



February 28, 2023,

Chair Howard  
Members of the House Housing Finance and Policy Committee  
Minnesota House of Representatives  
100 Rev. Dr. Martin Luther King Jr. Blvd  
Saint Paul, MN 55155

Chair Howard and Members of the House Housing Finance and Policy Committee:

Thank you for the opportunity to comment on House File 314. While we appreciate the need for tools to deal with landlords who are not keeping up their properties, the Minnesota Credit Union Network (MnCUN) and the Minnesota Bankers Association (MBA) oppose this bill as it is currently written.

Between our two organizations, we represent 373 financial institutions across the state of Minnesota, from the largest to the very smallest. Our members have general concerns around the implications of permitting super-priority liens, as well as specific concerns with the repeal of a court's need to determine the economic viability of repairs and would like to see language around notice to lienholders strengthened. We have shared these concerns, and suggested language to address them, with the author and proponents of the bill.

The bill provides a super-priority lien for a court-appointed administrator to remedy residential rental property code violations. This means that the administrator's lien will jump into first position, ahead of any existing mortgages. We would like to see the scope limited for this extreme remedy. First in time, first in right is a fundamental principle of the United States property system. While there are circumstances where this principle is set aside, these exceptions must be both necessary and limited for the system to continue to function.

We are aware of only one state, Illinois, that allows a super-priority lien for repairing rental properties. However, Illinois' law is limited to repair of unsafe or dangerous properties. That limitation of scope is critical since the rules for real property liens are being disrupted. The scope of this bill would include any violation of any health, safety, housing, building, fire prevention or

housing maintenance code. Using the courts to obtain a super-priority lien over existing mortgage holders is an extreme remedy for some of these violations.

Current Minnesota statute provides necessary guardrails by requiring the court to consider factors related to the long-term economic viability of the dwelling, including the market value of the property and whether present and future rents will be sufficient to cover the cost of repairs or rehabilitation. Unfortunately, this bill repeals that section of statute. We respectfully ask you to maintain this section of law. When discussing this bill with the proponents, it was stated that the cost to repair an apartment could be as high as \$90,000 per unit. This may be more than a building is worth and could render an existing mortgage worthless. It is both reasonable and appropriate for the courts to take the economic realities of a property into account when making these decisions.

Finally, we appreciate the bill requiring notice to lienholders. Lenders are not the landlords of these properties and may not be aware of issues with the property, especially if the landlord is current on their mortgage payments. This notice is essential. To best ensure it is received by the lienholder, we suggest the notice be made by certified or registered mail on the day the action is brought.

We appreciate the opportunity to comment and look forward to further discussions around how this process could be made to work for all parties.

Sincerely,

Minnesota Credit Union Network  
Minnesota Bankers Association