

A GUIDE TO LANDLORD TENANT LAW IN IOWA

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IMPORTANT NOTICE: READ THIS INFORMATION BEFORE USING ANY PART OF THIS PUBLICATION

This booklet is a general summary of the law. It is not meant to completely explain the subjects in this booklet. *IT IS NOT A SUBSTITUTE FOR LEGAL ADVICE.*

The information in this booklet was correct as of the date it was printed (see the back cover). The laws may have changed. *DO NOT ASSUME THAT THE INFORMATION IN THIS BOOKLET IS NOW CORRECT.*

You should see a lawyer to get complete, correct, and up-to-date legal advice. Do not rely on the general information in this booklet for your specific case.

If you need a lawyer but can't afford one, contact Iowa Legal Aid. You may be able to get free legal help. Call or write Iowa Legal Aid. The address and phone numbers are on the back cover.

**AS YOU READ THIS BOOKLET, REMEMBER IT IS
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THIS BOOKLET IS NOT A SUBSTITUTE FOR LEGAL ADVICE!

PLEASE READ THE FOLLOWING BEFORE USING THIS BOOKLET

This booklet will give you guidance as to some important aspects of landlord-tenant law in Iowa. But two things must be stressed:

1. While summaries like this booklet are helpful, you should not hesitate to look at the laws themselves. A copy of the landlord-tenant act can be found on page 35 of this booklet, and the eviction law can be found on page 47. These laws are from the Code of Iowa on the Iowa Legislature's website. Throughout this booklet, section numbers of laws are given to help you find the law you are interested in. But even the Code of Iowa does not contain all the law, and interpretation of the law is sometimes very difficult; therefore, important legal problems should be referred to a lawyer. Be sure to read the "Warning" on page 32.
2. The information contained in this booklet is not a substitute for the specific legal advice a lawyer can provide. The information in this booklet summarizes certain laws in a general way, and cannot take into account the important differences in people's circumstances. Further, the law may be interpreted in different ways by judges in different areas of Iowa (at least until the Iowa Supreme Court tells all of the lower courts exactly what it means). So, if you have a specific legal problem, you may want to contact a lawyer. Lawyers have a professional duty to help the poor, so you may want to go to a lawyer for legal help even if you can't afford to pay for it. Also, under landlord-tenant law in Iowa, a tenant's lawyer can often be paid by the landlord if the tenant has a good case. And, finally, Iowa Legal Aid helps many low-income people with legal problems at no cost. You can call the toll-free number on the back of this booklet to find out the location of the Iowa Legal Aid office nearest you.

BE PREPARED TO PROTECT YOUR RIGHTS!

Treat every landlord-tenant arrangement as if you will one day have to explain the whole situation to a judge. This means:

- Putting in writing any important messages to your landlord and keeping a copy;
- Keeping copies of all written documents;
- Getting receipts for rental payments, and for the return of keys to your landlord;
- Having a witness handy to see or hear anything that could later be the subject of dispute;
- Taking photos of any condition of the rental property which you may want to describe to a judge later on;
- Keeping a record of when important events took place (for example: when you first complained about the need for repairs, or when the landlord came in without knocking).



It is best to avoid conflicts by trying to maintain a feeling of cooperation and consideration in a landlord-tenant relationship. But by treating every rental arrangement as though it could end up in court, you'll be prepared for the time when it does.

Does the Landlord-Tenant Act Cover You and Your Landlord?

(Section 562A.5, Code of Iowa)

Iowa's landlord-tenant law, the Uniform Residential Landlord and Tenant Law, applies to the usual situation where a person or household of people rent a house or apartment to live in. But a few situations are not covered by this law.

Each of the following arrangements is NOT included in the coverage of this law:

- Transitional Housing (temporary, nonpermanent housing) run by a nonprofit organization is not covered under Iowa's landlord-tenant law any more. But, tenants in a transitional housing still have some rights. For example, if a tenant in transitional housing for the homeless is going to be evicted, federal law may give some protection. HUD rules (which apply to many transitional housing projects) say that people should be evicted only in the most severe cases. HUD rules also say that the landlord has to give a clear notice of the reasons, and give the tenant a chance for administrative review. 24 C.F.R. 583.300(i). In addition, housing discrimination laws would still apply to transitional housing. See page 31.
- Renting a mobile home space in a mobile home park. The rental of a space to put a tenant's mobile home is covered by Chapter 562B of the Code of Iowa, not by the landlord-tenant act. (But the landlord-tenant act does cover a tenant's rental of the mobile home itself, as opposed to the rental of a space to put the tenant's own mobile home in.)
- Living in an institution, as part of a program of medical or old age care, educational or religious training, or the like. (Examples: Most nursing homes or college dormitory arrangements.)
- Living in a place which you are buying, as opposed to renting.
- Staying in a hotel or motel for a short time on your way someplace else.
- Living in a place provided by a tenant's employer, where the tenant is to live there only as long as the tenant continues working in and around the living quarters.
- Living in a house or apartment occupied primarily for agricultural purposes.

Although there are other very narrow exceptions to what this law covers, the list above covers the main ones.

REMEMBER - Even if your living arrangement is not covered by this law, there are other laws which do apply to your situation, and you may wish to talk to your lawyer, or read the laws themselves to get help with your special problem.

RENTAL AGREEMENTS

What Is a Rental Agreement?

(Section 562A.6, Code of Iowa)

A rental agreement is the understanding between the landlord and the tenant about the rental of the house or apartment. A rental agreement can be written or oral (spoken). A rental agreement can also be for an exact length of time (6 months, 3 years, etc.), or it can be month-to-month or week-to-week. But if a rental agreement is for an exact period of time which is more than one year, it should be in writing rather than oral. A valid rule is also a part of a rental agreement. (Rules are discussed on pages 4 and 5.)

What Can Be Included in a Rental Agreement?

(Section 562A.9, Code of Iowa)

A rental agreement can include the understanding between the landlord and the tenant on just about anything having to do with the use of the rental property, with a few exceptions which are explained on page 5. Among the things a rental agreement might include are the following:

- The amount of rent;
- When, where, and to whom rent is to be paid;
- The period of the agreement (month-to-month, 1 year, etc.);
- The number of tenants and their names;
- Which utilities will be paid by the landlord, and which will be paid by the tenant;
- Any improvements the landlord agrees to make, and when they will be finished;
- A requirement that the tenant tell the landlord of any long period of time the tenant will be away from the rental property, and do so no later than the first day of the absence; or
- If a tenant is renting a single family residence from the landlord, their rental agreement can also include the tenant's agreement to take responsibility for garbage removal, supplying heat and water, and doing certain repairs and upkeep. But this agreement must be in writing. (562A.15(2)) ("Single family residence" is defined at 562A.6(12), Code of Iowa.)

What If Some of These Things Aren't Part of the Rental Agreement?

(Section 562A.9, Code of Iowa)

If a rental agreement doesn't include certain terms, the law fills in the gaps. For example:

- If there is no agreement as to the amount of rent, the law says the tenant shall pay the "fair rental value" of the place as rent.
- If there is no agreement as to when rent is to be paid, the tenant should pay it at the beginning of each month.
- If there is no agreement about where and to whom rent is to be paid, the tenant may expect the landlord to come to the rental property to pick it up.
- If there is no agreement about the length of time the tenant will rent the property, the arrangement is automatically month-to-month, unless the tenant is a roomer who pays weekly rent — then it's a week-to-week arrangement. ("Roomer" is defined at 562A.6(12), Code of Iowa.)

Is it Best to Have a Rental Agreement for an Exact Period of Time, Like Six Months or One Year?

Whether to agree to rent a place for an exact period of time, or to just have a month-to-month or week-to-week arrangement, depends on many things. An exact period guarantees that the tenant will have a place to live for the agreed period, at the rent agreed to in advance. The tenant has the security of knowing that he/she won't have to move during the agreed time so long as the tenant pays the rent and otherwise lives up to what the rental agreement requires.

The tenant also has the security of knowing the landlord cannot raise the rent during this time period. This is an advantage to a tenant who plans to get the landlord to make some necessary improvements on the rental property. It avoids a dispute over whether the rent can be raised to pay for the improvements. (See the "Retaliation" section of this booklet for more on this.)

On the other hand, a rental agreement for an exact period of time can make it difficult for the tenant to move to another place during the period. The tenant who does move may still be responsible for paying the landlord rent for the rest of the agreed period so long as the landlord tries to re-rent to a new tenant but isn't able to obtain one.

Whether it is best to get the security of a rental agreement for an exact period or to have the flexibility of a month-to-month or week-to-week arrangement is a matter for each individual tenant to decide.

Are There Certain Things a Rental Agreement Cannot Legally Include?

(Section 562A.11, Code of Iowa)

Yes. There are certain things which are prohibited from being included in a rental agreement, whether written or oral. A rental agreement shall not say that the landlord or tenant:

- Agrees to give up a right or protection created by the landlord-tenant law (unless the agreement covers a one-family farmhouse outside of the city limits).
- Agrees to pay the other person's attorney fees.
- Agrees in advance to forgive the other party for any responsibility for damages or problems which may occur.
- Agrees to "confess judgment" (lose automatically) if a legal dispute comes up.

If an agreement includes any of these prohibited terms, the illegal terms will not be enforced in court. In addition, if a landlord purposely uses a prohibited term, the landlord may have to pay the tenant for any damages caused by including the prohibited term in the agreement, plus up to three month's rent, plus reasonable attorney's fees for the tenant's attorney.

If a Landlord's Rules Can Be Part of the Rental Agreement, What Makes for a Valid Rule?

(Section 562A.18, Code of Iowa)

Your landlord can set down rules about how you are to use your house or apartment, and if each rule is properly created, it becomes part of the rental agreement. But a rule is valid ONLY if it is written and if each of the following is true:

1. The purpose of the rule is to promote the "safety, convenience or welfare" of the tenants or to prevent abuse of the landlord's property; and
2. The rule applies to all tenants fairly; and
3. The rule is clear in what it is telling the tenant to do or not to do; and

4. The landlord does not use the rule to neglect any of the landlord's duties; and
5. The tenant is aware of the rule when entering into the rental agreement; and
6. The rule is reasonable in light of the purpose behind the rule.

If a rule is made after entering into the rental agreement, the landlord must give "reasonable advance notice" of the new rule before it takes effect. If a new rule is going to make an important difference in the original rental agreement, then it is not valid.

What If Part of a Rental Agreement Is Downright Unfair?

(Section 562A.7, Code of Iowa)

Sometimes a rental agreement or one of the landlord's rules is so unfair that a court will say it is "unconscionable," which means very unfair. If a court is asked to enforce such an "unconscionable" agreement, the court can either ignore the unfair part or rewrite the agreement to make it fair.

Can a Written Rental Agreement Which Is Signed Only by the Tenant Still Be Valid Against the Landlord?

(Section 562A.10, Code of Iowa)

Yes. A written rental agreement may be valid against both the landlord and the tenant even though only one of them signed it. Under certain circumstances, a rental agreement which is signed by one party (landlord or tenant) and then delivered to the other party will be treated by law as if both parties signed it.

If a written rental agreement which is signed by the tenant is delivered to the landlord and the landlord later accepts rent without objecting to the rental agreement in some way, the agreement becomes legally valid.

If a rental agreement signed by the landlord is delivered to the tenant, and the tenant then goes ahead and lives in the house or apartment without objecting to the rental agreement, it becomes valid.

If a signed rental agreement is delivered to you, read it carefully, and if it is not the way you want it, make your objections clear to the landlord right away, in writing if possible. Then you can go ahead and discuss whether a rental agreement is needed, and if so, what it should say.

This law also means that a tenant who wants a written rental agreement can sign and date one, and then deliver it to the landlord. If the landlord then accepts the tenant's rent without objecting to the agreement, the law treats it exactly as though the landlord signed it.

(NOTE: A rental agreement created in the way just described cannot be valid for more than one year, even if it says it lasts longer.)

Can a Landlord Raise the Rent above the Amount Originally Agreed to?

(Section 562A.13, Code of Iowa)

In a month-to-month rental arrangement, a landlord may raise the rent if proper advance notice is given. To raise the rent, the landlord must give the tenant a written notice of the rent increase at least 30 days before the increase can take effect.

In a week-to-week arrangement the law is a bit unclear. The landlord-tenant act says tenants have a right to a 30-day written notice of a raise in rent. It does not say that only month-to-month tenants, and not week-to-week tenants, have this right. But since the law also says that a week-to-week arrangement can be ended completely with only 10 days written notice, maybe the courts will decide that rent can be raised with the same amount of notice (10 days).

The date the increase is to take effect must not be sooner than the end of the original rental agreement or any extension or renewal of that agreement. This probably means that a rent increase can only take effect on a day when rent is due.

In a rental arrangement for a definite period (such as for 6 months, 1 year, etc.), the landlord cannot raise the rent during the agreed period. The rent can be raised at the end of the agreed period, if the landlord gives a written notice 30 or more days in advance.

For another limit on the landlord's freedom to raise the rent, read the section of this booklet on "Retaliation."

Can a Tenant Rent the Rental Property to Another Tenant?

Sometimes a tenant with a rental agreement for a definite period (such as one or two years) may want to move out, and rent the place to a new tenant for the rest of the term. This is called subleasing. The general rule is that subleasing is legal and proper, unless the landlord and the original tenant agreed that there would be no subleasing.

A tenant who subleases all or part of the rental property to a new tenant should choose the new tenant carefully, since the landlord may look to the original tenant to make sure that the obligations of the rental agreement (such as payment of rent, care of property, etc.) are met during the entire term of the agreement.

How Can a Rental Agreement Be Ended?

(Section 562A.34, Code of Iowa)

Either a landlord or a tenant can end a rental agreement as follows:

- If the arrangement is *month-to-month*, the person wanting to end the arrangement must give the other a written notice at least 30 days in advance of the intended ending date. The notice should actually say what the ending date will be, and the ending date must be a date when rent would normally be due.
- If the arrangement is *week-to-week*, a 10-day written notice must be given.
- If the agreement is *for some exact period*, such as one year, it is important to look at the agreement, because it may say what to do to end or renew the tenancy. The Iowa Code allows a tenant or a landlord to end a tenancy that is longer than month-to-month by giving the other a written notice 30 days before the rental period ends. Section 562A.34(3) **MAKE SURE TO GIVE NOTICE THE RIGHT WAY!** This is explained on pages 14 and 15.
- If a tenant moves out without giving proper advance notice, that tenant may be responsible for paying rent to the landlord for the rest of the agreed rental period. But a landlord in this situation has a duty to try to rent the place to a new tenant as soon as possible. If the landlord doesn't try reasonably hard to rerent the place, that landlord can't go after the old tenant for the rent the landlord supposedly lost due to the tenant's leaving. Also, if the landlord ends the lease before the lease is up, the tenant may not be responsible for the rest of the lease term.
- A landlord or tenant may sometimes want to put an end to a rental agreement right away, without giving a 30 or 10 day notice, due to the other person's failure to live up to the agreement. Such situations are described in other parts of this booklet, especially the parts on eviction and on the duties of landlord and tenant.

MOVING IN

What If the House or Apartment Isn't Ready When I'm Supposed to Move in?

(Sections 562A.14 and 22, Code of Iowa)

After you have made an agreement with a landlord to rent a place to live, you have a right to expect that your new home will be completely ready to move into at the agreed time. This means that the landlord must take responsibility for making sure that no one else is still living in the house or apartment you plan to rent. It also means that the landlord must have the place in proper condition when it's time for you to move in. What "proper condition" is will be explained later in this booklet under the subject of "Landlord's Responsibilities."

If a landlord does not make the house or apartment fully available to you in proper condition at the time agreed, **no rent is due** until the place is ready for you to move into. A tenant who finds him or herself in this situation should do one of the following things:

1. Give the landlord a written notice saying that the rental agreement will end in five (or more - it's up to you) days. When those five (or more) days have gone by, the landlord must return any rent or security deposit which was paid in advance by the tenant; OR
2. Demand that the landlord take whatever steps are necessary to make the house or apartment ready for the tenant to move into. A tenant in this situation can even go to court to evict whoever is still in possession of the place to be rented, and can also sue for whatever losses the tenant suffered in the process.
3. **MAKE SURE TO GIVE NOTICE THE RIGHT WAY!** See pages 14 and 15.

