

Appendix LH 1992 - 376

Legislative History of the Security-Deposit Parts of 1992 Minn. Laws ch. 376¹

Four Sources:

- 1992 Minn. Laws ch. 376 is available in digitally at <https://www.revisor.mn.gov/laws/1992/0/Session+Law/Chapter/376/>
- Minnesota House and Senate Journals after 1972 plus some older ones are available digitally at https://www.lrl.mn.gov/leg/history/hist_resource
- Recordings of committee hearings and floor debates after 1990 are available at <https://www.lrl.mn.gov/media/>
- Committee minutes plus associated documents and copies of bills as introduced are available in hard copy at the Gale Family Library, <https://www.mnhs.org/library>. The library's catalog, which it calls a "Finding Aid", is not user friendly. In addition to asking the librarians for help, I generally started digitally at <https://libguides.mnhs.org/searchfindingaids>. Then I clicked on the "L"² because "Legislature" starts with "L". Then inventories of targets – lists of the file boxes containing hard copies of items – were obtained by the links therein as follows.

Original House Bills →

Legislature: House of Representative: An Inventory of Its House Bills gr00119

Original Senate Bills³ →

Legislature: Senate: An Inventory of Its Senate Bills gr00707

House Committee Minutes and Related Documents →

Legislature: House of Representatives: An Inventory of Its Committee Books
gr00073

Senate Committee Minutes and Related Documents (including SF 720 conference committee) →

Legislature: Senate: An Inventory of Its Committee Books gr00074

I ordered the relevant boxes, found the relevant items in the boxes, had the library staff make hard copies (now in my own files), and then I made PDF images (shown in the Endnotes below), a time-consuming process.

¹The language of the security-deposit parts of 1992 Minn. Laws ch. 376 is identical to Endnote 6, Second Conference Report. (The Second Conference Report was the bill passed by both legislative chambers and signed by the governor.)

²Getting me to https://storage.googleapis.com/mnhs-finding-aids-public/library/findaids/index_L.html

³These are mostly on microfilm instead of being hard copies in boxes .

Progress of SF 720 in Senate

Page in Senate Journal	Date	Event
345	3/11/91	First Reading, Endnote 1 is first page and security-deposit portion ⁴ ; referred to Committee on Economic Development & Housing
409	3/11/91	Amendments not related to security-deposit portion
2604	5/2/91	Amendments not related to security-deposit portion
3209 et seq	5/13/19	Delete-all amendment reported back from Committee on Finance to which it had been re-referred via the Committee on Judiciary. Endnote 2 is the security-deposit portions. This delete-all amendment incorporated SF 951.
3418	5/15/91	Third Reading, passage 67-0
4132-4133	5/20/91	Announce House passed its version of SF 720, non-concur
4393	5/20/91	Conferees appointed → James Metzen, Randy Kelly & John Bernhagen
4458	5/20/91	Conferees agreed to by the House
5392 et seq	5/20/91	Conference report (delete all), Endnote 3 is the security- deposit portions
5803	3/2/92	Recalled from House for further consideration
5900	3/9/92	House returns to Senate, laid on table
6273	3/16/92	Reconsider
6506	3/19/92	Appointment of James Metzen, Randy Kelly & John Bernhagen as conferees (again)
6626 et seq	3/23/92	Conference report (delete all), Endnote 4 is the security- deposit portions. Endnote 4½ is the minutes of this conference committee.
6648	3/23/92	Third Reading, passage 60-0
6720	3/25/92	Announce House agreed to conference Report
7577		Bill signed by the Governor

⁴SAM 288, Reel 4, the microfilm supposedly containing the original bill at the Gale Family Library, is missing, probably for good. What is shown in Endnote 1 is actually the language in the original bill HF 1002, the companion bill to SF 720, and which is almost surely the language in the original SF 720 bill.

Progress of SF 720 in House

Page in House Journal	Date	Event
5850-5851	5/16/91	Announces Senate passed SF 720. First Reading. Clerk for comparison with HF 1002
5955	5/17/91	Comparison shows HF 1002 & SF 720 identical with exceptions
6002	5/17/91	Second Reading
6781	5/18/91	Temporarily laid over on motion by Clark
6782 et seq	5/18/91	Delete-all amendment moved by Clark. Language of delete-all amendment is same as 5/14/91 version of HF 1002. Endnote 5 is the security-deposit portions
6838	5/18/91	Third Reading (of delete all), passage 68-61
6951	5/20/91	Announces Senate does not concur
6953	5/20/91	Conferees appointed → Karen Clark, Richard Jefferson & Connie Morrison
9384-9885	3/5/92	Return to Senate for more consideration
10655 et seq	3/24/92	Conference report (delete all), Endnote 6 is the security-deposit portions
10684-10685 12109	3/24/92	Third Reading (of conference report), passage 76-53 Bill signed by the Governor

Progress of HF 1002 in House

Page in House Journal	Date	Event
682	3/21/91	First Reading, Endnote 7 is first page and security-deposit portion; referred to Committee on Economic Development & Housing
2062	4/17/91	Delete all – landlord-tenant items gone from bill
2971	4/25/91	A few amendments, landlord-tenant items still gone
5552 et seq	5/14/91	Delete all reported back from Committee on Appropriations to which it had been re-referred. Endnote 8 is the security-deposit portions. This delete-all amendment incorporated HF 714.
5654	5/14/91	Second Reading
5852	5/14/91	Compare to SF 720
5887	5/16/91	Special orders
5955	6/17/91	Comparison shows identical to SF 720 with exceptions
6841	5/18/91	Remove Runbeck as author

bill progress ends

Progress of HF 714 in House

Page in House Journal or Committee Information	Date	Event
474	3/21/91	First Reading ⁵ , same language as SF 951, referred to Committee on Housing
Committee on Housing	3/25/91 early ⁶	Discussion of security-deposit language in Article 1 ⁷ .
	3/25/91 late	More discussion and some amendments to HF714 but note
	thru 4/4/91 ⁸	relate to the security-deposit language Discussion of security-deposit language in Article 4 of the bill as introduced
1334	4/10/91	Delete all ⁹ reported back from Committee on Housing, re-referred to Committee on Judiciary
2643	4/22/91	Amendments but none re security deposit, re-referred to Committee on Taxes. No discussion of security deposits in Judiciary Committee.
2816	4/23/91	Amendments but none re security deposit, re-referred to Committee on Appropriations. No discussion of security deposits in Appropriations Committee. <i>bill progress ends</i>

⁵Large bill. Pages showing security-deposit portions shown in Endnote 9.

⁶The committee had two meetings on 3/25/91, an early one starting at 12:35 pm and a late one starting at 7:10 pm.

⁷Endnote 10 shows the relevant minutes. No amendment was introduced re the security deposit language. Paul Onka's presentation starts at 4:25 of Tape 1 and his discussion of Article 1's security deposit provisions starts at 8:45. Endnote 10½ is a transcript of his testimony.

⁸At the end of this meeting the committee voted in favor of HF714 as amended and re-referred it to the Committee on Judiciary. Endnote 11 is the minutes of this meeting. Endnote 12 is a transcript of the security-deposit provisions.

⁹Article 1, section 5-6, pp 1341-1342 has the five-day rule and penalty for not following the five-day rule. Article 5 (Article 4 in the bill as introduced), section 1-2, pp 1369-1370 has the transfer-on-sale rules and penalty for not following the transfer-on-sale rules. Endnote 13 reprints these journal pages.

Progress of SF 951 in Senate

Page in Senate Journal or Committee Information	Date	Event
455	3/21/91	First Reading, same language as HF714, referred to Committee on Economic Development and Housing
Committee on Economic Development and Housing	3/25/91 ¹⁰	Delete-all amendment (see Endnote 14) introduced followed by a discussion of security-deposit language. Senate Counsel's summary of the delete-all amendment was distributed.
	4/3/91	More discussion and some amendments to SF951 but non related to security deposits. However, Endnote 17 is the security-deposit portions of the committee report signed by Chair Metzen.
664	4/4/91	Delete all ¹¹ reported back from Committee on Economic Development & Housing, re-referred to Committee on Judiciary ¹²
1303	4/17/91	Amendments not related to security-deposit portion, re-referred to Committee on Taxes and Tax Laws
2598	5/2/19	Amendments not related to security-deposit portion, re-referred to Committee on Finance
		<i>bill progress ends</i>

¹⁰Endnote 14 shows the relevant minutes including the security-deposit parts of the delete-all amendment to SF 951. Endnote 15 shows the senate counsel's summary of the delete-all amendment. Endnote 16 is a transcript of the discussion of the security-deposit provisions in Article 1.

¹¹Article 1, section 5-6, pp 668-669 has the five-day rule and penalty for not following the five-day rule. Article 4, section 1-2, pp 677-678 has the transfer-on-sale rules and penalty for not following transfer-on-sale rules. Endnote 18 reprints these journal pages.

¹²The Judiciary Committee discussed and re-referred bill to the Tax Committee on April 11, 1991. Author Sen. Pogemiller said he and counsel marked the few items from SF 951 as passed by Economic Development committee as worth discussing. Listen to 1:01:10-1:38:10 of recording. John Herman, who presented Article 4 language in House Committee on Housing spoke briefly but not re security deposits. Neither subsequent committee discussed security deposits.

Endnotes for SF 720 in Senate

Endnote 1

Original SF 720 as Introduced,
Only the Security-Deposit Pages

ORIGINAL SF 720

1

A bill for an act

2 relating to housing; modifying procedures relating to
3 rent escrow actions; modifying procedures relating to
4 the tenant's loss of essential services; modifying
5 provisions relating to tenant remedy actions,
6 retaliatory eviction proceedings, and receivership
7 proceedings; modifying provisions relating to
8 Minnesota housing finance agency low- and
9 moderate-income housing programs; providing for an
10 emergency mortgage and rental assistance pilot
11 project; modifying certain receivership, assignment of
12 rents and profits, and landlord and tenant provisions;
13 modifying provisions relating to housing and
14 redevelopment authorities; providing for the issuance
15 of general obligation bonds for housing by the cities
16 of Minneapolis and St. Paul; authorizing the city of
17 Minneapolis to make small business loans; modifying
18 the property tax classification of certain residential
19 real estate; excluding housing districts from the
20 calculation of local government aid reductions;
21 modifying the interest rate reduction program;
22 changing the definition of mentally ill person;
23 consolidating special needs housing programs;
24 clarifying and amending biennial reporting
25 requirement; authorizing new construction of
26 accessible housing; authorizing off-reservation home
27 improvement program; appropriating money; amending
28 Minnesota Statutes 1990, sections 268.39; 273.124,
29 subdivisions 1 and 11; 273.13, subdivision 25;
30 273.1399, subdivision 1; 462A.03, subdivisions 10 and
31 16; 462A.05, subdivision 20, and by adding a
32 subdivision; 462A.21, subdivisions 4k, 12a, and 14;
33 462A.22, subdivision 9; 462A.222, subdivision 3;
34 462C.03, subdivision 10; 469.011, subdivision 4;
35 469.012, subdivision 1; 469.015, subdivisions 3, 4,
36 and by adding a subdivision; 469.176, subdivision 4f;
37 474A.048, subdivision 2; 481.02, subdivision 3;
38 504.02; 504.185, subdivision 2; 504.20, subdivisions
39 3, 4, 5, and 7; 504.27; 559.17, subdivision 2; 566.03,
40 subdivision 1; 566.17, subdivisions 1, 2, and by
41 adding a subdivision; 566.175, subdivision 6; 566.18,
42 subdivision 9; 566.29, subdivisions 2 and 4; and
43 576.01, subdivision 2; Laws 1974, chapter 285, section
44 4, as amended; Laws 1987, chapter 404, section 28,
45 subdivision 1; Laws 1988, chapter 594, section 6; Laws
46 1989, chapter 335, article 1, section 27, subdivision

1 service and fails to do so, a tenant or group of tenants may pay
2 to have the service continued or reconnected as provided under
3 this section. Before paying for the service, the tenant or
4 group of tenants shall give oral or written notice to the owner
5 of the tenant's intention to pay after 48 hours, or a shorter
6 period that is reasonable under the circumstances, if the owner
7 has not already paid for the service. In the case of oral
8 notification, written notice shall be mailed or delivered to the
9 owner within 24 hours after oral notice is given.

10 (a) In the case of natural gas, electricity, or water, if
11 the owner has not yet paid the bill by the time of the tenant's
12 intended payment, or if the service remains discontinued, the
13 tenant or tenants may pay the outstanding bill for the most
14 recent billing period, if the utility company or municipality
15 will restore the service for at least one billing period.

16 (b) In the case of home heating oil or propane, if the
17 owner has not yet paid the bill by the time of the tenant's
18 intended payment, or if the service remains discontinued, the
19 tenant or tenants may order and pay for one month's supply of
20 the proper grade and quality of oil or propane.

21 After submitting receipts for the payment to the owner, a
22 tenant may deduct the amount of the tenant's payment from the
23 rental payment next paid to the owner. Any amount paid to the
24 municipality, utility company, or other company by a tenant
25 under this subdivision is considered payment of rent to the
26 owner for purposes of section 504.02.

27 Sec. 4. Minnesota Statutes 1990, section 504.20,
28 subdivision 3, is amended to read:

29 Subd. 3. Every landlord shall, within three weeks after
30 termination of the tenancy or within five days of the date when
31 the tenant leaves the building or dwelling due to the legal
32 condemnation of the building or dwelling in which the tenant
33 lives for reasons not due to willful, malicious, or
34 irresponsible conduct of the tenant, and receipt of the tenant's
35 mailing address or delivery instructions, return the deposit to
36 the tenant, with interest thereon as above provided, or furnish

1 to the tenant a written statement showing the specific reason
2 for the withholding of the deposit or any portion thereof. It
3 shall be sufficient compliance with the time requirement of this
4 subdivision if the deposit or written statement required by this
5 subdivision is placed in the United States mail as first class
6 mail, postage prepaid, in an envelope with a proper return
7 address, correctly addressed according to the mailing address or
8 delivery instructions furnished by the tenant, within the time
9 required by this subdivision. The landlord may withhold from
10 the deposit only amounts reasonably necessary:

11 (a) To remedy tenant defaults in the payment of rent or of
12 other funds due to the landlord pursuant to an agreement; or

13 (b) To restore the premises to their condition at the
14 commencement of the tenancy, ordinary wear and tear excepted.

15 In any action concerning the deposit, the burden of
16 proving, by a fair preponderance of the evidence, the reason for
17 withholding all or any portion of the deposit shall be on the
18 landlord.

19 Sec. 5. Minnesota Statutes 1990, section 504.20,
20 subdivision 4, is amended to read:

21 Subd. 4. Any landlord who fails to provide a written
22 statement within three weeks of termination of the tenancy or
23 within five days of the date when the tenant leaves the building
24 or dwelling due to the legal condemnation of the building or
25 dwelling in which the tenant lives for reasons not due to
26 willful, malicious, or irresponsible conduct of the tenant, and
27 receipt of the tenant's mailing address or delivery
28 instructions, as required in subdivision 3, shall be liable to
29 the tenant for damages in an amount equal to the portion of the
30 deposit withheld by the landlord and interest thereon as
31 provided in subdivision 2, as a penalty, in addition to the
32 portion of the deposit wrongfully withheld by the landlord and
33 interest thereon.

34 Sec. 6. Minnesota Statutes 1990, section 504.27, is
35 amended to read:

36 504.27 [REMEDIES ARE ADDITIONAL.]

1 remaining credits from the regional pools to projects from the
2 respective regions.

3 (e) In the third round, all unallocated tax credits must be
4 transferred to a unified pool for allocation by the agency on a
5 statewide basis.

6 (f) Unused portions of the state ceiling for low-income
7 housing tax credits reserved to cities and counties for
8 allocation may be returned at any time to the agency for
9 allocation.

10 Sec. 5. [APPROPRIATION; DEPARTMENT OF JOBS AND TRAINING.]
11 \$..... is appropriated from the general fund to the
12 commissioner of jobs and training for the emergency mortgage and
13 rental assistance pilot project to be available for the biennium
14 ending June 30, 1993.

15 Sec. 6. [APPROPRIATION; HOUSING TRUST FUND ACCOUNT.]
16 \$..... is appropriated and transferred from the
17 general fund to the housing trust fund account in the housing
18 development fund for the purposes specified in Minnesota
19 Statutes, section 462A.201.

20 ARTICLE 4

21 ASSIGNMENT OF RENTS AND RECEIVERSHIP

22 Section 1. Minnesota Statutes 1990, section 504.20,
23 subdivision 4, is amended to read:

24 Subd. 4. Any landlord who fails to provide a written
25 statement within three weeks of termination of the tenancy and
26 receipt of the tenant's mailing address or delivery
27 instructions, as required in subdivision 3, ~~shall be~~ or fails to
28 transfer or return a deposit as required under subdivision 5, is
29 liable to the tenant or the successor in interest for damages in
30 an amount equal to the portion of the deposit withheld by the
31 landlord and interest thereon as provided in subdivision 2, as a
32 penalty, in addition to the portion of the deposit wrongfully
33 withheld by the landlord and interest thereon.

34 Sec. 2. Minnesota Statutes 1990, section 504.20,
35 subdivision 5, is amended to read:

36 Subd. 5. Upon termination of the landlord's interest in

1 the premises, whether by sale, assignment, death, appointment of
2 receiver or otherwise, the landlord or the landlord's agent
3 shall, within ~~a reasonable time~~ 60 days of termination of the
4 interest or when the successor in interest is required to return
5 or otherwise account for the deposit to the tenant, whichever
6 occurs first, do one of the following acts, either of which
7 shall relieve the landlord or agent of further liability with
8 respect to such deposit:

9 (a) Transfer such deposit, or any remainder after any
10 lawful deductions made under subdivision 3, with interest
11 thereon as provided in subdivision 2, to the landlord's
12 successor in interest and thereafter notify the tenant of such
13 transfer and of the transferee's name and address; or

14 (b) Return such deposit, or any remainder after any lawful
15 deductions made under subdivision 3, with interest thereon as
16 provided in subdivision 2, to the tenant.

17 Sec. 3. Minnesota Statutes 1990, section 504.20,
18 subdivision 7, is amended to read:

19 Subd. 7. The bad faith retention by a landlord of the a
20 deposit, the interest thereon, or any portion thereof, in
21 violation of this section shall subject the landlord to punitive
22 damages not to exceed \$200 for each deposit in addition to the
23 damages provided in subdivision 4. If the landlord has failed
24 to comply with the provisions of subdivision 3 or 5, retention
25 of the a deposit shall be presumed to be in bad faith unless the
26 landlord returns the deposit within two weeks after the
27 commencement of any action for the recovery of the deposit.

28 Sec. 4. Minnesota Statutes 1990, section 559.17,
29 subdivision 2, is amended to read:

30 Subd. 2. A mortgagor may assign, as additional security
31 for the debt secured by the mortgage, the rents and profits from
32 the mortgaged real property, if the mortgage:

33 (1) Was executed, modified or amended subsequent to August
34 1, 1977;

35 (2) Secured an original principal amount
36 of ~~\$500,000~~ \$100,000 or more or is a lien upon residential real

Endnote 2

Journal of the Senate

May 13, 1991

pages 3213-3214 and 3220

Delete-all Amendment, Only the Security-Deposit Pages

window, and storm door energy efficiency standards for renter-occupied residences prescribed by section 216C.27, subdivisions 1 and 3, and of the local units of government where the premises are located during the term of the lease or license, except when violation of the health and safety laws has been caused by the willful, malicious, or irresponsible conduct of the lessee or licensee or a person under the direction or control of the lessee or licensee.

The parties to a lease or license of residential premises may not waive or modify the covenants imposed by this section.

Sec. 4. Minnesota Statutes 1990, section 504.185, subdivision 2, is amended to read:

Subd. 2. [PROCEDURE.] When a municipality, utility company, or other company supplying home heating oil, propane, natural gas, electricity, or water to a building has issued a final notice or has posted the building proposing to disconnect or discontinued the service to the building because an owner who has contracted for the service has failed to pay for it or because an owner is required by law or contract to pay for the service and fails to do so, a tenant or group of tenants may pay to have the service continued or reconnected as provided under this section. Before paying for the service, the tenant or group of tenants shall give oral or written notice to the owner of the tenant's intention to pay after 48 hours, or a shorter period that is reasonable under the circumstances, if the owner has not already paid for the service. In the case of oral notification, written notice shall be mailed or delivered to the owner within 24 hours after oral notice is given.

(a) In the case of natural gas, electricity, or water, if the owner has not yet paid the bill by the time of the tenant's intended payment, or if the service remains discontinued, the tenant or tenants may pay the outstanding bill for the most recent billing period, if the utility company or municipality will restore the service for at least one billing period.

(b) In the case of home heating oil or propane, if the owner has not yet paid the bill by the time of the tenant's intended payment, or if the service remains discontinued, the tenant or tenants may order and pay for one month's supply of the proper grade and quality of oil or propane.

After submitting receipts for the payment to the owner, a tenant may deduct the amount of the tenant's payment from the rental payment next paid to the owner. Any amount paid to the municipality, utility company, or other company by a tenant under this subdivision is considered payment of rent to the owner for purposes of section 504.02.

