



ILA Legislative Report

On December 11th, a subcommittee of the Property Tax Implementation Committee met. This subcommittee, known as the "Definitions" subcommittee, is the most important one for residential property providers. This subcommittee talked about defining agricultural property, residential, and commercial property in perhaps different ways. It was the consensus of the subcommittee that residential rental property should be classified as residential rather than commercial. There was no formal vote taken, but it was clear that this subcommittee of five had no problem making the change. It was also the consensus of the committee that since such a change would cost local governments revenue, the move should be made over a period of five years to give local governments a chance to absorb the cost.



Joe Kelly
ILA Lobbyist

As many of you will recall, landlords have, in recent years, introduced legislation which would make the change over a five year period, essentially meaning that 20% of the savings would accrue each year. That's the system the legislature used when industrial machinery and equipment was taken off the property tax rolls.

The December 11th meeting was a very positive development. However, I must caution that we have a long way to go in the process. We still must have a vote from the full implementation committee. Even if we're successful in that vote, it's the vote from 150 legislators that really counts. That vote is more likely in 2005 than it is in 2004. The reason that 2005 is the more likely year for the vote is that the four counties doing the trial run on the new system as outlined in HF 692 need some time to see what the effects of the new system would be. The legislature is not likely going to vote on our classification change in 2004 since the property tax vote comes up anyway in 2005. If the legislature is going to make any changes to the property tax system, it has to

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It is already 2004 and time is moving so fast for the ILA.

We have been very busy planning for the future. First, an update on inspection fees.

Your ILA has been on top of this for some time now. If you remember, the City Council promised a review within six months after the ordinance was passed.

So far, no answer! We have asked the members of the Des Moines City Council for information on how they came up with the fee structure they did. No answer. We gave them information on how the new fees resulted in charging several hundred dollars for only minutes of work and thousands of dollars for only a couple hours of work. Still no answer. So, we have gone a step further. We have started the ILA-Legal Defense Fund. We have ask an attorney to begin an investigation into these fees. Right now the investigation has just begun. But it could lead to several possibilities, one being a request for discoveries or even possible litigation. Of course, using legal council is not free, so we hope everyone will contribute what they believe would be appropriate to the ILA-LDF. A recommended amount to contribute would be at least \$2 per unit owned or more if possible.

We are still working with the National Apartment Association on our partnership with them. We believe this partnership will be beneficial to all members.

Be sure to read Mark's article on the question and answer of the legal issues dealing with tenants. If you have a particular question for him, send it to: Dennis@iowalandlord.org.

As you can see Joe is keeping on top of the legislature and the property tax restructuring. If you don't know who your legislator is and want to contact them about this, go to: www4.legis.state.ia.us/find-leg/.

It is very important that the legislators hear from landlords about the importance of reclassifying

DIALOGUE WITH DIRECTORS



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- Directors: • Dennis McDonald • Dave Sollenbarger
- WebSite: www.iowalandlord.org
 - Email: ilaservices@iowalandlord.org

Ask an Attorney: Legal Q & A



by **Mark V. Hanson**, Attorney at Law,
Whitfield & Eddy, P.L.C.
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Q: A question has come up from one of our members concerning the posting of money judgements. There seems to be a lot of confusion about what can be posted and what cannot.

A: I will address service of notices to tenants, petitions for forcible entry and detainer (FED), and petitions for a money judgment. When I say mail can be by certified mail, some code sections require certified mail, some allow restricted certified mail, and some allow registered mail. In all cases certified mail is permissible so that is what I am stating in my response. Obtain and keep the white receipt with the post office date stamp for proof of mailing. Receipt of the mail by the tenant is not necessary. Except as noted in posting and mailing an FED Petition, receipt by the tenant is considered to be the day you mail the notice certified. Reference to Iowa Code is I.C.; to Iowa Rules of Civil Procedure is I.R.C.P. If you have rent subsidized housing subject to HUD regulations additional requirements may be imposed.

Notices: Any notice required under the Landlord Tenant Act, except a written notice of termination required by I.C. 562A.27, subsection 1 (notice to cure or terminate) or 2 (notice to pay rent or terminate), a notice of termination and notice to quit under I.C.562A.27A (clear and present danger), a notice to quit as required by I.C. 648.3, or a petition for forcible entry and detainer pursuant to Chapter 648, shall be deemed legally sufficient notice if made by posting at or delivering to the dwelling unit. The date of posting of the notice shall be written on the notice.

The identified excepted items in the preceding paragraph which cannot be served by merely posting may be served as follows:

1. By personal service.
2. By sending notice by certified mail whether or not the tenant signs a receipt for the notice.

Service of notices can be performed by the Landlord by delivering in hand to the tenant or mailed by certified mail to such person at their place held out as the place for receipt of communication (the rental unit) or last know residence. Note that service of court action papers (Original Notice/Petition) for either money judgment or FED cannot be performed by the landlord. See below discussion.

