CHAPTER 566

FORCIBLE ENTRY AND UNLAWFUL DETAINER

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566.01 FORCIBLE ENTRY AND UNLAWFUL DETAINER.

No person shall make entry into lands or tenements except in cases where entry is allowed by law, and in such cases the person shall not enter by force, but only in a peaceable manner.

History: *(9147) RL s 4036; 1963 c 753 art 2 s 6; 1971 c 23 s 36; 1973 c 611 s 6; 1986 c 444*

566.02 UNLAWFUL DETENTION OF LANDS OR TENEMENTS SUBJECT TO FINE.

When any person has made unlawful or forcible entry into lands or tenements, and detains the same, or, having peaceably entered, unlawfully detains the same, the person entitled to the premises may recover possession thereof in the manner hereinafter provided. A seizure under section 609.5317, subdivision 1, for which there is not a defense under section 609.5317, subdivision 3, constitutes unlawful detention by the tenant.

History: *(9148) RL s 4037; 1917 c 227 s 1; 1973 c 611 s 7; 1989 c 305 s 2*

566.021 NOTICE OF SEIZURE PROVISION.

Landlords shall give written notice to tenants of the provision relating to seizures in section 566.02. Failure to give such notice does not subject the landlord to criminal or civil liability and is not a defense under section 609.5317, subdivision 3.

History: *1989 c 305 s 3*

566.03 RECOVERY OF POSSESSION; DEFENSES.

Subdivision 1. When 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, or termination is a tenant, the person has received at least one month's written notice of the termination of tenancy as a result of the sale, foreclosure, or termination; or when 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 any rent becomes due according to the terms of such lease or agreement; or when any tenant at will holds over after the determination of any such estate by notice to quit; in all such cases the person entitled to the premises may recover possession thereof in the manner hereinafter provided.

Subd. 2. It shall be a defense to an action for recovery of premises following the alleged termination of a tenancy by notice to quit for the defendant to prove by a fair preponderance of the evidence that:

(1) The alleged termination was intended in whole or part as a penalty for the defendant's good faith attempt to secure or enforce rights under a lease or contract, oral or written, or under the laws of the state, any of its governmental subdivisions, or of the United States; or

(2) The alleged termination was intended in whole or part as a penalty for the defendant's good faith report to a governmental authority of the plaintiff's violation of any health, safety, housing or building codes or ordinances.

If the notice to quit was served within 90 days of the date of any act of the tenant coming within the terms of clause (1) or (2) the burden of proving that the notice to quit was not served in whole or part for a retaliatory purpose shall rest with the plaintiff.

Subd. 3. In any proceeding for the restitution of premises upon the ground of nonpayment of rent, it shall be a defense thereto if the tenant establishes by a preponderance of the evidence that the plaintiff increased the tenant's rent or decreased the services as a penalty in whole or part for any lawful act of the tenant as described in subdivision 2, providing that the tenant tender to the court or to the plaintiff the amount of rent due and payable under the tenant's original obligation.

Subd. 4. Nothing contained herein shall limit the right of the lessor pursuant to the provisions of subdivision 1 to terminate a tenancy for a violation by the tenant of a lawful, material provision of a lease or contract, whether written or oral, or to hold the tenant liable for damage to the premises caused by the tenant or a person acting under the tenant's direction or control.

History: *(9149) RL s 4038; 1917 c 227 s 2; 1971 c 240 s 1; 1976 c 17 s 1; 1984 c 566 s 5; 1986 c 444*

566.04 NO RESTITUTION IF TENANT HOLDS OVER FOR THREE YEARS.

No restitution shall be made under this chapter of any lands or tenements of which the party complained of, or that person's ancestors, or those under whom the person holds the premises, have been in quiet possession for three years next before the filing of the complaint, after the determination of the leasehold estate that the person may have had therein.

History: *(9150) RL s 4039; 1986 c 444*

566.05 COMPLAINT AND SUMMONS.

The person complaining shall file a complaint with the court, describing the premises of which possession is claimed, stating the facts which authorize the recovery, and praying for restitution thereof. The court shall issue a summons, commanding the person against whom the complaint is made to appear before the court on a day and at a place stated in the summons. The appearance shall be not less than seven nor more than 14 days from the day of issuing the summons. A copy of the complaint shall be attached to the summons, which shall state that the copy is attached and that the original has been filed.

History: *(9151) RL s 4040; 1973 c 611 s 8; 1981 c 168 s 3*

566.06 SUMMONS; HOW SERVED.

The summons shall be served at least seven days before the return day in the man-

ner provided for service of a summons in a civil action in the district court. If the person cannot be found in the county, the summons may be served at least seven days before its return day by leaving a copy at the person's last usual place of abode with a family member or a person of suitable age and discretion residing there, or if the person had no place of abode, by leaving a copy upon the premises described in the complaint with a person of suitable age and discretion occupying the same or any part thereof. The summons may be served by any person not named a party to the action. If the defendant cannot be found in the county, of which the return of the sheriff or constable shall be prima facie proof, and, in the case of a nonresidential premises, no person actually occupies the premises described in the complaint, or, in case the premises described in the complaint is residential, service has been attempted at least twice on different days, with at least one of the attempts having been made between the hours of 6:00 and 10:00 p.m., upon the filing of an affidavit of the plaintiff or the plaintiff's attorney stating that (1) the defendant cannot be found or on belief that the defendant is not in this state, and (2) a copy of the summons has been mailed to the defendant at the defendant's last known address if any is known to the plaintiff, service of the summons may be made upon the defendant by posting the summons in a conspicuous place on the premises for not less than one week. If the defendant or the defendant's attorney does not appear in court upon the return day in the action, the trial thereof shall proceed.

