

Senate File 2238 - Introduced

SENATE FILE 2238

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A BILL FOR

1 An Act relating to property law by modifying provisions
2 relating to rental properties, manufactured home
3 communities, mobile home parks, and manufactured mobile
4 home communities, modifying provisions governing actions
5 relating to such properties, making penalties applicable,
6 and including effective date and applicability provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 act of retaliation creates a presumption that the landlord's
2 conduct was in retaliation. The presumption does not arise
3 if the tenant made the complaint after notice of termination
4 of the rental agreement. For the purpose of **this subsection**,
5 "*presumption*" means that the trier of fact must find the
6 existence of the fact presumed unless and until evidence is
7 introduced which would support a finding of its nonexistence.

8 Sec. 6. EFFECTIVE DATE. This division of this Act, being
9 deemed of immediate importance, takes effect upon enactment.

10 DIVISION III

11 CONSUMER FRAUD

12 Sec. 7. Section 562B.4, Code 2020, is amended by adding the
13 following new subsection:

14 NEW SUBSECTION. 3. A violation of this chapter by a
15 landlord, or an agent of the landlord, is an unlawful practice
16 under section 714.16.

17 Sec. 8. Section 714.16, subsection 2, Code 2020, is amended
18 by adding the following new paragraph:

19 NEW PARAGRAPH. *g.* It is an unlawful practice for a landlord
20 or the landlord's agent to violate any of the provisions of
21 chapter 562B.

22 Sec. 9. EFFECTIVE DATE. This division of this Act, being
23 deemed of immediate importance, takes effect upon enactment.

24 Sec. 10. APPLICABILITY. This division of this Act applies
25 to violations of chapter 562B occurring on or after the
26 effective date of this division of this Act.

27 DIVISION IV

28 RENT INCREASES

29 Sec. 11. Section 562B.14, subsection 7, Code 2020, is
30 amended by striking the subsection and inserting in lieu
31 thereof the following:

32 7. *a.* A landlord shall not increase the amount of rent due
33 by any tenant in a manufactured home community or mobile home
34 park unless the tenant is notified, in writing, of the rent
35 increase at least one hundred eighty days before the effective

1 date of the rent increase. The effective date of any increase
2 in the amount of rent shall not be less than one year after
3 either the effective date of the most recent rent increase or
4 the beginning of the tenancy, whichever is later.

5 *b.* (1) Subject to paragraph "a", a landlord may increase
6 the amount of rent due by any tenant in an amount greater than
7 the average annual increase of the consumer price index for all
8 urban consumers in the midwest region for the most recently
9 available preceding thirty-six-month period, if the landlord
10 demonstrates the increase is justified for all of the following
11 conditions:

12 (a) The landlord, during the preceding twelve-month period,
13 has not been found in violation of any provision of this
14 chapter that threatens the health or safety of the tenants of
15 or visitors to the manufactured home community or mobile home
16 park that persists for more than fifteen days, beginning on the
17 day the landlord received notice of such violation.

18 (b) The proposed rent increase is directly related to
19 operating, maintaining, or improving the manufactured home
20 community or mobile home park, and is justified by one or more
21 of the following factors:

22 (i) The completion and cost of any capital improvements or
23 repair work in the manufactured home community or mobile home
24 park, as distinguished from ordinary repair, replacement, and
25 maintenance.

26 (ii) An increase in property taxes due on the manufactured
27 home community or mobile home park.

28 (iii) If the landlord is responsible for payment of one
29 or more utilities, an increase in utility expenses within the
30 manufactured home community or mobile home park.

31 (iv) An increase in insurance costs and financing
32 associated with the manufactured home community or mobile home
33 park.

34 (v) An increase in reasonable operating and maintenance
35 expenses relating to the manufactured home community or mobile

1 home park.

2 (vi) An increase in market rent. For purposes of this
3 section, "*market rent*" means that rent which would result from
4 market forces absent an unequal bargaining position between the
5 landlord and tenants. In determining market rent, relevant
6 considerations include rents charged to recent new tenants of
7 the manufactured home community or mobile home park or rents
8 charged by comparable manufactured home communities or mobile
9 home parks. To be comparable, a manufactured home community or
10 mobile home park must be within the competitive area and must
11 offer similar facilities, services, amenities, and management.

12 (c) The department of revenue shall monitor the consumer
13 price index for all urban consumers in the midwest region and
14 report the relevant data to the consumer protection division of
15 the office of the attorney general for periodic publication.

16 c. The written notice of a rent increase provided to the
17 tenant shall include the specific reasons for the increase
18 including the justification under paragraph "b", if applicable.

19 d. A decrease in the number or quality of amenities,
20 services, or utilities provided under the rental agreement
21 without a corresponding and proportionate reduction in rent
22 shall be considered a rent increase for the purposes of this
23 chapter.

24 Sec. 12. EFFECTIVE DATE. This division of this Act, being
25 deemed of immediate importance, takes effect upon enactment.

