

Bill as Introduced

SB 431 - AS AMENDED BY THE SENATE

03/17/10 0962s

2010 SESSION

10-2837
04/09

SENATE BILL **431**

AN ACT relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking.

SPONSORS: Sen. Houde, Dist 5; Sen. Odell, Dist 8; Sen. Kelly, Dist 10; Sen. Merrill, Dist 21; Sen. Fuller Clark, Dist 24; Rep. Rodd, Merr 5; Rep. Shurtleff, Merr 10; Rep. Welch, Rock 8

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill prohibits lessors and owners of restricted property from terminating a tenancy or refusing to renew a tenancy based on the tenant or household member of a tenant having been a victim of domestic violence, sexual assault, or stalking.

.....

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking.

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

1 1 New Paragraph; Termination of Tenancy. Amend RSA 540:2 by inserting after paragraph VI
2 the following new paragraph:

3 VII.(a) No lessor or owner of restricted property shall terminate or fail to renew a tenancy
4 based on a tenant or a household member of a tenant having been a victim of domestic violence as
5 defined in RSA 173-B, sexual assault as defined in RSA 632-A, or stalking as defined in RSA 633:3-a
6 provided that:

7 (1) The tenant or household member of a tenant who is the victim has a valid
8 protective order against the perpetrator of the domestic violence, sexual assault, or stalking; or

9 (2) The tenant or household member of a tenant who is the victim:

10 (A) Initiates legal action to obtain a protective order and provides written
11 verification thereof to the lessor or owner; or

12 (B) Reports the domestic violence, sexual assault, or stalking to a law
13 enforcement agency or county attorney, and provides written verification thereof to the lessor or
14 owner.

15 (b) A tenant who has obtained a protective order from a court of competent jurisdiction
16 granting him or her possession of a dwelling to the exclusion of one or more other tenants or
17 household members may request that a lock be replaced or configured for a new key at the tenant's
18 expense. The lessor or owner shall, if provided a copy of the protective order, comply with the
19 request and shall not give copies of the new keys to the tenant or household member restrained or
20 excluded by the protective order.

21 (c) A lessor or owner who replaces a lock or configures a lock for a new key in accordance
22 with subparagraph (b) shall not be liable for any damages that result directly from the lock
23 replacement or reconfiguration.

24 (d) If, after a hearing on the possessory action, the court finds that there are grounds
25 under this section to evict the tenant or household member accused of the domestic violence, sexual
26 assault, or stalking, it may issue judgment in favor of the landlord against the person accused, and
27 allow the tenancy of the remainder of the residents to continue undisturbed.

28 (e) Nothing in this section shall preclude eviction on any grounds set forth in RSA 540:2,
29 II which are unrelated to domestic violence, sexual assault, or stalking.

SB 431 – AS AMENDED BY THE SENATE

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1 2 New Paragraph; Actions Against Tenants; Judgments. Amend RSA 540:14 by inserting after
2 paragraph III the following new paragraph:

3 IV. If the court renders judgment against any one tenant or member of a multiperson
4 household pursuant to RSA 540:2, VII(d), the court shall specify in its order that the writ of
5 possession shall only be used to remove the tenant or household member against whom the judgment
6 issued, and that the other tenants or household members may remain in residence.

7 3 Effective Date. This act shall take effect 90 days after its passage.

Amendments

Amendment to SB 431

1 Amend the bill by replacing section 1 with the following:

2

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8 that the tenant or household member of a tenant who is the victim provides the lessor or owner with
9 written verification that the tenant or household member of a tenant who is the victim has obtained
10 a valid protective order against the perpetrator of the domestic violence, sexual assault, or stalking.

11 (b) A tenant who has obtained a protective order from a court of competent jurisdiction
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16 excluded by the protective order.

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18 with subparagraph (b) shall not be liable for any damages that result directly from the lock
19 replacement or reconfiguration.

20 (d) If, after a hearing in the possessory action, the court finds that there are grounds
21 under this section to evict the tenant or household member accused of the domestic violence, sexual
22 assault, or stalking, it may issue a judgment in favor of the lessor or owner of the property against
23 the person accused, and allow the tenancy of the remainder of the residents to continue undisturbed.
24 The lessor or owner of the rental unit at issue in the possessory action shall have the right to bar the
25 person accused of the domestic violence, sexual assault, or stalking from the unit and from the
26 lessor's or owner's property once judgment in the possessory action becomes final against such
27 person. Thereafter, and notwithstanding RSA 635:2, the person's entry upon the lessor's or owner's
28 property after being notified in writing that he or she has been barred from the property shall
29 constitute a trespass.

30 (e) Nothing in this section shall preclude eviction for nonpayment of rent. A landlord
31 may evict on any grounds set forth in RSA 540:2, II which are unrelated to domestic violence, sexual
32 assault, or stalking.

Amendment to SB 431

- Page 2 -

1 (f) The defense set forth in subparagraph VII(a) shall be an affirmative defense to
2 possessory actions brought pursuant to subparagraph II(b), (c), (d), or (e) of this section.

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21 under this section to evict the tenant or household member accused of the domestic violence, sexual
22 assault, or stalking, it may issue a judgment in favor of the lessor or owner of the property against
23 the person accused, and allow the tenancy of the remainder of the residents to continue undisturbed.
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Amendment to SB 431

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2 possessory actions brought pursuant to subparagraph II(b), (c), (d), or (e) of this section.

Rep. W. O'Brien, Hills. 4
Rep. DiFruscia, Rock. 4
Rep. Rowe, Hills. 6
May 6, 2010
2010-1938h
04/09

Amendment to SB 431

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6 tenant or a household member of a tenant having been a victim of domestic violence as defined in
7 RSA 173-B, sexual assault as defined in RSA 632-A, or stalking as defined in RSA 633:3-a. A tenant
8 shall not be entitled to raise as a defense the fact that he or she is being evicted in violation of this
9 paragraph unless the tenant or household member of the tenant who is the victim provides the lessor
10 or owner with written verification that the tenant or household member of the tenant who is the
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12 assault, or stalking.