If the landlord purposely fails to have the house or apartment ready to move into at the agreed time, the tenant can take the landlord to court and make the landlord pay for whatever inconvenience the tenant suffered. The landlord can also be ordered by the court to pay for the fees of the tenant's lawyer.

What Information Does a Landlord Have to Give a Tenant at the Beginning of a Rental Arrangement?

(Section 562A.13, Code of Iowa)

There are a few things a landlord has a duty to make clear to the tenant right from the beginning. A landlord (or the person acting for the landlord) must give the tenant both of the following, **in writing**, at the very beginning of the rental arrangement:

1. The name and address of the person authorized to manage the rental property.
2. The name and address of the owner, or someone chosen to fill in for the owner, for purposes of receiving any written notices or legal papers.

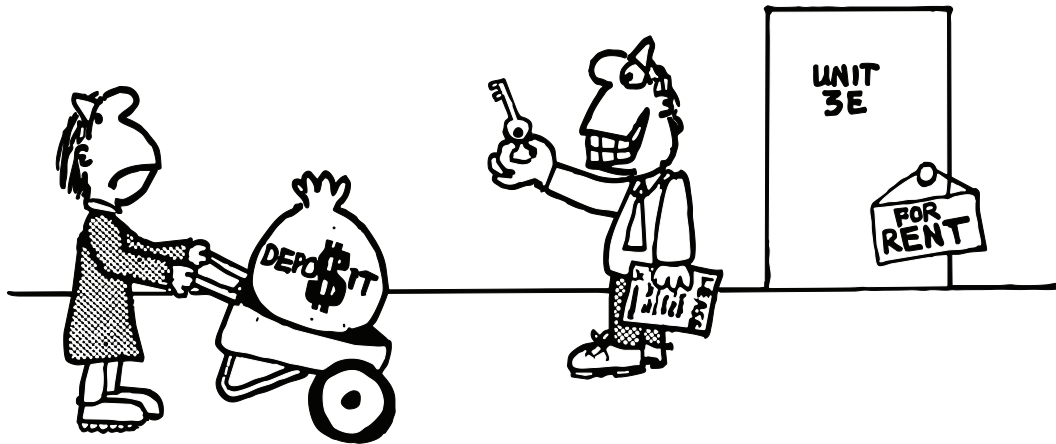
The landlord must also fully explain the utility rates and services before any rental agreement is signed, unless the tenant will be paying the power company directly for the utilities.

RENTAL DEPOSITS

What Is a Rental Deposit?

(Section 562A.6, Code of Iowa)

When a house or apartment is rented, a landlord usually collects a rental deposit, also called a security deposit, in advance to pay for any damage the tenants might do, to make up for unpaid rent, or to cover certain other expenses.



How Much Can a Landlord Demand as a Rental Deposit?

(Section 562A.12, Code of Iowa)

A landlord cannot ask for more than two months' rent as a security deposit. Of course, rent is generally paid in advance, so a tenant could have to pay one month's rent plus an amount equal to two months' rent as a deposit, just to move into a unit.

What Does a Landlord Do with the Rental Deposit During the Time the Tenant Is Renting?

(Section 562A.12(2), Code of Iowa)

A landlord must keep the rental deposit in a federally insured account, and must keep the deposit money completely separate from the landlord's own money. The special account the deposit is put in may be an interest bearing account. If it does bear interest, the landlord gets to keep any interest earned on the deposit for the first five years of the rental agreement. Any interest earned after that is the tenant's.

In What Situations Can a Landlord Keep Part or All of a Tenant's Deposit?

(Section 562A.12(3), Code of Iowa)

The law says a landlord may keep part of the rental deposit for the following reasons:

1. To make up for unpaid rent, or other payments owed to the landlord under the rental agreement.
2. To make repairs to the property for damages which were the tenant's fault. Ordinary wear and tear is *not included* in such damages.
3. To pay for the costs of removing a tenant who remained in the house or apartment even after proper notices to leave were delivered, based on the tenant's not living up to his or her end of the rental agreement.

How Can I Make Sure of Getting My Rental Deposit Back When I Move Out?

(Section 562A.12(3) and (4), Code of Iowa)

Here are some tips on protecting your rental deposit:

1. **Get a receipt when the deposit is delivered to the landlord.** The receipt should say it is for a rental deposit, and should say the amount and the date received.
2. **Make a list of any damages already there when you move in.** This list should be made right when you first move in, or before. The landlord should help you make the list if possible, and it is a good idea to have a friend of yours there, too, as a witness for later. It's best if the landlord and tenant sign the list, and each keep a copy.

3. **Tell the landlord about damages which occur while you're renting there.** The landlord should be informed right away, in writing if possible. The cause of the damages should be explained. Remember that the tenant is responsible only if the tenant is somehow at fault.
4. **Give the proper notice when you want to move out.** Timely notice is explained in the "Rental Agreements" part of this booklet. **MAKE SURE TO GIVE NOTICE THE RIGHT WAY!** This is explained on pages 14 and 15.
5. **Give the landlord a mailing address at the time you move out, or before.** This can be your new address, or the address of a friend — wherever you want your deposit sent. Give the address to the landlord in writing, and keep a dated copy of the paper you give the landlord, for your own records. If no mailing address is given to the landlord within one year, the tenant loses the right to get any of the deposit back. (A TIP: If you're moving a long ways away, you may want to give the landlord the address of a trusted local friend to send the deposit to. Some landlords might be tempted to keep the deposit unfairly if they think it is going to be too inconvenient for you to take them to small claims court.)
6. **Put the place back in shape when you move out.** This means removing the trash and leaving the house or apartment in the same condition it was in when you moved in or better. Of course, normal wear and tear is permitted, and need not be fixed or restored.
7. **Arrange a meeting with the landlord at the time you move out.** Go through the checklist you made when you moved into the apartment. Try to get your landlord to say whether you are going to be charged for any damages, cleaning, or whatever. That way you may be able to fix whatever problem there is while you're still in a good position to do so. If the landlord can state no reason for keeping part or all of the deposit, try to get the deposit back at this meeting.

How Soon after I Move out Should I Get My Deposit Back?

(Section 562A.12(3) and (4), Code of Iowa)

After a tenant has moved out and left a mailing address, the landlord has 30 days to either return the deposit or give the tenant a written explanation of exactly why the landlord is keeping some or all of the deposit. The explanation should be very specific, and if the landlord is keeping some of the deposit because of damages to the property, those damages and the cost of repair should be clearly listed.



What If I Don't Agree with the Landlord's Reasons for Keeping My Deposit?

A tenant who doesn't think the landlord's reasons for keeping the deposit are good reasons can tell the landlord so, and then take the landlord to small claims court if no understanding can be reached.

What If the Landlord Doesn't Return the Deposit, but Doesn't Give a Written Statement of Reasons for Keeping It, Either?

(Section 562A.12(4), Code of Iowa)

If 30 days go by from when the tenant moved out and gave a mailing address, and the landlord doesn't perform the legal duty to give the tenant the deposit back or a written statement of reasons for keeping it, the landlord "forfeits" (loses) the right to keep the deposit. The point is that a tenant has a right to be told in writing and within 30 days what is going to be done with the money.

What Happens to a Landlord Who Purposely Keeps a Rental Deposit Without Any Good Reason?

(Section 562A.12(7), Code of Iowa)

A landlord who violates these laws and keeps a rental deposit in bad faith (knowing there is no good reason to keep it) can be ordered by a court to pay the tenant for whatever harm was done to the tenant plus a penalty of up to \$200.

If a Tenant Has a Lawyer Help in a Lawsuit over a Rental Deposit, and the Tenant Wins, Can the Landlord Be Forced to Pay the Tenant's Attorney?

(Section 562A.12(8), Code of Iowa)

Yes. In any lawsuit over a rental deposit the court can make the loser (landlord or tenant) pay the legal fees of the winner's lawyer.

UPKEEP, REPAIRS, AND OTHER DUTIES

What Are the Landlord's Duties as Far as Maintaining the Rental Property Goes?

(Section 562A.15, Code of Iowa)

The landlord has the duty to perform all of the following tasks:

1. Keep the house or apartment up to housing code requirements. You may want to call the building or housing inspector if there seem to be any serious code violations.
2. Make whatever repairs are necessary to keep the house or apartment in a fit and livable condition.
3. Provide a proper container for garbage and arrange for garbage collection.
4. Provide the necessary essential services such as hot and cold running water and heat.
5. Keep any areas used by the tenants of more than one apartment clean and safe.
6. Keep facilities and appliances such as the electric wiring, plumbing, heating, air conditioning and the like in good and safe working order.

Can a Landlord and Tenant Agree That the Tenant Will Be Responsible For Performing Some of the Landlord's Duties?

(Section 562A.15(2) and (3), Code of Iowa)

Yes, but only in the following circumstances:

1. The landlord and tenant of a single family residence may agree in writing that the tenant will perform any or all of these tasks:

- * The landlord’s duty to make arrangements for garbage collection (number 3 above).
- * The landlord’s duty to provide heat, and hot and cold running water (number 4 above).
- * Certain repairs, maintenance, or remodeling.

This written agreement can be part of a written rental agreement, or it can be a separate writing. But either way, for this arrangement to be legal it has to be entered into in good faith (in honesty and fairness).

2. The landlord and tenant of rental property other than a single family residence may agree that the tenant will do certain repairs, maintenance or remodeling. An example of rental property “other than a single family residence” would be a typical apartment house. For an agreement to be legal in this situation it must be written down separately from any rental agreement they might have, and it must be signed by both landlord and tenant. This separate written agreement can’t be treated as part of the rental agreement in any way. For instance, the tenant has to get something in return for agreeing to do the work, and the landlord can’t consider the tenant’s failure to do the work as breaking the rental agreement.

Also, such a separate agreement between landlord and tenant doesn’t change in any way the landlord’s responsibilities to other tenants.

BEWARE! If you are a renter and you want to make some change in the rented property, such as recarpeting or repainting, get some written understanding from your landlord.

What Are a Tenant’s Duties as Far as Taking Care of the Rental Property Goes?

(Section 562A.17, Code of Iowa)

The tenant has the duty to perform all of the following tasks:

1. Keep the house or apartment in a safe and healthy condition as required by housing codes. (NOTE: Some parts of a housing code may deal with areas or activities the tenant has special control of, such as proper use of extension cords and avoiding overload of the electrical circuitry.)
2. Keep his or her own living area as clean and safe as possible.
3. Dispose of garbage properly, in the containers provided.
4. Keep all plumbing fixtures (such as bathroom and kitchen) as clean as possible.
5. Use properly all appliances and facilities, such as plumbing, heating, wiring, air conditioning and the like.
6. Keep from purposely or carelessly changing, tearing down, or abusing the house or apartment, or allowing someone else to do so.
7. Avoid doing things that will disturb the neighbor’s peace and quiet.

Can a Tenant with Disabilities Change the Rental Unit to Make it Easier to Live in?

Under a federal law, a landlord can’t refuse to allow a tenant with disabilities to make reasonable changes to the rental unit, at the tenant’s expense, if the changes are necessary for the full enjoyment of the unit. The landlord may require a tenant to restore the unit to its original condition when the tenant leaves. If necessary, to ensure that money is available to restore the unit, the landlord may require the tenant to pay, over a period of time, an amount not to exceed the cost of restoring the unit.

LANDLORD'S REMEDIES

This part discusses what remedies a landlord has against a tenant who is not living up to the tenant's responsibilities under the law, or under the rental agreement.

Can a Landlord Threaten to End the Rental Agreement If a Tenant Doesn't Properly Perform Some of the More Important Duties of the Tenant?

(Section 562A.27, Code of Iowa)

Yes. A landlord may start an eviction if the tenant breaks one of the important terms of the rental agreement.

For example, if a condition of the rental agreement is that no pets are allowed, and the tenant gets a dog, there may be a material breach of the rental agreement. The landlord must then:

1. Notify the tenant in writing of the exact problem (dog in apartment).
2. Tell the tenant that the rental agreement will end in 7 days unless the problem is corrected within 7 days. If the tenant then gets rid of the dog within the 7 days, the agreement continues as before. If the tenant does not fix the problem, the rental agreement terminates after the 7 days. The landlord can then start eviction procedures.

Sometimes a tenant is given the notice just described, and then corrects the problem in time and prevents the rental agreement from ending. But if basically the same problem occurs again within 6 months, the landlord may this time use a different remedy. The landlord may give the tenant a written notice stating the exact problem and also saying that the rental agreement will end on a certain date, at least 7 days away. (This time the tenant does not have to be given a chance to avoid eviction by taking care of the problem.) If the tenant does not move by the stated date, the landlord may begin eviction procedures. Evictions are fully explained in another part of this booklet.

Is There a Way a Landlord Can Make Sure That a Problem a Tenant Is Responsible for Is Promptly Taken Care of?

(Section 562A.28, Code of Iowa)

Sometimes a tenant may fail to perform the tenant's maintenance duties under the tenant-landlord law, and as a result health and safety are affected in some important way. If the problem can be corrected by cleaning, or by replacement or repair of something that is damaged, the landlord may take the following action:

- In an emergency situation, if the tenant is not performing the cleaning or repair as quickly as the situation required, the landlord may do the work involved or arrange for the work to be done, and in so doing may enter the rental property. The work must be done properly, of course. The landlord may then give an itemized bill to the tenant for the work done, to be paid by the tenant with the next rent payment (or immediately, if the rental agreement has already ended).
- In a nonemergency situation, the landlord must first give the tenant a written notice stating the exact problem and requesting that the tenant remedy the problem within 7 days. If the tenant does not meet his or her obligation to make the repair or do the cleaning within the 7 days, the landlord may go ahead and make the repairs and bill the tenant.

Remember that the remedies just described are only to be used by a landlord if the problem which needs correcting is one the tenant is responsible for. Read the part of this booklet on tenant's duties to see whether a tenant is really responsible.

What Can a Landlord Do If a Tenant Doesn't Pay the Rent When the Rent Is Due?

(Section 562A.27(2), Code of Iowa)

If rent is not paid when due, a landlord may give the tenant a written notice, usually called a Notice of Nonpayment of Rent. The notice must state that rent is due, and that the landlord intends to end the rental agreement if the rent owed is not paid within 3 days.

If the tenant pays the rent within the 3 days, then everything is back to normal, and the rental agreement continues as it was. But if the tenant does not pay within the three days, the landlord may end the rental agreement, and try to evict the tenant.

Eviction procedures are described later on in this booklet. For now, just remember that a landlord who wants to evict a tenant for not paying rent must first give the 3 days notice just described, and may not evict if the tenant pays within the 3 days. An example of a Notice of Nonpayment of Rent form is on page 18.

Can the Landlord Charge Late Fees If the Rent Isn't Paid on Time?

(Section 535.2(7), Code of Iowa)

The most a landlord can charge for late fees is \$10.00 per day, up to a total per month of \$40. So, the total could be reached in four days.

This is an example of a Notice of Nonpayment of Rent, not a model notice.

To: Joe Smith

You are hereby notified that you must pay the unpaid rent which was due on July 1, 2012, for the unit at 1111 1st St, 311, Berg, Iowa.

You are further notified that I intend to terminate the rental agreement if the rent in the amount of \$500 is not paid within three days after the service of this notice upon you.

Jane Jones, Landlord

Can a Tenant Be Evicted for Not Paying a Late Fee?

The rules for some federally-subsidized housing projects do not allow tenants to be evicted for failure to pay late charges. It is not clear under Iowa law whether a tenant could be evicted if late fees are not paid.

Can a Landlord Grab Some of the Tenant's Household Goods If the Tenant Doesn't Pay the Rent?

(Section 562A.31, Code of Iowa)

NO! A landlord is prohibited by law from holding on to a tenant's property as security for back rent. A landlord who does this anyway is probably liable to the tenant not only for the return of the property, but for money damages as well.

If a Tenant Violates a Rental Agreement in Some Way, but the Landlord Allows the Violation to Continue, Can the Landlord Later Turn Around and End the Rental Agreement for That Same Violation?

(Section 562A.30, Code of Iowa)

NO. A landlord may NOT end a rental agreement for some claimed violation of the agreement, if the landlord has earlier allowed that same violation to occur.

