29A. 101 TERMINATION OF LEASE OR RENTAL AGREEMENT – EXCEPTIONS.

1. A landlord shall not terminate the lease or rental agreement of a service member or the service member's dependents for nonpayment of rent from any premises used as a dwelling by the service member or dependents during the period of military service if the rent on the premises occupied by the service member or dependents is less than one thousand two hundred dollars per month. However, a court may allow an eviction or the recovery of property pursuant to chapter 646 or 648.

2. In any action affecting the right of possession, the court may, on his own motion, stay the proceedings for not longer than three months, or make any order the court determines to be reasonable and just under the circumstances, unless the court finds that the ability of the service member to pay the agreed rent is not materially affected by reason of military service.

3. When a stay is granted or other order is made by the court, the owner of the premises shall be entitled, upon application, to relief with respect to the premises similar to that granted service members in military service in sections 29A.102 through 29A.104 to the extent and for any period as the court determines to be just and reasonable under the circumstances.

4. A person who knowingly takes part in any eviction or distress otherwise than as provided in subsection 1, or attempts to do so, commits a simple misdemeanor.

5. The governor may order an allotment of the pay of a service member in military service in reasonable proportion to discharge the rent of premises occupied for dwelling purposes by any dependents of the service member.

29A.101A TERMINATION OF LEASE BY SERVICE MEMBER -- PENALTY.

1. For purposes of this section, unless the context otherwise requires:

a. "Premises lease" means a lease of premises occupied, or intended to be occupied, by a service member or a service member's dependents for a residential, professional, business, agricultural, or similar purpose if either of the following applies: (1) The lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service. (2) The service member, while in military service, executes the lease and thereafter receives military orders for a permanent change of station or to deploy with a military unit, or as an individual in support of a military operation, for a period of not less than ninety days.

b. "Vehicle lease" means a lease of a motor vehicle used, or intended to be used, by a service member or a service member's dependents for personal or business transportation if either of the following applies:

(1) The lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service under a call or order specifying a period of service of not less than ninety days, or who enters military service under a call or order specifying a period of ninety days of service or less and who, without a break in service, receives orders extending the period of military service to a period of not less than ninety days.

(2) The service member, while in military service, executes the lease and thereafter receives military orders to deploy with a military unit, or as an individual in support of a military operation, for a period of not less than ninety days.

2. A service member may terminate a premises lease or vehicle lease pursuant to the requirements of this section. Termination of a premises lease or vehicle lease shall be made as follows: *a.* By delivery by the lessee of written notice of such termination, and a copy of the service member's military orders, to the lessor or the lessor's grantee, or to the lessor's agent or the agent's grantee. A lessee's termination of a lease pursuant to this subsection shall terminate any obligation a dependent of the lessee
may have under the lease. For purposes of this paragraph, written notice may be accomplished by hand delivery, by private business carrier, or by placing the written notice in an envelope with sufficient postage and with return receipt requested, and addressed as designated by the lessor or the lessor's grantee or to the lessor's agent or the agent's grantee, and depositing the written notice in the United States mail.

b. In the case of a vehicle lease, by return of the motor vehicle by the lessee to the lessor or the lessor's grantee, or to the lessor's agent or the agent's grantee, not later than fifteen days after the date of the delivery of written notice under paragraph *"a"*. A lessee's termination of a lease pursuant to this subsection shall terminate any obligation a dependent of the lessee may have under the lease.

3. In the case of a premises lease that provides for monthly payment of rent, termination of the lease is effective thirty days after the first date on which the next rental payment is due and payable after the date on which the notice is delivered. In the case of any other premises lease, termination of the lease is effective on the last day of the month following the month in which the notice is delivered.

4. In the case of a vehicle lease, termination of the lease is effective on the day on which the vehicle is delivered to the lessor or the lessor's grantee.

5. Rents or lease amounts unpaid for the period preceding the effective date of the lease termination shall be paid on a prorated basis. In the case of a vehicle lease, the lessor shall not impose an early termination charge, but any summonses, title and registration fees, including the fee for new registration, and any other obligation and liability of the lessee in accordance with the terms of the lease, including reasonable charges to the lessee for excess wear, use, and mileage, that are due and unpaid at the time of termination of the lease shall be paid by the lessee.

6. Rents or lease amounts paid in advance for a period after the effective date of the termination of the lease shall be refunded to the lessee by the lessor or the lessor's assignee or the assignee's agent within thirty days of the effective date of the termination of the lease.
7. Upon application by the lessor to a court before the termination date provided in the written notice, relief granted by this section to a service member may be modified as justice and equity require.
8. *a.* Any person who knowingly seizes, holds, or detains the personal effects, security deposit, or other property of a service member or a service member's dependent who lawfully terminates a lease covered by this section, or who knowingly interferes with the removal of such property from premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts to do so, commits a simple misdemeanor.
b. The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section.

Section History: Recent Form

2003 Acts, ch 154, §1; 2006 Acts, ch 1143, §3; 2007 Acts, ch 22, §12; 2008 Acts, ch 1113, §47
Referred to in § 29A.100, 29A.105

1351.4 Powers and duties.

The department is responsible for registering and regulating the operation of swimming pools, spas, and, notwithstanding chapter 89, swimming pool or spa water heaters. The department shall conduct seminars and training sessions, and disseminate information regarding health practices, safety measures, and operating procedures required under this chapter. The department may:

1. Inspect, at the time of installation and periodically thereafter, all swimming pools and spas for the purpose of detecting and eliminating health or safety hazards.
2. Establish minimum safety and sanitation criteria for the operation and use of swimming pools and spas.
3. Establish minimum qualifications for swimming pool, spa, and waterslide operators and lifeguards. Swimming pools operated by apartments, condominiums, country clubs, neighborhoods, or manufactured home community or mobile home parks are exempt from requirements regarding lifeguards.
4. Establish and collect fees to defray the cost of administering this chapter. It is the intent of the general assembly that fees collected under this chapter be used to defray the cost of administering this chapter. However, the portion of fees needed to defray the costs of a local board of health in implementing this chapter shall be established by the local board of health. A fee imposed for the inspection of a swimming pool or spa shall not be collected until the inspection has actually been performed.
5. Adopt rules in accordance with chapter 17A for the implementation and enforcement of this chapter, and the establishment of fees.
6. Enter into agreements with a local board of health to implement the inspection and enforcement provisions of this chapter. The agreements shall provide that the fees established by the local board of health for inspection and enforcement shall be retained by the local board. However, inspection fees shall not be charged by the department for facilities which are inspected by third-party authorities. Third-party authorities shall be approved by the department. The department shall monitor and certify the inspection and enforcement programs of local boards of health and approved third-party authorities.

89 Acts, ch 291, § 4; 92 Acts, ch 1194, § 3; 92 Acts, ch 1237, § 9

CHAPTER 216
CIVIL RIGHTS COMMISSION

216.2 Definitions.

15. "Unfair practice" or "discriminatory practice" means those practices specified as unfair or discriminatory in sections 216.6, 216.6A, 216.7, 216.8, 216.8A, 216.8B, 216.9, 216.10, 216.11, and 216.11A.

[C66, 71, §105A.2; C73, 75, 77, 79, 81, §601A.2]

84 Acts, ch 1096, §1; 88 Acts, ch 1236, §1; 89 Acts, ch 205, §1; 91 Acts, ch 184, §1; 92 Acts, ch 1129, §1 – 3

C93, §216.2

94 Acts, ch 1023, §42; 95 Acts, ch 129, §2; 96 Acts, ch 1129, §113; 2007 Acts, ch 191, §1; 2009 Acts, ch 96, §1; 2019 Acts, ch 65, §1

216.8 Unfair or discriminatory practices — housing.

1. It shall be an unfair or discriminatory practice for any person, owner, or person acting for an owner, of rights to housing or real property, with or without compensation, including but not limited to persons licensed as real estate brokers or salespersons, attorneys, auctioneers, agents or representatives by power of attorney or appointment, or any person acting under court order, deed of trust, or will:

a. To refuse to sell, rent, lease, assign, sublease, refuse to negotiate, or to otherwise make unavailable, or deny any real property or housing accommodation or part, portion, or interest therein, to any person because of the race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status of such person.

b. To discriminate against any person because of the person's race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status, in the terms, conditions, or privileges of the sale, rental, lease assignment, or sublease of any real property or housing accommodation or any part, portion, or interest in the real property or housing accommodation or in the provision of services or facilities in connection with the real property or housing accommodation.

c. To directly or indirectly advertise, or in any other manner indicate or publicize that the purchase, rental, lease, assignment, or sublease of any real property or housing accommodation or any part, portion, or interest therein, by persons of any particular race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status is unwelcome, objectionable, not acceptable, or not solicited.

d. To discriminate against the lessee or purchaser of any real property or housing accommodation or part, portion, or interest of the real property or housing accommodation, or against any prospective lessee or purchaser of the property or accommodation, because of the race, color, creed, religion, sex, sexual orientation, gender identity, disability, age, or national origin of persons who may from time to time be present in or on the lessee's or owner's premises for lawful purposes at the invitation of the lessee or owner as friends, guests, visitors, relatives, or in any similar capacity.

2. For purposes of this section, "person" means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Tit. 11 of the United States Code, receivers, and fiduciaries.

216.8A Additional unfair or discriminatory practices — housing.

1. A person shall not induce or attempt to induce another person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status.

2. A person shall not represent to a person of a particular race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status that a dwelling is not available for inspection, sale, or rental when the dwelling is available for inspection, sale, or rental.

3. a. A person shall not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to a buyer or renter because of a disability of any of the following persons:

(1) That buyer or renter.

(2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available.

(3) A person associated with that buyer or renter.

b. A person shall not discriminate against another person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability of any of the following persons:

(1) That person.

(2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available.

(3) A person associated with that person.

c. For the purposes of this subsection only, discrimination includes any of the following circumstances:

(1) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to afford the person full enjoyment of the premises. However, it is not discrimination for a landlord, in the case of a rental and where reasonable to do so, to condition permission for a modification on the renter's agreement to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations are necessary to afford the person equal opportunity to use and enjoy a dwelling.

(3) In connection with the design and construction of covered multifamily dwellings for first occupancy after January 1, 1992, a failure to design and construct those dwellings in a manner that meets the following requirements:

(a) The public use and common use portions of the dwellings are readily accessible to and usable by persons with disabilities.

(b) All doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by persons with disabilities in wheelchairs.

(c) All premises within the dwellings contain the following features of adaptive design:

(i) An accessible route into and through the dwelling.

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

(iii) Reinforcements in bathroom walls to allow later installation of grab bars.

(iv) Usable kitchens and bathrooms so that a person in a wheelchair can maneuver about the space.
d. Compliance with the appropriate requirements of the American national standard for buildings and facilities providing accessibility and usability for persons with disabilities, commonly cited as “ANSI A 117.1”, satisfies the requirements of paragraph “c”, subparagraph (3), subparagraph division (c).
e. Nothing in this subsection requires that a dwelling be made available to a person whose tenancy would constitute a direct threat to the health or safety of other persons or whose tenancy would result in substantial physical damage to the property of others.
4. a. A person whose business includes engaging in residential real estate related transactions shall not discriminate against a person in making a residential real estate related transaction available or in terms or conditions of a residential real estate related transaction because of race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status.
b. For the purpose of this subsection, “residential real estate related transaction” means any of the following:
(1) To make or purchase loans or provide other financial assistance to purchase, construct, improve, repair, or maintain a dwelling, or to secure residential real estate.
(2) To sell, broker, or appraise residential real estate.
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5. A person shall not deny another person access to, or membership or participation in, a multiple-listing service, real estate brokers’ organization or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against a person in terms or conditions of access, membership, or participation in such organization because of race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status.
91 Acts, ch 184, §3
CS91, §601A.8A
C93, §216.8A
96 Acts, ch 1129, §28, 113; 2007 Acts, ch 191, §8 – 10; 2009 Acts, ch 41, §263; 2009 Acts, ch 133, §82
Referred to in §216.2, 216.11A, 216.12, 216.12A, 216.15A, 216.16A

216.8B Assistance animals and service animals in housing — penalty.
1. For purposes of this section, unless the context otherwise requires:
a. “Assistance animal” means an animal that qualifies as a reasonable accommodation under the federal Fair Housing Act, 42 U.S.C. §3601 et seq., as amended, or section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. §794, as amended.
b. “Service animal” means a dog or miniature horse as set forth in the implementing regulations of Tit. II and Tit. III of the federal Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.
2. A landlord shall waive lease restrictions and additional payments normally required for pets on the keeping of animals for the assistance animal or service animal of a person with a disability.
3. A renter is liable for damage done to any dwelling by an assistance animal or service animal.

4. A person who knowingly denies or interferes with the right of a person with a disability under this section is, upon conviction, guilty of a simple misdemeanor.
2019 Acts, ch 65, §2
Referred to in §216.2, 216.8C

NEW section
216.8C Finding of disability and need for an assistance animal or service animal in housing.
1. A licensee under chapter 148, 148C, 152, 154B, 154C, or 154D whose assistance is requested by a patient or client seeking a finding that an assistance animal or service animal as defined in section 216.8B, subsection 1, is a reasonable accommodation in housing shall make a written finding regarding whether the patient or client has a disability and, if a disability is found, a separate written finding regarding whether the need for an assistance animal or service animal is related to the disability.
2. A licensee under chapter 148, 148C, 152, 154B, 154C, or 154D shall not make a finding under subsection 1 unless all of the following circumstances are present:
a. The licensee has met with the patient or client in person or by telemedicine.
b. The licensee is sufficiently familiar with the patient or client and the disability.
c. The licensee is legally and professionally qualified to make the finding.
3. The commission, in consultation with the consumer protection division of the office of the attorney general, shall adopt rules regarding the making of a written finding by licensees under this section. The rules shall include a form for licensees to document the licensees' written finding. The form shall recite this section's requirements and comply with the federal Fair Housing Act, 42 U.S.C. §3601 et seq., as amended, and section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. §794, as amended. The form must contain only two questions regarding the qualifications of the patient or client, which shall be whether a person has a disability and whether the need for an assistance animal or service animal is related to the disability. The form must indicate that the responses must be limited to "yes" or "no". The form must not allow for additional detail.
4. A person who, in the course of employment, is asked to make a finding of disability

and disability-related need for an assistance animal or service animal shall utilize the form created by the commission to document the person's written finding.
5. A landlord may deny a request for an exception to a pet policy if a person, who does not have a readily apparent disability, or a disability known to the landlord, fails to provide documentation indicating that the person has a disability and the person has a disability-related need for an assistance animal or service animal.
6. This section does not limit the means by which a person with a disability may demonstrate, pursuant to state or federal law, that the person has a disability or that the person has a disability-related need for an assistance animal or service animal.
2019 Acts, ch 65, §3, 9, 10
Section applies upon adoption of rules by the Iowa civil rights commission; the commission adopted rules implementing the section on
June 14, 2019, effective June 26, 2019, and published the rules as ARC 4552C in the Iowa administrative bulletin on July 17, 2019; 2019
Acts, ch 65, §9, 10

216.15A Additional proceedings — housing discrimination.

1. a. The commission may join a person not named in the complaint as an additional or substitute respondent if in the course of the investigation, the commission determines that the person should be alleged to have committed a discriminatory housing or real estate practice.
b. In addition to the information required in the notice, the commission shall include in a notice to a respondent joined under this subsection an explanation of the basis for the determination under this subsection that the person is properly joined as a respondent.
2. a. The commission shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the commission, to the extent feasible, engage in mediation with respect to the complaint.
b. A mediation agreement is an agreement between a respondent and the complainant and is subject to commission approval.
c. A mediation agreement may provide for binding arbitration or other method of dispute resolution. Dispute resolution that results from a mediation agreement may authorize appropriate relief, including monetary relief.
d. A mediation agreement shall be made public unless the complainant and respondent agree otherwise, and the commission determines that disclosure is not necessary to further the purposes of this chapter relating to unfair or discriminatory practices in housing or real estate.
e. The proceedings or results of mediation shall not be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons who are party to the mediation.
f. After the completion of the commission's investigation, the commission shall make available to the aggrieved person and the respondent information derived from the investigation and the final investigation report relating to that investigation.
g. When the commission has reasonable cause to believe that a respondent has breached a mediation agreement, the commission shall refer this matter to an assistant attorney general with a recommendation that a civil action be filed for the enforcement of the agreement. The assistant attorney general may commence a civil action in the appropriate district court not later than the expiration of ninety days after referral of the breach.
3. a. If the commission concludes, following the filing of a complaint, that prompt judicial action is necessary to carry out the purposes of this chapter relating to unfair or discriminatory housing or real estate practices, the commission may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint.
b. On receipt of the commission's authorization, the attorney general shall promptly file the action.
c. A temporary restraining order or other order granting preliminary or temporary relief under this section is governed by the applicable Iowa rules of civil procedure.
d. The filing of a civil action under this section does not affect the initiation or continuation of administrative proceedings in regard to an administrative hearing.
4. a. The commission shall prepare a final investigative report.
b. A final report under this section may be amended by the commission if additional evidence is discovered.
5. a. The commission shall determine based on the facts whether probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur.
b. The commission shall make its determination under paragraph "a" not later than one hundred days after a complaint is filed unless any of the following applies:

(1) It is impracticable to make the determination within that time period.
(2) The commission has approved a mediation agreement relating to the complaint.
c. If it is impracticable to make the determination within the time period provided by paragraph “b”, the commission shall notify the complainant and respondent in writing of the reasons for the delay.
d. If the commission determines that probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall immediately issue a determination unless the commission determines that the legality of a zoning or land use law or ordinance is involved as provided in subsection 7.
6. a. A determination issued under subsection 5 must include all of the following:
(1) Must consist of a short and plain statement of the facts on which the commission has found probable cause to believe that a discriminatory housing or real estate practice has occurred or is about to occur.
(2) Must be based on the final investigative report.
(3) Need not be limited to the facts or grounds alleged in the complaint.
b. Not later than twenty days after the commission issues a determination, the commission shall send a copy of the determination with information concerning the election under section 216.16A to all of the following persons:
(1) Each respondent, together with a notice of the opportunity for a hearing as provided under subsection 10.
(2) Each aggrieved person on whose behalf the complaint was filed.
7. If the commission determines that the matter involves the legality of a state or local zoning or other land use ordinance, the commission shall not issue a determination and shall immediately refer the matter to the attorney general for appropriate action.
8. a. If the commission determines that no probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall promptly dismiss the complaint.
b. The commission shall make public disclosure of each dismissal under this section.
9. The commission shall not issue a determination under this section regarding an alleged discriminatory housing or real estate practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to that discriminatory housing or real estate practice.
10. a. If a timely election is not made under section 216.16A, the commission shall provide for a hearing on the charges in the complaint.
b. Except as provided by paragraph “c”, the hearing shall be conducted in accordance with chapter 17A for contested cases.
c. A hearing under this section shall not be continued regarding an alleged discriminatory housing or real estate practice after the beginning of the trial of a civil action commenced by the aggrieved person under federal or state law seeking relief with respect to that discriminatory housing or real estate practice.
11. a. If the commission determines at a hearing under subsection 10 that a respondent has engaged or is about to engage in a discriminatory housing or real estate practice, the commission may order the appropriate relief, including actual damages, reasonable attorney fees, court costs, and other injunctive or equitable relief.
b. To vindicate the public interest, the commission may assess a civil penalty against the respondent in an amount that does not exceed the following applicable amount:
(1) Ten thousand dollars if the respondent has not been adjudged by the order of the commission or a court to have committed a prior discriminatory housing or real estate practice.

