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ROLL NUMBER

DESCRIPTION

11192

2001 HOUSE POLITICAL SUBDIVISIONS

HB 1192

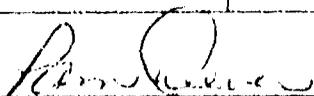
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1192

House Political Subdivisions Committee

Conference Committee

Hearing Date 1-19-01

Tape Number	Side A	Side B	Meter #
1	xx		24-1707
1	xx		5111 - end
Committee Clerk Signature 			

Minutes: Chair Froseth opened the hearing on HB1192 with all committee members present.

Rep. Klemin, Dist. 47 : This law was initially passed by the legislature in 1997 and it provides the method for enforcement of liens for self-service storage units when the rent is not paid. This bill is brought before the committee mainly to clarify legislation that was passed in 1997. Supporters will be testifying later, that will be better able to explain why this bill has been brought forth.

Harvey L. Schilling, Pres. ND Self-Storage Assoc. : (208) testified in support of HB1192. (See **Attached Testimony**)

Rep. Ekstrom : (583) Do you know the average cost of 8' X 12' storage unit? And what is the average length rent is in arrears before proceeding with a sale?

Harvey : Average cost in Bismarck and Fargo is guess is \$45/month and generally four months in arrears.

Rep. Herbel : After you have a sale, what happens to the excess money, if there is any?

Harvey : The balance that is remaining is held in a separate account for two years, after we take out our expenses. If the owner of the property comes back to claim, he must show proof he was original owner. We in turn show record of our expenses and give him any excess.

Rep. Herbel : What determines your expenses?

Harvey : (710) The amount of money in arrears, public notification costs, certified letter fees, and auction fees.

Vice-Chair Severson :(764) After the sale, do you attempt to notify the former renter?

Harvey : For the most part, I doubt it. We try to find them before we have to take action by a sale. We are in the business to make money. We don't make money by having renter in arrears. We don't like to have to cut the lock on a storage unit to get in. We have about 400 units, and it's only happened a few times that there has been a balance remaining after our expenses.

Vice Chair Severson :(900) Would you be opposed to trying to notify after the sale?

Harvey : No. But realistically, after three years, who can remember content particulars.

Vice Chair Severson :(1008) When you make these notifications to the renter, do they notify you before the sale or are they just gone and don't care? Is abandonment the norm?

Harvey : Yes, that is the norm. 99 times out of a 100 they just abandon. I think they forget what's in the storage unit.

Rep. Delmore :(1077) How many times in a typical year does a sale happen?

Harvey :(1092) We try to do that twice a year.

Rep. Eckre :(1136) If there is money above your expenses that goes in to a separate fund, is that required by law?

Harvey : (1170) The law says it has to be held for two years. We just set it into a separate fund. I don't know if all the owner/operators do that. Law doesn't say it has to be in a separate fund. You need to have a record.

Rep. Eekre : Have you ever had to give money back after two years?

Harvey : No, we never had to give money back to an occupant after the sale was conducted in my 18 years.

Rep. Disrud : (1255) Is there any interest on this left over money that would go to the renter?

Harvey : There is nothing in the law that would say that, but there are other lien laws. We have never hit that situation.

Rep. Disrud : With no contact with them, does the money just go into the company?

Harvey : Yes

Rep. Disrud : (1347) I am wondering about senior citizens and those with Alzheimer's in rest homes. What if the family doesn't know they have valuables in storage and the seniors are too sick to know themselves? You may have notifications, etc., but is there anything that will protect the vulnerable people?

Harvey : I don't think there is anything in present law. That is why public notice is so important in hometown newspapers.

Rep. Disrud (1532) When you sent certified mail to the sick senior and they sign it, what if she/he doesn't know what they did?

Harvey : (1590) We require a signature and we also send this notice by regular mail. Maybe a family member is reading the sick person's mail, then they will catch the notice.

Chair Froseth : Any more testimony in HB1192? Seeing none, the hearing is closed.

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House Political Subdivisions Committee
Bill/Resolution Number HB1192
Hearing Date 1-19-01

Tape 1 side A, (5111-end) 1-19-01 Chairman Froseth : What does the committee wish?

Rep. Maragos : (5157) I move a **DO PASS** on HB1192.

Rep. Tieman : **Second.**

Rep. Ekstrom : (1581) Wouldn't 1 year be better than six months in the change?

Rep. Herbel : (5300) I think six months is plenty.

Rep. Fairfield : (5349) Since this has happened to Harvey twice in 18 years, why is this even a pressing matter?

VOTE: 14 YES and 1 NO, HB1192 PASSED. Rep. Herbel will carry.

