

**2015 HOUSE INDUSTRY, BUSINESS AND LABOR**

**HB 1192**

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee

Peace Garden Room, State Capitol

HB 1192

1/19/2015

22168

☐ Subcommittee

☐ Conference Committee

*Ellen LiTang*

### Explanation or reason for introduction of bill/resolution:

Security deposits that may be required for lessees with pets.

### Minutes:

*No attachments*

**Chairman Keiser:** Opens the hearing on HB 1192.

**Representative Louser-District 5:** Introduces HB 1192. What this bill does is clarify the charging of a deposit on line 15. The law states allows not to exceed the greater of \$2,500 or the equivalent of two months' rent for a pet deposit. I want to rent the property, the landlord says no pet and they say "I'll show you". It comes back with some sort of note. This is not subject to ADA, a companion animal or a service animal; these are separate because that has been addressed that you can't charge an additional deposit. But for somebody who has a pet, this will allow for charging, if it doesn't violate the fair housing laws, a security deposit. This says "it may charge" not must.

**Representative Beadle:** Clarification on line 17, also add in ADA as well?

**Representative Louser:** As I understand the ADA, it says specifically that you cannot charge a pet deposit, so that has already been addresses. This is frustrating because there are no standards set and in many cases they reference state law.

**Representative M Nelson:** It's unclear, you can't charge more for the service or companion animal, but when we get down to what you can apply the deposit money, you specifically mentioned a pet. In there we don't specifically mention the companion or service animal, I assume the intention is still that you can charge damages caused by those animals, seems that those animals disappear from the 2<sup>nd</sup> part of the bill.

**Representative Louser:** Are you referencing line 23?

**Representative M Nelson:** Yes, line 23.

**Representative Louser:** You are able to charge for damages after somebody moves out at the term of the rental agreement. That will be reference in the security deposit.

**Rocky Gordon~Representing the North Dakota Apartment Association:** We support the bill and it helps add clarity.

**Representative Amerman:** Does this bill charge for a pet security deposit just for having a pet and nothing applies to service animals:

**Gordon:** That correct.

**7:35**

**Representative Amerman:** If you insert the \$2,500, is that raising the ceiling for a pet deposit?

**Gordon:** I think that's current.

**Chairman Keiser:** With new language, aren't we creating two deposits, one for renting the unit up to a \$1,000 or ones month's rent and if there is an animal, then we can go up to \$2,500 or 2 months' rent. Is that not what this is doing?

**Gordon:** I think current law allows for the pet deposit.

**Chairman Keiser:** Absolutely but it's an additional fee on the other ones.

**Gordon:** I don't see it as increasing the amount. That hasn't been our interpretation.

**Representative Becker:** Do I have the ability to front load my lease where I can charge \$2,000 the first month and \$909 or each of the next 11 months?

**Gordon:** As long as it's rent and agreed to by the parties and you don't do it discriminatorily.

**Representative Becker:** Would that allow my security deposit of month's rent to be the \$2,000?

**Gordon:** If we were challenged on that we would lose.

**Representative Amerman:** It looks like two deposits and if we are not changing anything, what are we doing?

**Gordon:** It's to bring all the security deposit and pet deposit language together.

**Representative Louser:** In a lot of cases what has been happening, a potential renter says, I'm not paying the deposit. You will rent to me and I will not pay the deposit. This clarifies the deposit that can be charged.

**Chairman Keiser:** Anyone else here to testify on HB 1192 is support, opposition, neutral?  
Closes the hearing.

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee

Peace Garden Room, State Capitol

HB 1192

1/27/2015

22607

☐ Subcommittee

☐ Conference Committee

Ellen LeTang

### Explanation or reason for introduction of bill/resolution:

Security deposits that may be required for lessees with pets.

### Minutes:

No Attachments

**Chairman Keiser:** Opens the work session on HB 1192

**Representative Louser:** This provides clarity and in the other bill there is no license requirements for property managers and this would provide a little bit more clarity as to when you may and may not charge a pet deposit. I believe what we have in current code may be conflicting with what ADA provides for protections.