(2) Except as provided by paragraph “c”, twenty-five thousand dollars if the respondent has been adjudged by order of the commission or a court to have committed one other discriminatory housing or real estate practice during the five-year period ending on the date of the filing of the complaint.
(3) Except as provided by paragraph “c”, fifty thousand dollars if the respondent has been adjudged by order of the commission or a court to have committed two or more discriminatory

housing or real estate practices during the seven-year period ending on the date of the filing of the complaint.
c. If the acts constituting the discriminatory housing or real estate practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing or real estate practice, the civil penalties in paragraph “b”, subparagraphs (2) and (3) may be imposed without regard to the period of time within which any other discriminatory housing or real estate practice occurred.
d. At the request of the commission, the attorney general shall initiate legal proceedings to recover a civil penalty due under this section. Funds collected under this section shall be paid to the treasurer of state for deposit in the state treasury to the credit of the general fund.
12. This section applies only to the following:
a. Complaints which allege a violation of the prohibitions contained in section 216.8 or 216.8A.
b. Complaints which allege a violation of section 216.11 or 216.11A arising out of alleged violations of the prohibitions contained in section 216.8 or 216.8A.
13. If a provision of this section applies under the terms of subsection 12, and the provision of this section conflicts with a provision of section 216.15, then the provision contained within this section shall prevail. Similarly, if a provision of section 216.16A or 216.17A conflicts with a provision of section 216.16 or 216.17, then the provision contained in section 216.16A or 216.17A shall prevail.
91 Acts, ch 184, §9
CS91, §601A.15A
92 Acts, ch 1129, §11, 12; 92 Acts, ch 1163, §108
C93, §216.15A
2001 Acts, ch 24, §38
Referred to in §216.11A, 216.16A, 216.17, 216.17A

216.16A Civil action elected — housing.
1. a. A complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the charges asserted in the complaint decided in a civil action as provided by section 216.17A.
b. The election must be made not later than twenty days after the date of receipt by the electing person of service under section 216.15A, subsection 5, or in the case of the commission, not later than twenty days after the date the determination was issued.
c. The person making the election shall give notice to the commission and to all other complainants and respondents to whom the election relates.
d. The election to have the charges of a complaint decided in a civil action as provided in paragraph “a” is only available if one of the following is alleged:
(1) It is alleged that there has been a violation of section 216.8 or 216.8A.
(2) It is alleged that there has been a violation of section 216.11 or 216.11A arising out of

an alleged violation of the prohibitions contained in section 216.8 or 216.8A.
2. a. An aggrieved person may file a civil action in district court not later than two years after the occurrence of the termination of an alleged discriminatory housing or real estate practice, or the breach of a mediation agreement entered into under this chapter, whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing or real estate practice or breach.
b. The two-year period does not include any time during which an administrative hearing under this chapter is pending with respect to a complaint or charge based on the discriminatory housing or real estate practice. This subsection does not apply to actions arising from a breach of a mediation agreement.
c. An aggrieved person may file an action under this subsection whether or not a

discriminatory housing or real estate complaint has been filed under section 216.15, and without regard to the status of any discriminatory housing or real estate complaint filed under that section.
d. If the commission has obtained a mediation agreement with the consent of an aggrieved person, the aggrieved person shall not file an action under this subsection with respect to the alleged discriminatory practice that forms the basis for the complaint except to enforce the terms of the agreement.
e. An aggrieved person shall not file an action under this subsection with respect to an alleged discriminatory housing or real estate practice that forms the basis of a charge issued by the commission if the commission has begun a hearing on the record under this chapter with respect to the charge.
f. In an action filed in district court under this subsection, the court may, upon a finding of discrimination, order any of the remedies provided for in section 216.17A, subsection 6.
91 Acts, ch 184, §10
CS91, §601A.16A
92 Acts, ch 1129, §13, 14
C93, §216.16A
95 Acts, ch 129, §13, 14
Referred to in §216.15A, 216.17A

216.17A Civil proceedings — housing.
1. a. If timely election is made under section 216.16A, subsection 1, the commission shall authorize, and not later than thirty days after the election is made, the attorney general shall file a civil action on behalf of the aggrieved person in a district court seeking relief.
b. Venue for an action under this section is in the county in which the respondent resides or has its principal place of business, or in the county in which the alleged discriminatory housing or real estate practice occurred.
c. An aggrieved person may intervene in the action.
d. If the district court finds that a discriminatory housing or real estate practice has occurred or is about to occur, the district court may grant as relief any relief that a court may grant in a civil action under subsection 6.
e. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the district court shall not award the monetary relief if that aggrieved person has not complied with discovery orders entered by the district court.
2. A commission order under section 216.15A, subsection 11, and a commission order that has been substantially affirmed by judicial review, do not affect a contract, sale, encumbrance,

or lease that was consummated before the commission issued the order and involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the charge issued under this chapter.
3. If the commission issues an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the commission, not later than thirty days after the date of issuance of the order, shall do all of the following:
a. Send copies of the findings and the order to the governmental agency.
b. Recommend to the governmental agency appropriate disciplinary action.
4. If the commission issues an order against a respondent against whom another order was issued within the preceding five years under section 216.15A, subsection 11, the commission shall send a copy of each order issued under that section to the attorney general.
5. On application by a person alleging a discriminatory housing practice or by a person against whom a discriminatory practice is alleged, the district court may appoint an attorney for the person.
6. In an action under subsection 1 and section 216.16A, subsection 2, if the district court finds that a discriminatory housing or real estate practice has occurred or is about to occur, the district court may award or issue to the plaintiff one or more of the following:
a. Actual and punitive damages.
b. Reasonable attorney's fees.
c. Court costs.
d. Subject to subsection 7, any permanent or temporary injunction, temporary restraining

order, or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.
7. Relief granted under this section does not affect a contract, sale, encumbrance, or lease that was consummated before the granting of the relief and involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the filing of a complaint under this chapter or a civil action under this section.
8. a. On the request of the commission, the attorney general may intervene in an action under section 216.16A, subsection 2, if the commission certifies that the case is of general public importance.
b. The attorney general may obtain the same relief available to the attorney general under subsection 9.
9. a. On the request of the commission, the attorney general may file a civil action in district court for appropriate relief if the commission has reasonable cause to believe that any of the following applies:
(1) A person is engaged in a pattern or practice of resistance to the full enjoyment of any housing right granted by this chapter.
(2) A person has been denied any housing right granted by this chapter and that denial raises an issue of general public importance.
b. In an action under this subsection and subsection 8, the district court may do any of the following:
(1) Order preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of housing rights as necessary to assure the full enjoyment of the housing rights granted by this chapter.
(2) Order another appropriate relief, including the awarding of monetary damages, reasonable attorney's fees, and court costs.

(3) To vindicate the public interest, assess a civil penalty against the respondent in an amount that does not exceed any of the following:
(a) Fifty thousand dollars for a first violation.
(b) One hundred thousand dollars for a second or subsequent violation.
c. A person may intervene in an action under this section if the person is any of the following:
(1) An aggrieved person to the discriminatory housing or real estate practice.
(2) A party to a mediation agreement concerning the discriminatory housing or real estate practice.
10. The attorney general, on behalf of the commission or other party at whose request a subpoena is issued, may enforce the subpoena in appropriate proceedings in district court.
11. A court in a civil action brought under this section or the commission in an administrative hearing under section 216.15A, subsection 11, may award reasonable attorney's fees to the prevailing party and assess court costs against the nonprevailing party.
91 Acts, ch 184, §11
CS91, §601A.17A
92 Acts, ch 1129, §16, 17
C93, §216.17A
95 Acts, ch 129, §15 – 17
Referred to in §216.15A, 216.16A

216.18 Rules of construction.
1. This chapter shall be construed broadly to effectuate its purposes.
2. This chapter shall not be construed to allow marriage between persons of the same sex, in accordance with chapter 595.
[C66, 71, §105A.11; C73, §601A.11; C75, 77, §601A.16; C79, 81, §601A.18]
C93, §216.18
2009 Acts, ch 133, §192

216.19 Local laws implementing this chapter.
1. All cities shall, to the extent possible, protect the rights of the citizens of this state

secured by the Iowa civil rights Act. Nothing in this chapter shall be construed as indicating any of the following:
a. An intent on the part of the general assembly to occupy the field in which this chapter operates to the exclusion of local laws not inconsistent with this chapter that deal with the same subject matter.
b. An intent to prohibit an agency or commission of local government having as its purpose the investigation and resolution of violations of this chapter from developing procedures and remedies necessary to insure the protection of rights secured by this chapter.
c. Limiting a city or local government from enacting any ordinance or other law which prohibits broader or different categories of unfair or discriminatory practices.
2. A city with a population of twenty-nine thousand, or greater, shall maintain an independent local civil rights agency or commission consistent with commission rules adopted pursuant to chapter 17A. An agency or commission for which a staff is provided shall have control over such staff. A city required to maintain a local civil rights agency or commission shall structure and adequately fund the agency or commission in order to effect cooperative undertakings with the Iowa civil rights commission and to aid in effectuating the purposes of this chapter.

3. An agency or commission of local government and the Iowa civil rights commission shall cooperate in the sharing of data and research, and coordinating investigations and conciliations in order to expedite claims of unlawful discrimination and eliminate needless duplication. The Iowa civil rights commission may enter into cooperative agreements with any local agency or commission to effectuate the purposes of this chapter. Such agreements may include technical and clerical assistance and reimbursement of expenses incurred by the local agency or commission in the performance of the agency's or commission's duties if funds for this purpose are appropriated by the general assembly.
4. The Iowa civil rights commission may designate an unfunded local agency or commission as a referral agency. A local agency or commission shall not be designated a referral agency unless the ordinance creating it provides the same rights and remedies as are provided in this chapter. The Iowa civil rights commission shall establish by rules the procedures for designating a referral agency and the qualifications to be met by a referral agency.
5. The Iowa civil rights commission may adopt rules establishing the procedures for referral of complaints. A referral agency may refuse to accept a case referred to it by the Iowa civil rights commission if the referral agency is unable to effect proper administration of the complaint. It shall be the burden of the referral agency to demonstrate that it is unable to properly administer that complaint.
6. A complainant who files a complaint with a referral agency having jurisdiction shall be prohibited from filing a complaint with the Iowa civil rights commission alleging violations based upon the same acts or practices cited in the original complaint; and a complainant who files a complaint with the commission shall be prohibited from filing a complaint with the referral agency alleging violations based upon the same acts or practices cited in the original complaint. However, the Iowa civil rights commission in its discretion may refer a complaint filed with the commission to a referral agency having jurisdiction over the parties for investigation and resolution; and a referral agency in its discretion may refer a complaint filed with that agency to the commission for investigation and resolution.
7. A final decision by a referral agency shall be subject to judicial review as provided in section 216.17 in the same manner and to the same extent as a final decision of the Iowa civil rights commission.
8. The referral of a complaint by the Iowa civil rights commission to a referral agency or by a referral agency to the Iowa civil rights commission shall not affect the right of a complainant to commence an action in the district court under section 216.16.
[C66, 71, §105A.12; C73, §601A.12; C75, 77, §601A.17; C79, 81, §601A.19]
90 Acts, ch 1166, §1
C93, §216.19
2009 Acts, ch 133, §214
Thu Dec 05 12:32:31 2019 Iowa Code 2020, Chapter 216 (28, 3)
25 CIVIL RIGHTS COMMISSION, §216.22

216.20 Effect on other law.
1. This chapter does not affect:
a. A reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling.
b. Tenancy of an individual that would constitute a direct threat to the health or safety of other individuals or tenancy that would result in substantial physical damage to the property of others.

2. This chapter does not affect a requirement of nondiscrimination in other state or federal law.
91 Acts, ch 184, §12
CS91, §601A.20
92 Acts, ch 1129, §18
C93, §216.20
216.21 Documents to attorney or party.
If a party is represented by an attorney during the proceedings of the commission, with permission of the attorney for the party or of the party, the commission shall provide copies of all relevant documents including an order or decision to either the attorney for the party or the party, but not to both.
2009 Acts, ch 178, §27
216.22 Franchisor-franchisee relationship.
1. For purposes of this section, franchisee and franchisor mean the same as defined in section 523H.1.
2. For purposes of this chapter, a franchisor shall not be considered to be an employer of a franchisee or of an employee of a franchisee unless any of the following conditions apply:
a. The franchisor has agreed in writing to be considered to be the employer of the franchisee or of the employees of the franchisee.
b. The franchisor has been found by the commission to have exercised a type or degree of control over the franchisee or the franchisee's employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.
2019 Acts, ch 21, §5, 6
Section applies to work performed on or after July 1, 2019; 2019 Acts, ch 21, §6

CHAPTER 216C
RIGHTS OF PERSONS WITH DISABILITIES

216C.1A Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. “Disability” means the physical or mental condition of a person which constitutes a substantial disability, and the condition of a person with a positive human immunodeficiency virus test result, a diagnosis of acquired immune deficiency syndrome, a diagnosis of acquired immune deficiency syndrome-related complex, or any other condition related to acquired immune deficiency syndrome. The inclusion of a condition related to a positive human immunodeficiency virus test result in the meaning of “disability” under the provisions of this chapter does not preclude the application of the provisions of this chapter to conditions resulting from other contagious or infectious diseases.

2. “Service animal” means a dog or miniature horse as set forth in the implementing regulations of Tit. II and Tit. III of the federal Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.

3. “Service-animal-in-training” means a dog or miniature horse that is undergoing a course of development and training to do work or perform tasks for the benefit of an individual that directly relate to the disability of the individual.

2019 Acts, ch 65, §4

NEW section

216C.11 Service animals and service-animals-in-training — penalty.

1. A person with a disability, a person assisting a person with a disability by controlling a service animal or a service-animal-in-training, or a person training a service animal has the right to be accompanied by a service animal or service-animal-in-training, under control, in any of the places listed in sections 216C.3 and 216C.4 without being required to make additional payment for the service animal or service-animal-in-training. The person is liable for damage done to any premises or facility by a service animal or a service-animal-in-training.

2. A person who knowingly denies or interferes with the right of a person under this section is, upon conviction, guilty of a simple misdemeanor.

3. a. A person who intentionally misrepresents an animal as a service animal or a service-animal-in-training is, upon conviction, guilty of a simple misdemeanor.

b. A person commits the offense of intentional misrepresentation of an animal as a service animal or a service-animal-in-training if all of the following elements are established:

(1) For the purpose of obtaining any of the rights or privileges set forth in state or federal law, the person intentionally misrepresents an animal in one’s possession as one’s service animal or service-animal-in-training or a person with a disability’s service animal or service-animal-in-training whom the person is assisting by controlling.

(2) The person was previously given a written or verbal warning regarding the fact that it is illegal to intentionally misrepresent an animal as a service animal or a service-animal-in-training.

(3) The person knows that the animal in question is not a service animal or a service-animal-in-training.

§9; 2019 Acts, ch 65, §5
Section amended
216C.12 Immunity from liability for injury or damage caused by service animals and service-animals-in-training.
1. For purposes of this section, unless the context otherwise requires:
a. “Owner” means the owner of real property, a contract for deed vendee, receiver, personal representative, trustee, lessor, lessee, agent, or other person directly or indirectly in control of the real property.
b. “Real property” includes any physical location or portion of real property that federal or state law or local ordinance requires to be accessible to a person with a disability who is using a service animal or a service-animal-in-training, a person assisting a person with a disability by controlling a service animal or a service-animal-in-training, or a person training a service animal.
2. An owner is not liable for any injury or damage caused by a service animal or service-animal-in-training if all of the following criteria are met:
a. The owner believes in good faith that the animal is a service animal or a service-animal-in-training and the person using the animal is a person with a disability, a person assisting a person with a disability by controlling a service animal or a service-animal-in-training, or a person training a service-animal-in-training.
b. The injury or damage is not caused by the owner’s negligence, recklessness, or willful misconduct.
2019 Acts, ch 65, §6
NEW section
Thu Dec 05 12:32:26 2019

321.251 Rights of owners of real property – manufactured home community or mobile home parks.

1. This chapter shall not be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as matter of right from prohibiting such use, or from requiring other or different or additional conditions than those specified in this chapter, or otherwise regulating such use as may seem best to such owner.

2. a. The owner of real property upon which a manufactured home community or mobile home park is located may elect to have the vehicular traffic provisions of this chapter, or the ordinances, rules or regulations of the local authority where the real property is located, apply to the real property and any persons located on the real property by granting authority to any peace officer to enforce the vehicular traffic provisions of this chapter, or the ordinances, rules, or regulations of the local authority as well as any regulations or conditions imposed on the real property pursuant to subsection 1. An election made pursuant to this subsection shall not create a higher priority for the enforcement of traffic laws on real property upon which a manufactured or mobile home is located than exists for the enforcement of traffic laws on public property.

b. A written notice of election shall be filed with the designated officials of the local authority whose ordinances, rules, or regulations will govern the vehicular traffic. The appropriate officials shall be the city clerk and chief of police of the city in which the real property is located and the county sheriff and the county recorder of the county in which the real property is located. The notice shall include the legal description of the real property, the street address, if any, and signed by every titleholder of the real property and acknowledged by a notary public.

c. An election shall terminate fourteen days following the filing of a written notice of withdrawal with the designated officials of the local authority whose ordinances, rules, or regulations will govern.

d. For purposes of this subsection, "titleholder of real property" means the person or entity whose name appears on the documents of title filed in the official county records as the owner of the real property upon which a manufactured home community or mobile home park is located.

3. The titleholder of real property under subsection 2 may elect to waive the right to have the vehicular traffic provisions of this chapter, or the ordinances, rules, or regulations of the local authority where the real property is located, apply to the real property and any persons located on the real property, by recording a waiver with the county recorder of each county in which the property is located. The waiver shall include the legal description of the real property and shall bind the titleholder of the real property and any successors in interest. The waiver may only be rescinded if each law enforcement jurisdiction, in which the titleholder of real property wishes to obtain the benefit of this section, consents to the rescission of the waiver through adoption of a resolution.

