



**ILA Legislative Report**

The second and final year of the 80<sup>th</sup> General Assembly is underway. It's an election year. The state budget is a mess, as are most other state budgets except Wyoming, where there is a surplus because of high oil prices. Governor Vilsack wants to include the sales tax on services which are currently exempt. Even the Democrats in the legislature don't want to do that.



**Joe Kelly**  
*ILA Lobbyist*

The Iowa Supreme Court threw everyone a curve by not following the U.S. Supreme Court's lead on the taxation of gambling. The Iowa Court stated again that all gambling must be taxed the same. The court decision will no doubt lead to additional lawsuits on why there is a difference in the taxation of different kinds of property, as well as why the state has anything other than a flat tax on income. One could even make the argument that Governor Vilsack is making: why is any kind of activity exempt from the sales tax?

The Iowa Supreme Court really muddied the waters. Until the gambling issue is resolved with legislation, the decisions on the budget can't get done.

Meanwhile, there are various pieces of legislation being filed at the Capitol, some of which isn't good for landlords. Some of our legislative positions are even becoming ironic. Twice, in recent years, landlords have supported an increase in the jurisdictional amount handled by the small claims courts. It wasn't that long ago when the limit was \$2,000. It's now \$5,000. There are those who want \$10,000. SF 2106 has passed out of the Senate Judiciary Committee. SF 2106 places the amount at \$8,000. Most landlords are against SF 2106 when they realize that landlords usually win money judgments, but usually don't collect on them. They also become concerned that if small claims court gets busier, which it will with the limits raised, then eviction cases might not be handled in a speedy fashion. Landlords have worked for years convincing the legislature that

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Whether or not you're a landlord operating rental property in the City of Des Moines, this article is a "Must Read" because it may affect YOU!

**DIALOGUE WITH DIRECTORS**



Last year the City of Des Moines drastically increased its cost of rental housing inspections. The City claims to spend an exorbitant \$1.2 million a year to inspect rental units while claiming to collect only \$400,000 from landlords. But we believe that the inspection fees paid by Des Moines landlords are much greater than the City's cost to perform these inspections.

We also feel that other City services are being funded by the rental inspection fees. To us, the huge increase in inspection fees is an unjust practice put in place to make up for shortfalls in the City budget. City Council Communication 02-520, Item 50 from the Office of the City Manager, states, "If fees had been raised for inflation at the rate of 3 percent per year, the 2003 rates . . ." and the item went on to list the individual increases. Did the City take into account the recent recession, and that it had no problem asking unemployed or displaced workers to pay the raised inspections through increased rent? Did those renters receive a 3-percent raise each year to pay for the increased inspections?

How does this problem affect landlords that don't operate rental housing in Des Moines? Des Moines suburbs and other municipalities across the state are looking at what Des Moines does to solve its financial woes. Some cities may have already increased their fees beyond actual costs— and we expect other cities to follow suit.

Your Iowa Landlord Association has hired a law firm to investigate and possibly litigate this expensive and unfair fee structure imposed by the City. We have thus far incurred over \$3,000 in legal expenses. We are turning to our members for help, as a contribution of only \$2.00 per apartment owned or managed would make a huge difference in this battle. Assuming that we are successful in this mission, your contribution could be a very valuable and cost-saving investment.

***This Month's March 2004 NewsBrief .....***

- Dialogue With Directors
- ILA Legislative Report
- The Welcome Mat

- Ask An Attorney
- Why Do Residents Rent
- Advertise with ILA

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## Ask an Attorney: Legal Q & A

by **Mark V. Hanson**, Attorney at Law,  
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**Q: When an action for money judgement is filed at the courthouse, can you bring action against the co-signer (who has money) and not the tenant (who does not have money)? Do both need to be served by personal serve or can the tenant be served by certified mail only?**

**A:** This is in effect a follow up of January's question concerning service in the case of actions for money judgment.

Who to name in the action: You can certainly bring action against the co-signer who has the money. There is no reason not to also name the tenant. In fact you want all parties named. You do not want to go to the court with less than all potential liable individuals named. You do not want to open the door for the co-signer to make any argument to the judge that for some reason he is liable only in the event the tenant does not pay and the landlord has exhausted all efforts against the tenant, and you not have the tenant a party to the action. You want a "joint and severable" judgment against both. That means you can pursue either to satisfy the judgment. How do you serve the Original Notice for a Money Judgment action with a co-signer? You treat each defendant the same. Being a co-signer does not change how a petition for money judgment may be served. I.C. 631.4.1 controls: Either the co-signer or the tenant may be served as follows:

1. Personal service. 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. You may not serve court action papers (original notice/petition) for a money judgment action on the defendant by posting on the property.

Lease co-signer provision. When you have someone co-sign with the tenant, you want your lease provision to state that the co-signer is jointly liable for the rent without notice, that you are not required to first exhaust all remedies against the tenant, and that any required notices for lease violation, for non-payment of rent, or termination of lease for any cause need only to be served on the tenant.