Sec. 5. Minnesota Statutes 1990, section 504.20, subdivision 3, is amended to read:

Subd. 3. Every landlord shall, within three weeks after termination of the tenancy or within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant, and after receipt of the tenant's mailing address or delivery instructions, return the deposit to the tenant, with interest thereon as above provided, or furnish to the tenant a written statement showing the specific reason for the withholding of the deposit or any portion thereof. It shall be sufficient compliance with the time requirement of this subdivision if the deposit or written statement required by this subdivision

is placed in the United States mail as first class mail, postage prepaid, in an envelope with a proper return address, correctly addressed according to the mailing address or delivery instructions furnished by the tenant, within the time required by this subdivision. The landlord may withhold from the deposit only amounts reasonably necessary:

(a) To remedy tenant defaults in the payment of rent or of other funds due to the landlord pursuant to an agreement; or

(b) To restore the premises to their condition at the commencement of the tenancy, ordinary wear and tear excepted.

In any action concerning the deposit, the burden of proving, by a fair preponderance of the evidence, the reason for withholding all or any portion of the deposit shall be on the landlord.

Sec. 6. Minnesota Statutes 1990, section 504.20, subdivision 4, is amended to read:

Subd. 4. Any landlord who fails to provide a written statement within three weeks of termination of the tenancy *or within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant*, and after receipt of the tenant's mailing address or delivery instructions, as required in subdivision 3, shall be liable to the tenant for damages in an amount equal to the portion of the deposit withheld by the landlord and interest thereon as provided in subdivision 2, as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.

Sec. 7. Minnesota Statutes 1990, section 504.27, is amended to read:

504.27 [REMEDIES ARE ADDITIONAL.]

The remedies provided in sections 504.24 to 504.26 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 504.24 to 504.27 is waived by a tenant is contrary to public policy and void. The provisions of sections 504.24 to 504.27 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. *The provisions of sections 504.24, 504.25, 504.255, and 504.26 apply to occupants and owners of residential real property which is the subject of a mortgage foreclosure or contract for deed cancellation and as to which the period for redemption or reinstatement of the contract has expired.*

ARTICLE 2

UNLAWFUL DETAINER

Section 1. Minnesota Statutes 1990, section 566.03, subdivision 1, is amended to read:

Subdivision 1. *The person entitled to the premises may recover possession in the manner provided in this section when:*

(1) any person holds over lands or tenements after a sale thereof on an execution or judgment, or on foreclosure of a mortgage, and expiration of the time for redemption, or after termination of contract to convey the same, provided that if the person holding such lands or tenements after the ~~sale,~~

ARTICLE 4

ASSIGNMENT OF RENTS AND RECEIVERSHIP

Section 1. Minnesota Statutes 1990, section 504.20, subdivision 4, is amended to read:

Subd. 4. Any landlord who fails to provide a written statement within three weeks of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, as required in subdivision 3, ~~shall be or fails to transfer or return a deposit as required under subdivision 5, is liable to the tenant or the successor in interest for damages in an amount equal to the portion of the deposit withheld by the landlord and interest thereon as provided in subdivision 2, as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.~~

Sec. 2. Minnesota Statutes 1990, section 504.20, subdivision 5, is amended to read:

Subd. 5. Upon termination of the landlord's interest in the premises, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent shall, ~~within a reasonable time~~ *60 days of termination of the interest or when the successor in interest is required to return or otherwise account for the deposit to the tenant, whichever occurs first*, do one of the following acts, either of which shall relieve the landlord or agent of further liability with respect to such deposit:

(a) Transfer such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the landlord's successor in interest and thereafter notify the tenant of such transfer and of the transferee's name and address; or

(b) Return such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the tenant.

Sec. 3. Minnesota Statutes 1990, section 504.20, subdivision 7, is amended to read:

Subd. 7. The bad faith retention by a landlord of ~~the a~~ deposit, the interest thereon, or any portion thereof, in violation of this section shall subject the landlord to punitive damages not to exceed \$200 *for each deposit* in addition to the damages provided in subdivision 4. If the landlord has failed to comply with the provisions of subdivision 3 *or 5*, retention of ~~the a~~ deposit shall be presumed to be in bad faith unless the landlord returns the deposit within two weeks after the commencement of any action for the recovery of the deposit.

Sec. 4. Minnesota Statutes 1990, section 559.17, subdivision 2, is amended to read:

Subd. 2. A mortgagor may assign, as additional security for the debt secured by the mortgage, the rents and profits from the mortgaged real property, if the mortgage:

(1) Was executed, modified or amended subsequent to August 1, 1977;

(2) Secured an original principal amount of ~~\$500,000~~ *\$100,000* or more *or is a lien upon residential real estate containing more than four dwelling units; and*

Endnote 3

Journal of the Senate

May 20, 1991

pages 5397-5398 and 5401-5402

First Conference Committee Report, Only the Security-Deposit Pages

an owner who has contracted for the service has failed to pay for it *or because an owner is required by law or contract to pay for the service and fails to do so*, a tenant or group of tenants may pay to have the service *continued or* reconnected as provided under this section. Before paying for the service, the tenant or group of tenants shall give oral or written notice to the owner of the tenant's intention to pay after 48 hours, or a shorter period that is reasonable under the circumstances, if the owner has not already paid for the service. In the case of oral notification, written notice shall be mailed or delivered to the owner within 24 hours after oral notice is given.

(a) In the case of natural gas, electricity, or water, if the owner has not yet paid the bill by the time of the tenant's intended payment, or if the service remains discontinued, the tenant or tenants may pay the outstanding bill for the most recent billing period, if the utility company or municipality will restore the service for at least one billing period.

(b) In the case of home heating oil or propane, if the owner has not yet paid the bill by the time of the tenant's intended payment, or if the service remains discontinued, the tenant or tenants may order and pay for one month's supply of the proper grade and quality of oil or propane.

After submitting receipts for the payment to the owner, a tenant may deduct the amount of the tenant's payment from the rental payment next paid to the owner. Any amount paid to the municipality, utility company, or other company by a tenant under this subdivision is considered payment of rent to the owner for purposes of section 504.02.

Sec. 5. Minnesota Statutes 1990, section 504.20, subdivision 3, is amended to read:

Subd. 3. Every landlord shall, within three weeks after termination of the tenancy *or within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant*, and after receipt of the tenant's mailing address or delivery instructions, return the deposit to the tenant, with interest thereon as above provided, or furnish to the tenant a written statement showing the specific reason for the withholding of the deposit or any portion thereof. It shall be sufficient compliance with the time requirement of this subdivision if the deposit or written statement required by this subdivision is placed in the United States mail as first class mail, postage prepaid, in an envelope with a proper return address, correctly addressed according to the mailing address or delivery instructions furnished by the tenant, within the time required by this subdivision. The landlord may withhold from the deposit only amounts reasonably necessary:

(a) To remedy tenant defaults in the payment of rent or of other funds due to the landlord pursuant to an agreement; or

(b) To restore the premises to their condition at the commencement of the tenancy, ordinary wear and tear excepted.

In any action concerning the deposit, the burden of proving, by a fair preponderance of the evidence, the reason for withholding all or any portion of the deposit shall be on the landlord.

Sec. 6. Minnesota Statutes 1990, section 504.20, subdivision 4, is amended to read:

Subd. 4. Any landlord who fails to provide a written statement within three weeks of termination of the tenancy *or within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant, and after receipt of the tenant's mailing address or delivery instructions, as required in subdivision 3, shall be liable to the tenant for damages in an amount equal to the portion of the deposit withheld by the landlord and interest thereon as provided in subdivision 2, as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.*

Sec. 7. Minnesota Statutes 1990, section 504.27, is amended to read:
504.27 [REMEDIES ARE ADDITIONAL.]

The remedies provided in sections 504.24 to 504.26 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 504.24 to 504.27 is waived by a tenant is contrary to public policy and void. The provisions of sections 504.24 to 504.27 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. *The provisions of sections 504.24, 504.25, 504.255, and 504.26 apply to occupants and owners of residential real property which is the subject of a mortgage foreclosure or contract for deed cancellation and as to which the period for redemption or reinstatement of the contract has expired.*

ARTICLE 2

UNLAWFUL DETAINER

Section 1. Minnesota Statutes 1990, section 566.03, subdivision 1, is amended to read:

Subdivision 1. *The person entitled to the premises may recover possession in the manner provided in this section when:*

(1) any person holds over lands or tenements after a sale thereof on an execution or judgment, or on foreclosure of a mortgage, and expiration of the time for redemption, or after termination of contract to convey the same, provided that if the person holding such lands or tenements after the ~~sale, foreclosure,~~ *expiration of the time for redemption or termination is a tenant, the person has received:*

(i) at least one month's written notice ~~of the termination of tenancy as a result of to vacate no sooner than one month after the sale, foreclosure, expiration of the time for redemption or termination, provided that the tenant pays the rent and abides by all terms of the lease; or when~~

(ii) *at least one month's written notice to vacate no later than the date of the expiration of the time for redemption or termination, which notice shall also state that the sender will hold the tenant harmless for breaching the lease by vacating the premises if the mortgage is redeemed or the contract is reinstated;*

(2) any person holds over lands or tenements after termination of the time for which they are demised or let to that person or to the persons under whom that person holds possession, or contrary to the conditions or covenants of the lease or agreement under which that person holds, or after

Subd. 8. [COUNSELING; REQUIREMENT; PENALTY.] Any lender or any mortgage banking company or any other mortgage lender not related to the mortgagor must keep a certificate on file documenting that the borrower, prior to entering into the reverse mortgage loan, received counseling as defined in this subdivision from an organization that meets the requirements of section 462A.28, subdivision 1, and is a housing counseling agency approved by the United States Department of Housing and Urban Development. The certificate must be signed by the mortgagor and the counselor and include the date of the counseling, the name, address, and telephone number of both the mortgagor and the organization providing counseling. Lenders must provide to the mortgagor a copy of the certificate of counseling upon request. A failure by a lender to provide certification results in a loss of any future interest due on the loan. For the purposes of this subdivision, "counseling" means the following services are provided to the borrower:

- (1) a review of the advantages and disadvantages of reverse mortgage programs;*
- (2) an explanation of how the reverse mortgage affects the borrower's estate and public benefits;*
- (3) an explanation of the lending process;*
- (4) a discussion of the borrower's supplemental income needs; and*
- (5) an opportunity to ask questions of the counselor.*

Sec. 2. Minnesota Statutes 1990, section 462A.03, subdivision 10, is amended to read:

Subd. 10. "Persons and families of low and moderate income" means persons and families, irrespective of race, creed, national origin or sex, or status with respect to guardianship or conservatorship, determined by the agency to require such assistance as is made available by sections 462A.01 to 462A.24 on account of personal or family income not sufficient to afford adequate housing. In making such determination the agency shall take into account the following: (a) The amount of the total income of such persons and families available for housing needs, (b) the size of the family, (c) the cost and condition of housing facilities available, (d) the eligibility of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing. In the case of federally subsidized mortgages with respect to which income limits have been established by any agency of the federal government having jurisdiction thereover for the purpose of defining eligibility of low and moderate income families, the limits so established shall govern under the provision of sections 462A.01 to 462A.24. In all other cases income limits for the purpose of defining low or moderate income persons shall be established by the agency by emergency or permanent rules.

ARTICLE 4

ASSIGNMENT OF RENTS AND RECEIVERSHIP

Section 1. Minnesota Statutes 1990, section 504.20, subdivision 4, is amended to read:

Subd. 4. Any landlord who fails to provide a written statement within three weeks of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, as required in subdivision 3, ~~shall be or~~

fails to transfer or return a deposit as required under subdivision 5, is liable to the tenant or the successor in interest for damages in an amount equal to the portion of the deposit withheld by the landlord and interest thereon as provided in subdivision 2, as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.

Sec. 2. Minnesota Statutes 1990, section 504.20, subdivision 5, is amended to read:

Subd. 5. Upon termination of the landlord's interest in the premises, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent shall, ~~within a reasonable time~~ *60 days of termination of the interest or when the successor in interest is required to return or otherwise account for the deposit to the tenant, whichever occurs first,* do one of the following acts, either of which shall relieve the landlord or agent of further liability with respect to such deposit:

(a) Transfer such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the landlord's successor in interest and thereafter notify the tenant of such transfer and of the transferee's name and address; or

(b) Return such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the tenant.

Sec. 3. Minnesota Statutes 1990, section 504.20, subdivision 7, is amended to read:

Subd. 7. The bad faith retention by a landlord of ~~the a~~ *a* deposit, the interest thereon, or any portion thereof, in violation of this section shall subject the landlord to punitive damages not to exceed \$200 *for each deposit* in addition to the damages provided in subdivision 4. If the landlord has failed to comply with the provisions of subdivision 3 *or 5*, retention of ~~the a~~ *a* deposit shall be presumed to be in bad faith unless the landlord returns the deposit within two weeks after the commencement of any action for the recovery of the deposit.

Sec. 4. Minnesota Statutes 1990, section 559.17, subdivision 2, is amended to read:

Subd. 2. A mortgagor may assign, as additional security for the debt secured by the mortgage, the rents and profits from the mortgaged real property, if the mortgage:

- (1) Was executed, modified or amended subsequent to August 1, 1977;
- (2) Secured an original principal amount of ~~\$500,000~~ *\$100,000* or more *or is a lien upon residential real estate containing more than four dwelling units;* and
- (3) Is not a lien upon property which was entirely homesteaded ~~as~~ *residential real estate containing four or less dwelling units where at least one of the units is homesteaded, or agricultural property.* The assignment may be enforced as follows:

(a) If, by the terms of an assignment, a receiver is to be appointed upon the occurrence of some specified event, and a showing is made that the event has occurred, the court shall, without regard to waste, adequacy of the security, or solvency of the mortgagor, appoint a receiver who shall, with respect to the excess cash remaining after application as provided in

Endnote 4

Journal of the Senate

March 23, 1992

pages 6631-6632

Second Conference Committee Report, Only the Security-Deposit Pages

company supplying home heating oil, propane, natural gas, electricity, or water to a building has *issued a final notice or has posted the building proposing to disconnect or discontinued the service to the building because an owner who has contracted for the service has failed to pay for it or because an owner is required by law or contract to pay for the service and fails to do so*, a tenant or group of tenants may pay to have the service *continued or reconnected as provided under this section*. Before paying for the service, the tenant or group of tenants shall give oral or written notice to the owner of the tenant's intention to pay after 48 hours, or a shorter period that is reasonable under the circumstances, if the owner has not already paid for the service. In the case of oral notification, written notice shall be mailed or delivered to the owner within 24 hours after oral notice is given.

(a) In the case of natural gas, electricity, or water, if the owner has not yet paid the bill by the time of the tenant's intended payment, or if the service remains discontinued, the tenant or tenants may pay the outstanding bill for the most recent billing period, if the utility company or municipality will restore the service for at least one billing period.

(b) In the case of home heating oil or propane, if the owner has not yet paid the bill by the time of the tenant's intended payment, or if the service remains discontinued, the tenant or tenants may order and pay for one month's supply of the proper grade and quality of oil or propane.

After submitting receipts for the payment to the owner, a tenant may deduct the amount of the tenant's payment from the rental payment next paid to the owner. Any amount paid to the municipality, utility company, or other company by a tenant under this subdivision is considered payment of rent to the owner for purposes of section 504.02.

Sec. 5. Minnesota Statutes 1990, section 504.20, subdivision 3, is amended to read:

Subd. 3. (a) Every landlord shall:

(1) within three weeks after termination of the tenancy; or

(2) within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant,

and after receipt of the tenant's mailing address or delivery instructions, return the deposit to the tenant, with interest thereon as above provided, or furnish to the tenant a written statement showing the specific reason for the withholding of the deposit or any portion thereof.

(b) It shall be sufficient compliance with the time requirement of this subdivision if the deposit or written statement required by this subdivision is placed in the United States mail as first class mail, postage prepaid, in an envelope with a proper return address, correctly addressed according to the mailing address or delivery instructions furnished by the tenant, within the time required by this subdivision. The landlord may withhold from the deposit only amounts reasonably necessary:

(a) (1) to remedy tenant defaults in the payment of rent or of other funds due to the landlord pursuant to an agreement; or

(b) (2) to restore the premises to their condition at the commencement of the tenancy, ordinary wear and tear excepted.

(c) In any action concerning the deposit, the burden of proving, by a fair preponderance of the evidence, the reason for withholding all or any portion of the deposit shall be on the landlord.

Sec. 6. Minnesota Statutes 1990, section 504.20, subdivision 4, is amended to read:

Subd. 4. Any landlord who fails to:

(1) provide a written statement within three weeks of termination of the tenancy ~~and~~;

(2) *provide a written statement within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant, or*

(3) *transfer or return a deposit as required by subdivision 5,*

after receipt of the tenant's mailing address or delivery instructions, as required in subdivision 3, shall be liable to the tenant for damages in an amount equal to the portion of the deposit withheld by the landlord and interest thereon as provided in subdivision 2, as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.

Sec. 7. Minnesota Statutes 1990, section 504.20, subdivision 5, is amended to read:

Subd. 5. Upon termination of the landlord's interest in the premises, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent shall, ~~within a reasonable time~~ *60 days of termination of the interest or when the successor in interest is required to return or otherwise account for the deposit to the tenant, whichever occurs first,* do one of the following acts, either of which shall relieve the landlord or agent of further liability with respect to such deposit:

(a) Transfer such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the landlord's successor in interest and thereafter notify the tenant of such transfer and of the transferee's name and address; or

(b) Return such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the tenant.

Sec. 8. Minnesota Statutes 1990, section 504.20, subdivision 7, is amended to read:

Subd. 7. The bad faith retention by a landlord of ~~the a~~ deposit, the interest thereon, or any portion thereof, in violation of this section shall subject the landlord to punitive damages not to exceed \$200 *for each deposit* in addition to the damages provided in subdivision 4. If the landlord has failed to comply with the provisions of subdivision 3 *or 5*, retention of ~~the a~~ deposit shall be presumed to be in bad faith unless the landlord returns the deposit within two weeks after the commencement of any action for the recovery of the deposit.

Endnote 4½

Second Conference Committee Minutes
(not including the report itself)



Minnesota House of Representatives

March 11, 1992

TO: Conferees :

Senator Bernhagen
Senator Kelly
Representative Jefferson
Representative Morrison

FROM: Representative Karen Clark *kc*
Senator James Metzen

RE: **Conference Committee Report on SF 720**

Attached is the draft of the conference committee report on **SF 720** and a summary of what it does. As we have agreed in our informal confereeing of this bill, we are deleting those articles which are redundant because they have since passed in other bills, and we are deleting any new language on replacement housing.

Senator Metzen and I ask you to review this for your final approval.

Please let us know if you can sign off on this. We will have the conferee papers prepared for your signature as soon as we hear back from you.

Attachment

5/20/91

Bill Comparison

DRAFT

H.F. 1002 and S.F. 720

Article 1. Section 1. Tenant representation in court. 481.02, subd. 3.

Article 1. Section 1. Identical.

Sec. 2. Action to recover premises. 504.02.

Sec. 2. Amends same section. Paragraph (b) contains court refund language. Paragraphs (d) and (e) identical to paragraphs (c) and (d).

No comparable provision.

Sec. 3. Rental energy conservation. 504.18, subd. 1. Contains rental energy language.

Sec. 3. Continuation of utility service. 504.185, subd. 2.

Sec. 4. Identical.

Secs. 4 & 5. Return of damage deposit. 504.20, subds. 3 & 4.

Secs. 5 & 6. Identical except adds "after" to receipt of mailing address.

~~Sec. 6. Tort liability. 504.26. Adds a section establishing statutory tort liability for landlords.~~

~~No comparable provision.~~

Sec. 7. Protection against illegal utility shutoff. 504.27.

Sec. 7. Identical.

Article 2. Section 1. Recovery of possession of premises. 566.03, subd. 1.

Article 2. Section 1. Identical, except clause ii has similar provisions different language.

Sec. 2. Jurisdiction of the housing calendar consolidation project. 566.17.

Sec. 2. Identical.

Sec. 3. Extension of the application of unlawful removal statutes. 566.175, subd. 6.

Sec. 3. Identical.

Sec. 4. Majority requirements for tenant remedy actions. 566.18, subd. 9.

Sec. 4. Identical.

~~Sec. 5. Tenant notification for common area violations. 566.19, subd. 2. Requires inspectors to give notice to tenants of violations in common areas informing them of their right to take action if the violation is not corrected.~~

~~No comparable provisions.~~

amendment
HDA -
388

amendment
HDA - 197

Secs. 6-10. Notice of condemnation of rental buildings. 566.205+ Includes condemnation of a rental building or notice of condemnation with emergencies involving loss of essential services for the petition of relief from the court under the tenant remedy actions. Requires notice to government units. Authorizes the court to order stays in certain circumstances.

No comparable provisions.

Sec. 11. Bond requirements for tenant remedy actions. 566.29, subd. 2.

Sec. 5. Identical.

Sec. 12. Source of funds for court appointed administrators of rental property. 566.29, subd. 4.

Sec. 6. Identical.