For example: A tenant gets a pet, in spite of a no pets rule. The landlord finds out, but allows the pet to remain for several months. In such a situation, the landlord probably has lost the right to evict the tenant for the violation of the rule. At this point, for the landlord to end the rental agreement for violation of the no pet rule, the landlord and tenant would have to agree all over again on such a rule.

Of course, the violation in question must be an important one, not a minor one, or else the landlord couldn't end the agreement anyway.

Can a Landlord Who Wants to Remove a Tenant from the Property Cut off the Power or Water, Change the Locks, or Set the Tenant's Property Outside?

(Section 562A.26 and 31, Code of Iowa)

All of these ways of removing a tenant are completely ILLEGAL. There is only one proper way of forcing a tenant to move out of the rental property, and that is by going through an eviction in court. Evictions involve certain written notices to the tenant, and then a hearing in court. Eviction procedures are fully explained in a later section of this booklet. The only time a landlord can legally change the locks or turn off services is if the tenant has already abandoned the rental property. It is probably never a good idea to set a tenant's property outside, whether it seems abandoned or not. (See page 19 for a discussion of what a tenant who is illegally forced out can do about it.)

TENANT'S REMEDIES

This part explains what a tenant's remedies are against a landlord who is not living up to the landlord's responsibilities under the law or under the rental agreement. It is very important for the tenant to give the landlord proper written notices when required under the law, and to deliver them in the right way.

Some Notices a Tenant Gives to a Landlord and How to Be Sure To Give Them the Right Way (with reference to pages in this book for details on the notice).

TYPE OF NOTICE	Pages with Details	Iowa Code Section
Forwarding address for return of rental deposit (within (1) year of termination of tenancy)	Page 8	§ 562A.12 (3)
Notice of material noncompliance by landlord with 562A.15 or the lease agreement materially affecting the health and safety (p. 14-15).	Pages 14-15	§ 562A.21 (1) & (1)(b)
Notice of termination for landlord's failure to deliver possession, demand for return of prepaid rent and deposit (at least (5) five day's notice); and notice of demand for performance of the rental agreement (p. 7).	Page 7	§ 562A.22 (1)(a) & (1)(b)
Notice of failure of landlord to provide essential services (p.16).	Page 16	§ 562A.23 (1)
Notice of termination of rental agreement due to fire or casualty damage (within (14) fourteen days of tenant's intent to terminate and effective date of leaving) (p.16).	Page 16	§ 562A.25 (1)(a)

TYPE OF NOTICE	Pages with Details	Iowa Code Section
Notice for repair of damages and deducting them from rent (must be delivered at least (7) seven days before rent due and is limited by (1) one month's rent)	Pages 19-20	§ 562A.27 (4)(b)
Copy of the letter telling person who created clear and present danger to not return to the home (safest to also deliver original to offending person and copy to local law enforcement by one of manners listed, with proof of delivery) .	Pages 24-25	§ 562A.27A (3)(c)
Notice of termination of week to week tenancy (at least (10) ten days before termination date in notice). Notice of termination of month to month tenancy (at least (30) thirty days before the rent is due again). Notice of termination of rental agreement longer than month to month (at least (30) thirty days before the end of the end of the term of the tenancy) .	Page 6	§ 562A.34 (1), (2), (3)
Notice of abuse of access by landlord into the rental property.	Pages 21-22	§ 562A.35 (2)

There may be other times that a tenant needs to let the landlord know something. It is always best to do that in writing and keep a copy.

HOW THE TENANT GIVES THE NOTICES THE RIGHT WAY

(Section 562A.8, Code of Iowa)

You **MUST** give written notices (1) one of the following ways:

- Hand delivery to the landlord or the landlord's named agent or named property manager (probably best to not be done by the tenant or if done by tenant take someone over the age of 18 as a witness)
- Hand delivery to the landlord or the landlord's named agent or named property manager, with a signed and dated acknowledgement
- Hand delivery to the landlord or the landlord's named agent or named property manager, or an employee of the landlord, at the landlord's business office (probably best to not be done by the tenant or if done by tenant take someone over the age of 18 as a witness)
- Personal service by someone other than the tenant or the tenant's attorney (IRCP 1.302 & IRCP 1.305)
- Mailing both regular and certified mail to the landlord's business office or address designated by landlord for mailing (Notices served this way have (4) four additional days added to the date of the postmark and mailing, before they are considered received)
- A method of providing notice that results in the landlord actually receiving it.

Can a Tenant Threaten to End the Rental Agreement If a Landlord Doesn't Properly Perform Some of the More Important Duties of a Landlord?

(Section 562A.21, Code of Iowa)

If the landlord fails to perform some important duty under the rental agreement, or doesn't perform one of the duties affecting health and safety which are placed upon landlords by the landlord-tenant law, then the tenant may take the following action.

- The tenant begins by delivering a written notice to the landlord stating the exact problem and stating that the rental agreement will end no sooner than 7 days from when the landlord receives the notice) unless the landlord takes care of the problem within the 7 days.
- The rental agreement will then end on the stated date, unless the landlord cures the problem within 7 days, by making repairs, paying money damages or whatever.
- If the landlord does cure the problem within the 7 days, the rental agreement continues as it was.
- If the problem is not fixed and the rental agreement does end, the tenant must leave on the stated date of termination.
- The landlord must then return all prepaid rent and whatever security deposit the tenant may have coming.

A sample letter for using this 7-day procedure described above is below.

Sample Letter: Seven Day Procedure

Landlord
Address

Date

Dear Landlord:

This is to notify you that the roof is leaking. If this problem is not corrected within 7 days, I will be moving out seven days from the date you receive this letter.

(Here the tenant should write a description of the problem — and tell the landlord exactly what needs fixing.)

Sincerely,

The Tenant
Tenant's Address

Copy to: Tenant's Records

If a tenant goes through the process just described and the landlord cures the problem in time, but then the same problem arises again within 6 months, the tenant may end the rental agreement by giving the landlord written notice of the problem and stating the date of termination, which must be at least 7 days away. As you can see, in this situation the landlord does not have to be given another chance to remedy the problem. But this shortened, 7 day termination procedure can be used only if the landlord has failed to make reasonable efforts to keep the problem in question from occurring again.

NOTE: This 7-day procedure above cannot be used if the problem is actually the tenant's fault, or if the problem is not a serious one.

In addition to taking the steps explained above, a tenant may sue for money damages for the landlord's failure to perform the landlord's duties. The tenant may also ask for a court order to force the landlord to remedy the situation. However, the landlord has a defense against such a lawsuit if the landlord can show that every reasonable effort was made to correct the problem and that the landlord's failure to correct it was for reasons beyond the landlord's control. If a tenant can show the landlord's failure to perform his or her duties is willful, then the tenant can also force the landlord to pay the fees of the tenant's attorney.

What Can a Tenant Do If a Landlord Fails to Perform a Duty to Supply Heat, Hot and Cold Running Water, or Some Other Essential Service?

(Section 562A.23, Code of Iowa)

An "essential" service is one that makes an important difference to whether a house or apartment is really livable. Examples of essential services other than heat and water might be extermination services (if there is a pest problem) or even air-conditioning.

Sometimes a landlord who has a duty under the rental agreement or the law to supply heat, hot and cold running water, or some other essential service purposely or negligently fails to provide it. When this happens the tenant should give the landlord a written notice stating what the problem is, and then the tenant may do one of the following three things:

1. Obtain reasonable amounts of hot water, running water, heat or other essential service during the period of the landlord's failure to do so. The tenant may then deduct the actual amount (remembering to keep it reasonable) from the rent; OR
2. Sue in small claims court to recover damages based on the fact that the apartment or home was not worth the full amount of the regular rent during that time. The legal phrase for this is "reduction of the fair rental value." If the tenant is successful in court he or she will receive a money judgment against the landlord; OR
3. Sue the landlord for money already paid as rent for the period of the landlord's failure to provide the essential services.

On pages 18 and 19 are two sample notices. Notice I tells the landlord of the lack of essential service. Although the tenant could tell the landlord in this letter exactly what the tenant plans to do, it is not necessary to do so. A notice like Notice I **MUST** be given to the landlord before the tenant can use the remedies explained here. Notice II could be used if the tenant decides to obtain the essential service and then deduct the costs from the rent. It just tells the landlord of the planned deduction from rent.

There are some risks in deducting the amount from the rent. The landlord may not agree that this is proper and attempt to evict the tenant for non-payment of rent.

What If a Tenant's House or Apartment Is Damaged by Fire or Other Casualty?

(Section 562A.25, Code of Iowa)

If rental property is damaged by fire or casualty (such as flooding, tornado, etc.) so that the tenant's use of the property is interfered with in a significant way, then the tenant has these choices:

Move out immediately, and then some time in the next 14 days notify the landlord in writing of the tenant's intention to end the rental agreement. If the tenant does this, then the rental agreement is considered to have ended when the tenant moved out, and the landlord must return all prepaid rent and whatever security deposit the tenant has coming.

If the place isn't so damaged that it is downright illegal for people to keep living there, the tenant may move out of that portion of the property which has become unusable or unlivable. During this period of the tenant's having only partial use of the premises, the tenant is only responsible for paying an amount of rent which takes into account the fact that the rental value of the property has been reduced by the fire or casualty.

SAMPLE NOTICE I

Landlord
Address

Date

Dear Landlord:

I am writing to tell you that I am still having the problem with the (hot water, heat, etc.) that I told you about yesterday morning. The problem is (describe the problem in detail).

Since I have a right to this essential service, I am taking steps under the landlord-tenant law to correct the situation. (Here the tenant could write in one of the tenant's options, namely:

1. Getting the necessary services working again, and deducting the costs from rent, OR
2. Suing for the reduction in rental value, or for the return of rent for the period without the essential service.)

Sincerely,

Tenant Name
Tenant's Address

Copy to: Tenant's records

SAMPLE NOTICE II

Landlord
Address

Date

Dear Landlord:

This is to notify you that I have spent the following amounts to correct the problem with the (state which essential service is not being provided).

Action taken to obtain essential service:	COST
(example: repair of water heater, etc.)	\$ _____
_____	\$ _____
_____	\$ _____
TOTAL COST	\$ _____

Copies of the receipts are attached. These costs will be deducted from our rent payments as follows:

Month of _____	\$ _____
Month of _____	\$ _____
Month of _____	\$ _____

Sincerely,

The Tenant
Tenant's Address

Copy to: Tenant's records

What Can a Tenant Do If the Landlord Illegally Forces the Tenant out of the Rental Property?

(Section 562A.26, Code of Iowa)

If a landlord illegally removes a tenant, such as by changing the locks or by moving the tenant's possessions out, or if a landlord purposely cuts off the tenant's essential services, the tenant has two choices:

1. The tenant can take the landlord to court to get back possession of the house or apartment. This could probably be done either by getting an injunction (court order) against the landlord, or even by evicting the landlord with the eviction procedures explained in another part of this booklet.
2. The tenant can put an end to the rental agreement. If the agreement is terminated, the landlord must return all prepaid rent and whatever rental deposit the tenant has coming.

Whichever the tenant chooses to do, he or she can also sue for money damages, to force the landlord to repay the tenant for the trouble and inconvenience the landlord caused. The judge can also order the fees of the tenant's attorney (if any) to be paid by the landlord.

Can a Tenant Ever Make Needed Repairs, Then Subtract the Repair Costs from the Rent?

(Section 562A.27(4), Code of Iowa)

Yes. In some cases a renter may use rent money to make repairs or correct defects in the house or apartment rather than pay it to the landlord.

The defect which you want to correct must be one which the landlord is responsible for taking care of. These responsibilities include, among others, meeting the housing code requirements which seriously affect health and safety, and maintaining all electrical, plumbing, sanitary, and heating devices in safe working order. Other responsibilities of the landlord are explained in the section on "Upkeep and Repairs," and a given rental agreement may include even more.

FIRST...

You must notify the landlord that you plan to correct the problem and that you plan to deduct the cost of the repairs from your rental payment. This notice should be in writing and must be given to your landlord at least 7 days before the due date of the rental payment from which you plan to deduct the costs of repair. A sample notice can be found on page 21.

SECOND...

Have the problem fixed. It may be best to hire someone to do it, even if you could do it yourself. But if you do the work yourself, keep careful track of your time and costs; keep the receipts of all out-of-pocket costs. All work must be done well, and at a reasonable price.

<p>NOTE: The cost of correcting the problem cannot be more than one month's rent.</p>
--

THIRD...

Deduct the cost of the repairs from the amount due for rent and pay any remainder to your landlord as rent, giving your landlord a copy of the receipt for the work which was done. (Keep the original receipt for your records.) The costs of repair work can only be deducted from your rent **AFTER** the work has been completed. Also, the work must be begun and should be completed before the tenant receives a written "Notice of Nonpayment of Rent" from the landlord. If your house or apartment needs several repairs and the costs will exceed one month's rent, you will need to fix things one-by-one. For example, this month you deduct the costs of fixing one defect, next month you deduct the costs of correcting another, and so on.

REMEMBER: If a tenant deducts the cost of repairs from rent, the landlord may look at the situation as a failure to pay the full rent. The landlord may then try to end the rental agreement and evict the tenant. If that happens, the tenant will probably have to justify his or her actions to a judge. Therefore, it is very important that the tenant carefully follow each requirement described above if the “repair and deduct” procedures are to be used.

Sample Repair and Deduct Notice to Landlord

Date

Landlord
Address

Dear Landlord:

The pipe under the kitchen sink is leaking and must be fixed right away. As you recall, I asked you to fix this last week, and nothing has been done.

I intend to contact a plumber immediately to make the repairs. I will deduct the cost of repair from my next month’s rent, which is due in 2 weeks.

Sincerely,

Tenant Address

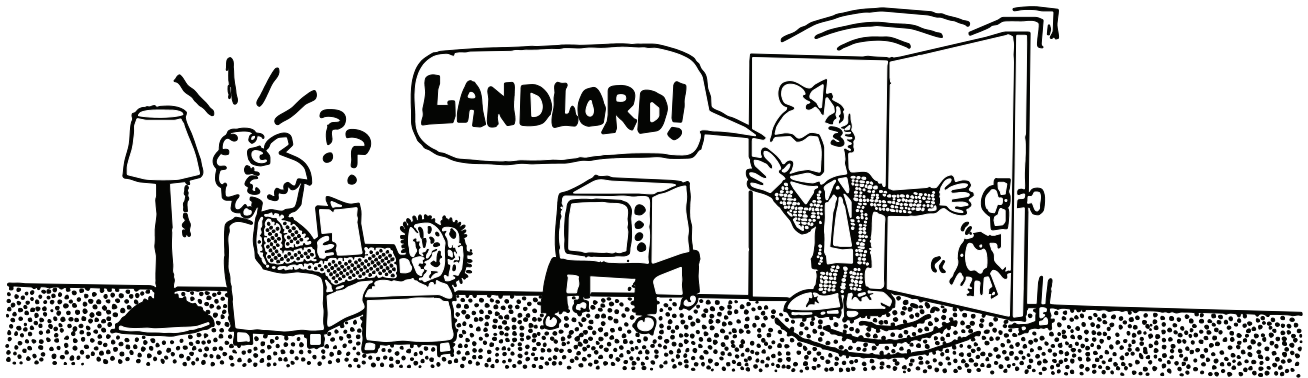
Copy to: Tenant’s records

Does it Help to Call the Housing Inspector to Complain about a Health or Safety Hazard in the Rental Property?

If a tenant has some problem with the rented house or apartment - such as bad plumbing or wiring, a leaky roof, or cockroaches - it is often helpful to contact local housing or health officials to tell them about the problem. The officials would usually hear the tenant’s complaint, then inspect the rental property. If a housing code violation or health hazard did exist, the official would generally inform the landlord of the problem in writing, demanding that it be taken care of within a certain period of time.

Of course, it usually makes sense to first ask the landlord to remedy the problem, and to contact inspectors only if the landlord won’t take care of it within a reasonable time. Housing code requirements are probably contained in your city’s laws, which are usually called the “city code” or “city ordinances.” A copy of these laws can usually be found at City Hall or in the local public library or on the internet .

A tenant who contacts housing, building, fire, or health officials about some problem or hazard should not have to worry about the landlord trying to get back at the tenant for doing so. A tenant is protected against a landlord’s attempts to “get even,” and that protection is explained in the part of this booklet on Retaliatory Actions.