**Chairman Keiser:** Do we have a motion?

**Representative Hanson:** Move a Do Pass.

**Representative Ruby:** Second.

Roll call was taken for a Do Pass on HB 1192 with 14 yes, 0 no, 1 absent and Representative Louser is the carrier.

Date: Jan 27, 2015Roll Call Vote: 1

**2015 HOUSE STANDING COMMITTEE**  
**ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1192**

House Industry, Business & Labor Committee
☐ Subcommittee
                         
 ☐ Conference Committee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:    ☐ Adopt Amendment  
                               ☒ Do Pass    ☐ Do Not Pass    ☐ Without Committee Recommendation  
                               ☐ As Amended                    ☐ Rerefer to Appropriations  
 Other Actions:        ☐ Reconsider                    ☐ \_\_\_\_\_

 Motion Made By Rep Hanson    Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Representative Lefor	X	
Vice Chairman Sukut	X		Representative Louser	X	
Representative Beadle	<del>Ab</del>		Representative Ruby	X	
Representative Becker	X		Representative Amerman	X	
Representative Devlin	X		Representative Boschee	X	
Representative Frantsvog	X		Representative Hanson	X	
Representative Kasper	X		Representative M Nelson	X	
Representative Laning	X				

Total    (Yes) 14    No 0Absent 1Floor Assignment Rep Louser

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

**REPORT OF STANDING COMMITTEE**

**HB 1192: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
HB 1192 was placed on the Eleventh order on the calendar.

**2015 SENATE POLITICAL SUBDIVISIONS**

**HB 1192**

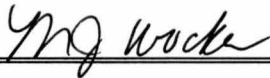
# 2015 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Red River Room, State Capitol

HB 1192  
3/5/2015  
Job Number 24380

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to security deposits that may be required for lessees with pets

### Minutes:

"Click to enter attachment information."

**Chairman Burckhard** opened the hearing on HB 1192. All senators were present.

**Rep. Scott Louser** My background is in real estate. This bill is a companion that we heard in our committee 1191, and 1192 together. HB 1191 had a lot more questions in testimony. HB 1192 just kind of fell in behind. But what this bill does is clarify when a pet deposit may be charged for somebody is requesting to have a pet. Currently what North Dakota law says is what you can see what is stricken on line 14 is 'you can charge a security deposit for no more than one month unless of course the renter has a pet'. Then you can charge a deposit that may not exceed the greater of \$2500 or the equivalent of two months' rent. That is what the law in North Dakota is and it conflicts with people who have pets or maybe making a reasonable accommodation request for a pet under a scenario where the landlord says we have a no pet policy. Somebody says, yes but I am making a reasonable accommodation request. There are two federal laws that apply The Americans with Disability Act which is from 1990, allows for pets to be included in a rental or as it's beyond a reasonable accommodation. It is a certified service animal, and for those you cannot charge a deposit. Also under the Fair Housing Act, which goes back to 1968 and has been modified somewhat over the years, a reasonable accommodation request can be made for somebody that doesn't have a certified service animal but has a therapeutic pet. I guess would be the example that is used often. So, they can make a reasonable accommodation request and under those scenarios you cannot charge a pet deposit but our law doesn't reflect that and says that a pet deposit could be charged so, whether you take the side of the renter and say this is a good bill because it protects the renter that is making the request, or you can take the side of the landlord that says that it is clear now, what I can and cannot do. This bill clarifies what can and cannot be done. The question may come up, what about damages caused by the pet after the fact. Damages can be charged back to the renter regardless of it was a certified service animal or a reasonable accommodation or whatever but were talking about a deposit. We have no licensing standards for property managers and landlords requirements in North Dakota. This clarifies for those people who are not familiar with those federal laws what they can and cannot do.

**Senator Bekkedahl** What is the reason for striking out " except if the lessee is housing a pet on the leased premises"? Evidently before they must have thought you cannot determine whether damage was from the lessor's pet or the lessee's pet in that instance. Could you go through that?