Sec. 13. Authorization of rent escrow proceedings. 566.34, subd. 2. Authorizes tenants to begin a rent escrow proceeding before rent is owed to the landlord. All rent due after initiating the action would be deposited with a court administrator.

No comparable provisions.

Sec. 14. Misdemeanor utility shut off. 609.606.

Sec. 7. Identical.

Sec. 15. Fee study. Requires the state court administrator to study and report to the legislature on the impact of changing court fees and fee refunds. Relates to fee refund in article 1, section 2 of SF 720.

Article 3. No comparable provision. Contained in a separate house file.

Article 3. Section 1. Counseling for reverse mortgages. 47.58.

No comparable provision. Contained in human resources appropriations.

Secs. 2 to 5. MHFA technical bill.

~~**Section 1. Compliance with lead regulations.** 116C.04 - Requires the FOB to coordinate compliance with lead regulations.~~

~~No comparable provisions.~~

Secs. 2-8. Coordinated homeless housing and training projects. Establishes a planning grants program. *# given Human Resources bill.*

No comparable provisions.

~~Secs. 9-19. Department of health lead standards and provisions.~~

No comparable provisions.

~~Sec. 20. Emergency mortgage and rental assistance. Deleted with amendment. Contained in human resources amendment.~~

No comparable provisions.

~~Secs. 21 & 22. MHEA residential lead abatement. Authorizes the agency to make loans and grants for lead abatement.~~

No comparable provisions.

Secs. 23-28. Housing impact report and replacement housing. Amends current statute. Changed by floor amendment.

No comparable provisions.

Article 4. Secs. 1-3. Youth working on homeless project. Amends current statute by limiting grant size, making changes to the education component. *fall in State Dept's bill.*

No comparable provisions.

Article 5. Assignment of Rents and Receivership.

Article 4. Assignment of Rents and Receivership.

Section 1. Landlord liability for rent deposits. 504.20, subd. 4.

Section 1. Identical.

Sec. 2. Landlord accountability for security deposits. 504.20, subd. 5.

Sec. 2. Identical.

Sec. 3. Punitive damage for retention of security deposits. 504.20, subd. 7.

Sec. 3. Identical.

Sec. 4. Limits on the assignment of rents for mortgaged property. 559.17, subd. 2.

Sec. 4. Identical.

Sec. 5. Limits on the appointment of a receiver in foreclosure. 576.01, subd. 2.

Sec. 5. Identical.

Article 6. Housing and Redevelopment Authorities.

Article 5. Housing and Redevelopment Authorities.

No comparable provisions

Section 1. Section 8 program. 469.002, subd. 24. Technical change 1989 to 1990.

Section 1. HRA commissioner per diem payments. 469.011. Raises per diem up to \$55 and excludes elected officials from collecting.

Sec. 2. HRA eminent domain authority. 469.012.

No comparable provisions.

Secs. 3-4. Exemption from HRA performance bond requirements. 469.015, subds. 3 and 4.

Sec. 5. HRA acceptance of checks in lieu of bonds. 469.015. Authorizes acceptance of certified check, letter of credit, or cashier's check.

Article 7. Local Housing and Economic Development.

Sections 1-2. Small business incubator.

No comparable provision. **see in State Dept. bill*

Sec. 3. Small business loans.

Sec. 4. Economic development activity (St. Paul).

House has last paragraph making the city abide by existing laws, etc. in expending funds.

Sec. 5. Effective date. House adds compliance with section 645.021 to effective date.

No comparable provision.

Article 8. Neighborhood Land Trusts.

Sec. 2. Identical, except absolute increase to \$55 per diem and elected officials are not excluded.

Sec. 3. Identical, except adds "currently vacant" in paragraph (7) and word differences in paragraph (32).

Sec. 4. Administration of federal leased assistance payments. 469.012, subd. 3.

Secs. 5-6. Identical.

Sec. 7. Identical, except does include letter of credit.

Article 6. Local Housing and Economic Development.

No comparable provision.

Sections 1-2. Use of taxable bonds for single family rehabilitation in municipal housing programs.

Sec. 3. Identical.

Sec. 4. Slight language differences throughout.

Senate has subdivision 2 in supplemental powers.

Sec. 5. Identical except compliance.

Article 7. Taxes.

No comparable provision. Separate Senate file.

Article 9. Funding for Land Trusts.

is in Human Resource bill

No comparable provision. Separate Senate file.

Article 10. Appropriations. Deleted by floor amendment.

No comparable provision.

Research Department

Thomas Todd, Director

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Minnesota House of Representatives

March 10, 1992

TO: Representative Karen Clark
FROM: Kathy Novak, Legislative Analyst
RE: S.F. 720 - the conference report

Attached is a draft copy of the conference report for S.F. 720 with the agreed upon changes. Also attached is a summary of the draft conference report. The new conference report has seven articles. The previous report had nine articles.

The following changes were made to the original conference report from May, 1991:

Article 1 - Combines section 6, article 1 and section 1, article 4 into new article 1, section 6. Because both sections amended Minnesota Statutes 504.20, subdivision 4, the language changes were combined.

New Article 1 combines old Article 2 and old Article 4, sections 1, 2, and 3. All of the sections deal with landlord tenant issues. These were added to Article 1 to form a new Article 1 on landlord tenant.

Article 2 - Combines old Article 2 with old Article 1. Becomes new Article 1, Landlord Tenant.

Article 3 - Deleted because all language is redundant. Section 1. Counseling for Reverse Mortgages; enacted in Chapter 201, Laws of Minnesota 1991.

Section 2. Amends section 462A.03, subdivision 10, definition of low and moderate income enacted in Chapter 292, Article 9, Section 15, Laws of Minnesota 1991,

Article 4 - Sections 1, 2, and 3 are in new Article 1. Sections 4 and 5 become new Article 2. Assignment of Rents and Receivership.

Article 5 - Technical change by the revisor to section 1, eliminating the reference to 1990 (a specific year is unnecessary except for federal tax amendments).

Incorporates the revisor bill correction that eliminated payment for daycare (lines 30 - 34). Becomes new Article 3, Housing and Redevelopment Authorities.

Article 6 - Eliminates all but section 9. Section 1 amends section 462C.03, subdivision 10; enacted in Chapter 291, Article 21, Section 16, Laws of Minnesota 1991.

Eliminates sections 2, 3, 4, 5, and 6 so that no changes are made to replacement housing language in current law.

Eliminates section 6, Minneapolis small business loans, which is moving through this legislative session.

Section 9 becomes new Article 4, Local Housing and Economic Development Programs.

Article 7 - No changes. Becomes new Article 5, Park and Recreation Boards.

Article 8 - Eliminates section 4 so that no changes are made to replacement housing language in current law. Becomes new Article 6, Miscellaneous.

Article 9 - Adds some language to clarify that the grant program is under the authority of the commissioner of housing finance. Becomes new Article 7, Housing and Economic Development Programs.

I hope this is helpful. Please let me know if there are any changes. Changes to the conference report have to be made by the revisor.

KN/lis

DRAFT

A. F. Conference Committee Report for S.F. 720

SUBJECT: Omnibus housing bill

AUTHORS: House -- Clark, Jefferson, Morrison
Senate -- Metzen, Kelly, Bernhagen

COMMITTEE: Conference

ANALYST: Kathy Novak, 296-9253

DATE: March 7, 1992

Article 1
Landlord and Tenant
Page 2

Section 1. Tenant representation. Amends the practice of law statute to permit persons not licensed to practice law to appear in rent escrow actions.

Sec. 2. Action to recover. Amends section 504.02 by authorizing the court in unlawful detainer to order a refund of the landlord's filing fee if the tenant brings past due rent to court and the court finds that the tenant meets certain conditions.

Authorizes the court to provide additional time for a tenant, who has paid all past due rent, to pay other landlord costs for bringing the unlawful detainer. Requires a written agreement between the landlord and tenant that partial payment of past due rent is applied to the balance due and acceptance does not waive the landlord's action to recover possession. Rent payments under this section are applied first to past periods before current periods.

Sec. 3. Energy efficiency. Amends the covenant of habitability statute to require energy efficiency in rental property and cross reference existing energy standards.

Sec. 4. Utility service. Authorizes tenants, or their representative, to pay for continued utility service after the responsible owner or landlord has been issued notice of service termination.

Secs. 5-7. Damage deposit return. Shortens to five days (from three weeks) the time in which the landlord must return a damage deposit if the building is condemned or the landlord's interest in the building is terminated.

Requires the landlord to return or account for the security deposit to the renter within 60 days after the landlord's termination of interest in the premises, or when the successor in interest is required to return or otherwise account for the deposit, whichever occurs first.

Sec. 8. Bad faith redemption of deposit. Provides that a landlord's punitive damage liability is \$200 per deposit. Includes failure to comply with the provisions of section 504.20, subdivision 5 as evidence of bad faith.

Sec. 9. Remedies are additional. Extends the protection of the lockout and illegal utility shutoff statutes to mortgagors and contract for deed vendees whose redemption periods have ended.

Sec. 10. Recover possession. Provides that the entitled party can recover the premises after a foreclosure when the time for redemption has expired. A tenant of foreclosed property must receive an eviction notice at least one month before the date of sale or expiration of the redemption period.

Sec. 11. Housing court. Retains jurisdiction with the housing courts in Hennepin and Ramsey counties to hear disputes concerning removal of personal property.

Sec. 12. Unlawful removal. Applies the provisions of the unlawful removal or exclusion from premises statute to occupants and owners of property where the mortgage redemption period or contract reinstatement period has expired.

Secs. 13 and 14. Actions by organizations. Changes the majority requirements for neighborhood organization to take action under the tenant remedy actions from a majority of the units to a majority of the occupied units.

Sec. 15. Powers. Adds federal and state funds as a source of money to pay the costs of a rental property under receivership (now municipality funds can be used).

Sec. 16. Utility shutoff. Codifies in chapter 609 the same language found in section 504.25 making a utility shutoff a misdemeanor.

Article 2
Assignment of Rents and Receivership
Page 15

Sec. 1. Assignment of rents. Allows mortgagor to assign rents and profits from mortgaged property as debt security if the original principle amount was \$100,000 or more (now \$500,000), provided the property is not residential real estate containing four units or less and is not homesteaded.

Sec. 2. Receiver appointed. Requires appointment of a receiver during foreclosure if the original principle amount is \$100,000 or more (now \$500,000), or the property contains more than four dwelling units and is not homesteaded.

Article 3
Housing and Redevelopment Authorities
Page 19

Section 1. Section 8 program. Technical amendment.

Sec. 2. HRA per diem. Raises per diem of HRA commissioners to \$55 (now \$35). Commissioners who are elected officials or full-time public employees are disallowed per diem payment if reimbursed by another source, but may be reimbursed for other expenses incurred as a result of board activities.

Sec. 3. Schedule of powers. Expands HRA eminent domain authority to include vacant lots which contained substandard building within three years preceding the exercise of eminent domain. Allows HRAs to secure mortgages and loans by obtaining the appointment of receivers and the assignment of rents and profits without regard to minimum original principle amount limitations.

Sec. 4. Exercise of powers. Authorizes HRAs to administer a leased existing housing assistance payment program under section 8 provisions.

Secs. 5 to 6. Performance bonds. Exempts the following contracts from performance bond requirements:

- (1) contracts of less than \$25,000;
- (2) construction change orders for housing projects in which 30 percent of the construction has been completed;
- (3) single family housing projects in which the authority acts as the general contractor;
- (4) services or materials for a housing project.

Authorizes an HRA to accept a certified check or cashier's check in lieu of a performance bond for contracts under \$25,000.

Article 4
Local Housing and Economic Development Program
Page 30

Sections 1 and 2. St. Paul economic development program. Authorizes the city of St. Paul and the St. Paul HRA to provide business working capital, acquire an equity interest in for-profit businesses, use funds outside the boundaries of existing development or redevelopment areas or districts, and with some limitations (only the city can issue bonds) exercise the powers of an economic development authority.

Article 5
Park and Recreation Boards
Page 31

Sections 1 to 3. Park and recreation board districts. Changes the appointment process for the Minneapolis reapportionment commission to allow the park and recreation board to appoint two members.

Establishes standards for setting the boundaries for the Minneapolis park districts.

Article 6
Miscellaneous
Page 33

Sections 1-3. Youth employment grant program. Modifies the existing youth employment grant program administered by state planning. The program provides education and training opportunities to at-risk youth in conjunction with construction or rehabilitation of housing for the homeless. Limits annual grants to \$50,000 per organization (no current limit). Requires the commissioner to give priority for grants to organizations that operate or have operated a successful program and to distributing programs throughout the state. Requires the existing job readiness skills component to comprise a minimum of 20 percent of each program. Adds an understanding of a variety of employment opportunities to the job-readiness provisions. Gives top priority for available residential units to homeless individuals who participated in the rehabilitation.

Sec. 5. Escrow of rent. Allows tenants who do not owe rent to begin a rent escrow action.

Article 7
Housing and Economic Development Programs
Page 35

Section 1. Training and housing program for homeless adults. Establishes, in the housing finance agency, a planning and demonstration grants program for eligible nonprofit organizations to provide home ownership opportunities in conjunction with education and training services for homeless adults.

Each program must contain work experience, job readiness, and life skills components. The work experience component must include projects that result in rehabilitation or construction of housing for the homeless, offer training for potential jobs, pay monetary compensation, provide supervision, and examine how participants may achieve certification.



**State of Minnesota
Department of Finance**

400 Centennial Building
658 Cedar Street
St. Paul, Minnesota 55155
(612) 296-5900

April 9, 1991

Chief Author

Senator: Metzen
303 Capitol

Representative:

Committee Chair:

Senator: Metzen

Representative:

House Appropriations Committee
Carol Kummer, Committee
Administrator
Room 363, State Office Building

Senator Merriam, Chairman
Senate Finance Committee
Room 122, State Capitol

Dan Salomone, Senate Research
Attn: Jay Kroshus
G-17, State Capitol

Re: Fiscal Notes

Transmitted herewith in compliance with M.S. 3.98 are Fiscal Notes pertaining to the following bills:

Senate File Number(s): 720

House File Number(s): (1002)



BILL TITLE: MHFA - Estb Shallow Rent Subsidy - Lease Pur

House File No. (1002)

This Fiscal Note on: XX Original Bill Amended Bill No.

Senate File No. 720

AGENCY: Housing Finance

Date: April 3, 1991 APR 8 1991

Prepared By: Peter Goedert

Phone No: 296-9815

 CONSOLIDATED: OF Agencies impacted:

1. ESTIMATE OF IMPACT ON EXPENDITURES - Increase (Decrease) - Dollars in Thousands (000's)

Name(s) of FUND:	POS.	F.Y. 1991	POS.	F.Y. 1992	POS.	F.Y. 1993
<u>The bill is blank as to amount.</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>SUBTOTALS</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Amount Agency can Absorb						
NAME OF FUND: <u> </u>		<u>()</u>		<u>()</u>		<u>()</u>
TOTAL CHANGE IN EXPENDITURES		<u>\$ </u>		<u>\$ </u>		<u>\$ </u>

2. LONG-RANGE IMPLICATIONS ON EXPENDITURES (EXPLAIN ASSUMPTIONS ON NARRATIVE) - Dollars in Thousands (000's)

Name(s) of FUND:	F.Y. 1994	F.Y. 1995	TOTAL
<u> </u>	<u>\$ </u>	<u>\$ </u>	<u>\$ </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>TOTAL</u>	<u>\$ </u>	<u>\$ </u>	<u>\$ </u>

3. ESTIMATE OF IMPACT ON REVENUES - INCREASE (DECREASE) -- Dollars in Thousands (000's)

Name(s) of FUND:	F.Y. 1991	F.Y. 1992	F.Y. 1993	F.Y. 1994	F.Y. 1995
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>TOTAL CHANGE IN REVENUES</u>	<u>\$ </u>				

Does this bill include language which may impact new or changed fees? NO XX YES (Explain on Narrative)

4. DOES BILL PROPOSE NEW OR EXPANDED MANDATES ON POLITICAL SUBDIVISIONS? XX NO

 YES (IF YES:) NONPROGRAM MANDATES
 PROGRAM MANDATES

On Narrative identify, explain and estimate the projected fiscal impact of the bill on state government and on the affected political subdivisions, including estimates of the levy impacts of the mandates.

5. NARRATIVE (EXPLANATIONS AND DETAIL INFORMATION ARE TO BE DISPLAYED ON NARRATIVE.)

- A. Assumptions, rationale, computations of estimated costs and revenues.
- B. Statutory provisions affected that are not indicated in the bill.
- C. Comments on technical or mechanical defects in bill.
- D. Other considerations, effective dates, etc.
- E. If new fiscal obligations are imposed on political subdivisions, indicate efforts made to reduce those obligations, including consultations made with representatives of the political subdivisions.

Signatures: [Signature]
Agency Head

4-3-91
Date

Reviewed By: [Signature]
Executive Budget Officer

4/5/91
Date

Fiscal Note - SF 720
Housing Finance Agency

A. Assumptions, rationale, computations.

If the Agency receives the 5 new positions requested in the biennial budget document, no additional new positions will be needed for the programs in this bill.

D. Other considerations.

The first engrossment of this bill includes language to implement the Governor's \$5 million Rent Assistance for Family Stabilization Program.

Endnotes for SF 720 in House

Endnote 5

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pages 6787-6788 and 6810-6811

Delete-all Amendment, Only the Security-Deposit Pages

and pay for one month's supply of the proper grade and quality of oil or propane.

After submitting receipts for the payment to the owner, a tenant may deduct the amount of the tenant's payment from the rental payment next paid to the owner. Any amount paid to the municipality, utility company, or other company by a tenant under this subdivision is considered payment of rent to the owner for purposes of section 504.02.

Sec. 4. Minnesota Statutes 1990, section 504.20; subdivision 3, is amended to read:

Subd. 3. Every landlord shall, within three weeks after termination of the tenancy or within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant, and receipt of the tenant's mailing address or delivery instructions, return the deposit to the tenant, with interest thereon as above provided, or furnish to the tenant a written statement showing the specific reason for the withholding of the deposit or any portion thereof. It shall be sufficient compliance with the time requirement of this subdivision if the deposit or written statement required by this subdivision is placed in the United States mail as first class mail, postage prepaid, in an envelope with a proper return address, correctly addressed according to the mailing address or delivery instructions furnished by the tenant, within the time required by this subdivision. The landlord may withhold from the deposit only amounts reasonably necessary:

(a) To remedy tenant defaults in the payment of rent or of other funds due to the landlord pursuant to an agreement; or

(b) To restore the premises to their condition at the commencement of the tenancy, ordinary wear and tear excepted.

In any action concerning the deposit, the burden of proving, by a fair preponderance of the evidence, the reason for withholding all or any portion of the deposit shall be on the landlord.

Sec. 5. Minnesota Statutes 1990, section 504.20, subdivision 4, is amended to read:

Subd. 4. Any landlord who fails to provide a written statement within three weeks of termination of the tenancy or within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant, and receipt of the tenant's mailing address

or delivery instructions, as required in subdivision 3, shall be liable to the tenant for damages in an amount equal to the portion of the deposit withheld by the landlord and interest thereon as provided in subdivision 2, as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.

Sec. 6. [504.246] [TORT LIABILITY.]

A landlord is liable for damages for personal injury caused to a tenant, or others on the premises with the consent of the tenant, or a subtenant by a condition existing before or after the tenant took possession of the premises, which is a breach of an express covenant to repair or maintain the leased premises or is a breach of the covenants specified in section 504.18, subdivision 1, if:

(1) the condition created an unreasonable risk on the premises which performance of the landlord's covenants would have prevented;

(2) the landlord knew of the condition; and

(3) the landlord failed to perform the covenants.

The provisions of this section do not limit any rights or remedies a tenant otherwise has under another statute or in contract or tort at common law.

Sec. 7. Minnesota Statutes 1990, section 504.27, is amended to read:

504.27 [REMEDIES ARE ADDITIONAL.]

The remedies provided in sections 504.24 to 504.26 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 504.24 to 504.27 is waived by a tenant is contrary to public policy and void. The provisions of sections 504.24 to 504.27 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. The provisions of sections 504.24, 504.25, 504.255, and 504.26 apply to occupants and owners of residential real property which is the subject of a mortgage foreclosure or contract for deed cancellation and as to which the period for redemption or reinstatement of the contract has expired.

~~(2)~~ (3) other homeless individuals;

~~(3)~~ (4) other very low income families and individuals; and

(4) (5) families or individuals that receive public assistance and that do not qualify in any other priority group.

ARTICLE 5

ASSIGNMENT OF RENTS AND RECEIVERSHIP

Section 1. Minnesota Statutes 1990, section 504.20, subdivision 4, is amended to read:

Subd. 4. Any landlord who fails to provide a written statement within three weeks of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, as required in subdivision 3, shall be or fails to transfer or return a deposit as required under subdivision 5, is liable to the tenant or the successor in interest for damages in an amount equal to the portion of the deposit withheld by the landlord and interest thereon as provided in subdivision 2, as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.