13 (b) A tenant who has obtained a protective order from a court of competent jurisdiction
14 granting him or her possession of a dwelling to the exclusion of one or more other tenants or
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23 under this section to evict the tenant or household member accused of the domestic violence, sexual
24 assault, or stalking, it may issue a judgment in favor of the lessor or owner of the property against
25 the person accused. The court also may allow the tenancy of the remainder of the residents to
26 continue undisturbed, provided the court finds that an adult will continue as a resident of the
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28 premises. The lessor or owner of the rental unit at issue in the possessory action shall have the right
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Amendment to SB 431

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Speakers

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON SB 431

BILL TITLE: relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking.

DATE: March 30, 2010

LOB ROOM: 208 **Time Public Hearing Called to Order:** 1:35 pm

Time Adjourned: 2:48 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. Houde, Dist 5; Sen. Odell, Dist 8; Sen. Kelly, Dist 10; Sen. Merrill, Dist 21; Sen. Fuller Clark, Dist 24; Rep. Rodd, Merr 5; Rep. Shurtleff, Merr 10; Rep. Welch, Rock 8

TESTIMONY

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

Senator Matthew Houde - sponsor

This bill provides safeguards for landlords. A bill that provides important protection for those who are vulnerable and one that is necessary to break the chain of domestic violence and homelessness. This bill precludes eviction solely on the basis of domestic violence and it allows for changing locks. It requires specific verification of domestic violence. There must be a valid protection order, must have initiated legal action to obtain a protective order or have reported domestic violence to law enforcement. It can't be a "he said, she said" situation. Any other grounds for eviction remain. If a lock change request is made, the landlord can be reimbursed and is indemnified for any claims that might occur. Mostly important, it provides clear grounds for the exclusion of the other party, to keep out or evict. This bill provides refuge for victims of domestic violence.

* **Mark Warden, New Hampshire Liberty Alliance - opposed**

Paraphrases written testimony. This bill will confuse courts, landlords and tenants. Landlords benefit the state. Any laws and regulations aimed at landlords harms, ultimately, the state looses because landlords provide safe, affordable workforce housing. Further regulation will discourage landlords and investments.

Rep. Lucy Weber: These are the parameters that protect a landlord when they exclude somebody from the property because there has been domestic violence. Q. Am I reading that that correctly? A. That may be the intention, but afraid it will be twisted and interpreted in

different ways. Domestic violence (screaming, crying) can cause other tenants to leave their apartments. That is one of the major economic harms that can happen to good, law-abiding landlords.

Rep. Janet Wall: Q. Even with a written protective order? A. Until the tenant can prove that there is a protective order, a lot of damage may occur.

Rep. Lawrence Perkins: Q. As a landlord, have you ever had the situation where tenant has come to you with a protective order. A. No. Q. If one did come, what would be your reaction? A. I probably would already know there is a problem and would be sympathetic. Q. Would you have a duty to act if there was a protective order? A. Legally no, morally, perhaps.

Rep. Beth Rodd – supports

Has experience in domestic violence situations as a social worker and guardian ad litem. Very often, people are involved in domestic violence cases where the abuser refuses to leave the home, and the other partner and children end up on the street. This leads to homelessness and occasions when children are taken from the abused. Nothing in this bill suggests that someone who is a bad tenant cannot be evicted.

Nick Norman, Landlord Resources Network & Rental Property Owners Association – opposes
A disturbance can cause other tenants to leave, and it becomes hard to re-rent those apartments. We need more support for the victim, such as a place to live where the abuser cannot find them. Why should the landlord be penalized? Worrisome language that can lead to problems: Section 1, VII (a) – all a person would need to do to avoid eviction is initiate a protective order or call the police, even if it is a false charge; (b) & (c) are OK; (d) is already the law and is not needed. If this bill becomes law, it will be much harder for victims of domestic violence to find apartments. Perpetrators may return and do damage to the apartment (break down doors), but the landlord cannot evict the tenant, yet there is the damage. Solution is to help victims find secure housing that is unavailable to the perpetrator.

*** Sarah Mattson, New Hampshire Legal Assistance – supports**

This bill addresses the loss of housing that is a companion to domestic violence and seeks to disrupt the link between domestic violence and homelessness. Data shows that victims suffer the loss of their homes. Having safe and stable housing is crucial to helping victims. Bill is based upon the federal Violence Against Women Act of 2005, which applies only to victims living in federally assisted or public housing. The bill applies only to restricted property subject to RSA 540. Important points: 1) The judge can specify in the protective order that the victim has exclusive rights to occupy the apartment. 2) Prohibits eviction based upon domestic violence. Bill does allow landlord to evict abuser and keep the victim as a tenant (called bifurcation). Current law does not allow bifurcation. 3) If landlord does not want to be involved, he does not have to evict; but he is required to change the lock upon request of the victim, who will pay the cost. 4) The bill does not affect eviction issues not related to domestic violence.

Rep. Lucy Weber: Q. How does this work in the situation where there is noise and property damage. It seems that when there is a protective order the abusive party may be removed by police officers, but if for some reason there was continuation of noise and damage (if the victim invites the abuser back) and the cycle continues, does the landlord have a remedy based upon

complaints? A. The landlord can serve the abuser with an eviction order. The landlord can seek a writ of possession against the abuser only.

Rep. Gary Richardson: Q. Can the landlord evict both tenants? A. Only the abuser, unless the issue is unrelated to domestic violence.

Rep. Will Smith: Q. Standard of proof that falls upon the landlord? A. Victim would provide evidence of domestic violence.

Rep. Robert Rowe: Q. "Renew" in line 3: Is the landlord required to renew? A. That is already the law. End of lease is not good cause to evict. Q. Should the landlord be required to renew lease? A. The lease could revert to month-to-month. The landlord needs a reason to evict, regardless.

Rep. William O'Brien: Q. Could the landlord end up with a tenant with no source of income, no government assistance, no job, such as a minor, who was abused? A. Not sure if a minor would have an affirmative defense. Q. How does the landlord know who is the victim and who is the abuser? A. The landlord would rely on court or law enforcement to determine who is the victim and who is the abuser.

Rep. Lucy Weber: Q. Is there any consequence to the landlord if he cannot evict the tenant? A. Only that there is the filing fee.

Rep. William O'Brien: A. Would agree that the victim has to provide written notice of the protective order.

Rep. Frances Potter: Q. Are there consequences for frivolously claiming abuse? A. Perjury.

