

April 3, 2025

Greetings NDAA Members!

The 69th ND Legislative Assembly has been a busy session, with a record 1,035 Bills introduced. This session we were tracking and watching 30 Bills and provided testimony on 7 Bills directly related to the Property Management industry.

Thank you to the NDAA Legislative Committee (Jeremy Petron, Jeanine Hanlan, Tanya Keck, Tess Wolf, Krista Andrews, Issac Spanjer, and Denise Hanzlik). Also, a big Thank You to the members who submitted testimony online during our Call To Action on HB 1272 and HB 1395. Your NDAA Association has strength in numbers, and it is important to share our real-world examples on how certain Bills would affect our industry.

Here is a brief recap of the more critical Bills we were watching:

HB 1272 requiring *mandatory move-in and move-out inspections, with both tenant and landlord present at a mutually agreeable time. If one party didn't show up for the inspection, absence would be deemed acceptance of the conditions.*

Most property managers and landlords do conduct move-in and move-out inspections as regular practice. However, as we know, schedules get hectic at the beginning and end of the month, and one-size doesn't fit all. Many factors are involved for move-in & out processes, including distances between locations (especially for managers of remote location properties in smaller towns across North Dakota), and emergencies do come up causing schedules to shift, or personnel not available, and tenant work schedules and availability may differ from regular office hours. In this Bill, the burden of proof would have shifted from actual conditions of the unit, to whether or not an on-site meeting occurred.

The language of the Bill required the move-out inspection to be conducted before the expiration date or earlier termination of the lease, and a reasonable estimate of noted damages listed, and acknowledgement signed by landlord and tenant at conclusion of the inspection. Although many management companies do conduct pre-move-out inspections, these are typically done to get a high-level view of any obvious damage. As we know, it is impossible to know exactly what the full costs (if any) will be until a resident has all of their belongings removed from the unit. Prior to being fully moved out, it is not yet known how well the resident will clean the unit when vacating, if there are wall holes not properly fixed from wall hangings and TV mounts, if pet odors and stains are being masked with deodorizers, if carpet damage is hidden under furniture, or if damages occur from moving furniture.

This Bill received a 'do not pass' recommendation out of House Industry, Business and Labor Committee with a 11-0-3 vote, and was **defeated** in the House vote yeas 41 - nays 47.

HB 1305 relating to the *fraudulent sale or lease of residential property and an alternative remedy to removing an unauthorized individual.*

This Bill was known as the "Squatters Bill". The original language of the Bill would have allowed a property owner or manager to request a Sheriff to immediately remove an unauthorized person residing in a residential unit and refusing to vacate, with showing proof that they do not have a leasehold right to the property.

There was opposition to the Bill that felt this would put a lot of burden on law enforcement to validate proof of the leasehold without court action. The House Judicial Committee felt it best to keep the eviction process as a court action. The Bill was amended with all of alternative remedy language removed, and only

keeping stiffer felony penalties that can be charged on individuals found guilty of unlawfully occupying a residential dwelling.

The amended Bill **passed** both Chambers, the House 85-0 and the Senate 47-0.

HB 1395 would *require a landlord to furnish proof of a completed background check only if requested by a prospective tenant, within 14 days, otherwise background check fees will need to be refunded to the prospective tenant.*

This Bill was amended. We opposed the original version, as it was quite onerous to landlords with a heavy administrative burden of furnishing proof of completed background check within 7 days to all prospective tenants.

The amended Bill passed the House 87-0 but was **defeated** in the Senate 15-31.

HB 1496 establishes *a definition of 'reasonable heat' as 68 degrees F.*

ND Century Code Section 47-16-13.1 specifies Landlord obligations for maintenance of premises, including supplying reasonable heat. This Bill adds a definition that "reasonable heat" means between October first and April thirtieth, a temperature not less than sixty-eight degrees Fahrenheit [20 degrees Celsius].

HUD regulations already establish this definition. Our take on this is, is that the key word is 'reasonable' so long as the primary or secondary heat sources are designed to reach a minimum of 68 degrees, knowing that it is nearly impossible in all structures for every square inch to maintain an exact constant temperature.

The Bill passed the House 70-19 but was **defeated** in the Senate 11-35.

HB 1610 prohibits *a landlord from charging a fee to accept cash, a check, or a money order for the payment of rent or any other payment required under the lease.*

This Bill doesn't prohibit charging a fee for any other forms of payment (ie. credit or debit cards processing). It also doesn't require a landlord to accept cash.

The Bill **passed** both Chambers, the House 78-3 and the Senate 44-0, and was signed by the Governor.

SB 2193 & SB 2222 relating *to the certification of assistance animals.*

Both Bills encompassed more stringent requirements on when a health care provider may prescribe the need for an assistance animal.

SB 2222 was **defeated** in the Senate.

SB 2193 passed the Senate 44-2 but was **defeated** in the House 12-81.

SB 2235 relating *to the priority of applied payments under a rental agreement.*

This Bill would have required any payments received from the tenant to first be applied towards outstanding rent. The reason for this, is that non-payment eviction actions can only commence for actual rent amounts. We opposed this Bill as most leases already specify the order of monies applied (ie. late fees, NSF fees, utility bills, damages, attorney fees, and then rent).

The Bill was **defeated** in the Senate 6-40.

SB 2236 relating to a cap on late fees.

This Bill would have imposed a cap on late fees of 8 percent of the overdue rent amount. We opposed this Bill citing examples that a landlord's property expenses aren't fixed, and that a landlord can subsequently take on large late fee expenses when rent payments aren't received on-time, to cover mortgage payments, insurance premiums, utility bills, vendor invoices, and staff paychecks.

The Bill was **defeated** in the Senate 7-39.

SB 2237 relating to the labor commissioner's oversight of certain landlord-tenant disputes.

This Bill would have required the Labor Commissioner to investigate any complaint against a landlord (not just Fair Housing complaints), and to take disciplinary action against a landlord. We opposed this Bill. The Labor Commissioner also opposed the Bill on the grounds that it would be fiscally expensive to add staff to take on investigative procedures, and that this could create legal challenges and risks of competing orders if Landlords were pursuing Court action against a tenant, as these are typically civil matter handled in district court.

The Bill was **defeated** in the Senate 5-41.

SB 2238 relating to expungement of eviction records after 7 years if all monetary judgment is satisfied and no other eviction offenses.

We were opposed to the original version of the Bill, which was vague on the reasons for which the eviction arose. The amended version adds clarity and is more workable as it specifies only evictions for nonpayment of rent or damage, and all rent and damage claims have been satisfied, and no other evictions have occurred within the last 7 years. The individual would still need to petition the court to have their record expunged.

A second section related to victims of domestic violence, and was evicted because of the domestic violence incident, may move to have the court seal the record upon the conviction of the assailant for domestic violence.

The amended Bill **passed** both Chambers, the Senate 45-0, and the House 88-5, and signed by the Governor.