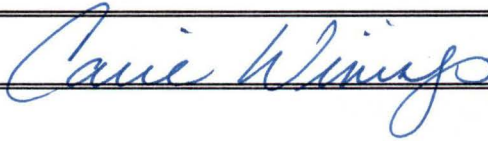
2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

HB 1267
04/04/2013
Job Number 20874

Conference Committee

Committee Clerk Signature



Minutes:

Chairman Dever: Reopened the hearing on HB 1267.

Representative Koppelman, District 13: Testified as sponsor of and to explain the bill.

(2:50)Chairman Dever: It appears to me with the time change that the new language is from the time that it was vacated.

Representative Koppelman: That is true. The current language does say, 28 or more days after the lessor received actual notice that the lessee has vacated, but I think in the latter version that might be more common.

Chairman Dever: Do you know if this section of the law applies to storage units?

Representative Koppelman: Someone else can answer that.

(4:30)Rocky Gordon, North Dakota Apartment Association: See Attachment #1 for testimony in support of the bill. Storage units are in a separate part of code.

(9:45)Senator Schaible: What is "reasonably appears to be vacated"?

Rocky Gordon: I would say that it would be situations where 95% of the stuff is gone, the utilities are turned off, and rent has come due and it is not paid. Those would be situations where you reasonably think that the property is abandoned.

Senator Nelson: I live in an apartment house and sometimes some our people need to go to a nursing home and then their places look like they are abandoned but they are not

because they have been gone for an extended period of time. We have a choice of having a one month lease, but I guess that would fit under "reasonably looks like".

Rocky Gordon: The other thing I would point out is that we are talking about a situation where what is left behind has a value of \$2500 or less in this bill. If someone has to go to a nursing home and the vast majority of their belongings are left, this would not apply to that because the items that are left have a value greater than \$2500. We are talking about a situation where there are only a couple of things left behind.

Senator Cook: So if it is \$1500 worth of property left behind and you take that property, what do you do with the property?

Rocky Gordon: We sell it if it is possible, but more times than not it is disposed of.

Senator Cook: If it is \$5000 worth of property, what do you do with it?

Rocky Gordon: It gets a lot more complicated. The law talks about a reasonable period of time and what is a reasonable period of time on \$5000 worth of stuff? That is hard to define. I think it is more than 28 days but I don't think it is 28 years. That is one of the reasons we sort of wanted a little clarification here. Typically if you get the dollar amount up there, we will hear from someone. It is when it is fairly low.

Chairman Dever: In your example of the person that leases a place for one year and they move out in three months, are you able to lease the apartment to someone else if it appears they have abandoned it?

Rocky Gordon: That does become a little bit of a judgment call too. Is it abandoned? If it is truly abandoned, yes because it mitigates the damages against the lease holder.

Chairman Dever: I have a brother that paints in Fargo and he said that he most commonly removes sleeper sofas because people don't want to haul them.

Rocky Gordon: That is correct. We see a lot of that.

Chairman Dever: Closed the hearing on HB 1267.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee

Missouri River Room, State Capitol

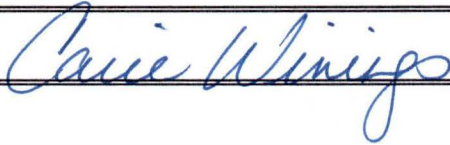
HB 1267

04/04/2013

Job Number 20880

Conference Committee

Committee Clerk Signature



Minutes:

Chairman Dever: Opened HB 1267 for committee discussion.

Senator Cook: Moved a Do Pass.

Senator Poolman: Seconded.

A Roll Call Vote Was Taken: 6 yeas, 1 nay, 0 absent.

Senator Schaible: Carrier.