26 Sec. 13. APPLICABILITY. The following applies to rent
27 increases under chapter 562B occurring on or after the
28 effective date of this division of this Act:

29 Section 562B.14, subsection 7, paragraphs "a" and "d", as
30 enacted in this division of this Act.

31 Sec. 14. APPLICABILITY. The following applies to rent
32 increases under chapter 562B occurring on or after July 1,
33 2020:

34 Section 562B.14, subsection 7, paragraphs "b" and "c", as
35 enacted in this division of this Act.

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DIVISION V

LANDLORD REMEDIES AND PROCEDURES

Sec. 15. Section 555B.3, Code 2020, is amended to read as follows:

555B.3 Action for abandonment — jurisdiction.

A real property owner not requesting notification by the sheriff as provided in [section 555B.2](#) may bring an action alleging abandonment in the court within the county where the real property is located ~~provided that there is no lien on the mobile home or personal property other than a tax lien pursuant to [chapter 435](#)~~. The action shall be tried as an equitable action. Unless commenced as a small claim, the petition shall be presented to a district judge. Upon receipt of the petition, either the court or the clerk of the district court shall set a date for a hearing not later than fourteen days from the date of the receipt of the petition, except when there is a lien on the mobile home or personal property, other than a tax lien, the court or the clerk of the district court shall set a date for a hearing no sooner than twenty-five days from the date of the receipt of the petition so as to allow for service on the lienholder.

Sec. 16. Section 555B.4, Code 2020, is amended by adding the following new subsection:

NEW SUBSECTION. 4. If a lien, other than a tax lien, exists on the mobile home or personal property at the time an action for abandonment is initiated, personal service pursuant to rule of civil procedure 1.305 shall be made upon the lienholder no less than twenty days before the hearing. The notice to the lienholder shall describe the mobile home and shall state the docket, case number, date, time at which the hearing is scheduled, and the lienholder's right to assert a claim to the mobile home at the hearing. The notice shall also state that failure to assert a claim to the mobile home within the judicial proceedings is deemed a waiver of all right, title, claim, and interest in the mobile home and is deemed consent to

1 the sale or disposal of the mobile home. If personal service
2 upon the lienholder cannot be completed in time to give the
3 lienholder the minimum notice required by this section, the
4 court may set a new hearing date.

5 Sec. 17. Section 555B.8, subsections 2 and 3, Code 2020, are
6 amended to read as follows:

7 2. If Except as otherwise ordered by the court, if the
8 mobile home owner or other claimant asserts a claim to the
9 property, the judgment shall be satisfied before the mobile
10 home owner or other claimant may take possession of the mobile
11 home or personal property.

12 3. If no claim is asserted to the mobile home or personal
13 property or if the judgment is not satisfied at the time of
14 entry, an order shall be entered allowing the real property
15 owner to sell or otherwise dispose of the mobile home and
16 personal property pursuant to [section 555B.9](#). If Except as
17 otherwise ordered by the court, if a claimant satisfies the
18 judgment at the time of entry, the court shall enter an order
19 permitting and directing the claimant to remove the mobile home
20 or personal property from its location within a reasonable time
21 to be fixed by the court. The court shall also determine the
22 amount of further rent or storage charges to be paid by the
23 claimant to the real property owner at the time of removal.

24 Sec. 18. Section 555B.9, subsections 1, 2, 3, and 4, Code
25 2020, are amended to read as follows:

26 1. Pursuant to an order for disposal under section 555B.8,
27 subsection 3, the real property owner shall dispose of the
28 mobile home and personal property by public or private sale in
29 a commercially reasonable manner. If the personal property,
30 lienholder, owner, or other claimant has asserted a claim
31 to the mobile home or personal property within the judicial
32 proceedings, that person shall be notified of the sale by
33 restricted certified mail not less than five days before the
34 sale. The notice is deemed given upon the mailing. The real
35 property owner may buy at any public sale, and if the mobile

1 home or personal property is of a type customarily sold in
2 a recognized market or is the subject of widely distributed
3 standard price quotations, the real property owner may buy at a
4 private sale.

5 2. A sale pursuant to [subsection 1](#) transfers to the
6 purchaser for value, all of the mobile home owner's rights
7 in the mobile home and personal property, and discharges the
8 real property owner's interest in the mobile home and personal
9 property, ~~and~~ any tax lien, and any other lien. The purchaser
10 takes free of all rights and interests even though the real
11 property owner fails to comply with the requirements of this
12 chapter or of any judicial proceedings, if the purchaser acts
13 in good faith.

14 3. The proceeds of the sale of mobile home and personal
15 property shall be distributed as follows:

16 a. First, to satisfy the real property owner's judgment
17 obtained under [section 555B.8](#).

18 b. Second, to satisfy any tax lien for which a claim was
19 asserted pursuant to [section 555B.4, subsection 3](#).