Is it Legal for a Landlord to Enter a Tenant's House or Apartment Whenever the Landlord Pleases?

(Section 562A.19, 29, and 35, Code of Iowa)

No, it is not legal. As a rule a landlord cannot enter the tenant's home without telling the tenant at least 24 hours in advance of the landlord's intention to enter. Here are the main legal rules describing the landlord's "right of access" (that is, the landlord's right to enter the rental property), and the limits on that right.

- The landlord cannot abuse his or her right of access, or use it to harass the tenant. Generally, the landlord can enter only at reasonable hours, after giving at least 24 hours notice. The only exceptions to this "24 hour advance notice" requirement are emergencies and other situations where it is not really possible to give the notice.
- The tenant cannot unreasonably refuse to allow the landlord to enter the apartment or house to make necessary repairs or inspections. This also applies to repairmen sent by the landlord.
- In the case of an EMERGENCY, the landlord may enter the tenant's home at any time, even without the tenant's consent.
- If a tenant is away from the rental property for more than 14 days, the landlord may enter whenever reasonably necessary.
- Unless the tenant has abandoned the rental property, the only way for a landlord to enter, other than those listed above, is by a Court Order.
- A landlord who makes an unlawful or unreasonable entry or who unreasonably demands entry so as to harass the tenant, may be ordered by a court to pay the tenant damages equalling at least a month's rent, or more.

As a suggestion, if you have a problem with a landlord who is entering your apartment, the following sample letter may solve the problem:

Sample Letter: Entering the Apartment

Date

Landlord
Address

Dear Landlord:

As a tenant of the premises located at (address) , I have certain privacy rights under the landlord-tenant law. I request that in the future you follow these reasonable rules before entering my home:

1. Call at least 24 hours before you come over in order to let me know when you will be here. Then, please be on time. This also applies to anyone you send over, such as someone to do repairs.
2. If you cannot call 24 hours ahead of time, call as much in advance as you can before you come over. If at all possible I will make arrangements to let you in, but do not be upset if it is inconvenient for me to have you in on such short notice.
3. Do not enter my home when I'm not there. The only exceptions to this are when I have given you permission on that occasion to enter in my absence, or when there is some real emergency that requires you to enter.
4. No matter what the situation, always knock before you enter and wait for someone to open the door.

If you follow these rules I will welcome you as a guest whenever possible. If you do not follow these rules I will refuse to allow you to enter.

Sincerely,

Tenant
Tenant's address

Copy to: Tenant's records

RETALIATORY ACTIONS

If a Tenant Complains to the Landlord or the Housing Inspector about Some Problem with the Rental Property, Is it Legal for the Landlord to Get Back at the Tenant by Raising the Rent or Evicting the Tenant?

(Section 562A.36, Code of Iowa)

As a rule, a tenant is protected from a landlord's attempt to take retaliatory action against a tenant. A "retaliatory action" is an action intended to "get back at" or "get even with" someone. The landlord-tenant law makes certain retaliatory actions illegal.

Your landlord cannot attempt to get even with you by raising your rent, refusing to do any maintenance, or evicting, or threatening to evict you just because you have done one of the following things:

- Contacted the building or housing inspector about an unsanitary, unhealthy, or unsafe condition which you did not cause.
- Complained to the landlord that he or she is not doing the things he or she is obligated to do as a landlord — for example, not doing required maintenance, not providing a trash container, etc.
- Organized with other tenants to protect your rights, or joined an organization concerned with tenants' rights.

Make a note of the date you make a complaint to the landlord or to the authorities, or the date you join a tenants' organization. The "presumption" of retaliation runs for one year after this date. That means that if the landlord gives no reason for taking action against the tenant, the judge will assume that the landlord is trying to get back at the tenant. If the landlord does give a reason for taking the action against the tenant, the judge would decide if it is a good enough reason to overcome the presumption of retaliation.

Briefly, the way the tenant's protection works is that the tenant can use the fact of the retaliation as a defense in court against the landlord's attempt to evict the tenant, or the tenant can sue the landlord for damages caused by the retaliation. But remember that a tenant's complaint to the landlord or to the authorities must be in good faith (honest) in order to be protected against a landlord's retaliation, and also remember that a landlord's attempt to evict you is not considered retaliatory if you are behind in your rent and have no legal reason for being behind (such as properly using the "repair and deduct" remedy).

If your landlord tries to get back at you because you have done something other than the three things listed above, you may still be protected against the landlord's retaliation. The law is not clear on how far a tenant's protections against retaliation go, so you may want to see a lawyer if you are not sure whether your exact circumstances are protected.

EVICCTIONS

An "eviction" is a lawsuit in which one person (usually a landlord) tries to get the court to order another person (usually a tenant) to move out. In Iowa, evictions are often called by another name: Forcible Entry and Detainer (or "F.E.D. 's"). Although information important to understand evictions is contained in many parts of the Landlord-Tenant Act, the actual eviction procedures are explained in Chapter 648 of the Code of Iowa. (Chapter 648 is included at the back of this booklet.)

In What Situations Can a Landlord Evict a Tenant?

(Section 648.1, Code of Iowa)

A landlord may begin an eviction proceeding in court for a number of reasons. Here are the three main reasons:

- The tenant hasn't paid the rent when due.
- The tenant stays in the rental property after the rental period ends, or after the rental agreement has been ended by the tenant or the landlord.
- There have been serious violations of the rental agreement by the tenant.

What Are the Steps a Landlord Has to Take to Evict a Tenant?

There are a few important steps which a landlord must carefully follow in trying to evict a tenant. If these steps are not properly followed, the landlord will probably lose at the eviction hearing. If the landlord loses, the tenant will be able to stay until the rental agreement ends or a legal eviction takes place. If the landlord sends the tenant papers by mail, the tenant gets additional time to do something or before the notice is effective. Four days are added to the date of mailing before notice is deemed completed.

1. Notice To Tenant Before the Eviction is Started

WRITTEN NOTICE OF NONPAYMENT OF RENT: The first step a landlord must take depends on the landlord's reason for wanting to evict the tenant. If the reason is that rent wasn't paid when due, the landlord must first deliver to the tenant a Written Notice of Nonpayment of Rent. As explained in an earlier part of this booklet (see page 13) this Notice must state that rent is due but unpaid, and that the landlord intends to terminate (end) the rental agreement in 3 days if rent isn't paid up by then. See page 13 for an example of a Notice.

WRITTEN NOTICE OF LEASE VIOLATION: This notice is like a nonpayment notice but gives the tenant 7 days. It is explained on page 12 of this booklet.

NOTICE TO QUIT: In most evictions for reasons other than nonpayment of rent, a landlord must serve a written Notice to Quit to the tenant. A copy of this Notice to Quit is usually handed to each tenant by the Sheriff or a deputy. An example of a Notice to Quit is set forth on page 26.

Even though a Notice to Quit tells a tenant to move out of the rental property within 3 days, a tenant will not be thrown out when 3 days have passed. Instead, the Notice to Quit is simply a step a landlord usually must take (in situations other than nonpayment of rent) before an eviction hearing can be scheduled in court. **NOTE:** A Notice to Quit cannot be used in place of a Notice of Nonpayment of Rent when an eviction is based on non-payment.

NOTICE OF TERMINATION AND NOTICE TO QUIT: A special kind of notice to quit can be used if the tenant's actions create a "clear and present danger." A landlord can give a tenant a three-day notice that both ends the tenancy and gives the tenant notice to quit. This notice can be used only if a tenant or someone on the premises with the tenant's consent has created a clear and present danger to the health or safety of other tenants or the landlord (including the landlord's employees) or other persons. This law covers things that happen in the rental unit and also within 1000 feet of the landlord's property. The law does not define "clear and present danger," but it does give examples:

- Physically assaulting someone, or threatening to do so; or
- Using or threatening to use a gun or other weapon illegally, or possessing an illegal firearm; or
- Possessing a controlled substance unless the person has a valid prescription for it. The tenant could receive this notice even if a guest has possession of a controlled substance as long as the guest had the tenant's permission to be there, and the tenant knew the guest had possession of the controlled substance.

If the landlord tries to evict the tenant based on this section, the paper starting the court action (the petition, usually titled "Original Notice") must state the incident(s) which caused the landlord to end the tenancy.

If a tenant receives a notice under the "clear and present danger" section, the tenant may need to take action right away. This is because the tenant may have gotten the notice based on the actions of guest(s) or other household members. If so, the tenant can get out from under the "clear and present danger" section by taking action to prevent the offending person from repeating the problem. However, the action must be taken before the landlord begins a court action to evict the tenant. A tenant can:

- Ask a court for an order protecting the tenant from the offending person. An example would be a domestic abuse injunction; or
- Report what the offending person has done to a law enforcement agency or the county attorney in an effort to begin a criminal action against the offending person; or
- Write a letter to the offending person, telling him or her not to come back, and if he or she does come back, trespass charges may be filed. The tenant must send a copy of the letter to a law enforcement agency that has jurisdiction where the rental unit is located. Also, if the tenant already sent a letter of this type before, and the offending person came back anyway, but the tenant didn't follow through and file trespass charges, report the offender to police, or get a protection order, the tenant can't just send another letter. Instead, the tenant has to either get a protection order from the court, or report the offending person to a law enforcement agency in an effort to begin a criminal action.

The notice given to tenants must include the steps a tenant can take to exclude the offending person and keep the tenancy.

The tenant must not only take one of the actions described, but also must give written proof of it to the landlord before the landlord files a court action to evict the tenant.

If the tenant takes the action required and gives written proof to the landlord before an eviction action is filed, the landlord can't use the "clear and present danger" section to evict the tenant. However, the tenant will have to act very quickly to get all that done in the three days after the notice is served and before the landlord filed an eviction action in court.

2. Notice that the Eviction Has Been Started

ORIGINAL NOTICE (ACTION FOR FORCIBLE ENTRY AND DETAINER): After the period of the three-day Notice to Quit, Three-day Notice of Nonpayment of Rent, or the Three-day Notice of Termination and Notice to Quit, the landlord must go to the Clerk of Court for a Forcible Entry and Detainer notice. This notice will probably be given to the tenant by the Sheriff or may be mailed, and will include the reason for the eviction, the date of the scheduled eviction hearing, and the signature of the landlord or the landlord's attorney. The hearing is supposed to take place within seven (7) days of the time the judge issues the order setting the hearing. The tenant should get notice of the hearing at least three (3) days ahead of time, even if that means the hearing has to be held more than seven (7) days after the date of the order setting the hearing. (648.5) If the landlord sends the tenant papers by mail, the tenant gets additional time before the hearing can be held. Four days are added to the date of mailing so the tenant has three days notice after that to have proper notice of the hearing.

In addition to evicting the tenant, the landlord may sue the tenant for unpaid rent or damage to the rental unit. The landlord may file both lawsuits at the same time. However, each lawsuit will have its own case number, and will be dealt with separately. (631.4(1); 631.4(2)) The eviction lawsuit (the "F.E.D.") will have a hearing set up automatically. The tenant should be sure and look at the papers to find the date and time of the eviction hearing. It will be the only notice the tenant gets.

If the landlord files a lawsuit for money, the tenant should be sure and fill out the enclosed form. It is usually called the "Appearance and Answer". If the tenant does not fill this out and give it to the clerk of court within 20 days, the tenant may lose the lawsuit by default. That means that a judgment may be entered against the tenant, without the tenant having his or her day in court. If the tenant does fill out and return the Answer form, a hearing will be set up. The clerk of court will notify the tenant of the date and time for the hearing on money damages.

This is an example of a Notice to Quit, not a model notice.

To: _____

You are hereby notified that, as landlord, I now demand that you vacate and remove yourself from the possession of the premises at:

within three days from the date of service of this notice upon you.

The reason for this Notice to Quit is _____

Landlord

3. Eviction Hearings

The tenant must appear in court on the date stated on the Forcible Entry and Detainer Notice or the tenant will automatically lose. The same goes for the landlord. After hearing both sides of the story, if the judge or magistrate decides in favor of the landlord, an Order of Removal will be issued, and the landlord will receive a Writ of Removal.

If the tenant is not out by the date and time ordered by the court, the Sheriff's office will remove the tenant and the tenant's property.

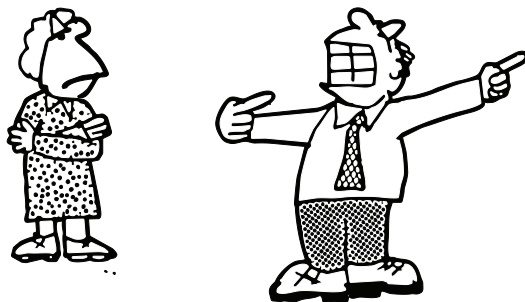
Unless the court orders otherwise, tenants who lose at the hearing could be evicted right away, perhaps within one day. Tenants could ask the court to order that they be allowed to stay a few days after the judgment, so long as they are out within 3 days. The judge does not have to give any extra time, however. If the tenants can show the judge why the extra time would make a difference, for example that the tenants can move into a new apartment in 3 days, etc., the judge might be willing to grant their request for more time.

If the tenant wins, he or she will not be evicted. Possibly, the landlord could even be ordered to pay the tenant any money that the court finds is owed to the tenant.

Small Claims Court: Eviction hearings are usually held in Small Claims Court. If you have questions regarding how Small Claims Court works, you should ask your local Clerk of Court. Iowa Legal Aid has a booklet on Small Claims Court which you can get by contacting your local Iowa Legal Aid office, or the main office in Des Moines. (The address and phone number on the back of this booklet). Information from the booklet on small claims is also on the Iowa Legal Aid Website at www.iowalegalaid.org under the Consumer and Small Claims Court topic.

What Can a Tenant Who Is Served with Eviction Papers Do?

Just because a landlord files papers to evict a tenant doesn't mean the tenant will actually be ordered to move. There are a lot of defenses to an eviction, and a tenant who is being evicted should think about whether any defenses fit the tenant's situation. If one or more of the list of defenses on pages 27-28 do fit, the tenant should make sure to bring them up at the hearing. This list does not include all possible defenses, but it may include some very helpful ones.



DEFENSES TO AN EVICTION

1. Improper Notices: The written notices described at the beginning of this part on eviction must be properly given, or else the landlord will lose at the eviction hearing. Notices have to say what the law requires them to say, they have to be given in the right order, and they have to be timed properly. Remember that 3 days must pass after a tenant receives a Notice of Nonpayment of Rent or a Notice to Quit before a Forcible Entry and Detainer action can be filed in court. Further, the Notice to Quit cannot be served on the tenant until after the violation causing the landlord to evict has actually taken place (the same goes for the notice of Nonpayment of Rent). Remember also, the eviction hearing can be no sooner than 3 days from when the tenant receives the Forcible Entry and Detainer Notice. If the landlord sends the tenant papers by mail, the tenant gets additional time to complete an action or to do something. Four days are added to the date of mailing so the tenant has additional time to complete a task or have a tenancy ended.

When is "3 days" up? In Iowa there is a law that explains how to count days. (Iowa Code Section 4.1, paragraph 34). The day when something is served does not "count" toward the total.

- **So, if the landlord gives the tenant a notice of nonpayment of rent on Monday, the three days should be Tuesday, Wednesday, and Thursday.**
- **If the tenant paid by the end of the day on Thursday, the tenant could stay.**

But what if the landlord gives the tenant the notice on Thursday? The next three days would be Friday, Saturday, and Sunday. There probably will not be anyone in the rental office to take the rent on Sunday. The Iowa Code says if the last day falls on Sunday, the time will be extended to include the whole of the following Monday.

2. Thirty (30) days' peaceable possession: If a tenant continues to live in the rental property, with the landlord's knowledge, for 30 days after the reason for the eviction first came about, the landlord can't use an action for forcible entry and detainer to evict the tenant for that reason. Let's say, for example, that the tenant breaks the rental agreement in some serious way, and receives a seven-day notice of noncompliance. However, the landlord waits for two months to file a lawsuit to evict the tenant, and the tenant has not done anything else to break the lease in the meantime. In that case, the landlord cannot use that problem as the basis for the usual eviction procedures. (The law says that giving a notice to quit does not end the 30 days. Only filing a lawsuit does that.)