History: *(9152) RL s 4041; 1909 c 496 s 1; 1973 c 611 s 9; 1976 c 123 s 1; 1981 c 168 s 4; 1985 c 214 s 1; 1986 c 444*

566.07 ANSWER; TRIAL.

After the return of the summons, at the time and place appointed therein, the defendant, on appearing, may answer the complaint, and all matters in excuse, justification, or avoidance of the allegations thereof shall be set up in the answer; and thereupon the court shall hear and determine the action, unless it shall adjourn the trial as provided in section 566.08, but either party may demand a trial by jury. The proceedings in such action shall be the same as in other civil actions, except as in this chapter otherwise provided.

History: *(9153) RL s 4042; 1981 c 168 s 6; 1986 c 444*

566.08 ADJOURNMENT; SECURITY FOR RENT.

The court, in its discretion, may adjourn the trial, but not beyond six days after the return day, unless by consent of parties; but in all cases mentioned in section 566.03, except in an action upon a written lease signed by both parties thereto, if the defendant, or the defendant's agent or attorney, shall make oath that the defendant cannot safely proceed to trial for want of a material witness, naming the witness, and that the defendant has made due exertion to obtain the witness, and believes that, if such adjournment be allowed, the defendant will be able to procure the attendance of such witness at the trial, or the witness' deposition, and shall give bond conditioned to pay to the plaintiff all rent which may accrue during the pendency of the action, and all costs and damages consequent upon such adjournment, the court shall adjourn the trial for such time as may appear necessary, not exceeding three months.

History: *(9154) RL s 4043; 1981 c 168 s 6; 1986 c 444*

566.09 JUDGMENT; FINE; EXECUTION.

If the court or jury finds for the plaintiff, the court shall immediately enter judgment that the plaintiff have restitution of the premises and tax the costs for the plaintiff. The court shall issue execution in favor of the plaintiff for the costs and also immediately issue a writ of restitution. Upon a showing by the defendant that immediate restitution of the premises would work a substantial hardship upon the defendant or the defendant's family, the court shall stay the writ of restitution for a reasonable period, not to exceed seven days. If the court or jury finds for the defendant, the court shall enter judgment for the defendant, tax the costs against the plaintiff, and issue execution therefor.

History: *(9155) RL s 4044; 1973 c 611 s 10; 1976 c 123 s 2; 1981 c 168 s 5; 1986 c 444*

566.10 DISAGREEMENT.

If the jury cannot agree upon a verdict, the court may discharge them, and issue a venire, returnable forthwith, or at some other time agreed upon by the parties or fixed by the court, for the purpose of impaneling a new jury.

History: *(9156) RL s 4045; 1981 c 168 s 6*

566.11 WRIT OF RESTITUTION; EFFECT OF APPEAL.

If the party against whom judgment for restitution is rendered or the party's attorney state to the court an intent to take an appeal, a writ of restitution shall not issue for 24 hours after judgment. In an action on a lease, against a tenant holding over after the expiration of the term thereof, or a termination thereof by a notice to quit, such writ may issue forthwith notwithstanding such notice of appeal, if the plaintiff give a bond conditioned to pay all costs and damages in case on the appeal the judgment of restitution be reversed and a new trial ordered.

History: *(9157) RL s 4046; 1909 c 496 s 2; 1981 c 168 s 6; 1986 c 444*

566.12 APPEAL; STAY.

A party who feels aggrieved by the judgment may appeal within ten days as in other cases triable before courts except that if the party appealing remains in possession of the premises, bond shall be conditioned to pay all costs of such appeal and abide the order the court may make therein and pay all rents and other damages justly accruing to the party excluded from possession during the pendency of the appeal. Upon the taking of such appeal all further proceedings in the case shall be stayed, except that in an action on a lease against a tenant holding over after the expiration of the term thereof or termination thereof by notice to quit, if the plaintiff give bond as provided in section 566.11, a writ of restitution shall issue as if no appeal had been taken and the appellate court shall thereafter issue all needful writs and processes to carry out any judgment which may be rendered in such court.

History: *(9158) RL s 4047; 1909 c 496 s 3; 1981 c 168 s 6; 1986 c 444*

566.13 APPEAL AFTER ISSUANCE OF WRIT; STAY.

If a writ of restitution has issued before the taking of an appeal, the court shall give appellant a certificate of the allowance thereof. Upon being served with such certificate, the officer having the writ shall cease all further proceedings thereunder and if the writ has not been completely executed the defendant shall remain in possession of the premises until the determination of the appeal, but this section shall not apply to a case where judgment for restitution has been entered on a lease against a tenant holding over after the expiration of the term thereof or determination thereof by notice to quit.