20 0c. Third, to satisfy any other lien for which a claim was
21 asserted pursuant to section 555B.4, subsection 4.

22 c. Any surplus remaining after the proceeds are distributed
23 shall be held by the real property owner for six months. If
24 the mobile home owner fails to claim the surplus in that time,
25 the surplus may be retained by the real property owner. If
26 a deficiency remains after distribution of the proceeds, the
27 mobile home owner is liable for the amount of the deficiency.

28 4. Notwithstanding [subsections 1 through 3](#), the real
29 property owner may propose to retain the mobile home and
30 personal property in satisfaction of the judgment obtained
31 pursuant to [section 555B.8](#). Written notice of the proposal
32 shall be sent to the mobile home owner, lienholder, or other
33 claimant, if that person has asserted a claim to the mobile
34 home or personal property in the judicial proceedings. If
35 the real property owner receives objection in writing from

1 the mobile home owner, lienholder, or other claimant within
2 twenty-one days after the notice was sent, the real property
3 owner shall dispose of the mobile home and personal property
4 pursuant to subsection 1. If no written objection is received
5 by the real property owner within twenty-one days after the
6 notice was sent, the mobile home and personal property may be
7 retained. Retention of the mobile home and personal property
8 discharges the judgment of the real property owner, and any tax
9 lien, and any other lien.

10 Sec. 19. Section 562A.9, subsection 4, Code 2020, is amended
11 to read as follows:

12 4. For rental agreements in which the rent does not exceed
13 seven hundred dollars per month, a rental agreement shall not
14 provide for a late fee that exceeds twelve dollars per day or a
15 total amount of sixty dollars per month. For rental agreements
16 in which the rent is greater than seven hundred dollars per
17 month but less than one thousand four hundred dollars per
18 month, a rental agreement shall not provide for a late fee that
19 exceeds twenty dollars per day or a total amount of one hundred
20 dollars per month. For rental agreements in which the rent is
21 at least one thousand four hundred dollars per month, a rental
22 agreement shall not provide for a late fee that exceeds two
23 percent of the rent per day or a total amount of ten percent of
24 the rent per month.

25 Sec. 20. Section 562B.10, subsections 4 and 7, Code 2020,
26 are amended to read as follows:

27 4. For rental agreements in which the rent does not exceed
28 seven hundred dollars per month, a rental agreement shall not
29 provide for a late fee that exceeds twelve dollars per day or a
30 total amount of sixty dollars per month. For rental agreements
31 in which the rent is greater than seven hundred dollars per
32 month but less than one thousand four hundred dollars per
33 month, a rental agreement shall not provide for a late fee that
34 exceeds twenty dollars per day or a total amount of one hundred
35 dollars per month. For rental agreements in which the rent is

1 at least one thousand four hundred dollars per month, a rental
2 agreement shall not provide for a late fee that exceeds two
3 percent of the rent per day or a total amount of ten percent of
4 the rent per month.

5 7. a. If a tenant who was sole owner of a mobile home dies
6 during the term of a rental agreement then that person's heirs
7 or legal representative or the landlord shall have the right
8 to cancel the tenant's lease by giving sixty days' written
9 notice to the person's heirs or legal representative or to
10 the landlord, whichever is appropriate, and the heirs or the
11 legal representative shall have the same rights, privileges and
12 liabilities of the original tenant.

13 b. (1) If a tenant who was sole owner of a mobile home dies
14 during the term of a rental agreement resulting in the mobile
15 home being abandoned as provided in section 562B.27, subsection
16 1, and the landlord cannot, despite due diligence, locate such
17 tenant's heirs or legal representatives, then the landlord may
18 bring an action for abandonment as provided in section 555B.3,
19 naming as defendants the estate of the tenant and any and all
20 unknown heirs of the tenant and, upon the landlord's filing
21 of an affidavit that personal service cannot be had on any
22 heir, legal representative, or estate of the tenant, the court
23 shall permit original notice of such action to be served by
24 publication pursuant to subparagraph (2) of this paragraph.

25 (2) Publication of the original notice shall be made
26 once each week for three consecutive weeks in a newspaper of
27 general circulation published in the county where the petition
28 is filed, as provided in rules of civil procedure 1.313 and
29 1.314. Service is complete after the third consecutive weekly
30 publication.

31 (3) In the event any tax lien or other lien exists on
32 the mobile home, the landlord may proceed with an action for
33 abandonment as provided in section 555B.3, except that:

34 (a) Notice shall be provided to the county treasurer as
35 provided in section 555B.4, subsection 3, if a tax lien exists.