The court attendants will require the landlord to provide proof of service of required notices. You can do this by Affidavit, stating you served the notice, what the notice was, on whom you served it, the date, the location, attach a copy of the notice, attach the original white slip if you mailed certified, sign and date it, and have your signature notarized. I often use the following in place of a notary: "I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct." And date and sign this separate from the prior date and signature so there are two dates and signatures.

FED: A Petition for FED may be served as follows: (I would name as defendant besides your known tenants, "And all parties in possession")

1. Personal service. I.C. 631.4.2.b.; and 562A.29A.1 I.R.C.P. 1.305. This would be by the sheriff or process server, not

the landlord or employee of the landlord. Can be on the individual, or on any person residing there at least 18 years old, or on their spouse someplace else if they live together. Must be served 3 days prior to the hearing. Proof of service can be given to the court attendant at the hearing.

What if your tenant is in jail? Inform the sheriff or process server, and arrange for service by the official in charge of such institution. See I.R.C.P. 1.305(4).

2. Certified mail. I.C. 562A.29A. I am not comfortable with this one, but maybe some of you use this and it works fine. The Code does not say who can do the mailing, the landlord or the clerk of court. I would see if the clerk of court would do it upon payment of fees. If the landlord does it, I would file proof of service with the clerk of court prior to three days before hearing date.

3. Posting. I.C.631.4.2.c. After two attempts at personal service, the sheriff or process server can post each defendant by attaching to the real estate, three days before the hearing. The attempts can be the same day. The sheriff or process server will need to provide proof of service by attempted personal service and posting. The sheriff or process server or the landlord must also mail the Petition by certified mail to each defendant at least three days before the hearing. Service is not complete until you file the affidavit for proof of service of the posting and of the certified mailing with the clerk of court, which must be at least three days before the hearing.

4. A landlord can also serve by publishing in the newspaper. But, this would not be a preferable method in a residential situation, so I am not explaining it further.

Money Judgment: A petition for money judgment may be served: I.C. 631.4.1

1. Personal service. See above for personal service process. Done by the sheriff or process server. Defendant has 20 days to answer.

2. Certified mail, restricted delivery, return receipt, by having the clerk of court mail copy of original notice/petition and an answer form. Defendant has 20 days to answer.

3. If no longer a resident of Iowa, but subject to Iowa jurisdiction, there are other methods as approved by court order or service on the secretary of state, but these are not generally residential rental situations. Defendant has 60 days to answer.

4. There is no provision for service of court action papers (original notice/petition) for a money judgment action on the defendant by posting on the property.

Combined FED and Action for Money Judgment. You would file two separate actions together, and pay one filing fee. The two actions are not combined or merged. You would serve on the defendants for each action as allowed for each type. Defendant answer and hearing times are as provided for each type. I.C. 648.19.

Editors Note: If you have legal questions you would like covered in this article, please forward them to: dennis@iowalandlord.org. Opinions and advice contained should be individually considered, and if you have specific questions concerning your operation or legal responsibility you should seek qualified legal assistance of an attorney of your choice.

"The determination of the need for legal services and the choice of a lawyer are extremely important decisions and should not be based solely upon advertisements or self-proclaimed expertise. This disclosure is required by the rule of the Supreme Court of Iowa."

Directors... – Continued from Page 1 ...

residential rental property to residential as opposed to commercial. We need to tell our legislators, as Joe says, just how unfair the current system is to apartment owners and tenants.

We have also been working on the 2004 Spring Education Seminar coming up in May. More about that in the next Newsbriefs.

With everyone being so busy this time of year it is imperative that we all take a breather to appreciate all the freedoms we have in this country.

All of us at the ILA, who work for you, wish you and your families a peaceful and prosperous New Year.

The Welcome Mat

The Iowa Landlord Association is pleased to announce the latest members to join ILA.

Members:

Garry & Judy Engeltjes from Alleman
Dave & Sam Barney, Inc. from Truro

Associate Members:

We encourage our members to use the knowledge and expertise of our Associate Member(s) to help solve landlording issues and problems.

The ILA Fall Seminar

Editors Note: In last month's Newsbrief we said that we would be presenting more photos (and comments) of The 2003 ILA Fall Seminar. Other timely and news-worthy topics that affect you were covered in this newsletter. We will try bring you the photos and overview of The 2003 ILA Fall seminar again next month.



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vote in 2005, or otherwise, HF 692 goes off the books. The only scenario I see for a vote in 2004 is that there is some talk of a property tax bill in 2004. This proposed bill would freeze the rollback and take away exemptions, such as the homestead, veterans, lower income, etc. If a bill like this is offered, then we could take a run at including our phase-in proposal as a part of that bill. However, I'm not sure if the legislature really wants to take away homestead and other credits in an election year. I'm sure this push is coming from local governments.

