

HB 1463 – AS INTRODUCED

2012 SESSION

12-2354

05/09

HOUSE BILL 1463

AN ACT relative to abandonment of the tenancy and relative to property abandoned by a tenant.

SPONSORS: Rep. Terrio, Hills 14

COMMITTEE: Judiciary

ANALYSIS

This bill:

I. Establishes a procedure for a landlord to establish that a tenant has abandoned the tenancy.

II. Provides that the landlord is not obligated to store personal property that has been abandoned by the tenant. Personal property shall be considered abandoned if it is of no apparent value or if the tenant has indicated to the landlord that he or she does not intend to recover it.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to abandonment of the tenancy and relative to property abandoned by a tenant.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Section; Abandonment of Tenancy by Lessee. Amend RSA 540 by inserting after section 11-a the following new section:

540:11-b Abandonment of Tenancy.

I. For the purposes of this section, “abandonment” means the tenants have vacated the premises without notice to the landlord and do not intend to return, which intention may be evidenced by the removal by the tenants or their agent of substantially all of their possessions and personal effects from the premises and either:

(a) Nonpayment of rent for more than 5 days; or

(b) An express statement by the tenants that they do not intend to occupy the premises after a specified date.

II.(a) If all the tenants abandon the premises, the landlord may send notice to each occupant at the tenant’s last-known address both by posting notice at the premises and by certified mail, return receipt requested, stating that:

(1) The landlord has reason to believe that the tenant has abandoned the dwelling unit;

(2) The landlord intends to reenter and take possession of the dwelling unit unless the tenant contacts the landlord within 5 days of receipt of the notice;

(3) If the tenant does not contact the landlord, the landlord intends to remove any possessions and personal effects remaining in the premises and to rerent the premises; and

(4) If the tenant does not reclaim such possessions and personal effects within 7 days after the notice, they will be disposed of as permitted by this section.

(b) The notice shall be in clear and simple language and shall include a telephone number and a mailing address at which the landlord can be contacted. If the notices are returned as undeliverable, or the tenant fails to contact the landlord within 5 days of the receipt of the notice, the landlord may reenter and take possession of the dwelling unit, at which time any rental agreement or lease still in effect shall be deemed to be terminated.

III. The landlord shall not be required to serve a demand and eviction notice pursuant to RSA 540:5 to obtain possession or occupancy of a dwelling unit which has been abandoned.

Nothing in this section shall relieve a landlord from complying with the provisions of RSA 540:2 through RSA 540:5, inclusive, if the landlord knows, or reasonably should know, that the tenant has not abandoned the dwelling unit.

IV. The landlord shall inventory any possessions and personal effects of the occupant in the premises and shall remove and keep them for not less than 7 days. The tenant may reclaim such possessions and personal effects from the landlord within said 7-day period. If the tenant does not reclaim such possessions and personal effects by the end of the 7-day period, the landlord may dispose of them as the landlord deems appropriate.

V. No action shall be brought for wrongful eviction against a landlord who takes action in compliance with the provisions of this section.

2 Practices By Landlords and Tenants. Amend RSA 540-A:3, VII to read as follows:

VII.(a) Other than residential real estate under RSA 540-B, a landlord shall maintain and exercise reasonable care in the storage of the personal property of a tenant who has vacated the premises, either voluntarily or by eviction, for a period of 7 days after the date upon

which such tenant has vacated. During this period, the tenant shall be allowed to recover personal property without payment of rent or storage fees. After the 7-day limit has expired, such personal property may be disposed of by the landlord without notice to the tenant.

(b) Notwithstanding subparagraph (a), the landlord shall not be required to store personal property that has been abandoned by the tenant. Personal property shall be considered abandoned if the tenant has removed most of his or her personal property and, in the judgment of the landlord, the remaining property has no ascertainable or apparent value or if the tenant has expressly indicated to the landlord that he or she does not intend to recover the property.

2 Effective Date. This act shall take effect January 1, 2013.