[C39, § 5018.16: C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 321.251]
91 Acts, ch 91, § 1; 92 Acts, ch 1068, § 1; 93 Acts, ch 109, § 2

School Buses

321.372(3) Discharging pupils -- regulations.

3. The driver of a vehicle, including the driver of a vehicle operating on a private road or driveway, when meeting a school bus with flashing amber warning lamps shall reduce the vehicle's speed to not more than twenty miles per hour, and shall bring the vehicle to a complete stop when the school bus stops and stop signal arm is extended. The vehicle shall remain stopped until the stop signal arm is retracted after which time the driver may proceed with due caution.

The driver of a vehicle, including the driver of a vehicle operating on a private road or driveway, overtaking a school bus shall not pass a school bus when red or amber warning signal lights are flashing. The driver shall bring the vehicle to a complete stop no closer than fifteen feet from the school bus when it is stopped and the stop arm is extended, and the vehicle shall remain stopped until the stop arm is retracted and the school bus resumes motion.

GENERAL POWERS AND DUTIES
331.301 General powers and limitations.

6 d. A county shall not adopt an ordinance, motion, resolution, or amendment, or use any other means, that restricts an owner of real property from refinancing existing debt on, selling, or otherwise transferring title to the property by requiring the owner to take or show compliance with any action with respect to the property or pay any fee before, during, or after refinancing existing debt on, selling, or otherwise transferring title to the property.

15. a. A county may adopt and enforce an ordinance requiring the construction of a storm shelter at a mobile home park which is constructed after July 1, 1999. In lieu of requiring construction of a storm shelter, a county may require a park owner to provide a plan for the evacuation of park residents to a safe place of shelter in times of severe weather including tornadoes and high winds if the county determines that a safe place of shelter is available within a reasonable distance of the mobile home park for use by park residents. Each evacuation plan prepared pursuant to this subsection shall be filed with, and approved by, the local emergency management agency. If construction of a storm shelter is required, an ordinance adopted or enforced pursuant to this subsection shall not include any of the following requirements:

1. That the size of the storm shelter be larger than the equivalent of seven square feet for each mobile home space in the mobile home park.
2. That the storm shelter include a restroom if the shelter is used exclusively as a storm shelter.
3. That the storm shelter exceed the construction specifications approved by a licensed professional engineer and presented by the owner of the mobile home park.

b. For the purposes of this subsection:

1. A Mobile home park– means a mobile home park as defined in section 562B.7.
2. A Storm shelter– means a single structure or multiple structures designed to provide persons with temporary protection from a storm.

331.304 Procedural limitations on general county powers.

9. A county shall not adopt or enforce any ordinance imposing any registration or licensing system or registration or license fees for or relating to owner-occupied mobile homes including the lots, lands, or manufactured home community or mobile home park upon or in which they are located. A county shall not adopt or enforce any ordinance imposing any registration or licensing system, or registration or license fees, or safety or sanitary standards for rental mobile homes unless similar registration or licensing system, or registration or license fees, or safety or sanitary standards are required for other rental properties intended for human habitation. This subsection does not preclude the investigation and abatement of a nuisance or the enforcement of a tiedown system, or the enforcement of any regulations of the state or local board of health if those regulations apply to other rental properties or to owner-occupied housing intended for human habitation.

10. A county shall not adopt or enforce any ordinance imposing any limitation on the amount of rent that can be charged for leasing private residential or commercial property. This subsection does not prevent the right of a county to manage and control residential property in which the county has a property interest

11. A county shall not adopt or enforce any ordinance or regulation in violation of section 562A.27B or 562B.25B.

331.655 Sheriff Fees

Section 1. Section 331.655, subsection 1, paragraphs a, b, c, e, f, g, h, k, l, m, and n, Code 2017, are amended to read as follows:

a. For serving a notice and returning it, for the first person served, fifteen thirty dollars, and each additional person, fifteen thirty dollars except the fee for serving additional persons in the same household shall be ten twenty dollars for each additional service, or if the service of notice cannot be made or several attempts are necessary, the repayment of all necessary expenses actually incurred by the sheriff while attempting in good faith to serve the notice.

b. For each warrant served, twenty thirty-five dollars, and the repayment of necessary expenses incurred in executing the warrant, as sworn to by the sheriff, or if service of the warrant cannot be made, the repayment of all necessary expenses actually incurred by the sheriff while attempting in good faith to serve the warrant.

c. For serving and returning a subpoena, for each person served, twenty thirty-five dollars, and the necessary expenses incurred while serving subpoenas in criminal cases or cases relating to hospitalization of persons with mental illness.

d. For summoning a grand or trial jury, all necessary and actual expenses incurred by the sheriff.

e. For summoning a jury to assess the damages to the owners of lands taken for works of internal improvement, and attending them, one two hundred dollars per day, and necessary expenses incurred. This subsection does not allow a sheriff to make separate charges for different assessments which can be made by the same jury and completed in one day of ten hours.

f. For serving an execution, attachment, order for the delivery of personal property, injunction, or any order of court, and returning it, fifteen thirty dollars.

g. For making and executing a certificate or deed for lands sold on execution , fifty dollars , or for making and executing a bill of sale for personal property sold, thirty dollars.

h. For the time necessarily employed in making an inventory of personal property attached or levied upon, ten twenty dollars per hour.

i.. For a copy of any paper required by law, made by the sheriff, fifty cents.

k. For attending setting a sale of property, fifty seventy-five dollars.

l. For conveying one or more persons to a state, county, or private institution by order of court or commission, necessary expenses for the sheriff and the person conveyed and fifteen twenty-five dollars per hour for the time necessarily employed in going to and from the institution, the expenses and hourly rate to be charged and accounted for as fees. If the sheriff needs assistance in taking a person to an institution, the assistance shall be furnished at the expense of the county.

m. For serving a warrant for the seizure of intoxicating liquors, five ten dollars; for the removal and custody of the liquor, actual expenses; for the destruction of the liquor under the order of the court, five ten dollars and actual expenses; for posting and leaving notices in these cases, five ten dollars and actual expenses.

n. For posting a notice or advertisement, five ten dollars.

p. For the necessary time employed in attending the service of a writ, twenty-five dollars per hour

364.3 Limitation of powers.

The following are limitations upon the powers of a city:

3. d. A city shall not adopt an ordinance, motion, resolution, or amendment, or use any other means, that restricts an owner of real property from refinancing existing debt on, selling, or otherwise transferring title to the property by requiring the owner to take or show compliance with any action with respect to the property or pay any fee before, during, or after refinancing existing debt on, selling, or transferring title to the property.

5. A city shall not adopt or enforce any ordinance imposing any registration or licensing system or registration or license fees for or relating to owner-occupied mobile homes including the lots, lands, or manufactured home community or mobile home park upon or in which they are located. A city shall not adopt or enforce any ordinance imposing any registration or licensing system, or registration or license fees, or safety or sanitary standards for rental mobile homes unless similar registration or licensing system, or registration or license fees, or safety or sanitary standards are required for other rental properties intended for human habitation. This subsection does not preclude the investigation and abatement of a nuisance or the enforcement of a tiedown system, or the enforcement of any regulations of the state or local board of health if those regulations apply to other rental properties or to owner-occupied housing intended for human habitation.

8. a. A city may adopt and enforce an ordinance requiring the construction of a storm shelter at a mobile home park which is constructed after July 1, 1999. In lieu of requiring construction of a storm shelter, a city may require a park owner to provide a plan for the evacuation of park residents to a safe place of shelter in times of severe weather including tornadoes and high winds if the city determines that a safe place of shelter is available within a reasonable distance of the mobile home park for use by park residents. Each evacuation plan prepared pursuant to this subsection shall be filed with, and approved by, the local emergency management agency. If construction of a storm shelter is required, an ordinance adopted or enforced pursuant to this subsection shall not include any of the following requirements:

1. That the size of the storm shelter be larger than the equivalent of seven square feet for each mobile home space in the mobile home park.
2. That the storm shelter include a restroom if the shelter is used exclusively as a storm shelter.
3. That the storm shelter exceed the construction specifications approved by a licensed professional engineer and presented by the owner of the mobile home park.

b. For the purposes of this subsection:

1. A Mobile home park means a mobile home park as defined in section 562B.7.
2. A Storm shelter means a single structure or multiple structures designed to provide persons with temporary protection from a storm.

9. A city shall not adopt or enforce any ordinance imposing any limitation on the amount of rent that can be charged for leasing private residential or commercial property. This subsection does not prevent the right of a city to manage and control residential property in which the city has a property interest.

11. A city shall not adopt or enforce any ordinance or regulation in violation of section 562A.27B or 562B.25B.

384.84 Rates and charges—billing and collection—contracts.

1. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may establish, impose, adjust, and provide for the collection of rates and charges to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise. When revenue bonds or pledge orders are issued and outstanding pursuant to this division, the governing body shall establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise, and to leave a balance of net revenues sufficient to pay the principal of and interest on the revenue bonds and pledge orders as they become due and to maintain a reasonable reserve for the payment of principal and interest, and a sufficient portion of net revenues must be pledged for that purpose. Rates must be established by ordinance of the council or by resolution of the trustees, published in the same manner as an ordinance.

2. a. A city utility or enterprise service to a property or premises, including services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these services, may be discontinued if the account for the service becomes delinquent. Gas or electric service provided by a city utility or enterprise shall be discontinued only as provided by section 476.20, and discontinuance of those services are subject to rules adopted by the utilities board of the department of commerce.

b. If more than one city utility or enterprise service is billed to a property or premises as a combined service account, all of the services may be discontinued if the account becomes delinquent.

c. A city utility or enterprise service to a property or premises shall not be discontinued unless prior written notice is sent, by ordinary mail, to the account holder in whose name the delinquent rates or charges were incurred, informing the account holder of the nature of the delinquency and affording the account holder the opportunity for a hearing prior to discontinuance of service. If the account holder is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord.

d. (1). If a delinquent amount is owed by an account holder for a utility service associated with a prior property or premises, a city utility, city enterprise, or combined city enterprise may withhold service from the same account holder at any new property or premises until such time as the account holder pays the delinquent amount owing on the account associated with the prior property or premises. A city utility, city enterprise, or combined city enterprise shall not withhold service from, or discontinue service to, a subsequent owner who obtains fee simple title of the prior property or premises unless such delinquent amount has been certified in a timely manner to the county treasurer as provided in subsection 3, paragraph “a”, subparagraphs (1) and (2).

(2). Delinquent amounts that have not been certified in a timely manner to the county treasurer are not collectible against any subsequent owner of the property or premises.

3. a. (1). Except as provided in paragraph "d", all rates or charges for the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these services, if not paid as provided by ordinance of the council or resolution of the trustees, are a lien upon the property or premises served by any of these services upon certification to the county treasurer that the rates or charges are due.

(2) If the delinquent rates or charges were incurred prior to the date a transfer of the property or premises in fee simple is filed with the county recorder and such delinquencies were not certified to

the county treasurer prior to such date, the delinquent rates or charges are not eligible to be certified to the country treasurer. If certification of such delinquent rates or charges is attempted subsequent to the date a transfer of the property or premises in fee simple is filed with the county recorder, the

county treasurer shall return the certification to the city utility, city enterprise, or combined city enterprise attempting certification along with a notice stating that the delinquent rates or charges cannot be made a lien against the property or premises.
(3) If the city utility, city enterprise, or combined city enterprise is prohibited under subparagraph (2) from certifying delinquent rates or charges against the property or premises served by the services described in subparagraph (1), the city utility, city enterprise, or combined city enterprise may certity the delinquent rates or charges against any other property or premises located in this state and owned by the account holder in whose name the rates or charges were incurred.
b. The lien under paragraph (a) may be imposed upon a property or premises even if a city utility or enterprise service to the property or premises has been or may be discontinued as provided in this section.
c. A lien for a city utility or enterprise service under paragraph "a" shall not be certified to the county treasurer for collection unless prior written notice of intent to certify a lien is given to the account holder in whose name the delinquent rates or charges were incurred at least thirty days prior to certification. If the account holder is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty days prior to certification of the lien to the county treasurer.
d. Residential rental property where a charge for water service is separately metered and paid directly to the city utility or enterprise by the tenant is exempt from a lien for delinquent rates or charges associated with such water service if the landlord gives written notice to the city utility or enterprise that the property is residential rental property and that the tenant is liable for the rates or charges. A city utility or enterprise may require a deposit not exceeding the usual cost of ninety days of water service to be paid to the utility or enterprise. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice to be given to the city utility or enterprise within thirty business days of the change in tenant. When the tenant moves from the rental property, the city utility or enterprise shall return the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the city utility or enterprise within ten business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent.
4. A lien shall not be imposed pursuant to this section for a delinquent charge of less than five dollars. The governing body of the city utility or enterprise may charge up to five dollars, and the county treasurer may charge up to five dollars, as an administrative expense of certifying and filing this lien, which amounts shall be added to the amount of the lien to be collected at the time of payment of the assessment from the payor. Administrative expenses collected by the county treasurer on behalf of the city utility or enterprise shall be paid to the governing body of the city utility or enterprise, and those collected by the county treasurer on behalf of the county shall be credited to the county general fund. The lien has equal precedence with ordinary taxes, may be certified to the county treasurer and collected in the same manner as taxes, and is not divested by a judicial sale.
a. A lien under subparagraph (1) shall not be placed upon a premises that is a mobile home, modular

home, or manufactured home served by any of the services under that subparagraph if the mobile home, modular home or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the least agreement specifies that the

tenant is responsible for the payment of a portion of the rates or charges billed to the account holder.

5. A governing body may declare all or a certain portion of a city as a storm water drainage system district for the purpose of establishing, imposing, adjusting, and providing for the collection of rates

as provided in this section. The ordinance provisions for collection of rates of a storm water drainage system may prescribe a formula for determination of the rates which may include criteria and standards by which benefits have been previously determined for special assessments for storm water public improvement projects under this chapter.

6. a. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may:

(1) By ordinance of the council or by resolution of the trustees published in the same manner as an ordinance, establish, impose, adjust, and provide for the collection of charges for connection to a city utility or combined utility system.

(2) Contract for the use of or services provided by a city utility, combined utility system, city enterprise, or combined city enterprise with persons whose type or quantity of use or service is unusual.

(3) Lease for a period not to exceed fifteen years all or part of a city enterprise or combined city enterprise, if the lease will not reduce the net revenues to be produced by the city enterprise or combined city enterprise.

(4) Contract for a period not to exceed forty years with other governmental bodies for the use of or the services provided by the city utility, combined utility system, city enterprise, or combined city enterprise on a wholesale basis.

(5) Contract for a period not to exceed forty years with persons and other governmental bodies for the purchase or sale of water, gas, or electric power and energy on a wholesale basis.

b. Two or more city utilities, combined utility systems, city enterprises, or combined city enterprises, including city utilities established pursuant to chapter 388, may contract pursuant to chapter 28E for joint billing or collection, or both, of combined service accounts for utility or enterprise services, or both. The contracts may provide for the discontinuance of one or more of the city utility or enterprise services if a delinquency occurs in the payment of any charges billed under a combined service account.

c. One or more city utilities or combined utility systems, including city utilities established pursuant to chapter 388, may contract pursuant to chapter 28E with one or more sanitary districts established pursuant to chapter 358 for joint billing or collection, or both, of combined service accounts from utility services and sanitary district services. The contracts may provide for the discontinuance of one or more of the city water utility services or sanitary district services if a delinquency occurs in the payment of any charges billed under a combined service account.

7. The portion of cost attributable to the agreement or arbitration awarded under section 357A.21 may be apportioned in whole or in part among water customers within an annexed area.

10. For the purposes of this section, “premises” includes a mobile home, modular home, or manufactured home as defined in section 435.1.

11. Notwithstanding subsection 4, except for mobile home parks or manufactured home communities where the mobile home park or manufactured home community owner or manager is responsible for paying the rates or charges for services, a lien shall not be filed against the land if the premises are located on leased land. If the premises are located on leased land, a lien may be filed against the premises only.

414.1 Building restrictions — powers granted.

1 For the purpose of promoting the health, safety, morals, or the general welfare of the

community or for the purpose of preserving historically significant areas of the community, any city is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

3. A city shall not, after January 1, 2018, adopt or enforce any regulation or restriction related to the occupancy of residential rental property that is based upon the existence of familial or nonfamilial relationships between the occupants of such rental property.

421.1A PROPERTY ASSESSMENT APPEAL BOARD.

1. A statewide property assessment appeal board is created for the purpose of establishing a consistent, fair, and equitable property assessment appeal process. The statewide property assessment appeal board is established within the department of revenue for administrative and budgetary purposes. The board's principal office shall be in the office of the department of revenue in the capital of the state.

2. *a.* The property assessment appeal board shall consist of three members appointed to staggered six-year terms, beginning and ending as provided in section 69.19, by the governor and subject to confirmation by the senate. Subject to confirmation by the senate, the governor shall appoint from the members a chairperson of the board to a two-year term. Vacancies on the board shall be filled for the unexpired portion of the term in the same manner as regular appointments are made. The term of office for the initial board shall begin January 1, 2007.

b. Each member of the property assessment appeal board shall be qualified by virtue of at least two years' experience in the area of government, corporate, or private practice relating to property appraisal and property tax administration. Two members of the board shall be certified real property appraisers and one member shall be an attorney practicing in the area of state and local taxation or property tax appraisals. No more than two members of the board may be from the same political party as that term is defined in section 43.2.

c. The property assessment appeal board shall organize by appointing a secretary who shall take the same oath of office as the members of the board. The board may employ additional personnel as it finds necessary. All personnel employed by the board shall be considered state employees and are subject to the merit system provisions of chapter 8A, subchapter IV.

3. At the election of a property owner or aggrieved taxpayer or an appellant described in section 441.42, the property assessment appeal board shall review any final decision, finding, ruling, determination, or order of a local board of review relating to protests of an assessment, valuation, or application of an equalization order, or any final decision of the county board of supervisors relating to denial of an application for, or the revocation of, a property tax exemption pursuant to section 427.1, subsection 40.

4. The property assessment appeal board may do all of the following:

a. Affirm, reverse, or modify a final decision, finding, ruling, determination, or order of a local board of review.

b. Affirm or reverse a final decision of a county board of supervisors relating to denial of an application for, or the revocation of, a property tax exemption under section 427.1, subsection 40.

c. Order the payment or refund of property taxes in a matter over which the board has jurisdiction.

d. Grant other relief or issue writs, orders, or directives that the board deems necessary or appropriate in the process of disposing of a matter over which the board has jurisdiction.

e. Subpoena documents and witnesses and administer oaths.

f. Adopt administrative rules pursuant to chapter 17A for the administration and implementation of its powers, including rules for practice and procedure for protests filed with the board, the manner in which hearings on appeals of assessments shall be conducted, filing fees to be imposed by the board, and for the determination of the correct assessment of property which is the subject of an appeal.

g. Adopt administrative rules pursuant to chapter 17A necessary for the preservation of

order and the regulation of proceedings before the board, including forms or notice and the service thereof, which rules shall conform as nearly as possible to those in use in the courts of this state.