What we're counting on is that the legislature will choose to make changes to the property tax system and will vote for a new system in 2005. This new system would have some of the existing provisions of HF 692 and some new ideas. One of those new ideas would be to reclassify residential rental property as residential rather than commercial.

Kim Dreyer, of Knapp Properties, a member of the subcommittee, told the subcommittee that about 1500 new apartment units were built in Polk County this year. He said they were all built as condos; therefore, all these properties will be assessed as residential, meaning that the shift is already taking place. Dreyer pointed out correctly that this development is not fair to existing apartment owners who find it impossible to convert to condos. The existing apartment owners are placed at a competitive disadvantage in terms of the rents they can charge. Developers are paying for the extra cost of condo construction in a matter of a few months with the savings in taxes.

As unfair as this development is, it will have the effect of helping to make our point. What you can do is to continue to talk to your legislators about this issue. Very few legislators are serving on this implementation committee. Your legislators need to continue to hear from you that the current property tax system is unfair to apartment owners and to the lowans who live in apartments. All residential property should be taxed the same. That point was made by Senator Brian Sievers (R-New Liberty), co-chair of the full implementation committee. If people live in it, it's a residential property. The other co-chair of the committee, Rep. Jim Kurtenbach (R-Nevada) is also on record as favoring the change to classify all housing as residential.

Need to Rent ???
advertise your rental at:
www.vacancy4rent.com

Would you like to list your property on the Iowa Landlord Association Apartment Rental Search but you're not on the Internet?



**Iowa Landlord Association
Apartment Search Service
Listing Form**

Make copies of this form, fill out the form and FAX to: 515-255-0675

You can mail or fax in your listing directly to our office if this would be easier for you.

To list your property, please fill out this form and send a picture of your property to our office.

Have you a rental property you wish to sell? Advertise it on the web site! Call us for details.

Interested in banner ads on our website?

ILA Rental Property Search Listing Rates

- Listing Prices = Members - \$50/mo., Non-Members - \$100/mo.
- Pictures/Logo inclusion = \$10/submission
- Picture/Logo image preparation (if needed) = \$35/hr.
- Photography Services = \$50 trip fee; \$35/hr after 1 hour; Materials at cost; Service available in the Des Moines metro and Polk County surrounding areas; Services are on a scheduled basis; Contact information@iowalandlord.org for arrangements.

Your Company: _____
 Your Name: _____
 Your Company Address _____
 Your Phone number for contact _____
 Property Address: _____
 Property City, Zip: _____

Monthly Rent Price: \$ _____ / Month
Number of Bedrooms: Studio/Efficiency 1 2 3 4+

Type of Housing: Condos, Townhomes, or Duplexes
 Unfurnished Apartments Furnished Apartments
 Single Family Dwelling Short Term Rentals Senior Community

Utility Arrangements: None Supplied Some Paid All Paid

Accommodations and General Amenities – Please check the items associated with this property:

Air Conditioning:	<input type="checkbox"/>	Dishwasher:	<input type="checkbox"/>	Wheelchair Accessible: ..	<input type="checkbox"/>
Microwave:	<input type="checkbox"/>	Stove:	<input type="checkbox"/>	Trash Compactor:	<input type="checkbox"/>
Balcony / Patio:	<input type="checkbox"/>	Refrigerator:	<input type="checkbox"/>	Garbage Disposal:	<input type="checkbox"/>
Dining Room:	<input type="checkbox"/>	Fireplace:	<input type="checkbox"/>	Pet Friendly:	<input type="checkbox"/>
Computer High				Laundry Type:	
Speed Broadband				<input type="checkbox"/> Washer / Dryer	
Internet Accessibility: ..	<input type="checkbox"/>	Cable Ready: ...	<input type="checkbox"/>	<input type="checkbox"/> Washer / Dryer Connections	
		Garage:	<input type="checkbox"/>	<input type="checkbox"/> Laundry Facility	

Community Accommodations and Amenities

Club House:	<input type="checkbox"/>	Storage Facilities:	<input type="checkbox"/>	Gated Access:	<input type="checkbox"/>
Public Transportation: ..	<input type="checkbox"/>	Tennis Courts:	<input type="checkbox"/>	Playground:	<input type="checkbox"/>
Fitness Center:	<input type="checkbox"/>	Swimming Pool: ..	<input type="checkbox"/>	Whirlpool / Spa:	<input type="checkbox"/>

Run Dates of Your Listing

Date Begin: _____ Date End: _____

Your Email Address:

Additional Information About This Rental:

**** Don't Have A F.A.X. - - Just copy and mail your form to us. ****



(HINT! For the cost of an ILA membership - Non-members can purchase their membership, save money and experience ALL the benefits of ILA membership!)

Need to Rent ???
advertise your rental at:
www.vacancy4rent.com