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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 2829

February 11, 2010

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The bill was read for the first time and referred to the Committee on Civil Justice

1.1 A bill for an act
1.2 relating to landlord tenant law; modifying provisions related to expungement
1.3 of eviction records; providing access to a unit for the personal representative
1.4 of deceased tenant; amending Minnesota Statutes 2008, sections 484.014,
1.5 subdivisions 2, 3, by adding subdivisions; 504B.225; 504B.231; 504B.375,
1.6 subdivisions 1, 2, 5.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2008, section 484.014, subdivision 2, is amended to read:

1.9 Subd. 2. **Discretionary expungement.** The court may order expungement of an
1.10 eviction case court file ~~only upon motion of a defendant and decision by the court, if~~
1.11 ~~the court finds that the plaintiff's case is sufficiently without basis in fact or law, which~~
1.12 ~~may include lack of jurisdiction over the case;~~ there is a change in circumstances for the
1.13 defendant which indicates that the eviction case is not a reasonable predictor of future
1.14 tenant behavior and that expungement is clearly in the interests of justice and those
1.15 interests are not outweighed by the public's interest in knowing about the record.

1.16 Sec. 2. Minnesota Statutes 2008, section 484.014, subdivision 3, is amended to read:

1.17 Subd. 3. **Mandatory expungement.** The court shall order expungement of an
1.18 eviction case:

1.19 (1) commenced solely on the grounds provided in section 504B.285, subdivision 1,
1.20 clause (1), if the court finds that the defendant occupied real property that was subject to
1.21 contract for deed cancellation or mortgage foreclosure and:

1.22 ~~(1)~~ (i) the time for contract cancellation or foreclosure redemption has expired and
1.23 the defendant vacated the property prior to commencement of the eviction action; or

2.1 ~~(2)~~ (ii) the defendant was a tenant during the contract cancellation or foreclosure
 2.2 redemption period and did not receive a notice under section 504B.285, subdivision 1,
 2.3 clause (1), to vacate on a date prior to commencement of the eviction case;
 2.4 (2) if the defendant prevailed in the action;
 2.5 (3) if the parties have agreed to expungement; or
 2.6 (4) if the plaintiff's case is sufficiently without basis in fact or law, which may
 2.7 include lack of jurisdiction over the case.

2.8 Sec. 3. Minnesota Statutes 2008, section 484.014, is amended by adding a subdivision
 2.9 to read:

2.10 Subd. 4. **Destroyed court files.** If the court has destroyed the court file of an
 2.11 eviction case, there is a rebuttable presumption in favor of expungement.

2.12 Sec. 4. Minnesota Statutes 2008, section 484.014, is amended by adding a subdivision
 2.13 to read:

2.14 Subd. 5. **Hearing on motion.** If the defendant requests expungement when the
 2.15 eviction case is pending, the court shall rule on the request at the hearing on the eviction
 2.16 following the ruling on the eviction, unless there is good cause to hear it at a later time. A
 2.17 motion to expunge under this subdivision is available exclusively for the eviction case
 2.18 that is pending.

2.19 Sec. 5. Minnesota Statutes 2008, section 504B.225, is amended to read:

2.20 **504B.225 INTENTIONAL OUSTER AND INTERRUPTION OF UTILITIES;**
 2.21 **MISDEMEANOR.**

2.22 A landlord, an agent, or person acting under the landlord's direction or control who
 2.23 unlawfully and intentionally removes or excludes a tenant, or the personal representative
 2.24 of a deceased tenant's estate or personal representative of a tenant whose lease may be
 2.25 terminated under section 504B.265, from lands or tenements or intentionally interrupts
 2.26 or causes the interruption of electrical, heat, gas, or water services to the tenant with
 2.27 intent to unlawfully remove or exclude the tenant from lands or tenements is guilty of a
 2.28 misdemeanor. In any trial under this section, it shall be presumed that the landlord, agent,
 2.29 or other person acting under the landlord's direction or control interrupted or caused the
 2.30 interruption of the service with intent to unlawfully remove or exclude the tenant from
 2.31 lands or tenements, if it is established by evidence that the landlord, an agent, or other
 2.32 person acting under the landlord's direction or control intentionally interrupted or caused

3.1 the interruption of the service to the tenant. The burden is upon the landlord to rebut the
3.2 presumption.

3.3 The remedies provided in this section are in addition to and shall not limit other
3.4 rights or remedies available to landlords and tenants, or the personal representative
3.5 of a deceased tenant's estate or personal representative of a tenant whose lease may be
3.6 terminated under section 504B.265. Any provision, whether oral or written, of any
3.7 lease or other agreement, whereby any provision of this section is waived by a tenant, is
3.8 contrary to public policy and void. The provisions of this section also apply to occupants
3.9 and owners of residential real property which is the subject of a mortgage foreclosure or
3.10 contract for deed cancellation and as to which the period for redemption or reinstatement
3.11 of the contract has expired.

3.12 Sec. 6. Minnesota Statutes 2008, section 504B.231, is amended to read:

3.13 **504B.231 DAMAGES FOR OUSTER.**

3.14 (a) If a landlord, an agent, or other person acting under the landlord's direction or
3.15 control unlawfully and in bad faith removes, excludes, or forcibly keeps out a tenant,
3.16 or the personal representative of a deceased tenant's estate or personal representative
3.17 of a tenant whose lease may be terminated under section 504B.265, from residential
3.18 premises, the tenant, or the personal representative of a deceased tenant's estate or personal
3.19 representative of a tenant whose lease may be terminated under section 504B.265, may
3.20 recover from the landlord treble damages or \$500, whichever is greater, and reasonable
3.21 attorney's fees.