Sec. 2. Minnesota Statutes 1990, section 504.20, subdivision 5, is amended to read:

Subd. 5. Upon termination of the landlord's interest in the premises, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent shall, within a reasonable time 60 days of termination of the interest or when the successor in interest is required to return or otherwise account for the deposit to the tenant, whichever occurs first, do one of the following acts, either of which shall relieve the landlord or agent of further liability with respect to such deposit:

(a) Transfer such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the landlord's successor in interest and thereafter notify the tenant of such transfer and of the transferee's name and address; or

(b) Return such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the tenant.

Sec. 3. Minnesota Statutes 1990, section 504.20, subdivision 7, is amended to read:

Subd. 7. The bad faith retention by a landlord of ~~the~~ a deposit, the

interest thereon, or any portion thereof, in violation of this section shall subject the landlord to punitive damages not to exceed \$200 for each deposit in addition to the damages provided in subdivision 4. If the landlord has failed to comply with the provisions of subdivision 3 or 5, retention of the a deposit shall be presumed to be in bad faith unless the landlord returns the deposit within two weeks after the commencement of any action for the recovery of the deposit.

Sec. 4. Minnesota Statutes 1990, section 559.17, subdivision 2, is amended to read:

Subd. 2. A mortgagor may assign, as additional security for the debt secured by the mortgage, the rents and profits from the mortgaged real property, if the mortgage:

(1) Was executed, modified or amended subsequent to August 1, 1977;

(2) Secured an original principal amount of ~~\$500,000~~ \$100,000 or more or is a lien upon residential real estate containing more than four dwelling units; and

(3) Is not a lien upon property which was entirely homesteaded as, residential real estate containing four or less dwelling units where at least one of the units is homesteaded, or agricultural property. The assignment may be enforced as follows:

(a) If, by the terms of an assignment, a receiver is to be appointed upon the occurrence of some specified event, and a showing is made that the event has occurred, the court shall, without regard to waste, adequacy of the security, or solvency of the mortgagor, appoint a receiver who shall, with respect to the excess cash remaining after application as provided in section 576.01, subdivision 2, apply it as prescribed by the assignment. If the assignment so provides, the receiver shall apply the excess cash in the manner set out herein from the date of appointment through the entire redemption period from any foreclosure sale. Subject to the terms of the assignment, the receiver shall have the powers and duties as set forth in section 576.01, subdivision 2; or

(b) If no provision is made for the appointment of a receiver in the assignment or if by the terms of the assignment a receiver may be appointed, the assignment shall be binding upon the assignor unless or until a receiver is appointed without regard to waste, adequacy of the security or solvency of the mortgagor, but only in the event of default in the terms and conditions of the mortgage, and only in the event the assignment requires the holder thereof to first apply the rents and profits received as provided in section 576.01, subdivision 2, in which case the same shall operate against and be binding upon the occupiers of the premises from the date of filing by the holder of the assignment in the office of the county recorder or the office of the

Endnote 6

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pages 10,662-10,664

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After submitting receipts for the payment to the owner, a tenant may deduct the amount of the tenant's payment from the rental payment next paid to the owner. Any amount paid to the municipality, utility company, or other company by a tenant under this subdivision is considered payment of rent to the owner for purposes of section 504.02.

Sec. 5. Minnesota Statutes 1990, section 504.20, subdivision 3, is amended to read:

Subd. 3. (a) Every landlord shall:

(1) within three weeks after termination of the tenancy; or

(2) within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant,

and after receipt of the tenant's mailing address or delivery instructions, return the deposit to the tenant, with interest thereon as above provided, or furnish to the tenant a written statement showing the specific reason for the withholding of the deposit or any portion thereof.

(b) It shall be sufficient compliance with the time requirement of this subdivision if the deposit or written statement required by this subdivision is placed in the United States mail as first class mail, postage prepaid, in an envelope with a proper return address, correctly addressed according to the mailing address or delivery instructions furnished by the tenant, within the time required by this subdivision. The landlord may withhold from the deposit only amounts reasonably necessary:

~~(a)~~ (1) to remedy tenant defaults in the payment of rent or of other funds due to the landlord pursuant to an agreement; or

~~(b)~~ (2) to restore the premises to their condition at the commencement of the tenancy, ordinary wear and tear excepted.

(c) In any action concerning the deposit, the burden of proving, by a fair preponderance of the evidence, the reason for withholding all or any portion of the deposit shall be on the landlord.

Sec. 6. Minnesota Statutes 1990, section 504.20, subdivision 4, is amended to read:

Subd. 4. Any landlord who fails to:

(1) provide a written statement within three weeks of termination of the tenancy and;

(2) provide a written statement within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant, or

(3) transfer or return a deposit as required by subdivision 5,

after receipt of the tenant's mailing address or delivery instructions, as required in subdivision 3, shall be liable to the tenant for damages in an amount equal to the portion of the deposit withheld by the landlord and interest thereon as provided in subdivision 2, as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.

Sec. 7. Minnesota Statutes 1990, section 504.20, subdivision 5, is amended to read:

Subd. 5. Upon termination of the landlord's interest in the premises, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent shall, within a reasonable time 60 days of termination of the interest or when the successor in interest is required to return or otherwise account for the deposit to the tenant, whichever occurs first, do one of the following acts, either of which shall relieve the landlord or agent of further liability with respect to such deposit:

(a) Transfer such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the landlord's successor in interest and thereafter notify the tenant of such transfer and of the transferee's name and address; or

(b) Return such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the tenant.

Sec. 8. Minnesota Statutes 1990, section 504.20, subdivision 7, is amended to read:

Subd. 7. The bad faith retention by a landlord of ~~the~~ a deposit, the interest thereon, or any portion thereof, in violation of this section shall subject the landlord to punitive damages not to exceed \$200 for each deposit in addition to the damages provided in subdivision 4. If the landlord has failed to comply with the provisions of subdivision 3 or 5, retention of the a deposit shall be presumed to be in bad faith

unless the landlord returns the deposit within two weeks after the commencement of any action for the recovery of the deposit.

Sec. 9. Minnesota Statutes 1990, section 504.27, is amended to read:

504.27 [REMEDIES ARE ADDITIONAL.]

The remedies provided in sections 504.24 to 504.26 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 504.24 to 504.27 is waived by a tenant is contrary to public policy and void. The provisions of sections 504.24 to 504.27 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. The provisions of sections 504.24, 504.25, 504.255, and 504.26 apply to occupants and owners of residential real property which is the subject of a mortgage foreclosure or contract for deed cancellation and as to which the period for redemption or reinstatement of the contract has expired.

Sec. 10. Minnesota Statutes 1990, section 566.03, subdivision 1, is amended to read:

Subdivision 1. The person entitled to the premises may recover possession in the manner provided in this section when:

(1) any person holds over lands or tenements after a sale thereof on an execution or judgment, or on foreclosure of a mortgage, and expiration of the time for redemption, or after termination of contract to convey the same, provided that if the person holding such lands or tenements after the ~~sale, foreclosure,~~ expiration of the time for redemption or termination is a tenant, the person has received:

(i) at least one month's written notice of the termination of tenancy as a result of to vacate no sooner than one month after the sale, foreclosure, expiration of the time for redemption or termination, provided that the tenant pays the rent and abides by all terms of the lease; or when

(ii) at least one month's written notice to vacate no later than the date of the expiration of the time for redemption or termination, which notice shall also state that the sender will hold the tenant harmless for breaching the lease by vacating the premises if the mortgage is redeemed or the contract is reinstated;

(2) any person holds over lands or tenements after termination of the time for which they are demised or let to that person or to the persons under whom that person holds possession, or contrary to the

Endnotes for HF 1002 in House

Endnote 7

Original HF 1002 as Introduced,
Only the Security-Deposit Pages

ORIGINAL HF 1602

1

A bill for an act

2 relating to housing; modifying procedures relating to
3 rent escrow actions; modifying procedures relating to
4 the tenant's loss of essential services; modifying
5 provisions relating to tenant remedy actions,
6 retaliatory eviction proceedings, and receivership
7 proceedings; modifying provisions relating to
8 Minnesota housing finance agency low- and
9 moderate-income housing programs; providing for an
10 emergency mortgage and rental assistance pilot
11 project; modifying certain receivership, assignment of
12 rents and profits, and landlord and tenant provisions;
13 modifying provisions relating to housing and
14 redevelopment authorities; providing for the issuance
15 of general obligation bonds for housing by the cities
16 of Minneapolis and St. Paul; authorizing the city of
17 Minneapolis to make small business loans; modifying
18 the property tax classification of certain residential
19 real estate; excluding housing districts from the
20 calculation of local government aid reductions;
21 modifying the interest rate reduction program;
22 changing the definition of mentally ill person;
23 consolidating special needs housing programs;
24 clarifying and amending biennial reporting
25 requirement; authorizing new construction of
26 accessible housing; authorizing off-reservation home
27 improvement program; appropriating money; amending
28 Minnesota Statutes 1990, sections 268.39; 273.124,
29 subdivisions 1 and 11; 273.13, subdivision 25;
30 273.1399, subdivision 1; 462A.03, subdivisions 10 and
31 16; 462A.05, subdivision 20, and by adding a
32 subdivision; 462A.21, subdivisions 4k, 12a, and 14;
33 462A.22, subdivision 9; 462A.222, subdivision 3;
34 462C.03, subdivision 10; 469.011, subdivision 4;
35 469.012, subdivision 1; 469.015, subdivisions 3, 4,
36 and by adding a subdivision; 469.176, subdivision 4f;
37 474A.048, subdivision 2; 481.02, subdivision 3;
38 504.02; 504.185, subdivision 2; 504.20, subdivisions
39 3, 4, 5, and 7; 504.27; 559.17, subdivision 2; 566.03,
40 subdivision 1; 566.17, subdivisions 1, 2, and by
41 adding a subdivision; 566.175, subdivision 6; 566.18,
42 subdivision 9; 566.29, subdivisions 2 and 4; and
43 576.01, subdivision 2; Laws 1974, chapter 285, section
44 4, as amended; Laws 1987, chapter 404, section 28,
45 subdivision 1; Laws 1988, chapter 594, section 6; Laws
46 1989, chapter 335, article 1, section 27, subdivision

1 service and fails to do so, a tenant or group of tenants may pay
2 to have the service continued or reconnected as provided under
3 this section. Before paying for the service, the tenant or
4 group of tenants shall give oral or written notice to the owner
5 of the tenant's intention to pay after 48 hours, or a shorter
6 period that is reasonable under the circumstances, if the owner
7 has not already paid for the service. In the case of oral
8 notification, written notice shall be mailed or delivered to the
9 owner within 24 hours after oral notice is given.

10 (a) In the case of natural gas, electricity, or water, if
11 the owner has not yet paid the bill by the time of the tenant's
12 intended payment, or if the service remains discontinued, the
13 tenant or tenants may pay the outstanding bill for the most
14 recent billing period, if the utility company or municipality
15 will restore the service for at least one billing period.

16 (b) In the case of home heating oil or propane, if the
17 owner has not yet paid the bill by the time of the tenant's
18 intended payment, or if the service remains discontinued, the
19 tenant or tenants may order and pay for one month's supply of
20 the proper grade and quality of oil or propane.

21 After submitting receipts for the payment to the owner, a
22 tenant may deduct the amount of the tenant's payment from the
23 rental payment next paid to the owner. Any amount paid to the
24 municipality, utility company, or other company by a tenant
25 under this subdivision is considered payment of rent to the
26 owner for purposes of section 504.02.

27 Sec. 4. Minnesota Statutes 1990, section 504.20,
28 subdivision 3, is amended to read:

29 Subd. 3. Every landlord shall, within three weeks after
30 termination of the tenancy or within five days of the date when
31 the tenant leaves the building or dwelling due to the legal
32 condemnation of the building or dwelling in which the tenant
33 lives for reasons not due to willful, malicious, or
34 irresponsible conduct of the tenant, and receipt of the tenant's
35 mailing address or delivery instructions, return the deposit to
36 the tenant, with interest thereon as above provided, or furnish

1 to the tenant a written statement showing the specific reason
2 for the withholding of the deposit or any portion thereof. It
3 shall be sufficient compliance with the time requirement of this
4 subdivision if the deposit or written statement required by this
5 subdivision is placed in the United States mail as first class
6 mail, postage prepaid, in an envelope with a proper return
7 address, correctly addressed according to the mailing address or
8 delivery instructions furnished by the tenant, within the time
9 required by this subdivision. The landlord may withhold from
10 the deposit only amounts reasonably necessary:

11 (a) To remedy tenant defaults in the payment of rent or of
12 other funds due to the landlord pursuant to an agreement; or

13 (b) To restore the premises to their condition at the
14 commencement of the tenancy, ordinary wear and tear excepted.

15 In any action concerning the deposit, the burden of
16 proving, by a fair preponderance of the evidence, the reason for
17 withholding all or any portion of the deposit shall be on the
18 landlord.

19 Sec. 5. Minnesota Statutes 1990, section 504.20,
20 subdivision 4, is amended to read:

21 Subd. 4. Any landlord who fails to provide a written
22 statement within three weeks of termination of the tenancy or
23 within five days of the date when the tenant leaves the building
24 or dwelling due to the legal condemnation of the building or
25 dwelling in which the tenant lives for reasons not due to
26 willful, malicious, or irresponsible conduct of the tenant, and
27 receipt of the tenant's mailing address or delivery
28 instructions, as required in subdivision 3, shall be liable to
29 the tenant for damages in an amount equal to the portion of the
30 deposit withheld by the landlord and interest thereon as
31 provided in subdivision 2, as a penalty, in addition to the
32 portion of the deposit wrongfully withheld by the landlord and
33 interest thereon.

34 Sec. 6. Minnesota Statutes 1990, section 504.27, is
35 amended to read:

36 504.27 [REMEDIES ARE ADDITIONAL.]

1 remaining credits from the regional pools to projects from the
2 respective regions.

3 (e) In the third round, all unallocated tax credits must be
4 transferred to a unified pool for allocation by the agency on a
5 statewide basis.

6 (f) Unused portions of the state ceiling for low-income
7 housing tax credits reserved to cities and counties for
8 allocation may be returned at any time to the agency for
9 allocation.

10 Sec. 5. [APPROPRIATION; DEPARTMENT OF JOBS AND TRAINING.]

11 \$..... is appropriated from the general fund to the
12 commissioner of jobs and training for the emergency mortgage and
13 rental assistance pilot project to be available for the biennium
14 ending June 30, 1993.

15 Sec. 6. [APPROPRIATION; HOUSING TRUST FUND ACCOUNT.]

16 \$..... is appropriated and transferred from the
17 general fund to the housing trust fund account in the housing
18 development fund for the purposes specified in Minnesota
19 Statutes, section 462A.201.

20 ARTICLE 4

21 ASSIGNMENT OF RENTS AND RECEIVERSHIP

22 Section 1. Minnesota Statutes 1990, section 504.20,
23 subdivision 4, is amended to read:

24 Subd. 4. Any landlord who fails to provide a written
25 statement within three weeks of termination of the tenancy and
26 receipt of the tenant's mailing address or delivery
27 instructions, as required in subdivision 3, ~~shall be or fails to~~
28 transfer or return a deposit as required under subdivision 5, is
29 liable to the tenant or the successor in interest for damages in
30 an amount equal to the portion of the deposit withheld by the
31 landlord and interest thereon as provided in subdivision 2, as a
32 penalty, in addition to the portion of the deposit wrongfully
33 withheld by the landlord and interest thereon.

34 Sec. 2. Minnesota Statutes 1990, section 504.20,
35 subdivision 5, is amended to read:

36 Subd. 5. Upon termination of the landlord's interest in

1 the premises, whether by sale, assignment, death, appointment of
2 receiver or otherwise, the landlord or the landlord's agent
3 shall, within ~~a reasonable time~~ 60 days of termination of the
4 interest or when the successor in interest is required to return
5 or otherwise account for the deposit to the tenant, whichever
6 occurs first, do one of the following acts, either of which
7 shall relieve the landlord or agent of further liability with
8 respect to such deposit:

9 (a) Transfer such deposit, or any remainder after any
10 lawful deductions made under subdivision 3, with interest
11 thereon as provided in subdivision 2, to the landlord's
12 successor in interest and thereafter notify the tenant of such
13 transfer and of the transferee's name and address; or

14 (b) Return such deposit, or any remainder after any lawful
15 deductions made under subdivision 3, with interest thereon as
16 provided in subdivision 2, to the tenant.

17 Sec. 3. Minnesota Statutes 1990, section 504.20,
18 subdivision 7, is amended to read:

19 Subd. 7. The bad faith retention by a landlord of the a
20 deposit, the interest thereon, or any portion thereof, in
21 violation of this section shall subject the landlord to punitive
22 damages not to exceed \$200 for each deposit in addition to the
23 damages provided in subdivision 4. If the landlord has failed
24 to comply with the provisions of subdivision 3 or 5, retention
25 of the a deposit shall be presumed to be in bad faith unless the
26 landlord returns the deposit within two weeks after the
27 commencement of any action for the recovery of the deposit.

28 Sec. 4. Minnesota Statutes 1990, section 559.17,
29 subdivision 2, is amended to read:

30 Subd. 2. A mortgagor may assign, as additional security
31 for the debt secured by the mortgage, the rents and profits from
32 the mortgaged real property, if the mortgage:

33 (1) Was executed, modified or amended subsequent to August
34 1, 1977;

35 (2) Secured an original principal amount
36 of ~~\$500,000~~ \$100,000 or more or is a lien upon residential real

Endnote 8

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pages 5557-5558 and 5580-5581

Delete-all Amendment, Only the Security-Deposit Pages

not yet paid the bill by the time of the tenant's intended payment, or if the service remains discontinued, the tenant or tenants may pay the outstanding bill for the most recent billing period, if the utility company or municipality will restore the service for at least one billing period.

(b) In the case of home heating oil or propane, if the owner has not yet paid the bill by the time of the tenant's intended payment, or if the service remains discontinued, the tenant or tenants may order and pay for one month's supply of the proper grade and quality of oil or propane.

After submitting receipts for the payment to the owner, a tenant may deduct the amount of the tenant's payment from the rental payment next paid to the owner. Any amount paid to the municipality, utility company, or other company by a tenant under this subdivision is considered payment of rent to the owner for purposes of section 504.02.

Sec. 4. Minnesota Statutes 1990, section 504.20, subdivision 3, is amended to read:

Subd. 3. Every landlord shall, within three weeks after termination of the tenancy or within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant, and receipt of the tenant's mailing address or delivery instructions, return the deposit to the tenant, with interest thereon as above provided, or furnish to the tenant a written statement showing the specific reason for the withholding of the deposit or any portion thereof. It shall be sufficient compliance with the time requirement of this subdivision if the deposit or written statement required by this subdivision is placed in the United States mail as first class mail, postage prepaid, in an envelope with a proper return address, correctly addressed according to the mailing address or delivery instructions furnished by the tenant, within the time required by this subdivision. The landlord may withhold from the deposit only amounts reasonably necessary:

- (a) To remedy tenant defaults in the payment of rent or of other funds due to the landlord pursuant to an agreement; or
- (b) To restore the premises to their condition at the commencement of the tenancy, ordinary wear and tear excepted.

In any action concerning the deposit, the burden of proving, by a fair preponderance of the evidence, the reason for withholding all or any portion of the deposit shall be on the landlord.

Sec. 5. Minnesota Statutes 1990, section 504.20, subdivision 4, is amended to read:

Subd. 4. Any landlord who fails to provide a written statement within three weeks of termination of the tenancy or within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant, and receipt of the tenant's mailing address or delivery instructions, as required in subdivision 3, shall be liable to the tenant for damages in an amount equal to the portion of the deposit withheld by the landlord and interest thereon as provided in subdivision 2, as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.

Sec. 6. [504.246] [TORT LIABILITY.]

A landlord is liable for damages for personal injury caused to a tenant, or others on the premises with the consent of the tenant, or a subtenant by a condition existing before or after the tenant took possession of the premises, which is a breach of an express covenant to repair or maintain the leased premises or is a breach of the covenants specified in section 504.18, subdivision 1, if:

(1) the condition created an unreasonable risk on the premises which performance of the landlord's covenants would have prevented;

(2) the landlord knew of the condition; and

(3) the landlord failed to perform the covenants.

The provisions of this section do not limit any rights or remedies a tenant otherwise has under another statute or in contract or tort at common law.

Sec. 7. Minnesota Statutes 1990, section 504.27, is amended to read:

504.27 [REMEDIES ARE ADDITIONAL.]

The remedies provided in sections 504.24 to 504.26 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 504.24 to 504.27 is waived by a tenant is contrary to public policy and void. The provisions of sections 504.24 to 504.27 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. The provisions of sections 504.24, 504.25, 504.255, and 504.26 apply to

~~(2)~~ (3) other homeless individuals;

~~(3)~~ (4) other very low income families and individuals; and

~~(4)~~ (5) families or individuals that receive public assistance and that do not qualify in any other priority group.

