



IOWA LANDLORD ASSOCIATION NEWSLETTER  
[www.iowalandlord.org](http://www.iowalandlord.org)

March 2009

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#### From the Desk of Your Directors

We would like to thank all of you who attended the Annual Landlord Day on the Hill. We have several issues of great concern to all landlords, owners and managers, so it was good that we were able to talk to our Legislatures about those concerns. If you were unable to attend and would like to voice your opinion, please send your e-mail to Connie at [ilaservices@iowalandlord.org](mailto:ilaservices@iowalandlord.org) or your ILA Lobbyist, Joe Kelly, at [joe@iamha.org](mailto:joe@iamha.org). We welcome your input.

#### SAVE THESE DATES!

Mark your calendars now for these important upcoming ILA events.



April 30, 2009 is the date set for the “always exciting, educational and fun” ILA Spring Seminar and Trade Show. We will again be hosting it on the entire top floor of the Downtown Holiday, and it will be an all-day event. We will keep you updated on speakers in our Newsletters. Your vendor members will also be holding their Trade Show with displays and useful information about their products and services.

The ILA Summer Breakfast meetings have been scheduled at the Cub Club in Principal Park. The three dates are June 18, July 16 and Aug. 20. We will give you the details of speakers as they become available. The breakfast starts at 7:30 a.m. and lasts for about a hour and half. This is a great time to enjoy a casual breakfast while gaining useful information about our industry.

#### Set Your Clock!

Remember that daylight saving time begins on the second Sunday in March. So move those clocks ahead one hour before you go to bed so you won't be late! If you're grumpy about losing that hour of sleep, keep in mind that daylight saving time is a sign that spring arrives soon! So look forward to longer days filled with sunshine! It is also a good time to check your smoke detector battery.



Happy St. Patrick's Day!

## Lunch & Learn

In place of our evening meeting at Okoboji Grill, this month we will have a buffet lunch with a speaker. This will take place at Mama Lacona's Restaurant, 2743 86th Street, Urbandale from 11:30 a.m. to 1 p.m. Our speaker will be Marcy Cable from The City of Des Moines Public Housing Office.

For those of us who have vacant apartments, this may be a solution for filling vacancies and increasing cash flow.

This will be an excellent opportunity to share information with fellow members, enjoy a good Mama Lacona's buffet lunch and increase your knowledge of subsidized public housing, all at the same time.

Please R.S.V.P. to Connie at (515) 255-0675 or to [ilaservices@iowalandlord.org](mailto:ilaservices@iowalandlord.org). You may pay at the door; however, reservations ahead of time would be helpful. The cost of the lunch with speaker is \$15 per person prepaid or \$17 at the door.



### ILA Legislative Report

**Joe Kelly**  
ILA Lobbyist



#### Legislative Report

Based on when you are reading this, landlords from across Iowa met at the Capitol on Feb. 25. It's a different kind of session so far. Legislators are correctly consumed with the financial condition of the state. Even with that massive problem, there will be other legislation passed. We're not seeing the influx of anti-landlord legislation that we've seen in recent years.

But there is one issue taking a lot of our attention these days. It's HSB 86/SSB 1102. These companion bills are from the Plumbing/HVAC Board, based under the umbrella of the Iowa Department of Public Health. As you'll recall, the legislature passed licensing legislation for

We've had several meetings with the subcommittees on these bills. Finally, the plumbing board representatives are showing some signs of being willing to cooperate. Rep. Kevin Koester (R- Ankeny), a new legislator, sits on the subcommittee of HSB 86. Rep. Koester has done a fine job of asking some tough questions about why a property owner can't do some routine plumbing repairs and replacements. Shannon Strickler, a lobbyist for the Iowa Hospital Association, told the subcommittee that she was able to do the work herself of replacing a toilet in her home. She said she didn't understand why a hospital maintenance employee or a landlord couldn't do the same thing and not be required to have a license or to hire a licensed plumber.

Usually we're in the position of trying to kill bills we don't like. However, in this instance, we actually need a good version of HSB86/SSB 1102 to pass. That's because we have no exemption from the current law. We're hoping to gain a total exemption for property owners who have

electricians and plumbing/mechanical trades a couple of years ago. It's taken a while to get these programs up and running. The problem for landlords primarily remains with the plumbing licensing law. Last year, the legislature passed a revision to the law which allows property owners to do certain routine electrical repairs and replacements. The large majority of landlords will tell you that the program is working well.

