

Appendix 2 Versions of Minn. Stat. § 504B.271 Over Time

The history of Minn. Stat. § 504B.271 is summarized in West's Minnesota Statutes Annotated as follows:¹

Laws 2010, c. 315, § 8-9
Laws 1999, c. 199, art. 1, § 35
St. 1998, § 566.04
Laws 1987, c. 291, § 241
Laws 1986, c. 444
Laws 1982, c. 424, § 110
Laws 1975, c. 410, § 1

Minn. Laws 1975, c. 410, § 1 read as follows:

[504.24] LANDLORD AND TENANT; ADDITIONAL REMEDIES; PROPERTY ABANDONMENT. Subdivision 1. If a tenant abandons rented premises the landlord may take possession of the tenant's personal property remaining on the premises, and shall store and care for the property. The landlord has a claim against the tenant for reasonable costs and expenses incurred in removing the tenant's property and in storing and caring for the property. The landlord may sell or otherwise dispose of the property 60 days after the landlord receives actual notice of the abandonment or 60 days after it reasonably appears to the landlord that the tenant has abandoned the premises whichever occurs last and may apply a reasonable amount of the proceeds of the sale to the removal, care, and storage costs and expenses or to any claims authorized pursuant to section 504.20, subdivision 3, clauses (a) and fb). Any remaining proceeds of the sale shall be paid to the tenant upon written demand. Prior to the sale the landlord shall make reasonable efforts to notify the tenant of the sale at least 14 days prior to the sale, by personal' service in writing or sending written notification of the sale by certified mail, return receipt requested, to the tenant's last known address or usual place of abode, if known by the landlord, and by posting notice of the sale in a conspicuous place on the premises for at least two weeks.

¹A copy of M.S.A. § 504B.271 (2022) is available at <https://birnberglegalwebsite.files.wordpress.com/2023/03/m.s.a.-sec.-504b.271-2022.pdf>

Subd. 2. If a landlord, his agent or person acting under the landlord's direction or control, in possession of a tenant's personal property, fails to allow the tenant to retake possession of the property within 24 hours after written demand by the tenant or his duly authorized representative or within 48 hours, exclusive of weekends and holidays, after written demand by the tenant or his duly authorized representative when the landlord, his agent or person acting under the landlord's direction or control has removed and stored the personal property in accordance with subdivision I in § location other than the premises, the tenant shall recover from the landlord punitive damages not to exceed \$300 in addition to actual damages and reasonable attorney's fees. In determining the amount of punitive damages the Court shall consider (a) the nature and value of the property; (b) the effect the deprivation of the property has had on the tenant; (c) if the landlord, his agent or person acting under the landlord's direction or control unlawfully took possession of the tenant's property; and (d) if the landlord, his agent or person under the landlord's direction or control acted in bad faith in failing to allow the tenant to retake possession of the property. The provisions of this subdivision shall not apply to personal property which has been sold or otherwise disposed of by the landlord in accordance with subdivision 1, or to landlords who are housing authorities, created or authorized to be created by sections 462.415 to 462.713. and their agents and employees, in possession of a tenant's personal property, except that housing authorities must allow the tenant to retake possession of the property in accordance with this subdivision.

Subd. 3. If the landlord, his agent or person acting under the landlord's direction or control has unlawfully taken possession of a tenant's personal property the landlord shall be responsible for paying the cost and expenses relating to the removal, storage or care of the property,

Part of this same session law was Minn. Laws 1975, c. 410, § 4, which read as follows:

[504.27] REMEDIES ARE ADDITIONAL. The remedies provided in sections 1, 2 and 3 are in addition to and shall not limit other rights or remedies available to landlords and tenants. Any provision, whether oral or written, of any lease or other agreement, whereby any provision of sections 1 to 4 is waived by a tenant is contrary to public policy and void. The provisions of sections 1 to 4 shall apply only to tenants as that term is

defined in section 566.18. subdivision 2, and buildings as that term is defined in section 566.18, subdivision 7. Sec. 5.

The reference to “tenants as that term is defined in section 566.18. subdivision 2” is to certain dwelling occupants.

The 1982, 1986 and 1987 session laws made no substantive changes to Minn. Stat. § 504.24.²

The 1992 legislature enacted a relevant law not cited in West’s Minnesota Statutes Annotated, to wit [1992 Minn. Laws c 376 art 1 s 9](#), which added the following language at the end of section 504.27:

The provisions of sections 504.24, 504.25, 504.255, and 504.26 apply to occupants and owners of residential real property which is the subject of a mortgage foreclosure or contract for deed cancellation and as to which the period for redemption or reinstatement of the contract has expired.

