



2021 South Dakota Legislature

House Bill 1045

Introduced by: **Representative Mulally**

1 **An Act to revise certain tenant and landlord rights.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1.** That § 21-16-1 be AMENDED:

4 **21-16-1. Grounds for action.**

5 An action of forcible entry and detainer, or of detainer only, is maintainable:

- 6 (1) If a party has by force, intimidation, fraud, or stealth, entered upon the prior actual
7 possession of real property or the occupied structure of another, and detains the
8 same;
- 9 (2) If a party, after entering peaceably upon real property or an occupied structure,
10 turns out by force, threats, or menacing conduct, the party in possession;
- 11 (3) If a party by force or by menaces and threats of violence unlawfully holds and keeps
12 the possession of any real property, or occupied structure, whether the same was
13 acquired peaceably or otherwise;
- 14 (4) If a lessee in person or by subtenants holds over after the termination of his lease
15 or expiration of his term, or fails to pay his rent for three days after the same shall
16 be due;
- 17 (5) If a party continues in possession after a sale of the real property or occupied
18 structure under mortgage, execution, order, or any judicial process, after the
19 expiration of the time fixed by law for redemption, and after the execution and
20 delivery of a deed or instrument of ownership;
- 21 (6) If a party continues in possession after a judgment in partition, or after a sale under
22 an order or decree of a circuit court;
- 23 (7) If a lessee commits waste upon the leased premises, or does or fails to perform any
24 act which, under the terms of the lease operates to terminate the same; or
- 25 (8) The lessee violates a material term of the written lease agreement between the
26 lessor and lessee.

1 The term, occupied structure, used in this chapter is defined in subdivision 22-1-2(28).

2 **Section 2.** That § 43-32-25 be AMENDED.

3 **43-32-25. Tenant's property--Small amount left presumed abandoned--**
4 **Disposal by lessor.**

5 The ~~A small amount of property~~ of a lessee, ~~the total reasonable value of which~~
6 ~~does not exceed five hundred dollars,~~ left on a leased residential premises ~~by~~ after the
7 lessee for ten days after the lessee has quit the premises, or been served with an execution
8 of possession under chapter 21-16, is presumed to have been abandoned ~~by the tenant~~
9 and the lessor of the residential premises may dispose of the abandoned property.

10 **Section 3.** That § 43-32-26 be AMENDED.

11 **43-32-26. Tenant's property--Valuable property stored--Lien--Disposal by**
12 **lessor after period.**

13 The property of a lessee, of a total reasonable value exceeding five hundred dollars,
14 left on leased residential premises by the lessee after the lessee has either quit the
15 premises, ~~shall be stored by the lessor or been served with an execution for possession~~
16 under chapter 21-16, may be immediately removed and stored by the lessor. The lessor
17 ~~shall have~~ has a lien on the property to the extent of the costs of moving, handling, and
18 storing the property. ~~After storing the property for thirty~~ The lien does not have priority
19 over a prior perfected security interest in the property.

20 If the lessee does not recover the property within twenty-eight days after quitting
21 the premises or more the lessor may treat the property as abandoned and being served
22 with the execution of possession, the landlord may retain and dispose of it the property
23 without legal process. The lessor is entitled to the proceeds from the sale of the property.