History: *(9159) RL s 4048; 1909 c 496 s 4; 1981 c 168 s 6; 1986 c 444*

566.14 DISMISSAL OF APPEALS; AMENDMENTS; RETURN.

In all cases of appeal, the appellate court shall not dismiss or quash the proceedings for want of form only, provided they have been conducted substantially in accordance with the provisions of this chapter. Amendments may be allowed at any time, upon such terms as to the court may appear just, in the same cases and manner and to the same extent as in civil actions. The court may compel the trial court, by attachment, to make or amend any return which is withheld or improperly or insufficiently made.

History: *(9160) RL s 4049; 1981 c 168 s 6*

566.15 FORM OF VERDICT.

The verdict of the jury or the finding of the court in favor of the plaintiff in an action under this chapter shall be substantially in the following form:

At a court held at ....., on the ..... day of ....., 19....., before ....., a judge in and for the county of ..... in an action between ....., plaintiff, and ....., defendant, the jury (or,

if the action be tried without a jury, the court) find that the facts alleged in the complaint are true, and the said plaintiff ought to have restitution of the premises therein described without delay.

.....

If the verdict or finding be for the defendant, it shall be sufficient to find that the facts alleged in the complaint are not true.

History: *(9161) RL s 4050; 1973 c 611 s 11; 1981 c 168 s 6*

566.16 FORMS OF SUMMONS AND WRIT.

The summons and writ of restitution may be substantially in the following forms:

FORM OF SUMMONS

State of Minnesota)
) ss.
County of .....)

Whereas, ..., of ....., hath filed with the undersigned, a judge in and for said county, a complaint against ....., of ....., a copy whereof is hereto attached: Therefore you are hereby summoned to appear before the undersigned on the ..... day of ....., 19....., at ..... o'clock .....m., at ....., then and there to make answer to and defend against the complaint aforesaid, and further to be dealt with according to law.

Dated at ....., this ..... day of ....., 19.....

.....,
Judge of ..... court.

FORM OF WRIT OF RESTITUTION

State of Minnesota)
)ss.
County of .....)

The State of Minnesota, to the Sheriff or Any Constable of the County Aforesaid:

Whereas, ..., plaintiff, of ....., in an action for an unlawful or forcible entry and detainer (or for an unlawful detainer, as the case may be), at a court held at ....., in the county aforesaid, on the ..... day of ....., 19....., before ....., a judge in and for said county, by the consideration of the court, recovered a judgment against ....., of ....., to have restitution of (here describe the premises as in the complaint):

Therefore, you are hereby commanded that, taking with you the force of the county, if necessary, you cause the said ..... to be immediately removed from the aforesaid premises, and the said ..... to have peaceable restitution of the same. You are also hereby commanded that of the goods and chattels of the said ..... within said county you cause to be levied, and, the same being disposed of according to law, to be paid to the said ..... the sum of ..... dollars, being the costs taxed against the said ..... for the said ....., at the court aforesaid, together with 25 cents for this writ; and thereof, together with this writ, make due return within 30 days from the date hereof, according to law.

Dated at ....., this ..... day of ....., 19.....

.....,
Judge of ..... court.

History: *(9162) RL s 4051; 1973 c 611 s 12; 1981 c 168 s 6*

566.17 EXECUTION OF THE WRIT OF RESTITUTION.

Subdivision 1. **General.** The officer holding the writ of restitution shall execute the same by making a demand upon defendant if found in the county or any adult member of the defendant's family holding possession of the premises, or other person in charge thereof, for the possession of the same, and that the defendant leave, taking family and

all personal property from such premises within 24 hours after such demand. If defendant fails to comply with the demand, then the officer shall bring, if necessary, the force of the county and whatever assistance may be necessary, at the cost of the complainant, remove the said defendant, family and all personal property from said premises detained, immediately and place the plaintiff in the possession thereof. In case defendant cannot be found in the county, and there is no person in charge of the premises detained, so that no demand can be made upon the defendant, then the officer shall enter into the possession of the premises, breaking in if necessary, and the property of the defendant shall be removed and stored at a place designated by the plaintiff as provided under subdivision 2.

Subd. 2. **Removal and storage of property.** (a) In cases where the defendant's personal property is to be stored in a place other than the premises, the officer shall remove all property of the defendant at the expense of the plaintiff.

The plaintiff shall have a lien upon all of the goods upon the premises for the reasonable costs and expenses incurred for removing the personal property and for the proper caring and storing the same, and the costs of transportation of the same to some suitable place of storage, in case defendant shall fail or refuse to make immediate payment for all the expenses of such removal from the premises and plaintiff shall have the right to enforce such lien by detaining the same until paid, and, in case of nonpayment for 60 days after the execution of the writ, shall have the right to enforce the lien and foreclose the same by public sale as provided for in case of sales under sections 514.18 to 514.22.

(b) In cases where the defendant's property is to be stored on the premises, the officer shall enter the premises, breaking in if necessary, and the plaintiff may remove the defendant's personal property. The provisions of section 504.24 apply to property removed under this paragraph. The plaintiff must prepare an inventory and mail a copy of the inventory to the defendant's last known address or, if the defendant has provided a different address, to the address provided by the defendant. The inventory must be prepared, signed, and dated in the presence of the peace officer. The inventory must include the following:

(1) a listing of the items of personal property and a description of the condition of the property;

(2) the date, the signature of the plaintiff or the plaintiff's agent, and the name and telephone number of a person authorized to release the personal property; and

(3) the name and badge number of the peace officer.