**Editors Note:** If you have legal questions you would like covered in this article, please forward them to: [dennis@iowalandlord.org](mailto: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."*

## Why Do Residents Rent Your Homes?

Every resident has two reasons for deciding to rent your property. The first is because they need a place to live. The second is more abstract and may be one of the following reasons: Financial-your property is offered at the best rental rate of other comparable properties;

Location-your property is the best location they can find; convenient to key places the resident frequents, ie work, school, stores, bank, church; Upgrades / extras - your property offers features and items that others did not offer.

The next time a prospect calls or looks at one of your properties, try to determine which of the three factors applies to their needs.

From all responses you receive from the prospects, determine which factors are the most appealing for your property. Then make a list of why your property is a

great match for those factors. Tailor your presentation to meet those needs. You should be able to easily state reasons that match most of your prospects interest.

(from Rent & Retain Magazine)

## The Welcome Mat

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

### **Members:**

Scott Hessenius from West Des Moines  
Todd Omundson from Bondurant  
Bret Parkhill from Altoona

### **Associate Members:**

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

## Legislative Report... – Continued from Page 1 ...

eviction cases need to have priority. Also, since small claims could have more activity, there will be pressure to raise the current \$50 filing fee. SF 2106 also contains a provision that if a small claims case is appealed, the district court can hear the case as if it's brand new. That's a big change in the law. In other words, if the tenant loses, then a new strategy can be adopted in district court. That would be a nightmare for landlords. For the business community, the change might be good. Since there may be more frivolous suits against business at the \$8,000 level, businesses will be more inclined to appeal to district court where there are different rules about motions and discovery procedures. Small claims was meant for less complicated cases. Business would be better off not seeing the amount get too high. They don't need to see more cases being filed, and then having to appeal them all to district court.

As for the property tax issue, Rep. Jim Kurtenback (R-Nevada) is still trying to get some legislation passed on property taxes this year. There doesn't seem to be as much interest in the subject in the Senate. At this point, it appears that next year will be the year for property taxes. Last year's legislation will sunset unless the legislature takes action next year. Landlords should continue talking about the need for reclassification from commercial to residential as you visit with your legislators.

There have been two bills so far particularly aimed at landlords. The first is SF 2074, by Senator Joe Bolkcom (D-Iowa City) and Senator Mike Connolly (D-Dubuque). The bill deals with disclosure requirements regarding the environmental status of rental property. The bill would require the landlord to disclose in writing before the beginning of the tenancy whether the property is listed in the comprehensive environmental response compensation and liability information system maintained by the federal environmental protection agency, whether the property is listed on the registry of hazardous waste or hazardous substance disposal sites, or whether the property is enrolled in the land recycling program.

Obviously, the vast majority of properties aren't on any of these lists and such a disclosure would only alarm residents and potential residents. Landlords are on record opposing SF 2074.

The next bill actually has been filed three times: HF 2239, HF 2248, and SF 2117. All three bills are exactly the same. It's evidence that some organized group has been contacting legislators. The issue is whether a tenant who is the object of abuse from another person, not a

tenant, has the proper notification of options when the landlord gives a clear and present notice. This proposed law would place the burden on the landlord to make sure that the tenant knows all the legal options.

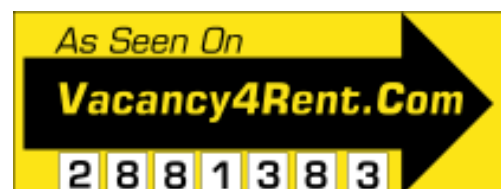
The law currently provides that if a tenant has a restraining order or some kind of protective order against another person, has called the police or county attorney as a prelude to filing criminal charges, or has written a letter to the dangerous person, telling that person not to come back to the premises, and sends this letter to authorities, then the tenant can't be evicted under the clear and present danger statute. However, this evidence must be presented to the landlord before the eviction suit is filed.

The point of the changed notification from the landlord is to show the abused tenant that there are options available to the tenant. In other words, the tenant may have taken some of the steps for protection, but may not know that these steps could save the tenancy. However, the bills are poorly drafted, or perhaps are clever by design. There is another section of the proposal which adds to the code that if a tenant has called the police in a spousal abuse situation, then the landlord can't retaliate by filing suit for an eviction. If the eviction is filed anyway, there is a presumption of retaliation against the landlord who must prove that there was not retaliation involved.

Representatives Mascher and Lensing of Iowa City, both Democrats, filed HF 2239. HF 2248 came from Rep. Boal (R-Ankeny) and Rep. Huser (D-Altosna). Senator Tinsman (R-Davenport) filed SF 2117.

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## Run Until It Rents!



It is "Spring Clean-Up" time, and we want to help you rent those vacancies you have. Many ILA member landlords have already taken advantage of the "It Runs Until You Rent" program. We have seen these signs sprouting up all over. You may have seen them too! We are delighted by the acceptance of our "It Runs Till You Rent" campaign with Vacancy4Rent.com.

Because of the success of this program, we are extending the "It Runs Till You Rent" offer through the end of this month. (See Our Coupon)

**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](mailto: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](http://www.vacancy4rent.com)