5. The property assessment appeal board shall employ a competent attorney to serve as its general counsel, and assistants to the general counsel as it finds necessary for the full and efficient discharge of its duties. The general counsel is the attorney for, and legal advisor of, the board. The general counsel or an assistant to the general counsel shall provide the necessary legal advice to the board in all matters and shall represent the board in all actions instituted in a court challenging the validity of a rule or order of the board. The general counsel shall devote full time to the duties of the office. During employment as general counsel to the board, the counsel shall not be a member of a political committee, contribute to a political campaign, participate in a political campaign, or be a candidate for partisan political office. The general counsel and assistants to the general counsel shall be considered state employees and are subject to the merit system provisions of chapter 8A, subchapter IV.

6. The members of the property assessment appeal board shall receive a salary set by the governor within a range established by the general assembly. The members of the board shall be considered state employees for purposes of salary and benefits. The members of the board and any employees of the board, when required to travel in the discharge of official duties, shall be paid their actual and necessary expenses incurred in the performance of duties.

2005 Acts, ch 150, §121; 2006 Acts, ch 1185, §30; 2007 Acts, ch 215, §27; 2013 Acts, ch 123,
§47 – 49, 64 – 67; 2015 Acts, ch 120, §39, 40, 45; 2016 Acts, ch 1130, §21
Referred to in **§441.37A**

1986 tax amnesty program; intent not to conduct another prior to January 1, 2000; 86 Acts, ch 1007, § 1—4, 43

SEC 422A.1 Hotel and motel tax.

A city or county may impose by ordinance of the city council or by resolution of the board of supervisors a hotel and motel tax, at a rate not to exceed seven percent, which shall be imposed in increments of one or more full percentage points upon the sales price form the renting of sleeping rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, manufactured or mobile home which is tangible personal property, or tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals; except the sales price from the renting of sleeping rooms in dormitories and in memorial unions at all universities and colleges located in the state of Iowa and the guests of a religious institution if the property is exempt under section 427.1, subsection 9, and the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally. The tax when imposed by a city shall apply only within the corporate boundaries of that city and when imposed by a county shall apply only outside incorporated areas within that county. "Renting" and "rent" include any kind of direct or indirect charge for such sleeping rooms, apartments, or sleeping quarters, or their use. However, the tax does not apply to the sales price from the renting of a sleeping room, apartment, or sleeping quarters while rented by the same person for a period of more than thirty-one consecutive days.

A local hotel and motel tax shall be imposed on January 1, April 1, July 1, or October 1, following the notification of the director of revenue and finance. Once imposed, the tax shall remain in effect at the rate imposed for a minimum of one year. A local hotel and motel tax shall terminate only on March 31, June 30, September 30, or December 31. At least sixty days prior to the tax being effective or prior to a revision in the tax rate, or prior to the repeal of the tax, a city or county shall provide notice by mail of such action to the director of revenue and finance.

A city or county shall impose a hotel and motel tax or increase the tax rate, only after an election at which a majority of those voting on the question favors imposition or increase. However, a hotel and motel tax shall not be repealed or reduced in rate if obligations are outstanding which are payable as provided in section 422A.2, unless funds sufficient to pay the principal, interest, and premium, if any, on the outstanding obligations at and prior to maturity have been properly set aside and pledged for that purpose. The election shall be held at the time of that city's or county's general election or at the time of a special election.

The director of revenue and finance shall administer a local hotel and motel tax as nearly as possible in conjunction with the administration of the state sales tax law. The director shall provide appropriate forms, or provide on the regular state tax forms, for reporting local hotel and motel tax liability. All moneys received or refunded one hundred eighty days after the date on which a city or county terminates its local hotel and motel tax shall be deposited in or withdrawn from the state general fund.

The director, in consultation with local officials, shall collect and account for a local hotel and motel tax and shall credit all revenues to a "local transient guest tax fund" established by section 422A.2.

No tax permit other than the state tax permit required under section 422.36 may be required by local authorities.

The tax levied shall be in addition to any state sales tax imposed under section 423.2. Sections 422.25, subsection 4, 422.30, 422.67 and 422.68, section 422.69, subsection 1, 422.70 to 422.75, 423.14 subsection 1, and sections 423.23, 423.24, 423.25, 423.31, 423.33, 423.35, 423.37 to 423.42, and 423.47, consistent with the provisions of this chapter, apply with respect to the taxes authorized under this chapter, in the same manner and with the same effect as if the hotel and motel taxes were retail sales taxes within the meaning of those statutes. Notwithstanding this paragraph, the director shall provide for quarterly filing of returns and for other than quarterly filing of returns both as prescribed in section 423.31. The director may require all persons, be defined in section 423.1, who are engaged in the business of deriving any sales price subject to tax under this chapter, to register with the department.

[C79, 81, § 422A.1] 86 Acts, ch 1199, § 1; 86

422B.8 Local sales and services tax.

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the gross receipts taxed by the state under chapter 422, division IV. A local sales and services tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of equipment by the state department of transportation, on the gross receipts from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99G and except the tax shall not be imposed on the gross receipts from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the gross receipts from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the country where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. However, a person required to collect state retail sales tax under chapter 422, division IV, is not required to collect local sales and services tax is imposed unless the person has physical presence in that taxing area. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favors its imposition.

The amount of the sale, for purposes of determining the amount of the local sales and services tax, does not include the amount of any state gross receipts taxes.

A tax permit other than the state tax permit required under section 422.53 or 423.10 shall not be required by local authorities.

If a local sales and services tax is imposed by a county pursuant to this chapter, local excise tax at the same rate shall be imposed by the county on the purchase price of natural gas, natural gas service, electricity, or electric service subject to tax under chapter 423 and not to exempted from tax by any provision of chapter 423. The local excise tax is applicable only to the use of natural gas, natural gas service, electricity, or electric service within those incorporated and unincorporated areas of the country where it is imposed and, except as otherwise provided in this chapter, shall be collected and administered in the same manner as the local sales and services tax. For purposes of this chapter," *local sales and services tax*" shall also include the local excise tax.

CHAPTER 423G WATER SERVICE TAX

Referred to in §421.71

Future repeal of chapter, see §423G.7

423G.1 Short title. 423G.2 Definitions. 423G.3 Water service tax. 423G.4 Exemptions.

423G.5 Administration by director. 423G.6 Deposit of revenues. 423G.7 Future repeal.

423G.1 Short title. This chapter may be cited as the “Water Service Tax Act”. 2018 Acts, ch 1001, §11, 27 NEW section

423G.2 Definitions. 1. All words and phrases used in this chapter and defined in section 423.1 have the same meaning given them by section 423.1 for purposes of this chapter. 2. As used in this chapter, “water service” and “water utility” mean the same as defined in section 423.3, subsection 103. 2018 Acts, ch 1001, §12, 27 NEW section

423G.3 Water service tax. An excise tax at the rate of six percent is imposed on the sales price from the sale or furnishing by a water utility of a water service in the state to consumers or users. 2018 Acts, ch 1001, §13, 27 NEW section

423G.4 Exemptions. The sales price from transactions exempt from state sales tax under section 423.3, except section 423.3, subsection 103, is also exempt from the tax imposed by this chapter. 2018 Acts, ch 1001, §14, 27 NEW section

423G.5 Administration by director. 1. The director of revenue shall administer the water service tax as nearly as possible in conjunction with the administration of the state sales and use tax law, except that portion of the law that implements the streamlined sales and use tax agreement. The director shall provide appropriate forms, or provide on the regular state tax forms, for reporting water service tax liability, and for ease of administration may require water service tax liability to be identified, reported, and remitted to the department as sales and use tax liability, provided the department has the ability to properly identify such amounts as water service tax revenues upon receipt. 2. The director may require all persons who are engaged in the business of deriving any sales price or purchase price subject to tax under this chapter to register with the department. The director may also require a tax permit applicable only to this chapter for any retailer not collecting, or any user not paying, taxes under chapter 423. 3. Section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70, 422.71, 422.72, 422.74, and 422.75, section 423.14, subsection 1, and sections 423.23, 423.24, 423.25, 423.31 through 423.35, 423.37 through 423.42, and 423.47, consistent with the provisions of this chapter, shall apply with respect to the tax authorized under this chapter, in the same manner and with the same effect as if the excise taxes on the sale or furnishing of a water service were retail sales taxes within the meaning of those statutes. Notwithstanding this subsection, the director shall provide for quarterly filing of returns and for other than quarterly filing of returns both as prescribed in section

423.31. All taxes collected under this chapter by a retailer or any user are deemed to be held in trust for the state of Iowa. 2018 Acts, ch 1001, §15, 27; 2018 Acts, ch 1161, §25 NEW section

423G.6 Deposit of revenues. 1. All moneys received and all refunds shall be deposited in or withdrawn from the general fund of the state. 2. Subsequent to the deposit in the general fund of the state, the department shall transfer the following amounts to the following funds: a. For revenues reported on or after July 1, 2018, but before August 1, 2019, one-twelfth of the revenues to the water quality infrastructure fund created in section 8.57B, and one-twelfth of the revenues to the water quality financial assistance fund created in section 16.134A. b. For revenues reported on or after August 1, 2019, but before August 1, 2020, one-sixth of the revenues to the water quality infrastructure fund created in section 8.57B, and one-sixth of the revenues to the water quality financial assistance fund created in section 16.134A. c. For revenues reported on or after August 1, 2020, one-half of the revenues to the water quality financial assistance fund created in section 16.134A. 2018 Acts, ch 1001, §16, 27; 2018 Acts, ch 1161, §26 Referred to in §8.57B, 16.134A NEW section

423G.7 Future repeal. This chapter is repealed upon the occurrence of one of the following, whichever is earlier: 1. The enactment date that the tax rate for the sales tax imposed upon the retail sales price of tangible personal property and the furnishing of enumerated services sold in this state in effect on July 1, 2016, is increased. 2. July 1, 2029. 2018 Acts, ch 1001, §17, 27 NEW se

SUBTITLE 2
PROPERTY TAXES (Chp 425-449)
CHAPTER 425
HOMESTEAD TAX CREDITS AND REIMBURSEMENT

SEC 425.15 Disabled veteran tax credit.

If the owner of a homestead allowed a credit under this chapter is a veteran of any of the military forces of the United States, who acquired the homestead under 38 U.S.C. § 21.801, 21.802, the credit allowed on the homestead from the homestead credit fund shall be the entire amount of the tax levied on the homestead. The credit allowed shall be continued to the estate of a veteran who is deceased or the surviving spouse and any child, as defined in section 234.1, who are the beneficiaries of a deceased veteran, so long as the surviving spouse remains unmarried. This section is not applicable to the holder of title to any homestead whose annual income, together with that of the titleholder's spouse, if any, for the last preceding twelve-month income tax accounting period exceeds twenty-five thousand dollars. For the purpose of this section "income" means taxable income for federal income tax purposes plus income from securities of state and other political subdivisions exempt from federal income tax. A veteran or a beneficiary of a veteran who elects to secure the credit provided in this section is not eligible for any other real property tax exemption provided by law for veterans of military service. If a veteran acquires a different homestead, the credit allowed under this section may be claimed on the new homestead unless the veteran fails to meet the other requirements of this section.

[C71, 73, 75, 77, 79, 81, § 425.15]
90 Acts, ch 1250, §7

1990 amendment applicable for assessment years beginning on or after July 1, 1991; 90 Acts, ch 1250, § 25

SEC 425.16 Additional tax credit.

425 PROPERTY TAX RELIEF FOR CERTAIN ELDERLY, DISABLED, AND OTHER PERSONS

In addition to the homestead tax credit allowed under section 425.1, subsections 1 to 4, persons who own or rent their homesteads and who meet the qualifications provided in this division are eligible for an extraordinary property tax credit or reimbursement.

[C75, 77, 79, 81, § 425.16]

SEC 425.17 Definitions.

As used in this division, unless the context otherwise requires:

1. "Base year" means the calendar year last ending before the claim is filed.

2. "Claimant" means either of the following:

a. A person filing a claim for credit or reimbursement under this division who has attained the age of sixty-five years on or before December 31 of the base year, who is a surviving spouse having attained the age of fifty-five years on or before December 31, 1988, or who is totally disabled and was totally disabled on or before December 31 of the base year, and was domiciled in this state during the entire base year, and is domiciled in this state at the time the claim is filed or at the time of the person's death in the case of a claim filed by the executor or administrator of the claimant's estate.

b. A person filing a claim for credit or reimbursement under this division who has attained the age of twenty-three years on or before

December 31 of the base year or was a head of household on December 31 of the base year, as defined in the Internal Revenue Code, but has not

attained the age or disability status described in paragraph "a", and was domiciled in this state during the entire base year, and is domiciled in this state at the time the claim is filed or at the time of the person's death in the case of a claim filed by the executor or administrator of the claimant's estate, and was not claimed as a dependent on any other person's tax return for the base year.

"Claimant" under paragraph "a" or "b" includes a vendee in possession under a contract for deed and may include one or more joint tenants or tenants in common. In the case of a claim for rent constituting property taxes paid, the claimant shall have rented the property during any part of the base year. If a homestead is occupied by two or more persons, and more than one person is able to qualify as a claimant, the persons may determine among them who will be the claimant. If they are unable to agree, the matter shall be referred to the director of revenue and finance not later than June 1 of each year and the director's decision is final.

3. "Gross rent" means rental paid at arm's length for the right of occupancy of a homestead or mobile home, including rent for space occupied by a mobile home not to exceed one acre. If the director of revenue and finance determines that the landlord and tenant have not dealt with each other at arm's length, and the director of revenue and finance is satisfied that the gross rent charged was excessive, the director shall adjust the gross rent to a reasonable amount as determined by the director.

4. "Homestead" means the dwelling owned or rented and actually used as a home by the claimant during all or part of the base year, and so much of the land surrounding it including one or more contiguous lots or tracts of land, as is reasonably necessary for use of the dwelling as a home, and may consist of a part of a multidwelling or multipurpose building and a part of the land upon which it is built. It does not include personal property except that a mobile home may be a homestead. Any dwelling or a part of a multidwelling or multipurpose building which is exempt from taxation does not qualify as a homestead under this division. However, solely for purposes of claimants living in a property and receiving reimbursement for rent constituting property taxes paid immediately before the property becomes tax exempt, and continuing to live in it

after it becomes tax exempt, the property shall continue to be classified as a homestead. A homestead must be located in this state. When a person is confined in a nursing home, extended-care facility, or hospital, the person shall be considered as occupying or living in the person's homestead if the person is the owner of the homestead and the person maintains the homestead and does not lease, rent, or otherwise receive profits from other persons for the use of the homestead.

5. "Household" means a claimant, spouse, and any person related to the claimant or spouse by blood, marriage, or adoption and living with the claimant at any time during the base year. "Living with" refers to domicile and does not include a temporary visit.

6. "Household income" means all income of the claimant and the claimant's spouse in a household and actual monetary contributions received from any other household member or nonmember living with the claimant during their respective twelve-month income tax accounting periods ending with or during the base year.

7. "Income" means the sum of Iowa net income as defined in section 422.7, plus all of the following to the extent not already included in Iowa net income: capital gains, alimony, child support money, cash public assistance and relief, except property tax relief granted under this division, amount of in-kind assistance for housing expenses, the gross amount of any pension or annuity, including but not limited to railroad retirement benefits, payments received under the federal Social Security Act, except child insurance benefits received by a member of the claimant's household, and all military retirement and veterans' disability pensions, interest received from the state or federal government or any of its instrumentalities, workers' compensation and the gross amount of disability income or "loss of time" insurance. "Income" does not include gifts from nongovernmental sources, or surplus foods or other relief in kind supplied by a governmental agency. In determining income, net operating losses and net capital losses shall not be considered.

8. "Property taxes due" means property taxes including any special assessments, but exclusive of delinquent interest and charges for services, due on a claimant's homestead in this state, but includes only property taxes for which the claimant is liable and which will actually be paid by the claimant. However, if the claimant is a person whose property taxes have been suspended under sections

427.8 and 427.9, "property taxes due" means property taxes including any special assessments, but exclusive of delinquent interest and charges for services, due on a claimant's homestead in this state, but includes only property taxes for which the claimant is liable and which would have to be

paid by the claimant if the payment of the taxes has not been suspended pursuant to sections 427.8 and 427.9. "Property taxes due" shall be computed with no deduction for any credit under this division or for any homestead credit allowed under section 425.1. Each claim shall be based upon the taxes due during the fiscal year next following the base year. If a homestead is owned by two or more persons as joint tenants or tenants in common, and one or more persons are not members of claimant's household, "property taxes due" is that part of property taxes due on the homestead which equals the ownership percentage of the claimant and the claimant's household. The county treasurer shall include with the tax receipt a statement that if the owner of the property is eighteen years of age or over, the person may be eligible for the credit allowed under this division. If a homestead is an integral part of a farm, the claimant may use the total property taxes due for the larger unit. If a homestead is an integral part of a multidwelling or multipurpose building the property taxes due for the purpose of this subsection shall be prorated to reflect the portion which the value of the property that the household occupies as its homestead is to the value of the entire structure. For purposes of this subsection, "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

9. "Rent constituting property taxes paid" means twenty-three percent of the gross rent actually paid in cash or its equivalent during the base year by the claimant or the claimant's household solely for the right of occupancy of their homestead in the base year, and which rent constitutes the basis, in the succeeding year, of a claim for reimbursement under this division by the claimant.

10. "Special assessment" means an unpaid special assessment certified pursuant to chapter 384, division IV. The claimant may include as a portion of the taxes due during the fiscal year next following the base year an amount equal to the unpaid special assessment installment due, plus interest, during the fiscal year next following the base year.

11."Totally disabled" means the inability to engage in any substantial gainful employment by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or is reasonably expected to last for a continuous period of not less than twelve months.