ARTICLE 5

ASSIGNMENT OF RENTS AND RECEIVERSHIP

Section 1. Minnesota Statutes 1990, section 504.20, subdivision 4, is amended to read:

Subd. 4. Any landlord who fails to provide a written statement within three weeks of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, as required in subdivision 3, ~~shall be or fails to transfer or return a deposit as required under subdivision 5, is liable to the tenant or the successor in interest for damages in an amount equal to the portion of the deposit withheld by the landlord and interest thereon as provided in subdivision 2, as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.~~

Sec. 2. Minnesota Statutes 1990, section 504.20, subdivision 5, is amended to read:

Subd. 5. Upon termination of the landlord's interest in the premises, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent shall, ~~within a reasonable time~~ 60 days of termination of the interest or when the successor in interest is required to return or otherwise account for the deposit to the tenant, whichever occurs first, do one of the following acts, either of which shall relieve the landlord or agent of further liability with respect to such deposit:

(a) Transfer such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the landlord's successor in interest and thereafter notify the tenant of such transfer and of the transferee's name and address; or

(b) Return such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the tenant.

Sec. 3. Minnesota Statutes 1990, section 504.20, subdivision 7, is amended to read:

Subd. 7. ~~The bad faith retention by a landlord of the~~ a deposit, the

interest thereon, or any portion thereof, in violation of this section shall subject the landlord to punitive damages not to exceed \$200 for each deposit in addition to the damages provided in subdivision 4. If the landlord has failed to comply with the provisions of subdivision 3 or 5, retention of the a deposit shall be presumed to be in bad faith unless the landlord returns the deposit within two weeks after the commencement of any action for the recovery of the deposit.

Sec. 4. Minnesota Statutes 1990, section 559.17, subdivision 2, is amended to read:

Subd. 2. A mortgagor may assign, as additional security for the debt secured by the mortgage, the rents and profits from the mortgaged real property, if the mortgage:

(1) Was executed, modified or amended subsequent to August 1, 1977;

(2) Secured an original principal amount of ~~\$500,000~~ \$100,000 or more or is a lien upon residential real estate containing more than four dwelling units; and

(3) Is not a lien upon property which was entirely homesteaded ~~as residential real estate containing four or less dwelling units where at least one of the units is homesteaded~~, or agricultural property. The assignment may be enforced as follows:

(a) If, by the terms of an assignment, a receiver is to be appointed upon the occurrence of some specified event, and a showing is made that the event has occurred, the court shall, without regard to waste, adequacy of the security, or solvency of the mortgagor, appoint a receiver who shall, with respect to the excess cash remaining after application as provided in section 576.01, subdivision 2, apply it as prescribed by the assignment. If the assignment so provides, the receiver shall apply the excess cash in the manner set out herein from the date of appointment through the entire redemption period from any foreclosure sale. Subject to the terms of the assignment, the receiver shall have the powers and duties as set forth in section 576.01, subdivision 2; or

(b) If no provision is made for the appointment of a receiver in the assignment or if by the terms of the assignment a receiver may be appointed, the assignment shall be binding upon the assignor unless or until a receiver is appointed without regard to waste, adequacy of the security or solvency of the mortgagor, but only in the event of default in the terms and conditions of the mortgage, and only in the event the assignment requires the holder thereof to first apply the rents and profits received as provided in section 576.01, subdivision 2, in which case the same shall operate against and be binding upon the occupiers of the premises from the date of filing by the holder of the assignment in the office of the county recorder or the office of the

Endnotes for HF 714 Progress in House

Endnote 9

HF 714 as Introduced - Only Security-Deposit Parts

1 service and fails to do so, a tenant or group of tenants may pay
2 to have the service continued or reconnected as provided under
3 this section. Before paying for the service, the tenant or
4 group of tenants shall give oral or written notice to the owner
5 of the tenant's intention to pay after 48 hours, or a shorter
6 period that is reasonable under the circumstances, if the owner
7 has not already paid for the service. In the case of oral
8 notification, written notice shall be mailed or delivered to the
9 owner within 24 hours after oral notice is given.

10 (a) In the case of natural gas, electricity, or water, if
11 the owner has not yet paid the bill by the time of the tenant's
12 intended payment, or if the service remains discontinued, the
13 tenant or tenants may pay the outstanding bill for the most
14 recent billing period, if the utility company or municipality
15 will restore the service for at least one billing period.

16 (b) In the case of home heating oil or propane, if the
17 owner has not yet paid the bill by the time of the tenant's
18 intended payment, or if the service remains discontinued, the
19 tenant or tenants may order and pay for one month's supply of
20 the proper grade and quality of oil or propane.

21 After submitting receipts for the payment to the owner, a
22 tenant may deduct the amount of the tenant's payment from the
23 rental payment next paid to the owner. Any amount paid to the
24 municipality, utility company, or other company by a tenant
25 under this subdivision is considered payment of rent to the
26 owner for purposes of section 504.02.

27 Sec. 4. Minnesota Statutes 1990, section 504.20,
28 subdivision 3, is amended to read:

29 Subd. 3. Every landlord shall, within three weeks after
30 termination of the tenancy or within five days of the date when
31 the tenant leaves the building or dwelling due to the legal
32 condemnation of the building or dwelling in which the tenant
33 lives for reasons not due to willful, malicious, or
34 irresponsible conduct of the tenant, and receipt of the tenant's
35 mailing address or delivery instructions, return the deposit to
36 the tenant, with interest thereon as above provided, or furnish

1 to the tenant a written statement showing the specific reason
2 for the withholding of the deposit or any portion thereof. It
3 shall be sufficient compliance with the time requirement of this
4 subdivision if the deposit or written statement required by this
5 subdivision is placed in the United States mail as first class
6 mail, postage prepaid, in an envelope with a proper return
7 address, correctly addressed according to the mailing address or
8 delivery instructions furnished by the tenant, within the time
9 required by this subdivision. The landlord may withhold from
10 the deposit only amounts reasonably necessary:

11 (a) To remedy tenant defaults in the payment of rent or of
12 other funds due to the landlord pursuant to an agreement; or

13 (b) To restore the premises to their condition at the
14 commencement of the tenancy, ordinary wear and tear excepted.

15 In any action concerning the deposit, the burden of
16 proving, by a fair preponderance of the evidence, the reason for
17 withholding all or any portion of the deposit shall be on the
18 landlord.

19 Sec. 5. Minnesota Statutes 1990, section 504.20,
20 subdivision 4, is amended to read:

21 Subd. 4. Any landlord who fails to provide a written
22 statement within three weeks of termination of the tenancy or
23 within five days of the date when the tenant leaves the building
24 or dwelling due to the legal condemnation of the building or
25 dwelling in which the tenant lives for reasons not due to
26 willful, malicious, or irresponsible conduct of the tenant, and
27 receipt of the tenant's mailing address or delivery
28 instructions, as required in subdivision 3, shall be liable to
29 the tenant for damages in an amount equal to the portion of the
30 deposit withheld by the landlord and interest thereon as
31 provided in subdivision 2, as a penalty, in addition to the
32 portion of the deposit wrongfully withheld by the landlord and
33 interest thereon.

34 Sec. 6. Minnesota Statutes 1990, section 504.27, is
35 amended to read:

36 504.27 [REMEDIES ARE ADDITIONAL.]

1 remaining credits from the regional pools to projects from the
2 respective regions.

3 (e) In the third round, all unallocated tax credits must be
4 transferred to a unified pool for allocation by the agency on a
5 statewide basis.

6 (f) Unused portions of the state ceiling for low-income
7 housing tax credits reserved to cities and counties for
8 allocation may be returned at any time to the agency for
9 allocation.

10 Sec. 5. [APPROPRIATION; DEPARTMENT OF JOBS AND TRAINING.]

11 \$..... is appropriated from the general fund to the
12 commissioner of jobs and training for the emergency mortgage and
13 rental assistance pilot project to be available for the biennium
14 ending June 30, 1993.

15 Sec. 6. [APPROPRIATION; HOUSING TRUST FUND ACCOUNT.]

16 \$..... is appropriated and transferred from the
17 general fund to the housing trust fund account in the housing
18 development fund for the purposes specified in Minnesota
19 Statutes, section 462A.201.

20 ARTICLE 4

21 ASSIGNMENT OF RENTS AND RECEIVERSHIP

22 Section 1. Minnesota Statutes 1990, section 504.20,
23 subdivision 4, is amended to read:

24 Subd. 4. Any landlord who fails to provide a written
25 statement within three weeks of termination of the tenancy and
26 receipt of the tenant's mailing address or delivery
27 instructions, as required in subdivision 3, ~~shall be~~ or fails to
28 transfer or return a deposit as required under subdivision 5, is
29 liable to the tenant or the successor in interest for damages in
30 an amount equal to the portion of the deposit withheld by the
31 landlord and interest thereon as provided in subdivision 2, as a
32 penalty, in addition to the portion of the deposit wrongfully
33 withheld by the landlord and interest thereon.

34 Sec. 2. Minnesota Statutes 1990, section 504.20,
35 subdivision 5, is amended to read:

36 Subd. 5. Upon termination of the landlord's interest in

1 the premises, whether by sale, assignment, death, appointment of
 2 receiver or otherwise, the landlord or the landlord's agent
 3 shall, within ~~a reasonable time~~ 60 days of termination of the
 4 interest or when the successor in interest is required to return
 5 or otherwise account for the deposit to the tenant, whichever
 6 occurs first, do one of the following acts, either of which
 7 shall relieve the landlord or agent of further liability with
 8 respect to such deposit:

9 (a) Transfer such deposit, or any remainder after any
 10 lawful deductions made under subdivision 3, with interest
 11 thereon as provided in subdivision 2, to the landlord's
 12 successor in interest and thereafter notify the tenant of such
 13 transfer and of the transferee's name and address; or

14 (b) Return such deposit, or any remainder after any lawful
 15 deductions made under subdivision 3, with interest thereon as
 16 provided in subdivision 2, to the tenant.

17 Sec. 3. Minnesota Statutes 1990, section 504.20,
 18 subdivision 7, is amended to read:

19 Subd. 7. The bad faith retention by a landlord of ~~the a~~
 20 deposit, the interest thereon, or any portion thereof, in
 21 violation of this section shall subject the landlord to punitive
 22 damages not to exceed \$200 for each deposit in addition to the
 23 damages provided in subdivision 4. If the landlord has failed
 24 to comply with the provisions of subdivision 3 or 5, retention
 25 of ~~the a~~ deposit shall be presumed to be in bad faith unless the
 26 landlord returns the deposit within two weeks after the
 27 commencement of any action for the recovery of the deposit.

28 Sec. 4. Minnesota Statutes 1990, section 559.17,
 29 subdivision 2, is amended to read:

30 Subd. 2. A mortgagor may assign, as additional security
 31 for the debt secured by the mortgage, the rents and profits from
 32 the mortgaged real property, if the mortgage:

33 (1) Was executed, modified or amended subsequent to August
 34 1, 1977;

35 (2) Secured an original principal amount
 36 of ~~\$500,000~~ \$100,000 or more or is a lien upon residential real

Endnote 10
House Committee on Housing
Minutes of 3/25/91 Early Meeting¹

¹A very perceptive reader of these committee minutes will note that I spoke at this meeting. I spoke in favor of a provision relating to the landlord's tort liability. I don't even remember the security-deposit discussion much less have had anything to do with that discussion.

HOUSING COMMITTEE

MINUTES

Representative Karen Clark, Chairman of the Housing Committee called the Eleventh Meeting to order at 12:35 p.m. on March 25, 1991, in Room 5 of the State Office Building, St. Paul, Minnesota.

Members Present:

Clark, Chair	Mariani
Dawkins	McGuire
Anderson	Morrison
Bodahl	O'Connor
Dauner	Runbeck
Davids	Schreiber
Heir	Segal
Hufnagle	Thompson
Jefferson	Valento
Jennings	Wejzman

A quorum was present.

Representative Dawkins took over as chair.

Representative Clark introduced HF 714, a bill relating to housing. Omnibus housing bill; mortgage and rental assistance pilot project established. Landlord and tenant provisions modified.

Speaking on behalf of HF 714 (sections 1, 2,3,4,5,6) was:

Paul Onkka of Legal Services Advocacy Project

Representative Clark moved to amend HF 714 with amendment H714A24 - Att. 1. **THE MOTION PREVAILED.**

Representative Jefferson moved to amend HF 714 with amendment H714A6, as follows:

Page 1, Line 6, after word "parties" strike word "and" and insert word "to".

THE MOTION PREVAILED.

Representative Jefferson requested amendment be withdrawn.

Acting Chairman Dawkins moved to amend HF 714 as follows: See Attachment 2 - H8714A19.

Speaking on behalf of the Dawkins amendment was:

Paul Birnberg, a law student of 3439 Eleventh Street, Minneapolis, MN 55407.

Representative Segal moved to amend the Dawkins amendment as follows:

Page 1, Line 14, after word "knew", strike "or should have" "known"

Page 1, Line 15, delete semi-colon and the word "and"

A division was called. By a show of hands, there being 7 ayes and 6 nays, the **MOTION PREVAILED.**

The motion recurred for the adoption of the Dawkins amendment.
THE MOTION PREVAILED.

Representative Mariani moved to amend HF 714 with amendment as follows: HF714A9-1-Attachment 3.

Speaking against the amendment was Jim Sorbel, MN Multi Housing Association.

A division was called. By a show of hands, there being 8 ayes and 5 nays, the **MOTION PREVAILED.**

Representative Morrison moved to amend HF 714 as follows: See HF 714A30 - Attachment 4.

Explaining the Morrison amendment was Paul Onkka, Legal Services Advocates Project.

The motion recurred for the adoption of the Morrison amendment. The **MOTION PREVAILED.**

Mark Brunner explained sections 2 and 3 of HF 714.

Sharon Scanella Andersen, homeowner and community activist explained HF 714, article II

Acting Chairman Dawkins announced that the Subcommittee on Community Revitalization would meet in Room 500N at 6 p.m.

Hearing adjourned at 2:20 p.m.


KAREN CLARK - Chair

Mabel Canty - Clerk

Endnote 10½

House Committee on Housing

3/25/91 Early Meeting

Transcript of the discussion of the security-deposit provisions in Art 1

Transcript of Paul Onka's testimony on March 25, 1991 about the securit-deposit provisions in Article 1 of HF 714:

Sections 4 and 5 together shorten to five days the time in which a landlord must return a damage deposit if the building is condemned. Generally speaking, that's a situation where the tenant must move out on extremely short notice. What common situations [recording unclear] require the tenant vacate almost immediately if not within just a few days after the notice has been issued. This requires of course that the tenant move out right away and oftentimes post a different deposit on a different building. So we're shortening up here the time period within which that deposit must be returned if the building is condemned. I should add, it's not in the summary* distributed to the committee but in the bill, there is a limitation on this that the building is condemned for reasons not due to inappropriate activity or damage by the tenant.

*The summary apparently was distributed to the committee but is not in the Gale Library Files.

Endnote 11

House Committee on Housing
Minutes of 4/4/91 Meeting

HOUSING COMMITTEE

MINUTES

Representative Karen Clark, Chair of the Housing Committee, called the hearing to order April 4, 1991 at 5:45 p.m. in Room 300N of the State Office Building.

Members Present:

Clark	McGuire
Dawkins	Mariani
Anderson	Morrison
Bodahl	O'Connor
Dauner	Runbeck
Dauids	Schreiber
Heir	Segal
Hufnagle	Thompson
Jefferson	Valento
Jennings	Wejcman

A quorum was present.

Continuation of HF 714.

Testifying on HF 714 (Working Draft 6, to be called WD6), was John Herman, Attorney, Leonard, Street and Deinard.

Representative Clark moved HF 714, the working draft (Attachment 1).

Representative Clark moved to amend HF 714, WD6, with H714A45(Attachment 2).

Testifying on the working draft was: Lawrence McDonough, Attorney and Gene Ranieri, NAHRO.

After a lengthy discussion, the amendment was laid over.

Representative Mariani moved to amend HF 714, the unofficial engrossment with H714A34 (Attachment 3).

Speaking on behalf of the amendment was Alan Arthur, Executive Director Central Community Housing Trust. **The Motion Prevailed.**

Representative Jennings moved to amend HF 714 with H714A40 (Attachment 4).

Speaking on behalf of the amendment was: Cindy Perusse, MN Pollution Control Agency

Representative Dawkins assumed the authorship of the amendment. Representative Dawkins moved to amend the amendment H714A40. **The Motion Prevailed.**

Representative Wejcman moved to amend HF 714, the working draft, WD6 with amendment H714A42 (Attachment 5). **The Motion Prevailed.**

Representative Clark moved to amend HF 714 with HF 714A32 (Attachment 6).

Speaking on behalf of the amendment was Jim Sorbel, Mn MultiHousing Association. **The Motion Prevailed.**

Representative Runbeck moved to amend HF 714, WD6, with H714A44 (Attachment 7), Speaking on behalf of the Runbeck amendment:

April 4, 1991 - 14th
Page 2

Mobile home officers and residents: Mary Dauner, Fred Olson, Pat Stavens, Gerry Siefert, Karen Quinnel (former resident of mobile home), Al Rosenboro, Attorney for owners

Speaking against the amendment: Mark Brunner, Executive Vice President Multi Housing Association; Bill Strusinski, also of Multi Housing Association

Requests was made for a hand vote. There being 5 for and 4 against, the amendment was adopted.

Representative Runbeck moved to amend HF 714, WD 6, with 714A16 (Attachment 8). Runbeck moved to amend the amendment as follows:

Page 2, Line 17 - Strike the word "fifty" and insert the word "thirty".

Explaining the amendment was Jennifer Blevins. Giving further detail to the amendment was Kit Hadley, MNHFA and Brad Campbell, St. Cloud, HRA. Gene Ranieri spoke in opposition to the Runbeck amendment. Also testifying on the amendment was Sue Watlov Phillips. Speaking also on behalf of the amendment was Laurie Lauder, MCDA.

Representative Mariani moved to amend the Runbeck amendment with Attachment 8a. A hand vote was taken. There being 5 for and 6 against, the amendment was not adopted.

Representative McGuire moved to amend HF 714, WD6 with HF 714A37 (Attachment 9). **The Motion Prevailed.**

Representative McGuire moved to amend the amendment with amendment as follows:

Page 23, line 3 delete "one year" and insert "five years". **The Motion Prevailed..**

Representative Clark moved to amend HF 714 with HDA-068 (Attachment 10). **The Motion Prevailed.**

Representative Clark moved to amend HF 714 with amendment 714A4 (Attachment 11). **The Motion Prevailed.**

Representative Clark moved to amend HF 714 with amendment H714A35 Attachment 12. A hand vote was taken. There being 6 for and 4 against, the amendment was adopted.

HF 714 was laid over.

Representative Jefferson renewed motion that HF 123, a bill relating to animals requiring landlords to allow elderly tenants to keep certain pets. (Attachment 13)

Representative Jefferson moved to amend HF 123 with HF 123A1 (Attachment 14) **The Motion Prevailed.**

Representative McGuire moved to amend HF 123 with H123A5. Amendment was withdrawn by McGuire and offered by Representative Davids. A voice vote was called. Amendment was not adopted.

Speaking in opposition to HF 123 was Maureen Wagner, Mpls. Housing Federation; Jim Sorbel, MN Multi Housing Association.

Motion was renewed to adopted HF 123 to pass to the Floor. **The Motion Prevailed.**

Representative O'Connor requested a reconsideration of the Runbeck amendment 714A44. A voice vote was taken. The amendment was not adopted.

Page 3

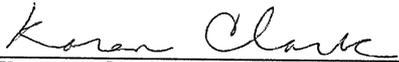
April 4, 1991 - 14th

Removed from the table was 714A45-Attachment 2

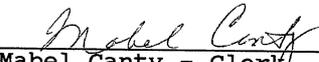
Representative Clark renewed motion to pass H714A45 amendment to HF714, WD6. **The Motion Prevailed.**

Motion reoccurred that HF 714 pass and be re-referred to the Judiciary Committee. A roll call was taken. There being 12 ayes and 4 nays, the bill passed to the Judiciary Committee.

Hearing adjourned at 11:20 p.m.