Rep. William O'Brien: Answer to question about a person filing for a protective order and not showing up in court: sometime it takes many attempts on the part of the victim to follow through on domestic violence situations because the cycle of abuse can be very hard to break. When people are finally ready to take the step to get a protective order, we want the ability to provide stability in housing.

Rep. Will Smith: A. If the landlord wants to get rid of one tenant but not the other, this bill does not accommodate that.

Rep. Lawrence Perkins: In cases of abuse, sometimes there is a cycle, the victim lets the abuser back in. Q. Would this be a problem for the landlord. A. If a victim lets the abuser back in, the landlord can claim that an unauthorized occupant is in the apartment, and both can be evicted. That is the take that public housing authorities would have. Q. An amendment? Ans. We would be willing to work with the committee on an amendment to make it clear that the court could issue a no-trespass order.

*** Fred Mayer, Nashua – supports**

Represents landlord in evictions, says this is a good bill. Case law, the mere expiration of a lease is not good cause for an eviction: Imco Properties, LLC vs. Dziejewicz at 152 NH 587. Is in complete agreement with Mattson. Can a landlord bifurcate under eviction? Current law, he

says, is not allowed. That is one of the reason he thinks this bill is good for landlords. Improve bill with the kind of amendment to deal with the situation when perpetrator returns to property by giving the landlord the right to bar an evicted tenant from the premises after a writ of possession is issued against that tenant, regardless whether or not the victim invited him or her back. Lines 28 & 29 allow eviction for any non-domestic violence reason. If the bill changes the law to allow bifurcation of the lease, a landlord does not have to give a key to the perpetrator ,if the victim requests that locks are changed.

Rep. Robert Rowe Q. Is the evicted tenant still obligated by the terms of the lease to pay the rent? A. I would agree with that.

Rep. William O'Brien: A. In leases that I draft, there are provisions to evict based on criminal or violent behavior. Suggested amendment reads, "The Landlord may bar the tenant from the premises after a writ of possession is issued against the tenant, regardless of whether the victim changes his or her mind."

Rep. Robert Rowe: A. Not renewing a lease is not a reason to non-renew, but a tenant could evict if the tenant refuses to accept an increase in the rent. Recommends deleting "or fails to renew a tenancy" in Page 1, Line 3.

Respectfully submitted,



Philip Preston, Clerk

Clerk had to leave, following minutes taken by Rep. Weber.

Rep. Rowe: Q. Does a tenant under this statute have greater renewal rights than another tenant? A. His view is that Ainco deprived all landlords of right-to-know. He advises clients that non-renewal is not an option.

Rep. Rowe: Q. Can the landlord up the rent? A. Yes. And Line 3 is not so clear, would like the line "or fail to renew" be removed.

Rep. O' Brien: Filed legislation to overturn Ainco.

* **Elliott Berry**, New Hampshire Legal Assistance- supports
Bill does not add additional protections. In all cases landlord must have good cause for eviction. If you want a rent agreement, give notice of charge and their failure to agree IS good cause for eviction. Can evict for failing to agree to change even if victim of domestic violence. Attorney Berry also submitted a proposed amendment.

Rep. Rowe: Insertion of "failure to renew" gives greater power. A. Believes that language is redundant under current state of the law.

Rep. O'Brien: But if Airco is bad law, would we not oppose this bill? A. Could take out failure to renew language and state of law would stand.

Respectfully submitted,



Lucy M. Weber, Acting Clerk

SB 431 Blue Sheet(s)

Supports:

Opposes:

HOUSE COMMITTEE ON JUDICIARY

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TESTIMONY

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FROM: Rep. Philip Preston, Clerk

DATE: Public hearing March 30, 2010

SUBJECT: Meeting minutes on SB 431, relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking.

SB 431 relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking 1:35

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Rep. Gary Richardson. Can the landlord evict both tenants? Ans. Only the abuser, unless the issue is unrelated to domestic violence.

Rep. Will Smith. Standard of proof that falls upon the landlord? Ans. Victim would provide evidence of domestic violence.

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* Fred Mayer, Nashua - supports

Represents landlord in evictions, says this is a good bill. Case law, the mere expiration of a lease is not good cause for an eviction: Imco Properties, LLC vs. Dziejewicz at 152 NH 587. Is in complete complete agreement with Mattson. Can a landlord bifurcate under eviction? Current law, he says, is not allowed. That is one of the reason he thinks this bill is good for landlords. Improve bill with the kind of amendment to deal with the situation when perpetrator returns to property by giving the landlord the right to bar an evicted tenant from the premises after a writ of possession is issued against that tenant, regardless whether or not the victim invited him or her back. Lines 28 & 29 allow eviction for any non domestic violence reason. If the bill changes the law to allow bifurcation of the lease, a landlord does not have to give a key to the perpetrator if the victim requests that locks are changed.

Rep. Robert Rowe. Is the evicted tenant still obligated by the terms of the lease to pay the rent? Ans. I would agree with that.

Rep. William O'Brien. Ans. In leases that I draft, there are provisions to evict based on criminal or violent behavior. Suggested amendment reads, "The Landlord may bar the tenant from the premises after a writ of possession is issued against the tenant, regardless of whether the victim changes his or her mind."

Rep. Robert Rowe. Ans. Not renewing a lease is not a reason to non-renew, but a tenant could evict if the tenant refuses to accept an increase in the rent. Recommends deleting "or fails to renew a tenancy" in Page 1, Line 3.

Respectfully submitted,

Philip Preston, Clerk

Clerk had to leave, following minutes taken by Rep. Weber.

Rep. Rowe: Q. Does a tenant under this statute have greater renewal rights than another tenant? A. His view is that Ainco deprived all landlords of right-to-know. He advises clients that non-renewal is not an option.

Rep. Rowe: Q. Can the landlord up the rent? A. Yes. And Line 3 is not so clear, would like the line "or fail to renew" be removed.

Rep. O'Brien: Filed legislation to overturn Ainco.

* Elliott Berry, New Hampshire Legal Assistance supports Bill does not add additional protections. In all cases landlord must have good cause for eviction. If you want a rent agreement, give notice of charge and their failure to agree IS good cause for eviction. Can evict for failing to agree to change even if victim of domestic violence.

Attorney Berry also submitted a proposed amendment.

