

CHAPTER 220  
HB 1204 - FINAL VERSION

9Mar2016... 0234h  
05/05/2016 1758s  
19May2016... 2000EBA

2016 SESSION

16-2071  
05/08

HOUSE BILL **1204**

AN ACT relative to payment of rent pending the stay of an eviction proceeding.

SPONSORS: Rep. Abrami, Rock. 19; Rep. Groen, Straf. 10; Rep. J. Ward, Rock. 19; Sen. Stiles,  
Dist 24

COMMITTEE: Judiciary

---

ANALYSIS

This bill provides that the agreement between a landlord and tenant to stay an eviction proceeding may incorporate the arrearage, future rent due, court costs, and service fees.

-----

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 220  
HB 1204 - FINAL VERSION

9Mar2016... 0234h  
05/05/2016 1758s  
19May2016... 2000EBA

16-2071  
05/08

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Sixteen*

AN ACT relative to payment of rent pending the stay of an eviction proceeding.

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

1 220:1 Landlord Tenant; Discretionary Stay Dependent on Payment of Rent; Payment of  
2 Arrearage and Current Rent Due. Amend RSA 540:13-c, II to read as follows:

3 II. Nothing in this section shall be construed to prohibit the parties in a case of nonpayment  
4 of rent from agreeing that, in spite of judgment for the plaintiff, a writ of possession shall not be  
5 issued, if the defendant makes payments in accordance with a schedule designated in the  
6 agreement. [~~However, if such payments are not made when due, a writ of possession shall be issued~~  
7 ~~upon request of the plaintiff.~~] ***The agreement may incorporate the arrearage, future rent***  
8 ***due, court costs, and service fees. The agreement shall be filed with the court and shall***  
9 ***state the date when final payment of the arrearage, court costs, and service fees are due.***  
10 ***Entering into such an agreement shall waive the defendant's right to appeal.***

11 (a) ***Every such agreement shall conspicuously state in a separate paragraph at***  
12 ***the end of the agreement the following language:***

13 ***I, TENANT/DEFENDANT IN THIS ACTION, UNDERSTAND THAT IF I FAIL TO MAKE***  
14 ***ANY OF THE PAYMENTS CALLED FOR IN THIS AGREEMENT ON TIME, THE COURT***  
15 ***MAY ORDER THE SHERIFF TO EVICT ME WITHOUT A HEARING. I ALSO***  
16 ***UNDERSTAND THAT BY SIGNING THIS AGREEMENT I AM GIVING UP MY RIGHT TO***  
17 ***FILE ANY APPEAL IN THIS CASE.***

18 (b) ***If the plaintiff has not filed an affidavit of non-compliance within 14 days***  
19 ***of the date that the final payment under the agreement established under this paragraph***  
20 ***is due, the court shall dismiss the action.***

21 (c) ***The acceptance of any payment pursuant to such an agreement shall not***  
22 ***establish a new tenancy.***

23 (d) ***If payments are not made when due, as evidenced by an affidavit of non-***  
24 ***compliance filed with the court by the plaintiff and served in hand or at the abode of the***  
25 ***defendant before the affidavit is filed with the court, the court shall issue a writ of***  
26 ***possession, within 5 business days of the filing of the affidavit with the court, and without***  
27 ***further hearing or judicial review.***

28 (e)(1) ***Notwithstanding the provisions of subparagraph (d), the court may hold***

1 *a hearing to determine whether or not a writ of possession shall issue if the defendant files*  
2 *an objection or other pleading in court within 4 business days of the filing of the affidavit*  
3 *of non-compliance and certificate of service with the court, which alleges that:*

4 *(A) The defendant made a timely tender of the required payment; or*

5 *(B) The defendant had a specific compelling cause for not tendering the*  
6 *required payment or payments on time, and that the defendant is able to tender the past-*  
7 *due payment or payments at the time the defendant files his or her objection or other*  
8 *pleading.*

9 *(2) If the court finds that the defendant's motion or other pleading do not*  
10 *meet the requirements of subparagraph (1)(A) or (1)(B), it shall issue a writ of possession.*  
11 *If the court determines that the defendant's allegations meet the requirements, a hearing*  
12 *shall be scheduled to occur within 4 business days of the filing of the defendant's objection*  
13 *or other pleading.*

14 *(f)(1) At any hearing under subparagraph (e)(2), the defendant shall have the*  
15 *burden to prove that:*

16 *(A) The defendant has made timely payments, and therefore the writ of*  
17 *possession shall not issue; or*

18 *(B) The defendant has brought to court cash or a certified check*  
19 *sufficient to tender all past-due payments, and the defendant had a specific compelling*  
20 *cause for his or her failure to tender any past-due payments.*

21 *(2) If the defendant fails to meet his or her burden of proof under*  
22 *subparagraph (1)(A) or (1)(B), the court shall issue the writ of possession.*

23 *(3) If the defendant meets his or her burden of proof under subparagraph*  
24 *(1)(B), the court shall order the defendant to tender, by cash or certified check, all past-*  
25 *due payments to the plaintiff immediately. If all past due-payments are tendered*  
26 *immediately by cash or certified check, a writ of possession shall not issue, otherwise a*  
27 *writ of possession shall issue.*

28 220:2 Effective Date. This act shall take effect upon its passage.

29 Approved: June 9, 2016

30 Effective Date: June 9, 2016