Karen Clark - Chair



Mabel Canty - Clerk

Index of Adopted Amendments to H.F. 714

Amendment	Offered by:	Unofficial Engrossment	Brief Description
H714A27	Clark	Art. 8, sec. 4	Delays for five years increased property tax assessments for residential remodeling in certain areas and for qualifying individuals or properties.
H714A21	Clark	Art. 8, sec. 3	Exempts from property taxes leased surplus government property used for housing for the homeless
H714A20-1	O'Connor	Art. 7, secs. 3, 4, and 5	Provides increased economic development powers for the city of St. Paul and the St. Paul HRA
H714A29	Clark	--	Deletes bill sections on small business loans for the city of Minneapolis
H714A32	Clark	Art. 8, sections 1 and 2	Imposes a fee on petroleum storage tanks to fund lead abatement programs in the MHFA and the health department
H714A17-1	Clark	Art. 3, secs. 12 and 14	Creates a lead abatement program in the MHFA for contaminated soil and lead paint
H714A15-1	Clark	Art. 3, secs. 2-8 and 18	Creates a planning grant program for adult homeless housing and employment program
H714A14	Clark	Art. 3, secs. 10 and 11	Raises the income limit for accessibility improvements financed by MIIFA
H714A26	Clark	Art. 3, sec. 13	Permits MHFA to make loans and grants for housing chronic chemically dependent adults
H714A8-2	Mariani	Art. 2, sec. 15	Permits tenants to begin an action before rent is due
H714A9-1	Mariani	Art. 2, secs. 7-12	Increases various notice requirements for tenants and units of government for common area violations and building condemnation
H714A24	Clark	Art. 1, sec. 2, subd. 1, paras. c, d, e, and subdivision 2c	In unlawful detainer, allows tenants to pay some costs in court and provides for application of rent payments and requires existing energy efficiency standards
H714A30	Morrison	Art. 2, secs. 2 and 3	Excludes manufactured homes from personal property, allows on-site storage, permits a lien on manufactured homes to recover storage and other costs
HA91-175	Dawkins	Art. 4	Limits sizes in the existing youth employment program and makes minor program changes, appropriates money for grants in each development region and city of the first class
H714A6 as amended	Jefferson	Art. 1, sec. 8	Assigns to landlords and tenants equal responsibility to mitigate damages caused by vacating rented premises
H714A19 as amended	Dawkins	Art. 1, sec. 7	Assigns tort liability to landlords for damages to tenants due to a known hazardous condition
	Morrison	Art. 3, sec. 1, subd. 2	Directs payments of the proposed emergency mortgage and assistance pilot to participants, landlords and mortgage holders
	Clark		Deletes bill section increasing the size limitation for homestead classification

Endnote 12

House Committee on Housing

Minutes of 4/4/91 Meeting

Transcript of the discussion of the security-deposit provisions in Art 4

Minnesota House Committee on Housing, Transcript of April 4, 1991 Meeting¹

Part Containing John Herman's Testimony

Rep. Karen Clark: { 2:15 }² We're going to continue with House File 714. There's one section that we skipped over because of the witness for, for the that section was not here and that was the old Section 4. And I believe people now should have a working draft or engrossment. It's titled WD-6 Working Draft 6 and I believe under that this Title 4. Mr. Chairman, I don't know. Do you have a, you don't have a current summary or index? Is there a beyond what I have? Was there something prepared for tonight? Do you have any folders anyway?

Rep. Andy Dawkins: Madam Chair, I haven't looked through my folder yet. Ms. Strobel, can you inform us as to what's that that's we do not.

Rep. Clark: The old Section 4. And then John Herman, part of the bill [sentence a bit garbled].

Rep. Dawkins: Mr. Herman, welcome to our committee. And introduce yourself for the record and then proceed to tell us about the old Article 4 if you would.

John Herman: Mr. Chairman, members of the committee, my name is John Herman, an attorney with the law firm of Leonard Street and Deinard in Minneapolis. On this section of the bill I represent the Minnesota Bankers Association. I'd also like to make some comments that reflect the views of Chuck Parsons, who's the head of the legislative committee of the Bar Association, who's also worked with me and with the the author and the Senate counsel that originally drafted this. On this section of the bill, he's not able to be here, but asked me if I would speak on the parts of the bill on his behalf. { 3:46 } I should say it's not a, it's not a authorized position of the Bar Association, but it does reflect his views as the chairman of the legislative committee as to changes that would be beneficial with respect to the law in this area, that would help to solve some of the problems we're seeing with respect to properties which are in foreclosure or being transferred because of defaults in the mortgage and security instrument. Section 1 of Article 4 deals with the problem of when a property is transferred from one owner to another owner and the first owner does not transfer the security deposits.

Rep. Dawkins: Mr. Herman, I'm going to interrupt just for a second to to refer everyone to the proper page number in your bill summary. We're still going with the bill summary originally passed out to committee members, if you want to follow the bill summary. But I think we should also get to the page and it's page 36 of what was done as a working draft on April 2, '91. { 4:56 } If people have this WD-6 over the righthand corner and the page number, again, Ms. Strobel is page 36. And while committee members are finding that spot, I want to say that we have relied on Mr. Parsons in the past and he's had some expert judgments. And so I think that's good that you check this with him as well. If people with us now on page 36, it's called Article 5 in your working draft because we've had a new article, but it's called Article 4 on your bill summary.

¹ The audio recording is available at <https://www.lrl.mn.gov/media/> .

² The brackets – { } – show time points on the audio recording to help readers follow along..

John Herman: Before I talk about these sections, I can I can explain to the committee why there are a growing number of problems with foreclosures with respect to smaller commercial and apartment properties generally. I think everyone on this committee is aware that since 1986 buildings no longer offer deductibility of their depreciation against ordinary income. { 5:54 } As a result, many buildings were found to be overvalued, and as a result, many owners have determined that they either can't pay their mortgage or in fact, even take the next step and have abandoned the building. We've had circumstances that I'm familiar with where buildings in Minneapolis in the south part of the city will collapse to as many as four or five levels of contract per deed back to the point where you're to a sale that may have happened back into the early 70s before the building set a value that can support itself. And you often have buildings that were sold at prices that are not supportable by current rents. And so you have owners to stop taking good care of the buildings or even just disappear. In addition, you have a general phenomenon of decline in real estate values that's occurred because of excessive vacancies and so even some newer properties have experienced unexpected problems. { 6:54 } And it's created quite a difficult situation with respect to the maintenance and upkeep of properties and a very significant problem of properties being held by landlords who put no money into the building at all during the period of foreclosure and redemption, taking all the rents that they can, holding on to it and letting the property be wasted. Obviously, property taxes won't be paid and insurance premiums don't get paid, creating significant problems for lenders and making lenders reluctant to lend on properties if they don't have the normal protections of the ability to have a receiver come in and administer the property under court protection and to have an assignment of the rents. The changes in this section deal with these problems and try to facilitate the appointment of receivers and the use of the rent money for purposes of the maintenance of the building, the payment of taxes and the payment of insurance in appropriate cases. { 7:58 } As I said these are all under court supervision. The first section deals with the problem of when a landlord has lost the property back to a lender or to a contract for deed vendor but fails to give back to the new owner all of the security deposits of the tenants. The way this section works now only the individual tenant can sue, and frequently individual tenants don't have enough money at risk to warrant going after the landlord who's holding on to maybe as many as 20 or 30 or 40 security deposits, but and is not paying them to the new owner. What this section would do is it would allow a new owner who purchases a property, receives it back in foreclosure or gets it back in a contract cancellation to sue for all the security deposits in one bundle, { 8:58 } which would make it a worthwhile effort for a landlord to get the tenants money back as a way of being able to pass it on to the to the tenants in due course when it is the proper time. It prevents a windfall to a person who is currently able to avoid paying the money back because there's no good remedy. What Section 2 does the current law says that there's an obligation to transfer these security deposits within a, quote, reasonable time, unquote. Mr. Parsons says that through his work, he's had numerous complaints come to his attention of landlords who claim that periods of many, many months still constitute a reasonable time. What this does is it defines reasonable time as 60 days after the termination of the interest of the person and the property or when the landlord is required to make the payment to an individual tenant. { 9:57 }

Rep. Marvin Dauner: Sir, there's nothing in statute that requires the deposit to be paid back within a certain length of time, the correct?

John Herman: The current statute says it has to be paid back within a quote, reasonable time, unquote and there are many cases that have been argued in the time since the statute passed as to what constitutes a reasonable time. Mr. Parsons says he's had many complaints come through the real estate section of landlords who have lost their building, claiming that months is a reasonable time, six to nine months, and they still haven't paid it back and they say, well, it's not an unreasonable time, therefore we shouldn't have to pay any penalty. He suggested a 60-day time period. I think that's ample time to constitute reasonable time to investigate if there's any reason why you shouldn't pay the money back. { 10:53 } What Section 3 does is it provides for a penalty of \$200. It currently provides a penalty of up to \$200 for a violation of the statute in terms of not paying the money over to the tenant or to the successor in interest. What this does is it provides that the \$200 is for each deposit. So if he were to withhold a dozen deposits, it increases the amount of liability. It's a remedial change to try to encourage compliance with the statute, right?

Unidentified Speaker: The amount of the penalty.

Rep. Dawkins: Mr. I have a question this and I, I think you probably explained it. I just wasn't paying enough attention. Now it'll be the successor in interest in the property that has the right to sue to collect the the deposits that are actually owned by the tenant. So what benefit is there to the successor in interest to do this if the money's just going to get turned over to the tenant?

John Herman: Mr. Chairman, members of the Committee, if the if the landlord was the successor in interest doesn't do it, he's still liable for the security deposits. { 11:54 } The tenants are always protected and can obtain them from the successor even if he has not received them from the predecessors. So there there's a strong interest in successors in seeking to have these deposits transferred, but right now it's not clear that the statute offers them a remedy.

Rep. Dawkins: Thank you.

John Herman: Sections 4 and Section 5 are changes in the dollar amount at which a receiver and an assignment of rents are permitted under the statute. The current law provides that if the initial mortgage is 500,000 or more, you can have a receiver appointed in cases where the owner is in violation of the mortgage and is not paying the taxes, not paying the insurance or violating the covenants of habitability with respect to the property. The companion statute on assignment of rents has a parallel \$500,000 amount. {12:56} I don't think these dollar amounts which were put into the statute in the 70s were thought out for any particular reason. They don't relate to any other dollar amount with respect to various consumer protections in the statute. The law which is now on the books came about because of court cases which raise questions as to the availability of receivers and the validity of assignment of rent. I don't think these dollar amounts candidly were problems for the lending community until the dramatic decline in real estate recently. As a result of these dollar amounts, we have a number of problems. First, with respect to actually very large buildings, as many as 30 and 40 units outstate and frequently twenty [or] thirty units in the metropolitan area. { 13:47 }

You cannot now obtain a receiver even if the person in possession of the property is wasting the property, collecting rents from the tenants, putting all the money in their pocket and not doing anything to maintain the property, to pay the taxes or to pay the insurance on the building. It's essentially impossible under the current state of law below 500,000 to have a

receiver. As a result, because we have a lot of buildings that are now declining in value, we have many more cases of foreclosure or contract for deed cancellation than we used to have. We have quite a number of cases of buildings being badly trashed by individuals in possession during this redemption period. I can tell you a personal experience of a case I did in my office recently, 26 unit building on the north side of Minneapolis, relatively good building at the start of the foreclosure process. By the end of the nine months of the foreclosure and the redemption period most of the building was vacant. { 14:50 } It was in an incredibly bad state of disrepair, had two years, it had a year of back taxes on it and was subsequently sold by our client who was the mortgage holder for \$30,000 to a new owner who's going to rehabilitate the building. And that was all it was worth after that. The mortgage was for almost \$300,000 on the building. So it's become a very big problem with these buildings and it's made it essentially impossible to obtain any commercial financings on these buildings, which means that rehabilitation loans from commercial lending institutions and purchase loans to acquire these kind of properties have become difficult to obtain as a result in working on these sections with the particularly the Senate Counsel and Senator Pogemille. But I think that Representative Clark agrees that this is a reasonable thing to do. { 15:44 } We've suggested changing the dollar amount to 100,000, which is the statutory threshold for usury and it's the place in the dollar amount of transactions for the legislature has felt that perhaps more consumer protection is required because the loans are small in amount and to allow these for any multifamily buildings having five or more units. I believe this will increase the amount of lending for these buildings. I think it'll prevent waste. Let me say again, the only time you can use these remedies is under court supervision. And the statute explicitly requires what the money is used for. It has to be used in an order of priority set forth in the statute for maintenance of the building, payment of the taxes, payment of insurance, payment on the mortgage, and anything that's leftover is paid back to the landlord. So these are the changes that are made by these sections. I think that they're remedial and helpful in nature. The dollar amounts already, there's already an exception to the dollar amount for the state Housing Finance Agency. { 16:53 } And to show you the magnitude of the problem, the state's housing authorities are asking for an absolute exception in this in this bill and section used to be on page 33. I'm not sure where it is now, but it's back in in, I think, Article 6, because there's so many problems with taking these properties back.

Rep. Dawkins: Mr. Herman, thank you for your clearance, succinct testimony. Are there questions for Mr. Herman, Mr. Davids? Representative?

Rep. Gregory Davids: Mr. Chairman, Mr. Herman, you had talked about buildings that had mortgages of \$300,000 and now they sold for 30,000. Were pets allowed in these buildings?

Rep. Dawkins: Mr. Herman.

John Herman: Chairman, I'm sorry, I don't, I don't actually know the answer to that.

Rep. Davids: I was just wondering because Mr. Chairman and Mr. Herman, I just wondered because pets have been known to greatly decrease the value of property.

Rep. Dawkins: Mr. Herman.

John Herman: Mr. { 17:47 } Chairman, Representative, this building, it's it's hard to describe how much damage can be done to a building in the nine-month period when somebody takes all the rent money and basically just ignores the building because they know at the end of the

redemption period they're not going to be the owner any longer. And so they stopped coming to the building except to try to collect rents. They take much less care. And who are the tenants? And it's it's a very substantial problem both in the inner city part of Minneapolis and in many outstate areas because at 500,000 candidly, you're not talking frequently about buildings with thirty to fifty units. So these are big apartment buildings with sophisticated owners often who are, you know, know that this is just a way to get the last dollar out of the building.

Rep. Dawkins: Thank you. Other questions for Mr. Herman. Thank you very much.

John Herman: Thank you. Mr. Chairman.

Rep. Dawkins: On Article 4, are there any members of the audience that would wish to testify? Are there any amendments to Article 4? Representative Clark? Let's move on to a new article,

Endnote 13

Journal of the House

April 10, 1991

pages 1341-1342 and 1369-1370

Delete-all Amendment, Only the Security-Deposit Pages

After submitting receipts for the payment to the owner, a tenant may deduct the amount of the tenant's payment from the rental payment next paid to the owner. Any amount paid to the municipality, utility company, or other company by a tenant under this subdivision is considered payment of rent to the owner for purposes of section 504.02.

Sec. 5. Minnesota Statutes 1990, section 504.20, subdivision 3, is amended to read:

Subd. 3. Every landlord shall, within three weeks after termination of the tenancy or within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant, and receipt of the tenant's mailing address or delivery instructions, return the deposit to the tenant, with interest thereon as above provided, or furnish to the tenant a written statement showing the specific reason for the withholding of the deposit or any portion thereof. It shall be sufficient compliance with the time requirement of this subdivision if the deposit or written statement required by this subdivision is placed in the United States mail as first class mail, postage prepaid, in an envelope with a proper return address, correctly addressed according to the mailing address or delivery instructions furnished by the tenant, within the time required by this subdivision. The landlord may withhold from the deposit only amounts reasonably necessary:

(a) To remedy tenant defaults in the payment of rent or of other funds due to the landlord pursuant to an agreement; or

(b) To restore the premises to their condition at the commencement of the tenancy, ordinary wear and tear excepted.

In any action concerning the deposit, the burden of proving, by a fair preponderance of the evidence, the reason for withholding all or any portion of the deposit shall be on the landlord.

Sec. 6. Minnesota Statutes 1990, section 504.20, subdivision 4, is amended to read:

Subd. 4. Any landlord who fails to provide a written statement within three weeks of termination of the tenancy or within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant, and receipt of the tenant's mailing address or delivery instructions, as required in subdivision 3, shall be liable to the tenant for damages in an amount equal to the portion of the deposit withheld by the landlord and interest thereon as provided in

subdivision 2, as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.

Sec. 7. [504.246] [TORT LIABILITY.]

A landlord is liable for damages caused to a tenant, or others on the premises with the consent of the tenant, or a subtenant by a condition existing before or after the tenant took possession of the premises, which is a breach of an express covenant to repair or maintain the leased premises or is a breach of the covenants specified in section 504.18, subdivision 1, if:

(1) the condition created an unreasonable risk on the premises which performance of the landlord's covenants would have prevented;

(2) the landlord knew of the condition; and

(3) the landlord failed to perform the covenants.

Sec. 8. [504.261] [OBLIGATION TO MITIGATE DAMAGES.]

Landlords and tenants shall have the same obligation to mitigate damages resulting from the breach of a real estate lease or rental agreement caused by the premises being vacated before the end of the lease term as do parties to contracts not involving such a lease or rental agreement.

Sec. 9. Minnesota Statutes 1990, section 504.27, is amended to read:

504.27 [REMEDIES ARE ADDITIONAL.]

The remedies provided in sections 504.24 to 504.26 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 504.24 to 504.27 is waived by a tenant is contrary to public policy and void. The provisions of sections 504.24 to 504.27 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. The provisions of sections 504.24, 504.25, 504.255, and 504.26 apply to occupants and owners of residential real property which is the subject of a mortgage foreclosure or contract for deed cancellation and as to which the period for redemption or reinstatement of the contract has expired.

employment opportunities and be able to compete in the employment market.

Sec. 3. Minnesota Statutes 1990, section 268.365, subdivision 2, is amended to read:

Subd. 2. [PRIORITY FOR HOUSING.] Any residential units that become available through the program must be allocated in the following order:

(1) homeless individuals who have participated in constructing, rehabilitating, or improving the unit;

(2) homeless families with at least one dependent;

~~(2)~~ (3) other homeless individuals;

~~(3)~~ (4) other very low income families and individuals; and

~~(4)~~ (5) families or individuals that receive public assistance and that do not qualify in any other priority group.

Sec. 4. [APPROPRIATION.]

\$..... is appropriated from the general fund to the commissioner of state planning to fund youth employment program grants in the development regions designated under Minnesota Statutes, section 462.385, and in cities of the first class.

ARTICLE 5

ASSIGNMENT OF RENTS AND RECEIVERSHIP

Section 1. Minnesota Statutes 1990, section 504.20, subdivision 4, is amended to read:

Subd. 4. Any landlord who fails to provide a written statement within three weeks of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, as required in subdivision 3, ~~shall be or fails to transfer or return a deposit as required under subdivision 5,~~ is liable to the tenant or the successor in interest for damages in an amount equal to the portion of the deposit withheld by the landlord and interest thereon as provided in subdivision 2, as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.

Sec. 2. Minnesota Statutes 1990, section 504.20, subdivision 5, is amended to read:

Subd. 5. Upon termination of the landlord's interest in the premises, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent shall, within a reasonable time 60 days of termination of the interest or when the successor in interest is required to return or otherwise account for the deposit to the tenant, whichever occurs first, do one of the following acts, either of which shall relieve the landlord or agent of further liability with respect to such deposit:

(a) Transfer such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the landlord's successor in interest and thereafter notify the tenant of such transfer and of the transferee's name and address; or

(b) Return such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the tenant.

Sec. 3. Minnesota Statutes 1990, section 504.20, subdivision 7, is amended to read:

Subd. 7. The bad faith retention by a landlord of ~~the a~~ deposit, the interest thereon, or any portion thereof, in violation of this section shall subject the landlord to punitive damages not to exceed \$200 for each deposit in addition to the damages provided in subdivision 4. If the landlord has failed to comply with the provisions of subdivision 3 or 5, retention of the a deposit shall be presumed to be in bad faith unless the landlord returns the deposit within two weeks after the commencement of any action for the recovery of the deposit.

Sec. 4. Minnesota Statutes 1990, section 559.17, subdivision 2, is amended to read:

Subd. 2. A mortgagor may assign, as additional security for the debt secured by the mortgage, the rents and profits from the mortgaged real property, if the mortgage:

(1) Was executed, modified or amended subsequent to August 1, 1977;

(2) Secured an original principal amount of ~~\$500,000~~ \$100,000 or more or is a lien upon residential real estate containing more than four dwelling units; and

(3) Is not a lien upon property which was entirely homesteaded as, residential real estate containing four or less dwelling units where at least one of the units is homesteaded, or agricultural property. The assignment may be enforced as follows:

Endnotes for HF 951 in Senate

Endnote 14

Senate Committee on Economic Development and Housing
Minutes of 3/25/91 Meeting Including Security-Deposits
Parts of Delete-All Amendment

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND HOUSING

Monday, March 25, 1991
12:00-2:00 p.m.
Room 107 Capitol

All senators were present with the exception of Senator Bernhagen.

S.F. 951 - Housing omnibus bill (Senator Pogemiller) was the first bill on the agenda. Senator Pogemiller called it the housing omnibus bill and said it was a follow-up on omnibus housing bills from past years.

Senator Janet Johnson moved the delete everything amendment, SCS0951A-5. The motion prevailed. Senator Pogemiller then moved through this amendment with the assistance of the bill summary.

Ms. Johnson moved to amend the delete everything amendment as follows:

Page 16, line 16, delete everything after the period

Page 16, delete line 17

The motion prevailed.

In the discussion of Article III, Senator Kroening said he hoped Senator Pogemiller would consider the equity issue. Senator Pogemiller said he would work on a language change.

Mr. Sams moved to amend the delete everything amendment as follows:

Page 16, delete lines 25 to 29.

Amendment SCS0951A-2 was discussed. Kit Hadley from the Housing Finance Agency addressed the provisions covered by page 2, lines 4-11. Gene Martinez, representing ARC Minnesota, addressed the provision covered by page 2, lines 12-16 dealing with brain injury. Harold Turner, Legal Services, explained the need for amendment A-2, the new section 3.

Senator Kroening had additional questions regarding the 50% provision, page 18, line 18. Senator Metzen questioned where the money comes from. Kit Hadley replied it is from federal low income tax credits and these must be used or they are lost.

42

March 25, 1991
Page 2

Senator Johnson needed a clarification regarding the "brain injury" part of the amendment. Has there been an increase in this group? David Schultz from the Department of Human Services testified that this is true.

