Bill as Introduced

SB 305- AS INTRODUCED

2000 SESSION

00-2709
09/01

SENATE BILL ***305***

AN ACT relative to payments to defeat eviction for nonpayment of rent.

SPONSORS: Sen. Johnson, Dist 3; Sen. Disnard, Dist 8

COMMITTEE: Judiciary

ANALYSIS

This bill allows a tenant to defeat an eviction for nonpayment no more than 3 times within a 12-month period by paying the arrearages and liquidated damages before the expiration of the notice of a demand for rent or notice to quit.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 305- AS INTRODUCED

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand

AN ACT relative to payments to defeat eviction for nonpayment of rent.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Payment After Notice. Amend RSA 540:9 to read as follows:

540:9 Payment After Notice. No tenancy shall be terminated for nonpayment of rent, utility charges, or any other lawful charge contained in a lease or an oral or written rental agreement if the tenant, before the expiration of the notice, pays or tenders all arrearages plus $15.00 as liquidated damages; provided, however, that a tenant may not defeat an eviction for nonpayment by use of this section more than 3 times [~~in one calendar year~~] ***within a 12-month period.***

2 Effective Date. This act shall take effect January 1, 2001.

Committee Minutes

Date: **February 16, 2000**
Time: **10:08 A.M.**
Room: **103 State House**

The Senate Committee on **Judiciary** held a hearing on the following:

SB 305 ***relative to payments to defeat eviction for nonpayment of rent.***

Members of Committee present: *Senator Pignatelli*
Senator Gordon
Senator Brown
Senator Squires
Senator Trombly
Senator Wheeler

The Chair, Senator Debora B. Pignatelli, opened the hearing by introducing and calling to testify, Senator Carl Johnson, prime sponsor of the bill.

Senator Debora B. Pignatelli, D. 13: Good morning, welcome to Judiciary. I'm going to open the hearing on SB305, and call on the prime sponsor, Senator Johnson.

Senator Carl R. Johnson, D. 3: Thank you madam chairman. For the record, I'm Carl Johnson, Senator from District 3. District 3 is all of Carroll County, Meredith and Center Harbor, in Belknap County and Milton and Middleton in Strafford County.

Senate bill 305, which you have before you today, addresses what many landlords see as a loophole in the landlord tenant law. Presently, a tenant can defeat an eviction notice by paying the back rent, plus $15 liquidated damages, three times in one calendar year. For example, a tenant may move in on July 1, 1999, and be late three times in 1999, and three times in the year 2000. SB305 would change this to three times in a twelve month period, and would address the chronically late paying tenant. And, that's the end of my testimony with the exception of one more thing. Madam chairman, I believe last year SB101 was before Public Affairs Committee, and had this exact same language, and it did pass the Senate.

Senator Debora B. Pignatelli, D. 13: And then what happened to it?

Senator Carl R. Johnson, D. 3: It died in the House, I think.

Senator Debora B. Pignatelli, D. 13: So, this is a way of having someone only be late three times, rather than being late October, November, December, January, February and March?

Senator Carl R. Johnson, D. 3: Right, madam chairman. I think it's pretty much the question of trying to level the playing field, and a little more fairness. I don't think it addresses an edge for one or the other, the tenant or the landlord.

Senator Debora B. Pignatelli, D. 13: All right, thank you. George ... ah?

George Hast: Hast, H-A-S-T ... Thank you, Senator. Thank you for this opportunity to address you people. I am a property owner, a rental property owner, and I don't necessarily run into this problem with the late ... the continuous late or eviction notices, because I have a policy where I give back money if they pay on time. And, I'd like to do away with this, because it does scare people to the fact that if they are late, they pay me sixty five dollars a month. My rent in my manufactured housing community is $290, and that's clearly understood. Should a person be in compliance with all regulations, and not owe us any money, we ask them only to pay $225.

This somewhat scares people on fixed incomes. And, when I say the first of the month, I usually give the senior citizens a chance to get their social security and get those things. And, I play it ... but, the eviction process for fifteen dollars is ... you know, that doesn't even take up the first five minutes of my aggravation of sitting down at my computer. And, I want you to understand, I'm not computer dumb ... I'm dumber and heading for dumbest.