(Roll call vote is half on side A and beginning of side B, Tape 1)

Date: 1-19-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1192-

House POLITICAL SUBDIVISIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO Pass

Motion Made By Rep. Maragos Seconded By Rep. Tieman

Representatives	Yes	No	Representatives	Yes	No
Chairman Glen Froseth	/		Rep. Wayne W. Tieman	/	
Vice-Chair Dale C. Severson	/				
Rep. Lois Delmore	/				
Rep. Rachael Disrud	/				
Rep. Bruce Eckre	/				
Rep. Mary Ekstrom	/				
Rep. April Fairfield		/			
Rep. Michael Grosz	/				
Rep. Jane Gunter	/				
Rep. Gil Herbel	/				
Rep. Nancy Johnson	/				
Rep. William E. Kretschmar	/				
Rep. Carol A. Niemeier	/				
Rep. Andrew G. Maragos	/				

Total (Yes) 14 No 1

Absent 0

Floor Assignment Rep. Herbel

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 19, 2001 11:39 a.m.

Module No: HR-09-1283
Carrier: Herbel
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1192: Political Subdivisions Committee (Rep. Froseth, Chairman) recommends DO PASS (14 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1192 was placed on the Eleventh order on the calendar.

2001 SENATE POLITICAL SUBDIVISIONS

HB 1192

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1192

Senate Political Subdivisions Committee

Conference Committee

Hearing Date March 1, 2001

Tape Number	Side A	Side B	Meter #
1	x		0.6-18.7
		x	18.3-30.9
Committee Clerk Signature <i>Mary Jo Wocken</i>			

Minutes:

The hearing was opened on HB1192; relating to self-service storage facility liens. All were present except Senator Flakoll.

REPRESENTATIVE KLEMIN: Introduced HB1192 at the request of the North Dakota Self Storage Association. This is an association of people that own or manage self service storage units that can be rented. In 1997, there was a new chapter of the North Dakota Century Code that was passed regulating self storage service facilities and the liens that they have for unpaid rent. That would be in a situation where somebody has stored personal property in one of their storage facilities and has not paid the rent and under the law, the owner or manager of that facility is entitled to auction off the contents of the facility if the person doesn't come and claim it and pay the rent and then the sections of the law that we're amending here today has to do with that procedure, and how that works. Section 1, relates to the notice of the proceedings and what this section requires is for the owner of that facility to provide a notice to the occupants to inform

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Senate Political Subdivisions Committee

Bill/Resolution Number HB1192

Hearing Date March 1, 2001

them that if the rent is not paid the contents will be sold to satisfy the lien that's on the personal property. This bill actually makes three separate changes. The first change is on line 12, where we are changing the word operator to owner. The reason for that is basically a technical correction because the term owner is actually defined in this chapter of the law, and the word operator is not. Owner is the correct term rather than operator. At the bottom of this page, beginning on line 23 and continuing over to page two, there is a change being made with the publication requirements. The owner of the property is required to give a published notice of this sale in the newspaper. The way it reads now is the publication has to be not more that fifteen days before the sale and at least seven days before the sale. So you only have a eight day window in between where the publication can be made. This can cause a problem sometimes with the timing of getting that notice in the newspaper especially in the weekly newspaper if your somewhere else in the state. So what they are doing here is to change that fifteen days to thirty days just to allow a larger window between the seven days and the thirty days. On page 2, Section 2, concerns the application of the proceeds after the property is sold after the auction is held. Proceeds are first used to pay the amount of the lien or amount of the undo rent of the unpaid rent that is still owing to the owner, and also the cost of the sale, including the notice and certified mail and those certain things. Then the owner is to hold this property, if there is any proceeds leftover, typically there isn't, but if there is, then the owner is to hold this, the proceeds, under the existing law for two years in case the person who left that property there claims any remaining proceeds. After a few years of experience with this law it has been determined that two years is quite a long time, in fact this is the longest of any time limit anywhere in the century code. So what they are proposing to do is to change that holding period to six months which is

still relatively a long time. SENATOR LEE: I am just curious about how this would parallel For example a landlord- tenant situation, in which a tenant may have not paid the rent or whatever reason? But was no longer in the apartment and there were personal items in the apartment and it was obvious this person was not returning. I know they are not the same situation but it seems there might be some parallels in a way they might be handled and how does this correspond to what an owner or landlord or property manager might be able to do with personal items and other parcels? REPRESENTATIVE KLEMIN: I did look up the answer to that question, because I thought it would come up. We have a section 47:16-30.1 which has to do with abandoned property and the disposal by a lessor in a apartment or other rental situations.

What that provides is if the property has a estimated value of not more that \$1500 that's left on the premises after the person moves out, then the law says that the property maybe retained by the lessor and disposed of without legal process. The lessor is entitled to the proceeds from the sale of the property. The lessor may recover from the security deposit any storage or moving expenses in excess of the proceeds from the sale that occurred in disposing of the property. So basically it is very similar except there is the \$1500 limit. SENATOR LEE: So, just to make it clear, that its under \$1500 the notice isn't required, you don't have to hold the stuff for six months, you can just get rid of it? Did I understand that correctly? REPRESENTATIVE

KLEMIN: That's correct. There is no six month holding period. There is no holding period at all. There is a 30 day period. SENATOR COOK: Representative Klemin, we also have language

dealing with trailer houses, right or mobile homes that are abandoned? REPRESENTATIVE

KLEMIN: There is, Senator Cook, if somebody has a mobile home in a mobile home park and doesn't pay the rent and leaves the mobile home there, then the owner of the mobile home park