Minn. Stat. § 504.24 (1998) thus read as follows:

504.24 Property abandonment.

Subdivision 1. If a tenant abandons rented premises the landlord may take possession of the tenant's personal property remaining on the premises, and shall store and care for the property. The landlord has a claim against the tenant for reasonable costs and expenses incurred in removing the tenant's property and in storing and caring for the property. The landlord may sell or otherwise dispose of the property 60 days after the landlord receives actual notice of the abandonment or 60 days after it reasonably appears to the landlord that the tenant has abandoned the premises whichever occurs last and may apply a reasonable amount of the proceeds of the sale to the removal, care, and storage costs and expenses or to any claims authorized pursuant to section 504.20, subdivision 3, clauses (a) and (b). Any

² 1982 Minn. Laws c. 424, § 110 was a Revisor’s bill, an “act relating to Minnesota Statutes, correcting erroneous, ambiguous, omitted and obsolete references and text; eliminating certain redundant, conflicting and superseded provisions. 1986 Minn. Laws c. 444 adopted “as amended a gender-neutral revision of Minnesota Statutes.” 1987 Minn. Laws c. 291, § 241 wasn’t technically a Revisor’s bill but its only change to section 504.24 law was a non-material change.

remaining proceeds of the sale shall be paid to the tenant upon written demand. Prior to the sale the landlord shall make reasonable efforts to notify the tenant of the sale at least 14 days prior to the sale, by personal service in writing or sending written notification of the sale by certified mail, return receipt requested, to the tenant's last known address or usual place of abode, if known by the landlord, and by posting notice of the sale in a conspicuous place on the premises for at least two weeks.

Subd. 2. If a landlord, an agent or other person acting under the landlord's direction or control, in possession of a tenant's personal property, fails to allow the tenant to retake possession of the property within 24 hours after written demand by the tenant or the tenant's duly authorized representative or within 48 hours, exclusive of weekends and holidays, after written demand by the tenant or a duly authorized representative when the landlord, the landlord's agent or person acting under the landlord's direction or control has removed and stored the personal property in accordance with subdivision 1 in a location other than the premises, the tenant shall recover from the landlord punitive damages not to exceed \$300 in addition to actual damages and reasonable attorney's fees. In determining the amount of punitive damages the court shall consider (a) the nature and value of the property; (b) the effect the deprivation of the property has had on the tenant; (c) if the landlord, an agent or other person acting under the landlord's direction or control unlawfully took possession of the tenant's property; and (d) if the landlord, an agent or other person under the landlord's direction or control acted in bad faith in failing to allow the tenant to retake possession of the property. The provisions of this subdivision shall not apply to personal property which has been sold or otherwise disposed of by the landlord in accordance with subdivision 1, or to landlords who are housing authorities, created or authorized to be created by sections 469.001 to 469.047, and their agents and employees, in possession of a tenant's personal property, except that housing authorities must allow the tenant to retake possession of the property in accordance with this subdivision.

Subd. 3. If the landlord, an agent or other person acting under the landlord's direction or control has unlawfully taken possession of a tenant's personal property the landlord shall be responsible for paying the cost and expenses relating to the removal, storage or care of the property.

And, Minn. Stat. § 504.27 (1998) – still relevant -- read as follows:

504.27 Remedies are additional.

The remedies provided in sections 504.24 to 504.26 are in addition to and shall not limit other rights or remedies available to landlords and tenants. Any provision, whether oral or written, of any lease or other agreement, whereby any provision of sections 504.24 to 504.27 is waived by a tenant is contrary to public policy and void. The provisions of sections 504.24 to 504.27 shall apply only to tenants as that term is defined in section 566.18, subdivision 2, and buildings as that term is defined in section 566.18, subdivision 7. The provisions of sections 504.24, 504.25, 504.255, and 504.26 apply to occupants and owners of residential real property which is the subject of a mortgage foreclosure or contract for deed cancellation and as to which the period for redemption or reinstatement of the contract has expired.

The 1999 law was the result of recodification. In 1999 the landlord-tenant statutes were recodified by 1999 Minn. Laws ch. 199. This very long law rewrote (recodified) all the statutes in Minn. Stat. Chapters 504 and 566 into a new Minn. Stat. Chap. 504B. However, the purpose was not to change the substance of the law. The purpose was to modernize the language and make the statutes easier to read. As discussed in [Occhino v. Grover, 640 N.W.2d 357,362 \(Minn. Ct. App. 2002\)](#), the new statutes in chapter 504B and the old statutes in chapters 504/566 are meant to have the same meaning.

As part of this process, the language in the old Minn. Stat. § 504.27 (1998) was merged into the new Minn. Stat. § 504B.271 (1999).

At least that was the intention. The non-waiver language and the mortgagor/vendee language was properly merged.

However ...

