

A bill for an act

relating to landlord and tenant; modifying certain provisions related to utilities; permitting termination of a lease for medical reasons; modifying provisions related to eviction; amending Minnesota Statutes 2008, sections 504B.215, subdivisions 2, 2a, 3, 4; 504B.241, subdivision 4; 504B.265; 504B.291, by adding a subdivision; 504B.321, subdivision 1; 504B.385, subdivision 1; 504B.395, subdivision 4; Minnesota Statutes 2009 Supplement, section 504B.285, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 504B.215, subdivision 2, is amended to read:

Subd. 2. **Single-meter utility service payments.** Except as provided in subdivision 3, the landlord of a single-metered residential building shall be the bill payer responsible, and shall be the customer of record contracting with the utility for utility services. The landlord must advise the utility provider that the utility services apply to a single-metered residential building. A failure by the landlord to comply with this subdivision is a violation of sections 504B.161, subdivision 1, clause (1), and 504B.221. This subdivision may not be waived by contract or otherwise. This subdivision does not require a landlord to contract and pay for utility service provided to each residential unit through a separate utility-provided meter which accurately measures that unit's use only. This subdivision does not prohibit a landlord from apportioning utility service payments among residential units and either including utility costs in a unit's rent or billing for utility charges separate from rent.

Sec. 2. Minnesota Statutes 2008, section 504B.215, subdivision 2a, is amended to read:

Subd. 2a. **Conditions of separate utility billing to tenant in single-meter buildings.** ~~If the~~ (a) A landlord of a single-metered residential building bills may not bill for utility charges separate from the rent, the following conditions apply unless the landlord either:

(1) prospective tenants must be provided notice of the total utility cost for the building for each month of the most recent calendar year; and installs in each unit a submeter that:

(i) is of a quality and grade consistent with minimum industry standards established by the American Water Works Association, the American Gas Association, or the American National Standard for Electricity Meters, as applicable;

(ii) has been certified to be accurate according to the industry standards by a licensed plumber or electrician having the requisite qualifications to determine accuracy;

(iii) is periodically inspected for accuracy; and

(iv) is replaced if it does not measure consumption within the tolerance levels established by the American Water Works Association, the American Gas Association, or the American National Standard for Electricity Meters, as applicable; or

(2) establishes an equitable method of apportionment and the frequency of billing by the landlord, which must be predetermined and put in writing for all leases.

For the purposes of this subdivision, "an equitable method of apportionment" means a method that, with reasonable accuracy, estimates the consumption of each unit of the utility service subject to apportionment by taking account of the totality of the circumstances of each household in the building, including, but not limited to, the number of persons living in the unit, the cubic footage of each unit, the location of each unit within the building, the times of the day tenants are in the unit and using the utilities, the number and nature of appliances, equipment, and other consumer goods that require utilities to be operable, the usage habits and patterns of each household, and the degree to which each household engages in sound conservation practices. An equitable method of apportionment may not be determined based solely on any one factor.

(b) A landlord who bills tenants for utilities separately from rent may not impose on or collect from tenants a fee or charge for billing and may bill and collect only that amount representing the actual usage for the dwelling unit as recorded by the submeter or the estimated amount for the dwelling unit established by the apportionment formula.

(c) If a landlord, who bills tenants separately from rent, receives a bill from a utility that separates fixed monthly costs from variable consumption costs, the landlord may apportion the fixed-cost portion of the bill, but may only do so if it is apportioned equally among tenants based on the number of units in the building.

(d) A landlord must provide prospective tenants who may or will be subject to apportionment or submetering with written notice of the actual costs for the dwelling unit the prospective tenant will occupy for each utility that will be subject to apportionment or submetering for each of the 12 months before the month in which the lease is contemplated to begin.

(e) The lease must contain a provision that, upon a tenant's request, a landlord must provide a copy of the actual utility bill for the building along with each apportioned utility bill. Upon a tenant's request, a landlord must also provide past copies of actual utility bills for any period of the tenancy for which the tenant received an apportioned utility bill. Past copies of utility bills must be provided for the preceding two years or from the time the current landlord acquired the building, whichever is most recent.

