



ILA Legislative Report

The big question is whether the legislature will pass any kind of tax reform legislation passed this year, especially property tax reform. There are many legislators who think that property tax can't be reformed without adjustments made to other taxes, such as income and sales. Senator David Miller, R-Fairfield, is one of those who think that wide spread reform is necessary.



Joe Kelly
ILA Lobbyist

Senator Miller's proposal will give apartment owners a break. His legislation will create a new category— income residential. This new category will be almost 50% higher than residential, but 15% lower than commercial. On top of that, the general rates would be lower. For example, the commercial rate, under Senator Miller's plan, would be 3.25%, or \$32.50 per thousand, which is a lower rate than the combined property taxes in many jurisdictions today. The income residential rate would be 2.75%, or \$27.50 per thousand. There are numerous other tax reform measures floating around. It is still too early to determine whether the legislature will act on any of the plans.

The proactive legislation from landlords has been introduced. Rep. Libby Jacobs, R-West Des Moines, and Senator Pat Ward, R- West Des Moines, have introduced HF 207 and SF 116. The theme of the bills, which both have been assigned to the Judiciary Committee, is to allow landlords to dispose of personal property left behind by tenants after the writ of removal has been executed or the judgment for possession has been awarded, and the premises has been vacated. The problem identified by landlords is that the personal property left behind has to be taken to the curb adjacent to a city street. Often debris blows onto the property of adjoining property. There have also been traffic accidents occur when people slow down in their vehicles to take a look at the property piled up at the curb.

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The ILA Spring Educational Seminar will be held on the afternoon of May 5th at the downtown Des Moines Holiday Inn. Mark your calendars now and be sure to complete the registration form enclosed in this News brief.

DIALOGUE WITH DIRECTORS



Topics will include: How to handle evictions, how to collect money for past due rents and damages (money judgments) and "dealing with fires" reducing risk and after fire support and relocation.

Attendees will receive ILA's Emergency Fire Check List, which contains phone numbers, contact list of support groups, tenant relocation pool information, renters insurance, how to secure and repair fire damage information and more. A representative from our affiliate, the National Apartment Association will discuss "How the NAA Benefits You".

The first NAA class "Fair Housing Principles and Practices" was completed in January. We had a wonderful turnout of member participants. Certificates of Completion were issued to 53 members who successfully completed the course. We extend a big THANK YOU to Mary Spain for making this class a big success. For future class information, contact the Educational Committee chair person; Tina Busch (e-mail: tinap@regencyhomes-usa.com) and look for class schedules in the News Briefs.

The National Apartment Association (NAA) has a member section on its website (www.naahq.org) with a wealth of information available to you. This is accessed by a seven digit code that can be found on your NAA UNITS magazine address label. Check it out – it is great!

If you would like to receive timely legislative updates on what the legislature is up to as it relates to landlord issues, e-mail your lobbyist Joe Kelly at: joekelly@qwest.net and request that you be put on his e-mail list.

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This Month's March 2005 NewsBrief

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- Directors: • Dennis McDonald • Dave Sollenbarger
- WebSite: www.iowalandlord.org
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Ask an Attorney: Legal Q & A



by **Mark V. Hanson**, Attorney at Law,
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Q. How do you legally evicted a person that has been an employee and the apartment has been free as part of their employment package. You don't have a lease/rental agreement with them so therefore they don't fall under Iowa Code Chapter 562A Uniform Residential Landlord and Tenant Law.

A. Chapter 562A is to provide law governing the rental of dwelling units and the rights and obligations of the landlord and tenant. There are arrangements not governed by 562A as identified in 562A.5 - residence in medical, nursing, educational, counseling, religious institutions; contract of sale; fraternal or social organization residency; transient like a motel; employee residency as part of employment; condominium occupancy; agricultural purposes tenancy.

However it is Iowa Code Chapter 648 Forcible Entry or Detention of Real Property that governs eviction. This is a summary remedy for the following situations; 1) where someone has by force intimidation fraud or stealth entered into possession and detains it; 2) where lessee holds over after the termination of the lease; 3) where lessee holds contrary to the terms of the lease; 4) where defendant continues in possession after foreclosure; 5) for nonpayment of rent; 5) where defendant continues in possession after tax sale and deed.