3. Substantial compliance: This phrase refers to a situation where an agreement was broken, but only in a very unimportant way. The person who violated the agreement in this way is in "substantial compliance" with the agreement, meaning the person has lived up to all important parts of the agreement. If a tenant can show that he or she is in "substantial compliance" with the rental agreement, the landlord should not be allowed to use the eviction procedures.

4. Repair and Deduct: If the eviction is for non-payment of rent, the tenant has a defense if he or she can show that the full rent wasn't paid because the tenant properly used the "repair and deduct" procedure described in the "Tenant's Remedies" part of this booklet.

5. Landlord's violations: If the eviction is for non-payment of rent, the tenant may point out that the landlord has not lived up to the landlord's duties under the law or the rental agreement (for example, repair duties, or the duty not to enter the rental property without proper notice). In this case, it is best if the tenant gave a written notice to the landlord about the issue or problem.

The tenant may be able to show that the landlord owes the tenant money damages, due to violations of the landlord's duties. If the money damages are equal to or more than the rent the landlord claims is due, the court may decide not to evict the tenant.

To be safe, a tenant in this situation should fill out a Counterclaim form, pointing out the landlord's violations, and file it with the clerk of court before the hearing date. A tenant who uses this defense should be prepared if possible to pay the amount of the unpaid rent to the court during the eviction suit, because the court may order the tenant to do so before a final decision is made.

This defense may often be available to a tenant, but a tenant should use this defense only if it honestly has some reasonable chance of success. If a tenant raises this defense in bad faith and loses, the court may order the tenant to pay the reasonable attorney's fees of the landlord's attorney.

6. Waiver of landlord's right to terminate the rental agreement: If an eviction is based on a tenant's violation of the rental agreement, but the landlord has earlier allowed the same violation to take place, the landlord has "waived" (given up) his or her right to end the rental agreement for that violation. This is discussed more in the part of this booklet on "Landlord's Remedies."

7. Retaliation: "Retaliation" means getting back at someone for something. If a landlord is evicting a tenant to retaliate for certain things the tenant did, but had a right to do, the eviction may be illegal. Retaliation is explained more fully in the part of this booklet on "Retaliatory Action."

8. Unconscionability: "Unconscionable" simply means very unfair. If a landlord is evicting a tenant because of the tenant's violation of some part of the rental agreement, the tenant may have a defense by showing that the part the tenant violated was so unfair as to be unconscionable. Unconscionability is explained more under "Rental Agreements."

9. Property damage without fault of tenant: A tenant who is being evicted because of some damage done to the rental property may defend himself by showing that the damage was not the tenant's fault. For example, part of the house or apartment might have fallen apart even though the tenant was just using it in the way it was meant to be used. It may have been old, or improperly made in the first place; or the damage might have been done by a vandal. As explained in the "Upkeep" part of this booklet, a tenant's duty is to avoid damaging the rental property on purpose or negligently (carelessly), and to take reasonable steps to prevent others from damaging it. If a tenant has not violated this duty, an eviction based on damage to property should not succeed.

10. Landlord's failure to use the "7 Day Notice" procedure (see page 15): If the eviction is based on the claim that the tenant violated the rental agreement in some important way, but the landlord never used the notice procedure described on page 16 to give the tenant a chance to take care of the problem, then the tenant can argue that the eviction should be dismissed until those procedures are used by the landlord.

11. Misuse of the "clear and present danger" section. As is described earlier, a landlord may try to get a tenant out faster than usual by saying that the tenant, or someone at the tenant's rental unit with the tenant's consent, has created a clear and present danger to the health or safety of other tenants or the landlord (including the landlord's employees) or other persons. If the landlord serves the tenant with notice that the tenancy is terminated based on the "clear and present danger" section, the tenant could defend the eviction by saying:

- The actions are not serious enough to fall under this section; or
- The offending person was not present with the tenant's consent at the time the problem occurred; or
- The tenant took one of the steps described on page 25 to get out from under this section; or
- The notice did not tell the tenant about the ways to get out from under this section; or
- Even if the tenant wasn't able to finish taking the action and provide written proof to the landlord before the court action was begun, the court still should look at the efforts of the tenant. If the tenant was doing the best she or he could to comply and has followed through in getting a protection order, reporting to the police or sheriff or writing a letter to the offending person, the court may allow the tenant to remain.

What If the Tenant Did Not Get the Notices or Eviction Papers the Landlord Said Were Sent?

(Sections 562A.8 and 562A.29A of the Iowa Code)

A tenant should tell the judge if the tenant never got the notice or got it too late to do any good. The judge may decide that what happened wasn't fair to the tenant. If the tenant doesn't know about an eviction hearing until it's over, the tenant should see a lawyer right away. It may be possible to get a new eviction hearing set.

REMEMBER: These defenses are not the only possible defenses. It may be worthwhile for a tenant to go to the eviction hearing and simply tell his or her side of the story. The judge or magistrate can listen to both sides and decide the case as law and fairness require.

Can a Tenant Who Loses at an Eviction Hearing Have the Decision Reviewed by a Different Judge?

Yes. It is possible to appeal the eviction decision — that is, get the opinion of a different judge. A tenant who loses at the eviction hearing, but believes the decision was wrong, can either request an appeal from the judge at the hearing, or can make the request in writing to the clerk of court within 20 days of the decision. Since the eviction decision could result in the tenant's being promptly removed from the property by the sheriff, it is best to appeal right away. But even after appealing, if the tenant wants to avoid being removed a bond must be given to the clerk of court, unless the court waives the bond. That means the court says the bond is not needed

A bond is an amount of money that will protect the landlord from being financially hurt by letting the tenant stay in the property during the appeal. So the amount of the bond would often be equal to the rent that would add up during the appeal. Since an appeal is to be decided promptly by another judge, the bond usually should not be too much. But a tenant may want to make a point of asking the Judge who ordered the eviction to set the bond low enough so that the tenant can pay it. For example, the tenant could ask that the rent simply be paid to the clerk of court as it becomes due. That should protect the landlord. The tenant needs to make a written request in the form of an “affidavit” (a sworn statement). Some counties require that tenants use a printed form from the Clerk of Court. (It is the same form used by people requesting a court-appointed lawyer, who need to show the judge that they can’t afford to pay a lawyer.)

If a tenant can’t pay the bond, or get it waived, he or she can still appeal, but the sheriff will probably remove the tenant from the property before the appeal is decided. The appeal decision might be important anyway, because the payment of money to the tenant could be involved, or because the tenant might want to win an appeal so that the tenant can get back into the rental property to live. (Section 648.23)

DISCRIMINATION

What Is Discrimination in Housing?

(Section 216.8 & 8A, and 216.12, Code of Iowa) (United States Code, Volume 42, Sections 3601 and following.)

A landlord may consider a number of different things in choosing tenants or in deciding how to treat a particular tenant. Some of the things a landlord considers are legal and proper, while others are illegal, improper, and may not be considered. If an illegal consideration enters into a landlord’s decision about a tenant, this is discrimination and the landlord is guilty of an unfair or discriminatory practice.

What Is it Illegal for a Landlord to Consider?

Under Iowa law, a landlord or apartment manager in the process of choosing a tenant, advertising for tenants, or choosing the terms of a rental agreement with a tenant, may not discriminate against a person on the basis of RACE, COLOR, CREED, SEX, RELIGION, NATIONAL ORIGIN, DISABILITY or HANDICAP (physical or mental), SEXUAL ORIENTATION, GENDER IDENTITY or FAMILY STATUS (if the person is responsible for children or is pregnant). Similarly, a tenant can’t be discriminated against on the basis of race, color, creed, sex, religion, national origin, disability, sexual orientation, gender identity, family status or age of any of that tenant’s guests or visitors. Persons with disabilities may have other rights. See page 11. Federal law also prohibits discrimination but does not include discrimination based on sexual orientation or gender identity.

Which Tenants Are Considered Disabled?

Generally, tenants with physical or mental problems which limit them in an important way would be covered. Also included are people who used to have a handicap, or are thought to have one. For example, people who test positive for exposure to the virus that causes AIDS are protected, even if they are not sick at all. The federal Fair Housing law states clearly, though, that people who are presently abusing drugs are not protected, and it is likely the Iowa law would be interpreted the same way.

How Does the Law Apply to Families with Children?

Forms of discrimination against families with children that may be against the law include:

- Adults only policies
- Actions to discourage families with children from renting or buying
- Making available or denying a unit based on presence of children
- Limits on the age and number of children allowed in a unit
- Setting different rents and security deposits for families with children
- Restricting families with children to only certain buildings or floors

The law covers the following types of housing:

- Rental units
- Single-family dwellings
- Condominiums
- Mobile home parks
- Cooperative apartments

Can a Landlord Tell a Tenant How Many People Can Live in the Unit?

A landlord probably cannot set limits that are more strict than the local housing code. For example, a landlord probably cannot say there can only be one person to a bedroom. A landlord could say that no more people can live in the apartment than the housing code allows if the housing code is reasonable. Usually, housing codes set a certain amount of space in square feet for each tenant. So, if the city housing code would allow six people in an apartment, the landlord might be in violation of fair housing laws to limit the apartment to four tenants. If there is no local housing code, the landlord could set reasonable limits on how many people can live in the unit. The HUD guideline is two people per average-sized bedroom.

Other state and federal occupancy standards can be enforced. Such standards must apply to everyone and can't be used to discriminate against any specific group.

Are There Situations Where Housing Discrimination Laws Don't Apply?

Both Iowa's fair housing law and the federal fair housing law have some exceptions. Iowa's housing discrimination law does not apply to the following situations:

1. Housing provided by a religious institution, unless the religious institution owns or operates the housing for a commercial purpose, or unless the religion restricts membership on the basis of race, color, or national origin.
2. Housing where the landlord lives in a building in which two households live independently of one another, and the landlord lives in one of those two apartments. The same is true if there are four units or fewer, if the owner of the property lives in one, and qualifies for the homestead tax credit for that dwelling.
3. Housing where the landlord lives in a housing arrangement with three or fewer "roomers," all in a single house set-up.
4. There is an exception to the rule against discrimination against families with children. Certain housing set aside for the elderly can discriminate against families with children.
5. If the tenants would be forced to share a living area, a landlord can restrict the tenant to only men or only women.

But, even though the Iowa fair housing law may not apply to a situation, other statutes might. For example, there are some statutes from Civil War days that also prohibit discrimination based on race, and which have no exceptions. (See, the Civil Rights Act of 1866, 42 U.S.C. 1982.) Also, even if a rental is not covered, advertising about it may still be covered by fair housing laws. Thus, the general rule is that discrimination based on the categories listed is not legal. For more information about how discrimination laws apply to a specific situation, see an attorney.

What Should a Person Who Has Been Discriminated Against Illegally in the Area of Housing Do?

In general, a victim of housing discrimination can do any or all of the following things. Keep in mind that the Iowa law and federal law are very similar, but it is possible that some actions might violate one but not the other. The Iowa Civil Rights Commission can give more information about what each law covers.

A victim of discrimination can file a complaint with the **Iowa Civil Rights Commission (ICRC)**. The time limit for filing a complaint with the ICRC is 300 days from the time the discrimination happened.

- You can reach the ICRC toll-free at 1-800-457-4416, or locally at (515) 281-4121.
- Its website is www.state.ia.us/government/crc.
- You can write to the Iowa Civil Rights Commission at:
Grimes State Office Building
400 East 14th Street
Des Moines, IA 50319.

A victim of discrimination can file a complaint with the **United States Department of Housing and Urban Development (HUD)**. The time limit for filing a complaint with HUD is one year from the time the discrimination happened.

- You can reach HUD toll-free at NATIONAL HUD DISCRIMINATION HOTLINE 1-800-669-9777 or TYY 1-800-927-9275.
- You can file a complaint on-line by going to www.hud.gov and clicking on “File a Fair Housing Discrimination Complaint.”
- The address for HUD is:
U.S. Department of Housing and Urban Development
Region VII Office of Fair Housing, Gateway Tower II
400 State Avenue
Kansas City, Kansas 66101-2406.

A victim of discrimination can file a lawsuit without going to either the ICRC or HUD first. A lawsuit has to be filed within two years of the time the discrimination happened.

It is possible to do all three things at the same time. At some point, the complainant may have to choose whether to go ahead with the agency complaint or go to trial in the lawsuit. A lawyer can explain what the best remedy is in a particular situation.

Since you only have a limited time to file a complaint, it is important to contact an attorney, Fair Housing Office, Iowa Civil Rights Commission, or U.S. Department of HUD as soon as you believe you have been discriminated against.

The Iowa Residential Landlord Tenant Act

WARNING REGARDING USE OF THE ACT

IMPORTANT: Read This Page Before Reading Any of the Law on the Following Pages!

Iowa's Landlord-Tenant Act (and the eviction law or "Forcible Entry and Detainer" law) is found in the Code of Iowa. Information on the next several pages is from the Iowa Code on the Iowa Legislature's website. It includes changes through 2011 Session. This part of the Code is provided with the following disclaimer from the Iowa Legislative General Assembly website:

This Iowa General Assembly Web Site is generally NOT the source for official legal information. Although the accuracy and timeliness of the information provided is excellent, some information is provisional and all information is provided without any express or implied warranty. If information on this site may affect your legal rights, refer to the official printed publication of the law or contact legal counsel of your choice.

There are a few important points which must be kept in mind while reading this law and applying it to your situation:

1. *By the time you read this booklet, the law may have changed!*

The Landlord-Tenant Act (or eviction laws) may be changed from time to time by the Iowa Legislature. The following pages set forth these laws as obtained from the 2008 Iowa Code on the Iowa Legislature website. Remember that you cannot assume that, at the time you read this booklet, each part of the law is the same as it was when this booklet was written.

To find out whether the law has been changed, either talk to a lawyer or look at the lawbooks themselves. The Code of Iowa can generally be found at your local library or courthouse. Recent changes in the law are contained in special books which are usually kept with the Code itself. Talk to a librarian about using these books, but when in doubt, see a lawyer. On the Internet, you can get updated Code of Iowa information on the Iowa Legislature's website:

<http://www.legis.state.ia.us/lowaLaw.html>

2. *The landlord-tenant act (and forcible entry and detainer law) do not contain all of the relevant law!*

This is true in several ways. First, the landlord tenant act covers many rental situations, but not all (see page 2 of this booklet to find out what situations are and are not covered). Second, some landlord-tenant problems are dealt with in other parts of the Code of Iowa (parts not included in this booklet). Third, even the entire Code of Iowa does not contain all the landlord-tenant law which a judge may consider in making a decision. The decisions of other judges in other cases are sometimes considered when interpreting the Code of Iowa, or when deciding a question which the Code doesn't directly answer. This "judge-made law" is contained in another set of law books, and is sometimes difficult to find and understand. Fourth, sometimes a court will decide a case on the basis of the Iowa or U.S. Constitution. Sections of the Iowa Code may be changed in meaning, or even eliminated, by the courts on the basis of the state or national constitution.

Since the landlord-tenant act and forcible entry and detainer act do not contain all the law that may apply to a given situation, in important cases (where a lot is at stake) it is best to get a lawyer's help.

With the above points in mind, read the law on the following pages and become familiar with it. Knowing the law can help you prevent problems, and help you to protect your rights if problems arise.

If you need a lawyer but cannot afford one, Iowa Legal Aid may be able to help you. Contact Iowa Legal Aid at 800-532-1275 or visit the Iowa Legal Aid office serving your county. You can find that information by visiting the Iowa Legal Aid website: **iowalegalaid.org**

Chapter 562a Uniform Residential Landlord and Tenant Law

Eviction or distress for rent during military service; termination of leases; § 29A.101

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CHAPTER 648

FORCIBLE ENTRY AND DETAINER

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CHAPTER 562A

UNIFORM RESIDENTIAL LANDLORD AND TENANT LAW

Eviction or distress for rent during military service; termination of leases; § 29A.101

ARTICLE I

GENERAL PROVISIONS AND DEFINITIONS

PART 1

SHORT TITLE, CONSTRUCTION, APPLICATION, AND SUBJECT MATTER OF THE ACT

562A.1 Short title.

562A.2 Purposes — rules of construction.

562A.3 Supplementary principles of law applicable.

562A.4 Administration of remedies — enforcement.

PART 2

562A.1 Short title.

This chapter shall be known and may be cited as the “Uniform Residential Landlord and Tenant Act”.