The peace officer shall retain a copy of the inventory. The plaintiff is responsible for the proper removal, storage, and care of the defendant's personal property and is liable for damages for loss of or injury to the defendant's personal property caused by the plaintiff's failure to exercise care in regard to it as a reasonably careful person would exercise under like circumstances.

The plaintiff shall notify the defendant of the date and approximate time the officer is scheduled to remove the defendant, family, and the defendant's personal property from the premises. The notice must be sent by first-class mail. In addition, the plaintiff must make a good faith effort to notify the defendant by telephone. The notice must be mailed as soon as the information regarding the date and approximate time the officer is scheduled to enforce the writ is known to the plaintiff, except that the scheduling of the peace officer to enforce the writ need not be delayed because of the notice requirement. The notice must inform the defendant that the defendant and the defendant's property will be removed from the premises if the defendant has not vacated the premises by the time specified in the notice.

Subd. 3. **Penalty; waiver prohibited.** Unless the premises have been abandoned, a plaintiff, agent, or other person acting under the plaintiff's direction or control who enters the premises and removes the defendant's property in violation of this section is guilty of wrongful ouster under section 504.255 and is subject to penalty under section 504.25. The provisions of this section may not be waived or modified by any oral or written lease or other agreement.

History: *(9163) RL s 4051 1/2; 1909 c 496 s 5; 1986 c 444; 1989 c 328 art 2 s 7*

566.175 UNLAWFUL REMOVAL OR EXCLUSION; RECOVERY OF POSSESSION.

Subdivision 1. **Unlawful exclusion or removal.** For purposes of this section, "unlawfully removed or excluded" means actual or constructive removal or exclusion. Actual or constructive removal or exclusion may include the termination of utilities, or the removal of doors, windows, or locks. Any tenant who is unlawfully removed or excluded from lands or tenements which are demised or let to the tenant may recover possession of the premises in the following manner:

(a) The tenant shall present a verified petition to the county or municipal court of the county in which the premises are located, which petition shall:

(1) describe the premises of which possession is claimed and the owner, as defined in section 566.18, subdivision 3, of the premises;

(2) specifically state the facts and grounds that demonstrate that the removal or exclusion was unlawful including a statement that no judgment and writ of restitution have been issued under section 566.09 in favor of the owner and against petitioner as to the premises and executed in accordance with section 566.17; and

(3) ask for possession thereof.

(b) If it clearly appears from the specific grounds and facts stated in the verified petition or by separate affidavit of petitioner or the petitioner's counsel or agent that the removal or exclusion was unlawful, the court shall immediately order that petitioner have possession of the premises.

(c) The petitioner shall furnish monetary or other security if any as the court deems appropriate under the circumstances for payment of all costs and damages the defendant may sustain if the order is subsequently found to have been obtained wrongfully. In determining the appropriateness of any security the court shall consider petitioner's ability to afford monetary security.

(d) The court shall direct the order to the sheriff or any constable of the county in which the premises is located and the sheriff or constable shall execute the order immediately by making a demand upon the defendant, if found, or the defendant's agent or other person in charge of the premises, for possession of the premises. If the defendant fails to comply with the demand, the officer shall take whatever assistance may be necessary and immediately place the petitioner in possession of the premises. If the defendant or the defendant's agent or other person in control of the premises cannot be found and if there is no person in charge of the premises detained so that no demand can be made, the officer shall immediately enter into possession of the premises and place the petitioner in possession of the premises. The officer shall also serve the order and verified petition or affidavit without delay upon the defendant or agent, in the same manner as a summons is required to be served in a civil action in district court.

Subd. 2. The defendant by written motion and notice served by mail or personally upon petitioner or petitioner's attorney at least two days prior to the hearing date on the motion may obtain dissolution or modification of the order for possession, issued pursuant to subdivision 1, clause (b), unless the petitioner proves the facts and grounds upon which the writ is issued. A defendant bringing a motion pursuant to this subdivision may recover possession of the premises only in accordance with sections 566.03 to 566.17 or otherwise provided by law. Upon the dissolution of the order, the court shall tax costs to petitioner, subject to the provisions of section 563.01, and may allow damages and reasonable attorney's fees for the wrongful granting of the order for possession. If the order is affirmed the court shall tax costs against defendant and may allow petitioner reasonable attorney's fees.

Subd. 3. An order issued under subdivision 1, clause (b), or affirmed, modified or dissolved under subdivision 2 is a final order for purposes of appeal and either party aggrieved by the order may appeal within ten days after the entry of the order. If the party appealing remains in possession of the premises, bond shall be conditioned to pay all costs of the appeal, to abide by the order the court may make and to pay all rent and

other damages justly accruing to the party excluded from possession during the pendency of the appeal.

Subd. 4. Any provisions, whether oral or written, of any lease or other agreement whereby any provision of this section is waived by a tenant is contrary to public policy and void.

Subd. 5. The purpose of this section is to provide an additional and summary remedy for tenants unlawfully removed or excluded from rental property and except as where expressly provided in this section, sections 566.03 to 566.17 shall not apply to proceedings under this section.

Subd. 6. The provisions of this section 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.

History: *1975 c 410 s 5; 1986 c 444; 1989 c 328 art 2 s 8*

566.18 REMEDIES FOR TENANTS; DEFINITIONS.

Subdivision 1. As used in sections 566.18 to 566.33, the terms in this section shall have the meanings assigned to them.

