



ILA Legislative Report

The 81st General Assembly convened on Monday, January 10th. Another way of putting it is that this is the 161st year that Iowa has had a legislature. Over these years thousands of Iowans have come together to jointly represent the interests and needs of society. The problems are never fully solved, nor are the opportunities fully realized. However, these citizens we elect work hard. Although some of them are retired from other professions, many are still farmers, teachers, attorneys, and business people. It's still an advantage not to have a full time legislature as many of the larger states have.



Joe Kelly
ILA Lobbyist

In Iowa, most of the legislators have to professionally live under the laws they create.

Governor Tom Vilsack is entering into his last two years as Governor. His first six years were spent with a Republican legislature. Governor Vilsack has more bargaining power for the last two years of his term because Democrats have picked up nine seats: four in the Senate, resulting in the much publicized 25-25 split, and five in the House, narrowing the margin to 51-49 in favor of the Republicans. A Governor has always had veto power over legislation, but now the co-majority leaders of the Senate will also have veto power.

In Governor Vilsack's state of the state message, he again alluded to the need for property tax reform. He mentioned that commercial taxpayers were taking on too much of the burden in the system. Vilsack knows that high property taxes are a problem for recruiting businesses to come to Iowa, as well as a problem for entrepreneurs seeking to start a business here. Other than Vilsack's reference to commercial taxpayers, which of course includes any residential rental property larger than a duplex, he had no specific recommendations on how to solve the problem.

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During January, chairpersons for your committees were installed. We wish to thank the following for volunteering their time and expertise:

DIALOGUE WITH DIRECTORS



- Education committee Tina Busch
- Fund Raising committee Karen Hinds
- Legislative committee Dennis McDonald
- Membership committee Melissa Johnson
- Public Relations committee Mary Spain

We are looking forward to the additional events, services and camaraderie produced by these committees.

The next ILA Educational Seminar will be held on May 5th, during the afternoon at the Downtown Holiday Inn in Des Moines.

One of the topics that will be covered is "How to file, serve and collect on money judgments" Your Association's "Legal Eagle" Mark Hanson, Attorney at Law, will be the speaker on that subject. We will also be looking forward to a visit by a representative from The National Apartment Association. This promises to be an exciting and informative get together, so mark your calendars now.

Remember to contact your state senator regarding high property taxes that apartment owners are subjected to: 515-281-3371 or your state representative at 515-281-3221. To get information at the state capitol call the Legislative Information Office at 515-281-5129 or e-mail them at: LIOinfo@staff.legis.state.ia.us.

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This Month's February 2005 NewsBrief		
<ul style="list-style-type: none"> • Dialogue With Directors • ILA Legislative Report • The Welcome Mat • Ask An Attorney 	<ul style="list-style-type: none"> • Florida Forced Access Introduced • ID Theft Exemption for Managers 	<p>Directors: • Dennis McDonald • Dave Sollenbarger</p> <ul style="list-style-type: none"> • WebSite: www.iowalandlord.org • Email: ilaservices@iowalandlord.org

Ask an Attorney: Legal Q & A



by **Mark V. Hanson**, Attorney at Law,
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A couple of shorter questions:

Q1. Other than common courtesy, is there any law that requires a landlord to do a walk through inspection with the tenant present for determining the condition of the premises for the refund of the security deposit?

Q2. In some states, it is a violation of state law to discriminate based on the prospective tenant's source of income, i.e. Section 8 voucher program. What does Iowa law say about this type of discrimination?

A1. Iowa Landlord Tenant Law does not have any requirements regarding a landlord accompanying the tenant in a move-in or move-out inspection. So this is then a property management and business practice question.

It would certainly be prudent to accompany the tenant for both inspections. That way if there is some matter that needs attention, it can be identified and remedied promptly. It protects both the landlord and the tenant for both to be aware not only of the condition of the property, but also that the other party is also aware of the condition at a particular point in time. And deficiencies should be written down, and both parties initial or sign.

Sometimes that is not possible. Have any of you had a tenant move out in the middle of the night? If the tenant is not available to do a move-out inspection with the landlord, the landlord should document any deficiencies. Ways to do this include taking pictures and having another person with you when you first enter the rental property. If you plan to keep some of the deposit or sue the tenant for damages, you will want as much evidence as possible to prove your basis for keeping deposit or for suing for damages.

And remember you need to give the tenant notice of keeping the deposit within 30 days of termination and receipt of the tenant's mailing address or delivery instructions. I.C. 562A.12(4.). You may retain for a) default in payment of rent or other funds owed to the landlord, b) to restore the unit ordinary wear and tear excepted, c) expenses incurred in acquiring possession from a tenant who does not act in good faith to surrender and vacate.