[C75, 77, 79, 81, §425.17; 82 Acts, ch 1214, § 1, 2, 4]

88 Acts, ch 1139, §2, 3; 89 Acts, ch 233, §1; 90 Acts, ch 1250, § 6; 91 Acts, ch 191, §19; 92 Acts, 2nd Ex, ch 1001, §220; 93 Acts, ch 156, §1; 93 Acts, ch 180, §4; 94 Acts, ch 1125, §1, 2; 94 Acts, ch 1165, §26

1990 amendments to subsections 5 and 9 are effective January 1, 1991, for property tax credit claims filed on or after that date, and apply to rent reimbursement claims filed on or after January 1, 1992; 90 Acts, ch 1250, § 21

1991 amendment to subsection 10 is effective January 1, 1993; 91 Acts, ch 191, §124; 92 Acts, ch 1016, §41

1992 amendments to subsection 2 were to take effect January 1, 1993, for mobile home tax claims and property tax claims and apply to rent reimbursement claims filed on or after January 1, 1994 but were deferred one year and further amended; 92 Acts, 2nd Ex, ch 1001, §225; 93 Acts, ch 180, §4, 15, 16, 22, 23

1993 amendments to subsections 2 and 7 are effective January 1, 1994, for property tax claims filed on or after that date and apply to rent reimbursement claims filed on or after January 1, 1995; 93 Acts, ch 156, §2; 93 Acts, ch 180, §22

1994 amendments to subsections 2, 3, 6, and 9 take effect January 1, 1995, for claims filed on or after that date; 94 Acts, ch 1125, §5; 94 Acts, ch 1165, §50

Subsection 2, paragraph b, unnumbered paragraph 2 amended

Subsections 3, 6, and 9 amended

SEC 425.18 Right to file a claim.

The right to file a claim for reimbursement or credit under this division may be exercised by the claimant or on behalf of a claimant by the claimant's legal guardian, spouse, or attorney, or by the executor or administrator of the claimant's estate. If a claimant dies after having filed a claim for reimbursement for rent constituting property taxes paid, the amount of the reimbursement may be paid to another member of the household as determined by the director. If the claimant was the only member of the household, the reimbursement may be paid to the claimant's executor or administrator, but if neither is appointed and

qualified within one year from the date of the filing of the claim, the reimbursement shall escheat to the state. If a claimant dies after having filed a claim for credit for property taxes due, the amount of credit shall be paid as if the claimant had not died.

[C75, 77, 79, 81, § 425.18; 82 Acts, ch 1214, § 3, 4]

83 Acts, ch 111, § 1, 4

SEC 425.19 Claim and credit or reimbursement.

Subject to the limitations provided in this division, a claimant may annually claim a credit for property taxes due during the fiscal year next following the base year or claim a reimbursement for rent constituting property taxes paid in the base year. The amount of the credit for property taxes due for a homestead shall be paid on February 15 of each year by the director to the county treasurer who shall credit the money received against the amount of the property taxes due and payable on the homestead of the claimant and the amount of the reimbursement for rent constituting property taxes paid shall be paid to the claimant from the state general fund on December 31 of each year.

[C75, 77, 79, 81, § 425.19]

83 Acts, ch 172, § 4

SEC 425.20 Filing dates — affidavit — extension.

A claim for reimbursement for rent constituting property taxes paid shall not be paid or allowed, unless the claim is filed with and in the possession of the department of revenue and finance on or before June 1 of the year following the base year.

A claim for credit for property taxes due shall not be paid or allowed unless the claim is filed with the county treasurer between January 1 and June 1, both dates inclusive, immediately preceding the fiscal year during which the property taxes are due. The county treasurer shall submit the claim to the director of revenue and finance on or before August 1 of each year.

In case of sickness, absence, or other disability of the claimant or if, in the judgment of the director of revenue and finance, good cause exists and the claimant requests an extension, the director may extend the time for filing a claim for reimbursement or credit. However, any further time granted shall not extend beyond December 31 of the year following the year in which the claim was required to be filed. Claims filed as a result of this paragraph shall be filed with the director who shall provide for the reimbursement of the claim to the claimant.

[C75, 77, 79, 81, §425.20; 81 Acts 2d Ex, ch 4,§1]

83 Acts, ch 111, § 2, 4; 88 Acts, ch 1050, §1; 94 Acts, ch 1125, §3; 94 Acts, ch 1165, §27

1994 amendments to unnumbered paragraphs 1 and 2 take effect January 1, 1995, for claims filed on or after that date; 94 Acts, ch 1125, §5; 94 Acts, ch 1165, §50

See Code editor's note to §15.108 at the end of Vol IV

Unnumbered paragraphs 1 and 2 amended

SEC 425.21 Satisfaction of outstanding tax liabilities.

The amount of any claim for credit or reimbursement payable under this division may be applied by the department of revenue and finance against any tax liability outstanding on the books of the department against the claimant, or against a spouse who was a member of the claimant's household in the base year.

[C75, 77, 79, 81, § 425.21]

SEC 425.22 One claimant per household.

Only one claimant per household per year shall be entitled to reimbursement under this division and only one claimant per household per fiscal year shall be entitled to a credit under this division.

[C75, 77, 79, 81, § 425.22]

SEC 425.23 Schedule for claims for credit or reimbursement.

The amount of any claim for credit or reimbursement filed under this division shall be determined as provided in this section.

1. a. The tentative credit or reimbursement for a claimant described in section 425.17, subsection 2, paragraph "a" and paragraph "b" if no appropriation is made to the fund created in section 425.40 shall be determined in accordance with the following schedule:

If the household income is:	Percent of property taxes due or rent constituting property taxes paid allowed as a credit or reimbursement:
$ 0 — 5,999.99	100%
6,000 — 6,999.99	85
7,000 — 7,999.99	70
8,000 — 9,999.99	50
10,000 — 11,999.99	35
12,000 — 13,999.99	25

b. If moneys have been appropriated to the fund created in section 425.40, the tentative credit or reimbursement for a claimant described in section 425.17, subsection 2, paragraph "b", shall be determined as follows:

(1) If the amount appropriated under section 425.40 plus any supplemental appropriation made

for a fiscal year for purposes of this lettered paragraph is at least twenty seven million dollars, the tentative credit or reimbursement shall be determined in accordance with the following schedule:

If the household income is:	Percent of property taxes due or rent constituting property taxes paid allowed as a credit or reimbursement:
$ 0 — 5,999.99	100%
6,000 — 6,999.99	85
7,000 — 7,999.99	70
8,000 — 9,999.99	50
10,000 — 11,999.99	35
12,000 — 13,999.99	25

(2) If the amount appropriated under section 425.40 plus any supplemental appropriation made for a fiscal year for purposes of this lettered paragraph is less than twenty seven million dollars the tentative credit or reimbursement shall be determined in accordance with the following schedule:

If the household income is:	Percent of property taxes due or rent constituting property taxes paid allowed as a credit or reimbursement:
$ 0 — 5,999.99	50%
6,000 — 6,999.99	42
7,000 — 7,999.99	35
8,000 — 9,999.99	25
10,000 — 11,999.99	17
12,000 — 13,999.99	12

2. The actual credit for property taxes due shall be determined by subtracting from the tentative credit the amount of the homestead credit under section 425.1 which is allowed as a credit against property taxes due in the fiscal year next following the base year by the claimant or any person of the claimant's household. If the subtraction produces a negative amount, there shall be no credit but no refund shall be required. The actual reimbursement for rent constituting property taxes paid shall be equal to the tentative reimbursement.

3. a. A person who is eligible to file a claim for credit for property taxes due and who has a household income of six thousand dollars or less and who has an unpaid special assessment levied against the homestead may file a claim with the county treasurer that the claimant had a household income of six thousand dollars or less and that an unpaid special assessment is presently levied against the homestead. The department shall provide to the respective treasurers the forms necessary for the administration of this subsection. The claim shall be filed not later than September 30 of each year. Upon the filing of the claim, interest for late payment shall not accrue against the amount of the unpaid special assessment due and payable. The claim filed by the claimant constitutes a claim for credit of an amount equal to the actual amount due upon the unpaid special assessment, plus interest, payable during the fiscal year for which the claim is filed against the homestead of the claimant. However, where the claimant is an individual described in section 425.17, subsection 2, paragraph "b", and the tentative credit is determined according to the schedule in section 425.23, subsection 1, paragraph "b", subparagraph (2), the claim filed constitutes a claim for credit of an amount equal to one half of the actual amount due and payable during the fiscal year. The department of revenue and finance shall, upon the filing of the claim with the department by the treasurer, pay that amount of the unpaid special assessment during the current fiscal year to the treasurer. The treasurer shall submit the claims to the director of revenue and finance not later than October 15 of each year. The director of revenue and finance shall certify the amount of reimbursement due each county for unpaid special assessment credits allowed under this subsection. The amount of reimbursement due each county shall be paid by the director of revenue and finance on October 20 of each year, drawn upon warrants payable to the respective treasurer. There is appropriated annually from the general fund of the state to the department of revenue and finance an amount sufficient to carry out the provisions of this subsection. The treasurer shall credit any moneys received from the department against the amount of the unpaid special assessment due and payable on the homestead of the claimant.

b. For purposes of this subsection, a totally disabled person in computing household income shall deduct all medical and necessary care expenses paid during the twelve month income tax accounting periods used in computing household income which are attributable to the person's total disability. "Medical and necessary care expenses" are those used in computing the federal income tax deduction under section 213 of

the Internal Revenue Code as defined in section 422.3.

[C71, 73, § 425.1(5); C75, 77, 79, 81, § 425.23]

83 Acts, ch 172, § 5; 83 Acts, ch 189, § 3, 5, 6; 84 Acts, ch 1305, § 35; 88 Acts, ch 1139, §4; 90 Acts, ch 1250, § 8, 9; 91 Acts, ch 267, §524; 92 Acts, ch 1016, §13; 92 Acts, 2nd Ex, ch 1001, §221—223, 225; 93 Acts, ch 180, §5, 6

1990 amendments to subsections 1 and 3 are effective January 1, 1991, for property tax credit claims filed on or after that date, and apply to rent reimbursement claims filed on or after January 1, 1992; 90 Acts, ch 1250, § 21

1991 amendment to paragraph b of subsection 1 retroactive to January 1, 1991; 91 Acts, ch 267, §529

1992 amendments to subsection 1 were to take effect January 1, 1993, for mobile home tax claims and property tax claims and apply to rent reimbursement claims filed on or after January 1, 1994 but were deferred one year and further amended; 92 Acts, 2nd Ex, ch 1001, § 225; 93 Acts, ch 180, §5, 15, 16, 22, 23

1992 amendments to subsection 3 were to be effective January 1, 1993 for claims filed on or after that date but were deferred one year and further amended; 92 Acts, ch 1016, §42; 92 Acts, 2nd Ex, ch 1001, § 225; 93 Acts, ch 180, §6, 15, 16, 22, 23

1993 amendments to subsections 1 and 3 are effective January 1, 1994, for property tax claims filed on or after that date and apply to rent reimbursement claims filed on or after January 1, 1995; 93 Acts, ch 180, §22

SEC 425.24 Maximum property tax for purpose of credit or reimbursement.

In any case in which property taxes due or rent constituting property taxes paid for any household exceeds one thousand dollars, the amount of property taxes due or rent constituting property taxes paid shall be deemed to have been one thousand dollars for purposes of this division.

[C75, 77, 79, 81, § 425.24]

SEC 425.25 Administration.

The director of revenue and finance shall make available suitable forms with instructions for claimants. Each assessor and county treasurer shall make available the forms and instructions. The claim shall be in a form as the director may prescribe. The director may also devise a tax credit or reimbursement table, with amounts rounded to the nearest even whole dollar. Reimbursements or credits in the amount of less than one dollar shall not be paid.

[C71, 73, § 425.1(5); C75, 77, 79, 81, § 425.25]

84 Acts, ch 1190, § 1

SEC 425.26 Proof of claim.

Every claimant shall give the department of revenue and finance, in support of the claim reasonable proof of:

1. Age and total disability, if any.
2. Property taxes due or rent constituting property taxes paid, including the name and address of the owner or manager of the property rented and a statement whether the claimant is related by blood, marriage, or adoption to the owner or manager of the property rented.
3. Homestead credit allowed against property taxes due.
4. Changes of homestead.
5. Household membership.
6. Household income.
7. Size and nature of property claimed as the homestead.

The director may require any additional proof necessary to support a claim.

426A.11 Military service -- exemptions.

The following exemptions from taxation shall be allowed:

1. The property, not to exceed two thousand seven hundred seventy-eight dollars in taxable value of any veteran, as defined in section 35.1, of the First World War.
2. The property, not to exceed one thousand eight hundred fifty-two dollars in taxable value of an honorably separated, retired, furloughed to a reserve, placed on inactive status, or discharged veteran, as defined in section 35.1.
3. Where the word "veteran" appears in this chapter, it includes, without limitation, the members of the United States air force and the United States merchant marine.
4. For the purpose of determining a military tax exemption under this section, property includes a manufactured or mobile home as defined in section 435.
[C97, § 1304; S13, SS15, § 1304; C24, 27, 31, 35, 39, § 6946; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 427.3; 82 Acts, ch 1063, § 1]
83 Acts, ch 101, § 87; 84 Acts, ch 1219, § 32; 88 Acts, ch 1151, § 9, 10; 88 Acts, ch 1243, § 10; 89 Acts, ch 296, §45; 91 Acts, ch 199, § 5; 94 Acts, ch 1173, § 35; 99 Acts, ch 151, §88, 89; 99 Acts, ch 180, §18

CHAPTER 427

427.1 Exemptions.
The following classes of property shall not be taxed:

30. Manufactured home community or mobile home park shelter.

A structure constructed as a storm shelter at a manufactured home community or mobile home park as defined in section 435.1. An application for this exemption shall be filed with the assessing authority not later than February 1 of the first year for which the exemption is requested, on forms provided by the department of revenue and finance. The application shall describe and locate the storm shelter to be exempted. If the storm shelter structure is used exclusively as a storm shelter, all of the structures's assessed value shall be exempt from taxation. If the storm shelter structure is not used exclusively as a storm shelter, the storm shelter structure shall be assessed for taxation at seventy-five percent of its value as commercial property.

SEC 427A.1 Property taxed as real property.

1. All tangible property except that which is assessed and taxed as real property is subject to the personal property tax credits provided in this chapter, unless the property is taxed, licensed, or exempt from taxation under other provisions of law.* For the purposes of property taxation only, the following shall be assessed and taxed, unless otherwise qualified for exemption, as real property:

a. Land and water rights.

b. Substances contained in or growing upon the land, before severance from the land, and rights to such substances. However, growing crops shall not be assessed and taxed as real property, and this paragraph is also subject to the provisions of section 441.22.

c. Buildings, structures or improvements, any of which are constructed on or in the land, attached to the land, or placed upon a foundation whether or not attached to the foundation. However, property taxed under chapter 435 shall not be assessed and taxed as real property.

d. Buildings, structures, equipment, machinery or improvements, any of which are attached to the buildings, structures, or improvements defined in paragraph "c" of this subsection.

e. Machinery used in manufacturing establishments. The scope of property taxable under this paragraph is intended to be the same as, and neither broader nor narrower than, the scope of property taxable under section 428.22, Code 1973, prior to July 1, 1974.

f. Property taxed under chapter 499B.

g. Rights to space above the land.

h. Property assessed by the department of revenue and finance pursuant to sections 428.24 to 428.29, or chapters 433, 434 and 436 to 438.

i. Property used but not owned by the persons whose property is defined in paragraph "h" of this subsection, which would be assessed by the department of revenue and finance if the persons owned the property. However, this paragraph does not change the manner of assessment or the authority entitled to make the assessment.

j. (1) Computers. As used in this paragraph, "computer" means stored program processing equipment and all devices fastened to the computer by means of signal cables or communication media that serve the function of signal cables, but does not include point of sales equipment.

(2) Computer output microfilming equipment.

(3) Key entry devices that prepare information for input to a computer.

(4) All equipment that produces a final output from one of the facilities listed in subparagraphs (1), (2) and (3) of this paragraph.

k. Transmission towers and antennae not a part of a household.

2. As used in subsection 1, "attached" means any of the following:

a. Connected by an adhesive preparation.

b. Connected in a manner so that disconnecting requires the removal of one or more fastening devices, other than electric plugs.

c. Connected in a manner so that removal requires substantial modification or alteration of the property removed or the property from which it is removed.

3. Notwithstanding the definition of "attached" in subsection 2, property is not "attached" if it is a kind of property which would ordinarily be removed when the owner of the property moves to another location. In making this determination the assessing authority shall not take into account the intent of the particular owner.

4. Notwithstanding the other provisions of this section, property described in this section, if held solely for sale, lease or rent as part of a business regularly engaged in selling, leasing or renting

428.4 Real estate -- buildings.

Property shall be assessed for taxation each year. Real estate shall be listed and assessed in 1981 and every two years thereafter. The assessment of real estate shall be the value of the real estate as of January 1 of the year of the assessment. The year 1981 and each odd-numbered year thereafter shall be a reassessment year. In any year, after the year in which an assessment has been made of all the real estate in an assessing jurisdiction, the assessor shall value and assess or revalue and reassess, as the case may require, any real estate that the assessor finds was incorrectly valued or assessed, or was not listed, valued and assessed, in the assessment year immediately preceding, also any real estate the assessor finds has changed in value subsequent to January 1 of the preceding real estate assessment year. However, a percentage increase on a class of property shall not be made in a year not subject to an equalization order unless ordered by the department of revenue and finance. The assessor shall determine the actual value and compute the taxable value thereof as of January 1 of the year of the revaluation and reassessment. The assessment shall be completed as specified in section 441.28, but no reduction or increase in actual value shall be made for prior years. If an assessor makes a change in the valuation of the real estate as provided for, sections 441.23, 441.37, 441.38 and 441.39 apply.

The assessor shall notify the director of revenue and finance, in the manner and form to be prescribed by the director, as to the class or classes of real estate reviewed, revalued, and reassessed and shall report such details as to the effects or results of the revaluation and reassessment as may be deemed necessary by the director. This notification shall be contained in a report to be attached to the abstract of assessment for the year in which the new valuations become effective.

Any buildings erected, improvements made, or buildings or improvements removed in a year after the assessment of the class of real estate to which they belong, shall be valued, listed, and assessed and reported by the assessor to the county auditor after approval of the valuations by the local board of review, and the auditor shall thereupon enter the taxable value of such building or taxable improvement on the tax list as a part of real estate to be taxed. <u>If such buildings or improvements are erected or made by any person other than the owner of the land, they shall be listed and assessed to the owner of the buildings or improvements as real estate.</u>

Section History: Early form

[C51, § 460, 465; R60, § 719,720; C73, § 812; C97, § 1350; C24, 27, 31, 35, 39, § 6959; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, § 428.4; 81 Acts, ch 140, § 3, 4; 82 Acts, ch 1190, § 5]

Section History: Recent form

CHAPTER 435 PROPERTY TAXES ON MANUFACTURED AND MOBILE HOMES
This chapter not enacted as a part of this title; transferred from chapter 135D in Code 1993

435.1 DEFINITIONS.

The following definitions shall apply to this chapter:

1. Unless the context otherwise requires, "book", "list". "record", or "schedule" kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2. "Home" means a mobile home or a manufactured home.

3. "Manufactured home" means a factory-built structure built under authority of 42 U.S.C. § 5403, that is required by federal law to display a seal from the United States department of housing and urban development, and was constructed on or after June 15, 1976.

