

HB 188 – AS INTRODUCED

2013 SESSION

13-0483
05/04

HOUSE BILL **188**

AN ACT decreasing the time required for eviction notice in cases where there is a material breach of the lease and requiring the tenant to meet financial obligations under the lease pending appeal.

SPONSORS: Rep. Warden, Hills 39; Rep. Jones, Straf 24

COMMITTEE: Judiciary

ANALYSIS

This bill decreases the notice required for eviction based on material breach of the lease from 30 days to 7 days. The bill also requires the tenant to pay utility bills and other financial obligations due under the terms of the lease pending appeal of the eviction action.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT decreasing the time required for eviction notice in cases where there is a material breach of the lease and requiring the tenant to meet financial obligations under the lease pending appeal.

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

1 1 Eviction Notice; Eviction for Material Breach of Lease. Amend RSA 540:3, II to read as
2 follows:

3 II. For all residential tenancies, 30 days' notice shall be sufficient in all cases; provided,
4 however, that 7 days' notice shall be sufficient if the reason for the termination is as set forth in
5 RSA 540:2, II(a), (b), **c**, or (d).

6 2 Recognizance, by Defendant. Amend RSA 540:25 to read as follows:

7 540:25 Recognizance, by Defendant.

8 I. If the possessory action was instituted on the basis of nonpayment of rent, and the
9 defendant files a notice of intent to appeal, the defendant shall pay into court the current rent, **and**
10 **the tenant shall pay, as they become due, all utility bills and other financial obligations**
11 **the tenant agreed to pay pursuant to the lease or rental agreement between the parties to**
12 **the eviction action**, in an amount determined by the judgment of the court pursuant to
13 RSA 540:14, I, weekly and in advance. Payment of rent for one week must be made at the time the
14 defendant files notice of intent to appeal in the district court. Rent which had been payable on other
15 than a weekly basis shall be paid to the court each week based on the equivalent weekly rent
16 determined by the judgment issued by the court, pursuant to RSA 540:14, I. During the pendency of
17 the appeal, rent is payable on a weekly basis **and utilities are payable within 7 days of the date**
18 **the bill for such utilities is served upon the tenant and filed with the court. Rent** ~~and~~ **is**
19 due on the same day of the week on which the notice of intent to appeal was filed. If rent **and other**
20 **financial obligations are** ~~is~~ not paid by the due date, the court shall immediately mail a notice of
21 default to the tenant and issue a writ of possession to the landlord. If, however, the tenant pays the
22 clerk the entire amount of rent **or the entire amount of other financial obligations that have**
23 **become** due since the filing of the notice of intent to appeal prior to the service of the writ by the
24 sheriff, the writ of possession shall be recalled and the appeal shall be reinstated. Unless the appeal
25 is reinstated, the district court shall vacate the appeal and award the plaintiff the rent **and any**
26 **other** money that has been paid into court.

27 I-a. At any time during the pendency of the appeal, the landlord may file a motion to the
28 district court for recovery of the rent **or other** money that has been paid into court pursuant to
29 paragraph I. The court may grant such motion unless the tenant objects and the court rules that the

1 landlord is not lawfully entitled to the full amount of rent *or other money*. If the court rules that
2 the landlord is not entitled to the full amount of the rent *or other money*, it shall release such
3 portion of the rent *or other money* to which the court deems the landlord is lawfully entitled, if any,
4 and make specific findings in support of its decision to deny or partially deny the landlord's motion.
5 The rent *and other* money retained by the court shall be apportioned between the landlord and the
6 tenant upon final disposition of the appeal.

7 II. If the possessory action was instituted for a reason other than nonpayment of rent, the
8 defendant shall pay into court or to the plaintiff, as the court directs, all rents *and all utility bills*
9 *and other financial obligations the tenant agreed to pay pursuant to the lease or rental*
10 *agreement between the parties to the eviction action*, becoming due from the date the notice of
11 intent to appeal is filed with the district court. In any case in which the duty to pay *rent, utilities,*
12 *or other financial obligations of the tenant, or* a portion thereof is in dispute, the defendant
13 shall be required to pay such portion of the rents, *utilities, or other financial obligations of the*
14 *tenant* becoming due after the notice of intent is filed into court, as the court may direct, which
15 amounts shall be held by the court in escrow until a final decision is rendered. After such decision
16 has been rendered, the escrowed rent [~~money~~] *utilities, or other financial obligations of the*
17 *tenant*, and any accrued interest thereon shall be apportioned between plaintiff and defendant on
18 the basis of a finding of rent, *utilities, or other financial obligations of the tenant* actually due.
19 For the purpose of this section, "rent" shall mean the amount of money called for by the lease or
20 rental agreement at the time the action for possession was instituted.

21 3 Effective Date. This act shall take effect January 1, 2014.