3.22 (b) The remedies provided in this section are in addition to and shall not limit other
3.23 rights or remedies available to landlords and tenants, or the personal representative
3.24 of a deceased tenant's estate or personal representative of a tenant whose lease may be
3.25 terminated under section 504B.265. Any provision, whether oral or written, of any
3.26 lease or other agreement, whereby any provision of this section is waived by a tenant, is
3.27 contrary to public policy and void. The provisions of this section also apply to occupants
3.28 and owners of residential real property which is the subject of a mortgage foreclosure or
3.29 contract for deed cancellation and as to which the period for redemption or reinstatement
3.30 of the contract has expired.

3.31 Sec. 7. Minnesota Statutes 2008, section 504B.375, subdivision 1, is amended to read:

3.32 Subdivision 1. **Unlawful exclusion or removal.** (a) This section applies to actual or
3.33 constructive removal or exclusion of a residential tenant, or the personal representative
3.34 of a deceased tenant's estate or personal representative of a tenant whose lease may be

4.1 terminated under section 504B.265, which may include the termination of utilities or the
4.2 removal of doors, windows, or locks. A residential tenant to whom this section applies
4.3 may recover possession of the premises as described in paragraphs (b) to (e).

4.4 (b) The residential tenant, or the personal representative of a deceased tenant's
4.5 estate or personal representative of a tenant whose lease may be terminated under section
4.6 504B.265, shall present a verified petition to the district court of the judicial district of the
4.7 county in which the premises are located that:

4.8 (1) describes the premises and the landlord;

4.9 (2) specifically states the facts and grounds that demonstrate that the exclusion or
4.10 removal was unlawful, including a statement that no writ of recovery of the premises
4.11 and order to vacate has been issued under section 504B.345 in favor of the landlord and
4.12 against the residential tenant, or the personal representative of a deceased tenant's estate
4.13 or personal representative of a tenant whose lease may be terminated under section
4.14 504B.265, and executed in accordance with section 504B.365; and

4.15 (3) asks for possession.

4.16 (c) If it clearly appears from the specific grounds and facts stated in the verified
4.17 petition or by separate affidavit of the petitioner or petitioner's residential tenant or the
4.18 residential tenant's attorney or agent that the exclusion or removal was unlawful, the court
4.19 shall immediately order that the residential tenant have possession of the premises, or
4.20 that the personal representative of a deceased tenant's estate or personal representative
4.21 of a tenant whose lease may be terminated under section 504B.265, have access to the
4.22 premises.

4.23 (d) ~~The residential tenant~~ petitioner shall furnish security, if any, that the court finds
4.24 is appropriate under the circumstances for payment of all costs and damages the landlord
4.25 may sustain if the order is subsequently found to have been obtained wrongfully. In
4.26 determining the appropriateness of security, the court shall consider the ~~residential tenant's~~
4.27 petitioner's ability to afford monetary security.

4.28 (e) The court shall direct the order to the sheriff of the county in which the premises
4.29 are located and the sheriff shall execute the order immediately by making a demand for
4.30 possession on the landlord, if found, or the landlord's agent or other person in charge of the
4.31 premises. If the landlord fails to comply with the demand, the officer shall take whatever
4.32 assistance may be necessary and immediately place the residential tenant in possession of
4.33 the premises or give the personal representative of a deceased tenant's estate or personal
4.34 representative of a tenant whose lease may be terminated under section 504B.265 access
4.35 to the premises. If the landlord, the landlord's agent, or other person in control of the
4.36 premises cannot be found and if there is no person in charge, the officer shall immediately

5.1 enter into and place the residential tenant in possession of the premises or provide access
 5.2 to a personal representative as directed by the court. The officer shall also serve the order
 5.3 and verified petition or affidavit immediately upon the landlord or agent, in the same
 5.4 manner as a summons is required to be served in a civil action in district court.

5.5 Sec. 8. Minnesota Statutes 2008, section 504B.375, subdivision 2, is amended to read:

5.6 Subd. 2. **Motion for dissolution or modification of order.** The landlord may, by
 5.7 written motion and notice served by mail or personally on the ~~residential tenant or the~~
 5.8 ~~residential tenant's~~ petitioner or petitioner's attorney at least two days before the hearing
 5.9 date on the motion, obtain dissolution or modification of the order for possession issued
 5.10 under subdivision 1, paragraph (c), unless the ~~residential tenant~~ petitioner proves the
 5.11 facts and grounds on which the order is issued. A landlord bringing a motion under
 5.12 this subdivision may recover possession of the premises only by an eviction action or
 5.13 otherwise provided by law. Upon the dissolution of the order, the court shall assess costs
 5.14 against the ~~residential tenant~~ petitioner, subject to the provisions of section 563.01, and
 5.15 may allow damages and reasonable attorney fees for the wrongful granting of the order for
 5.16 possession. If the order is affirmed, the court shall tax costs against the landlord and may
 5.17 allow the ~~residential tenant~~ petitioner's reasonable attorney's fees.

5.18 Sec. 9. Minnesota Statutes 2008, section 504B.375, subdivision 5, is amended to read:

5.19 Subd. 5. **Purpose.** The purpose of this section is to provide an additional and
 5.20 summary remedy for a residential ~~tenants~~ tenant, personal representative of a deceased
 5.21 tenant's estate, or personal representative of a tenant whose lease may be terminated under
 5.22 section 504B.265, who has been unlawfully excluded or removed from the rental property
 5.23 and, except where expressly provided in this section, sections 504B.285 to 504B.371 do
 5.24 not apply to proceedings under this section.