[C79, 81, §562A.1]

562A.2 Purposes — rules of construction.

1. This chapter shall be liberally construed and applied to promote its underlying purposes and policies.

2. Underlying purposes and policies of this chapter are:

- a. To simplify, clarify, modernize and revise the law governing the rental of dwelling units and the rights and obligations of landlord and tenant; and
- b. To encourage landlord and tenant to maintain and improve the quality of housing.
- c. To insure that the right to the receipt of rent is inseparable from the duty to maintain the premises.

[C79, 81, §562A.2]

562A.3 Supplementary principles of law applicable.

Unless displaced by the provisions of this chapter, the principles of law and equity in this state, including the law relating to capacity to contract, mutuality of obligations, principal and agent, real property, public health, safety and fire prevention, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause, shall supplement its provisions.

[C79, 81, §562A.3]

562A.4 Administration of remedies — enforcement.

1. The remedies provided by this chapter shall be administered so that the aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

2. A right or obligation declared by this chapter is enforceable by action unless the provision declaring it specifies a different and limited effect.

[C79, 81, §562A.4]

PART 2

SCOPE AND JURISDICTION

562A.5 Exclusions from application of chapter.

Unless created to avoid the application of this chapter, the following arrangements are not governed by this chapter:

1. Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service.
2. Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to the purchaser’s interest.
3. Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization.
4. Transient occupancy in a hotel, motel or other similar lodgings.
5. Occupancy by an employee of a landlord whose right to occupancy is conditional upon employment in and about the premises.
6. Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative.
7. Occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes.
8. Occupancy in housing owned by a nonprofit organization whose purpose is to provide transitional housing for persons released from drug or alcohol treatment facilities and in housing for homeless persons.

[C79, 81, §562A.5]

95 Acts, ch 125, §2

562A.6 General definitions.

Subject to additional definitions contained in subsequent articles of this chapter which apply to specific articles or its parts, and unless the context otherwise requires, in this chapter:

1. “Building and housing codes” include a law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of a premises or dwelling unit.
2. “Business” includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more

persons having a joint or common interest, and any other legal or commercial entity.

3. “Dwelling unit” means a structure or the part of a structure that is used as a home, residence, or sleeping place.

4. “Good faith” means honesty in fact in the conduct of the transaction concerned.

5. “Landlord” means the owner, lessor, or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to disclose as required by section 562A.13.

6. “Owner” means one or more persons, jointly or severally, in whom is vested:

- a. All or part of the legal title to property; or
- b. All or part of the beneficial ownership and a right to present use and enjoyment of the premises, and the term includes a mortgagee in possession.

7. “Premises” means a dwelling unit and the structure of which it is a part and facilities and appurtenances of it and grounds, areas and facilities held out for the use of tenants generally or whose use is promised to the tenant.

8. “Reasonable attorney fees” means fees determined by the time reasonably expended by the attorney and not by the amount of the recovery on behalf of the tenant or landlord.

9. “Rent” means a payment to be made to the landlord under the rental agreement.

10. “Rental agreement” means an agreement written or oral, and a valid rule, adopted under section 562A.18, embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

11. “Rental deposit” means a deposit of money to secure performance of a residential rental agreement, other than a deposit which is exclusively in advance payment of rent.

12. “Roomer” means a person occupying a dwelling unit that lacks a major bathroom or kitchen facility, in a structure where one or more major facilities are used in common by occupants of the dwelling unit and other dwelling units. Major facility in the case of a bathroom means toilet, or either a bath or shower, and in the case of a kitchen means refrigerator, stove or sink.

13. “Single family residence” means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with another dwelling unit.

14. “Tenant” means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of another.

15. “Transitional housing” means temporary or nonpermanent housing.

[C79, 81, §562A.6]

95 Acts, ch 125, §3

562A.7 Unconscionability.

1. If the court, as a matter of law, finds that:

- a. A rental agreement or any provision of it was unconscionable when made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provision, or limit the application of an unconscionable provision to avoid an unconscionable result.
- b. A settlement in which a party waives or agrees to forego a claim or right under this chapter or under a rental agreement was unconscionable at the time it was made, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of an unconscionable provision to avoid any unconscionable result.

2. If unconscionability is put into issue by a party or by the court upon its own motion the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental agreement or settlement to aid the court in making the determination.

[C79, 81, §562A.7]

562A.8 Notice.

1. Notices required under this chapter, except those notices identified in section 562A.29A, shall be served as follows:

a. A landlord shall serve notice on a tenant by one or more of the following methods:

- (1) Hand delivery to the tenant.
- (2) Delivery evidenced by an acknowledgment of delivery that is signed and dated by a resident of the dwelling unit who is at least eighteen years of age. Delivery under this subparagraph shall be deemed to provide notice to all tenants of the dwelling unit.
- (3) Personal service pursuant to rule of civil procedure 1.305, Iowa court rules, for the personal service of original notice.
- (4) Mailing by both regular mail and certified mail, as defined in section 618.15, to the address of the dwelling unit or to an address provided by the tenant for mailing.
- (5) Posting on the primary entrance door of the dwelling unit. A notice posted according to this

subparagraph shall be posted within the applicable time period for serving notice and shall include the date the notice was posted.

(6) A method of providing notice that results in the notice actually being received by the tenant.

b. A tenant shall serve notice on a landlord by one or more of the following methods:

(1) Hand delivery to the landlord or the landlord's agent designated under section 562A.13.

(2) Delivery evidenced by an acknowledgment of delivery that is signed and dated by the landlord or the landlord's agent designated under section 562A.13.

(3) Personal service pursuant to rule of civil procedure 1.305, Iowa court rules, for the personal service of original notice.

(4) Delivery to an employee or agent of the landlord at the landlord's business office.

(5) Mailing by both regular mail and certified mail, as defined in section 618.15, to the address of the landlord's business office or to an address designated by the landlord for mailing.

(6) A method of providing notice that results in the notice actually being received by the landlord.

2. Notice served by mail under this section is deemed completed four days after the notice is deposited in the mail and postmarked for delivery, whether or not the recipient signs a receipt for the notice.

[C79, 81, §562A.8]

96 Acts, ch 1203, §1, 2; 99 Acts, ch 155, §5, 14; 2010 Acts, ch 1017, §1, 11

Section stricken and rewritten

562A.8A Computation of time.

The calculation of all time periods required under this chapter shall be made in accordance with section 4.1, subsection 34.

99 Acts, ch 155, §6, 14

PART 4

GENERAL PROVISIONS

562A.9 Terms and conditions of rental agreement.

1. The landlord and tenant may include in a rental agreement, terms and conditions not prohibited by this chapter or other rule of law including rent, term of the agreement, and other provisions governing the rights and obligations of the parties.

2. In absence of agreement, the tenant shall pay as rent the fair rental value for the use and occupancy of the dwelling unit.

3. Rent shall be payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit

and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal monthly installments at the beginning of each month. Unless otherwise agreed, rent shall be uniformly apportionable from day-to-day.

4. Unless the rental agreement fixes a definite term, the tenancy shall be week-to-week in case of a roomer who pays weekly rent, and in all other cases month-to-month.

[C79, 81, §562A.9]

562A.10 Effect of unsigned or undelivered rental agreement.

1. If a landlord does not sign and deliver a written rental agreement signed and delivered to the landlord by the tenant, acceptance of rent without reservation by the landlord gives the rental agreement the same effect as if it had been signed and delivered by the landlord.

2. If a tenant does not sign and deliver a written rental agreement signed and delivered to the tenant by the landlord, acceptance of possession without reservation gives the rental agreement the same effect as if it had been signed and delivered by the tenant.

3. If a rental agreement given effect by the operation of this section provides for a term longer than one year, it is effective only for one year.

[C79, 81, §562A.10]

562A.11 Prohibited provisions in rental agreements.

1. A rental agreement shall not provide that the tenant or landlord:

- a. Agrees to waive or to forego rights or remedies under this chapter provided that this restriction shall not apply to rental agreements covering single family residences on land assessed as agricultural land and located in an unincorporated area;
- b. Authorizes a person to confess judgment on a claim arising out of the rental agreement;
- c. Agrees to pay the other party's attorney fees; or
- d. Agrees to the exculpation or limitation of any liability of the other party arising under law or to indemnify the other party for that liability or the costs connected therewith.

2. A provision prohibited by subsection 1 included in a rental agreement is unenforceable. If a landlord willfully uses a rental agreement containing provisions known by the landlord to be prohibited, a tenant may recover actual damages sustained by the tenant and not more than three months' periodic rent and reasonable attorney fees.

[C79, 81, §562A.11]

ARTICLE II

LANDLORD OBLIGATIONS

562A.12 Rental deposits.

1. A landlord shall not demand or receive as a security deposit an amount or value in excess of two months' rent.
2. All rental deposits shall be held by the landlord for the tenant, who is a party to the agreement, in a bank or savings and loan association or credit union which is insured by an agency of the federal government. Rental deposits shall not be commingled with the personal funds of the landlord. Notwithstanding the provisions of chapter 543B, all rental deposits may be held in a trust account, which may be a common trust account and which may be an interest-bearing account. Any interest earned on a rental deposit during the first five years of a tenancy shall be the property of the landlord.
3. A landlord shall, within thirty days from the date of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, return the rental deposit to the tenant or furnish to the tenant a written statement showing the specific reason for withholding of the rental deposit or any portion thereof. If the rental deposit or any portion of the rental deposit is withheld for the restoration of the dwelling unit, the statement shall specify the nature of the damages. The landlord may withhold from the rental deposit only such amounts as are reasonably necessary for the following reasons:
 - a. To remedy a tenant's default in the payment of rent or of other funds due to the landlord pursuant to the rental agreement.
 - b. To restore the dwelling unit to its condition at the commencement of the tenancy, ordinary wear and tear excepted.
 - c. To recover expenses incurred in acquiring possession of the premises from a tenant who does not act in good faith in failing to surrender and vacate the premises upon noncompliance with the rental agreement and notification of such noncompliance pursuant to this chapter.

In an action concerning the rental deposit, the burden of proving, by a preponderance of the evidence, the reason for withholding all or any portion of the rental deposit shall be on the landlord.

4. A landlord who fails to provide a written statement within thirty days of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions shall forfeit all rights to withhold any portion of the rental deposit. If no mailing address or instructions are provided to the landlord within one year from the termination of the tenancy the rental deposit shall revert to the landlord and the tenant will be deemed to have forfeited all rights to the rental deposit.

5. Upon termination of a landlord's interest in the dwelling unit, the landlord or an agent of the landlord shall, within a reasonable time, transfer the rental deposit, or any remainder after any lawful deductions to the landlord's successor in interest and notify the tenant of the transfer and of the transferee's name and address or return the deposit, or any remainder after any lawful deductions to the tenant.

Upon the termination of the landlord's interest in the dwelling unit and compliance with the provisions of this subsection, the landlord shall be relieved of any further liability with respect to the rental deposit.

6. Upon termination of the landlord's interest in the dwelling unit, the landlord's successor in interest shall have all the rights and obligations of the landlord with respect to the rental deposits, except that if the tenant does not object to the stated amount within twenty days after written notice to the tenant of the amount of rental deposit being transferred or assumed, the obligations of the landlord's successor to return the deposit shall be limited to the amount contained in the notice. The notice shall contain a stamped envelope addressed to the landlord's successor.
7. The bad faith retention of a deposit by a landlord, or any portion of the rental deposit, in violation of this section shall subject the landlord to punitive damages not to exceed two hundred dollars in addition to actual damages.

8. The court may, in any action on a rental agreement, award reasonable attorney fees to the prevailing party. [C75, 77, §562.9 – 562.14; C79, 81, §562A.12]

93 Acts, ch 154, §13; 2010 Acts, ch 1017, §2, 11

Subsection 6 amended

562A.13 Disclosure.

1. The landlord or a person authorized to enter into a rental agreement on behalf of the landlord shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:
 - a. The person authorized to manage the premises.
 - b. An owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for notices and demands.
2. The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against a successor landlord, owner, or manager.
3. A person who fails to comply with subsection 1 becomes an agent of each person who is a landlord for the purpose of:
 - a. Service of process and receiving and receipting for notices and demands.

b. Performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for that purpose all rent collected from the premises.

4. The landlord or any person authorized to enter into a rental agreement on the landlord's behalf shall fully explain utility rates, charges and services to the prospective tenant before the rental agreement is signed unless paid by the tenant directly to the utility company.

5. Each tenant shall be notified, in writing, of any rent increase at least thirty days before the effective date. Such effective date shall not be sooner than the expiration date of original rental agreement or any renewal or extension thereof.

6. The landlord or a person authorized to enter into a rental agreement on behalf of the landlord shall disclose to each tenant in writing before the commencement of the tenancy if the property is listed in the comprehensive environmental response compensation and liability information system maintained by the federal environmental protection agency.

[C79, 81, §562A.13]

2004 Acts, ch 1071, §1

562A.14 Landlord to supply possession of dwelling unit.

At the commencement of the term, the landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and section 562A.15. The landlord may bring an action for possession against a person wrongfully in possession and may recover the damages provided in section 562A.34, subsection 4.

[C79, 81, §562A.14]

562A.15 Landlord to maintain fit premises.

1. The landlord shall:

- a. Comply with the requirements of applicable building and housing codes materially affecting health and safety.
- b. Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition.
- c. Keep all common areas of the premises in a clean and safe condition. The landlord shall not be liable for any injury caused by any objects or materials which belong to or which have been placed by a tenant in the common areas of the premises used by the tenant.
- d. Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by the landlord.

e. Provide and maintain appropriate receptacles and conveniences, accessible to all tenants, for the central collection and removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal.

f. Supply running water and reasonable amounts of hot water at all times and reasonable heat, except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection.

If the duty imposed by paragraph "a" of this subsection is greater than a duty imposed by another paragraph of this subsection, the landlord's duty shall be determined by reference to paragraph "a" of this subsection.

2. The landlord and tenant of a single family residence may agree in writing that the tenant perform the landlord's duties specified in paragraphs "e" and "f" of subsection 1 and also specified repairs, maintenance tasks, alterations, and remodeling, but only if the transaction is entered into in good faith.

3. The landlord and tenant of a dwelling unit other than a single family residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only:

- a. If the agreement of the parties is entered into in good faith and is set forth in a separate writing signed by the parties and supported by adequate consideration;
- b. If the agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

4. The landlord shall not treat performance of the separate agreement described in subsection 3 as a condition to an obligation or performance of a rental agreement.

[C79, 81, §562A.15]

562A.16 Limitation of liability.

1. Unless otherwise agreed, a landlord, who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser, is relieved of liability under the rental agreement and this chapter as to events occurring subsequent to written notice to the tenant of the conveyance.

2. A manager of premises that includes a dwelling unit is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the termination of the person's management.

[C79, 81, §562A.16]

ARTICLE III

TENANT OBLIGATIONS

562A.17 Tenant to maintain dwelling unit.

The tenant shall:

1. Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety.
2. Keep that part of the premises that the tenant occupies and uses as clean and safe as the condition of the premises permit.
3. Dispose from the tenant's dwelling unit all ashes, rubbish, garbage, and other waste in a clean and safe manner.
4. Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits.
5. Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances including elevators in the premises.
6. Not deliberately or negligently destroy, deface, damage, impair or remove a part of the premises or knowingly permit a person to do so.
7. Act in a manner that will not disturb a neighbor's peaceful enjoyment of the premises.

[C79, 81, §562A.17]

562A.18 Rules.

A landlord, from time to time, may adopt rules, however described, concerning the tenant's use and occupancy of the premises. A rule is enforceable against the tenant only if it is written and if:

1. Its purpose is to promote the convenience, safety, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally.
2. It is reasonably related to the purpose for which it is adopted.
3. It applies to all tenants in the premises in a fair manner.
4. It is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform the tenant of what the tenant must or must not do to comply.
5. It is not for the purpose of evading the obligations of the landlord.
6. The tenant has notice of it at the time the tenant enters into the rental agreement.

A rule adopted after the tenant enters into the rental agreement is enforceable against the tenant if reasonable notice of its adoption is given to the tenant

and it does not work a substantial modification of the rental agreement.

[C79, 81, §562A.18]

562A.19 Access.