(f) The landlord of a single-metered residential building who bills separately for utilities ~~may, if the landlord and tenant agree, must~~ provide tenants with a lease term of one year or more the option to pay those bills under an annualized budget plan providing for level monthly payments based on a good faith estimate of the annual bill. No additional charge may be imposed upon a tenant choosing the option to pay bills under an annualized budget plan.

(g) By September 30 of each year, a landlord of a single-metered residential building who bills for gas and electric utility charges separate from rent shall inform tenants in writing of the possible availability of energy assistance from the low income home energy assistance program. The information must contain the toll-free telephone number of the administering agency.

Sec. 3. Minnesota Statutes 2008, section 504B.215, subdivision 3, is amended to read:

Subd. 3. **Procedure.** (a) ~~When~~ A municipality, utility company, or other company supplying home heating oil, propane, natural gas, electricity, or water to a building that has issued a final notice ~~or has posted the building~~ proposing to disconnect or discontinue the service to the building because a landlord who has contracted for the service has failed to pay for it, or because a landlord 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~~ must also provide notice to the residents of the impending disconnection by posting the building. ~~If a building is posted,~~ The posting must be placed in at least one conspicuous location in the building and provide tenants with, at a minimum, the following information:

(1) the date the service will be discontinued;

(2) the telephone number to call at the utility to obtain further information;

(3) a brief description of the rights of tenants under this section to continue or restore service; and

(4) advice to consider seeking assistance from legal aid, a private attorney, or a housing organization in exercising the rights of tenants under Minnesota law to maintain their utility service.

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 landlord of the tenant's intention to pay after 48 hours, or a shorter period that is reasonable under the circumstances, if the landlord has not already paid for the service. In the case of oral notification, written notice shall be mailed or delivered to the landlord within 24 hours after oral notice is given.

(b) In the case of natural gas or electricity, if the landlord has not 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 current charges for the most recent billing period and the utility company or municipality must restore the service for at least one billing period. In a residential building with less than five units, one of the tenants may notify the utility company or municipality that the tenant agrees to become the bill payer responsible and customer of record and the utility company or municipality must place the account disconnected or subject to disconnection in the tenant's name and provide service prospectively, provided the tenant satisfies all requirements for establishing service. A tenant becoming the customer of record of a cooperative electric association does not acquire membership rights. Exercise of the right to pay the current charges for the most recent billing period does not preclude exercising the right to become the bill payer responsible and customer of record, provided that if there are multiple tenants in an affected multifamily building, the utility company or municipality is not required to offer the right to become the bill payer responsible and the customer of record to more than one tenant in a 12-month period.

(c) In the case of water, if the landlord has not paid the bill by the time of the tenant's intended payment or if the service remains discontinued, upon request from a tenant, a municipality must provide a copy of each bill the landlord fails to pay. The tenant:

(1) has a continuing right to pay the current charges for the most recent billing period and retain service;

(2) has the period of time provided by the governing ordinance, policy, or practice within which to pay the charges;

(3) is not subject to any deposit requirements; and

(4) is entitled to reasonable notice of any disconnection.

This paragraph does not require a municipality to alter its accounting system or billing records if the tenant exercises the right to pay current charges and retain water service. If there are multiple tenants in an affected property, the municipality is not required to offer the right to pay current charges and retain service to more than one tenant in a 12-month period.

(d) For purposes of this subdivision, "current charges" does not include arrears or late payment fees incurred by the landlord.

(e) In a single-metered residential building, other residential tenants in the building may contribute payments to the utility company or municipality on the account of the tenant who is the customer of record under paragraph (b) or on the landlord's account under paragraph (c).

(f) A landlord who satisfies all requirements for reestablishing service, including paying, or entering into an agreement acceptable to the utility company or municipality to pay, all arrears and other lawful charges incurred by the landlord on the account that was placed in the tenant's name, may reestablish service in the landlord's name.