Subd. 2. **Tenant.** "Tenant" means any person who is occupying a dwelling in a building as defined in subdivision 7, under any agreement, lease, or contract, whether oral or written, and for whatever period of time, which requires the payment of moneys as rent for the use of the dwelling unit, and all other regular occupants of that dwelling unit, and any resident of a manufactured home park.

Subd. 3. "Owner" means the owner or owners of the freehold of the premises or lesser estate therein, contract vendee, receiver, executor, trustee, lessee, agent, or any other person, firm or corporation directly or indirectly in control of a building subject to the provision of the act.

Subd. 4. "Commercial tenant" means any person paying rent in a building defined in subdivision 7 who is not a tenant, as defined in subdivision 2.

Subd. 5. "Person" means a natural person, corporation, partnership or unincorporated association.

Subd. 6. "Violation" means:

(a) a violation of any state, county or city health, safety, housing, building, fire prevention, or housing maintenance code applicable to the building;

(b) a violation of any of the covenants set forth in section 504.18, subdivision 1, clauses (a) or (b);

(c) a violation of an oral or written agreement, lease or contract for the rental of a dwelling in a building.

Subd. 7. **Building.** "Building" means:

(a) any building used in whole or in part as a dwelling, including single family homes, multiple family units such as apartments, and structures containing both dwelling units and units used for nondwelling purposes, and also includes a manufactured home park, or

(b) any unoccupied building which was previously used in whole or in part as a dwelling and which constitutes a nuisance under section 561.01.

Subd. 8. **Inspector.** "Inspector" means the person charged by the governing body of the political subdivision in which a building is situated, with the responsibility of enforcing provisions of local law, the breach of which could constitute a violation as defined in subdivision 6, clause (a), or if no such person, the county agent of a board of health as authorized under section 145A.04 or the chair of the board of county commissioners, and in the case of a manufactured home park, the state department of health, or its designee.

Subd. 9. **Neighborhood organization.** "Neighborhood organization" means a nonprofit corporation incorporated under chapter 317A that satisfies clauses (1) and (2).

The corporation shall:

(1) designate in its articles of incorporation or bylaws a specific geographic community to which its activities are limited; and

(2) be formed for the purposes of promoting community safety, crime prevention, and housing quality in a nondiscriminatory manner.

For purposes of this chapter, an action taken by a neighborhood organization with the written permission of a tenant means, with respect to a building with multiple dwelling units, an action taken by the neighborhood organization with the written permission of the tenants of a majority of the units.

History: *1973 c 611 s 13; 1978 c 598 s 2,3; 1982 c 526 art 2 s 17-19; 1986 c 444; 1987 c 309 s 24; 1989 c 304 s 137; 1990 c 451 s 2,3*

566.19 INSPECTION, NOTICE.

Subdivision 1. Upon demand by a tenant, neighborhood organization with the written permission of a tenant or, if a building is unoccupied, by a neighborhood organization, an inspection shall be made by the local authority charged with enforcing the code claimed to be violated.

Subd. 2. After an inspection of a building has been made upon demand by a tenant or neighborhood organization with the written permission of a tenant, the owner or the owner's agent and the complaining tenant or neighborhood organization shall be informed in writing by the inspector of any code violations discovered and a reasonable period of time shall be allowed in which to correct the violations.

Subd. 3. Where an inspection has been made, no action shall be brought pursuant to sections 566.18 to 566.33 except on expiration of the time thus granted without satisfactory repairs being accomplished to remove the code violations unless the tenant or neighborhood organization with the written permission of a tenant shall allege the time is excessive.

Subd. 4. No action may be commenced pursuant to sections 566.18 to 566.33 by a tenant of a building in which a violation as defined in section 566.18, subdivision 6, clause (b) or (c), is alleged to exist or by a neighborhood organization with the written permission of a tenant of a building in which a violation as defined in section 566.18, subdivision 6, clause (b), is alleged to exist unless the owner is informed in writing of the alleged violation at least 14 days prior to the commencement of the action. The notice requirement may be waived upon a finding by the court that the owner cannot be located despite diligent efforts.

History: *1973 c 611 s 14; 1978 c 598 s 4-6; 1986 c 444; 1990 c 451 s 4*

566.20 SPECIAL PROCEEDING.

Subdivision 1. An action may be brought in district court by any tenant of a building in which a violation, as defined in section 566.18, subdivision 6, is alleged to exist, or by any neighborhood organization with the written permission of a tenant of a building in which a violation, as defined in section 566.18, subdivision 6, clause (a) or (b), is alleged to exist, or by a neighborhood organization that has within its geographical area an unoccupied building in which a violation, as defined in section 566.18, subdivision 6, clause (a) or (b), is alleged to exist, or state, county or local department, or authority, charged with the enforcement of codes relating to health, housing, or building maintenance.

Subd. 2. The venue of the action authorized by this section shall be within the county in which the building alleged to contain violations is located.

Subd. 3. The action shall be commenced by service of a complaint and summons, which summons may be issued only by a judge or court administrator.