Date: 4/4

Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 267

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Cook Seconded By Senator Poolman

Senators	Yes	No	Senator	Yes	No
Chairman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais		✓
Senator Dwight Cook	✓				
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Senator Schaible

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

REPORT OF STANDING COMMITTEE

HB 1267, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends DO PASS (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1267 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1267

1-23-13

1

House Bill No. 1267

Chairman Koppelman and Members of the House Judiciary Committee:

My name is Greg Thompson and I appear today on behalf of the North Dakota Apartment Association in support of the amendments to House Bill No. 1267. This legislation is being proposed primarily to reduce the time period that a landlord in North Dakota is required to retain the abandoned personal property of a tenant.

Under the current law, if a tenant abandons an apartment unit and leaves behind property with a total estimated value of not more than \$1,500.00, the landlord is required under the law to hold that property for a period of 30 days after the tenant has vacated the premises after the expiration of the lease term (emphasis added). After that time period, the landlord can dispose of the property without legal process.

The language on the time period to retain the abandoned personal property has caused some problems in situations where a tenant might sign a one year lease and then they abandon the apartment and leave behind personal property in the third month of the lease. If there is minimal property left behind, the landlord will typically remove the property and hold it in storage, but if the property is substantial, or if the landlord does not have storage available, the landlord has no alternative but to leave the property in the unit. Either way, the landlord is required to hold the property for the next 9 months of the one year lease, plus 30 days, under the current statute. If the landlord can re-rent the unit, then the 30 days would commence from that point. If the unit cannot be re-rented, it is unfair to require the landlord to hold the tenant's property for this length of time.

Under the proposed amendment, the time period would be shortened to 28 days after the landlord receives actual notice that the tenant has abandoned the premises, or 28 days after it reasonably appears to the landlord that the tenant has abandoned the premises.

This amendment will in some respects also benefit the tenant who still has time left on the lease, because the landlord can then remove the property after 28 days and prepare the unit for re-rental, thereby mitigating the tenant's damages.

The North Dakota Apartment Association is also requesting that the dollar value be increased to \$2,500.00 for inflationary reasons, and also to cover those rare situations where the tenant leaves considerable property behind.

Thank you for your consideration of this amendment.

House Bill No. 1267

Chairman Dever and Members of the Senate Government and Veterans Affairs Committee:

My name is Rocky Gordon and I appear today as a lobbyist of the North Dakota Apartment Association in support of the amendments to House Bill No. 1267. This legislation is being proposed primarily to reduce the time period that a landlord in North Dakota is required to retain the abandoned personal property of a tenant.

Under the current law, if a tenant abandons an apartment unit and leaves behind property with a total estimated value of not more than \$1,500.00, the landlord is required under the law to hold that property for a period of 30 days after the tenant has vacated the premises after the expiration of the lease term (emphasis added). After that time period, the landlord can dispose of the property without legal process.

The language on the time period to retain the abandoned personal property has caused some problems in situations where a tenant might sign a one year lease and then they abandon the apartment and leave behind personal property in the third month of the lease. If there is minimal property left behind, the landlord will typically remove the property and hold it in storage, but if the property is substantial, or if the landlord does not have storage available, the landlord has no alternative but to leave the property in the unit. Either way, the landlord is required to hold the property for the next 9 months of the one year lease, plus 30 days, under the current statute. If the landlord can re-rent the unit, then the 30 days would commence from that point. If the unit cannot be re-rented, it is unfair to require the landlord to hold the tenant's property for this length of time.

Under the proposed amendment, the time period would be shortened to 28 days after the landlord receives actual notice that the tenant has abandoned the premises, or 28 days after it reasonably appears to the landlord that the tenant has abandoned the premises.

This amendment will in some respects also benefit the tenant who still has time left on the lease, because the landlord can then remove the property after 28 days and prepare the unit for re-rental, thereby mitigating the tenant's damages.

The North Dakota Apartment Association is also requesting that the dollar value be increased to \$2,500.00 for inflationary reasons, and also to cover those rare situations where the tenant leaves considerable property behind.

Thank you for your consideration of this amendment.