And, to have people ... and I have had people ... that have been continuously late, until I started this rebate. But, I'd like to do away with the rebate, and I support Senator Johnson's bill.

Senator Debora B. Pignatelli, D. 13: Let me just ask you something, George, this doesn't have a whole lot to do with this bill ...but, your rent for your manufactured housing is $225 a month?

George Hast: $290 a month.

Senator Debora B. Pignatelli, D. 13: $290 a month ... for two bedroom?

George Hast: They own the house.

Senator Debora B. Pignatelli, D. 13: Oh, okay ... all right.

George Hast: For an apartment like that? But, to answer your question, my two bedrooms that I rent, are $475. $425 to $475.

Senator Debora B. Pignatelli, D. 13: And, where is that?

George Hast: Tilton.

Senator Debora B. Pignatelli, D. 13: Thank you very much. Jonathan Baird?

Attorney Jonathan Baird: Good morning, Senator. My name is Jonathan Baird, I'm an attorney at NH Legal Assistance, and shock of shocks ... I'm here to support this bill, Elliott Barry told me I should soak this for everything it was worth, but it's ... you know, I do think it's a provision of the law that's very important, and I'm glad that their tenants have an opportunity to cure it three times. I mean, sometimes people do have legitimate reasons why they get behind, so they have an opportunity to cure and pay up.

I've handled many ...I've been at Legal Aid for fourteen years, and have handled many eviction situations. I actually think that the law ...I think this is a reasonable thing that's really consistent to what the intent was to give people an opportunity to cure three times, and I understand the arguments that tenants can abuse it sometimes, and try to string together months at the end of the year and the beginning of the year. So, I think that without saying too much more, we support this, and we're not knee-jerk automatically opposed to every ... you know ... program or ... anyway, I did want to offer my support for this.

Senator Debora B. Pignatelli, D. 13: I'll make sure everybody knows about it. Ah, Joe Haas ... I can't read what you wrote on the left, as to something ... did you want to testify?

Joseph Haas [VOCALS]: Ah, just for a second. Or maybe a minute ... or a half hour ...

Senator Debora B. Pignatelli, D. 13: Well, how about somewhere between a second and five minutes?

Joe Haas: Okay ... that sounds good. I just want to be put on record that I ... protest the adoption ... ah, the people submitting this as far as their legalities ... having the authority to even enter it in this committee ... with only one member is kind of the insult to the public. To have only one person here.

Senator Debora B. Pignatelli: I'm listening...if you want to address me ...

Joe Haas: Okay, well, I hope the other ones read it later. Some of the notes that maybe have been taken from this meeting. Ah, I used to be a landlord ... my name is Joe Haas, H-A-A-S ... I live in Concord now, I used to live in Ashland, and I used to be a landlord. And, I was turned into a tenant by a corrupt legal system. I'm a member of VOCALS [Victims of a Corrupt American Legal System]. We started with 20 members ... three of them were Representatives, one of them was former Representative Roland Hemon who put in a bill of impeachment which didn't get too far.

Senator Debora B. Pignatelli, D. 13: Joe, I'm going to ask you to just talk about the bill, okay? Because you and I can talk later about your problems with me, but let's just talk about the bill.

Joe Haas: Okay. Well, as ... I'm trying to put myself into this position, that if I was turned into a tenant, and told to pay rent, which I was ... I'd paid up to the amount of the redemption of the building. I went through the sheriff sale, and I was told to pay $200 a month rent, and I paid it up to the redemption price that was required by the statute. After that, I did not pay. I was evicted. So, this ... ah, you know, payment after notice ... that if ... I did get notice from the bidder of the sheriff sale through a motion into the court to say that this guy's not paying any more. And, I wasn't paying any more because it was up to the bid price.

So, maybe this isn't the right Ch. 540, Section 9 that perhaps should be dealing with what I have to say. But, I thought that perhaps a ... an amendment could be added to this ... in line number six and seven.

Senator Debora B. Pignatelli, D. 13: And, what would the amendment say?

Joe Haas: Well, no ... I haven't had ... really ... time to study the matter. I just heard about the bill today. But, my point is that ... ah, there are definitions of tenants in RSA 540, and there are definitions of landlords ... I presume ... I haven't really studied the sections under this chapter, but somehow this is being used by the judges wrongfully. It's an abusive [sic] process, it's official oppression. And, somewhere if there is a bill in for official oppression in the House right now, but in order to ... that's like a direct attack ... but, if we could nip it in the bud [sic] on some of these ... ah, you know, ah ... other bills to address the problem, then ah ... that wouldn't have to occur. Another court action.