4. "Manufactured home community" means the same as land-leased community defined in sections 335.30A and 414.28A. The term "manufactured home community" shall not be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students.

5. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A "mobile home" is not built to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976.

6. "Mobile home park" means a site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available. The term "mobile home park" shall not be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students.

7. "Modular home" means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa state building code for modular factory-built structures, as adopted pursuant to section 103A.7, and must display the seal issued by the state building code commissioner.

435.2 PLACEMENT AND TAXATION.

1. If a mobile home is placed outside a mobile home park, the home is to be assessed and taxed as real estate.

2. If a manufactured home is placed in a manufactured home community or a mobile home park, the home must be titled and is subject to the manufactured or mobile home square foot tax. If a manufactured home is placed outside a manufactured home community or a mobile home park, the home must be titled and is to be assessed and taxed as real estate.

3. For the purposes of this chapter, a modular home shall not be construed to be a mobile home or manufactured home. If a modular home is placed inside or outside a manufactured home community or a mobile home park, the home shall be considered real property and is to be assessed and taxed as real estate. However, if a modular home is placed in a manufactured home community or mobile home park which was in existence on or before January 1, 1998, that modular home shall be subject to property tax pursuant to section 435.22. This subsection shall not prohibit the location of a modular home within a manufactured home community or mobile home park

435.3 THROUGH 435.17 Reserved.

435.18 PENALTY.

Any person violating any provision of this chapter shall be guilty of a simple misdemeanor

435.19 THROUGH 435.21 Reserved.

435.22 ANNUAL TAX -- CREDIT.

The owner of each mobile home or manufactured home located within a manufactured home community or mobile home park shall pay to the county treasurer an annual tax. However, when the owner is any educational institution and the home is used solely for student housing or when the owner is the state of Iowa or a subdivision of the state, the owner shall be exempt from the tax. The annual tax shall be computed as follows:

1. Multiply the number of square feet of floor space each home contains when parked and in use by twenty cents. In computing floor space, the exterior measurements of the home shall be used as shown on the certificate of title, but not including any area occupied by a hitching device.

2. If the owner of the home is an Iowa resident, has attained the age of twenty-three years on or before December 31 of the base year, and has an income when included with that of a spouse which is less than eight thousand five hundred dollars per year, the annual tax shall not be imposed on the home. If the income is eight thousand five hundred dollars or more but less than sixteen thousand five hundred dollars, the annual tax shall be computed as follows:

If the Household Income is:	Annual Tax Per Square Foot:
$ 8,500 -- 9,499.99	3.0 cents
9,500 -- 10,499.99	6.0
10,500 -- 12,499.99	10.0
12,500 -- 14,499.99	13.0
14,500 -- 16,499.99	15.0

For purposes of this subsection "income" means income as defined in section 425.17, subsection 7, and "base year" means the calendar year preceding the year in which the claim for a reduced rate of tax is filed. The home reduced rate of tax shall only be allowed on the home in which the claimant is residing at the time the claim for a reduced rate of tax is filed or was residing at the time of the claimant's death in the case of a claim filed on behalf of a deceased claimant by the claimant's legal guardian, spouse, or attorney, or by the executor or administrator of the claimant's estate. Beginning with the 1998 base year, the income dollar amounts set forth in this subsection shall be multiplied by the cumulative adjustment factor for that base year as determined in section 425.23, subsection 4.

3. The amount thus computed shall be the annual tax for all homes, except as follows:

a. For the sixth through ninth years after the year of manufacture the annual tax is ninety percent of the tax computed according to subsection 1 or 2 of this section, whichever is applicable.

b. For all homes ten or more years after the year of manufacture the annual tax is eighty percent of the tax computed according to subsection 1 or 2 of this section, whichever is applicable.

4. The tax shall be figured to the nearest even whole dollar.

5. A claim for credit for manufactured or mobile home tax due shall not be paid or allowed unless the

claim is actually filed with the county treasurer between January 1 and June 1, both dates inclusive, immediately preceding the fiscal year during which the home taxes are due. However, in case of sickness, absence, or other disability of the claimant, or if in the judgment of the county treasurer good cause exists, the county treasurer may extend the time for filing a claim for credit through September 30 of the same calendar year. The county treasurer shall certify to the director of revenue on or before November 15 each year the total dollar amount due for claims allowed. The forms for filing the claim shall be provided by the department of revenue. The forms shall require information as determined by the department. In case of sickness, absence, or other disability of the claimant or if, in the judgment of the director of revenue, good cause exists and the claimant requests an extension, the director may extend the time for filing a claim for credit or reimbursement. However, any further time granted shall not extend beyond December 31 of the year in which the claim was required to be filed. Claims filed as a result of this paragraph shall be filed with the director who shall provide for the reimbursement of the claim to the claimant. The director of revenue shall certify the amount due to each county, which amount shall be the dollar amount which will not be collected due to the granting of the reduced tax rate under subsection 2. The amounts due each county shall be paid by the department of revenue on December 15 of each year, drawn upon warrants payable to the respective county treasurers. The county treasurer in each county shall apportion the payment in accordance with section 435.25.

There is appropriated annually from the general fund of the state to the department of revenue an amount sufficient to carry out this subsection.

435.23 EXEMPTIONS -- PRORATING TAX.

The manufacturer's and retailer's inventory of mobile homes, manufactured homes, or modular homes{ not in use as a place of human habitation shall be exempt from the annual tax. All travel trailers shall be exempt from this tax. The homes and travel trailers in the inventory of manufacturers and retailers shall be exempt from personal property tax. The homes coming into Iowa from out of state and located in a manufactured home community or mobile home park shall be liable for the tax computed pro rata to the nearest whole month, for the time the home is actually situated in Iowa.

435.24 COLLECTION OF TAX.

1. The annual tax is due and payable to the county treasurer on or after July 1 in each fiscal year and is collectible in the same manner and at the same time as ordinary taxes as provided in sections 445.36, 445.37, and 445.39. Interest at the rate prescribed by law shall accrue on unpaid taxes. Both installments of taxes may be paid at one time. The September installment represents a tax period beginning July 1 and ending December 31. The March installment represents a tax period beginning January 1 and ending June 30. A mobile home, manufactured home, or modular home coming into this state from outside the state, put in use from a retailer's inventory, or put in use at any time after July 1 or January 1, and located in a manufactured home community or mobile home park, is subject to the taxes prorated for the remaining unexpired months of the tax period, but the purchaser is not required to pay the tax at the time of purchase. Interest attaches the following April 1 for taxes prorated on or after October 1. Interest attaches the following October 1 for taxes prorated on or after April 1. If the taxes are not paid, the county treasurer shall send a statement of delinquent taxes as part of the notice of tax sale as provided in section 446.9. The owner of a home who sells the home between July 1 and December 31 and obtains a tax clearance statement is responsible only for the September tax payment and is not required to pay taxes for subsequent tax periods. If the owner of a home located in a manufactured home community or mobile home park sells the home, obtains a tax clearance statement, and obtains a replacement home to be located in a manufactured home community or mobile home park, the owner shall not pay taxes under this chapter for the newly acquired home for the same tax period that the owner has paid taxes on the home sold. Interest for delinquent taxes shall be calculated to the nearest whole dollar. In calculating interest each fraction of a month shall be counted as an entire month.

2. The home owners upon issuance of a certificate of title or upon transporting to a new site shall file the address, township, and school district, of the location where the home is parked with the county

treasurer's office. Failure to comply is punishable as set out in section 435.18. When the new location is outside of a manufactured home community or mobile home park, the county treasurer shall provide to the

assessor a copy of the tax clearance statement for purposes of assessment as real estate on the following January 1.

3. Each manufactured home community or mobile home park owner shall notify monthly the county treasurer concerning any home arriving in or departing from the manufactured home community or park without a tax clearance statement. The records of the owner shall be open to inspection by a duly authorized representative of any law enforcement agency. The manufactured home community or mobile home park owner or manager shall make an annual report to the county treasurer due June 1 of the homes sited in the manufactured home community or mobile home park, listing the owner and mailing address of each home located in the manufactured home community or mobile home park. The report is delinquent if not filed with the county treasurer by June 30. In addition to the annual report, the owner or manager shall also report any changes of homes or owners in a report due December 1, which is delinquent if not filed by December 31. However, if no changes have occurred since the June annual report, the December report is not required to be filed.

4. The tax is a lien on the vehicle senior to any other lien upon it except a judgment obtained in an action to dispose of an abandoned home under section 555B.8. The home bearing a current registration issued by any other state and remaining within this state for an accumulated period not to exceed ninety days in any twelve-month period is not subject to Iowa tax. However, when one or more persons occupying a home bearing a foreign registration are employed in this state, there is no exemption from the Iowa tax. This tax is in lieu of all other taxes general or local on a home.

5. Before a home may be moved from its present site by any person, a tax clearance statement in the name of the owner must be obtained from the county treasurer of the county where the present site is located certifying that taxes are not owing under this section for previous years and that the taxes have been paid for the current tax period. When a person moves a home from real property to a retailer's stock or to a manufactured home community or mobile home park, as defined in section 435.1, a tax clearance statement shall be applied for, and issued, from the county treasurer of the county where the present site is located. When the home is moved to another county in this state, the county treasurer shall forward a copy of the tax clearance statement to the county treasurer of the county in which the home is being relocated. However, a tax clearance statement is not required for a home in a manufacturer's or retailer's stock which has not been used as a place for human habitation. A tax clearance form is not required to move an abandoned home. A tax clearance form is not required in eviction cases provided the manufactured home community or mobile home park owner or manager advises the county treasurer that the tenant is being evicted. If a retailer acquires a home from a person other than a manufacturer, the person shall provide a tax clearance statement in the name of the owner of record to the retailer. The tax clearance statement shall be provided by the county treasurer in a method prescribed by the department of transportation.

6. a. As an alternative to the semiannual or annual payment of taxes, the county treasurer may accept partial payments of current year home taxes. The treasurer shall transfer amounts from each taxpayer's account to be applied to each semiannual tax installment prior to the delinquency dates specified in section 445.37 and the amounts collected shall be apportioned by the tenth of the month following transfer. If, prior to the due date of each semiannual installment, the account balance is insufficient to fully satisfy the installment, the treasurer shall transfer and apply the entire account balance, leaving an unpaid balance of the installment. Interest shall attach on the unpaid balance in accordance with section 445.39. Unless funds sufficient to fully satisfy the delinquency are received, the treasurer shall collect the unpaid balance as provided in sections 445.3 and 445.4 and chapter 446. Any remaining balance in a taxpayer's account in excess of the amount needed to fully satisfy an installment shall remain in the account to be applied toward the next semiannual installment. Any interest income derived from the account shall be deposited in the county's general fund to cover administrative costs. The treasurer shall send a notice with the tax statement or by separate mail to each taxpayer stating that, upon request to the treasurer, the taxpayer may make partial payments of current year home taxes.

b. Partial payment of taxes which are delinquent may be made to the county treasurer. For the installment being paid, payment shall first be applied toward any interest, fees, and costs accrued and the remainder applied to the tax due. A partial payment must equal or exceed the interest, fees, and costs of the installment being paid. A partial payment made under this paragraph shall be apportioned in accordance

with section 445.57. If the payment does not include the whole of any installment of the delinquent tax, the unpaid tax shall continue to accrue interest pursuant to section 445.39. Partial payment shall not be permitted

in lieu of redemption if the property has been sold for taxes under chapter 446 and under any circumstances shall not constitute an extension of the time period for a sale under chapter 446.

7. Current year taxes may be paid at any time regardless of any outstanding prior year delinquent taxes.

435.25 APPORTIONMENT AND COLLECTION OF TAXES.

The tax and interest for delinquent taxes collected under section 435.24 shall be apportioned in the same manner as though they were the proceeds of taxes levied on real property at the same location as the home. Chapters 446, 447, and 448 apply to the sale of a home for the collection of delinquent taxes and interest, the redemption of a home sold for the collection of delinquent taxes and interest, and the execution of a tax sale certificate of title for the purchase of a home sold for the collection of delinquent taxes and interest in the same manner as though a home were real property within the meaning of these chapters to the extent consistent with this chapter. The certificate of title shall be issued by the county treasurer. The treasurer shall charge ten dollars for each certificate of title, except that the treasurer shall issue a tax sale certificate of title to the county at no charge. When a home is removed from the county where delinquent taxes, regular or special, are owing, or when it is administratively impractical to pursue tax collection through the remedies of this section, all taxes, regular and special, interest, and costs shall be abated by resolution of the county board of supervisors. The resolution shall direct the treasurer to strike from the tax books the reference to that home.

435.26 CONVERSION TO REAL PROPERTY.

1. a. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes. A home, after conversion to real estate, is eligible for the homestead tax credit and the military service tax exemption as provided in sections 425.2 and 426A.11. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, is also exempt from the permanent foundation requirements of this chapter until the home is relocated.

b. If a security interest is noted on the certificate of title, the home owner shall tender to the secured party a mortgage on the real estate upon which the home is to be located in the unpaid amount of the secured debt, and with the same priority as or a higher priority than the secured party's security interest, or shall obtain the written consent of the secured party to the conversion, in which latter case the lien notation on the certificate of title shall suffice to preserve the lienholder's security in the home separate from any interest in the land.

2. After complying with subsection 1, the owner shall notify the assessor who shall inspect the new premises for compliance. If a security interest is noted on the certificate of title, the assessor shall require an affidavit, as defined in section 622.85, from the home owner, declaring that the owner has complied with subsection 1, paragraph "b", and setting forth the method of compliance.

a. If compliance with subsection 1, paragraph "b", has been accomplished by the secured party accepting the tender of a mortgage, the assessor shall collect the home vehicle title and enter the property upon the tax rolls.

b. If compliance with subsection 1, paragraph "b", has been accomplished by the secured party consenting to the conversion without accepting a mortgage, the secured party shall retain the home vehicle title and the assessor shall note the conversion on the assessor's records and enter the property upon the tax rolls. So long as a security interest is noted on the certificate of title, the title to the home will not be merged with title to the land, and the sale or foreclosure of an interest in the land shall not affect title to the home or any security interest in the home.

3. When the property is entered on the tax rolls, the assessor shall also enter on the tax rolls the title number last assigned to the mobile home or manufactured home and the manufacturer's identification number.

435.26A SURRENDER OF TITLE.

1. A person who owns a manufactured home that is located in a manufactured home community and is installed on a permanent foundation may surrender the manufactured home's certificate of title to the county

treasurer for the purpose of assuring eligibility for funds available from mortgage lending programs sponsored by the federal national mortgage association, the federal home loan mortgage corporation, the United States department of agriculture, or any other federal governmental agency or instrumentality that has similar requirements for mortgage lending programs.

2. Upon receipt of a certificate of title from a manufactured home owner, a county treasurer shall notify the state department of transportation that the certificate of title has been surrendered, remove the registration of title from the county treasurer's records, and destroy the certificate of title. The manufactured home owner or the owner's representative shall provide to the county recorder the identifying data of the manufactured home, including the owner's name, the name of the manufacturer, the model name, the year of manufacture, and the serial number of the home, along with the legal description of the real estate on which the manufactured home is located. In addition, evidence shall be provided of the surrender of the certificate of title. After the surrender of the certificate of title of a manufactured home under this section, conveyance of an interest in the manufactured home shall not require transfer of title so long as the manufactured home remains on the same real estate site.

3. After the surrender of a manufactured home's certificate of title under this section, the manufactured home shall continue to be taxed under section 435.22 and is not eligible for the homestead tax credit or the military service tax exemption. A foreclosure action on a manufactured home whose title has been surrendered under this section shall be conducted as a real estate foreclosure. A tax lien and its priority shall remain the same on a manufactured home after its certificate of title has been surrendered.

4. The certificate of title of a manufactured home shall not be surrendered under this section if an unreleased security interest is noted on the certificate of title.

5. An owner of a manufactured home who has surrendered a certificate of title under this section and requires another certificate of title for the manufactured home is required to apply for a certificate of title under chapter 321. If supporting documents for the reissuance of a title are not available or sufficient, the procedure for the reissuance of a title specified in the rules of the state department of transportation shall be used.

435.26B Affidavit in lieu of surrender of certificate of title - manufactured and mobile homes.

1. If there is no record that a certificate of title has been issued or surrendered for a manufactured home or mobile home that is located outside a manufactured home community or mobile home park, that has been converted to real estate by being placed on a permanent foundation, and that is entered on the tax rolls, the owner may effectuate a surrender of the certificate of title by recording with the county recorder an affidavit that includes all of the following:

a. The full legal name, Iowa driver's license number or Iowa nonoperator's identification card number, bona fide residence, and mailing address of the owner, and any other identification information required by the state department of transportation. If the owner is a firm, association, or corporation, the affidavit shall contain the bona fide business address and federal employer identification number of the owner.

b. A description of the manufactured or mobile home including, insofar as the specified data may exist with respect to a manufactured or mobile home, the manufacturer, model, year of manufacture, and identification number or other assigned number.

c. A statement of the affiant's title or ownership interest and a statement of all liens, encumbrances, or security interests upon the manufactured or mobile home, including the names and mailing addresses of all persons having any such liens, encumbrances, or security interests.

d. A statement of any facts or information known to the affiant that could affect the validity of title or the existence or validity of any lien, encumbrance, or security interest on the manufactured or mobile home.

e. The name and address of the person from whom the owner purchased or acquired the manufactured or mobile home, including information related to the location and date of purchase or acquisition.

f. The affidavit shall also include an attached written opinion by an attorney licensed to practice law in this state who has examined the abstract of title of the land upon which the manufactured or mobile home is situated. The opinion shall state the names of the owners and holders of mortgages, liens, or other encumbrances on the land upon which the manufactured or mobile home is situated and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

g. A statement that the manufactured or mobile home is located outside a manufactured home community or mobile home park, has been converted to real estate by being placed on a permanent foundation, and has been entered on the tax rolls. This statement shall be endorsed by the city or county assessor, as applicable,

and include the legal description of the real property upon which the manufactured or mobile home is situated.

h. A statement that the owner has made a diligent search and inquiry but has been unable to locate and produce a manufacturer's certificate of origin or a certificate of title for the manufactured or mobile home and that the owner has no knowledge that a certificate of title has previously been issued or surrendered for the manufactured or mobile home.

i. (1) An endorsement by the state department of transportation that the department has searched its records and has no record of a certificate of title or a surrender of a certificate of title for the manufactured or mobile home and that the department has no record of any ownership interest contrary to the ownership interest asserted by the affiant. The endorsement shall also specify that the state department of transportation is unable to identify any lien, encumbrance, or security interest contrary to those specified by the affiant.

