
DIGEST

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Gallot

HB No. 88

Abstract: Provides for the removal and preservation of a lessee's property by the lessor during the period of 8/26/05 until 6/30/06.

Present law provides that a lessor has the right to enter leased premises to make necessary repairs.

Proposed law (R.S. 9:2554(C)) does not change present law but specifies the lessor's right to inspect the premises during the period of 8/26/05 until 6/30/06.

Present law provides for the duty of the lessor to preserve the lessee's property when the lessor is making necessary repairs.

Proposed law does not change present law.

Present law provides the lessor may remove the lessee's property when the lessee has abandoned the premises.

Proposed law does not change present law.

Present law does not provide for the lessor's right to dispose of unsalvageable property.

Proposed law (R.S. 9:2554(C)(2)) changes present law and allows the lessor to discard unsalvageable property and requires the lessor to make every reasonable effort to notify the lessee before discarding the nonsalvageable property.

Present law provides for a lessor's privilege to secure the payment of rent and other obligations.

Proposed law extends the lessor's privilege to cover the costs of removing and preserving the lessee's property.

Proposed law (R.S. 9:2554(C)(3)) provides for payment of costs of removal of the lessee's property.

Proposed law (R.S. 9:2554(D)) provides a procedure for taking evidence of the lessee's property when it is being removed.

Present law provides that whether the lessee abandoned the leased premises depends on the intent

of the lessee.

Proposed law (R.S. 9:2554(E)(1)) provides for presumption of the lessee's intent to abandon the leased premises.

Proposed law (R.S. 9:2554(E)(2)) provides that the lessee may rebut the presumption of abandonment by a showing of certain information.

Proposed law (R.S. 9:2554(F)) provides that unless otherwise agreed by the parties, in the event of the total destruction of the immovable property, the lease is terminated, and the lessor is bound to reimburse the rent paid by the lessee since the time of the total destruction of the property, except that the lessor may deduct the amounts expended for the removal and preservation of the property on the leased premises, unless otherwise covered by insurance.

Proposed law (R.S. 9:2554(G)) provides that the lessor shall not be liable to the lessee for any damage or loss for removing property of the lessee that has been abandoned or if the lessor disposes of the lessee's unsalvageable property provided that the lessor has made every reasonable effort to notify the lessee. Provides that the lessor shall not be liable to the lessee for any damage or loss if the property is removed to make necessary repairs to the leased premises, unless the damage or loss is caused by the fault of the lessor.

Proposed law defines "reasonable effort" and "unsalvageable property".

Proposed law applies retroactively to August 26, 2005, and shall supersede but not repeal any other provision of law to the extent that it conflicts with the provisions of proposed law.

Proposed law terminates on June 30, 2006.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 9:2554)