Subd. 4. The complaint shall be verified and shall:

(a) Allege material facts showing that there then exists in the building a violation or violations;

(2) direct that the administrator use the rents collected for the purpose of remedying the violations found to exist by the court paying the debt service, taxes and insurance, and providing the services necessary to the ordinary operation and maintenance of the building which the owner is obligated to provide but fails or refuses to provide; or

(d) Find the extent to which any uncorrected violations impair the tenants' use and enjoyment of the premises contracted for and order the rent abated accordingly. Should the court choose to enter judgment under this paragraph the parties shall be informed and the court shall find the amount by which the rent shall be abated;

(e) After termination of administration, continue the jurisdiction of the court over the building for a period of one year and order the owner to maintain the building in compliance with all applicable state, county, and city health, safety, housing, building, fire prevention, and housing maintenance codes; and

(f) Grant any other relief the court deems just and proper, including a judgment against the owner for reasonable attorney fees, not to exceed $500, in the case of a prevailing tenant or neighborhood organization. The $500 limitation does not apply to awards made under section 549.21 or other specific statutory authority.

History: *1973 c 611 s 20; 1982 c 492 s 3; 1986 c 444; 1990 c 451 s 6*

566.26 SERVICE OF JUDGMENT.

A copy of the judgment shall be personally served on every tenant and commercial tenant of the building whose obligations will be affected by the judgment. If personal service cannot be had with due diligence service may be had by posting a notice of the judgment on the entrance door of the tenant's dwelling or commercial tenant's unit and by mailing a copy of the judgment to such tenant or commercial tenant by certified mail.

History: *1973 c 611 s 21*

566.27 OWNER'S RIGHT TO COLLECT RENT SUSPENDED.

When an administrator has been appointed pursuant to section 566.25, clause (c), any right of the owner to rent moneys from the time of judgment or service of judgment as set out in section 566.21 shall be void and unenforceable until the administration is terminated.

History: *1973 c 611 s 22*

566.28 EVICTION PROCEEDINGS BY OWNER LIMITED.

A tenant may not be evicted, nor may the tenant's obligations under a rental agreement be increased nor the services decreased, if the eviction or increase of obligations or decrease of services is intended as a penalty for the tenant's or neighborhood organization's complaint of a violation. The burden of proving otherwise shall be on the owner if said eviction or increase of obligations or decrease of services occurs within 90 days after the filing of the complaint, unless it is found that the complaint was not made in good faith. After 90 days the burden of proof shall be on the tenant.

History: *1973 c 611 s 23; 1986 c 444; 1990 c 451 s 7*

566.29 ADMINISTRATOR.

Subdivision 1. **Administrator.** The administrator may be a person, local government unit or agency, other than an owner of the building, the inspector, the complaining tenant or any person living in the complaining tenant's dwelling unit. If a state or court agency is authorized by statute, ordinance or regulation to provide persons or neighborhood organizations to act as administrators under this section, the court may appoint such persons or neighborhood organizations as administrators to the extent they are available.

Subd. 2. Such person shall post bond to the extent of the rents expected by the

court to be necessary to be collected to correct the violation or violations. Administrators appointed from the governmental agencies shall not be required to give bond.

Subd. 3. The court may allow a reasonable amount for the services of administrators, and the expense of the administration from any rent money, or upon termination of administration, may enter judgment against the owner in a reasonable amount for the services and expenses incurred by the administrator.

Subd. 4. **Powers.** The administrator is authorized to:

(a) Collect rents from tenants and commercial tenants, evict tenants and commercial tenants for nonpayment of rent or other cause, enter into leases for vacant dwelling units, rent vacant commercial units with the consent of the owner and exercise all other powers necessary and appropriate to carry out the purposes of Laws 1973, chapter 611;

(b) Contract for the reasonable cost of materials, labor and services necessary to remedy the violation or violations found by the court to exist and for the rehabilitation of the property in order to maintain safe and habitable conditions over the useful life of the property, and make disbursements for payment therefor from funds available for the purpose;

(c) Provide any services to the tenants which the owner is obligated to provide but refuses or fails to provide, and pay for them from funds available for the purpose;

(d) Petition the court, after notice to the parties, for an order allowing the administrator to encumber the premise to secure funds to the extent necessary to cover the cost of materials, labor, and services, including reasonable fees for the administrator's services, necessary to remedy the violation or violations found by the court to exist and for rehabilitation of the property in order to maintain safe and habitable conditions over the useful life of the property, and to pay for them from funds derived from the encumbrance; and

(e) Petition the court, after notice to the parties, for an order allowing the administrator to receive funds made available for this purpose by the municipality to the extent necessary to cover the cost of materials, labor, and services necessary to remedy the violation or violations found by the court to exist and for rehabilitation of the property in order to maintain safe and habitable conditions over the useful life of the property, and pay for them from funds derived from the municipal sources. The municipality shall recover disbursements by special assessment on the real estate affected, bearing interest at the rate determined by the municipality, not exceeding the rate established for finance charges for open-end credit sales under section 334.16, subdivision 1, clause (b), with the assessment, interest and any penalties to be collected the same as special assessments made for other purposes under state statute or municipal charter.

Subd. 5. At any time during the administration the administrator, or any party, may petition the court after notice to all parties for an order terminating the administration on the ground that the funds available to the administrator are insufficient to effect the prompt remedy of the violations. Upon finding the petition proved the court shall terminate the administration and proceed to judgment pursuant to the provisions of section 566.25, clause (d).

