



# Iowa Manufactured Housing Association

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## LAW REQUIRES SPEED

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Did you realize that Iowa law wants you to move quickly on evictions? It's true. If you don't move fast enough, you can lose the right to evict. What am I talking about? It's Iowa Code 648.18, the peaceable possession law. It's a very short and sweet section of the eviction law, but it carries a powerful punch. Let's start by examining the law: "Thirty days' peaceable possession with the knowledge of the plaintiff after the cause of action accrues is a bar to this proceeding."

Beginning at the end of the sentence, "this proceeding" means an eviction action. Chapter 648 is the eviction chapter. Back to the beginning, thirty days' peaceable possession means you, the landlord, allowed the resident to stay on the property for 30 days without starting any action for eviction when you could have.

For example, let's say it's August. Your resident never paid rent in July. The resident pays a month's rent in mid-August without stating what the payment was for. Do you apply the money to July's back rent, and then file a 3 days' notice to cure for August rent? You could do that. Perhaps you would get lucky, and the resident rushed in with the payment.

What else could happen? You could get into court and lose the case. Here is how it could happen. The resident would say that August rent was paid and accepted by you, the landlord. Then you would say

that the money really was for July's rent, going back to the oldest debt. The resident, or attorney representing the resident, would ask you if you filed a 3 days' notice to cure rent in July. Under oath, you have to respond truthfully that you did not.

Under 648.18, when you allow the resident to remain for 30 days after a cause of action begins, you lose the right to act on that episode. When does the cause of action accrue or begin? It starts the first day of the month for rent because that's when it's due. Can you try to recover the lost payment for July? Yes, you can. But you will need to file a money judgment, which isn't covered by chapter 648, thus not subject to the peaceable possession rule.

When initiating eviction cases for rent, you should remember that you can file a money judgment action at the same time. Even though you have two separate lawsuits going, you only have to pay one filing fee.

### Eviction Procedures

In eviction cases, the goal is to break the lease with the resident and regain control of the property. Let's say your case is based on nonpayment of rent. As a matter of fact, the resident owes you six months of back rent. After all, the resident has had some tough times, and you've been willing to try to work with the resident. But now, you've come to the

conclusion that the resident is taking advantage of you.

You finally decide to act. In preparing your eviction notice, you list the aggregate amount of money owed by the resident. This desire to obtain all the money owed is natural. However, the eviction procedure is all about gaining possession of the rental space and of the home, if you're renting out both. But, listing all the money owed you on the eviction form can cause you problems, as we noted in the previous article. For evictions, the court is only interested in the most current month. Therefore, you should only list the most current month. The total amount owed is potentially captured with a money judgment.

### Iowa's Employer Unemployment Insurance Tax Tables Continue Improvement in 2015

Iowa Workforce Development has announced that employers will see approximately \$108 million dollars in tax savings by moving from tax table six to table seven. The last time unemployment insurance taxes were this low was 2002. The average rate will fall from 1.6 percent to 1.2 percent for 2015.

This marks the fourth year in a row of employer tax reductions. Since the announcement of Tax Table 4 for calendar year 2012,

businesses have saved over \$409 million in tax payments. Under Tax Table 7, the new employer non-construction rate will be 1.0 percent in 2015, the lowest permitted rate by federal law.

Iowa Workforce Development is the state agency charged with collecting unemployment insurance taxes from employers and operating Iowa's unemployment insurance payment programs for workers. Annually, Iowa Workforce Development identifies the appropriate table for the following year. Unemployment tax rates are based on wages and recent unemployment benefit payments.

Due to the design of Iowa's unemployment tax system developed under Governor Branstad's administration in the 1980's and Iowa Workforce Development's oversight of the UI Trust Fund throughout the national recession and recovery, Iowa businesses will benefit with an average decrease in taxes.

Throughout the state, Iowa Workforce Development provides critical services and resources to support the prosperity, productivity, health and safety of Iowans and their communities. Services are available in 15 regional centers, four satellite offices, and hundreds of Virtual Access Points.

## Federal Duty to Serve

MHI has been working with officials from the Federal Housing Finance Agency (FHFA) to ensure the inclusion of personal property lending as part of Duty to Serve (DTS) requirements being developed for Fannie Mae and Freddie Mac.

Included in the Housing and Economic Recovery Act of 2008 (HERA; PL 110-289) was statutory language that the Government Sponsored Enterprises (GSEs), including Fannie Mae and Freddie Mac,

had a Duty to Serve three historically underserved housing markets: affordable housing, rural housing and manufactured housing. The Duty to Serve provision directed the GSEs to develop programs and secondary market access for manufactured home loans, including those secured by personal property.

In 2010, FHFA released a proposed rule implementing the Duty to Serve requirement that would have excluded manufactured home personal property loans. Then Acting FHFA Director Edward DeMarco, in his role as conservator of Fannie Mae and Freddie Mac, prevented Fannie Mae and Freddie Mac from entering into the personal property loan market. Since that time, the rule has gone unimplemented.

With Mel Watt assuming the position of Director, FHFA is beginning to examine the possibility of requiring Fannie Mae and Freddie Mac to provide secondary market access to manufactured home loans secured by personal property. FHFA is expected to release a proposed rule this year, with regulations to be finalized in 2015.

MHI has provided formal comments and has been meeting with FHFA senior policy staff to discuss practical methods for serving this market.

## MHPAC

The goal of the Manufactured Housing Political Action Committee, MHPAC, is to run out of money at the end of each election cycle. Money sitting in the bank doesn't help political candidates. MHPAC is on its way toward accomplishing this goal. Over the years of 2013 and 2014, MHPAC has spent \$47,050. It took 105 separate checks to reach this total. That's an average of about \$450 per contribution.

We're still looking for more help from members, particularly those who have never contributed or haven't contributed in recent years. We've only heard from 41 members so far this year. We inadvertently left out Paul and Lois Shook from a recent email listing of MHPAC contributors. We regret that mistake. Paul and Lois have been MHPAC contributors for almost too many years to count. And, as if he hadn't done enough already, Bill Peters sent in another contribution recently. We'll have a full listing of MHPAC contributors in a later newsletter this year.

## New Court Rules Could Save You Money

Iowa's court system is also saving Iowans' hard-earned money through innovative ways to provide faster and less costly resolution to legal disputes.

The courts recently established special expedited procedures for lawsuits with less than \$75,000 at stake. Changes will reduce the cost and time associated with civil jury trials. Those who file a lawsuit may choose to use an expedited process, which means the case must be tried within one year, and the award is limited to \$75,000. The case will be heard by a six-person jury and the attorneys on each side will have a six-hour limit to present the facts of the case.

These changes offer greater access to justice for those with legitimate claims that were not considered cost effective in the traditional court system. The expedited process, along with small claims courts and business courts, offer Iowans multiple options for resolving civil disputes of all sizes.

For more on the new expedited process, read the court order on the Iowa Judicial Branch website at [www.iowacourts.gov/wfdata/frame4697-1235/File146.pdf](http://www.iowacourts.gov/wfdata/frame4697-1235/File146.pdf).