

Bill as Introduced

SB 415 - AS AMENDED BY THE SENATE

03/17/10 0964s
03/17/10 1072s

2010 SESSION

10-2724
06/09

SENATE BILL **415**

AN ACT relative to remedies against landlords.

SPONSORS: Sen. Gallus, Dist 1; Sen. Downing, Dist 22; Sen. Carson, Dist 14; Rep. Stohl, Coos 1; Rep. Chandler, Carr 1

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill prohibits the assessment of a daily fine for certain violations by landlords or tenants prior to the issuance of a temporary order.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 415 – AS AMENDED BY THE SENATE

03/17/10 0964s

03/17/10 1072s

10-2724

06/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to remedies against landlords.

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

- 1 1 Prohibited Practices; Remedies. Amend RSA 540-A:4, IX(a) to read as follows:
- 2 IX.(a) Any landlord or tenant who violates RSA 540-A:2 or any provision of RSA 540-A:3
- 3 shall be subject to the civil remedies set forth in RSA 358-A:10 *for the initial violation*, including
- 4 costs and reasonable attorney's fees incurred in the proceedings. Each day that a violation continues
- 5 *after issuance of a temporary order* shall constitute a separate violation.
- 6 2 Effective Date. This act shall take effect upon its passage.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON SB 415

BILL TITLE: relative to remedies against landlords.

DATE: March 30, 2010

LOB ROOM: 208 **Time Public Hearing Called to Order:** 1:25 pm

Time Adjourned: 1:35 pm

(please circle if present)

Committee Members: Reps. D. Cote, Wall, Potter, Hackel, P. Preston, G. Richardson, L. Weber, Browne, Nixon, Thompson, Watrous, , Rowe, N. Elliott, DiFruscia, W. O'Brien, Hagan, L. Perkins, Silva, W. Smith and Mead.

Bill Sponsors: Sen. Gallus, Dist 1; Sen. Downing, Dist 22; Sen. Carson, Dist 14; Rep. Stohl, Coos 1; Rep. Chandler, Carr 1

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Richard Parsons for Senator John Gallus - sponsor

This bill prohibits the assessment of daily fines for violations by landlords, submitted on behalf of the New Hampshire Property Owners Association.

Eliot Berry, New Hampshire Legal Assistance - supports

Bill is for the benefit of landlords in response to large judgments against them. Only one penalty for a violation unless landlord refuses to respond to a court order. This eliminates the situation where fines accumulate on a daily basis during the time between the citing of the violation of self help and a court hearing. This will cut down on the very large verdicts.

Fred Mayer, attorney in Nashua - supports

The bill responds to unintended consequences that may 'trap' an inexperienced landlord who may not be aware of the violation, because he is absent, or because he does not realize that the fines accumulate on a daily basis. It remedies the harm of additional \$1,000 fine per day.

Norman Warden, New Hampshire Landlords Association, Goffstown - supports

Helps landlords whose tenants have abandoned their apartments. A landlord may discover that a tenant has left, sometimes with everything in the apartment, and the only recourse is for the landlord to file for a time-consuming eviction, otherwise he may be subject to a fine of

\$1,000 per day if he changes the locks and re-rents the empty apartment. (Warden also represents Landlord Resources Network & Rental Property Owners Association).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Philip Preston". The signature is written in a cursive, somewhat stylized font.

Philip Preston, Clerk

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON SB 415

BILL TITLE: relative to remedies against landlords.

DATE: March 30, 2010

LOB ROOM: 208

Time Public Hearing Called to Order:

1:25

Time Adjourned:

1:36

(please circle if present)

Committee Members: Reps. D. Cote, Wal, Potter, Hackel, P. Preston, G. Richardson, L. Weber, Browne, Nixon, Thompson, Watrous, , Rowe, N. Elliott, DiFruscia, W. O'Brien, Hagan, L. Perkins, Silva, W. Smith and Mead.

Bill Sponsors: Sen. Gallus, Dist 1; Sen. Downing, Dist 22; Sen. Carson, Dist 14; Rep. Stohl, Coos 1; Rep. Chandler, Carr 1

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

FROM: Rep. Philip Preston, Clerk
DATE: Public hearing March 30, 2010
SUBJECT: Meeting minutes on SB 415, relative to remedies
against landlords.

SB 415 relative to remedies against landlords 1:25 pm

Richard Parsons for Sen John Gallus - sponsor
This bill prohibits the assessment of daily fines for violations by landlords, submitted on behalf of the NH Property Owners Association.

Eliot Berry, NH Legal Assistance - supports
Bill is for the benefit of landlords in response to large judgments against them. Only one penalty for a violation unless landlord refuses to respond to a court order. This eliminates the situation where fines accumulate on a daily basis during the time between the citing of the violation of self help and a court hearing. This will cut down on the very large verdicts.

Fred Mayer, attorney in Nashua - supports
The bill responds to unintended consequences that may 'trap' an inexperienced landlord who may not be aware of the violation, because he is absent, or because he does not realize that the fines accumulate on a daily basis. It remedies the harm of additional \$1,000 fine per day.

Norman Warden, NH Landlords Association, Goffstown - supports
Helps landlords whose tenants have abandoned their apartments. A landlord may discover that a tenant has left, sometimes with everything in the apartment, and the only recourse is for the landlord to file for an time-consuming eviction, otherwise he may be subject to a fine of \$1,000 per day if he changes the locks and re-rents the empty apartment. (Warden also represents Landlord Resources Network & Rental Property Owners Association).