Subd. 6. **Building repairs and services.** The administrator must first contract and pay for building repairs and services necessary to keep the building habitable before other expenses may be paid. If sufficient funds are not available for paying other expenses, such as tax and mortgage payments, after paying for necessary repairs and services, the owner is responsible for the other expenses.

Subd. 7. **Administrator's liability.** The administrator may not be held personally liable in the performance of duties under this section except for misfeasance, malfeasance, or nonfeasance of office.

Subd. 8. **Dwelling's economic viability.** In considering whether to grant the administrator funds under subdivision 4, the court must consider factors relating to the long-term economic viability of the dwelling. The court's analysis must consider factors including the causes leading to the appointment of an administrator, the repairs necessary to bring the property into code compliance, the market value of the property, and

whether present and future rents will be sufficient to cover the cost of repairs or rehabilitation.

History: *1973 c 611 s 24; 1982 c 492 s 4; 1986 c 444; 1989 c 328 art 2 s 9-13; 1990 c 451 s 8-10*

566.291 RECEIVERSHIP REVOLVING LOAN FUND.

The Minnesota housing finance agency may establish a revolving loan fund to pay the administrative expenses of receivership administrators under section 566.29 for properties for occupancy by low- and moderate-income persons or families. Property owners are responsible for repaying administrative expense payments made from the fund.

History: *1989 c 328 art 2 s 14*

566.30 REMOVAL OF ADMINISTRATOR.

Subdivision 1. The administrator may, upon notice to all parties, petition the court to be relieved of duties, setting forth reasons therefor. The court may, in its discretion, grant such petition and discharge the administrator upon approval of the accounts.

Subd. 2. Any party may, upon notice to the administrator and all other parties, petition the court to remove the administrator. Upon good cause shown, the court shall order the administrator removed and direct the administrator to deliver to the court forthwith an accounting of administration. The court may make any other order necessary and appropriate under the circumstances.

Subd. 3. In the event the administrator is removed, the court shall appoint a new administrator in accordance with the provisions of section 566.29, giving all parties an opportunity to be heard on the matter of the appointment.

History: *1973 c 611 s 25; 1986 c 444*

566.31 TERMINATION OF ADMINISTRATION.

Subdivision 1. The administration shall be terminated upon the occurrence of one of the following:

(a) The securing of certification from the appropriate governmental agency that the violations found by the court to exist at the time of judgment have been remedied; or

(b) An order pursuant to section 566.29, subdivision 5.

Subd. 2. Upon the occurrence of any of the conditions for termination in subdivision 1, the administrator shall:

(a) Submit to the court an accounting of receipts and disbursements of the administration together with copies of all bills, receipts and other memoranda pertaining to all transactions reflected therein, and, where appropriate, a certification, by an appropriate governmental agency, that the violations found by the court to exist at the time of judgment have been remedied; and

(b) Comply with any other order the court shall make as a condition of discharge.

Subd. 3. Upon approval by the court of the administrator's accounts and compliance by the administrator with any other order the court may make as a condition of discharge, the court shall discharge the administrator from any further responsibilities pursuant to Laws 1973, chapter 611.

History: *1973 c 611 s 26; 1986 c 444*

566.32 WAIVER PROHIBITED.

Any provision, whether oral or written, of any lease or other agreement whereby any provision of Laws 1973, chapter 611 is waived by a tenant shall be deemed contrary to public policy and void.

History: *1973 c 611 s 27*

566.33 PURPOSE TO PROVIDE ADDITIONAL REMEDIES.

The purpose of Laws 1973, chapter 611 is to provide additional remedies and nothing herein contained shall alter the ultimate financial liability of the owner or tenant for repairs or maintenance of the building.

History: *1973 c 611 s 28*

566.34 ESCROW OF RENT TO REMEDY VIOLATIONS.

Subdivision 1. **Definitions.** The definitions in section 566.18 apply to this section.

Subd. 2. **Escrow of rent.** If a violation exists in a building, a tenant may deposit the amount of rent due to the owner with the court administrator using the following procedure:

(a) For a violation of section 566.18, subdivision 6, clause (a), the tenant may deposit with the court administrator the rent due the owner along with a copy of the written notice of the code violation as provided in section 566.19, subdivision 2. The tenant may not deposit the rent or file the written notice of the code violation until the time granted to make repairs has expired without satisfactory repairs being made, unless the tenant alleges that the time granted is excessive.

(b) For a violation of section 566.18, subdivision 6, clause (b) or (c), the tenant must give written notice to the owner specifying the violation. The notice must be delivered personally or sent to the person or place where rent is normally paid. If the violation is not corrected within 14 days, the tenant may deposit the amount of rent due to the owner with the court administrator along with an affidavit specifying the violation. The court must provide a simplified form affidavit for use under this clause.

As long as proceedings are pending under this section, the tenant must pay rent to the owner or as directed by the court and may not withhold rent to remedy a violation.

Subd. 3. **Counterclaim for possession.** The owner may file a counterclaim for possession of the premises in cases where the owner alleges that the tenant did not deposit the full amount of rent with the court administrator. The court must set the date for a hearing on the counterclaim not less than seven nor more than 14 days from the day of filing the counterclaim. If the rent escrow hearing and the hearing on the counterclaim for possession cannot be heard on the same day, the matters must be consolidated and heard on the date scheduled for the hearing on the counterclaim. The contents of the counterclaim for possession must meet the requirements for a complaint in unlawful detainer under section 566.05. The owner must serve the counterclaim as provided in section 566.06, except that the affidavits of service or mailing may be brought to the hearing rather than filed with the court before the hearing. The court must provide a simplified form for use under this section.