Rep. Rowe: Insertion of "failure to renew" gives greater power. A. Believes that language is redundant under current state of the law.

Rep. O'Brien: But if Ainco is bad law, would we not oppose this bill? A. Could take out failure to renew language and state of law would stand.

Respectfully submitted,

Lucy M. Weber, Acting Clerk

SB 431 Blue Sheet(s)

Supports:

Opposes:

SB431,
continued

(minutes taken after Rep. Praz's departure.)

Rep. Praz: Does a tenant under this statute have greater renewal rights than another tenant?

A: His view is that Amco deprived all landlords of right to non-renew. He advises clients that non-renewal not an option.

Rowe: Can landlord up the rent? A: yes.

And line 3 is not so clear ~~that~~, would like the line "or fail to renew" removed.

O'Brien filed legislation to overturn Amco.

Elliott Berry, NH Legal Assistance, supporting Bill does not add additional protection. In all cases landlord must have good cause for eviction. If you want a rent agreement, give notice of change and their failure to agree is good cause for eviction. Can evict for failing to agree to change even if victim of domestic violence.

Rowe: Insertion of "failure to renew" gives greater power. A: Believes that language is redundant under current state of the law.

O'Brien: But if Amco is bad law, would we not oppose this bill? A: Could ~~not take~~ take out failure to renew language & state of law would stand.

Atty Berry also submitted proposed amendment.

Sub-Committee Actions

HOUSE COMMITTEE ON JUDICIARY
SUBCOMMITTEE WORK SESSION ON SB 431

BILL TITLE: relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking.

DATE: April 22, 2010

Subcommittee Members: Reps. Lucy M. Weber, Chair, Philip Preston, Frances D. Potter, William B. Smith and Robert D. Mead

Comments and Recommendations:

Amendments:

Sponsor: Rep. L. Weber	OLS Document #:	2010	1516h
Sponsor: Rep.	OLS Document #:		
Sponsor: Rep.	OLS Document #:		

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

Moved by Rep. Potter

Seconded by Rep. Smith

Vote: 5-0

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

Moved by Rep. Mead

Seconded by Rep. Preston

Vote: 5-0

Respectfully submitted,

Rep. Lucy M. Weber
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON JUDICIARY
SUBCOMMITTEE WORK SESSION ON SB 431

BILL TITLE: relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking.

DATE: April 22, 2010

Subcommittee Members:

Reps. Lucy M. Weber Chair, Philip Preston, Frances D. Potter,
William B. Smith and Robert D. Mead

Comments and Recommendations:

Amendments: 1516 h

Sponsor: Rep. L. Weber

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

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

Moved by Rep. Potter

Seconded by Rep. Smith

Vote: 5-0

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

Moved by Rep. Mead

Seconded by Rep. Preston

Vote: 5-0

Respectfully submitted,

Rep. Lucy M. Weber
Subcommittee Chairman/Clerk



Amendment to SB 431

1 Amend the bill by replacing section 1 with the following:

2
3 1 New Paragraph; Termination of Tenancy. Amend RSA 540:2 by inserting after paragraph VI
4 the following new paragraph:

5 VII.(a) No lessor or owner of restricted property shall terminate a tenancy solely based on a
6 tenant or a household member of a tenant having been a victim of domestic violence as defined in
7 RSA 173-B, sexual assault as defined in RSA 632-A, or stalking as defined in RSA 633:3-a, provided
8 that the tenant or household member of a tenant who is the victim provides the lessor or owner with
9 written verification that the tenant or household member of a tenant who is the victim has obtained
10 a valid protective order against the perpetrator of the domestic violence, sexual assault, or stalking.

11 (b) A tenant who has obtained a protective order from a court of competent jurisdiction
12 granting him or her possession of a dwelling to the exclusion of one or more other tenants or
13 household members may request that a lock be replaced or configured for a new key at the tenant's
14 expense. The lessor or owner shall, if provided a copy of the protective order, comply with the
15 request and shall not give copies of the new keys to the tenant or household member restrained or
16 excluded by the protective order.

17 (c) A lessor or owner who replaces a lock or configures a lock for a new key in accordance
18 with subparagraph (b) shall not be liable for any damages that result directly from the lock
19 replacement or reconfiguration.

20 (d) If after a hearing in the possessory action, the court finds that there are grounds
21 under this section to evict the tenant or household member accused of the domestic violence, sexual
22 assault, or stalking, it may issue a judgment in favor of the lessor or owner of the property against
23 the person accused, and allow the tenancy of the remainder of the residents to continue undisturbed.
24 The lessor or owner of the rental unit at issue in the possessory action shall have the right to bar the
25 person accused of the domestic violence, sexual assault, or stalking from the unit and from the
26 lessor's or owner's property once judgment in the possessory action becomes final against such
27 person. Thereafter, and notwithstanding RSA 635:2, the person's entry upon the lessor's or owner's
28 property after being notified in writing that he or she has been barred from the property shall
29 constitute a trespass.

30 (e) Nothing in this section shall preclude eviction for nonpayment of rent or on any
31 grounds set forth in RSA 540:2, II which are unrelated to domestic violence, sexual assault, or
32 stalking.



1 (f) The defense set forth in subparagraph VII(a) shall be an affirmative defense to
2 possessory actions brought pursuant to subparagraph II(b), (c), (d), or (e) of this section.

Sub-Committee Minutes

HOUSE COMMITTEE ON JUDICIARY
SUBCOMMITTEE WORK SESSION ON SB 431

BILL TITLE: relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking.

DATE: April 13, 2010

Subcommittee Members: Reps. Weber, Preston, Potter, Smith and Mead

Comments and Recommendations:

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

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

Moved by Rep.

Seconded by Rep.

Vote:

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

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Lucy Weber
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON JUDICIARY
SUBCOMMITTEE WORK SESSION ON SB 431

BILL TITLE: relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking.

DATE: April 13, 2010

Subcommittee Members: Reps. Lucy M. Weber, Chair, Philip Preston, Frances D. Potter, William B. Smith and Robert D. Mead

Comments and Recommendations:

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

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

Moved by Rep.

Seconded by Rep.


Vote:

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

Moved by Rep.

Seconded by Rep.

