

CHAPTER 237
HB 413 – FINAL VERSION

6Mar2013... 0345h
05/23/13 1485s
5June2013... 2101EBA

2013 SESSION

13-0484
05/04

HOUSE BILL **413**

AN ACT relative to property abandoned by tenants.

SPONSORS: Rep. Warden, Hills 39

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill provides that, under certain circumstances and if the landlord has provided the tenant with a notice of property abandonment, the landlord may assert that tenant has relinquished possession or abandoned the premises.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to property abandoned by tenants.

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

1 237:1 New Paragraph; Landlord Defense; Property Relinquished or Abandoned by Tenant.
2 Amend RSA 540-A:4 by inserting after paragraph XI the following new paragraph:

3 XII. Relinquishment of possession or abandonment of possession shall be an affirmative
4 defense to an action brought pursuant to this chapter.

5 (a) Relinquishment of possession occurs when the landlord receives a statement signed
6 by each adult tenant of a rented or leased premises stating that the tenant has relinquished
7 possession of the rented or leased premises and has no intent to return.

8 (b) Abandonment of possession means all tenants have physically vacated the premises
9 without the intent to return. There shall be a rebuttable presumption that the tenants have
10 abandoned the premises if:

11 (1) The landlord provided all tenants with a written property abandonment notice,
12 by leaving the notice at the rented or leased premises and by sending the notice by certified mail to
13 the last known address of at least one adult tenant. The property abandonment notice shall also
14 comply with subparagraph (d); and

15 (2) At least 2 of the following conditions were present:

16 (A) All adult tenants of the rented or leased premises have notified the landlord
17 in writing of their intent to vacate the premises by a certain date and that date has passed, provided
18 that the written notice of one adult tenant who has lawful possession to the premises pursuant to an
19 order under RSA 173-B shall suffice.

20 (B) All keys to the rented or leased premises have been returned to the landlord,
21 which shall include leaving all keys in the rented or leased premises.

22 (C) The tenant or tenants have removed from the rented or leased premises all
23 or the majority of their personal property, and the only items remaining in the premises are
24 inconsistent with the continued use of the premises.

25 (D) The tenant or tenants have failed or neglected to pay rent for the rented or
26 leased premises for a period of more than 91 days, provided that during those 91 days the landlord, if
27 requested to do so, provided ordinary and reasonable verification of rental information to any agency

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1 assisting the tenant or tenants, and that the landlord did not refuse to accept payment on behalf of
2 the tenant or tenants by any agency offering assistance.

3 (c) The defense of abandonment does not abrogate the landlord's duty under RSA 540-
4 A:3, VII to maintain and exercise reasonable care in the storage of the personal property of tenants
5 who have vacated the premises for a period of 7 days after the date upon which such tenants have
6 vacated the rented or leased premises. The 7 days shall begin the day after the landlord serves the
7 written property abandonment notice.

8 (d) In providing the property abandonment notice required under subparagraph (b), the
9 landlord shall use conspicuous language identifying, with specificity, the reasons the landlord deems
10 the property abandoned. The notice shall also advise the tenant or tenants of their right to retrieve
11 any personal property as well as their right to file an action under RSA 540-A. The notice must be
12 signed by the landlord, or the landlord's agent. The use of the following notice language, in at least
13 12-point type, shall be deemed sufficient notice language:

NOTICE OF PROPERTY ABANDONMENT

14 This residence, known as _____, has been abandoned. I certify that, on
15 this date, the property is believed to have been abandoned for the following circled reasons:

16 (1) You notified me in writing that you intended to vacate the premises.

17 (2) You have returned your keys to the premises.

18 (3) You have removed from the premises all or the majority of your personal property, and
19 the only items remaining in the premises are inconsistent with the continued use of the premises.

20 (4) You have failed or neglected to pay rent for the premises for a period of more than 91
21 days.

22 Because you have abandoned the premises, we will retake possession of this property and the
23 locks may be changed. We will store your personal property for 7 days from the date of the notice,
24 and you have a right to get your personal property during that time.

25 If you disagree with any action we take, you should notify us immediately. You are also entitled
26 to file what is called a "540-A petition" at your nearest court. You may have other additional legal
27 rights as well.

28 Signed: _____ Date: _____

29 Landlord's or Landlord's Agent's Mailing Address: _____

30 Landlord's or Landlord's Agent's Telephone Number: _____

31 237:2 New Subparagraph; Prohibited Practices; Remedies; Unlawful Dispossession. Amend
32 RSA 540-A:4, IX by inserting after subparagraph (d) the following new subparagraph:

33 (e) Landlord damages for any unlawful dispossession or lock-out of a tenant from the
34 premises where the landlord has re-let the premises or has a new tenant in the premises shall not be
35 less than \$3,000. In the event the damages exceed the \$3,000 minimum, the award shall not exceed
36

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1 the amount that would have been awarded pursuant to subparagraph (a).

2 237:3 Effective Date. This act shall take effect January 1, 2014.

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4 Approved: July 15, 2013

5 Effective Date: January 1, 2014