1. The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors.
2. The landlord may enter the dwelling unit without consent of the tenant in case of emergency.
3. The landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or if it is impracticable to do so, the landlord shall give the tenant at least twenty-four hours' notice of the landlord's intent to enter and enter only at reasonable times.
4. The landlord does not have another right of access except by court order, and as permitted by sections 562A.28 and 562A.29, or if the tenant has abandoned or surrendered the premises.

[C79, 81, §562A.19]

562A.20 Tenant to use and occupy.

Unless otherwise agreed, the tenant shall occupy the dwelling unit only as a dwelling unit and uses incidental thereto. The rental agreement may require that the tenant notify the landlord of an anticipated extended absence from the premises not later than the first day of the extended absence.

[C79, 81, §562A.20]

ARTICLE IV

REMEDIES

PART 1

TENANT REMEDIES

562A.21 Noncompliance by the landlord — in general.

1. Except as provided in this chapter, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with section 562A.15 materially affecting health and safety, the tenant may elect to commence an action under this section and shall deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than seven days after receipt of the notice if the breach is not remedied in seven days, and the rental agreement shall terminate and the tenant shall surrender as provided in the notice subject to the following:
 - a. If the breach is remediable by repairs or the payment of damages or otherwise, and if the

landlord adequately remedies the breach prior to the date specified in the notice, the rental agreement shall not terminate.

- b. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the tenant may terminate the rental agreement upon at least seven days' written notice specifying the breach and the date of termination of the rental agreement unless the landlord has exercised due diligence and effort to remedy the breach which gave rise to the noncompliance.
 - c. The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of the tenant's family, or other person on the premises with the tenant's consent.
2. Except as provided in this chapter, the tenant may recover damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement or section 562A.15 unless the landlord demonstrates affirmatively that the landlord has exercised due diligence and effort to remedy any noncompliance, and that any failure by the landlord to remedy any noncompliance was due to circumstances reasonably beyond the control of the landlord. If the landlord's noncompliance is willful the tenant may recover reasonable attorney fees.
 3. The remedy provided in subsection 2 is in addition to any right of the tenant arising under subsection 1.
 4. If the rental agreement is terminated, the landlord shall return all prepaid rent and security recoverable by the tenant under section 562A.12.

[C79, 81, §562A.21]

95 Acts, ch 125, §4, 5

562A.22 Failure to deliver possession.

1. If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in section 562A.14, rent abates until possession is delivered and the tenant shall:
 - a. Upon at least five days' written notice to the landlord, terminate the rental agreement and upon termination the landlord shall return all prepaid rent and security; or
 - b. Demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the dwelling unit against the landlord or a person wrongfully in possession and recover the damages sustained by the tenant.
2. If a landlord's failure to deliver possession is willful and not in good faith, a tenant may recover from the landlord the actual damages sustained by the tenant and reasonable attorney fees.

[C79, 81, §562A.22]

562A.23 Wrongful failure to supply heat, water, hot water or essential services.

1. If contrary to the rental agreement or section 562A.15 the landlord deliberately or negligently fails to supply running water, hot water, or heat, or essential services, the tenant may give written notice to the landlord specifying the breach and may:
 - a. Procure reasonable amounts of hot water, running water, heat and essential services during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent;
 - b. Recover damages based upon the diminution in the fair rental value of the dwelling unit; or
 - c. Recover any rent already paid for the period of the landlord's noncompliance which shall be reimbursed on a pro rata basis.
2. If the tenant proceeds under this section, the tenant may not proceed under section 562A.21 as to that breach.
3. The rights under this section do not arise until the tenant has given notice to the landlord or if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of the tenant's family, or other person on the premises with the consent of the tenant.

[C79, 81, §562A.23]

562A.24 Landlord's noncompliance as defense to action for possession or rent.

1. In an action for possession based upon nonpayment of the rent or in an action for rent where the tenant is in possession, the tenant may counterclaim for an amount which the tenant may recover under the rental agreement or this chapter. In that event the court from time to time may order the tenant to pay into court all or part of the rent accrued and thereafter accruing, and shall determine the amount due to each party. The party to whom a net amount is owed shall be paid first from the money paid into court, and the balance by the other party. If rent does not remain due after application of this section, judgment shall be entered for the tenant in the action for possession. If the defense or counterclaim by the tenant is without merit and is not raised in good faith the landlord may recover reasonable attorney fees.
2. In an action for rent where the tenant is not in possession, the tenant may counterclaim as provided in subsection 1, but the tenant is not required to pay any rent into court.

[C79, 81, §562A.24]

562A.25 Fire or casualty damage.

1. If the dwelling unit or premises are damaged or destroyed by fire or casualty to an extent that enjoyment of the dwelling unit is substantially impaired, the tenant may:

- a. Immediately vacate the premises and notify the landlord in writing within fourteen days of the tenant's intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or
- b. If continued occupancy is lawful, vacate a part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.

2. If the rental agreement is terminated, the landlord shall return all prepaid rent and security recoverable under section 562A.12. Accounting for rent in the event of termination or apportionment is to occur as of the date of the casualty.

[C79, 81, §562A.25]

562A.26 Tenant's remedies for landlord's unlawful ouster, exclusion, or diminution of service.

If the landlord unlawfully removes or excludes the tenant from the premises or willfully diminishes services to the tenant by interrupting or causing the interruption of electric, gas, water or other essential service to the tenant, the tenant may recover possession or terminate the rental agreement and, in either case, recover the actual damages sustained by the tenant and reasonable attorney fees. If the rental agreement is terminated, the landlord shall return all prepaid rent and security.

[C79, 81, §562A.26]

PART 2

LANDLORD REMEDIES

562A.27 Noncompliance with rental agreement — failure to pay rent — violation of federal regulation.

1. Except as provided in this chapter, if there is a material noncompliance by the tenant with the rental agreement or a noncompliance with section 562A.17 materially affecting health and safety, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than seven days after receipt of the notice if the breach is not remedied in seven days, and the rental agreement shall terminate as provided in the notice subject to the provisions of this section. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach prior to the date specified in the notice, the rental agreement shall not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the landlord may terminate the rental agreement upon at least seven days' written notice specifying the breach and the date of termination of the rental agreement.

2. If rent is unpaid when due and the tenant fails to pay rent within three days after written notice by the landlord of nonpayment and the landlord's intention to terminate the rental agreement if the rent is not paid within that period of time, the landlord may terminate the rental agreement.

3. Except as provided in this chapter, the landlord may recover damages and obtain injunctive relief for noncompliance by the tenant with the rental agreement or section 562A.17 unless the tenant demonstrates affirmatively that the tenant has exercised due diligence and effort to remedy any noncompliance, and that the tenant's failure to remedy any noncompliance was due to circumstances beyond the tenant's control. If the tenant's noncompliance is willful, the landlord may recover reasonable attorney fees.

4. In any action by a landlord for possession based upon nonpayment of rent, proof by the tenant of the following shall be a defense to any action or claim for possession by the landlord, and the amounts expended by the claimant in correcting the deficiencies shall be deducted from the amount claimed by the landlord as unpaid rent:

- a. That the landlord failed to comply either with the rental agreement or with section 562A.15; and
- b. That the tenant notified the landlord at least seven days prior to the due date of the tenant's rent payment of the tenant's intention to correct the condition constituting the breach referred to in paragraph "a" at the landlord's expense; and
- c. That the reasonable cost of correcting the condition constituting the breach is equal to or less than one month's periodic rent; and
- d. That the tenant in good faith caused the condition constituting the breach to be corrected prior to receipt of written notice of the landlord's intention to terminate the rental agreement for nonpayment of rent.

5. Notwithstanding any other provisions of this chapter, a municipal housing agency established pursuant to chapter 403A may issue a thirty-day notice of lease termination for a violation of a rental agreement by the tenant when the violation is a violation of a federal regulation governing the tenant's eligibility for or continued participation in a public housing program. The municipal housing agency shall not be required to provide the tenant with a right or opportunity to remedy the violation or to give any notice that the tenant has such a right or opportunity when the notice cites the federal regulation as authority.

[C79, 81, §562A.27]

95 Acts, ch 125, §6, 7; 2003 Acts, ch 154, §2

562A.27A Termination for creating a clear and present danger to others.

1. Notwithstanding section 562A.27 or 648.3, if a tenant has created or maintained a threat constituting a clear and present danger to the health or safety of other tenants, the landlord, the landlord's employee or agent, or other persons on or within one thousand feet of the landlord's property, the landlord, after the service of a single three days' written notice of termination and notice to quit stating the specific activity causing the clear and present danger, and setting forth the language of subsection 3 which includes certain exemption provisions available to the tenant, may file suit against the tenant for recovery of possession of the premises pursuant to chapter 648, except as otherwise provided in subsection 3. The petition shall state the incident or incidents giving rise to the notice of termination and notice to quit. The tenant shall be given the opportunity to contest the termination in the court proceedings by notice thereof at least three days prior to the hearing.

2. A clear and present danger to the health or safety of other tenants, the landlord, the landlord's employees or agents, or other persons on or within one thousand feet of the landlord's property includes, but is not limited to, any of the following activities of the tenant or of any person on the premises with the consent of the tenant:

- a. Physical assault or the threat of physical assault.
- b. Illegal use of a firearm or other weapon, the threat to use a firearm or other weapon illegally, or possession of an illegal firearm.
- c. Possession of a controlled substance unless the controlled substance was obtained directly from or pursuant to a valid prescription or order by a licensed medical practitioner while acting in the course of the practitioner's professional practice. This paragraph applies to any other person on the premises with the consent of the tenant, but only if the tenant knew of the possession by the other person of a controlled substance.

3. This section shall not apply to a tenant if the activities causing the clear and present danger, as defined in subsection 2, are conducted by a person on the premises other than the tenant and the tenant takes at least one of the following measures against the person conducting the activities:

- a. The tenant seeks a protective order, restraining order, order to vacate the homestead, or other similar relief pursuant to chapter 236, 598, 664A, or 915, or any other applicable provision which would apply to the person conducting the activities causing the clear and present danger.
- b. The tenant reports the activities causing the clear and present danger to a law enforcement agency or the county attorney in an effort to initiate a criminal action against the person conducting the activities.
- c. The tenant writes a letter to the person conducting the activities causing the clear and present danger,

telling the person not to return to the premises and that a return to the premises may result in a trespass or other action against the person, and the tenant sends a copy of the letter to a law enforcement agency whose jurisdiction includes the premises. If the tenant has previously written a letter to the person as provided in this paragraph, without taking an action specified in paragraph "a" or "b" or filing a trespass or other action, and the person to whom the letter was sent conducts further activities causing a clear and present danger, the tenant must take one of the actions specified in paragraph "a" or "b" to be exempt from proceedings pursuant to subsection 1.

However, in order to fall within the exemptions provided within this subsection, the tenant must provide written proof to the landlord, prior to the commencement of a suit against the tenant, that the tenant has taken one of the measures specified in paragraphs "a" through "c".

92 Acts, ch 1211, §1; 95 Acts, ch 125, §8, 9; 98 Acts, ch 1090, §71, 84; 2004 Acts, ch 1016, §1; 2006 Acts, ch 1101, §2

562A.28 Failure to maintain.

If there is noncompliance by the tenant with section 562A.17, materially affecting health and safety, that can be remedied by repair or replacement of a damaged item or cleaning, and the tenant fails to comply as promptly as conditions require in case of emergency or within seven days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a competent manner and submit an itemized bill for the actual and reasonable cost or the fair and reasonable value of it as rent on the next date when periodic rent is due, or if the rental agreement has terminated, for immediate payment.

[C79, 81, §562A.28]

85 Acts, ch 67, §50; 95 Acts, ch 125, §10

562A.29 Remedies for absence, nonuse and abandonment.

1. If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence as provided in section 562A.20, and the tenant willfully fails to do so, the landlord may recover actual damages from the tenant.

2. During an absence of the tenant in excess of fourteen days, the landlord may enter the dwelling unit at times reasonably necessary.

3. If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair rental. If the landlord rents the dwelling unit for a term beginning prior to the expiration of the rental agreement, it is deemed to be terminated as of the

date the new tenancy begins. The rental agreement is deemed to be terminated by the landlord as of the date the landlord has notice of the abandonment, if the landlord fails to use reasonable efforts to rent the dwelling unit at a fair rental or if the landlord accepts the abandonment as a surrender. If the tenancy is from month-to-month, or week-to-week, the term of the rental agreement for this purpose shall be deemed to be a month or a week, as the case may be.

[C79, 81, §562A.29]

562A.29A Method of service of notice on tenant.

1. A written notice of termination required under section 562A.27, subsection 1, 2, or 5, a notice of termination and notice to quit under section 562A.27A, or a notice to quit required by section 648.3, shall be served upon the tenant by one or more of the following methods:

- a. Delivery evidenced by an acknowledgment of delivery that is signed and dated by a resident of the dwelling unit who is at least eighteen years of age. Delivery under this paragraph shall be deemed to provide notice to all tenants of the dwelling unit.
- b. Personal service pursuant to rule of civil procedure 1.305, Iowa court rules, for the personal service of original notice.
- c. Posting on the primary entrance door of the dwelling unit and mailing by both regular mail and certified mail, as defined in section 618.15, to the address of the dwelling unit or to the tenant's last known address, if different from the address of the dwelling unit. A notice posted according to this paragraph shall be posted within the applicable time period for serving notice and shall include the date the notice was posted.

2. Notice served by mail under this section is deemed completed four days after the notice is deposited in the mail and postmarked for delivery, whether or not the recipient signs a receipt for the notice.

92 Acts, ch 1211, §2; 96 Acts, ch 1203, §3; 99 Acts, ch 155, §7, 14; 2010 Acts, ch 1017, §3, 11; 2010 Acts, ch 1193, §63, 80

Section stricken and rewritten

562A.30 Waiver of landlord's right to terminate.

Acceptance of performance by the tenant that varies from the terms of the rental agreement or rules subsequently adopted by the landlord constitutes a waiver of the landlord's right to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

[C79, 81, §562A.30]

562A.31 Landlord liens — distress for rent.

1. A lien on behalf of the landlord on the tenant's household goods is not enforceable unless perfected before January 1, 1979.

2. Distraint for rent is abolished.

[C79, 81, §562A.31]

562A.32 Remedy after termination.

If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement and reasonable attorney fees as provided in section 562A.27.

[C79, 81, §562A.32]

562A.33 Recovery of possession limited.

A landlord may not recover or take possession of the dwelling unit by action or otherwise, including willful diminution of services to the tenant by interrupting or causing the interruption of electric, gas, water or other essential service to the tenant, except in case of abandonment, surrender, or as permitted in this chapter.

[C79, 81, §562A.33]

PART 3

PERIODIC TENANCY — HOLDOVER — ABUSE OF ACCESS

562A.34 Periodic tenancy — holdover remedies.

1. The landlord or the tenant may terminate a week-to-week tenancy by a written notice given to the other at least ten days prior to the termination date specified in the notice.
2. The landlord or the tenant may terminate a month-to-month tenancy by a written notice given to the other at least thirty days prior to the periodic rental date specified in the notice.
3. The landlord or the tenant may terminate a tenancy having a term longer than month-to-month by a written notice given to the other at least thirty days prior to the end of the first or subsequent term of the tenancy specified in the notice.

4. If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and if the tenant's holdover is willful and not in good faith the landlord, in addition, may recover the actual damages sustained by the landlord and reasonable attorney fees. If the landlord consents to the tenant's continued occupancy, section 562A.9, subsection 4 applies.

[C79, 81, §562A.34]

2006 Acts, ch 1037, §1

562A.35 Landlord and tenant remedies for abuse of access.

1. If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the rental agreement. In either case, the landlord may recover actual damages and reasonable attorney fees.

2. If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct, or terminate the rental agreement. In either case, the tenant may recover actual damages not less than an amount equal to one month's rent and reasonable attorney fees.

[C79, 81, §562A.35]

ARTICLE V

RETALIATORY ACTION

562A.36 Retaliatory conduct prohibited.

1. Except as provided in this section, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession after:

- a. The tenant has complained to a governmental agency charged with responsibility for enforcement of a building or housing code of a violation applicable to the premises materially affecting health and safety;
- b. The tenant has complained to the landlord of a violation under section 562A.15; or
- c. The tenant has organized or become a member of a tenants' union or similar organization.