1 and standards that are applicable to manufactured homes and
2 manufactured housing. ~~The manufactured housing program fund~~
3 ~~is designed exclusively for manufactured homes sited on leased~~
4 ~~land.~~

5 DIVISION VII

6 TENANT COUNTERCLAIM FOR LANDLORD NONCOMPLIANCE

7 Sec. 23. Section 562B.25, Code 2020, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 5. *a.* In an action for possession based
10 upon nonpayment of the rent or in an action for rent where the
11 tenant is in possession, the tenant may counterclaim for an
12 amount which the tenant may recover under the rental agreement
13 or this chapter. In that event, the court from time to time
14 may order the tenant to pay into court all or part of the rent
15 accrued and thereafter accruing, and shall determine the amount
16 due to each party. The party to whom a net amount is owed
17 shall be paid first from the money paid into court, and the
18 balance by the other party. If rent does not remain due after
19 application of this section, judgment shall be entered for
20 the tenant in the action for possession. If the defense or
21 counterclaim by the tenant is without merit and is not raised
22 in good faith, the landlord may recover reasonable attorney
23 fees.

24 *b.* In an action for rent where the tenant is not in
25 possession, the tenant may counterclaim as provided in
26 paragraph "a", but the tenant is not required to pay any rent
27 into court.

28 Sec. 24. EFFECTIVE DATE. This division of this Act, being
29 deemed of immediate importance, takes effect upon enactment.

30 Sec. 25. APPLICABILITY. This division of this Act applies
31 to actions for possession filed on or after the effective date
32 of this division of this Act.

33 DIVISION VIII

34 UTILITY CHARGES

35 Sec. 26. Section 562B.14, subsection 6, Code 2020, is

1 amended to read as follows:

2 6. The landlord or any person authorized to enter into
3 a rental agreement on the landlord's behalf shall provide
4 a written explanation of utility rates, fees, charges, and
5 services, subject to section 562B.16, subsection 3, to the
6 prospective tenant before the rental agreement is signed unless
7 the utility charges are paid by the tenant directly to the
8 utility company.

9 Sec. 27. Section 562B.16, Code 2020, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 3. A landlord that is responsible for
12 payment of utilities being provided to the tenant shall not
13 charge to the tenant an amount in excess of the actual cost of
14 the utility and as specified in writing under section 562B.14,
15 subsection 6. In addition to the actual cost of the utility,
16 a landlord that is responsible for the payment of one or more
17 utilities being provided to the tenant may impose a monthly
18 utility administration fee to each tenant not to exceed five
19 dollars per month. The amount of the utility administration
20 fee shall not exceed five dollars per month regardless of the
21 number of utilities being provided or the actual cost of the
22 utilities being provided.

23 Sec. 28. Section 562B.25, Code 2020, is amended by adding
24 the following new subsection:

25 NEW SUBSECTION. 2A. The failure of a tenant to pay utility
26 charges that exceed the actual cost of the utility provided
27 as required by section 562B.16, subsection 3, shall not be
28 considered noncompliance with the rental agreement.

29 Sec. 29. Section 714H.3, subsection 2, Code 2020, is amended
30 by adding the following new paragraph:

31 NEW PARAGRAPH. *h.* Section 562B.16, subsection 3.

32 DIVISION IX

33 UNLAWFUL OUSTER

34 Sec. 30. Section 562B.24, Code 2020, is amended to read as
35 follows:

1 2. If the tenant proceeds under this section, the tenant may
2 not proceed under section 562B.22 as to that breach.

3 3. The rights under this section do not arise until the
4 tenant has given notice to the landlord or if the condition was
5 caused by the deliberate or negligent act or omission of the
6 tenant, a member of the tenant's family, or other person on the
7 premises with the consent of the tenant.

8 Sec. 34. EFFECTIVE DATE. This division of this Act, being
9 deemed of immediate importance, takes effect upon enactment.

10 Sec. 35. APPLICABILITY. This division of this Act applies
11 to actions under section 562B.23A filed on or after the
12 effective date of this division of this Act.

13 DIVISION XI

14 TENANT CORRECTING DEFICIENCIES

15 Sec. 36. Section 562B.25, Code 2020, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 4A. In any action by a landlord for
18 possession based upon nonpayment of rent, proof by the tenant
19 of all of the following shall be a defense to any action or
20 claim for possession by the landlord, and the amounts expended
21 by the tenant in correcting the deficiencies shall be deducted
22 from the amount claimed by the landlord as unpaid rent:

23 a. That the landlord failed to comply either with the rental
24 agreement or with section 562B.16.

25 b. That the tenant notified the landlord at least seven
26 days prior to the due date of the tenant's rent payment of the
27 tenant's intention to correct the condition constituting the
28 breach referred to in paragraph "a" at the landlord's expense.

29 c. That the reasonable cost of correcting the condition
30 constituting the breach is equal to or less than one month's
31 periodic rent.

32 d. That the tenant in good faith caused the condition
33 constituting the breach to be corrected prior to receipt of
34 written notice of the landlord's intention to terminate the
35 rental agreement for nonpayment of rent.

1 Sec. 37. EFFECTIVE DATE. This division of this Act, being
2 deemed of immediate importance, takes effect upon enactment.

