

CHAPTER 203

SB 354-FN – FINAL VERSION

03/24/10 1164s

2010 SESSION

10-2858

05/04

SENATE BILL **354-FN**

AN ACT authorizing liens for unpaid building code violations and requiring landlord agents for restricted rental property.

SPONSORS: Sen. DeVries, Dist 18; Rep. Long, Hills 10; Rep. Komi, Hills 12

COMMITTEE: Public and Municipal Affairs

AMENDED ANALYSIS

This bill provides that a lien may be filed against rental property for unpaid building code violations. The bill also requires owners of restricted rental property to designate an agent for service of process.

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT authorizing liens for unpaid building code violations and requiring landlord agents for restricted rental property.

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

203:1 New Section; Housing Standards. Amend RSA 48-A by inserting after section 6 the following new section:

48-A:6-a Lien for Unpaid Fines.

I. Whenever a court of competent jurisdiction enters a fine against a property owner for violation of a housing code enacted pursuant to this chapter or for violation of the minimum standards set forth in RSA 48-A:14, the amount of said fine shall be a lien against the real property, and such lien, including as part thereof costs and necessary attorneys fees may be foreclosed upon order of the superior court pursuant to a petition for that purpose filed in said court. Such lien may be filed after 45 days following the entry of the fine.

II. Notice of said lien shall be filed with the register of deeds for the county in which the real estate is situated, and shall be recorded by the registrar.

III. Such lien shall be subordinate to any mortgage, tax lien, or encumbrance of record filed prior to the municipality's lien.

IV. If the lien authorized by paragraph I is not satisfied within 120 days of the recording of the judgment in the registry of deeds in which the property is located, it may be foreclosed upon in accordance with the process in RSA 48-A:6.

203:2 New Section; Actions Against Tenants; Landlord Agent. Amend RSA 540 by inserting after section 1-a the following new section:

540:1-b Landlord's Agent Required.

I. An owner of restricted property, as defined in RSA 540:1-a, II, who resides within the state of New Hampshire shall, within 30 days of becoming the owner or within 30 days of the effective date of this section, whichever occurs later, **file a statement with the town or city clerk** of the municipality in which the property is located that provides the name, address, and telephone number of a person within the state who is authorized to accept service of process for any legal proceeding brought against the owner relating to the restricted property. Such person authorized to accept service may be the owner of the premises.

II. An owner of restricted property who resides outside the state of New Hampshire shall, within 30 days of becoming the owner or within 30 days of the effective date of this section, whichever occurs later, file a statement with **the town or city clerk of the municipality** in which the property is located that provides the name, address, and telephone number of a person within the state who is authorized to accept service of process for any legal proceeding brought against the owner relating to the restricted property.

III. In any legal proceeding in which the property owner resides out of state and said owner fails to: (a) comply with paragraph II, and (b) appear in said proceeding, service of process pursuant to RSA 510:4 shall create a rebuttable presumption that such service was lawful and adequate. As used in this section the term "legal proceeding" includes, but is not limited to, any action at law or in equity or for the enforcement of any provision of RSA 48-A:14, or any housing code adopted by a municipality pursuant to RSA 48-A, or for the enforcement of any municipal health code, building code, or fire or life safety code. A municipality may establish a reasonable filing fee to cover the cost to the town or city clerk of maintaining a record of the filings required by this section.

IV. Any owner of restricted property who violates paragraph I or II of this section shall be subject to a \$1,000 civil penalty.

203:3 New Subparagraph; Actions Against Tenants; Exemption from Tenancy. Amend RSA 540:1-a, IV by inserting after subparagraph (e) the following new subparagraph:

(f) Vacation or recreational rental units under RSA 540-C.

203:4 Effective Date. This act shall take effect January 1, 2011.

Approved: June 22, 2010

Effective Date: January 1, 2011

TITLE LV

PROCEEDINGS IN SPECIAL CASES

CHAPTER 540

ACTIONS AGAINST TENANTS

Section 540:1-a

540:1-a Definitions. – In this chapter:

I. "Nonrestricted property" means all real property rented for nonresidential purposes and the following real property rented for residential purposes:

(a) Single-family houses, if the owner of such a house does not own more than 3 single-family houses at any one time.

(b) Rental units in an owner-occupied building containing a total of 4 dwelling units or fewer.

(c) [Repealed.]

(d) Single-family houses acquired by banks or other mortgagees through foreclosure.

II. "Restricted property" means all real property rented for residential purposes, except those properties listed in paragraph I.

III. "Rental unit" means a suite of one or more rooms located within a single building rented by the owner to one or more individuals living in common for nontransient residential purposes.

IV. The term "tenant" or "tenancy" shall not include occupants or occupancy in the following places and the provisions of this chapter shall not apply to:

(a) Rooms in rooming or boarding houses which are rented to transient guests for fewer than 90 consecutive days.

(b) Rooms in hotels, motels, inns, tourist homes and other dwellings rented for recreational or vacation use.

(c) Rooms in student dormitories, nursing homes, hospitals, convents, monasteries, asylums or group homes.

(d) A single-family home in which the occupant has no lease, which is the primary and usual residence of the owner.

(e) Residential real estate under RSA 540-B.

Source. 1985, 249:1. 2001, 277:1. 2006, 312:2, eff. Jan. 1, 2007.