The plumbing issue is certainly not being solved easily. Certain entities, like hospitals, thought they had been given an exemption from plumbing licensing in previous legislation. HSB 86/SSB 1102, introduced by the Plumbing Board, would go backwards, essentially taking away the exemption. Landlords never had an exemption, although we were led to believe that it would be taken care of by means of an administrative rule. The Board wrote an administrative rule, but it didn't do landlords any good.

a four or five plex. Properties larger than that could be facing a special restricted license requirement. It could be a two-year license for \$50. There would be four hours of continuing education required to maintain this license. There would be no testing.

That's where we are now. As you know, things can change quickly at the legislature.

Stay tuned.







## ASK AN ATTORNEY Legal Q & A

by Mark V. Hanson  
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**Q:** Can the landlord, after receiving the writ, move the tenant out without a deputy being present? It may not be prudent, but is it legal?

**A:** Iowa Code Section 562A.33 provides the landlord may not recover or take possession except in the case of abandonment, surrender, or as permitted in this chapter. Section .32 provides the landlord has a claim for possession, which is satisfied through the action for possession, forcible entry and detainer (FED) which is Iowa Code Chapter 648.

Normal Procedure: When the Landlord goes to the Small Claim hearing, let us assume he wins. The judge/magistrate signs the Judgment awarding possession to the Landlord, and ordering the clerk to issue a writ of removal to the sheriff, and the sheriff shall put the plaintiff in possession. The Judgment may withhold execution for up to three days. At that point the Landlord is legally entitled to possession. Assuming the tenant has not yet moved, the Landlord files a Writ of Removal with the clerk of court. The clerk prepares Execution papers and sends them to the sheriff. In the meantime, the Landlord gives Directions to the Sheriff regarding the case number, Landlord's name (Plaintiff), who the tenant is (Defendant), address, how to contact the Landlord, and the Landlord pays the requested fee. The Landlord meets the sheriff deputy at the rental property on the appropriate day and is responsible for setting the Tenant's personal

property out of the dwelling. In Polk County, the sheriff notifies the tenant the day before that the deputy will be back the next day to execute on the writ, and they should remove their property to avoid having it set on the curb. On the day of eviction, the deputy is there to keep the peace, not move the property. If you want to move the tenant without the deputy being present, what is your exposure? Or reverse the question, what is the benefit to using the deputy?

**First**, if the tenant has obviously vacated, abandoned, surrendered, and removed property, and maybe even turned in keys, you are home free. **Second**, if the tenant has apparently abandoned, but you are not sure because the tenant left some stuff, you need to make a judgment call to determine if the tenant has in fact abandoned the dwelling and abandoned some personal property. If you can conclude the tenant has abandoned, you could then clean out and throw away the abandoned personal property. But, this is judgment on the landlord's part on whether the tenant might return later and demand the personal property. There is no hard definition of abandonment of the dwelling or of personal property. **Third**, if the tenant has obviously not vacated, can you move the tenant's property without the sheriff deputy executing on the writ of possession? You have exposure if you do. The presence of the deputy lends protection against an angry tenant. The use of the writ of removal and execution and the deputy gives legal authority to your actions. So, this removes the necessity of making a judgment call if the tenant has vacated and abandoned property. The Landlord does not have a statutory duty to care for tenant's personal property left in the premises following an eviction proceeding. So, you have protection against claim by the tenant if you use the deputy. There is legal authority for the possession if there had been any question before. If the tenant tries to return after the execution, you have legal authority/grounds to obtain an injunction against the tenant, or work with the police for criminal trespass charges.

*"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."*

## LATE FEES

### Late Fee Limits in Iowa

Over the recent past we have had questions from members about what and how they can charge for late fees.

What amount can we charge? Maximum of \$40 per month on any amount of unpaid rent for a single month as long as any single day's late fee does not exceed \$10.

How do we base our late fee amounts during a given month? This is up to the landlord. We could charge \$10 on the first day that the rent is late and \$10 for the next three days that it is late. We could charge \$2 a day for each day that it is late up to a maximum of \$40 in any one month. We could charge \$5 each day that it is late for the first five days and then drop the amount to \$1 a day for each late day after the 5th day until we have accumulated the maximum of \$40 for the month.

Each landlord can set his/her late fee amount into the rental agreement as long as it stays within Iowa law.

# March 2009

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
Daylight Saving Time Begins						
15	16	17	18	19	20	21
Ides of March		Happy St. Patrick's Day 		Lunch & Learn - Mama Lacona's - 11:30 a.m.-1 p.m.	 1st Day of Spring	
22	23	24	25	26	27	28
29	30	31	NATIONAL <i>Nutrition</i> MONTH			



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RETURN SERVICE REQUESTED