

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 88 by Representative Gallot

LEASES: Provides for removal and preservation of property by lessor during certain periods

Synopsis of Senate Amendments

1. Requires the lessor to keep certain records and document condition of the lessee's property and to move salvageable property to an available storage site.
2. Adds considerations a lessor may use in prioritizing the salvageability of movable property.
3. Includes notification by certified mail if the lessee's address is ascertainable through disaster services' websites in definition of "reasonable effort" to be considered in notification of lessees.
4. Adds requirement that posting a notice at the leased premises may be used as a method of notification if the lessee has not provided emergency contact information or cannot be reached through any other reasonable methods.
5. Adds provisions that the requirements for the lessor to preserve salvageable property and the authorization for the lessor to remove unsalvageable property is not applicable to any lessee who is occupying the premises, who has attempted to regain occupancy or has attempted to remove his property within 30 days from the date the property has been officially declared available for inspection.
6. Removes retroactivity provision, deletes applicability to certain dates but specifies that the provisions apply to leased premises directly affected by Katrina and Rita.

Digest of Bill as Finally Passed by Senate

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

Proposed law retains present law but limits applicability to leased premises directly affected by Katrina and Rita.

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

Proposed law (R.S. 9:2554(C)(2)) requires the lessor to keep written records of contacts with insurance agents, other investigators and decisions relative to retrieval, preservation and removal of movable property.

Proposed law (R.S. 9:2554(C)(3)) requires the landlord to salvage water-damaged books, heirlooms, photographs, and documents.

Proposed law (R.S. 9:2554(C)(4)) authorizes the lessor to use the following consideration when prioritizing salvageability of movable property:

- (1) Immediate susceptibility to damage.
- (2) Rarity.

- (3) Monetary value.
- (4) Whether the property is on loan.
- (5) Ability to move the object particularly without the risk of damage.
- (6) Degree of apparent damage.
- (7) Degree of susceptibility over the period of the salvage operation.

Proposed law (R.S. 9:2554(C)(5)) requires the lessor to move undamaged, moveable property to any available storage suite closest in proximity to the leased premises, if it is in an area which is not secure or stable.

Proposed law (R.S. 9:2554(D)) provides that the lessor shall document the condition of movable property before removal by either a camera or video camera with accompanying notes or voice recordings or by causing an inventory of the property.

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

Proposed law retains present law.

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

Proposed law (R.S. 9:2554(C)) 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 (R.S. 9:2554(F)) extends the lessor's privilege to cover the costs of removing and preserving the lessee's property.

Proposed law (R.S. 9:2554(C)(7)) provides for payment of costs of removal of the lessee's property.

Proposed law (R.S. 9:2554(C)(8)) provides that provisions for the preservation and disposal of property shall not be applicable to any lessee who continues to occupy the premises or who has attempted to regain occupancy or remove his property within 30 days from the date the affected area has been officially declared available for inspection.

Proposed law (R.S. 9:2554(D)) provides a procedure for taking evidence of the lessee's property when it is being removed, requiring documentation of the condition of the property by either camera or video camera accompanied by notes or viewer recordings or by making an inventory of the property.

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, has been available for contact by the lessee or present at the leased premises and has complied with the provisions of the proposed law. 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 terminates on June 30, 2006.

Proposed law provides that its provisions shall not apply to the lease or furnishing of sleeping rooms, cottages, or cabins by hotels or motels.

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

(Adds R.S. 9:2554)