2. If the landlord acts in violation of subsection 1 of this section, the tenant may recover from the landlord the actual damages sustained by the tenant and reasonable attorney fees, and has a defense in action against the landlord for possession. In an action by or against the tenant, evidence of a good faith complaint within one year prior to the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. Evidence by the landlord that legitimate costs and charges of owning, maintaining or operating a dwelling unit have increased shall be a defense against the presumption of retaliation when a rent increase is commensurate with the increase in costs and charges. "Presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

3. Notwithstanding subsections 1 and 2 of this section, a landlord may bring an action for possession if:

- a. The violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant or other person in the tenant's household or upon the premises with the tenant's consent;
- b. The tenant is in default in rent; or

c. Compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit. The maintenance of the action does not release the landlord from liability under section 562A.21, subsection 2.

[C79, 81, §562A.36]

ARTICLE VI

EFFECTIVE DATE

562A.37 Applicability.

This chapter shall apply to rental agreements entered into or extended or renewed after January 1, 1979.

[C79, 81, §562A.37]

CHAPTER 648

FORCIBLE ENTRY AND DETAINER

648.1 Grounds.

A summary remedy for forcible entry and detainer is allowable:

1. Where the defendant has by force, intimidation, fraud, or stealth entered upon the prior actual possession of another in real property, and detains the same.
2. Where the lessee holds over after the termination of the lease.
3. Where the lessee holds contrary to the terms of the lease.
4. Where the defendant continues in possession after a sale by foreclosure of a mortgage, or on execution, unless the defendant claims by a title paramount to the lien by virtue of which the sale was made, or by title derived from the purchaser at the sale; in either of which cases such title shall be clearly and concisely set forth in the defendant's pleading.
5. For the nonpayment of rent, when due.
6. When the defendant or defendants remain in possession after the issuance of a valid tax deed.

[C51, §2362, 2363; R60, §3952, 3953; C73, §3611, 3612; C97, §4208; C24, 27, 31, 35, 39, §12263; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.1] 2004 Acts, ch 1101, §87

648.1A Nonprofit transitional housing exempted.

This chapter shall not apply to occupancy in housing owned by a nonprofit organization whose purpose is to provide transitional housing for persons released from drug or alcohol treatment facilities or to provide housing for homeless persons. Absent an applicable provision in a lease, contract, or other agreement, a person who unlawfully remains on the premises of such housing may be subject to criminal trespass penalties pursuant to section 716.8.

2003 Acts, ch 154, §3

648.2 By legal representatives.

The legal representative of a person who, if alive, might have been plaintiff may bring this action after

the person's death.

[C51, §2364; R60, §3954; C73, §3613; C97, §4209; C24, 27, 31, 35, 39, §12264; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.2]

648.3 Notice to quit.

1. Before action can be brought under any ground specified in section 648.1, except subsection 1, three days' notice to quit must be given to the defendant in writing. However, a landlord who has given a tenant three days' notice to pay rent and has terminated the tenancy as provided in section 562A.27, subsection 2, or section 562B.25, subsection 2, if the tenant is renting the manufactured or mobile home or the land from the landlord, may commence the action without giving a three-day notice to quit.
2. A notice to quit required under subsection 1 shall be served on the defendant according to one or more of the following methods:
 - a. Delivery evidenced by an acknowledgment of delivery that is signed and dated by a resident of the premises who is at least eighteen years of age. Delivery under this paragraph shall be deemed to provide notice to the defendant.
 - b. Personal service pursuant to rule of civil procedure 1.305, Iowa court rules, for the personal service of original notice.
 - c. Posting on the primary entrance door of the premises and mailing by both regular mail and certified mail, as defined in section 618.15, to the address of the premises or to the defendant's last known address, if different from the address of the premises. A notice posted according to this paragraph shall be posted within the applicable time period for serving notice and shall include the date the notice was posted.

3. A notice to quit served by mail under this section is deemed completed four days after the notice is deposited in the mail and postmarked for delivery, whether or not the recipient signs a receipt for the notice.

[C51, §2365; R60, §3955; C73, §3614; C97, §4210; C24, 27, 31, 35, 39, §12265; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.3; 81 Acts, ch 183, §2] 84 Acts, ch 1054, §1; 2001 Acts, ch 153, §15; 2001 Acts, ch 176, §80; 2010 Acts, ch 1017, §8, 11

Owner, landlord and tenant provisions, chapters 562, 562A, 562B

Section amended

648.4 Notice terminating tenancy.

When the tenancy is at will and the action is based on the ground of the nonpayment of rent when due, no notice of the termination of the tenancy other than the three-day notice need be given before beginning the action.

[C24, 27, 31, 35, 39, §12266; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.4]

Farm tenancies, §562.5 – 562.8

See also §562.4, chapters 562A, 562B

648.5 Venue — service of original notice — hearing.

1. An action for forcible entry and detainer shall be brought in a county where all or part of the premises is located. Such an action shall be tried as an equitable action. Upon receipt of the petition, the court shall set a date, time, and place for hearing. The court shall set the date of hearing no later than eight days from the filing date, except that the court shall set a later hearing date no later than fifteen days from the date of filing if the plaintiff requests or consents to the later date of hearing.
2. Original notice shall be served upon a defendant by one or more of the following methods:
 - a. Delivery evidenced by an acknowledgment of service that is signed and dated by a resident of the premises who is at least eighteen years of age. Delivery under this paragraph shall be deemed to provide notice to all tenants or residents of the premises. Service of original notice under this paragraph is invalid if the acknowledgment of service is signed and dated less than three days prior to the hearing.
 - b. Personal service pursuant to rule of civil procedure 1.305, Iowa court rules, for the personal service of original notice. Service of original notice under this paragraph shall not occur less than three days prior to the hearing.
 - c. If service cannot be made following two attempts using a method specified under paragraph "a" or "b", by posting on the primary entrance door of the premises and mailing by both regular mail and certified mail, as defined in section 618.15, to the address of the premises or to the defendant's last known address, if different from the address of the premises. An original notice posted according to this paragraph shall be posted not less than three days prior to the hearing and shall include the date the original notice was posted. Service of original notice by mailing shall occur not less than three days prior to the hearing.
3. Service of original notice by mail is deemed completed four days after the notice is deposited in the mail and postmarked for delivery, whether or not the recipient signs a receipt for the original notice.
4. If service of original notice is made by posting and mailing under subsection 2, paragraph "c", the plaintiff shall, at or before the time of the hearing, file one or more affidavits describing the time and manner in which the notice was posted and mailed. The plaintiff shall attach copies of the documents that were mailed and posted to the affidavits.
5. A default judgment shall not be entered against a defendant if original notice has not been served on the

defendant as required in this section. If the original notice cannot be served within the time periods required in this section, the court may set a new hearing date and time.

6. At the hearing, except for actions commenced as a small claim action under chapter 631, the court shall determine whether a genuine issue of material fact exists in the action. If the court determines that a genuine issue of material fact exists, an evidentiary hearing on the petition shall be held and the court shall continue the hearing to a future date and issue all appropriate orders relating to discovery and trial preparation.

[C51, §2367; R60, §3957; C73, §3616; C97, §4211; C24, 27, 31, 35, 39, §12267; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.5]

86 Acts, ch 1130, §1; 95 Acts, ch 125, §14; 2004 Acts, ch 1101, §88; 2010 Acts, ch 1017, §9, 11

Section stricken and rewritten

648.6 Notice to lienholders.

In cases covered by chapter 562B, a plaintiff shall send a copy of the petition, prior to the date set for hearing, by regular, certified, or restricted certified mail to the county treasurer and to each lienholder whose name and address are of record in the office of the county treasurer of the county where the mobile home or manufactured home is located.

98 Acts, ch 1107, §31; 2003 Acts, ch 154, §4

648.7 and 648.8 Repealed by 72 Acts, ch 1124, § 282.

648.9 Change of venue.

In any such action a change of place of trial may be had as in other cases.

[C51, §2367; R60, §3957; C73, §3616; C97, §4212; C24, 27, 31, 35, 39, §12270; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.9]

648.10 Service by publication.

Repealed by 2010 Acts, ch 1017, §10, 11.

648.11 through 648.14 Repealed by 72 Acts, ch 1124, § 282.

648.15 How title tried.

When title is put in issue, the cause shall be tried by equitable proceedings.

[C97, §4216; C24, 27, 31, 35, 39, §12276; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.15]

648.16 Priority of assignment.

Such actions shall be accorded reasonable priority for assignment to assure their prompt disposition. No continuance shall be granted for the purpose of taking testimony in writing.

[C97, §4216; C24, 27, 31, 35, 39, §12277; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.16]

648.17 Remedy not exclusive.

Nothing contained in sections 648.15 and 648.16 shall prevent a party from suing for trespass or from testing the right of property in any other manner.

[C51, §2371; R60, §3961; C73, §3620; C97, §4216; C24, 27, 31, 35, 39, §12278; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.17]

648.18 Possession — bar.

Thirty days' peaceable possession with the knowledge of the plaintiff after the cause of action accrues is a bar to this proceeding.

[C51, §2372; R60, §3962; C73, §3621; C97, §4217; C24, 27, 31, 35, 39, §12279; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.18]

648.19 No joinder or counterclaim — exception.

1. An action under this chapter shall not be filed in connection with any other action, with the exception of a claim for rent or recovery as provided in section 555B.3, 562A.24, 562A.32, 562B.22, 562B.25, or 562B.27, nor shall it be made the subject of counterclaim.

2. When filed with an action for rent or recovery as provided in section 555B.3, 562A.24, 562A.32, 562B.22, 562B.25, or 562B.27, notice of hearing as provided in section 648.5 is sufficient.

3. An action under this chapter that is filed in connection with another action in accordance with this section shall be treated only as a joint filing of separate cases assigned separate case numbers, but with a single filing fee. The court shall not merge the causes of action. The court shall consider the jointly filed cases separately and shall consider each case according to the rules applicable to that type of case.

[C51, §2373; R60, §3963; C73, §3622; C97, §4218; C24, 27, 31, 35, 39, §12280; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.19]

86 Acts, ch 1130, §3; 88 Acts, ch 1138, §17; 93 Acts, ch 154, §22; 2000 Acts, ch 1210, §1

648.20 Order for removal.

The order for removal can be executed only in the daytime.

[C51, §2374; R60, §3964; C73, §3623; C97, §4219; C24, 27, 31, 35, 39, §12281; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.20]

648.21

Repealed by 72 Acts, ch 1124, § 282.

648.22 Judgment — execution — costs.

If the defendant is found guilty, judgment shall be entered that the defendant be removed from the premises, and that the plaintiff be put in possession of the premises, and an execution for the defendant's removal within three days from the judgment shall issue ac-

cordingly, to which shall be added a clause commanding the officer to collect the costs as in ordinary cases. [C51, §2370; R60, §3960; C73, §3619; C97, §4221; C24, 27, 31, 35, 39, §12283; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.22] 86 Acts, ch 1130, §4; 95 Acts, ch 125, §15

648.22A Executions involving mobile homes and manufactured homes.

1. In cases covered by chapter 562B, prior to the expiration of three days from the date the judgment is entered pursuant to section 648.22, the plaintiff or defendant may elect to leave a mobile home or manufactured home and its contents in the manufactured home community or mobile home park for up to sixty days after the date of the judgment provided all of the following occur:

- a. The plaintiff consents and the plaintiff has complied with the provisions of section 648.6.
- b. The party making the election files a written notice of such election with the court and sends a copy of the notice of election with a copy of the judgment to the sheriff, the other party at the other party's last known address, each record lienholder, and the county treasurer in the same manner as in section 648.6.
- c. All utilities to the mobile home or manufactured home are disconnected prior to expiration of three days from the filing of the election. Payment of any reasonable costs incurred in disconnecting utilities and protecting the home from damage is the responsibility of the defendant.

2. During the sixty-day period the defendant may have reasonable access to the home site to show the home to prospective purchasers, prepare the home for removal, remove any personal property, or remove the home, provided that the defendant gives the plaintiff at least twenty-four hours' notice prior to each exercise of the defendant's right of access. The plaintiff may also have reasonable access to the home site to disconnect utilities and to show the home to prospective purchasers sent by the defendant. The plaintiff shall not have the right to sell the home during the sixty-day period unless the defendant enters into a written agreement for the plaintiff to sell the home.

3. During the sixty-day period the defendant shall not occupy the home or be present on the premises between the hours of seven p.m. and seven a.m. A violation of this subsection shall be punishable as contempt.

4. If the plaintiff or defendant finds a purchaser of the home, who is a prospective tenant of the manufactured home community or mobile home park, the provisions of section 562B.19, subsection 3, paragraph "c", shall apply.

5. If, within the sixty-day period, the home is not sold to an approved purchaser or removed from the manufactured home community or mobile home park, the

plaintiff may sell or dispose of the home in accordance with the provisions of section 555B.9 without an order for disposal, or chapter 555C, and may do so free and clear of all liens, claims, or encumbrances of third parties except any tax lien, at which time all of the following shall occur:

- a. The proceeds from the sale shall first be applied to any judgments against the defendant obtained by the plaintiff, any unpaid rent or additional costs incurred by plaintiff, and reasonable attorney fees. Any remaining proceeds shall next be applied to any tax lien with the remainder to be held in accordance with section 555B.9, subsection 3, paragraph "c".
- b. Any money judgment against the defendant and in favor of the plaintiff relating to the previous tenancy shall be deemed satisfied, except those arising from independent torts.
- c. If plaintiff elects to retain the home pursuant to section 555B.9, the county treasurer, upon receipt of a fee equal to the fee specified in section 321.42 for replacement of certificates of title for motor vehicles, and upon receipt of an affidavit submitted by the plaintiff verifying that the home was not sold to an approved purchaser or removed within the time specified in this subsection, shall issue to the plaintiff a new title for the home.

6. A purchaser of the home shall be liable for any unpaid sums due the plaintiff, sheriff, or county treasurer. For the purposes of this section, "purchaser" includes a lienholder or other claimant acquiring title to the home in whole or in part by reason of a lien or other claim.

7. Nothing in this section shall prevent the defendant from removing the mobile home or manufactured home prior to the expiration of three days after entry of judgment, after which time a mobile home or manufactured home shall not be removed without the prior payment to the plaintiff of all sums owing at the time of entry of judgment, interest accrued on such sums as provided by law, and per diem rent for that portion of the sixty-day period which has expired prior to removal, and payment of any taxes due on the home which are not abated pursuant to subsection 5.

8. In any case where this section has become operative, section 648.18 does not apply.

9. This section does not preclude the exercise of a lienholder's rights under section 648.22B. 98 Acts, ch 1107, §32; 2001 Acts, ch 153, §16; 2003 Acts, ch 154, §5

648.22B Cases where mobile or manufactured home is the subject of a foreclosure action.

1. When a mobile or manufactured home located in a manufactured home community or mobile home park is the subject of an action by a lienholder to foreclose a lienhold interest, the plaintiff may advance all moneys due and owing to the landlord and enter into an agree-

ment with the court to pay to the landlord before delinquency all rent, reasonable upkeep, and other reasonable charges thereafter accruing on the home and space that it occupies, in which case any writ of execution on a judgment under this chapter will be stayed until the home is sold in place as provided by law or removed from the manufactured home community or mobile home park at the plaintiff's expense.

2. When the conditions of subsection 1 have been satisfied, the clerk of court shall so notify the sheriff of the county in which the mobile or manufactured home is located.

3. The landlord shall have standing to intervene in the foreclosure proceedings or to file a separate action to compel compliance with the lienholder's undertaking pursuant to subsection 1 and shall be entitled to recover costs and attorney fees incurred.

4. All expenditures made by a lienholder pursuant to subsection 1 shall be recoverable from the lien debtor in the foreclosure proceedings as protective disbursements whether or not provision is made for such recovery in the documentation of the subject lien.

5. In any case where this section has become operative, the provisions of section 648.18 shall not apply. 2000 Acts, ch 1210, §2; 2001 Acts, ch 153, §16

648.23 Restitution.

The court, on the trial of an appeal, may issue an execution for removal or restitution, as the case may require.

[C51, §2376; R60, §3966; C73, §3624; C97, §4222; C24, 27, 31, 35, 39, §12284; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.23]



REVISED AND REPRINTED SEPTEMBER 2011

by
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