(g) This section does not restrict or prohibit a municipal utility provider from exercising its authority pursuant to section 444.075, subdivisions 3 and 3e, to make contracts with and impose utility charges against property owners and to certify unpaid charges to the county auditor with taxes against the property served for collection as a tax.

(h) In the case of home heating oil or propane, if the landlord 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.

(i) After submitting documentation to the landlord of the tenant's payment to the utility company or municipality, a tenant may deduct the amount of the tenant's payment to the utility company or municipality from the rental payment next paid to the landlord. Any amount paid to the municipality, utility company, or other company by a tenant under this subdivision is considered payment of rent to the landlord for purposes of section 504B.291.

Sec. 4. Minnesota Statutes 2008, section 504B.215, subdivision 4, is amended to read:

Subd. 4. **Limitations; waiver prohibited; rights as additional.** (a) The tenant rights under this section:

(1) do not extend to conditions caused by the willful, malicious, or negligent conduct of the tenant or of a person under the tenant's direction or control;

(2) may not be waived or modified; and

(3) are in addition to and do not limit other rights which may be available to the tenant in law or equity, including the right to damages and the right to restoration of possession of the premises under section 504B.291.

(b) A landlord who violates any provision of this section is liable to the tenant for treble damages or \$500, whichever is greater, plus reasonable attorney fees.

Sec. 5. Minnesota Statutes 2008, section 504B.241, subdivision 4, is amended to read:

Subd. 4. **Court file information.** If a residential tenant screening service includes information from a court file on an individual in a residential tenant report, the report must provide the full name and date of birth of the individual in any case where the court file includes the individual's full name and date of birth, and the outcome of the court proceeding must be accurately recorded in the residential tenant report including the specific basis of the court's decision, when available. A tenant screening service may not make any reference to a court file for which there is no final decision. ~~If a tenant screening service knows that~~ a court file has been expunged, the tenant screening service shall delete any reference to that file in any data maintained or disseminated by the screening service. Whenever the court supplies information from a court file on an individual, in whatever form, the court shall include the full name and date of birth of the individual, if that is indicated on the court file or summary, and information on the outcome of the court proceeding, including the specific basis of the court's decision, coded as provided in subdivision 5 for the type of action, when it becomes available. The residential tenant screening service is not liable under section 504B.245 if the residential tenant screening service reports complete and accurate information as provided by the court.

Sec. 6. Minnesota Statutes 2008, section 504B.265, is amended to read:

504B.265 TERMINATION OF LEASE UPON DEATH OF TENANT.

Subdivision 1. **Termination of lease upon death.** Any party to a lease of residential premises other than a lease at will may terminate the lease prior to its expiration date in the manner provided in subdivision 2 upon the death of the tenant or, if there is more than one tenant, upon the death of all tenants.

Subd. 1a. **Termination of lease upon infirmity.** A tenant, or the authorized representative of the tenant, may terminate the lease prior to its expiration date in the manner provided in subdivision 2 if the tenant has, or if there is more than one tenant, all the tenants have, been certified by a physician as:

(1) being no longer able, for medical reasons, to live without assistance with instrumental activities of daily living or personal activities of daily living; and

(2) needing:

(i) to move into a nursing home, as defined in section 144A.01, subdivision 5;

(ii) hospice care, as defined in section 144A.75, subdivision 8, or to move into a residential hospice facility, as defined in section 144A.75, subdivision 13;

(iii) to move into a boarding care or supervised living facility licensed under chapter 144;

(iv) to move into a housing with services establishment, as defined in section 144D.01, subdivision 4;

(v) assisted living, as defined in section 144G.01, subdivision 2;

(vi) an accessible unit, as defined in section 363A.40, subdivision 1, paragraph (a);

(vii) to enter a foster care for adults program as defined in section 245A.02, subdivision 6c; or

(viii) to move to any other residence with services that is licensed or certified by the Department of Health or the Department of Human Services.