**Rep. Louser** I think this is referencing. The original intent when I brought forward the legislation that is in the other bill, was can we define what a pet is in North Dakota. You can make the argument that every pet is therapeutic. So if I have a no pet policy on a property can I even have a no pet policy because there are protections that people have that say, that are protected under ADA (Americans with Disability Act) that would preclude this, so there is a lot of research done by Legislative Council to say that this is really what we can and cannot do in North Dakota. So we've extended that to the deposit, and what we found is that currently our law says, that you can only charge a security deposit to a renter, for one month's rent unless they have a pet. If they have a pet you can charge up to \$2500 or two month's rent. That is what the law said. So basically it said if you have a pet you can charge a deposit and that conflicts with federal law. If it's a pet under a reasonable accommodation or a service animal you can't charge a deposit at all. You can charge a security deposit but not a pet deposit. Our law said in some gray areas yes you can do that. So that was why it was stricken. Then the language that replaced it, references that, that says ' the lessor may charge the lessee a pet security deposit for keeping an animal that is not a service animal or a companion animal required under reasonable accommodations'.

**Senator Bekkedahl** To go further then, I am assuming the language on paragraph 2, on page 1, that doesn't have a underline to it, is existing language, so currently we allow or may not exceed the greater of \$2500, or an amount equivalent to month's rent. That is in current law. That is in current statute, correct?

**Rep. Louser** Yes, correct. **Senator Bekkedahl** Is that above and beyond then the security deposit which is another month? **Rep.Louser** No that would reference the full security deposit and the pet, yes.

**Chairman Burckhard** So Scott what is the difference between a service animal and a therapeutic pet, or can somebody argue that my pet is a service dog and it really is not?

**Rep. Louser** That is actually where this started. Really what was happening in our market after the flood. There were a lot of properties that were flooded. 20% of our market was flooded. This was happening prior to the flood, but there was a lot of properties that was rebuilt. There were property owners that put \$100,000 into a property and said I fixed it up and I am going to keep it as a rental property, but I don't want pets. People would walk in and say I have a note from somebody that says that I should be able to have a cat or 3. It helps me feel better. So how do you define what is a therapeutic animal versus a domesticated pet. That is really where it started. ADA is very clear. Certified service animals serve a purpose for a disability. Service animals under ADA are very clearly defined as certified and trained and the training period is usually about a year, and the recipient of that service animals needs to qualify with the disability, and then they go through for about 6 months of training with that pet. That is very clear and in most cases, you are going to see a vest or something identifying that animal. The therapeutic animal is

the gray area that says, I need this to feel better. What the other bill does is clarify that note has to come from a certified medical professional.

**Senator Judy Lee** At least in my market area landlords have been requiring a note from a medical provider for a therapeutic pet for a long time. The problem is there are some medical providers especially in some college communities apparently, who have scribbled a note off for anybody and now all of a sudden the apartment buildings are full of cats and dogs. That is the rub here. I have no rights in this as you don't have control over your own property. But there needs to be some clear definition that everybody can rely on. I agree that therapeutic pets need to be referenced. I thought there was because I've had constituent inquiries or North Dakota citizen inquiries about pets.

**Rep. Louser** That is the substance of HB 1191 which I would hope now, would come to this committee.

**Senator Judy Lee** How come your not on the same bill?

**Rep. Louser** I asked that question too because the whole intent was to put it together because they are in different sections, there was going to be further debate on 1191, regardless if that were to pass or not, 1192 was pretty clear. 1192 just referenced when you can and cannot charge deposits, somewhat related.

**Chairman Burckhard** closed the hearing on HB 1191.

**Senator Judy Lee** I move that we recommend do pass on HB 1192.  
**2<sup>nd</sup>. Senator Bekkedahl**

Roll call vote  
6 Yea, 0 No, 0 Absent  
Carrier: Senator Judy Lee

Date: 3.5.15  
Roll Call Vote: 1

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1192

Senate Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Sen. Judy Lee Seconded By Sen. Bekkedahl

Senators	Yes	No	Senators	Yes	No
Chairman Burckhard	X				
Senator Anderson	X		Senator Dotzenrod	X	
Senator Bekkedahl	X		Senator Grabinger	X	
Senator Judy Lee	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Judy Lee

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

**REPORT OF STANDING COMMITTEE**

**HB 1192: Political Subdivisions Committee (Sen. Burckhard, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1192 was placed on the Fourteenth order on the calendar.