3 Sec. 38. APPLICABILITY. This division of this Act applies
4 to actions by a landlord for possession filed on or after the
5 effective date of this division of this Act.

6 DIVISION XII

7 DENIAL OF RENTAL OR REFUSAL OF SALE

8 Sec. 39. Section 562B.19, subsection 3, paragraphs a and c,
9 Code 2020, are amended to read as follows:

10 a. Deny rental unless the tenant or prospective tenant
11 cannot conform to manufactured home community or park rules
12 and regulations. A decision to deny rental shall conform
13 to recognized principles, rules, and standards generally
14 accepted by the professional manufactured home community or
15 park industry to ensure the commercially reasonable safety and
16 financial security of comparable manufactured home communities
17 or mobile home parks. A landlord shall deliver the decision
18 in writing to the tenant or prospective tenant as soon as
19 commercially feasible and shall provide the basis for a denial
20 in writing to the tenant or prospective tenant at the time of
21 the decision.

22 c. Deny any resident of a manufactured home community
23 or mobile home park the right to sell that person's mobile
24 home at a price of the person's own choosing, but may reserve
25 the right to approve the purchaser of such mobile home as
26 a tenant but such permission shall only be withheld for a
27 legitimate business reason within the recognized principles,
28 rules, and standards described in paragraph "a", and may not be
29 unreasonably withheld, provided however, that the landlord may,
30 in the event of a sale to a third party, in order to upgrade
31 the quality of the manufactured home community or mobile home
32 park, require that any mobile home in a rundown condition or in
33 disrepair be removed from the manufactured home community or
34 park within sixty days. If the landlord refuses to approve the
35 purchaser of the mobile home as a tenant, a legitimate business

1 reason for the refusal shall be provided in writing to the
2 resident who is selling the mobile home.

3 DIVISION XIII

4 PROHIBITED RENTAL AGREEMENT PROVISION — HOME EQUIPMENT

5 Sec. 40. Section 562B.11, subsection 1, Code 2020, is
6 amended by adding the following new paragraph:

7 NEW PARAGRAPH. e. Agrees to modify the physical
8 characteristics or equipment of the mobile home, manufactured
9 home, or modular home if the modification impairs the ability
10 of the tenant to move the home from the mobile home space,
11 unless otherwise required by federal or state law or by local
12 ordinance.

13 DIVISION XIV

14 RENTAL AGREEMENT TERMS

15 Sec. 41. Section 562B.11, subsection 1, Code 2020, is
16 amended by adding the following new paragraphs:

17 NEW PARAGRAPH. f. Authorizes imposition of fines,
18 penalties, or fees solely as a punishment or in amounts in
19 excess of actual damages or costs incurred.

20 NEW PARAGRAPH. g. Authorizes a person to confess judgment
21 on a claim arising out of the rental agreement.

22 NEW PARAGRAPH. h. Authorizes prohibitions, limitations,
23 additional deposits, or other restrictive policies that are
24 not based on ordinary wear and tear expected to occur during a
25 tenancy or that are not based on community safety standards.

26 Sec. 42. Section 562B.11, subsection 2, Code 2020, is
27 amended to read as follows:

28 2. A provision prohibited by [subsection 1](#) included in a
29 rental agreement is unenforceable. If a landlord ~~or tenant~~
30 knowingly and willfully uses a rental agreement containing
31 provisions known to be prohibited by [this chapter](#), the ~~other~~
32 ~~party~~ tenant may recover actual damages sustained by the tenant
33 and not more than three months' periodic rent and reasonable
34 attorney fees.

35 DIVISION XV

RENTAL DEPOSITS

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Sec. 43. Section 562B.7, subsection 12, Code 2020, is amended to read as follows:

12. "*Rental deposit*" means a deposit of money to secure performance of a ~~mobile home space~~ rental agreement under this chapter ~~other than a deposit which is exclusively in advance payment of rent.~~

Sec. 44. Section 562B.13, subsection 2, Code 2020, is amended to read as follows:

2. All rental deposits shall be held by the landlord for the tenant, who is a party to the agreement, in a bank, credit union, or savings and loan association which is insured by an agency of the federal government. Rental deposits shall not be commingled with the personal funds of the landlord. All rental deposits may be held in a trust account, which may be a common trust account and which may be an interest-bearing account. Any interest earned on a rental deposit during the first five years of a tenancy shall be the property of the landlord.

Sec. 45. Section 562B.13, Code 2020, is amended by adding the following new subsection:

NEW SUBSECTION. 9. The court may, in any action on a rental agreement, award reasonable attorney fees to the prevailing party.

DIVISION XVI
LANDLORD SALES

Sec. 46. NEW SECTION. 562B.17A Sale of mobile home by landlord.

1. Any sale of a mobile home located in a manufactured home community or mobile home park by a landlord or landlord's agent shall be by written agreement and the landlord shall produce and assign the current certificate of title obtained from the department of transportation. The agreement shall state the basic terms of sale, including the total cost of the mobile home, finance charges, annual percentage rate, and the frequency and amount of each installment payment. Such

1 agreement shall comply with the finance charge rate limitation
2 in section 103A.58, subsection 1.