(2) The state department of transportation shall not conduct any search of records or provide any endorsement until the affidavit has been completed, executed, and endorsed pursuant to paragraphs "a" through "h" and the affiant has paid a fee not to exceed two hundred dollars. The state department of transportation shall set the amount of the fee by rule.

(3) Following endorsement of the affidavit, the state department of transportation shall return the affidavit to the owner for recording.

(4) If the state department of transportation has endorsed an affidavit, the department shall not issue a certificate of title for the manufactured or mobile home unless the manufactured or mobile home is reconverted under section 435.27.

2. Recording the affidavit with all necessary endorsements and attachments shall establish the surrender of the certificate of title.

3. After the surrender of the certificate of title under this section, a conveyance of an interest in the manufactured or mobile home shall not require a transfer of title if the manufactured or mobile home remains located on the same real property that is identified in the affidavit under subsection 2.

4. A foreclosure action on a manufactured or mobile home for which the certificate of title was surrendered under this section shall be conducted as a real estate foreclosure.

5. A tax lien and its priority shall not be modified as a result of a surrender of title under this section.

6. The state department of transportation shall adopt rules under chapter 17A to implement this section. The rules adopted by the state department of transportation shall include a standardized form for an affidavit required under this section.

435.27 RECONVERSION.

1. A mobile home or manufactured home converted to real estate under section 435.26 may be reconverted to a home as provided in this section when it is moved to a manufactured home community or mobile home park or a manufactured or mobile home retailer's inventory. When the home is located within a manufactured home community or mobile home park, the home shall be taxed pursuant to section 435.22, subsection 1.

2. If the vehicular frame of the home can be modified to return it to the status of a mobile home or manufactured home, the owner or a secured party holding a mortgage or certificate of title pursuant to section 435.26 who has obtained possession of the home may apply to the county treasurer as provided in section 321.20 for a certificate of title for the home. If a mortgage exists on the real estate, a security interest in the home shall be given to a secured party not applying for reconversion and noted on the certificate of title with the same priority or a higher priority than the secured party's mortgage interest. A reconversion shall not occur without the written consent of every secured party holding a mortgage or certificate of title. If the secured party has elected to retain the home vehicle title pursuant to section 435.26, subsection 2, paragraph "b", an owner applying for reconversion shall present to the county treasurer written consent to the reconversion from all secured parties and an affirmation from the secured party holding the title that the title is in its possession and is intact. Upon receipt of the affirmation, the county treasurer shall notify the assessor of the reconversion, which notification constitutes compliance by the owner with subsection 3.

3. After compliance with subsection 2 and receipt of the title, the owner shall notify the assessor of the reconversion. The assessor shall remove the assessed valuation of the home from assessment rolls as of the succeeding January 1 when the home becomes subject to taxation as provided under section 435.24.

435.28 COUNTY TREASURER TO NOTIFY ASSESSOR.

Upon issuance of a certificate of title to a mobile home or manufactured home which is not located in a manufactured home community or mobile home park or retailer's inventory, the county treasurer shall notify the assessor of the existence of the home for tax assessment purposes.

435.29 CIVIL PENALTY.

The person who moves the mobile home or manufactured home without having obtained a tax clearance statement as provided in section 435.24 shall pay a civil penalty of one hundred dollars. The penalty money shall be credited to the general fund of the county.

435.30 THROUGH 435.32 Reserved.

435.33Rent reimbursement.

A home owner who qualifies for a reduced tax rate provided in section 435.22 and who rents a space upon which to set the home shall be entitled to the protections provided in sections 425.33 through 425.36 and if the home owner who qualifies for a reduced tax rate believes that a landlord has increased the homeowner's rent because the home owner is eligible for a reduced tax rate, the provisions of sections 425.33 and 425.36 shall be applicable. [C77,79,81,§135D.33]C93,§435.3394Acts,ch1110,§18,24;2019Acts,ch59,§131

435.34 MODULAR HOME EXEMPTION. Repealed by 2009

435.35 EXISTING HOME OUTSIDE OF MANUFACTURED HOME COMMUNITY OR MOBILE HOME PARK -- EXEMPTION. Repealed by 2009 Acts, ch 133, § 191. See § 435.26(1).

Assessment and Valuation of Property

441.17 Duties of assessor.

The assessor shall:

10. Measure the exterior length and exterior width of all manufactured or mobile homes except those for which measurements are contained in the manufacturer's and importer's certificate of

origin, and report the information to the county treasurer. Check all manufactured or mobile homes for inaccuracy of measurements as necessary or upon written request of the county treasurer and report the findings immediately to the county treasurer. The assessor shall make frequent inspections and checks within the assessor jurisdiction of all manufactured or mobile homes and manufactured home communities or mobile home parks and make all the required and needed reports to carry out the purposes of this section.

11. Cause to be assessed for taxation property which the assessor believes has been erroneously exempted from taxation. Revocation of a property tax exemption shall commence with the assessment for the current assessment year, and shall not be applied to prior assessment years.

2013 & 2014 Tax Reductions for MH Communities

441.21(5)

b. For valuations established on or after January 1, 2013, commercial property, excluding properties referred to in section 427A.1, subsection 8, shall be assessed at a percentage of its actual value, as determined in this paragraph *"b"* . For valuations established for the assessment year beginning January 1, 2013, the percentage of actual value as equalized by the director of revenue as provided in section 441.49 at which commercial property shall be assessed shall be ninety-five percent. For valuations established for the assessment year beginning January 1, 2014, and each assessment year thereafter, the percentage of actual value as equalized by the director of revenue as provided in section 441.49 at which commercial property shall be assessed shall be ninety percent.

2015 – 2022 Tax Reductions for MH Communities

441.21

13. *a.* Beginning with valuations established on or after January 1, 2015, mobile home parks, manufactured home communities, land-leased communities, assisted living facilities, property primarily used or intended for human habitation containing three or more separate dwelling units, and that portion of a building that is used or intended for human habitation and a proportionate share of the land upon which the building is situated, regardless of the number of dwelling units located in the building, if the use for human habitation is not the primary use of the building and such building is not otherwise classified as residential property, shall be valued as a separate class of property known as multiresidential property and, excluding properties referred to in section 427A.1, subsection 8, shall be assessed at a percentage of its actual value, as determined in this subsection.

b. For valuations established for the assessment year beginning January 1, 2015, the percentage of actual value as equalized by the director of revenue as provided in section 441.49 at which multiresidential property shall be assessed shall be the greater of eighty-six and twenty-five hundredths percent or the percentage of actual value determined by the director of revenue at which property assessed as residential property is assessed for the same assessment year under subsection 4. For valuations established for the assessment year beginning January 1, 2016, the

percentage of actual value as equalized by the director of revenue as provided in section 441.49 at which multiresidential property shall be assessed shall be the greater of eighty-two and five-tenths percent or the percentage of actual value determined by the director of revenue at which property assessed as residential property is assessed for the same assessment year under subsection 4. For valuations established for the assessment year beginning January 1, 2017, the percentage of actual value as equalized by the director of revenue as provided in section 441.49 at which multiresidential property shall be assessed shall be the greater of seventy-eight and seventy-five hundredths percent or the percentage of actual value determined by the director of

revenue at which property assessed as residential property is assessed for the same assessment year under subsection 4. For valuations established for the assessment year beginning January 1, 2018, the percentage of actual value as equalized by the director of revenue as provided in section 441.49 at which multiresidential property shall be assessed shall be the greater of seventy-five percent or the percentage of actual value determined by the director of revenue at which property assessed as residential property is assessed for the same assessment year under subsection 4. For valuations established for the assessment year beginning January 1, 2019, the percentage of actual value as equalized by the director of revenue as provided in section 441.49 at which multiresidential property shall be assessed shall be the greater of seventy-one and twenty-five hundredths percent or the percentage of actual value determined by the director of revenue at which property assessed as residential property is assessed for the same assessment year under subsection 4. For valuations established for the assessment year beginning January 1, 2020, the percentage of actual value as equalized by the director of revenue as provided in section 441.49 at which multiresidential property shall be assessed shall be the greater of sixty-seven and five-tenths percent or the percentage of actual value determined by the director of revenue at which property assessed as residential property is assessed for the same assessment year under subsection 4. For valuations established for the assessment year beginning January 1, 2021, the percentage of actual value as equalized by the director of revenue as provided in section 441.49 at which multiresidential property shall be assessed shall be the greater of sixty-three and seventy-five hundredths percent or the percentage of actual value determined by the director of revenue at which property assessed as residential property is assessed for the same assessment year under subsection 4. For valuations established for the assessment year beginning January 1, 2022, and each assessment year thereafter, the percentage of actual value as equalized by the director of revenue as provided in section 441.49 at which multiresidential property shall be assessed shall be equal to the percentage of actual value determined by the director of revenue at which property assessed as residential property is assessed under subsection 4 for the same assessment year.

c. Accordingly, for parcels that, in part, satisfy the requirements for classification as multiresidential property, the assessor shall assign to that portion of the parcel the classification of multiresidential property and to such other portions of the parcel the property classification for which such other portions qualify.

d. In no case, however, shall property that is rented or leased to low-income individuals and families as authorized by section 42 of the Internal Revenue Code, and that is subject to assessment procedures relating to section 42 property under section 441.21, subsection 2, or a hotel, motel, inn, or other building where rooms or dwelling units are usually rented for less than one month be classified as multiresidential property under this subsection.

e. As used in this subsection:

(1) *"Assisted living facility"* means property for providing assisted living as defined in section 231C.2. *"Assisted living facility"* also includes a health care facility, as defined in section 135C.1, an elder group home, as defined in section 231B.1, a child foster care facility under chapter 237, or property used for a hospice program as defined in section 135J.1.

(2) *"Dwelling unit"* means an apartment, group of rooms, or single room which is occupied as separate living quarters or, if vacant, is intended for occupancy as separate living quarters, in which a tenant can live and sleep separately from any other persons in the building.

(3) *"Land-leased community"* means the same as defined in sections 335.30A and 414.28A.

(4) *"Manufactured home community"* means the same as a land-leased community.

(5) *"Mobile home park"* means the same as defined in section 435.1.

445.32 Liens on buildings or improvements

If a building or improvement is erected or made by a person other than the owner of the land on which the building or improvement is located, as provided for in section 428.4, the taxes on the building or improvement are and remain a lien on the building or improvement from the date of levy until paid. If the taxes on the building or improvement become delinquent, as provided in section 445.37, the county treasurer shall collect the tax as provided in sections 445.3 and 445.4. This section does not apply to special assessments, or rates or charges.

462.1 Liability of possessors and occupants of land to trespassers.

1. A possessor of any fee, reversionary, or easement interest in real property, including but not limited to an owner, lessee, or other lawful occupant, owes no duty of care to a trespasser except to refrain from willfully or wantonly injuring the trespasser and to use reasonable care to avoid injuring the trespasser after that trespasser's presence becomes known.
2. This section shall not be construed to affect the common law doctrine of attractive nuisance.
3. This section does not create or increase the civil liability of any possessor or occupant of real property and does not affect any immunities from or defenses to civil liability established by another section of the Code or available at common law to which a possessor or occupant of real property may be entitled.

476.1 Applicability of authority. (Exemption from Water Utility Regulations)

The utilities board within the utilities division of the department of commerce shall regulate the rates and services of public utilities to the extent and in the manner hereinafter provided. As used in this chapter, "board" or "utilities board" means the utilities board within the utilities division of the department of commerce.

As used in this chapter, "public utility" shall include any person, partnership, business association, or corporation, domestic or foreign, owning or operating any facilities for:

1. Furnishing gas by piped distribution system or electricity to the public for compensation.

2. Furnishing communications services to the public for compensation.

3. Furnishing water by piped distribution system to the public for compensation.

Mutual telephone companies in which at least fifty percent of the users are owners, co-operative telephone corporations or associations, telephone companies having less than fifteen thousand customers and less than fifteen thousand access lines, municipally owned utilities, and unincorporated villages which own their own distribution systems are not subject to the rate regulation provided for in this chapter.

This chapter does not apply to waterworks having less than two thousand customers, municipally owned waterworks, joint water utilities established pursuant to chapter 389, rural water districts incorporated and organized pursuant to chapter 357A and 504A, cooperative water associations incorporated and organized pursuant to chapter 499, or to a person furnishing electricity to five or fewer customers either by secondary line or from an alternate energy production facility or small hydro facility, from electricity that is produced primarily for the person's own use.

A telephone company otherwise exempt from rate regulation and having telephone exchange facilities which cross state lines may elect, in a writing filed with the board, to have its rates regulated by the board. When a written election has been filed with the board, the board shall assume rate regulation jurisdiction over the company.

The jurisdiction of the board under this chapter shall include efforts designed to promote the use of energy efficiency strategies by rate or service-regulated gas and electric utilities.

535.2 Rate of interest. (Late fees not Usury)

7. This section does not apply to a charge imposed for late payment of rent.

554.3512 Holder's recourse for dishonor.

1. The holder of a dishonored check, draft, or order may assess against the maker of that check, draft, or order a surcharge not to exceed thirty dollars.

2. The surcharge authorized by this section shall not be assessed unless the holder clearly and conspicuously posts a notice at the usual place of payment, or in the billing statement of the holder, stating that a surcharge will be assessed and the amount of the surcharge. However, the surcharge shall not be assessed against the maker if the reason for the dishonor of the check, draft, or order is that the maker has stopped payment pursuant to section 554.4403.
95 Acts, ch 137, §2

554.3513 Civil remedy for dishonor.

1. In a civil action against a person who makes a check, draft, or order, which has been dishonored for lack of funds or credit, after having been presented twice, or because the maker has no account with the drawee, the plaintiff shall recover from the defendant total damages equaling three times the face value of the dishonored check, draft, or order, which sum shall include the face value of the check, draft, or order. However, total recovery under this section shall not exceed by more than five hundred dollars the amount of the check, draft, or order and may be awarded only if all of the following apply:

a. The plaintiff made written demand of the defendant for payment of the amount of the check, draft, or order not less than thirty days before commencing the action.

b. The written demand notified the defendant that treble damages would be sought if the face value of the dishonored check was not paid within thirty days of receipt, and was received by the defendant via any of the following methods:

(1) Personal service.
(2) Restricted certified mail.
(3) Regular mail to at least one of the following addresses, supported by an affidavit of service retained by the payee or holder of the dishonored check, which affidavit shall be presumptive evidence of the receipt of the demand by the maker three days from the date of execution of the affidavit:

a. The address printed or written on the check.
b. The address given by the drawer at the time of issuance of the check.
c. The last known address of the drawer.

c. The defendant has failed to tender to the plaintiff, prior to commencement of the action, an amount of money not less than the face value of the dishonored check, draft, or order.

d. The plaintiff clearly and conspicuously posted a notice at the usual place of payment, or in a billing statement of the plaintiff, stating that civil damages pursuant to this section would be sought upon dishonorment.

2. In an action for damages pursuant to subsection 1, if the court or jury determines that the failure of the defendant to satisfy the dishonored check, draft, or order is due to economic hardship, the court or jury may waive all or part of the allowable civil damages. However, if the court or jury waives all or part of the civil damages, the court or jury shall render judgment against the defendant in the amount of the dishonored check, draft, or order and the actual costs incurred by the plaintiff in bringing the action.

3. This section does not apply if the reason for the dishonor of the check, draft, or order is that the maker has stopped payment pursuant to section 554.4403 because of a bona fide dispute between the maker and the holder relating to the consideration for which the check, draft, or order was given.

4. In actions brought pursuant to this section, no additional award pursuant to section 554.3512 or 625.22 shall be made.

5. The plaintiff in a civil action to collect a dishonored check, draft, or order brought before the district court sitting in small claims shall not request or recover punitive or exemplary damages, but may seek the civil damages allowed under this section. The plaintiff in a civil action to collect a dishonored check, draft, or order in the district court not sitting in small claims, may seek punitive or exemplary damages if appropriate under chapter 668A, or civil damages allowed under this section, but not both.

6. A violation of this section is an unlawful practice as provided in section 714.16, subsection 2, paragraph "a".
95 Acts, ch 137, §3

16B

CHAPTER 555B
DISPOSAL OF ABANDONED MOBILE HOMES AND PERSONAL PROPERTY

SEC 555B.1 Definitions.

Unless the context otherwise requires, in this chapter:

1. "Abandoned" means abandoned as provided in section 562B.27, subsection 1.

2. "Claimant" includes but is not limited to any government subdivision with authority to levy a tax on abandoned personal property. "Claimant" also includes a holder of a lien as defined in section 555B.2.

3. "Demolisher" means demolisher as defined in section 321.89.

4. "Junkyard" means junkyard as defined in section 306C.1.

5. "Mobile home" includes "manufactured homes" and "modular homes" as those terms are defined in section 435.1, if the manufactured homes or modular homes are located in a manufactured home community or mobile home park.

6. "Personal property" includes personal property of the mobile home owner in the abandoned mobile home, on the mobile home lot, in the immediate vicinity of the abandoned mobile home and the mobile home lot, and in any storage area provided by the real property owner for the use of the mobile home owner.

7. "Real property owner" means the owner or other lawful possessor of real property upon which a mobile home is located.

88 Acts, ch 1138, §1
C89, § 562C.1
C93, § 555B.1
93 Acts, ch 154, §6, 7; 94 Acts, ch 1110, §21
Effective date of subsection 5; see 94 Acts, ch 1110, §24
NEW subsection 5 and former subsections 5 and 6 renumbered as 6 and 7

SEC 555B.2 Removal — notice to sheriff.

1. A real property owner may remove or cause to be removed a mobile home and other personal property which is unlawfully parked, placed, or abandoned on that real property, and may cause the mobile home and personal property to be placed in storage until the owner of the personal property pays a fair and reasonable charge for removal, storage, or other expense incurred, including reasonable attorneys' fees, or until a judgment of abandonment is entered pursuant to section 555B.8 provided that there is no lien on the mobile home or personal property other than a tax lien pursuant to chapter 435. For purposes of this chapter, a lien other than a tax lien exists only if the real property owner receives notice of a lien on the standardized registration form completed by a tenant pursuant to section 562B.27, subsection 3, or a lien has been filed in state or county records on a date before the mobile home is considered to be abandoned. The real property owner or the real property owner's agent is not liable for damages caused to the mobile home and personal property by the removal or storage unless the damage is caused willfully or by gross negligence.