The reporters who drafted Chapter 504B put most of the scattered definitions in the old Chapters 504 and 566 into a new Minn. Stat. § 504B.001. What had been the definition in section 566.18, subdivision 2 (“tenant” but meaning certain dwelling occupants) was put into Minn. Stat. § 504B.001, subd. 12 and called “residential tenant”. Wherever the old statutes had used “tenant” within the meaning of section 566.18, subdivision 2, chapter 504B used the phrase “residential tenant” – at least

that was the idea. In fact, the reporters³ screwed up and in a few instances, including the rewriting of the old Minn. Stat. § 504.24 (1998) into the new Minn. Stat. § 504B.271 (1999), the new law used the word “tenant” when it should have said “residential tenant”. That error persists to today and presumably is now the law.

As a result, when the legislature adopted and enacted the reporters’ recommended draft, 1999 Minn. Laws c. 199, art. 1, § 35, read as follows:

[504B.271] [TENANT'S PERSONAL PROPERTY REMAINING IN PREMISES.]

Subdivision 1. [ABANDONED PROPERTY.] If a *tenant* abandons rented premises, the landlord may take possession of the tenant's personal property remaining on the premises, and shall store and care for the property. The landlord has a claim against the *tenant* for reasonable costs and expenses incurred in removing the *tenant's* property and in storing and caring for the property.

The landlord may sell or otherwise dispose of the property 60 days after the landlord receives actual notice of the abandonment, or 60 days after it reasonably appears to the landlord that the *tenant* has abandoned the premises, whichever occurs last, and may apply a reasonable amount of the proceeds of the sale to the removal, care, and storage costs and expenses or to any claims authorized pursuant to section 16, subdivision 3, paragraphs (a) and (b). Any remaining proceeds of any sale shall be paid to the *tenant* upon written demand.

Prior to the sale, the landlord shall make reasonable efforts to notify the of the sale at least 14 days prior to the sale, by personal service in writing or sending written notification of the sale by certified mail, return receipt requested, to the *tenant's* last known address or usual place of abode, if known by the landlord, and by posting notice of the sale in a conspicuous place on the premises for at least two weeks.

Subd. 2. [LANDLORD'S PUNITIVE DAMAGES.] If a landlord, an agent, or other person acting under the landlord's direction or control, in

³ I’m allowed to say the reporters “screwed up” **because I was one of the five reporters of chapter 504B.** I am partially to blame for this.

possession of a *tenant's* personal property, fails to allow the *tenant* to retake possession of the property within 24 hours after written demand by the tenant or the *tenant's* duly authorized representative or within 48 hours, exclusive of weekends and holidays, after written demand by the *tenant* or a duly authorized representative when the landlord, the landlord's agent or person acting under the landlord's direction or control has removed and stored the personal property in accordance with subdivision 1 in a location other than the premises, the *tenant* shall recover from the landlord punitive damages not to exceed \$300 in addition to actual damages and reasonable attorney's fees.

In determining the amount of punitive damages the court shall consider (1) the nature and value of the property; (2) the effect the deprivation of the property has had on the *tenant*; (3) if the landlord, an agent, or other person acting under the landlord's direction or control unlawfully took possession of the *tenant's* property; and (4) if the landlord, an agent, or other person under the landlord's direction or control acted in bad faith in failing to allow the *tenant* to retake possession of the property.

The provisions of this subdivision do not apply to personal property which has been sold or otherwise disposed of by the landlord in accordance with subdivision 1, or to landlords who are housing authorities, created, or authorized to be created by sections 469.001 to 469.047, and their agents and employees, in possession of a *tenant's* personal property, except that housing authorities must allow the *tenant* to retake possession of the property in accordance with this subdivision.

Subd. 3. [STORAGE.] If the landlord, an agent, or other person acting under the landlord's direction or control has unlawfully taken possession of a *tenant's* personal property the landlord shall be responsible for paying the cost and expenses relating to the removal, storage, or care of the property.

Subd. 4. [REMEDIES ADDITIONAL.] The remedies provided in this section are in addition to and shall not limit other rights or remedies available to landlords and *tenants*. Any provision, whether oral or written, of any lease or other agreement, whereby any provision of this section is waived by a *tenant*, is contrary to public policy and void. The provisions of this section also apply to occupants and owners of residential real property which is the subject of a mortgage foreclosure or contract for deed

cancellation and as to which the period for redemption or reinstatement of the contract has expired.

(italics added).

The 2010 legislature made three changes to section 504B.271 in [2010 Minn. Laws c 315 s 8,9](#).

First, 2010 Minn. Laws c 315 s 8,9 shortened the time the landlord has to store the tenant's personalty by changing "60 days" to "28 days" in subdivision 1.