3 2. Any such sale that does not comply with this section
4 may be voided by the buyer and the buyer may recover damages
5 incurred, amounts paid as a rental deposit in excess of two
6 months' rent for the mobile home, and reasonable attorney fees.

7 3. A claim under subsection 2 may be combined with an action
8 under chapter 648.

9 Sec. 47. Section 648.19, subsection 1, Code 2020, is amended
10 to read as follows:

11 1. An action under **this chapter** shall not be filed in
12 connection with any other action, with the exception of a claim
13 for rent or recovery as provided in **section 555B.3, 562A.24,**
14 **562A.32, 562B.17A, 562B.22, 562B.25, or 562B.27,** nor shall it
15 be made the subject of counterclaim.

16 DIVISION XVII

17 NONJUDICIAL FORECLOSURE

18 Sec. 48. Section 654.18, Code 2020, is amended by adding the
19 following new subsection:

20 **NEW SUBSECTION.** 5. Actions under this section initiated
21 on or after July 1, 2020, shall not be allowed for property
22 consisting of a mobile home as defined in section 562B.7.

23 Sec. 49. Section 655A.9, Code 2020, is amended to read as
24 follows:

25 **655A.9 Application of chapter.**

26 **1. This chapter** does not apply to real estate used for
27 an agricultural purpose as defined in **section 535.13,** or to
28 a one or two family dwelling which is, at the time of the
29 initiation of the foreclosure, occupied by a legal or equitable
30 titleholder.

31 **2. Actions under this chapter initiated on or after July 1,**
32 **2020, shall not be allowed for property consisting of a mobile**
33 **home as defined in section 562B.7.**

34 Sec. 50. EFFECTIVE DATE. This division of this Act, being
35 deemed of immediate importance, takes effect upon enactment.

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EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

This bill relates to property law by modifying provisions relating to rental properties, manufactured home communities, and mobile home parks, and modifying provisions governing actions relating to such properties.

Division I of the bill amends Code section 562B.10 to provide that a landlord may only terminate a tenancy if the tenant acts in material noncompliance of the rental agreement, commits a material violation of the manufactured home community or mobile home park rules or regulations, or commits any other violation of Code chapter 562B which allows the remedy of termination, or for a legitimate and material business reason the impact of which is not specific to one tenant or a change in the use of the land if change in the use of the land is included in the rental agreement as grounds for termination or nonrenewal.

Division I of the bill takes effect upon enactment and applies to terminations of tenancies on or after the effective date of the division of the bill.

Code section 562B.32(1) generally provides that a landlord shall not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession or by failing to renew a rental agreement after the exercise or assertion of several specified rights and remedies. Division II of the bill adds the exercise of any of the rights and remedies under Code chapter 216 (Iowa civil rights Act of 1965) to that enumerated list.

Current law provides that evidence of a complaint within six months prior to the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. Division II of the bill changes that period of presumption from six months to one year.

Division II of the bill takes effect upon enactment.

Division III of the bill provides that a violation of Code

1 chapter 562B by a landlord or the landlord's agent is an
2 unlawful practice under Code section 714.16, governing consumer
3 frauds.

4 Division III of the bill takes effect upon enactment and
5 applies to violations of Code chapter 562B occurring on or
6 after the effective date of the division of the bill.

7 Division IV of the bill modifies provisions governing an
8 increase in the amount of rent paid by a tenant. The bill
9 prohibits a landlord from increasing the amount of rent unless
10 the tenant is notified, in writing, of the rent increase at
11 least 180 days before the effective date of the rent increase.
12 The bill further provides that the effective date of any
13 increase in the amount of rent shall not be less than one year
14 from either the effective date of the most recent rent increase
15 or the beginning of the tenancy, whichever is later.

16 Division IV of the bill provides that a landlord may increase
17 the amount of rent due by any tenant in an amount greater
18 than the average annual increase of the consumer price index
19 for all urban consumers in the midwest region for the most
20 recently available preceding 36-month period, if the landlord
21 demonstrates the increase is justified for all of the following
22 conditions: (1) the landlord, during the preceding 12-month
23 period, has not been found in violation of any provision of
24 Code chapter 562B that threatens the health or safety of the
25 tenants of or visitors to the manufactured home community or
26 mobile home park that persists for more than 15 days; and (2)
27 the proposed rent increase is directly related to operating,
28 maintaining, or improving the manufactured home community or
29 mobile home park, and is justified by one or more factors
30 specified in the bill. The bill also requires the written
31 notice of a rent increase provided to the tenant to include
32 the specific reasons and justifications for the increase. The
33 bill also specifies that a decrease in the number or quality
34 of amenities, services, or utilities provided under the rental
35 agreement without a corresponding and proportionate reduction

1 in rent shall be considered a rent increase for the purposes of
2 the Code chapter.

