

2025 SENATE INDUSTRY AND BUSINESS

SB 2235

2025 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

SB 2235
1/29/2025

A bill relating to rents and the priority of payments under a rental agreement.

10:00 a.m. Vice-Chairman Boehm called the meeting to order.

Members present: Chairman Barta, Vice-Chairman Barta, Senator Klein, Senator Kessel, Senator Enget

Discussion Topics:

- Rental payment application
- Tenant and landlord negotiations
- American Civil Liberties Union of ND
- Coalitions to End Homelessness
- Rental and cost-burdened statistics
- Accessibility to affordable housing and homeless prevention
- Landlord impact
- Compounding late fee cycles
- Late fee notification process, documentation, and amount

10:01 a.m. Senator Ryan Braunberger, District 10, testified in favor and submitted testimony #31730.

10:06 a.m. Cody Schuler, Advocacy Manager, American Civil Liberties Union of ND, testified in favor and submitted testimony #32438.

10:32 a.m. Kaden Felch, Fair Housing Specialist, High Plains Fair Housing , testified in favor and submitted testimony #32477.

10:34 a.m. Jeremy Petron, ND, testified in opposition and submitted testimony #32054.

10:49 a.m. Chairman Boehm closed the hearing.

Audrey Oswald, Committee Clerk

Good morning, Chairman Barta and members of the Senate Industry and Business Committee,

Thank you for the opportunity to speak with you today regarding Senate Bill No. 2235. For the record, my name is Senator Ryan Braunberger representing Fargo's District 10. This bill presents a critical yet straightforward update to section 47-16-20 of the North Dakota Century Code. It focuses on improving clarity and fairness in rental agreements, particularly addressing the application of payments under such contracts.

This proposed legislation aims to create more transparency and consistency between landlords and tenants by defining how rental payments should be applied. Specifically, it establishes that when a tenant's payment is insufficient to cover the full amount owed, it must first be applied to outstanding rental amounts unless the tenant specifies otherwise.

This amendment protects tenants from unintentional late penalties and fosters clear communication between landlords and lessees. By addressing potential ambiguities, the bill promotes fairness while supporting North Dakota's housing industry by creating a balanced and predictable rental process.

Thank you for your time. I will answer any questions that you may have.

January 28, 2025

Jeremy Petron
Lobbyist # 209
North Dakota Apartment Association

Re: SB 2235 - opposed

Chairman and members of the Committee, my name is Jeremy Petron, lobbyist with the North Dakota Apartment Association.

We oppose SB 2235. This Bill is overreaching by restricting property owners and property managers on their accounting practices when applying payment monies to a tenant ledger. Often the priority of payments is outlined in the Lease. A typical order would be starting with security deposit, late fees, NSF fees, repair expenses, utility billing, attorney's fees, and then rent. The reason for this accounting practice is that the current statute regarding eviction for non-payment only applies to rent amounts past due.

If a lessee happens to have a large repair bill or numerous unpaid utility bills that revert to the property owner, this accounting practice allows the owner to take action if a tenant is refusing to pay other legitimate charges beyond rent, that are outlined in the lease. If this Bill were to pass, the only recourse a property owner would have is to wait out until the lease expiration and give notice to terminate. This creates a situation that is cumbersome to the property owner and their property rights.

Sixty-ninth North Dakota Legislative Assembly
Senate Industry and Business Committee
S.B. 2235
January 29, 2025



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Chair Barta, Vice Chair Boehm, and members of the Committee:

On behalf of the ACLU of North Dakota, I submit testimony in support of Senate Bill 2235 relating to priority of payments under a rental agreement.

According to the U.S. Census Bureau, approximately 35% of North Dakota's households are renter-occupied and approximately 40% of renter households are cost-burdened, meaning they spend at least 30% of their income on housing expenses. Rental housing plays a significant role in North Dakota's housing landscape, as does the reality that renters face weighty financial challenges across the state leading to housing instability and many living on the brink of eviction and contributing to ongoing issues of homelessness.

