

CHAPTER 48  
HB 482-FN – FINAL VERSION

2013 SESSION

13-0760  
05/01

HOUSE BILL            ***482-FN***

AN ACT                regarding infestation of bed bugs in rental housing.

SPONSORS:            Rep. Long, Hills 42

COMMITTEE:          Judiciary

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ANALYSIS

This bill addresses landlord, tenant, and municipality responsibility for bed bug infestations.

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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                                Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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                    regarding infestation of bed bugs in rental housing.

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

1            48:1 Declaration of Purpose. The general court hereby finds that bed bug infestations in  
2 buildings across New Hampshire cause measurable economic loss to property owners and occupants,  
3 as well as significant physical and emotional suffering to occupants. The general court further finds  
4 that lack of remediation of bed bug infestations increases the spread of the pest as occupants move  
5 from one building to another, and declares that the public interest requires that reasonable  
6 measures be taken to promote prompt and effective remediation.

7            48:2 New Paragraph; Housing Standards; Minimum Standards; Bed Bugs. Amend RSA 48-A:14  
8 by inserting after paragraph I the following new paragraph:

9            I-a. The premises are infested by bed bugs and the landlord is not conducting a periodic  
10 inspection and remediation program. In this paragraph “remediation” means action taken by the  
11 landlord that substantially reduces the presence of bed bugs in a dwelling unit for a period of at least  
12 60 days;

13            48:3 New Paragraph; Minimum Standards. Amend RSA 48-A:11 by inserting after paragraph II  
14 the following new paragraph:

15            III. Enact, in the sections of their housing codes dealing with infestations of insects,  
16 provisions directed at the unique problems posed by infestations of bed bugs, provided that such  
17 provisions are no less protective of the residents of dwelling units in which bed bug infestations are  
18 found than are the provisions dealing with infestations of other kinds of insects.

19            48:4 New Paragraph; Prohibited Practices Relative to Landlords and Tenants. Amend RSA 540-  
20 A:3 by inserting after paragraph IV the following new paragraph:

21            IV-a. Entry to make emergency repairs as authorized by RSA 540-A:3, IV includes, but is not  
22 limited to, entry by the landlord to evaluate, formulate a plan for remediation of, or engage in  
23 emergency remediation of an infestation of rodents or insects, including bed bugs, provided such  
24 infestation-related emergency entry took place within 72 hours of the time that the landlord first  
25 received notice of the infestation.

26            48:5 New Paragraphs; Prohibited Practices. Amend RSA 540-A:3 by inserting after paragraph V  
27 the following new paragraphs:

28            V-a. No landlord shall willfully fail to investigate a tenant’s report of an infestation of  
29 insects, including bed bugs, or rodents in the tenant’s rented or leased premises, within 7 days of  
30 receiving notice of such alleged infestation from the tenant or a municipal health or housing code

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1 authority, or fail to take reasonable measures to remediate an infestation.

2 V-b. No tenant shall willfully refuse the landlord access to the premises to:

3 (a) Make emergency repairs as authorized in paragraphs IV and IV-a of this section; and

4 (b) Evaluate whether bedbugs are present after the landlord has received notice that bed  
5 bugs are present in a dwelling unit adjacent to the premises or a dwelling unit that is directly above  
6 or below the premises, provided the landlord gives the tenant 48 hours written notice of his or her  
7 need to enter the premises to evaluate whether bed bugs are present.

8 V-c. No tenant shall willfully refuse to comply with reasonable written instructions from a  
9 landlord or pest control operator to prepare the dwelling unit for remediation of an infestation of  
10 insects or rodents, including bed bugs, provided that such instructions are given to an adult member  
11 of the tenant household such that the tenant household has a reasonable opportunity to comply, and  
12 in all cases at least 72 hours prior to remediation.

13 V-d. Notwithstanding any other provision of this chapter, a landlord may only enter a  
14 tenant's dwelling unit without the consent of the tenant:

15 (a) To make emergency repairs pursuant to paragraphs IV and IV-a; or

16 (b) If the landlord has obtained an order authorizing the entry from a court of competent  
17 jurisdiction pursuant to RSA 540-A:4.