3 Division IV of the bill takes effect upon enactment and
4 includes applicability provisions for certain requirements
5 related to rent increases.

6 Division V of the bill relates to landlord remedies and
7 procedures relating to failure to timely pay rent, abandonment,
8 and forcible entry and detainer.

9 Current law caps late fees on rental agreements in which
10 rent is greater than \$700 per month at \$20 per day and \$100
11 per month. Division V of the bill allows a rental agreement
12 to provide for late fees not to exceed 2 percent of the rent
13 per day and 10 percent of the rent per month when rent exceeds
14 \$1,400 per month.

15 Division V of the bill makes changes to the process for
16 an action for abandonment of mobile homes. The bill extends
17 the time by which a district court shall set a hearing after
18 receiving a petition from not later than 14 days to no sooner
19 than 25 days when there is a lien other than a tax lien on
20 the mobile home or personal property. The bill provides
21 notice, service, and publication procedures in an action for
22 abandonment if the sole owner of a mobile home dies during the
23 term of a rental agreement.

24 Division V of the bill also makes a procedural change
25 relating to jurisdiction in actions for forcible entry and
26 detainer.

27 Division VI of the bill amends Code section 16.45, which
28 creates the manufactured housing program fund for the purpose
29 of providing funding to financial institutions or other
30 lenders to finance the purchase by an individual of a compliant
31 manufactured home. The bill strikes language providing that
32 the manufactured housing program fund is designed exclusively
33 for manufactured homes sited on leased land.

34 Division VII of the bill amends Code section 562B.25
35 relating to actions by a landlord for noncompliance with a

1 rental agreement by a tenant or failure to pay rent. The
2 bill establishes authority and procedures similar to those
3 under Code section 562A.24 (uniform residential landlord and
4 tenant Act) where in the case of a landlord's action for
5 possession based upon nonpayment of the rent or in an action
6 for rent where the tenant is in possession, the tenant may
7 counterclaim for an amount which the tenant may recover under
8 the rental agreement or Code chapter 562B. In the event of
9 such a counterclaim, the court from time to time may order the
10 tenant to pay into court all or part of the rent accrued and
11 thereafter accruing, and shall determine the amount due to each
12 party. The party to whom a net amount is owed shall be paid
13 first from the money paid into court, and the balance by the
14 other party. If rent does not remain due after application of
15 this section, judgment shall be entered for the tenant in the
16 action for possession. If the defense or counterclaim by the
17 tenant is without merit and is not raised in good faith, the
18 landlord may recover reasonable attorney fees. Additionally,
19 in an action for rent where the tenant is not in possession,
20 the tenant may counterclaim but is not required to pay any rent
21 into court.

22 Division VII of the bill takes effect upon enactment and
23 applies to actions for possession filed on or after the
24 effective date of the division of the bill.

25 Division VIII of the bill provides that a landlord that is
26 responsible for payment of utilities being provided to the
27 tenant shall not charge to the tenant an amount in excess of
28 the actual cost of the utility and the failure of a tenant to
29 pay utility charges that exceed the actual cost of the utility
30 provided shall not be considered noncompliance with the rental
31 agreement. In addition to the actual cost of the utility, the
32 bill authorizes a landlord that is responsible for the payment
33 of one or more utilities being provided to the tenant to impose
34 a monthly utility administration fee to each tenant not to
35 exceed \$5 per month. The amount of the utility administration

1 fee may not exceed \$5 per month regardless of the number of
2 utilities being provided or the actual cost of the utilities
3 being provided. The bill also provides that a violation of the
4 limitation on utility charges is a violation of Code section
5 714H.3 (private right of action for consumer frauds Act).

6 Division IX of the bill amends Code section 562B.24 relating
7 to a tenant's remedies for a landlord's unlawful ouster or
8 exclusion or diminution of services. The bill adds reasonable
9 attorney fees to the list of recoverable damages and provides
10 that if the rental agreement is terminated, the landlord shall
11 return all prepaid rent and security.

12 Division IX of the bill takes effect upon enactment and
13 applies to actions under Code section 562B.24 filed on or after
14 the effective date of the division of the bill.

15 Division X of the bill provides that if contrary to
16 the rental agreement or Code section 562B.16 the landlord
17 deliberately or negligently fails to supply running water
18 or other essential services, the tenant may give written
19 notice to the landlord specifying the breach and may do one
20 of the following: (1) procure reasonable amounts of water
21 or the essential service during the period of the landlord's
22 noncompliance and deduct the actual and reasonable cost from
23 the rent; (2) recover damages based upon the diminution in the
24 fair market value of the mobile home or mobile home space;
25 or (3) recover any rent already paid for the period of the
26 landlord's noncompliance which shall be reimbursed on a pro
27 rata basis.

28 Division X of the bill takes effect upon enactment and
29 applies to actions under Code section 562B.23A filed on or
30 after the effective date of the division of the bill.