Second it changed the method of notification by mail, amending the last paragraph of subdivision 1 to read as follows:

Prior to ~~the~~ a sale, the landlord shall make reasonable efforts to notify the tenant of the sale at least 14 days prior to the sale, by personal service in writing or sending written notification of the sale by first-class and certified mail, ~~return receipt requested~~, to the tenant's last known address or usual place of abode, if known by the landlord, and by posting notice of the sale in a conspicuous place on the premises ~~for~~ at least two weeks: prior to the sale. If notification by mail is used, the 14-day period shall be deemed to start on the day the notices are deposited in the United States mail.

Third, it significantly increased the amount of punitive damages available by amending the first paragraph of subdivision 2 as follows:

Landlord's punitive damages. If a landlord, an agent, or other person acting under the landlord's direction or control, in possession of a tenant's personal property, fails to allow the tenant to retake possession of the property within 24 hours after written demand by the tenant or the tenant's duly authorized representative or within 48 hours, exclusive of weekends and holidays, after written demand by the tenant or a duly authorized representative when the landlord, the landlord's agent or person acting under the landlord's direction or control has removed and stored the personal property in accordance with subdivision 1 in a location other than the premises, the tenant shall recover from the landlord punitive damages in an amount not to exceed ~~\$300~~ twice the actual damages or \$1,000, whichever is greater, in addition to actual damages and reasonable attorney's fees.

The resulting current version of Minn. Stat. § 504B.271 reads as follows:

504B.271 TENANT'S PERSONAL PROPERTY REMAINING IN PREMISES.

Subdivision 1. **Abandoned property.** (a) If a tenant abandons rented premises, the landlord may take possession of the tenant's personal property remaining on the premises, and shall store and care for the property. The landlord has a claim against the tenant for reasonable costs and expenses incurred in removing the tenant's property and in storing and caring for the property.

(b) The landlord may sell or otherwise dispose of the property 28 days after the landlord receives actual notice of the abandonment, or 28 days after it reasonably appears to the landlord that the tenant has abandoned the premises, whichever occurs last.

(c) The landlord may apply a reasonable amount of the proceeds of a sale to the removal, care, and storage costs and expenses or to any claims authorized pursuant to section 504B.178, subdivision 3, paragraphs (a) and (b). Any remaining proceeds of any sale shall be paid to the tenant upon written demand.

(d) Prior to a sale, the landlord shall make reasonable efforts to notify the tenant of the sale at least 14 days prior to the sale, by personal service in writing or sending written notification of the sale by first class and certified mail to the tenant's last known address or usual place of abode, if known by the landlord, and by posting notice of the sale in a conspicuous place on the premises at least two weeks prior to the sale. If notification by mail is used, the 14-day period shall be deemed to start on the day the notices are deposited in the United States mail.

Subd. 2. **Landlord's punitive damages.** If a landlord, an agent, or other person acting under the landlord's direction or control, in possession of a tenant's personal property, fails to allow the tenant to retake possession of the property within 24 hours after written demand by the tenant or the tenant's duly authorized representative or within 48 hours, exclusive of weekends and holidays, after written demand by the tenant or a duly authorized representative when the landlord, the landlord's agent or person acting under the landlord's direction or control has removed and stored the personal property in accordance with subdivision 1 in a location other than the premises, the tenant shall recover from the landlord punitive damages in an amount not to exceed twice the actual damages or \$1,000, whichever is greater, in addition to actual damages and reasonable attorney's fees.

In determining the amount of punitive damages the court shall consider (1) the nature and value of the property; (2) the effect the deprivation of the property has had on the tenant; (3) if the landlord, an agent, or other person acting under the landlord's direction or control unlawfully took possession of the tenant's property; and (4) if the landlord, an agent, or other person under the landlord's direction or control acted in bad faith in failing to allow the tenant to retake possession of the property.

The provisions of this subdivision do not apply to personal property which has been sold or otherwise disposed of by the landlord in accordance with subdivision 1, or to landlords who are housing authorities, created by sections 469.001 to 469.047, or authorized to be created by and their agents and employees, in possession of a tenant's personal property, except that housing authorities must allow the tenant to retake possession of the property in accordance with this subdivision.

Subd. 3. **Storage.** If the landlord, an agent, or other person acting under the landlord's direction or control has unlawfully taken possession of a tenant's personal property the landlord shall be responsible for paying the cost and expenses relating to the removal, storage, or care of the property.

Subd. 4. **Remedies additional.** The remedies provided in this section are in addition to and shall not limit other rights or remedies available to landlords and tenants. Any provision, whether oral or written, of any lease or other agreement, whereby any provision of this section is waived by a tenant, is contrary to public policy and void. The provisions of this section also apply to occupants and owners of residential real property which is the subject of a mortgage foreclosure or contract for deed cancellation and as to which the period for redemption or reinstatement of the contract has expired.