Mr. Kroening moved amendment SCS0951A-2. Mr. Kelly moved to amend this amendment as follows:

Page 2, delete lines 17 and 18

The motion prevailed. Senator Kroening renewed his motion and the vote prevailed.

Ms. Traub moved the following amendment:

Page 28, line 4 after "domain" insert "and is currently vacant" The motion prevailed.

The discussion continued. Amendment SCS0951A-6 was distributed. John Winker, Minneapolis Housing Agency, answered questions from the committee. It was suggested that we may want to do this just for rehabilitation. The committee decided to come to this provision.

Ms. Johnson moved to amend the delete everything amendment as follows:

Page 32, line 34, after "loan" insert "for a rental housing project"

The motion prevailed.

Amendment SCS0951A-6 was brought up again. Mr. Kelly moved to amend the amendment as follows:

Page 2, line 7, delete everything after "housing" and insert "for persons or families with adjusted gross income of up to 175 percent of the median family income as estimated by the United States Department of Housing and Urban Development for the nonmetropolitan county or standard metropolitan statistical area, as the case may be."

Page 2, delete line 8

The motion prevailed.

Senator Kelly said he wanted language put in that would require more involvement for neighborhoods.

March 25, 1991
Page 3

Mr. Kelly moved amendment SCS0951A-5 with the exception of Page 2, lines 15-17, and renumber the subdivisions.

With the lateness of the hour, Chairman Metzen said the committee would lay S.F. 951 over for further discussion.

Ardy Vos Peterson

Ardy Vos Peterson
Committee Secretary

James Metzen
Senator James Metzen
Chairman

JOHNSON DELETE - ALL SCS0951A-5
Security deposit pages only

1 *J. Johnson* moves to amend S.F. No. 951 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 1990, section 481.02,
4 subdivision 3, is amended to read:

5 Subd. 3. [PERMITTED ACTIONS.] The provisions of this
6 section shall not prohibit:

7 (1) any person from drawing, without charge, any document
8 to which the person, an employer of the person, a firm of which
9 the person is a member, or a corporation whose officer or
10 employee the person is, is a party, except another's will or
11 testamentary disposition or instrument of trust serving purposes
12 similar to those of a will;

13 (2) a person from drawing a will for another in an
14 emergency if the imminence of death leaves insufficient time to
15 have it drawn and its execution supervised by a licensed
16 attorney-at-law;

17 (3) any insurance company from causing to be defended, or
18 from offering to cause to be defended through lawyers of its
19 selection, the insureds in policies issued or to be issued by
20 it, in accordance with the terms of the policies;

21 (4) a licensed attorney-at-law from acting for several
22 common-carrier corporations or any of its subsidiaries pursuant
23 to arrangement between the corporations;

24 (5) any bona fide labor organization from giving legal

03/21/91

[COUNSEL] BCO

SCS0951A-1

1 Subd. 3. Every landlord shall, within three weeks after
2 termination of the tenancy or within five days of the date when
3 the tenant leaves the building or dwelling due to the legal
4 condemnation of the building or dwelling in which the tenant
5 lives for reasons not due to willful, malicious, or
6 irresponsible conduct of the tenant, and receipt of the tenant's
7 mailing address or delivery instructions, return the deposit to
8 the tenant, with interest thereon as above provided, or furnish
9 to the tenant a written statement showing the specific reason
10 for the withholding of the deposit or any portion thereof. It
11 shall be sufficient compliance with the time requirement of this
12 subdivision if the deposit or written statement required by this
13 subdivision is placed in the United States mail as first class
14 mail, postage prepaid, in an envelope with a proper return
15 address, correctly addressed according to the mailing address or
16 delivery instructions furnished by the tenant, within the time
17 required by this subdivision. The landlord may withhold from
18 the deposit only amounts reasonably necessary:

19 (a) To remedy tenant defaults in the payment of rent or of
20 other funds due to the landlord pursuant to an agreement; or

21 (b) To restore the premises to their condition at the
22 commencement of the tenancy, ordinary wear and tear excepted.

23 In any action concerning the deposit, the burden of
24 proving, by a fair preponderance of the evidence, the reason for
25 withholding all or any portion of the deposit shall be on the
26 landlord.

27 Sec. 5. Minnesota Statutes 1990, section 504.20,
28 subdivision 4, is amended to read:

29 Subd. 4. Any landlord who fails to provide a written
30 statement within three weeks of termination of the tenancy or
31 within five days of the date when the tenant leaves the building
32 or dwelling due to the legal condemnation of the building or
33 dwelling in which the tenant lives for reasons not due to
34 willful, malicious, or irresponsible conduct of the tenant, and
35 receipt of the tenant's mailing address or delivery
36 instructions, as required in subdivision 3, shall be liable to

1 the tenant for damages in an amount equal to the portion of the
2 deposit withheld by the landlord and interest thereon as
3 provided in subdivision 2, as a penalty, in addition to the
4 portion of the deposit wrongfully withheld by the landlord and
5 interest thereon.

6 Sec. 6. Minnesota Statutes 1990, section 504.27, is
7 amended to read:

8 504.27 [REMEDIES ARE ADDITIONAL.]

9 The remedies provided in sections 504.24 to 504.26 are in
10 addition to and shall not limit other rights or remedies
11 available to landlords and tenants. Any provision, whether oral
12 or written, of any lease or other agreement, whereby any
13 provision of sections 504.24 to 504.27 is waived by a tenant is
14 contrary to public policy and void. The provisions of sections
15 504.24 to 504.27 shall apply only to tenants as that term is
16 defined in section 566.18, subdivision 2, and buildings as that
17 term is defined in section 566.18, subdivision 7. The
18 provisions of sections 504.24, 504.25, 504.255, and 504.26 apply
19 to occupants and owners of residential real property which is
20 the subject of a mortgage foreclosure or contract for deed
21 cancellation and as to which the period for redemption or
22 reinstatement of the contract has expired.

23 ARTICLE 2

24 UNLAWFUL DETAINER

25 Section 1. Minnesota Statutes 1990, section 566.03,
26 subdivision 1, is amended to read:

27 Subdivision 1. The person entitled to the premises may
28 recover possession in the manner provided in this section when:

- 29 (1) any person holds over lands or tenements after a sale
30 thereof on an execution or judgment, or on foreclosure of a
31 mortgage, and expiration of the time for redemption, or after
32 termination of contract to convey the same, provided that if the
33 person holding such lands or tenements after the
34 sale, foreclosure expiration of the time for redemption, or
35 termination is a tenant, the person has received:

- 36 (i) at least one month's written notice ~~of the termination~~

1 necessary to prevent conversion to market rate use; or

2 (5) projects financed by the Farmers Home Administration
3 which meet statewide distribution goals.

4 (d) Before the date for applications for the second round,
5 the allocating agencies other than the agency shall return all
6 uncommitted and unallocated tax credits to the pool from which
7 they were allocated, along with copies of any allocation or
8 commitment. In the second round, the agency shall allocate the
9 remaining credits from the regional pools to projects from the
10 respective regions.

11 (e) In the third round, all unallocated tax credits must be
12 transferred to a unified pool for allocation by the agency on a
13 statewide basis.

14 (f) Unused portions of the state ceiling for low-income
15 housing tax credits reserved to cities and counties for
16 allocation may be returned at any time to the agency for
17 allocation.

18 Sec. 5. [APPROPRIATION; DEPARTMENT OF JOBS AND TRAINING.]
19 \$..... is appropriated from the general fund to the
20 commissioner of jobs and training for the emergency mortgage and
21 rental assistance pilot project to be available for the biennium
22 ending June 30, 1993.

23 Sec. 6. [APPROPRIATION; HOUSING TRUST FUND ACCOUNT.]
24 \$..... is appropriated and transferred from the
25 general fund to the housing trust fund account in the housing
26 development fund for the purposes specified in Minnesota
27 Statutes, section 462A.201.

28 ARTICLE 4

29 ASSIGNMENT OF RENTS AND RECEIVERSHIP

30 Section 1. Minnesota Statutes 1990, section 504.20,
31 subdivision 4, is amended to read:

32 Subd. 4. Any landlord who fails to provide a written
33 statement within three weeks of termination of the tenancy and
34 receipt of the tenant's mailing address or delivery
35 instructions, as required in subdivision 3, shall-be or fails to
36 transfer or return a deposit as required under subdivision 5, is

1 liable to the tenant or the successor in interest for damages in
2 an amount equal to the portion of the deposit withheld by the
3 landlord and interest thereon as provided in subdivision 2, as a
4 penalty, in addition to the portion of the deposit wrongfully
5 withheld by the landlord and interest thereon.

6 Sec. 2. Minnesota Statutes 1990, section 504.20,
7 subdivision 5, is amended to read:

8 Subd. 5. Upon termination of the landlord's interest in
9 the premises, whether by sale, assignment, death, appointment of
10 receiver or otherwise, the landlord or the landlord's agent
11 shall, within ~~a reasonable time~~ 60 days of termination of the
12 interest or when the successor in interest is required to return
13 or otherwise account for the deposit to the tenant, whichever
14 occurs first, do one of the following acts, either of which
15 shall relieve the landlord or agent of further liability with
16 respect to such deposit:

17 (a) Transfer such deposit, or any remainder after any
18 lawful deductions made under subdivision 3, with interest
19 thereon as provided in subdivision 2, to the landlord's
20 successor in interest and thereafter notify the tenant of such
21 transfer and of the transferee's name and address; or

22 (b) Return such deposit, or any remainder after any lawful
23 deductions made under subdivision 3, with interest thereon as
24 provided in subdivision 2, to the tenant.

25 Sec. 3. Minnesota Statutes 1990, section 504.20,
26 subdivision 7, is amended to read:

27 Subd. 7. The bad faith retention by a landlord of the a
28 deposit, the interest thereon, or any portion thereof, in
29 violation of this section shall subject the landlord to punitive
30 damages not to exceed \$200 for each deposit in addition to the
31 damages provided in subdivision 4. If the landlord has failed
32 to comply with the provisions of subdivision 3 or 5, retention
33 of the a deposit shall be presumed to be in bad faith unless the
34 landlord returns the deposit within two weeks after the
35 commencement of any action for the recovery of the deposit.

36 Sec. 4. Minnesota Statutes 1990, section 559.17,

1 \$..... is appropriated from the general fund to the
2 commissioner of jobs and training for the emergency mortgage and
3 rental assistance pilot project to be available for the biennium
4 ending June 30, 1993.

5 Sec. 8. [APPROPRIATION; HOUSING TRUST FUND ACCOUNT.]

6 \$..... is appropriated and transferred from the
7 general fund to the housing trust fund account in the housing
8 development fund for the purposes specified in Minnesota
9 Statutes, section 462A.201.

10 ARTICLE 4

11 ASSIGNMENT OF RENTS AND RECEIVERSHIP

12 Section 1. Minnesota Statutes 1990, section 504.20,
13 subdivision 4, is amended to read:

14 Subd. 4. Any landlord who fails to provide a written
15 statement within three weeks of termination of the tenancy and
16 receipt of the tenant's mailing address or delivery
17 instructions, as required in subdivision 3, ~~shall be~~ or fails to
18 transfer or return a deposit as required under subdivision 5, is
19 liable to the tenant or the successor in interest for damages in
20 an amount equal to the portion of the deposit withheld by the
21 landlord and interest thereon as provided in subdivision 2, as a
22 penalty, in addition to the portion of the deposit wrongfully
23 withheld by the landlord and interest thereon.

24 Sec. 2. Minnesota Statutes 1990, section 504.20,
25 subdivision 5, is amended to read:

26 Subd. 5. Upon termination of the landlord's interest in
27 the premises, whether by sale, assignment, death, appointment of
28 receiver or otherwise, the landlord or the landlord's agent
29 shall, within a ~~reasonable time~~ 60 days of termination of the
30 interest or when the successor in interest is required to return
31 or otherwise account for the deposit to the tenant, whichever
32 occurs first, do one of the following acts, either of which
33 shall relieve the landlord or agent of further liability with
34 respect to such deposit:

35 (a) Transfer such deposit, or any remainder after any
36 lawful deductions made under subdivision 3, with interest

1 thereon as provided in subdivision 2, to the landlord's
2 successor in interest and thereafter notify the tenant of such
3 transfer and of the transferee's name and address; or

4 (b) Return such deposit, or any remainder after any lawful
5 deductions made under subdivision 3, with interest thereon as
6 provided in subdivision 2, to the tenant.

7 Sec. 3. Minnesota Statutes 1990, section 504.20,
8 subdivision 7, is amended to read:

9 Subd. 7. The bad faith retention by a landlord of the a
10 deposit, the interest thereon, or any portion thereof, in
11 violation of this section shall subject the landlord to punitive
12 damages not to exceed \$200 for each deposit in addition to the
13 damages provided in subdivision 4. If the landlord has failed
14 to comply with the provisions of subdivision 3 or 5, retention
15 of the a deposit shall be presumed to be in bad faith unless the
16 landlord returns the deposit within two weeks after the
17 commencement of any action for the recovery of the deposit.

18 Sec. 4. Minnesota Statutes 1990, section 559.17,
19 subdivision 2, is amended to read:

20 Subd. 2. A mortgagor may assign, as additional security
21 for the debt secured by the mortgage, the rents and profits from
22 the mortgaged real property, if the mortgage:

23 (1) Was executed, modified or amended subsequent to August
24 1, 1977;

25 (2) Secured an original principal amount
26 of ~~\$500,000~~ \$100,000 or more or is a lien upon residential real
27 estate containing more than four dwelling units; and

28 (3) Is not a lien upon property which was entirely
29 homesteaded as, residential real estate containing four or less
30 dwelling units where at least one of the units is homesteaded,
31 or agricultural property. The assignment may be enforced as
32 follows:

33 (a) If, by the terms of an assignment, a receiver is to be
34 appointed upon the occurrence of some specified event, and a
35 showing is made that the event has occurred, the court shall,
36 without regard to waste, adequacy of the security, or solvency

Endnote 15

Senate Committee on Economic Development and Housing
Senate Counsel's Summary of Delete-All Amendment,
3/25/91 Meeting

Senate Counsel & Research

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TO: Economic Development and Housing Committee
FROM: Chris Turner, Senate Research (296-4350) CT
DATE: March 21, 1991
RE: Bill Summary of Delete-Everything Amendment to
S.F. No. 951, Relating to Housing

Article I
Landlord and Tenant

Section 1: Amends the practice of law statute to permit persons not licensed to practice law to appear in rent escrow actions.

Section 2: Amends section 504.02 by authorizing the court in unlawful detainer to order a refund of the filing fee to the landlord when the tenant redeems if the tenant meets financial eligibility criteria and can show inability to pay the rent before the unlawful detainer was commenced for reasons beyond the tenant's control.

Section 3: Permits tenants, or their representative, to pay for continued utility service after the responsible owner or landlord has been issued notice of service termination.

Sections 4 and 5: Shortens to five days the time in which the landlord must return a damage deposit if the building is condemned.

Section 6: Extends the protection of the lockout and illegal utility shutoff statutes to mortgagors and contract for deed vendees whose redemption periods have ended.

Article II Unlawful Detainer

Section 1: Clarifies the language in section 566.03, subdivision 1 to ensure that a tenant living in a building that is foreclosed upon (or contract canceled, etc.) gets a 30 day notice to vacate either 1) 30 days after the redemption period expires, or 2) the day the redemption expires accompanied by an assurance that the sender will hold the tenant harmless if the owner redeems.

Sections 2 and 3: Revises section 566.17 to specify that on-premises storage of personal property after execution of the writ does not give the landlord a lien on the property; also applies this statute to manufactured home evictions.

Section 4: Amends section 566.17 to retain jurisdiction with the housing court to hear disputes concerning removal of property.

Section 5: Applies the provisions of the unlawful removal or exclusion from premises statute to occupants and owners of property where the mortgage redemption period or contract reinstatement period has expired.

Section 6: Specifies that a neighborhood organization must get only a majority of the occupied units in a building to take an action authorized by the tenant remedy action law.

Section 7: Requires a neighborhood organization to post a bond if appointed as an administrator.

Section 8: Adds federal and state funds as a source of money to pay costs of a rental property under receivership.

Section 9: Codifies in chapter 609 the same language found in section 504.25 making a utility shutoff a crime.

Article III State Housing Programs

Section 1: Subdivision 1: Authorizes the commissioner of jobs and training to administer an emergency mortgage and rental assistance pilot project.

Defines eligibility criteria as individuals whose income does not exceed 80 percent of the area median income who are ineligible for emergency assistance or general assistance for housing.

Limits assistance under the program to the lesser of six months of rental or mortgage assistance or \$2,000.

Authorizes the commissioner of jobs and training to establish priority eligibility criteria.

Subdivision 2: Requires the commissioner of jobs and training to disburse project monies to local agencies which will, in turn, distribute the money to eligible participants. Such agencies are required to provide participants with case management and housing referral services.

Subdivision 3: Allows for mortgage assistance to eligible homeowners in the form of interest-free loans, with repayment schedules determined on a case-by-case basis.

Subdivision 4: Allows for rental assistance in the form of rental or rental arrears payments. Local distributing agency shall determine if and when repayment will occur based on participant's ability to pay.

Subdivision 5: Allows for project monies to be used for security deposits on rental housing. Local distributing agency shall determine if and when repayment will occur based on participant's ability to pay.

Section 2: Expands anti-discrimination clause to include persons under guardianship or conservatorship.

Section 3: Expands eligibility for housing rehabilitation loans to families whose income does not exceed 110 percent of the median family income of the area if: 1) a family member requires skilled care for mental retardation or a related condition; 2) home care is appropriate; and, 3) the improvement will enable the family member to reside in the housing.

Section 4: Expands project eligibility for low income housing tax credits to include projects in which a percentage of the units are set aside for the mentally ill, mentally retarded, chemically dependent and developmentally disabled, and projects in which 50 percent of the the units are accessible to the physically disabled.

Section 5: Blank appropriation to the commissioner of jobs and training for the emergency mortgage and rental assistance pilot project.

Section 6: Blank appropriation to the commissioner of the Minnesota housing finance agency for the the housing trust fund account.

Article IV
Assignment of Rents and Receivership

Section 1: Assigns liability to landlord for the failure to transfer or return rental deposits upon the termination of the landlord's interest in the premises.

Section 2: Requires the landlord to return or account for the deposit to the renter within 60 days after the landlord's termination of interest in the premises, or when the successor in interest is required to return or otherwise account for the deposit, whichever occurs first.

Section 3: Provides that a landlord's punitive damage liability is \$200 per deposit. Includes provisions of Subdivision 5 in bad faith definition.

Section 4: Allows mortgagor to assign rents and profits from mortgaged property as debt security if the original principal amount was \$100,000 or more, provided the property is not residential real estate containing four units or less and is not homesteaded.

Section 5: Requires appointment of a receiver during foreclosure if the original principle amount is \$100,000 or more, or the property contains more than four dwelling units and is not homesteaded.

Article V
Housing and Redevelopment Authorities

Section 1: Raises per diem of HRA commissioners to \$55. Allows for the reimbursement of child care expenses incurred as a result of board activities. Commissioners who are also full-time public employees are disallowed per diem payment if reimbursed by another source, but may be reimbursed for other expenses incurred as a result of board activities.

Section 2: Expands HRA eminent domain authority to include vacant lots which contained substandard buildings within three years preceding the exercise of eminent domain.

Allows HRAs to secure mortgages and loans by obtaining the appointment of receivers and the assignment of rents and profits without regard to minimum original principal amount limitations.

Sections 3 and 4: Exempts the following contracts from performance bond requirements:

- 1) contracts of less than \$25,000;
- 2) construction change orders for housing projects in which 30 percent of the construction has been completed;
- 3) single family housing projects in which the authority acts as the general contractor;
- 4) services or materials for a housing project.

Section 5: Authorizes an HRA to accept a certified check or cashier's check in lieu of a performance bond for contracts under \$25,000.

Article VI Local Housing and Economic Development Programs

Section 1: Removes income limitation restrictions for city housing programs financed with city general revenue funds.

Section 2: Allows the cities of Minneapolis and St. Paul to issue general obligation bonds for housing without a vote by their electorates. Allows bond issues to be excluded from net indebtedness calculations.

Section 3: Raises small business working capital loan or loan guarantee limits to \$2,000,000 for the city of Minneapolis. Removes program sunset.

Section 4: Local approval clause for section 3.

Article VII Taxes

Section 1: Allows properties held in joint tenancy by parents and children to retain homestead treatment when one or the other ceases to occupy the property. Clarifies definition of "relative."

Section 2: Applies homestead tax treatment to buildings containing fewer than five units.

Section 3: Requires the assessor to use the actual restricted rents when determining the market value of residential rental property subsidized by MHFA or that receives low income tax credits for property tax assessment purposes.

Section 4: Excludes tax increment financed housing districts when calculating reductions in local government aid.

Section 5: Extends HRA interest rate reduction program for tax increment districts to 15 years. Expands program to include single family housing.

Section 6: Effective dates.