If you have an employee and you are providing a residential unit as part of that employment package you do in fact have an agreement for their occupancy. You might even have a lease. It just won't be subject to all the rules and regulations contained in 562A. It may well be subject to 648, in which case if you terminate the agreement for their residency, give them a three day notice to quit, you should be able to proceed with the Forcible Entry and Detainer (FED) to evict them. While not subject to 562A, I would recommend giving them thirty day notice of termination of the agreement, unless there are concerns for safety or protection of your property. In other words, while not subject to 562A, if you use the provisions of 562A, you have a favorable argument to the judge that while not subject to 562A, you have the employee the rights and protections contained in 562A.

A question I might ask is why are you wanting to evict them? Did you fire them or did they quit from employment? If so, then their right to continue to live there also terminates. And, FED under 648 would be appropriate.

Are they still employed but for some reason you do not

want them to continue to occupy the premises? Perhaps they are not maintaining it properly, or violating other provisions of the agreement regarding how they will conduct themselves while using the residence. If they are violating the agreement or are otherwise undesirable residents, you can terminate the agreement. If you maintain their employment but discontinue their right to live in the residence you are in effect changing their employment terms. That may also change their ability to perform their employment responsibilities as originally established. Is their residency critical to their job duties? If so, you may have to either change their job duties, or maybe even replace them. Perhaps their residence is not critical to their job duties. If that is the case you might decide to proceed to terminate the residence agreement and evict them. However, their job performance quality might suffer if this is the course of action taken.

There is another Iowa Code Chapter, 646 Recovery of Real Property, which can be used if you hit a road block and 648 would not apply. This action is filed with the district court and does not follow the summary remedies available under 648, but it may be your last option to regain possession of your property..

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:

Bill & Linda Riebesell - Orien Properties - Mankato, Mn.
Daniel Samuel - Urbandale, Ia
David Riccadonna, Midwest Business Associates

Associate Members:

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

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

ILA Legislative Report

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The subcommittee chair, or floor manager, of HF 207 is Rep. Jeff Kaufmann, R- Wilton. The other Republican on the subcommittee is Rep. Gene Maddox of Clive. The Democrat is Mark Smith of Marshalltown. SF 116 has four subcommittee members, two from each party. The co-chairs of the bill are Senator Pat Ward and Senator Herman Quirnbach, D-Ames. The other Senate subcommittee members are Senator Keith Kreiman, D-Bloomfield, who is co-chair of the Senate Judiciary Committee, and Senator Brad Zaun, R-Urbandale.

We're expecting some negative legislation from the Iowa Coalition Against Domestic Abuse and the Iowa Coalition for Housing and the Homeless. Representatives from both organizations have been at the legislature attempting to find sponsors for the legislation. The groups announced their intentions with a news release. What the groups want to accomplish is to make it more difficult to evict a victim of domestic abuse. Under the proposal, if the victim made a phone call to the police, that act would set up a presumption of retaliation if the landlord attempted to evict the person within a twelve month period. The landlord could still win the eviction proceedings, but it becomes more difficult to win, especially since the proposal would give judges some discretion in determining whether the landlord was retaliating. It would be tempting for many judges to allow the person to remain as a resident, especially if the rent had been paid.

Our position is that the law already has protections for victims of domestic violence, and the first protection is that the person writes a letter to the assailant, advising the person to stay away. A copy of this letter is sent to the police and to the landlord. This simple act prevents a landlord from evicting under the clear and present danger laws. If the person returns to the property, the victim has to take an additional step of seeking a protective order in order to prevent action under the clear and present danger law.

What the groups want to do is to broaden the protection to victims by including all forms of evictions procedures. Some landlords respond to these kinds of domestic abuse events by giving a 30 days' notice, with no cause listed. The new proposal of broadening the definition of retaliation, by means of a phone call to police, would make a 30 days' notice likely ineffective. You would need a non-payment of rent situation or a very clear lease or rules violation.

