

Landlord and Tenant Issues in House F. No. 600



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House F. No. 600



Criminalization of cannabis has caused denial of housing and evictions, both of which lead to homelessness.

House F. No. 600 will help with denial of housing.

To help with eviction, it will need a couple of amendments.

Denial of Housing



[Opening the Door \(Housing Justice Center March 2021\)](#)

The information gathered for this report was substantial, including obtaining and analyzing over 50 property owner selection plans, interviewing over 400 tenants on their experiences through various means, and interviews with 13 landlords and another five online surveys (covering owners of up to 34,000 rental units). Page 5.

“Criminal history is about one-half ($\frac{1}{2}$) as likely as rental history to be identified by landlords as the most important tenant screening and selection criterion.” Page 13

Illegal drug activity is a common basis for rental application denial. Page 15.

Denial of Housing



[Success in Housing: How Much Does Criminal Background Matter? \(Wilder Research Jan. 2019\)](#)

The study includes data from more than 10,500 households, including 15,000 individuals, who resided in one of the properties owned by the partner organizations sometime between March 2010 and June 2017. Properties included Common Bond Communities, Aeon, Project for Pride in Living, and Beacon Interfaith Housing Collaborative. Page 4

Denial of Housing



Conclusions:

“Most types of criminal offenses do not significantly increase a household’s likelihood of a negative housing outcome when other observable factors are held constant.

– Of 15 categories of criminal offenses, 11 showed no evidence of a significant impact on the likelihood of a negative housing outcome.

– *Categories that show no evidence of a link to housing outcomes include: marijuana possession, other minor drug offenses, alcohol-related offenses (e.g., public consumption/open bottle), prostitution, and minor public order offenses, among others.*

The effect of a prior criminal offense on a resident’s housing outcome declines over time. The impact of a misdemeanor becomes insignificant after two years, while felonies become insignificant after five years.” Page 23

Denial of Housing



Landlord use of criminal history reports led to regulatory ordinances in Minneapolis and Saint Paul.

[Minneapolis City Code, Section 244.2030 \(c\)\(1\)](#)

[Saint Paul City Code, Chapter 193](#)

Evictions



Tenants can be evicted for illegal drug possession and use. [Minn. Stat. § 504B.171.](#)

Some cities with crime-free ordinances force landlords to evict tenants for illegal drug use to keep their rental licenses. [Landlords, Housing Advocates Reflect on Repeal of Controversial Housing Ordinance in St. Louis Park, KSTP-TV, August 18, 2020.](#)

The current version of House F. No. 600 does not change Minn. Stat. § 504B.171.

Article 1, § 8, subdivision 1 (a)(7)(ii) would allow tenant use only if explicitly permitted by the owner. This means that use where the lease is silent would be unlawful and would support eviction.

Amendments



There are a couple of options to allow tenant use unless forbidden by the landlord.

Sec. 8. [342.08] PERSONAL ADULT USE OF CANNABIS.

Subdivision 1. Personal adult use, possession, and transportation of cannabis and 20.27 cannabis products. (a) A person 21 years of age or older may:

...

(7) use adult-use cannabis and adult-use cannabis products in the following locations:

...

(ii) on private property, not generally accessible by the public, except when the person is explicitly ~~permitted~~ forbidden to consume cannabis or cannabis products on the property by the owner of the property; or”

However, if the landlord forbade use and the tenant used, the tenant could be subject to prosecution under Article 1, § 8, subdivision 5.

Amendments



Another option would leave this scenario to landlord and tenant law but not in criminal law.

Sec. 8. [342.08] PERSONAL ADULT USE OF CANNABIS.

Subdivision 1. Personal adult use, possession, and transportation of cannabis and
20.27 cannabis products. (a) A person 21 years of age or older may:

...

(7) use adult-use cannabis and adult-use cannabis products in the following locations:

...

iv. on residential property rented from the property owner. While the owner may prohibit use of cannabis and cannabis products on the property, use of cannabis and cannabis products on the property shall not subject the person to penalties under subdivision 5 of this section.

If the landlord forbade use and the tenant used, the tenant would not be subject to prosecution under Article 1, § 8, subdivision 5, but could be subject to eviction under the lease.

Amendments



Some parts of the bill add “or 342” when referring to “chapter 152.” *See* Art. 5, § 14 on page 134.

The bill does not similarly amend Minn. Stat. § 504B.171. An amendment could add “or 342” after “chapter 152” to Minn. Stat. § 504B.171, subdivision 1 (a)(2).

Amendments



504B.171 COVENANT OF LANDLORD AND TENANT NOT TO ALLOW UNLAWFUL ACTIVITIES.

Subdivision 1. Terms of covenant.

(a) In every lease or license of residential premises, whether in writing or parol, the landlord or licensor and the tenant or licensee covenant that:

(1) neither will:

- (i) unlawfully allow controlled substances in those premises or in the common area and curtilage of the premises;
- (ii) allow prostitution or prostitution-related activity as defined in section 617.80, subdivision 4, to occur on the premises or in the common area and curtilage of the premises;
- (iii) allow the unlawful use or possession of a firearm in violation of section 609.66, subdivision 1a, 609.67, or 624.713, on the premises or in the common area and curtilage of the premises; or
- (iv) allow stolen property or property obtained by robbery in those premises or in the common area and curtilage of the premises; and

Amendments



(2) the common area and curtilage of the premises will not be used by either the landlord or licensor or the tenant or licensee or others acting under the control of either to manufacture, sell, give away, barter, deliver, exchange, distribute, purchase, or possess a controlled substance in violation of any criminal provision of chapters 152 or 342. The covenant is not violated when a person other than the landlord or licensor or the tenant or licensee possesses or allows controlled substances in the premises, common area, or curtilage, unless the landlord or licensor or the tenant or licensee knew or had reason to know of that activity.

Questions



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