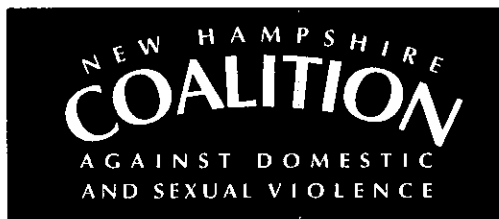
Vote:

Respectfully submitted, 

Rep.
Subcommittee Chairman/Clerk

Testimony

P.O. Box 353
Concord, NH 03302-0353
Phone: (603)-224-8893
fax: (603)-228-6096
www.nhcadsv.org
www.reachoutnh.com



Statewide Toll Free Hotlines

Domestic Violence:
1-866-644-3574
Sexual Assault:
1-800-277-5570

SB 431, Relative to housing and tenancy protections for victims of domestic violence

MEMBERS:

March 30, 2010

RESPONSE to Sexual & Domestic Violence
Berlin
Colebrook
Lancaster

Good afternoon Chairman Cote and Members of the House Judiciary Committee:

Turning Points Network
Claremont
Newport

My name is Amanda Grady and I represent the New Hampshire Coalition Against Domestic and Sexual Violence (NHCADSV) and its 14 member programs, who are in **SUPPORT SB 431**. NHCADSV is a statewide network of independent 14 crisis centers across the state. Our mission is to provide services to victims of domestic and sexual violence and stalking, and to be a voice for victims before the NH Legislature. In 2008, the Coalition served over 14,000 victims of domestic and sexual violence and stalking.

Rape and Domestic Violence Crisis Center
Concord

Starting Point
Conway
Ossipee

Domestic Violence and Homelessness

Sexual Harassment and Rape Prevention Program (SHARPP)
University of New Hampshire
Durham

Monadnock Center for Violence Prevention
Keene
Jaffrey
Peterborough

New Beginnings:
Laconia

WISE
Lebanon

The Support Center at Burch House
Littleton

YWCA Crisis Service
Manchester
Derry

Bridges: Domestic & Sexual Violence Support
Nashua
Milford

Voices Against Violence
Plymouth

A Safe Place
Portsmouth
Rochester
Salem

Sexual Assault Support Services
Portsmouth
Rochester

- Because a victim of domestic violence will often leave their abuser multiple times before she finally escapes the violence, she and her children may experience multiple periods of homelessness.¹
- 92% of homeless victims experienced severe physical and/or sexual assault at some point in their lifetime.²
- In some regions of the country, approximately one-third of all homeless women are homeless due to domestic violence.³

Since the 1980's New Hampshire Legislators and activists alike have focused on the immediate needs of victims of domestic violence by advocating for change at the national level, while creating vital protections in NH's RSA 173-B. This important statute provides relief for victims of domestic violence by giving them protection from abuse, while holding batterers accountable for their actions.

¹ A. Browne & S. Bassuk, *Intimate Violence in the Lives of Homeless and Poor Housed Women*, *American Journal of Orthopsychiatry*, 67(2) 261-278 (April 1997)

² National Low Income Housing Coalition, <http://www.nlihc.org/advocates/vawa.htm>

³ Wilder Research Center, *Homeless in Minnesota* 2003, 22 (February 2004)

However, victims often face multiple barriers in their lifetimes and there is a recognized need to start addressing the long term effects of abuse. Securing safe and affordable housing, for instance, is a barrier domestic violence victims commonly face. When victims do leave, they often return to their batterers when a viable option for permanent housing cannot be found.¹ Furthermore, victims often face housing discrimination in an effort to attain self sufficiency and live a life free from abuse. In this respect, landlords frequently turn away those who have protection orders or other indications of domestic violence.²

NH's crisis centers have worked with many survivors who have been penalized by their landlords when abuse has occurred. When a temporary restraining order is furnished to a landlord, victims are often told that they are not permitted to change the locks to the residence or that the landlord cannot legally remove the abuser from the lease, causing victims to feel unprotected and revictimized in their own homes. The choice is often a simple one – flee for safety or risk further abuse.

SB 431 is designed to reduce the risk of homelessness for domestic violence survivors and to protect them from housing discrimination on the basis of their victimization.

I respectfully ask for the Committee's support of SB 431 and vote Ought to Pass (OTP) because this bill is a step in the right direction toward securing safe, adequate, and affordable housing for survivors, which may ultimately lead to independence and permanently ending the cycle of abuse.

Sincerely,

Amanda Grady
Public Policy Director
New Hampshire Coalition Against Domestic and Sexual Violence
PO Box 353, Concord, NH 03302-0353
Ph: 603.224.8893x326
www.reachoutnh.com
www.nhcadsv.org

¹ A. Correia, *Housing and Battered Women*, National Resource Center on Domestic Violence (March 1999)

² *Interviews with State Coalitions and Local Shelter Programs*, National Coalition Against Domestic Violence (2003)

---Original Message-----

From: Mark Lutter [mailto:m.lutter@comcast.net]
Sent: Tue 3/30/2010 6:53 AM
To: Cote, David
Subject: SB 431 tenants that are victims of domestic violence

Dear Representative Cote:

I am not able to testify at your committee hearing today for SB 431. I would like to get my comments submitted through this letter. I hope you will oppose this legislation.

I have been a landlord for 20 years. Most landlords are small business owners. They own a few apartments and are trying to save money for their kids' education or their retirement. They provide affordable housing for many people. Vacancies are rising in our apartments which means incomes are going down yet our expenses remain the same. We do not want to evict good tenants. Tenants involved in a domestic violence issue may or may not be good tenants. Many landlords will do whatever they can do help their tenants out. . A domestic violence issue could be causing other decent tenants to move out of your building. If this is the case, then the landlord needs to evict the domestic violence tenant. This issue should be left to the landlord. Government is slowly stripping away private property rights. This bill further reduces private property rights.

What if the tenant affected by domestic violence issue stops paying her rent? How long is the landlord supposed provide free housing?

I do not believe this legislation is necessary. I hope that you will oppose this legislation. Thank you for your time.

Sincerely,

Mark Lutter

579-0302

Original Message-----

From: Lisa Nicholson [mailto:lisarnicholson@yahoo.com]
Sent: Thu 4/1/2010 6:43 AM
To: ~House Judiciary Committee
Subject: SB 431 - Oppose

March 31, 2009

I am not able to testify at your committee hearing today for SB 431. I would like to get my comments submitted through this letter. I hope you will oppose this legislation.