1:35

SB 415 Blue Sheet(s)
Supports:

Opposes:

Testimony

Original Message-----

From: Margaret Fogarty [mailto:MFogarty@afsc.org]
Sent: Tue 3/30/2010 8:04 AM
To: -House Judiciary Committee
Subject: Housing Action NH supports SB 415

March 29, 2010

The Honorable David Cote, Chairman
House Judiciary Committee
Legislative Office Building, Room 208
Concord, NH 03301

SB 415-relative to remedies against landlords

Dear Chairman Cote and Members of the House Judiciary Committee,

I am writing on behalf of the member organizations of Housing Action New Hampshire, a coalition of non-profit developers, human service providers, public housing authorities and housing advocates seeking to address the critical shortage of affordable rental housing in New Hampshire. We count among our membership: landlords; property managers; and tenant advocacy organizations. I write to express our support for SB 415, which will be considered by your committee in a public hearing today.

SB 415 was passed as a successful compromise among landlords, who wanted to eliminate statutory damages for "self help evictions" by landlords, and tenants, who feared that the elimination of such damages would lead to a revival of landlord self help and a resulting increase in homelessness.

We believe that SB 415 is a fair response to problems posed by RSA 540-A in its current form, because

- it retains a strong incentive for the landlord not to engage in self-help eviction,
- it avoids the build up of huge damage awards against landlords by having no further damages accrue until the landlord is served with the court order and he fails to comply with it; and
- it prevents tenants from building up large damages awards by not seeking a court order until they have been denied access to the premises for several days or more.

Landlords are an essential element of any solution to the current low income housing crisis. In the long term, we want to work with landlords to develop policies and programs that support viable landlord-tenant relationships. SB 415 protects the rights of tenants while achieving greater fairness for landlords.

Thank you for your attention to this matter and for your ongoing service.

Sincerely,
Elissa Margolin, Director

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on SB 415

BILL TITLE: relative to remedies against landlords.

DATE: April 20, 2010

LOB ROOM: 208

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Richardson

Seconded by Rep. Thompson

Vote: 17-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 17-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Philip Preston, Clerk

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on SB 415

BILL TITLE: relative to remedies against landlords.

DATE: April 20, 2010

LOB ROOM: 208

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Richardson/Thompson

Seconded by Rep.

Vote: 17/0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: Yes

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Philip Preston, Clerk

Philip Preston

JUDICIARY

Bill #: SB 4/15 Title: _____

PH Date: _____

Exec Session Date: 04 / 20 / 10Motion: OTP

Amendment #: _____

MEMBER	YEAS	NAYS
Cote, David E, Chairman	✓	
Wall, Janet G, V Chairman	✓	
Potter, Frances D	✓	
Hackel, Paul L	✓	
Preston, Philip, Clerk	✓	
Richardson, Gary B	✓	
Weber, Lucy M	✓	
Browne, Brendon S	✓	
Nixon, David L		
Thompson, Robert B	✓	
Watrous, Rick H	✓	
Rowe, Robert H	✓	
Elliott, Nancy J	✓	
DiFruscia, Anthony R		
Mead, Robert D	✓	
O'Brien, William L	✓	
Hagan, Joseph M	✓	
Perkins, Lawrence B		
Silva, Peter L	✓	
Smith, William B	✓	
TOTAL VOTE:	17 Y	0 N

Committee Report

CONSENT CALENDAR

April 21, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on JUDICIARY to which was referred SB415,

AN ACT relative to remedies against landlords. Having

considered the same, report the same with the

recommendation that the bill OUGHT TO PASS.

Rep. Gary B Richardson

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	JUDICIARY
Bill Number:	SB415
Title:	relative to remedies against landlords.
Date:	April 21, 2010
Consent Calendar:	YES
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

This bill prohibits the assessment of a daily fine for certain violations by landlords or tenants prior to the issuance of a temporary order. The bill still permits civil remedies set forth in RSA 358-A:10 for the initial violation including costs and reasonable attorney's fees and for each day of the violation after the issuance of a temporary order.

Vote 17-0.

Rep. Gary B Richardson
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

JUDICIARY

SB415, relative to remedies against landlords. **OUGHT TO PASS.**

Rep. Gary B Richardson for JUDICIARY. This bill prohibits the assessment of a daily fine for certain violations by landlords or tenants prior to the issuance of a temporary order. The bill still permits civil remedies set forth in RSA 358-A:10 for the initial violation including costs and reasonable attorney's fees and for each day of the violation after the issuance of a temporary order.
Vote 17-0.

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

COMMITTEE: Judiciary

BILL NUMBER: SB 415

TITLE: Remedies against landlords

DATE: 4/20/10 CONSENT CALENDAR: YES NO

OUGHT TO PASS

OUGHT TO PASS W/ AMENDMENT

INEXPEDIENT TO LEGISLATE

INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.

STATEMENT OF INTENT:

This bill prohibits the assessment of a daily fine for certain violations by landlords or tenants prior to the issuance of a temporary order. The bill ^{still} permits civil remedies set forth in RSA 358-A:10 for the initial violation including costs and reasonable attorney's fees and for each day of the violation after the issuance of a temporary order.

COMMITTEE VOTE: 17-0

- Copy to Committee Bill File
- Use Another Report for Minority Report

RESPECTFULLY SUBMITTED,
Rep. *[Signature]*
For the Committee
Gary B Richardson

OK - [Signature]

Rep. Gary B. Richardson

SB 415

This bill prohibits the assessment of a daily fine for certain violations by landlords or tenants prior to the issuance of a temporary order. The bill still permits civil remedies set forth in RSA 358-A:10 for the initial violation including costs and reasonable attorney's fees and for each day of the violation after the issuance of a temporary order.

OK - [Signature]