For those facing these financial challenges, exorbitant fees are a constant barrier in supportive housing and homeless prevention. A housing service provider in Cass County recently recounted to the ACLU a common situation involving a tenant who had fallen behind on rent after being laid off from a minimum-wage job. For two months, the tenant struggled to catch up. After regaining employment, the tenant was able to scrape together enough to pay his rent in full as well as the \$50 still owed to the landlord from the previous month. A week later, he received a three-day eviction notice for non-payment. The tenant was confused and logged into the property management's website portal to view the status of his ledger. The tenant's payments had been applied to late fees and not to his rent. These fees had kept accumulating, despite the fact that the tenant had paid in full and on time that month. Luckily, the tenant was able to apply and be approved for emergency eviction prevention funds. Without this assistance he would have lost his home, likely been forced to access emergency shelter and other emergency services. And with an eviction on his record, he would have added a barrier to finding future housing.

This tenant was not interested in a handout. He had worked hard to catch up on his rent. And uniquely, this tenant even went the extra mile and worked to repay every cent of aid back to the agency that helped him. Again, the tenant was not interested in charity or government backed assistance. He simply wanted a fair chance and for a system when one tough month wouldn't spiral into financial instability and even homelessness.

For the 40% of North Dakota households which are cost burdened in rent, SB 2235 would be a small but pivotal change to provide a fighting chance, on their own, towards housing and financial stability. It would also provide more flexible consumer choices for payment during financial challenges and increase the chances of avoiding accessing costly emergency services and assistance (which are heavily subsidized by state and federal funding). Additionally, SB 2235 would reduce cost for courts by easing the need for eviction proceedings, decrease landlords' need for costly legal representation, and lessen the ever-growing costs related to turning over vacant properties for new renters.

The ACLU stands with North Dakotans for whom the law can provide increase opportunities for self-sufficiency and safe affordable housing. We urge a "do pass" recommendation on SB 2235.

Submitted by:
Cody J. Schuler
Advocacy Manager, ACLU of North Dakota
ND Lobbyist #367
cschuler@aclu.org

Kaden Felch

SB2235

Good morning. My name is Kaden Felch and I am a Fair Housing Specialist with High Plains Fair Housing Center, a private nonprofit with the mission to strengthen communities and ensure equal access to housing across North Dakota. On behalf of High Plains Fair Housing Center and myself, I would like to thank you for the opportunity to speak today in support of SB2235.

In our intake line, we see many examples that tenants are paying their rent but do not realize that the rent is being applied to a late fee or other fee that has been imposed by the property management company. We have noticed that it disproportionately affects certain populations such as people with disabilities, senior citizens on fixed incomes, and those receiving public assistance in housing. Applying rent payments to punitive fees before a person's rent balance creates an endless cycle of late fees that can lead to eviction for North Dakota tenants. This is especially true for those on fixed incomes or experiencing poverty. Applying tenant payments to fees before rent also presents a disparate impact to renters who are on housing assistance. If a person receiving housing assistance is evicted for any reason, they become ineligible for housing assistance and are then susceptible to homelessness. This results in a loss of federal dollars directly supporting housing programs and business in North Dakota.

It is vital that rent payments are made as small business owners are at risk of losing their investment, we are not advocating for nonpayment of rent or being unable to evict someone who does not make rent payments. We are asking for a level of protection that makes it possible for those making rent payments to remain in their homes while continuing to make payments on associated fees. This bill does not prevent landlords from recuperating costs associated with their housing program. It does protect North Dakotans from practices that lead to a vicious cycle of debt that can end in homelessness and the inability to gain future housing opportunities.

Thank you for your time and consideration.

2025 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

SB 2235
2/3/2025

A bill relating to rents and the priority of payments under a rental agreement.

9:30 a.m. Chairman Barta opened the hearing on SB 2235.

Members present: Chairman Barta, Vice-Chairman Boehm, Senator Klein, Senator Enget
Members absent: Senator Kessel

Discussion Topics:

- Priority of payments and order
- Defining contracts
- Rental agreement references
- Consumer awareness
- Testimony and homelessness
- Personal responsibility

9:35 a.m. Senator Klein moved a Do Not Pass.

9:35 a.m. Senator Enget seconded the motion.

Senators	Vote
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Greg Kessel	A
Senator Jerry Klein	Y

Motion passed 4-0-1.

Senator Boehm will carry the bill.

9:36 a.m. Chairman Barta closed the hearing.

Audrey Oswald, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2235 ([25.0578.01000](#))

Industry and Business Committee (Sen. Barta, Chairman) recommends **DO NOT PASS** (4 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2235 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.