Our family has been a small landlord business for almost 60 years. Most landlords are small business owners. They own a few apartments and are trying to save money for their kids' education or their retirement. They provide affordable housing for many people. Vacancies are rising in our apartments which means incomes are going down yet our expenses remain the same. We do not want to evict good tenants. Tenants involved in a domestic violence issue may or may not be good tenants. Many landlords will do whatever they can do help their tenants out. A domestic violence issue could be causing other decent tenants to move out of your building. If this is the case, then the landlord needs to evict the domestic violence tenant. This issue should be left to the landlord. Government is slowly stripping away private property rights. This bill further reduces private property rights.

I do not believe this legislation is necessary. I hope that you will oppose this legislation.

Thank you for your time.

Thank you for your help on this important matter,

Lisa R. Nicholson
Nescot Properties

Lisa R. Nicholson
Nescot Properties

13 Cassily Lane
Dover, NH 03820

(603) 953-5096
lisarnicholson@yahoo.com

-----Original Message-----

From: Deb Turbide [mailto:deb@debturbide.com]
Sent: Tue 3/30/2010 5:00 PM
To: ~House Judiciary Committee
Subject: please vote no on SB 431

I hope you will oppose this legislation. I am not able to testify at your committee hearing for SB 431, but would like to get my comments submitted through this letter.

I am a landlord with two properties. We are a small business owner and make no profit from our rental properties after we pay the mortgage, expenses and taxes. This was supposed to be our retirement income. Fortunately our tenants are currently happy with the peace and quiet and support we provide.

However, when we have vacancies it is very competitive and prospective tenants are much more discriminative. Due to the economy, they frequently have poor credit and unstable job situations. When we have good tenants we do not want to evict them. Tenants involved in a domestic violence issue may or may not be good tenants. Many landlords will do whatever they can do help their tenants out, but a domestic violence issue could be causing other decent tenants to move out of the building. If this is the case, then the landlord needs to evict the domestic violence tenant. This issue should be left to the landlord. Government is slowly stripping away private property rights. This bill further reduces private property rights.

I do not believe this legislation is necessary in New Hampshire. I hope that you will oppose this legislation. Thank you for your time.

-- Debby Turbide

Debby Turbide

Ph/Fax (603) 964-6903

deb@debturbide.com

SB 431 Housing and tenancy restrictions

JUDICIARY, Room 208, LOB – March 30, 2010 @ 1:30

SB 431, relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking.

Chairman and members of the committee...

For the record, my name is Mark Warden and I'm speaking with you today on behalf of **the New Hampshire Liberty Alliance**. The Liberty Alliance is an all-volunteer, non-partisan, non-profit organization dedicated to promoting good governance by educating the general public and lawmakers on a pro-liberty approach to public policy.

I am also a long-time landlord and real estate investor and real estate agent.

1) While tenants may have a right to quiet enjoyment, they do not have an absolute right to stay on property owned by somebody else. Current law on tenancy strikes a fair balance. The very first section of Chapter 540 in statute says, "**540:1 Tenancies, Nature of.** – Every tenancy or occupancy shall be deemed to be at will...." And...from **540:2 Termination of Tenancy.** – II. The lessor or owner of restricted property may terminate any tenancy by giving to the tenant or occupant a notice in writing to quit the premises in accordance with RSA 540:3 and 5, ...for one of the following reasons: [... including]

(e) Other good cause.

V. "'Other good cause" includes, but is not limited to, **any legitimate business or economic reason and need not be based on the action or inaction of the tenant, members of his family, or guests.** – WE SHOULD LEAVE IT AT THAT. The current statute is sufficient and any change will be confusing to tenants, landlords, sheriffs, and the courts.

2) This bill will be abused and misused by tenants and may lead to costly legal actions. With the language in the bill as it is, it is impossible to truly know or to prove a landlord's intent in an eviction process. There are often many factors. This approaches "thought crime" nonsense. And the part about a landlord not being allowed to "fail to renew" a tenancy is absurd!

3) The landlord investor serves a VERY important function in the provision of housing units in our state. They help put roofs over people's heads, provide safe homes for families and children, offer "workforce" housing at affordable rents to people just barely squeaking by. In fact, because of strict laws already in place, we often provide tenants with living units that are safer and healthier than those of some people who own their own homes.

So the question is, why would this body, The People's House, want to put shackles on the very people who provide such a necessary product to our communities? Landlords should be celebrated, not scorned. They take large risks, make huge investments, and, frankly, often deal with ungrateful and deceitful people who try to take advantage. We boost the local economy, with countless benefits going to contractors, painters, landscapers, plumbers, and retailers, as well as the towns which benefit from higher tax assessments.

This legislation will have a chilling effect on real estate investment, precisely at a time when the real estate market is in the tank with a record number of foreclosures on the market. This is kicking a person when he's down. Every little straw that you throw on the camel's back, from fire sprinkler systems to upland modification requirements, to so-called tenant protection laws, puts the landlord camel closer to collapsing and suffocating under the weight of over-regulation. Will this bill be the straw that breaks the camel's back and drives good landlords out of New Hampshire?

Thank you, and I urge you to vote ITL on this bill.

Sincerely,

Mark Warden
Chairman, New Hampshire Liberty Alliance

www.nhliberty.org

Publications: Weekly Gold Standard and annual Liberty Rating legislative report card

378:43 Information Not Subject to Right-to-Know Law. –

I. (a) Any information or records that a telephone utility provides to the public utilities commission or its staff or to the office of the consumer advocate as part or in support of a filing with the commission or in response to a request that the information or records be provided to the commission or its staff or to the office of the consumer advocate shall be maintained confidentially and shall ~~not be exempt from disclosure as confidential, commercial or financial information under RSA 91-A:5, IV considered public records for purposes of RSA 91-A,~~ if the information or records satisfy the requirements of paragraph II.

(b) Any information or records that public utilities commission staff or a party places into the record during a telephone utility proceeding shall be maintained confidentially and shall ~~not be exempt from disclosure as confidential, commercial or financial information under RSA 91-A:5, IV considered public records for purposes of RSA 91-A,~~ if the information or records satisfy the requirements of paragraph II.