Subd. 2. **Notice.** (a) Either the landlord or the personal representative of the tenant's estate may terminate the lease ~~upon~~ as provided in subdivision 1 by providing at least two months' written notice, to be effective on the last day of a calendar month, and hand delivered or mailed by postage prepaid, first class United States mail, to the address of the other party. The landlord may comply with the notice requirement of this subdivision by delivering or mailing the notice to the premises formerly occupied by the tenant. The termination of a lease under this section shall not relieve the tenant's estate from liability either for the payment of rent or other sums owed prior to or during the notice period, or for the payment of amounts necessary to restore the premises to their condition at the commencement of the tenancy, ordinary wear and tear excepted.

(b) Either the tenant or the tenant's authorized representative may terminate the lease if the conditions in subdivision 1a have been met by providing at least two months' written notice, to be effective on the last day of a calendar month, and hand-delivered or mailed by postage prepaid, first class United States mail, to the landlord and paying the equivalent of one month's rent. The termination of a lease under this section shall not relieve the eligible tenant from liability either for the payment of rent or other sums owed prior to or during the notice period, or for the payment of amounts necessary to restore the premises to their condition at the commencement of the tenancy, ordinary wear and tear excepted.

Subd. 3. **Waiver prohibited.** Any attempted waiver by a landlord and tenant or tenant's personal representative, by contract or otherwise, of the ~~right~~ rights of termination provided by this section, and any lease provision or agreement requiring a longer notice period than that provided by this section, shall be void and unenforceable; provided,

however, that the landlord and tenant or tenant's personal representative may agree to otherwise modify the specific provisions of this section.

Subd. 4. **Applicability.** The provisions of this section, except subdivision 1a, apply to leases entered into or renewed after May 12, 1981. The provisions of subdivision 1a apply to leases entered into or renewed after January 1, 2011.

Sec. 7. Minnesota Statutes 2009 Supplement, section 504B.285, subdivision 1, is amended to read:

Subdivision 1. **Grounds.** The person entitled to the premises may recover possession by eviction when:

(1) any person holds over real property:

(i) after a sale of the property on an execution or judgment; or

(ii) after the expiration of the time for redemption on foreclosure of a mortgage, or after termination of contract to convey the property, provided that if the person holding the real property after the expiration of the time for redemption or termination was a tenant during the redemption or termination period under a lease of any duration and the lease began after the date the mortgage or contract for deed was executed but prior to the expiration of the time for redemption or termination, and the person has received:

~~(A) at least two three months' written notice to vacate given no sooner than one month after the expiration of the time for redemption or termination the later of the date on which the redemption period expires or the date on which the lease expires, provided that the tenant pays the rent and abides by all terms of the lease; or~~

~~(B) at least two months' 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 real property after termination of the time for which it is demised or leased to that person or to the persons under whom that person holds possession, contrary to the conditions or covenants of the lease or agreement under which that person holds, or after any rent becomes due according to the terms of such lease or agreement, provided the person first complies with the provisions in section 504B.291, subdivision 1a, or 504B.321, subdivision 2, as applicable; or

(3) any tenant at will holds over after the termination of the tenancy by notice to quit.

Sec. 8. Minnesota Statutes 2008, section 504B.291, is amended by adding a subdivision to read:

9.1 Subd. 1a. **Tenant's right to cure or vacate prior to eviction.** (a) A landlord must
9.2 provide the tenant with a notice and opportunity to cure or vacate seven days prior to
9.3 bringing an action under subdivision 1.

9.4 (b) The notice must inform the tenant of the amount necessary to cure the breach for
9.5 nonpayment, the amount of any rent that will become due in the following month, and
9.6 that the landlord may proceed with an eviction following the expiration of the seven-day
9.7 period if the tenant neither pays the full amount necessary to cure nor vacates.

