

2021 South Dakota Legislature

House Bill 1045**AMENDMENT 1045F FOR THE INTRODUCED BILL**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 order for delivery under chapter 21-16 § 21-16-10~~, is presumed to have
9 been abandoned ~~by the tenant and the~~. If the tenant has quit the premises, the lessor of
10 the residential premises may within twenty-four hours remove and store the abandoned
11 property for up to ten days or retain or dispose of the abandoned property without legal
12 process ten days after the tenant has quit the premises. The lessor may within twenty-
13 four hours dispose of the abandoned property without legal process if the tenant is served
14 with an order for delivery under § 21-16-10. The fair market value or the proceeds
15 received from the sale of the property disposed of shall be deducted from the owed balance
16 of the lessee. The lessor shall hold the balance, if any, for delivery on demand to the
17 lessee. If the lessee does not claim the balance of the proceeds within one year of the
18 date of the sale, the proceeds shall become the property of the lessor and the lessee has
19 no further recourse.

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

21 **43-32-26. Tenant's property--Valuable property stored--Lien--Disposal by**
22 **lessor after period.**

23 The property of a lessee, ~~of a the~~ total reasonable value ~~exceeding of which~~
24 ~~exceeds~~ five hundred dollars, left on a leased residential premises by the lessee after the
25 lessee has ~~either~~ quit the premises, ~~shall be stored by the lessor~~ or been served with an
26 execution for possession order for delivery under chapter 21-16 § 21-16-10, is presumed
27 to have been abandoned. If the tenant has quit the premises, the lessor of the residential
28 premises may be immediately removed and stored by the lessor within twenty-four hours
29 remove and store the abandoned property for up to twenty-eight days or retain or dispose
30 of the abandoned property without legal process twenty-eight days after the tenant has
31 quit the premises. The lessor may within twenty-four hours dispose of the abandoned
32 property without legal process if the tenant is served with an order for delivery under §
33 21-16-10, subject to the rights of a creditor having a prior perfected security interest in

1 the proceeds. The fair market value or the proceeds received from the sale of the property
2 disposed of shall be deducted from the owed balance of the lessee. The lessor shall hold
3 the balance, if any, for delivery on demand to the lessee. If the lessee does not claim the
4 balance of the proceeds within one year of the date of the sale, the proceeds shall become
5 the property of the lessor, and the lessee has no further recourse.

6 The lessor ~~shall have~~ has a lien on the property to the extent of the costs of moving,
7 handling, and storing the property. ~~After storing the property for thirty~~ The lien does not
8 have priority over a prior perfected security interest in the property.

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