II. In order to obtain confidential treatment under paragraph I, the telephone utility shall represent to the public utilities commission that the information or records are not general public knowledge or published elsewhere; that measures have been taken by the telephone utility to prevent dissemination of the information or records in the ordinary course of business; and that the information or records:

(a) Pertain to the provision of competitive services; or

(b) Set forth trade secrets that required significant effort and cost to produce, or other confidential, research, development, financial, or commercial information, including customer, geographic, market, vendor, or product-specific data, such as pricing, usage, costing, forecasting, revenue, earnings, or technology information not reflected in tariffs of general application.

III. If the public utilities commission subsequently determines on its own motion or on request of another party, after notice and an opportunity for hearing, that the telephone utility's representation is incorrect and the information or records do not satisfy the requirements of paragraph II, the information or records shall be subject to disclosure under RSA 91-A. The telephone utility shall have the burden of demonstrating that the information or records satisfy the requirements of paragraph II. Before permitting public disclosure, the commission shall afford the telephone utility 30 days from issuance of its written decision to request reconsideration. The material shall be maintained confidentially pending consideration of any such request and until all rights to appeal the determination have been exhausted.

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on SB 431

BILL TITLE: relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking.

DATE: April 29, 2010

LOB ROOM: 208

Amendments:

Sponsor: Rep. L. Weber	OLS Document #:	2010	1746h
Sponsor: Rep.	OLS Document #:		
Sponsor: Rep.	OLS Document #:		

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

Moved by Rep. Weber

Seconded by Rep. Nixon

Vote: 13-5 (Please attach record of roll call vote.)

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

Moved by Rep. Weber

Seconded by Rep. Nixon

Vote: 11-7 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: NO

(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 431

BILL TITLE: relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking.

DATE: April 29, 2010

LOB ROOM: 208

Amendments:

Sponsor: Rep. Weber/Preston OLS Document #: 1516h withdrawn
Sponsor: Rep. Weber/Nixon OLS Document #: 1746h 13Y~~10~~/5K
Sponsor: Rep. OLS Document #:

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

Moved by Rep. Weber

Seconded by Rep. Nixon

Vote: 11/7 (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: _____

(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 431 Title: housing + Tenancy for victims...

PH Date: / / Exec Session Date: 04 / 29 / 10

Motion: amendment Amendment #: ~~1516h~~ 1746h

MEMBER	YEAS	NAYS
Cote, David E, Chairman	Y	
Wall, Janet G, V Chairman	Y	
Potter, Frances D	Y	
Harkel, Paul L <u>Tupper, Frank A.</u>	Y	
Preston, Philip, Clerk	Y	
Richardson, Gary B	Y	
Weber, Lucy M	Y	
Browne, Brendon S <u>Gottling, Suzanne H.</u>	Y	
Nixon, David L	Y	
Thompson, Robert B	Y	
Watrous, Rick H <u>Redd, Beth</u>	Y	
Rowe, Robert H		N
Elliott, Nancy J		N
DiFruscia, Anthony R		N
Mead, Robert D		N
O'Brien, William L	Y	N
Hagan, Joseph M		N
Perkins, Lawrence B <i>mm</i>		
Silva, Peter L <i>mm</i>		
Smith, William B	Y	

TOTAL VOTE: 13Y 5N
 Printed: 12/18/2009

JUDICIARY

Bill #: SB 431 Title: housing + Tenancy for victims...

PH Date: / /

Exec Session Date: 04 / 29 / 10

Motion: GTP/A

Amendment #: ~~17476~~ 17476

MEMBER	YEAS	NAYS
Cote, David E, Chairman	Y	
Wall, Janet G, V Chairman	Y	
Potter, Frances D	Y	
Hackel, Paul L <u>Tupper, Frank A.</u>	Y	
Preston, Philip, Clerk	Y	
Richardson, Gary B	Y	
Weber, Lucy M	Y	
Brown, Brenden S <u>Gottling, Suzanne H.</u>	Y	
Nixon, David L	Y	
Thompson, Robert B	Y	
Watrous, Rick H <u>Rodd, Beth</u>	Y	
Rowe, Robert H		N
Elliott, Nancy J		N
DiFruscia, Anthony R		N
Mead, Robert D		N
O'Brien, William L		N
Hagan, Joseph M		N
Perkins, Lawrence B <i>ml</i>		
Silva, Peter L <i>vm</i>		
Smith, William B		N

TOTAL VOTE:

11Y 7N

Committee Report

May 6, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on JUDICIARY to which was referred SB431,

AN ACT relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking.

Having considered the same, report the same with the following amendment, and the recommendation that the bill
OUGHT TO PASS WITH AMENDMENT.

Rep. Lucy M Weber

FOR THE MAJORITY OF THE COMMITTEE

MAJORITY COMMITTEE REPORT

Committee: JUDICIARY
Bill Number: SB431
Title: relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking.
Date: May 6, 2010
Consent Calendar: NO
Recommendation: OUGHT TO PASS WITH AMENDMENT

STATEMENT OF INTENT

Currently, owners of restricted rental property who wish to evict a tenant who is abusing family members must evict not only the abuser, but also the victim of the abuse and the children as well. This often results in the victim and children becoming homeless at a time of great stress. This bill protects victims of domestic violence, sexual assault or stalking who have a valid protective order by providing that they cannot be evicted solely because of the domestic violence, or stalking. It allows the landlord to evict the abuser, thus providing stability and continuity to the victim and children who may remain in the rental unit. Landlords expressed a number of concerns with the bill as passed by the Senate. The amendment addressed many of these concerns. Landlords were concerned that tenants might allege domestic violence to avoid eviction for non-payment of rent. Language has been added to make it clear that a landlord may always evict for failure to pay rent, whether there is an abusive situation or not. As to any other reason for eviction, the victim would have to show that they have a valid protective order and that the reason for the eviction (for example, noise or property damage) is related solely to domestic violence to retain possession of the rental unit. The bill provides that, once the abuser is evicted, the landlord can then change the locks at the request and expense of the remaining tenant. The landlord may also bar the evicted person from the premises, and any further entry by the evicted person would constitute trespass.