9.8 (c) The opportunity to cure is available to a tenant twice in any 12-month period;
9.9 provided that a resident may exercise the right of redemption more than twice in any
9.10 12-month period by paying the landlord's actual reasonable attorney fees as part of each
9.11 additional exercise of the right during the 12-month period.

9.12 Sec. 9. Minnesota Statutes 2008, section 504B.321, subdivision 1, is amended to read:

9.13 Subdivision 1. **Procedure.** (a) To bring an eviction action, ~~the~~ a person ~~complaining~~
9.14 shall file a complaint with the court, stating the full name and date of birth of the person
9.15 against whom the complaint is made, unless it is not known, describing the premises of
9.16 which possession is claimed, stating the facts which authorize the recovery of possession,
9.17 and asking for recovery thereof. Seven days prior to bringing an action under this
9.18 subdivision, the complainant must provide notice and an opportunity to cure.

9.19 (b) The lack of the full name and date of birth of the person against whom the
9.20 complaint is made does not deprive the court of jurisdiction or make the complaint invalid.

9.21 (c) The court shall issue a summons, commanding the person against whom the
9.22 complaint is made to appear before the court on a day and at a place stated in the summons.

9.23 (d) The appearance shall be not less than seven nor more than 14 days from the day
9.24 of issuing the summons, except as provided by subdivision 2.

9.25 (e) A copy of the complaint shall be attached to the summons, which shall state that
9.26 the copy is attached and that the original has been filed.

9.27 Sec. 10. Minnesota Statutes 2008, section 504B.385, subdivision 1, is amended to read:

9.28 Subdivision 1. **Escrow of rent.** (a) If a violation exists in a residential building,
9.29 a residential tenant may deposit the amount of rent due to the landlord with the court
9.30 administrator using the procedures described in paragraphs (b) to (d).

9.31 (b) For a violation as defined in section 504B.001, subdivision 14, clause (1), the
9.32 residential tenant may deposit with the court administrator the rent due to the landlord
9.33 along with a copy of the written notice of the code violation as provided in section
9.34 504B.185, subdivision 2. The residential tenant may not deposit the rent or file the written

10.1 notice of the code violation until the time granted to make repairs has expired without
10.2 satisfactory repairs being made, unless the residential tenant alleges that the time granted
10.3 is excessive.

10.4 (c) For a violation as defined in section 504B.001, subdivision 14, clause (2) or (3),
10.5 the residential tenant must give written notice to the landlord specifying the violation. The
10.6 notice must be delivered personally or sent to the person or place where rent is normally
10.7 paid. If the violation is not corrected within ~~14~~ seven days, the residential tenant may
10.8 deposit the amount of rent due to the landlord with the court administrator along with an
10.9 affidavit specifying the violation. The court must provide a simplified form affidavit for
10.10 use under this paragraph.

10.11 (d) The residential tenant need not deposit rent if none is due to the landlord at the
10.12 time the residential tenant files the notice required by paragraph (b) or (c). All rent which
10.13 becomes due to the landlord after that time but before the hearing under subdivision 6
10.14 must be deposited with the court administrator. As long as proceedings are pending under
10.15 this section, the residential tenant must pay rent to the landlord or as directed by the court
10.16 and may not withhold rent to remedy a violation.

10.17 Sec. 11. Minnesota Statutes 2008, section 504B.395, subdivision 4, is amended to read:

10.18 Subd. 4. **Landlord must be informed.** A landlord must be informed in writing of
10.19 an alleged violation at least ~~14~~ seven days before an action is brought by:

10.20 (1) a residential tenant of a residential building in which a violation as defined in
10.21 section 504B.001, subdivision 14, clause (2) or (3), is alleged to exist; or

10.22 (2) a housing-related neighborhood organization, with the written permission of a
10.23 residential tenant of a residential building in which a violation, as defined in section
10.24 504B.001, subdivision 14, clause (2), is alleged to exist. The notice requirement may be
10.25 waived if the court finds that the landlord cannot be located despite diligent efforts.