



June 2006

IOWA LANDLORD ASSOCIATION NEWSLETTER

ILA LEADERSHIP AND CONTACT INFORMATION

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From the Desk of the AE

The second Iowa Landlord Association Occupancy Survey soon will be tabulated and finalized. If you haven't already turned yours in, you still have time. Just fax it to Dennis at (515) 270-0999. The survey will be available by mid-June and you can order one by calling Connie at 255-0675. The cost is \$12 for members and \$24 for nonmembers. Thank you to everyone who participated.

Your association will begin having quarterly meetings for all members. This is

to get more members involved in the Iowa Landlord Association and to better inform you of what the committees are planning. We will keep you updated as to the start date of these meetings in upcoming newsletters.

A summer picnic has been planned for all ILA members and their families. It will be held Sunday, July 30, at Raccoon River Park on Grand Avenue in West Des Moines from 1 to 5 p.m. This will be a fun family event for all. Look for more updates in next month's newsletter.

There will always be updates about all of our events and news on the Iowa Landlord Association website, so visit it frequently. If you have any recommendations about how to make the website more user-friendly, contact a committee chairperson.

If you haven't received an ILA preferred vendor sheet, call Connie at 255-0675 or Mary at 327-0606. We will be happy to send you one.

It is important to remember that the Vendor Council members are a tremendous asset and support for your Association.

WELCOME, NEW MEMBERS

Brian Graeve
BG Properties
Ankeny, IA

VENDOR MEMBERS

Paul Smith, Sales & Marketing Rep.
Suncourt, Inc.
P.O. Box 40
Durant, IA 52747
563-785-6466

Curtis McCormick, Attorney
Lori Schade, Legal Assistant
Neiman, Stone and McCormick, PC
7405 University Ave., #10
Des Moines, IA 50325
515-277-2200, ext. 18

Venture Management & Realty
3011 Ingersoll Ave.
Des Moines, IA 50312
515-255-6677

PLEASE NOTE

ILA GOLF OUTING

The Iowa Landlord Association Charity Golf Outing is on June 9 and will be held at Blank Golf Course (808 County Line Road in Des Moines) starting at 1 p.m. The \$55 registration fee includes: cart, pin events, range balls, prizes, hog roast and lots of fun for all.

Register your foursome now or simply submit your name and entry fee and we will be happy to put your foursome together. You do not need to be in the residential rental housing industry to participate in this event! Hurry, registration deadline is June 3. Make checks payable to ILA Golf Outing and mail to Mark Harpenau at A+ Lawn & Landscaping, 6900 NE 14th St., Ankeny, IA 50023. Any questions, contact Mark: 371-6950 or Rocky Spasato with TubWrX: 202-9858.

Proceeds to Benefit Blank Children's Hospital



Joe Kelley's Legislative Update

The legislature adjourned the 2006 session on May 4. The bad news is that there won't be property tax reform this year, despite quite a bit of effort from many members. We'll just have to get involved in the elections for the balance of the year, and go at it again next session.

We were able to get an amendment passed in HF 2797, the standings and salary appropriations bill, which each year contains other items that didn't get passed. Our successful amendment, section 87 of the bill, corrects the problem dealing with small claims court representation. As far as we know, this has been just a Polk County problem; however, these matters have a tendency to spread around the state. The problem in Polk County is that individual owners of property could not send employees to small claims court to handle evictions and other small claims matters. If you're incorporated, or part of a partnership, there is no problem with using an officer of the company or an employee. The Attorney General's office and the Judicial Branch were fighting us because they alleged the practice by individuals of using non-lawyers constituted the unlawful practice of law. Why the same

logic didn't apply to corporations using non-lawyers is beyond me. However, in reviewing 631.14, before our amendment, one could make the case that individuals couldn't use anyone else, just from the way the section was written.

Since our language is part of an appropriation's bill, the Governor could veto our section and others without vetoing the entire bill. We are working on strategies to convince the Governor not to veto our section of HF 2797.

HF 2351, the eminent domain reform bill, passed the legislature over the objections of cities, counties, and professional development groups. The governor has until early June to decide whether to sign HF 2351.

I appreciate all the cooperation I've received from landlords this year. We're getting stronger every year. Our work is never done!

Ask an Attorney: Legal Q & A

By Mark V. Hanson, Attorney

Question: Have there been any changes in the Service Member Civil Relief Act in relation to tenants who are in the military and the eviction process? The Iowa District Court in Polk County has come up with a new form about this which is a certification regarding military services.

Response: The law is lengthy, so my comments are not an in-depth discussion of the entire law, rather highlights. The (SCRA) Servicemembers Civil Relief Act of 2003, 50 U.S.C. App. Sections 501-596 is the modern replacement for the Soldiers' and Sailors' Civil Relief Act of 1940, and both were adopted by Congress to protect rights of individuals in military service of U.S. and protect rights of individuals having causes of action against members of Armed Forces. The SSCRA of 1940 has been around for half a century, but didn't get much attention until times of military conflict like now. Does this apply to all kinds of actions/judgments—such as money and

forcible entry and detainer? Yes.