Vote 11-7

Original: House Clerk
Cc: Committee Bill File

Rep. Lucy M Weber
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

SB431, relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Lucy M Weber for the Majority of JUDICIARY. Currently, owners of restricted rental property who wish to evict a tenant who is abusing family members must evict not only the abuser, but also the victim of the abuse and the children as well. This often results in the victim and children becoming homeless at a time of great stress. This bill protects victims of domestic violence, sexual assault or stalking who have a valid protective order by providing that they cannot be evicted solely because of the domestic violence, or stalking. It allows the landlord to evict the abuser, thus providing stability and continuity to the victim and children who may remain in the rental unit. Landlords expressed a number of concerns with the bill as passed by the Senate. The amendment addressed many of these concerns. Landlords were concerned that tenants might allege domestic violence to avoid eviction for non-payment of rent. Language has been added to make it clear that a landlord may always evict for failure to pay rent, whether there is an abusive situation or not. As to any other reason for eviction, the victim would have to show that they have a valid protective order and that the reason for the eviction (for example, noise or property damage) is related solely to domestic violence to retain possession of the rental unit.

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Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

FROM: Rep. Lucy M. Weber

DATE: April 29, 2010

SUBJECT: **SB 431**, relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking..

MAJORITY REPORT: OUGHT TO PASS/AMENDMENT VOTE: 11-7

Currently, owners of restricted rental property who wish to evict a tenant who is abusing family members must evict not only the abuser, but also the victim of the abuse and the children as well. This often results in the victim and children becoming homeless at a time of great stress. This bill protects victims of domestic violence, sexual assault or stalking who have a valid protective order by providing that they cannot be evicted solely because of the domestic violence, or stalking. It allows the landlord to evict the abuser, thus providing stability and continuity to the victim and children who may remain in the rental unit.

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The bill provides that, once the abuser is evicted, the landlord can then change the locks at the request and expense of the remaining tenant. The landlord may also bar the evicted person from the premises, and any further entry by the evicted person would constitute trespass.

OK

SB 431

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Inset:

Landlords were concerned that tenants might allege domestic violence to avoid eviction for non-payment of rent. Language has been added to make it clear that a landlord may always evict for failure to pay rent, whether there is an abusive situation or not. As to any other reason for eviction, the victim would have to show that they have a valid protective order and that the reason for the eviction (for example, noise or property damage) is related solely to domestic violence to retain possession of the rental unit.

The bill provides that once the abuser is evicted, the landlord can then change the locks at the request and expense of the remaining tenant. The landlord may also bar the evicted person from the premises, and any further entry by the evicted person would constitute trespass.

Inset: Landlords expressed a number of concerns with the bill as passed by the Senate. The amendment addressed many of these concerns.

May 6, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on JUDICIARY to which was referred SB431,

AN ACT relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking.

Having considered the same, and being unable to agree with the Majority, report with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. William L O'Brien

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee: JUDICIARY
Bill Number: SB431
Title: relative to housing and tenancy protections for
victims of domestic violence, sexual assault, or
stalking.
Date: May 6, 2010
Consent Calendar: NO
Recommendation: OUGHT TO PASS WITH AMENDMENT

STATEMENT OF INTENT

This is a bill that seeks to achieve a worthy goal, but does so in a flawed manner. The first problem is that the language of the bill and the committee amendment appears to inadvertently give rise to an independent basis for an eviction – being a victim of domestic violence – and then places on the tenant the burden of defending that grounds by showing she has a protective order. The second flaw is that a court could order a tenant to leave the premises and the landlord to accept the remaining residents as the responsible tenants even though they may not have the financial ability to handle the rental or, in fact, may not be adults. These flaws will be corrected in a floor amendment, which, if adopted, will allow the goal of this bill to be achieved without unintended consequences.

Rep. William L O'Brien
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

SB431, relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking. **OUGHT TO PASS WITH AMENDMENT.**

Rep. William L O'Brien for the **Minority** of JUDICIARY. This is a bill that seeks to achieve a worthy goal, but does so in a flawed manner. The first problem is that the language of the bill and the committee amendment appears to inadvertently give rise to an independent basis for an eviction – being a victim of domestic violence – and then places on the tenant the burden of defending that grounds by showing she has a protective order. The second flaw is that a court could order a tenant to leave the premises and the landlord to accept the remaining residents as the responsible tenants even though they may not have the financial ability to handle the rental or, in fact, may not be adults. These flaws will be corrected in a floor amendment, which, if adopted, will allow the goal of this bill to be achieved without unintended consequences.

Original: House Clerk
Cc: Committee Bill File

431

Minority Report SB 353

This is a bill that seeks to achieve a worthy goal, but does so in a flawed manner. The first problem is that the language of the bill and the committee amendment appears to inadvertently give rise to an independent basis for an eviction – being a victim of domestic violence – and then places on the tenant the burden of defending that grounds by showing she has a protective order. The second flaw is that a court could order a tenant to leave the premises and the landlord to accept the remaining residents as the responsible tenants even though they may not have the financial ability to handle the rental or, in fact, may not be adults. These flaws will be corrected in a floor amendment, which, if adopted, will allow the goal of this bill to be achieved without unintended consequences.

William L. O'Brien for the Minority Opposing OTP/A.

5/5/2010

5/6/10 approved by
JCote

REGULAR CALENDAR

MINORITY REPORT

SUBJECT: SB 431, relative to housing and tenancy protections for victims of domestic violence, sexual assault, or stalking.

FROM: Rep. William O'Brien

DATE: May 5, 2010

RECOMMENDATION: OUGHT TO PASS WITH AMENDMENT

(19385) 5/6/10

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William L. O'Brien for the Minority Opposing OTP/A.

5/5/2010

431

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William L. O'Brien for the Minority Opposing OTP/A.

5/5/2010

need amendment

*or offer after OTP/A
adopted. on 2nd reading*

Cossette, Nancy

From: William O'Brien [williamlobrien@gmail.com]

Sent: Wednesday, May 05, 2010 4:59 PM

To: David E. Cote

Cc: Cossette, Nancy

Subject: Re: SB 431 minority report needed

Nancy,

I just noticed that I left out the word "ability" after financial in the blurb. If that could be corrected, I would very much appreciate it.

Thanks,
Bill O'Brien