CT:oj

Endnote 16

Senate Committee on Economic Development and Housing
Transcript of the discussion of the security-deposit provisions in Art 1
3/25/91 Meeting

Transcript of Senator Pogemiller's testimony on March 25, 1991 about the securit-deposit provisions in Article 1 of SF 951:

Sections 4 and 5 work together and they say that a landlord would have to return a damage deposit if a building is condemned presuming that the condemnation is not a result of willful, malicious or irresponsible conduct by the tenant. Normally the landlord has three weeks after termination of tenancy to return the deposit. This says that in instances of condemnation you have to do it in five days.

Endnote 17

Senate Committee on Economic Development and Housing
Committee Chair Metzen's Report of SF951 As Amended and
Re-referred to Judiciary, Dated April 3, 1991

1 Mr. Metzen from the Committee on Economic Development and
2 Housing, to which was referred

3 S.F. No. 951: A bill for an act relating to housing;
4 modifying procedures relating to rent escrow actions; modifying
5 procedures relating to the tenant's loss of essential services;
6 modifying provisions relating to tenant remedy actions,
7 retaliatory eviction proceedings, and receivership proceedings;
8 modifying provisions relating to Minnesota housing finance
9 agency low- and moderate-income housing programs; providing for
10 an emergency mortgage and rental assistance pilot project;
11 modifying certain receivership, assignment of rents and profits,
12 and landlord and tenant provisions; modifying provisions
13 relating to housing and redevelopment authorities; providing for
14 the issuance of general obligation bonds for housing by the
15 cities of Minneapolis and St. Paul; authorizing the city of
16 Minneapolis to make small business loans; modifying the property
17 tax classification of certain residential real estate; excluding
18 housing districts from the calculation of local government aid
19 reductions; modifying the interest rate reduction program;
20 changing the definition of mentally ill person; consolidating
21 special needs housing programs; clarifying and amending biennial
22 reporting requirement; authorizing new construction of
23 accessible housing; authorizing off-reservation home improvement
24 program; appropriating money; amending Minnesota Statutes 1990,
25 sections 268.39; 273.124, subdivisions 1 and 11; 273.13,
26 subdivision 25; 273.1399, subdivision 1; 462A.03, subdivisions
27 10 and 16; 462A.05, subdivision 20, and by adding a subdivision;
28 462A.21, subdivisions 4k, 12a, and 14; 462A.22, subdivision 9;
29 462A.222, subdivision 3; 462C.03, subdivision 10; 469.011,
30 subdivision 4; 469.012, subdivision 1; 469.015, subdivisions 3,
31 4, and by adding a subdivision; 469.176, subdivision 4f;
32 474A.048, subdivision 2; 481.02, subdivision 3; 504.02; 504.185,
33 subdivision 2; 504.20, subdivisions 3, 4, 5, and 7; 504.27;
34 559.17, subdivision 2; 566.03, subdivision 1; 566.17,
35 subdivisions 1, 2, and by adding a subdivision; 566.175,
36 subdivision 6; 566.18, subdivision 9; 566.29, subdivisions 2 and
37 4; and 576.01, subdivision 2; Laws 1974, chapter 285, section 4,
38 as amended; Laws 1987, chapter 404, section 28, subdivision 1;
39 Laws 1988, chapter 594, section 6; Laws 1989, chapter 335,
40 article 1, section 27, subdivision 1, as amended; proposing
41 coding for new law in Minnesota Statutes; chapters 268 and 609;
42 repealing Minnesota Statutes 1990, section 462A.05, subdivisions
43 28 and 29.

44 Reports the same back with the recommendation that the bill
45 be amended as follows:

46 Delete everything after the enacting clause and insert:

47 "ARTICLE 1

48 LANDLORD AND TENANT

49 Section 1. Minnesota Statutes 1990, section 481.02,
50 subdivision 3, is amended to read:

51 Subd. 3. [PERMITTED ACTIONS.] The provisions of this
52 section shall not prohibit:

- 53 (1) any person from drawing, without charge, any document
54 to which the person, an employer of the person, a firm of which
55 the person is a member, or a corporation whose officer or
56 employee the person is, is a party, except another's will or
57 testamentary disposition or instrument of trust serving purposes

1 subdivision 3, is amended to read:

2 Subd. 3. Every landlord shall, within three weeks after
 3 termination of the tenancy or within five days of the date when
 4 the tenant leaves the building or dwelling due to the legal
 5 condemnation of the building or dwelling in which the tenant
 6 lives for reasons not due to willful, malicious, or
 7 irresponsible conduct of the tenant, and after receipt of the
 8 tenant's mailing address or delivery instructions, return the
 9 deposit to the tenant, with interest thereon as above provided,
 10 or furnish to the tenant a written statement showing the
 11 specific reason for the withholding of the deposit or any
 12 portion thereof. It shall be sufficient compliance with the
 13 time requirement of this subdivision if the deposit or written
 14 statement required by this subdivision is placed in the United
 15 States mail as first class mail, postage prepaid, in an envelope
 16 with a proper return address, correctly addressed according to
 17 the mailing address or delivery instructions furnished by the
 18 tenant, within the time required by this subdivision. The
 19 landlord may withhold from the deposit only amounts reasonably
 20 necessary:

21 (a) To remedy tenant defaults in the payment of rent or of
 22 other funds due to the landlord pursuant to an agreement; or

23 (b) To restore the premises to their condition at the
 24 commencement of the tenancy, ordinary wear and tear excepted.

25 In any action concerning the deposit, the burden of
 26 proving, by a fair preponderance of the evidence, the reason for
 27 withholding all or any portion of the deposit shall be on the
 28 landlord.

29 Sec. 6. Minnesota Statutes 1990, section 504.20,
 30 subdivision 4, is amended to read:

31 Subd. 4. Any landlord who fails to provide a written
 32 statement within three weeks of termination of the tenancy or
 33 within five days of the date when the tenant leaves the building
 34 or dwelling due to the legal condemnation of the building or
 35 dwelling in which the tenant lives for reasons not due to
 36 willful, malicious, or irresponsible conduct of the tenant, and

1 after receipt of the tenant's mailing address or delivery
2 instructions, as required in subdivision 3, shall be liable to
3 the tenant for damages in an amount equal to the portion of the
4 deposit withheld by the landlord and interest thereon as
5 provided in subdivision 2, as a penalty, in addition to the
6 portion of the deposit wrongfully withheld by the landlord and
7 interest thereon.

8 Sec. 7. Minnesota Statutes 1990, section 504.27, is
9 amended to read:

10 504.27 [REMEDIES ARE ADDITIONAL.]

11 The remedies provided in sections 504.24 to 504.26 are in
12 addition to and shall not limit other rights or remedies
13 available to landlords and tenants. Any provision, whether oral
14 or written, of any lease or other agreement, whereby any
15 provision of sections 504.24 to 504.27 is waived by a tenant is
16 contrary to public policy and void. The provisions of sections
17 504.24 to 504.27 shall apply only to tenants as that term is
18 defined in section 566.18, subdivision 2, and buildings as that
19 term is defined in section 566.18, subdivision 7. The
20 provisions of sections 504.24, 504.25, 504.255, and 504.26 apply
21 to occupants and owners of residential real property which is
22 the subject of a mortgage foreclosure or contract for deed
23 cancellation and as to which the period for redemption or
24 reinstatement of the contract has expired.

25 ARTICLE 2

26 UNLAWFUL DETAINER

27 Section 1. Minnesota Statutes 1990, section 566.03,
28 subdivision 1, is amended to read:

29 Subdivision 1. The person entitled to the premises may
30 recover possession in the manner provided in this section when:

31 (1) any person holds over lands or tenements after a sale
32 thereof on an execution or judgment, or on foreclosure of a
33 mortgage, and expiration of the time for redemption, or after
34 termination of contract to convey the same, provided that if the
35 person holding such lands or tenements after the
36 sale, ~~foreclosure~~ expiration of the time for redemption, or

1 thereon as provided in subdivision 2, to the landlord's
2 successor in interest and thereafter notify the tenant of such
3 transfer and of the transferee's name and address; or

4 (b) Return such deposit, or any remainder after any lawful
5 deductions made under subdivision 3, with interest thereon as
6 provided in subdivision 2, to the tenant.

7 Sec. 3. Minnesota Statutes 1990, section 504.20,
8 subdivision 7, is amended to read:

9 Subd. 7. The bad faith retention by a landlord of the a
10 deposit, the interest thereon, or any portion thereof, in
11 violation of this section shall subject the landlord to punitive
12 damages not to exceed \$200 for each deposit in addition to the
13 damages provided in subdivision 4. If the landlord has failed
14 to comply with the provisions of subdivision 3 or 5, retention
15 of the a deposit shall be presumed to be in bad faith unless the
16 landlord returns the deposit within two weeks after the
17 commencement of any action for the recovery of the deposit.

18 Sec. 4. Minnesota Statutes 1990, section 559.17,
19 subdivision 2, is amended to read:

20 Subd. 2. A mortgagor may assign, as additional security
21 for the debt secured by the mortgage, the rents and profits from
22 the mortgaged real property, if the mortgage:

23 (1) Was executed, modified or amended subsequent to August
24 1, 1977;

25 (2) Secured an original principal amount
26 of ~~\$500,000~~ \$100,000 or more or is a lien upon residential real
27 estate containing more than four dwelling units; and

28 (3) Is not a lien upon property which was entirely
29 homesteaded as residential real estate containing four or less
30 dwelling units where at least one of the units is homesteaded,
31 or agricultural property. The assignment may be enforced as
32 follows:

33 (a) If, by the terms of an assignment, a receiver is to be
34 appointed upon the occurrence of some specified event, and a
35 showing is made that the event has occurred, the court shall,
36 without regard to waste, adequacy of the security, or solvency

1 receivership proceedings; modifying provisions relating to
2 Minnesota housing finance agency low- and moderate-income
3 housing programs; providing for an emergency mortgage and rental
4 assistance pilot project; requiring counseling for reverse
5 mortgage loans; modifying certain receivership, assignment of
6 rents and profits, and landlord and tenant provisions; modifying
7 provisions relating to housing and redevelopment authorities;
8 providing for the issuance of general obligation bonds for
9 housing by the cities of Minneapolis and St. Paul; authorizing
10 the city of Minneapolis to make small business loans;
11 authorizing certain economic development activities within the
12 city of St. Paul; modifying the property tax classification of
13 certain residential real estate; excluding housing districts
14 from the calculation of local government aid reductions;
15 modifying the interest rate reduction program; appropriating
16 money; amending Minnesota Statutes 1990, sections 47.58, by
17 adding a subdivision; 273.124, subdivisions 1 and 11; 273.13,
18 subdivision 25; 273.1399, subdivision 1; 462A.03, subdivisions
19 10 and 13; 462A.05, by adding a subdivision; 462A.222,
20 subdivision 3; 462C.03, subdivision 10; 469.011, subdivision 4;
21 469.012, subdivision 1; 469.015, subdivisions 3, 4, and by
22 adding a subdivision; 469.176, subdivision 4f; 481.02,
23 subdivision 3; 504.02; 504.18, subdivision 1; 504.185,
24 subdivision 2; 504.20, subdivisions 3, 4, 5, and 7; 504.27;
25 559.17, subdivision 2; 566.03, subdivision 1; 566.17,
26 subdivisions 1, 2, and by adding a subdivision; 566.175,
27 subdivision 6; 566.18, subdivision 9; 566.29, subdivisions 2 and
28 4; and 576.01, subdivision 2; Laws 1974, chapter 285, section 4,
29 as amended; Laws 1988, chapter 594, section 6; proposing coding
30 for new law in Minnesota Statutes, chapters 268 and 609."

31 And when so amended the bill do pass and be re-referred to
32 the Committee on Judiciary. Amendments adopted. Report adopted.

33
34
35
36
37
38

James Metzger
.....
(Committee Chair)

April 3, 1991.....
(Date of Committee recommendation)

Endnote 18

Journal of the Senate

April 4, 1991

pages 668-669 and 677-678

Delete-all Amendment, only the Security-Deposit Pages

(b) To keep the premises in reasonable repair during the term of the lease or license, except when the disrepair has been caused by the willful, malicious, or irresponsible conduct of the lessee or licensee or a person under the direction or control of the lessee or licensee.

(c) To maintain the premises in compliance with the applicable health and safety laws of the state, *including the weatherstripping, caulking, storm window, and storm door energy efficiency standards for renter-occupied residences prescribed by section 216C.27, subdivisions 1 and 3*, and of the local units of government where the premises are located during the term of the lease or license, except when violation of the health and safety laws has been caused by the willful, malicious, or irresponsible conduct of the lessee or licensee or a person under the direction or control of the lessee or licensee.

The parties to a lease or license of residential premises may not waive or modify the covenants imposed by this section.

Sec. 4. Minnesota Statutes 1990, section 504.185, subdivision 2, is amended to read:

Subd. 2. [PROCEDURE.] When a municipality, utility company, or other company supplying home heating oil, propane, natural gas, electricity, or water to a building has *issued a final notice or has posted the building proposing to disconnect or discontinued the service to the building because an owner who has contracted for the service has failed to pay for it or because an owner is required by law or contract to pay for the service and fails to do so*, a tenant or group of tenants may pay to have the service *continued or reconnected as provided under this section*. Before paying for the service, the tenant or group of tenants shall give oral or written notice to the owner of the tenant's intention to pay after 48 hours, or a shorter period that is reasonable under the circumstances, if the owner has not already paid for the service. In the case of oral notification, written notice shall be mailed or delivered to the owner within 24 hours after oral notice is given.

(a) In the case of natural gas, electricity, or water, if the owner has not yet paid the bill by the time of the tenant's intended payment, or if the service remains discontinued, the tenant or tenants may pay the outstanding bill for the most recent billing period, if the utility company or municipality will restore the service for at least one billing period.

(b) In the case of home heating oil or propane, if the owner has not yet paid the bill by the time of the tenant's intended payment, or if the service remains discontinued, the tenant or tenants may order and pay for one month's supply of the proper grade and quality of oil or propane.

After submitting receipts for the payment to the owner, a tenant may deduct the amount of the tenant's payment from the rental payment next paid to the owner. Any amount paid to the municipality, utility company, or other company by a tenant under this subdivision is considered payment of rent to the owner for purposes of section 504.02.

Sec. 5. Minnesota Statutes 1990, section 504.20, subdivision 3, is amended to read:

Subd. 3. Every landlord shall, within three weeks after termination of the tenancy *or within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in*

which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant, and after receipt of the tenant's mailing address or delivery instructions, return the deposit to the tenant, with interest thereon as above provided, or furnish to the tenant a written statement showing the specific reason for the withholding of the deposit or any portion thereof. It shall be sufficient compliance with the time requirement of this subdivision if the deposit or written statement required by this subdivision is placed in the United States mail as first class mail, postage prepaid, in an envelope with a proper return address, correctly addressed according to the mailing address or delivery instructions furnished by the tenant, within the time required by this subdivision. The landlord may withhold from the deposit only amounts reasonably necessary:

(a) To remedy tenant defaults in the payment of rent or of other funds due to the landlord pursuant to an agreement; or

(b) To restore the premises to their condition at the commencement of the tenancy, ordinary wear and tear excepted.

In any action concerning the deposit, the burden of proving, by a fair preponderance of the evidence, the reason for withholding all or any portion of the deposit shall be on the landlord.

Sec. 6. Minnesota Statutes 1990, section 504.20, subdivision 4, is amended to read:

Subd. 4. Any landlord who fails to provide a written statement within three weeks of termination of the tenancy *or within five days of the date when the tenant leaves the building or dwelling due to the legal condemnation of the building or dwelling in which the tenant lives for reasons not due to willful, malicious, or irresponsible conduct of the tenant, and after receipt of the tenant's mailing address or delivery instructions, as required in subdivision 3, shall be liable to the tenant for damages in an amount equal to the portion of the deposit withheld by the landlord and interest thereon as provided in subdivision 2, as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.*

Sec. 7. Minnesota Statutes 1990, section 504.27, is amended to read:

504.27 [REMEDIES ARE ADDITIONAL.]

The remedies provided in sections 504.24 to 504.26 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 504.24 to 504.27 is waived by a tenant is contrary to public policy and void. The provisions of sections 504.24 to 504.27 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. *The provisions of sections 504.24, 504.25, 504.255, and 504.26 apply to occupants and owners of residential real property which is the subject of a mortgage foreclosure or contract for deed cancellation and as to which the period for redemption or reinstatement of the contract has expired.*

ARTICLE 2

UNLAWFUL DETAINER

Section 1. Minnesota Statutes 1990, section 566.03, subdivision 1, is amended to read:

(ii) with a developmental disability as defined in United States Code, title 42, section 6001, paragraph (7), as amended through December 31, 1990;

(iii) with a brain injury as defined in section 256B.093, subdivision 4, paragraph (a);

(iv) who have been assessed as drug dependent persons as defined in section 254A.02, subdivision 5, and are receiving or will receive care and treatment services provided by an approved treatment program as defined in section 254A.02, subdivision 2; or

(v) with physical disabilities if at least 50 percent of the units are accessible as provided under Minnesota Rules, chapter 1340;

(4) projects which preserve existing subsidized housing which is subject to prepayment if the use of tax credits is necessary to prevent conversion to market rate use; or

(5) projects financed by the Farmers Home Administration which meet statewide distribution goals.

(d) Before the date for applications for the second round, the allocating agencies other than the agency shall return all uncommitted and unallocated tax credits to the pool from which they were allocated, along with copies of any allocation or commitment. In the second round, the agency shall allocate the remaining credits from the regional pools to projects from the respective regions.

(e) In the third round, all unallocated tax credits must be transferred to a unified pool for allocation by the agency on a statewide basis.

(f) Unused portions of the state ceiling for low-income housing tax credits reserved to cities and counties for allocation may be returned at any time to the agency for allocation.

Sec. 7. [APPROPRIATION; DEPARTMENT OF JOBS AND TRAINING.]

§ is appropriated from the general fund to the commissioner of jobs and training for the emergency mortgage and rental assistance pilot project to be available for the biennium ending June 30, 1993.

Sec. 8. [APPROPRIATION; HOUSING TRUST FUND ACCOUNT.]

§ is appropriated and transferred from the general fund to the housing trust fund account in the housing development fund for the purposes specified in Minnesota Statutes, section 462A.201.

ARTICLE 4

ASSIGNMENT OF RENTS AND RECEIVERSHIP

Section 1. Minnesota Statutes 1990, section 504.20, subdivision 4, is amended to read:

Subd. 4. Any landlord who fails to provide a written statement within three weeks of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, as required in subdivision 3, ~~shall be or fails to transfer or return a deposit as required under subdivision 5,~~ is liable to the tenant or the successor in interest for damages in an amount equal to the portion of the deposit withheld by the landlord and interest thereon as provided in subdivision 2, as a penalty, in addition to the portion of the deposit wrongfully withheld by the landlord and interest thereon.

Sec. 2. Minnesota Statutes 1990, section 504.20, subdivision 5, is amended to read:

Subd. 5. Upon termination of the landlord's interest in the premises, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent shall, within a ~~reasonable time~~ *60 days of termination of the interest or when the successor in interest is required to return or otherwise account for the deposit to the tenant, whichever occurs first*, do one of the following acts, either of which shall relieve the landlord or agent of further liability with respect to such deposit:

(a) Transfer such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the landlord's successor in interest and thereafter notify the tenant of such transfer and of the transferee's name and address; or

(b) Return such deposit, or any remainder after any lawful deductions made under subdivision 3, with interest thereon as provided in subdivision 2, to the tenant.

Sec. 3. Minnesota Statutes 1990, section 504.20, subdivision 7, is amended to read:

Subd. 7. The bad faith retention by a landlord of ~~the a~~ deposit, the interest thereon, or any portion thereof, in violation of this section shall subject the landlord to punitive damages not to exceed \$200 *for each deposit* in addition to the damages provided in subdivision 4. If the landlord has failed to comply with the provisions of subdivision 3 *or 5*, retention of ~~the a~~ deposit shall be presumed to be in bad faith unless the landlord returns the deposit within two weeks after the commencement of any action for the recovery of the deposit.

Sec. 4. Minnesota Statutes 1990, section 559.17, subdivision 2, is amended to read:

Subd. 2. A mortgagor may assign, as additional security for the debt secured by the mortgage, the rents and profits from the mortgaged real property, if the mortgage:

(1) Was executed, modified or amended subsequent to August 1, 1977;

(2) Secured an original principal amount of ~~\$500,000~~ *\$100,000* or more *or is a lien upon residential real estate containing more than four dwelling units*; and

(3) Is not a lien upon property which was entirely homesteaded ~~as~~, *residential real estate containing four or less dwelling units where at least one of the units is homesteaded, or agricultural property*. The assignment may be enforced as follows:

(a) If, by the terms of an assignment, a receiver is to be appointed upon the occurrence of some specified event, and a showing is made that the event has occurred, the court shall, without regard to waste, adequacy of the security, or solvency of the mortgagor, appoint a receiver who shall, with respect to the excess cash remaining after application as provided in section 576.01, subdivision 2, apply it as prescribed by the assignment. If the assignment so provides, the receiver shall apply the excess cash in the manner set out herein from the date of appointment through the entire redemption period from any foreclosure sale. Subject to the terms of the assignment, the receiver shall have the powers and duties as set forth in