Senator Debora B. Pignatelli, D. 13: Well, let me just ask you something, Joe. You were a landlord, so would you want your tenants ... when you were a landlord ... to be able to pay their rent late for October, November, December, and then also be paying late for January, February and March? Or would you want to be able to evict them if they were late three months in a row, and didn't pay the rent?

Joe Haas: Well, what I'd want ... I'd want them evicted as the landlord, but what I'm saying is, I can understand their position now, because I was put into that same position ... I was forced into that position. Maybe the wording should be, "...no accepted tenancy shall be terminated for non-payment of rent." That way, it would ... ah, rule out a forced tenancy, like what was put upon me. And so, for my non-payment, which I was doing under protest, which I had a right to do, because these other statutes allowed me to redeem the property ... ah, that to put me into this position is wrong. So, I guess that's the amendment that I'd like put in.

It's under line number ... in line number two, put "...no accepted tenancy...", so that it rules out the people like, ah ... myself that went through a forced tenancy. I'm just talking off the top of my head. I mean, I wish somebody would study this matter ...and you know ... I hate to always come in here and always argue this point, 'cause [sic] I want to get down to the bottom line. And, the bottom line is the sheriff sale ... is the corruption in the judiciary, I want

those judges impeached ... just teach them a lesson so that nobody else does it in the future. But also, too, as a former landlord, I was talking to somebody else before this hearing, and I think that the fifteen dollars is too low. That amount should be increased, because if the ... if the landlord incurs more damages, then he has to go to small claims court ... to get the ...you know, the damages, the rent plus whatever. That ... I guess to hire an attorney. To hire an attorney now a days costs more than fifteen dollars, and even a property manager operates at a ... what is it, ten percent roughly ... of the rent. So, if the rent is ... the average rent in NH is what, $700 now? Roughly for a one bedroom ... so, roughly ten percent of that ... ah, I don't know what these property management fees charge, but that would be a good thing for you to look into ... as just do a survey and find out how much they charge for handling these type actions, and it should not be less than what they charge ... so, whatever their average charge is, that should be the replacement of that fifteen dollars. So, the landlord isn't out the difference. That's all I have to say.

Senator Debora B. Pignatelli, D. 13: Thank you for your testimony. William Cushman?

Bill [William] Cushman: Hi, I'm William Cushman from New Castle. I never saw the bill before, but I was thinking when I read it that the fifteen dollars is unrealistic. There's a heck of a lot of different things going on ... first of all, the owner has to arrange for another tenant if the first one doesn't quit. And, if all of a sudden after he's arranged for this guy, the guy pays up, then all kinds of things have to be backed up. So, there are costs that are hidden that we don't ... that don't even meet the eye ... and the cost of fifteen dollars couldn't possibly be more unrealistic. Thank you.

Senator Debora B. Pignatelli, D. 13: Thank you very much, Mr. Cushman. Is there anyone else that would like to testify on this bill? I don't see anyone, I'm going to close the hearing on this bill. We'll get started on 309 in just a minute or two.

The Hearing on Senate Bill 305 was closed at 10:22 A.M.

Respectfully submitted,
Laurel J. Gallant-Hanlon, Senate Secretary

SB305 2/16/2000 10:08 am

Sen Johnson: D3 → preme & intro — review of current statutes →

Sen Rojo: →

George Hast (?): → property owner → manufactured housing complex → offers "rebate" incentive currently — supports bill →

Sen Rojas: → question - rates? & charge

Jonathan Baird: → supports bill → Legal Assistance → (Elliot Barry!) "reasonable charges —!

Joe Haas: → former Landlord!?!
Ch. 540 Sect. 9
↓ ↓ ↓ ↓

Sen Rojas: → hypothetical situation interrogatory —

Hess: → offering "amendment."

Bill Cushman: → "unrealistic..."