Subd. 4. **Defenses.** The defenses provided in section 566.23 are defenses to an action brought under this section.

Subd. 5. **Filing fee.** The court administrator may charge a filing fee in the amount set for complaints and counterclaims in conciliation court, subject to the filing of an inability to pay affidavit.

Subd. 6. **Notice of hearing.** A hearing must be held within ten to 14 days of the day a tenant deposits rent with the court administrator. If the cost of remedying the violation, as estimated by the tenant, is within the jurisdictional limit for conciliation court, the court administrator shall notify the owner and the tenant of the time and place of the hearing by first class mail. The tenant must provide the court administrator with the owner's name and address. If the owner has disclosed a post office box as the owner's address under section 504.22, notice of the hearing may be mailed to the post office box. If the cost of remedying the violation, as estimated by the tenant, is above the jurisdictional limit for conciliation court, the tenant must serve the notice of hearing according to the Rules of Civil Procedure. The notice of hearing must specify the amount the tenant has deposited with the court administrator, and must inform the owner that possession of the premises will not be in issue at the hearing unless the owner files a counterclaim for possession or an action under sections 566.01 to 566.17.

Subd. 7. **Hearing.** The hearing shall be conducted by a court without a jury. A certified copy of an inspection report meets the requirements of rule 803(8) of the Rules of Evidence as an exception to the rule against hearsay, and meets the requirements of rules 901 and 902 of the Rules of Evidence as to authentication.

Subd. 8. **Release of rent prior to hearing.** If the tenant gives written notice to the court administrator that the violation has been remedied, the court administrator must release the rent to the owner and, unless the hearing has been consolidated with another action, must cancel the hearing. If the tenant and the owner enter into a written agreement signed by both parties apportioning the rent between them, the court administrator must release the rent in accordance with the written agreement and cancel the hearing.

Subd. 9. **Consolidation with unlawful detainer.** Actions under this section and actions in unlawful detainer brought under sections 566.01 to 566.17 which involve the same parties must be consolidated and heard on the date scheduled for the unlawful detainer.

Subd. 10. **Judgment.** (a) Upon finding that a violation exists, the court may, in its discretion, do any or all of the following:

(1) order relief as provided in section 566.25, including retroactive rent abatement;

(2) order that all or a portion of the rent in escrow be released for the purpose of remedying the violation;

(3) order that rent be deposited with the court as it becomes due to the owner or abate future rent until the owner remedies the violation; or

(4) impose fines as required in section 566.35.

(b) When a proceeding under this section has been consolidated with a counterclaim for possession or an action in unlawful detainer under sections 566.01 to 566.17, and the owner prevails, the tenant may redeem the tenancy as provided in section 504.02.

(c) When a proceeding under this section has been consolidated with a counterclaim for possession or an action under an unlawful detainer under sections 566.01 to 566.17 on the grounds of nonpayment, the court may not require the tenant to pay the owner's filing fee as a condition of retaining possession of the premises when the tenant has deposited with the court the full amount of money found by the court to be owed to the owner.

Subd. 11. **Release of rent after hearing.** Upon finding, after a hearing on the matter has been held, that no violation exists in the building or that the tenant did not deposit the full amount of rent due with the court administrator, the court shall order the immediate release of the rent to the owner. Upon finding that a violation existed, but was remedied between the commencement of the action and the hearing, the court may order rent abatement and must release the rent to the parties accordingly. Any rent found to be owed to the tenant must be released to the tenant.

Subd. 12. **Retaliation; waiver; rights as additional.** The provisions of section 566.28 apply to proceedings under this section. The tenant rights under this section may not be waived or modified and are in addition to and do not limit other rights or remedies which may be available to the tenant and owner, except as provided in subdivision 2.

History: *1989 c 328 art 2 s 15*

566.35 VIOLATIONS OF BUILDING REPAIR ORDERS.

Subdivision 1. **Noncompliance; fines.** Upon finding an owner has willfully failed to comply with a court order to remedy a violation, the court shall fine the owner according to the following schedule:

(1) $250 for the first failure to comply;

(2) $500 for the second failure to comply with an order regarding the same violation; and

(3) $750 for the third and each subsequent failure to comply with an order regarding the same violation.

Subd. 2. **Criminal penalty.** An owner who willfully fails to comply with a court order to remedy a violation is guilty of a gross misdemeanor if it is the third or subsequent time that the owner has willfully failed to comply with an order to remedy a violation within a three-year period.

Subd. 3. **Fines collected.** Fines collected under subdivision 1 in Hennepin county must be used for expenses of the fourth judicial district, housing calendar consolidation project. Fines collected under subdivision 1 in Ramsey county must be used for expenses of the second judicial district, housing calendar consolidation project.

History: *1989 c 328 art 2 s 16*

NOTE: Subdivision 3, as added by Laws 1989, chapter 328, article 2, section 16, is repealed effective July 1, 1992. See Laws 1989, chapter 328, article 2, section 19.