A2. The landlord has ability to establish reasonable admissions criteria. However the landlord cannot discriminate on renting to an individual on any criteria based on a protected class. Protected class is race,

color, creed, religion, national origin, ancestry, sex, disability and familial status. You will notice that source of income is not a protected class. You have the ability to inquire about current and past income, current and past employer, bank account or lender, credit references, utility company references, credit history, current and past rental information, legal action. These can all be indices of their ability and willingness to timely pay rent.

Another concern is that all applicants be treated equally and consistently. You cannot use permissible criteria in a manner which is not permissible, or in a manner that hides discrimination based on a protected class. For example, if you use source of income as a determination for renting to a prospective tenant of one race, you would need to use the same criteria for all prospective tenants regardless of race. If you ask certain questions concerning source of income of a prospective tenant of one gender, you would need to ask the same questions of all prospective tenants regardless of gender. And so forth.

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."

The Welcome Mat

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

Members:

Jerrold Narland, J & O Narland Trust of Winterset, Ia
James & Tauri Phillips of West Des Moines, Iowa
Karen Russell, Russell Rentals of Des Moines
Joe Comes, Comes Properties of Des Moines

Associate Members:

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

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advertise your rental at:
www.vacancy4rent.com

Forced Access Legislation Introduced in Florida

The telecommunications industry has enlisted Sen. Mike Haridopolos (R-Melbourne) to sponsor and introduce SB 762 enabling "forced access" in residential real estate. As written, the legislation requires that a provider of telecommunications services or Voice Over Internet Protocol services be granted access to multitenant properties if the provider complies with specified standards. If enacted, this legislation could deny owners the ability to bring in an alternative telecommunications provider by granting them an exclusive right to serve residents in owners' buildings or developments. The measure could also ban owners' rights to have exclusive contracts with telecommunications providers or determine what telecommunications companies may access the residents in specific developments.

This is likely to be a lengthy and contentious issue in Florida. The Legislature will convene on March 8. (Florida Apt. Assn. - Todd J. Cohn)

ILA Legislative Report

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The Property Tax Review Committee ended with a whimper. Bad weather forced cancellation of the final meeting on January 5th. It's probably just as well. Members were struggling with what kind of recommendations to come up with. There will be no future meeting of the committee. It's time for the legislature to act. The Iowa League of Cities and the Iowa State Association of Counties received much publicity over their joint plan, which would have been a disaster for residential rental properties, providing no tax relief and doubling taxes on rental homes and duplexes. You will be relieved to know that the local governments' recommendations appear to be dead at the legislature.

The Republicans are asking the Iowa Association of Business and Industry, the Iowa Realtors, the Iowa Bankers Association, and the Iowa Farm Bureau to come up with a property tax plan. This new plan will focus on limiting spending by local governments. It's not known yet whether the plan will include a position on reclassifying rental properties currently classified as commercial to residential. Such a change would cost money. Who would pay for this change? Usually it is other business taxpayers. If that's the case, don't look for much help from other business groups. The ball is in our court. We have to create the pressure so that legislators will want to help us solve the problem.

PMAM Secures First-in-Nation Exemption for Property Managers in Identity Theft Package

Identity Theft or "ID Theft" was a hot legislative topic in 2004. To great fanfare, the Michigan Legislature passed a package of bills specifically regulating the use of Social Security Numbers by commercial interests. The bills most relevant to property managers were SB 657 (Public Act 462 of 2004) and SB 795 (Public Act 454 of 2004).

The bills, as passed by the state Senate, contained a blanket ban that would have criminalized the long-standing use of social security numbers by property managers (and a host of other industries) in the resident and employee screening process.

In response to this development, the Property Management Assn. Of Michigan (PMAM) went to work in the House. First, a member of the Washtenaw Area Apt. Assn. testified before the House Criminal Justice Committee. Several key points were made during testimony:

- * Property management is already a highly regulated and licensed industry.
- * An inability to use Social Security Numbers in the resident/employee screening process (which has been standard industry practice for many years) would lead to decreased resident safety and increased rents for Michigan citizens and voters.
- * All of this would occur in exchange for no consumer protection benefit.

An effective grassroots campaign followed up the committee testimony. PMAM staff and members contacted committee members from their area and reinforced the message.

The Committee agreed with the apartment industry and PMAM assisted the committee chair and key staff in developing a specific exemption for the property management industry. PMAM secured the only industry-specific exemption in the legislative package and the first of its kind in the nation. (Property Management Assn. Of Michigan - Rachel Arnold)



Plan To Attend ILA's Spring Seminar

Thursday, May 5th, 2005

*For More Information,
Call 515-255-0675
and ask for Connie.*

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