10:22 am

Judiciary Committee

SB 305 Hearing Report

TO: Members of the Senate

FROM: Susan Duncan
Legislative Assistant

RE: Hearing report on **SB 305** – ***An Act relative to payments to defeat eviction for nonpayment of rent.***

HEARING DATE: February 16, 2000

Sponsor: Senator Carl Johnson, District 3
Senator George Disnard, District 8

What the bill does: This bill allows a tenant to defeat an eviction for nonpayment no more than 3 times within a 12-month period by paying the arrearages and liquidated damages before the expiration of the notice of a demand for rent or notice to quit.

Who supports the bill: Senator Johnson
George Hast, Tilton
Jonathan Baird, NH Legal Assistance
Joe Haas, Ashland and Concord
William Cushman, New Castle

Who opposes the bill: No one testified in opposition.

Summary of testimony received:

- This legislation is to close a loophole in the landlord – tenant law.

- Presently, a tenant can defeat eviction by paying back rent plus $15.00 three times in a calendar year.
- SB 305 changes it to three times every twelve months.
- This addresses the chronically late rent payers.
- This legislation is fair to the landlords and tenants.
- The eviction process is burdensome to the landlord. A $15.00 fee really doesn't cover the cost.
- Tenants shouldn't abuse the ability to defeat eviction by paying back rent. This legislation is fair.

Funding: Not applicable.

Future Action: No action was taken.

sfd
[file: SB 305]

Speakers

SB 305 Senate Judiciary Hearing Sign In

DATE: *FEBRUARY 9, 2000* TIME: *10:00 AM*

APPEARING: IN FAVOR	APPEARING: TO OPPOSE	NAME / REPRESENTING	WISH TO SPEAK?
X		George Haas F Sherry Chad Pac	✓
X		Jonathan Baird - NH Legal Assistance	✓
✓		Sen Carl Johnson	✓
✓ as to amend		Dr Hans Joseph Haas 5?@HotMail.com [member of VOCALS, Inc. = victims of a Corrupt American Legal System] myself re: Sheldon Haas Compton Co. Superior Ct.	✓
			✓
✓		William Cushman - New Castle	✓

Voting Sheets

SENATE JUDICIARY COMMITTEE

EXECUTIVE SESSION

SB 396

Date: 2/22 Room:

Motion of: OTP

Made by Senator:		*Seconded by Senator:*	
Pignatelli	☐	Pignatelli	☐
Gordon	☒	Gordon	☐
K. Wheeler	☐	K. Wheeler	☐
Squires	☐	Squires	☐
Trombly	☐	Trombly	☒
Brown	☐	Brown	☐
Cohen	☐	Cohen	☐
Fernald	☐	Fernald	☐

7-0 OTP

Committee Member	*Present*	*Vote*	*Reported out by*
Senator Debora Pignatelli, Chairman	☐	✓	
Senator Edward Gordon, Vice-Chair	☐	✓	✓
Senator Katherine Wells-Wheeler	☐	✓	
Senator James Squires	☐	✓	
Senator Rick Trombly	☐	✓	
Senator Mary Brown	☐	✓	
Senator Burton Cohen	☐		
Senator Mark Fernald	☐	✓	

*Amendments:

NOTES:

Committee Report

Date: February 16, 2000 Time: 10:08 PM

The Senate Committee on Judiciary held its hearing in Room 103, SH, Concord, New Hampshire.

BILL NO.: SB 305 TITLE: ***relative to payments to defeat eviction for nonpayment of rent.***

Members of the Committee present:

Senator Pignatelli
Senator Gordon
Senator Brown
Senator Fernald
Senator Squires
Senator Trombly
Senator Wheeler

Those appearing in favor:

Name and Address	Representing
See Attached.	

Those appearing in opposition:

Name and Address	Representing
See Attached.	

REPORT OF THE COMMITTEE:

- ☒ Ought to Pass
- ☐ Ought to Pass w/ Amendment
- ☐ Inexpedient to Legislate
- ☐ Rereferred
- ☐ Interim Study
- ☐ Continued Hearing
- ☐ Postponed Hearing

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: **MARCH 9, 2000**

THE COMMITTEE ON **Judiciary**

to which was referred **Senate Bill 305**

AN ACT ***relative to payments to defeat eviction for nonpayment of rent.***

VOTE: **7 / 0**

Having considered the same, report the same without amendment and recommend that the bill: **OUGHT TO PASS.**

Senator Edward M. Gordon
For the Committee