Dialogue With Directors

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For those of you that have burning interest in issues such as PROPERTY TAX REFORM it is not too late to contact your legislator. Call your state senator at (515) 281-3371 and your representative at (515) 281-3221. For internet access go to www.legis.state.ia.us and click on "Find Your Legislator".

To get further information call the Legislative Information Office at (515) 281-5129 or e-mail them at: lioinfo@staff.legis.state.ia.us.

VACANCY4RENT.COM gains momentum and success. The wonderful colors of spring flowers have obviously not shown their presents this early in the year. But the eye catching yellow of the Vacancy 4 Rent.com signs seem to be popping up everywhere. We enjoy the success stories that the users of this ILA service have shared with us. The signage program has been so successful that an average of 5 – 10 calls a week have been received at the Vacancy4Rent telephone number. This remarkable occurrence has transpired without benefit of any advertising other than the telephone book listing in the white and yellow pages. We can only conclude that the perspective renters have seen the signs, and are interested enough to search out the phone number on their own. The callers (some of which do not have computer access) are directed to rental agents and landlords who have current ads on Vacancy4Rent.com.

The major benefit for our members that have taken advantage of this program is the economical way Vacancy4Rent allows landlords to seek tenants to fill vacancies. This is accomplished with: (1.) the high visibility of the yellow sign on the rental property (2.) Your contact phone number right there on the sign (3.) The internet web sight address that the prospective tenant can access to see a picture of the property, receive details about amenities and pricing and contact the advertiser by e mail or phone. Isn't this a fine way to fill vacancies and to support the services of your association at the same time?



Plan To Attend ILA's Spring Seminar

Thursday, May 5th, 2005

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

Our congratulations go to the following members who have successfully completed the ***CERTIFICATE OF COMPLETION*** for the ***FAIR HOUSING PRINCIPLES AND PRACTICES*** taught by Mary Spain. This is the first class offered in Iowa by the National Apartment Association through its affiliate: The Iowa Landlord Association - IAA.

Katie Gustofson	Christopherson Properties	Bill Armstrong	Timberland Partners
Jackie Weissenburger	Diagonal Properties	Bryan Bailey	Timberland Partners
Lisa Arthur	Executive Property Management	Gregory Bento	Timberland Partners
Tina Busch	Executive Property Management	Tom Birnbaumer	Timberland Partners
Carol Deahl	Executive Property Management	Joshua Cox	Timberland Partners
Ryan Haack	Executive Property Management	Merianne Fulcaloro	Timberland Partners
Dee Hosea	Executive Property Management	Myndi Graybill	Timberland Partners
Jeremy Hummel	Executive Property Management	Cassie Heckman	Timberland Partners
Sami Jo Kurtti	Executive Property Management	Kari Johnson	Timberland Partners
Matt Scaparro	Executive Property Management	Marty Little	Timberland Partners
Pam Jones	Furniture Options	Barry Long	Timberland Partners
Steve Baker	Gentry Management	Travis Lowe	Timberland Partners
Jamie Clauson	Gentry Management	Kristy Musselman	Timberland Partners
Karen Jacobsen	Gentry Management	Michelle Ogden	Timberland Partners
Marty Koehn	Gentry Management	Tim O'Connor	Timberland Partners
Rebecca Lawrence	Gentry Management	Kathy Sutton	Timberland Partners
Brian Lerg	Gentry Management	Beau Stubbe	Timberland Partners
Dow Roettger	Gentry Management	Misty Benge	Walters Properties
Ashley Ayres	Knapp Properties	Heather Benton	Walters Properties
Lesley Sweet	Knapp Properties	Trevor Benton	Walters Properties
Sarah Hosier	Newbury Management	Jackie Klacik	Walters Properties
Sharon Wolfe	Newbury Management	Lori Kramer	Walters Properties
Andrea Larson	Peterson Companies	Cheryl Marr	Walters Properties
Jill Kline	Peterson Companies	Tom Marr	Walters Properties
Tracy Dawson	Professional Property Management	Bobbi Jo Richie	Walters Properties
Kate Smith	Sherman Associates	Bill Richie	Walters Properties
		Becky Wilson	Walters Properties