31 Division XI of the bill amends Code section 562B.25 by
32 providing that in any action by a landlord for possession
33 based upon nonpayment of rent, proof by the tenant of all of
34 the following shall be a defense to any action or claim for
35 possession by the landlord, and the amounts expended by the

1 tenant in correcting the deficiencies shall be deducted from
2 the amount claimed by the landlord as unpaid rent: (1) that
3 the landlord failed to comply either with the rental agreement
4 or with the landlord's duty to maintain a fit premises; (2)
5 that the tenant notified the landlord at least seven days prior
6 to the due date of the tenant's rent payment of the tenant's
7 intention to correct the condition constituting the breach
8 referred to at the landlord's expense; (3) that the reasonable
9 cost of correcting the condition constituting the breach is
10 equal to or less than one month's periodic rent; and (4) that
11 the tenant in good faith caused the condition constituting the
12 breach to be corrected prior to receipt of written notice of
13 the landlord's intention to terminate the rental agreement for
14 nonpayment of rent.

15 Division XI of the bill takes effect upon enactment and
16 applies to actions by a landlord for possession filed on or
17 after the effective date of the division of the bill.

18 Code section 562B.19(3)(a) prohibits a landlord from denying
19 rental unless the tenant or prospective tenant cannot conform
20 to manufactured home community or park rules and regulations.
21 Division XII requires any such decision to conform to
22 recognized principles, rules, and standards generally accepted
23 by the professional manufactured home community or park
24 industry to ensure the commercially reasonable safety and
25 financial security of comparable manufactured home communities
26 or parks. Division XII also requires a landlord to deliver
27 the decision in writing to the tenant or prospective tenant as
28 soon as commercially feasible and shall provide the basis for a
29 denial in writing to the tenant or prospective tenant at the
30 time of the decision.

31 Code section 562B.19(3)(c) prohibits a landlord from denying
32 any resident of a manufactured home community or mobile home
33 park the right to sell that person's mobile home at a price of
34 the person's own choosing, but provides that the landlord has
35 the right to approve the purchaser of such mobile home as a

1 tenant but such permission may not be unreasonably withheld.
2 Division XII allows such permission to be withheld only for a
3 legitimate business reason within the recognized principles,
4 rules, and standards accepted by the industry. If the landlord
5 refuses to approve the purchaser of the mobile home as a
6 tenant, a legitimate business reason for the refusal shall be
7 provided in writing to the resident who is selling the mobile
8 home.

9 Division XIII of the bill adds to the list of prohibited
10 rental agreement provisions in Code section 562B.11 a provision
11 requiring agreement to modify the physical characteristics or
12 equipment of the mobile home, manufactured home, or modular
13 home if such modification impairs the ability of the tenant
14 to move the home, unless otherwise required by law or local
15 ordinance.

16 Division XIV of the bill prohibits rental agreements under
17 Code chapter 562B from providing that the tenant or landlord
18 does any of the following: (1) authorizing a person to confess
19 judgment on a claim arising out of the rental agreement; (2)
20 authorizing imposition of fines, penalties, or fees solely
21 as a punishment or in amounts in excess of actual damages or
22 costs incurred; and (3) authorizing prohibitions, limitations,
23 additional deposits, or other restrictive policies that are
24 not based on ordinary wear and tear expected to occur during a
25 tenancy or that are not based on community safety standards.

26 Division XIV also amends language relating to the
27 consequences and damages for using a rental agreement
28 containing provisions known to be prohibited by Code chapter
29 562B.

30 Division XV of the bill modifies the definition of "rental
31 deposit" for purposes of Code chapter 562B, provides that
32 the landlord is only entitled to the interest earned on the
33 rental deposit for the first five years of the tenancy, and
34 establishes authority for a court, in any action on a rental
35 agreement, to award reasonable attorney fees to the prevailing

1 party.

2 Division XVI of the bill provides that any sale of a mobile
3 home located in a manufactured home community or mobile home
4 park by a landlord or landlord's agent shall be by written
5 agreement and the landlord must produce and assign the
6 current certificate of title obtained from the department of
7 transportation. The agreement shall state the basic terms of
8 sale, including the total cost of the mobile home, finance
9 charges, annual percentage rate, and the frequency and amount
10 of each installment payment. Any such agreement shall also
11 comply with Code section 103A.58(1), relating to maximum
12 finance charges. The bill also authorizes a buyer to void
13 any such sale that does not comply with the requirements, to
14 collect specified damage amounts, and to combine such an action
15 with a forcible entry and detainer action under Code chapter
16 648.

17 Division XVII of the bill prohibits the use of nonjudicial
18 foreclosure proceedings initiated under Code section 654.18 or
19 Code chapter 655A against property consisting of a mobile home,
20 as defined in Code section 562B.7, on or after July 1, 2020.

21 Division XVII of the bill takes effect upon enactment.