18 48:6 New Section; Infestation of Bed Bugs. Amend RSA 540 by inserting after section 13-d the  
19 following new section:

20 540:13-e Infestation of Bed Bugs: Liability for Costs of Remediation.

21 I. In this section:

22 (a) "Infestation of bed bugs" means the presence of bed bugs in real property rented for  
23 residential purposes.

24 (b) "Remediation" means action taken by the landlord that substantially reduces the  
25 presence of bed bugs in a dwelling unit for at least 60 days.

26 II. The landlord shall bear the reasonable costs of remediation of an infestation of bed bugs,  
27 but may recover those costs if the tenant is responsible for the infestation.

28 III. If a landlord alleges that a tenant is responsible for an infestation of bed bugs, the  
29 landlord may bill the tenant, in writing, for the reasonable costs of remediation of the infestation of  
30 bed bugs in the tenant's own unit. If within 30 days of the completion of remediation the tenant has  
31 not paid the landlord for the reasonable costs of remediation, or entered into a repayment agreement  
32 with the landlord, such failure shall be considered grounds for eviction for nonpayment of rent  
33 pursuant to RSA 540:2, II(a).

34 IV. In an eviction action for nonpayment of rent based on failure to pay the reasonable costs  
35 of remediation, or in an action for damages for the reasonable costs of remediation of an infestation  
36 of bed bugs, the landlord shall bear the burden of proving both that the tenant was responsible for

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1 the infestation and that the landlord offered the tenant the opportunity to enter into a reasonable  
2 repayment agreement.

3 V. In an eviction action for nonpayment of rent based on failure to pay the reasonable costs  
4 of remediation of an infestation of bed bugs, or in an action for damages for the reasonable costs of  
5 remediation of an infestation of bed bugs:

6 (a) Notwithstanding paragraph IV, there shall be a rebuttable presumption that the  
7 tenant is responsible for the infestation if during the 6 months prior to the inception of the  
8 defendant's tenancy, and throughout the defendant's tenancy, there were no reports, to the landlord  
9 or a municipal health or housing authority, of the presence of bed bugs in the defendant's unit or the  
10 dwelling units of a multiple-unit building that are adjacent to or directly above or below the  
11 defendant's unit, or by previous tenants in a single-family home. For the purposes of this  
12 subparagraph, the defendant's own report to the landlord or a municipal health or housing authority  
13 shall not be considered a report.

14 (b) In evaluating which party is responsible for the infestation, the court shall consider  
15 the totality of the evidence, including but not limited to the following:

16 (1) The existence and extent of bed bugs in other units or common areas anywhere in  
17 the building prior to and during the tenant's tenancy;

18 (2) In which unit bed bugs were first discovered;

19 (3) Whether and to what extent, prior to the infestation that is the subject of the  
20 litigation, the landlord undertook remediation efforts in the tenant's unit and the units adjacent to  
21 and directly above and below the tenant's unit; and

22 (4) Whether the tenant had bed bugs in the dwelling unit in which he or she resided  
23 immediately prior to moving to the unit that is the subject of the litigation.

24 48:7 New Subparagraph; Bed Bugs. Amend RSA 540:2, II by inserting after subparagraph (f)  
25 the following new subparagraph:

26 (g) Willful failure by the tenant to prepare the unit for remediation of an infestation of  
27 insects or rodents, including bed bugs, after receipt of reasonable written notice of the required  
28 preparations and reasonable time to complete them.

29 48:8 New Subparagraph; Prohibited Practices; Remedies. Amend RSA 540-A:4, IX by inserting  
30 after subparagraph (c) the following new subparagraph:

31 (d) The provisions of subparagraph (a) shall not apply to any violation of 540-A:3, V-a, V-  
32 b, or V-c.

33 48:9 Effective Date. This act shall take effect January 1, 2014.

34 Approved: June 4, 2013

35 Effective Date: January 1, 2014