If a default is going to be taken, why is the District Court having plaintiffs sign an affidavit that the defendant or their dependents are not in military service, are in the military service, or the plaintiff does not know? Because SCRA dictates if it appears the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If the court is not able to determine whether the defendant is in military service, the court, before entering judgment may require the plaintiff to file a bond for potential damage defendant may suffer should the judgment be set aside later. By signing the affidavit stating the defendant is not in the military service, the plaintiff is representing to the judge the defendant is not, and the judge can go ahead with the default. There is a potential fine and year in prison for making a false affidavit. If a default judgment is entered against a covered serviceperson during his/her period of military service, if it appears the ...

... serviceperson during his/her period of military service, if it appears the serviceperson was affected from defending because of being in the service and he/she has a meritorious defense, the serviceperson can have the judgment set aside, and the serviceperson may then make defense of the action.

Under SCRA, there are various protections, such as the serviceperson being able to get a stay of proceedings for no less than 90 days; reduction or waiver of fines or penalties; toll statute of limitations (which actually helps the plaintiff); and maximum rate of interest on debts incurred before military service.

What about FEDs? A landlord may not evict a serviceperson or dependents during the period of military service, except by court order if it is their residence, and rent does not exceed \$2,400, which isn't a change from Iowa law, as ILTA requires court order, anyway. But, the serviceperson whose ability to pay rent is affected by service, may ask the court to stay proceedings for up to 90 days, or adjust the amount due. If a stay is granted, the court may grant equitable relief to the landlord. The landlord could ask the court to order allotment from the pay of the servicemember to satisfy the obligation.

The serviceperson may get out of a lease early under certain service-related activation. The termination would generally be effective at the end of the month with at least 30 days' notice. Arrearage would be due and payable by the serviceperson. Un-accrued prepaid rent must be refunded by the landlord. Prior to the effective termination date, the landlord could apply to the court for relief to modify the termination as justice and equity require.

So, lesson to learn: Know your tenants. If your tenant is a serviceperson or dependent of the serviceperson, if the serviceperson is on active duty or called to active duty, or receives change of station orders, you need to be aware you have limitations on what ...

... you can do to enforce your legal rights against the tenant. And, if you are getting a default judgment against any tenant, you will be required to sign an affidavit regarding military service so the judge will know whether or not SCRA is applicable.

"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 rule of the Supreme Court of Iowa."

Des Moines Water Works

For the past several months an ad hoc committee of members of the ILA and staff members of the DMWW, to include Mr. McMullen, have been meeting to iron out problems landlords are having with the lien process on rental property. Currently, landlords can send in an "exemption letter" to prevent the process of the DMWW attaching liens to rental property where tenants fail to pay their water bill. The problem arose when the landlord received a lien on their property even though an exemption letter was submitted to the DMWW. The Water Works failed to rectify this problem even though they acknowledge this does occur. During a meeting with the Board of Trustees, this was pointed out to them but was met with a combined look of "So what?" Furthermore, it was pointed out that according to the State Code of Iowa, the DMWW is required to issue an acknowledgement to the rental property owner after the exemption letter was received. This has not been done for seven years. Trying to change the state code at the legislative level was met with a barrage of city lobbyists using taxpayer's money to stop this attempt. It was recommended that attaching the exemption letter to the rental property instead of to the tenant would solve the problem. It would prevent the process of having a lien attached to the property except if the landlord failed to register their property. Second, it would reduce the paperwork for DMWW substantially and, third, it was pointed out that landlords would support this change wholeheartedly. This proposal was met with utter disdain from DMWW and the Board of Trustees. Landlords believe that forcing a third party to pay for someone else's bill is unethical and bad business practice. The fact that it is legal doesn't change these facts.

Look! New!

RISING STAR AWARDS

The First Annual Rising Star Awards will be held in Des Moines on Saturday, Nov. 4, at the Holiday Inn Downtown.

This exciting Gala event will be an excellent way to honor those on your staff who are deserving of one of many awards or achievements your community is proud of.

This will be a dinner, dance, and awards ceremony with all the trimmings that we all deserve in the Apartment Industry.

Look in your mail soon for detailed information on how to nominate your staff members and their achievements for these awesome awards.

Think hard: Who or what deserves recognition for a job well done? This will be your time to let them shine.

Look for details or contact Rosie at Furniture Options, (515) 251-4100.

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June 2006

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7 Executive Committee Meeting
11:30 A.M. OEV Office

9 **CHARITY GOLF OUTING**
1 P.M.
BLANK GOLF COURSE!

15 **NAA Education Conference and Expo, Denver, CO**

16 **NAA Education Conference and Expo, Denver, CO**

17 **NAA Education Conference and Expo, Denver, CO**

18 Father's Day

22 Vendor Council Meeting 4 P.M.
Fratello's Restaurant, West DM

July 2006

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4 Independence Day (ILA Office Closed)

11 Executive Committee Meeting
11:30 A.M. OEV Office

20 Vendor Council Meeting 4 P.M.
Fratello's Restaurant, West DM

30 **ILA Picnic**
Raccoon River Park
Grand Ave, West Des Moines
1 to 5 P.M.