2. The real property owner shall notify the sheriff of the county where the real property is located of the removal of the mobile home and other personal property.

a. If the mobile home owner can be determined, and if the real property owner so requests, the sheriff shall notify the mobile home owner of the removal by restricted certified mail. If the mobile home owner cannot be determined, and the real property owner so requests, the sheriff shall give notice by one publication in one newspaper of general circulation in the county where the mobile home and personal property were unlawfully parked, placed, or abandoned. If the mobile home and personal property have not been claimed by the owner within six months after notice is given, the mobile home and personal property shall be sold by the sheriff at a public or private sale. After deducting costs of the sale the net proceeds shall be applied to the cost of removal, storage, notice, attorney fees, and any other expenses incurred for preserving the mobile home and personal property, including any rent owed by the mobile home owner to the real property owner in connection with the presence of the mobile home on the real property. The remaining net proceeds, if any, shall be paid to the county treasurer to satisfy any tax lien on the mobile home. The remainder, if any, shall be retained by the county treasurer. A sheriff's sale transfers to the purchaser for value, all of the mobile home owner's rights in the mobile home and personal property, and discharges the real property owner's interest in the mobile home and personal property, and discharges the tax lien on the mobile home. If the purchaser acts in good faith the purchaser takes free of all rights and interests even though the real property owner fails to comply with the requirements of this chapter or of any judicial proceedings.

b. If the real property owner removes the mobile home and personal property but does not request that the sheriff notify the mobile home owner, the real property owner shall proceed with an action for abandonment as provided in sections 555B.3 through 555B.9.

88 Acts, ch 1138, §2
C89, § 562C.2
C93, § 555B.2
93 Acts, ch 154, §8, 9; 94 Acts, ch 1110, §22

SEC 555B.3 Action for abandonment — jurisdiction.

A real property owner not requesting notification by the sheriff as provided in section 555B.2 may bring an action alleging abandonment in the court within the county where the real property is located provided that there is no lien on the mobile home or personal property other than a tax lien pursuant to chapter 435. The action shall be tried as an equitable action. Unless commenced as a small claim, the petition shall be presented to a district judge. Upon receipt of the petition, either the court or the clerk of the district court shall set a date for a hearing not later

than fourteen days from the date of the receipt of the petition.
88 Acts, ch 1138, §3
C89, § 562C.3
C93, § 555B.3
93 Acts, ch 154, §10

SEC 555B.4 Notice.
1. Personal service pursuant to rule of civil procedure 56.1 shall be made upon the mobile home owner not less than ten days before the hearing. If personal service cannot be completed in time to give the mobile home owner the minimum notice required by this section, the court may set a new hearing date.
2. If personal service cannot be made on the mobile home owner because the mobile home owner is avoiding service or cannot be found, service may be made by mailing a copy of the petition and notice of hearing to the mobile home owner's last known address and publishing the notice in one newspaper of general circulation in the county where the petition is filed. If the mobile home owner's address is not known to the real property owner, service may be made pursuant to rule of civil procedure 62 except that service is complete seven days after the initial publication. The court shall set a new hearing date if necessary to allow the ten day minimum notice required under subsection 1 of this section.
3. If a tax lien exists on the mobile home or personal property at the time an action for abandonment is initiated, the real property owner shall notify the county treasurer of each county in which a tax lien appears by restricted certified mail sent not less than ten days before the hearing. The notice shall describe the mobile home and shall state docket, case number, date, and time at which the hearing is scheduled, and the county treasurer's right to assert a claim to the mobile home at

the hearing. The notice shall also state that failure to assert a claim to the mobile home is deemed a waiver of all right, title, claim, and interest in the mobile home and is deemed consent to the sale or disposal of the mobile home.
88 Acts, ch 1138, §4
C89, § 562C.4
C93, § 555B.4
93 Acts, ch 154, §11

SEC 555B.5 Change of venue.
In an action under this chapter a change of place of trial may be had as in other cases.
88 Acts, ch 1138, §5
C89, § 562C.5
C93, § 555B.5

SEC 555B.6 Priority of assignment.
An action under this chapter shall be accorded reasonable priority for assignment to assure prompt disposition.
88 Acts, ch 1138, §6
C89, § 562C.6
C93, § 555B.6

SEC 555B.7 Remedy not exclusive.
An action under this chapter may be brought in connection with a claim for monetary damages, possession, or recovery as provided in section 562B.25 or 562B.30 or chapter 648.
88 Acts, ch 1138, §7
C89, § 562C.7
C93, § 555B.7

SEC 555B.8 Judgment.
1. If the court determines that the mobile home and personal property have been abandoned, judgment shall be entered in favor of the real property owner for the reasonable costs of removal, storage, notice, and attorneys' fees; any other expenses incurred for preserving the mobile home and personal property or for bringing the action; and, if the action is brought in conjunction with one for monetary damages, the amount of monetary damages assessed.
2. If the mobile home owner or other claimant asserts a claim to the property, the judgment shall be satisfied before the mobile home owner or other claimant may take possession of the mobile home or personal property.
3. If no claim is asserted to the mobile home or personal property or if the judgment is not satisfied at the time of entry, an order shall be entered allowing the real property owner to sell or otherwise dispose of the mobile home and personal property pursuant to section 555B.9. If a claimant satisfies the judgment at the time of entry, the court shall enter an order permitting and directing the claimant to remove the mobile home or personal property from its location within a reasonable time to be fixed by the court. The court shall also determine the amount of further rent or storage charges to be paid by the claimant to the real property owner at the time of removal.
88 Acts, ch 1138, §8
C89, § 562C.8
C93, § 555B.8

SEC 555B.9 Disposal — proceeds.
1. Pursuant to an order for disposal under section 555B.8, subsection 3, the real property owner shall dispose of the mobile home and personal property by public or private sale in a commercially reasonable manner. If the personal property owner or other claimant has asserted a claim to the mobile home or personal property, that person shall be notified of the sale by restricted certified mail not less than five days before the sale. The notice is deemed given upon the mailing. The real property owner may buy at any public sale, and if the mobile home or personal property is of a type customarily sold in a recognized market or is the subject of widely distributed standard price quotations, the real property owner may buy at a private sale.

2. A sale pursuant to subsection 1 transfers to the purchaser for value, all of the mobile home owner's rights in the mobile home and personal property, and discharges the real property owner's interest in the mobile home and personal property and any tax lien. The purchaser takes free of all rights and interests even though the real property owner fails to comply with the requirements of this chapter or of any judicial proceedings, if the purchaser acts in good faith.

3. The proceeds of the sale of mobile home and personal property shall be distributed as follows:

a. First, to satisfy the real property owner's judgment obtained under section 555B.8.

b. Second, to satisfy any tax lien for which a claim was asserted pursuant to section 555B.4, subsection 3.

c. Any surplus remaining after the proceeds are distributed shall be held by the real property owner for six months. If the mobile home owner fails to claim the surplus in that time, the surplus may be retained by the real property owner. If a deficiency remains after distribution of the proceeds, the mobile home owner is liable for the amount of the deficiency.

4. Notwithstanding subsections 1 through 3, the real property owner may propose to retain the mobile home and personal property in satisfaction of the judgment obtained pursuant to section 555B.8. Written notice of the proposal shall be sent to the mobile home owner or other claimant, if that person has asserted a claim to the mobile home or personal property in the judicial proceedings. If the real property owner receives objection in writing from the mobile home owner or other claimant within twenty-one days after the notice was sent, the real property owner shall dispose of the mobile home and personal property pursuant to subsection 1. If no owner within twenty one days after the notice was sent, the mobile home and personal property may be retained. Retention of the mobile home and personal property discharges the judgment of the real property owner and any tax lien.

5. If the real property owner has made a good faith attempt to sell the mobile home and personal property pursuant to subsection 1 but is unsuccessful and elects not to retain the mobile home and personal property pursuant to subsection 4, the real property owner may dispose of the mobile home and personal property to a demolisher or junkyard. Proceeds from the disposition shall be distributed pursuant to subsection 3. If the personal property is a motor vehicle to which section 321.90 applies, the real property owner shall present the order for disposal obtained pursuant to section 555B.8, subsection 3, to the police authority to obtain a certificate of authority to dispose of the motor vehicle pursuant to section 321.90, subsection 2.

88 Acts, ch 1138, §9
C89, § 562C.9
C93, § 555B.9

SEC 555B.10 Limitation on liability.

1. A real property owner who disposes of a mobile home or personal property in accordance with this chapter is not liable for damages by reason of the removal, sale, or disposal of the mobile home and personal property unless the damage is caused willfully or by gross negligence. Upon a motion to the district court and a showing that the real property owner is not proceeding in accordance with this chapter, the court may enjoin the real property owner from proceeding further and a determination for the proper disposition of the mobile home and personal property shall be made. If disposition of the mobile home or personal property has not occurred in accordance with this chapter, the owner thereof has a right to recover from the real property owner, any loss caused by failure to comply with this chapter. The burden of proof shall be upon the mobile home or personal property owner to show that the real property owner has not complied with this chapter in disposing of a mobile home or personal property.

2. The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the real property owner is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the real property owner sells the mobile home and personal property in the usual manner in any recognized market or if the real property owner sells at the price current in the market at the time of the real property owner's sale or if the real property owner has otherwise sold in conformity with reasonable commercial practices among dealers in the type of mobile home or personal property sold, the real property owner has sold in a commercially reasonable manner. A disposition approved in any judicial proceeding shall be deemed conclusively to be commercially reasonable.

88 Acts, ch 1138, §10
C89, § 562C.10

CHAPTER 555C
RELATING TO THE DISPOSITION OF VALUELESS MOBILE HOMES, MODULAR HOMES, AND MANUFACTURED HOMES (effective July 1, 1995)

555C.1 Definitions

As used in this chapter, unless the context otherwise requires:

1. "Home" means a mobile home, modular home, or a manufactured home as defined in section 435.1.

1A. "Manufactured home community" means a manufactured home community as defined in section 435.1.

2. “Mobile home park” means a mobile home park as defined in section 435.1.

3. “Personal Property” includes personal property of the owner or other occupant of the home, which is located in the home, on the lot where the home is located, in the immediate vicinity of the home or lot, or in any storage area provided by the real property owner for use of the home owner or occupant.

4. “Valueless home” means a home located in a manufactured home community or mobile home park including all other personal property, where all of the following conditions exist:

a. The home has been abandoned as defined in section 562B.27, subsection 1, and the home has not been removed after the right to possession of the underlying real estate has been terminated pursuant to chapter 648.

b. A lien of record, other than a tax lien as provided in chapter 435, does not exist against the home. A lien exists only if the real property owner receives notice of a lien on the standardized registration form completed by an owner or occupant pursuant to chapter 562B, or a lien has been filed in the state or county records on a date before the home is considered to be valueless.

c. The value of the home and other personal property is equal to or less than the reasonable cost of disposal plus all sums owing to the real property owner pertaining to the home.

555C.2 Removal Of Valueless Home - Presumption Of Value.

1. An owner of a manufactured home community or mobile home park may remove, or cause to be removed, from the mobile home park a valueless home and personal property associated with the home at any time following a determination of abandonment by the manufactured home community or mobile home park owner in accordance with section 562B.27, subsection 1, and an order of removal pursuant to chapter 648 without further notice to the owner or occupant of the valueless home. Within ten days of the removal or transfer of title, the manufactured home community or mobile home park owner shall give written notice to the county treasurer for the county in which the manufactured home community or mobile home park is located by affidavit which shall include a description of the valueless home, its owner or occupant, if known, the date of removal or transfer of title, and if applicable, the name and address of any third party to whom a new title shall be issued.

2. A valueless home and any personal property associated with the valueless home shall be conclusively deemed in value to be equal to or less than the reasonable cost of disposal plus all sums owing to the manufactured home community or mobile home park owner pertaining to the valueless home, if the manufactured home community or mobile home park owner or an agent of the owner removes the home and personal property to a demolisher, sanitary landfill, or other lawful disposal site or if the manufactured home community or mobile home park owner allows a disinterested third party to remove the valueless home and personal property or to leave the home in the manufactured home community or mobile home park in a transaction in which the manufactured home community or mobile home park owner receives no consideration.

555C.3 New Title - Third Party

If a new title to a valueless home is to be issued to a third party, the county treasurer shall issue a new title, upon receipt of the affidavit required in section 555C.2, and payment of a fee pursuant to section 321.47. Any tax lien levied pursuant to chapter 435 is canceled and the ownership interest of the previous owner or occupant of the valueless home is terminated as of the date of issuance of the new title. The new title owner shall take the title free of all rights and interests even though the manufactured home community or mobile home park owner fails to comply with the requirements of this chapter or any judicial proceedings, if the new title owner acts in good faith.

555C.4 Removal By Manufactured Home Community or Mobile Home Park Owner

Unless the valueless home is to be titled in the name of a third party, the manufactured home community or mobile home park owner may dispose of a valueless home and any personal property to a demolisher, sanitary landfill, or other lawful disposal site under the terms and conditions as the manufactured home community or mobile home park owner shall determine.

A person who removes or allows the removal of a valueless home or transfers title or allows the transfer of title of a valueless home as provided in this chapter is not liable to the previous owner of the valueless home due to the removal or transfer of title of the valueless home.

555C.5 Liability Limited

555C.6 Rights of Real Property Owner

The rights provided in this chapter to a real property owner are not exclusive of other rights of the real property owner.

ABANDONED MOBILE HOMES
PROCEDURES UNDER CHAPTER 555B & CHAPTER 555C

I. Has the mobile home been "abandoned"?

A. Tenant is absent without reasonable explanation for thirty (30) days or more; and
   1. Rent is in default three days after it is due; or
   2. Rental agreement is terminated

B. Computing time. Start from the first day after tenant's unexplained absence began and count 30 days. If the last day is a Sunday, consider the first following Monday as the 30th day. If rent has fallen due during the 30 day period, start with the day after rent is due, and count three days. If the last day is a Sunday, consider the first following Monday as the third day. **THE MOBILE HOME IS CONSIDERED ABANDONED ON THE LAST DAY OF THE 30-DAY PERIOD OR THE THIRD DAY AFTER RENT IS DUE, WHICHEVER IS LATER.** If in doubt, it is better to err on the side of giving more time.

II. Is there a lien on the mobile home?

A. To find out whether there is a lien:

1. Look at the standard registration form provided by the tenant when the mobile home space was rented.

2. Search the county treasurer's and recorder's offices to see if any lien is recorded or if one has been indexed on the mobile home title. If there is personal property abandoned in the mobile home, on the mobile home lot, in the near vicinity, or in storage spaces provided to the tenant, county and state records must also be searched to see if there are liens on the personal property. If you have reason to believe that the tenant lived in other counties in Iowa or in other states, records should be searched in each county or state.

B. If there is a lien of record other than a tax lien before the date the mobile home is considered abandoned:

1. Notify tenant and lienholders within ninety (90) days of the date mobile home is considered abandoned that:

a. The mobile home has been abandoned.

b. They are liable for costs incurred for the mobile home space, including rent and utilities dues and owing, from the date of the notice and up to ninety (90) days before the notice was sent.

c. The mobile home may not be removed without the landlord's consent or a signed written agreement by the landlord showing clearance for removal and that all debts are paid in full.

2. The landlord may also proceed with a forceable entry and detainer action.

C. If no lien on the mobile home is found other than a lien for taxes, landlord may proceed under Chapter 555B. If there is no lien on the personal property abandoned with the mobile home, the personal property may also be included in Chapter 555B proceedings.

III. How to proceed under Chapter 555B.

A. If no lien of record other than a tax lien, landlord may remove or hire someone to remove the mobile home and personal property in the mobile home, on the mobile home lot, in the near vicinity or in storage space provided to the tenant on the date the mobile home is considered abandoned.

B. Notify Sheriff in the county where the real property (mobile home space) is located that the mobile home has been removed.

C. Keep receipts of all removal, storage, and other expenses, including attorneys' fees, to later prove damages.

D. If mobile home is claimed:

1. Verify that claim is legitimate by requiring proof of identity or proof of lien.

2. Claimant must pay reasonable removal, storage and other expenses incurred by the landlord, including attorneys' fees, to redeem the mobile home and personal property.

3. Landlord is not liable for damage to the mobile home in removing and storing it unless done willfully or as a result of gross negligence.

E. If no one claims mobile home, two alternatives:

1. Sheriff's sale.

2. Action for abandonment.

IV. Sheriff's sale method.

A. Landlord asks Sheriff to notify tenant by restricted certified mail.

B. If tenant's whereabouts unknown, landlord asks Sheriff to give notice by one publication in newspaper of general circulation in the area where the mobile home was abandoned.

C. If mobile home is not claimed within six (6) months after notice sent, Sheriff required to sell the mobile home at public or private sale.

D. Proceeds distributed in the following order:

1. Costs of sale.

2. Costs of removal and storage.

3. Remainder to county treasurer.

V. Action for abandonment.

A. Once mobile home is considered abandoned, landlord may bring an action in the county where the mobile home is located. The action may be brought as a small claim if the amount demanded is less than $5,000 or before a district judge.

B. Hearing must be ordered no more than fourteen (14) days from the date of filing.

C. Landlord gives notice to tenant:

1. By personal service (Sheriff or process server) not less than ten (10) days before the hearing.

2. If personal service cannot be made (tenant cannot be found or is avoiding service):

a. Method One: Mail copy of petition and notice of hearing to tenant's last known address (not the mobile home) and publish notice in one newspaper of general circulation where the petition is filed. Hearing may not begin less than ten (10) days after notice is published or petition is sent, whichever is later.

b. Method Two: If tenant's last address is unknown, publish notice in one newspaper of general circulation, one each week for three weeks. Service is complete seven (7) days after first publication. Hearing may not be held less than ten (10) days form date service is complete.

D. If there is a tax lien, landlord must notify the county treasurer of each county in which a lien appears by restricted certified mail sent not less than ten (10) days before the hearing. The notice must:

1. Describe the mobile home

2. Set out the date and time the hearing is scheduled.

3. State the county treasurer's right to assert a claim and that failure to do so is deemed a waiver of all right to the mobile home and consent to sale or disposal of the mobile home.

E. At the hearing:

1. Landlord present proof of rent owed, costs of removal, storage, and other expenses, including attorneys' fees, and any damage suffered by landlord as a result of tenant's actions.

2. Tenant or other claimant, including county treasurer, may assert a claim to the mobile home.

3. The court will weigh the equities and give the landlord a judgment in the amount to which the court considers the landlord entitled.

4. If there is no claimant or if the claimant does not satisfy the judgment when it is entered and regain possession of the mobile home, court will order removal of the mobile home from landlord's possession within a reasonable time.

5. If there is no claimant or if the claimant does not satisfy the judgment when entered, the court shall order the landlord to sell or dispose of the mobile home.

F. Three methods of disposal:

1. Public or private sale.
   a. Must be done in a commercially reasonable manner.

      (I) Sold on a recognized market.
      (ii) Sold at the current market price.
      (iii) Sold in conformity with reasonable practice of dealers.
      (iiii) Sale approved in any judicial proceeding.

   b. Anyone asserting a claim to the mobile home in the abandonment proceeding must be notified of the sale by restricted certified mail sent five (5) days before the sale.

   c. Landlord may buy at a public sale.

   d. Landlord may buy at a private sale if the mobile home or personal property bought is of a type sold on a recognized market or subject to standard price quotations.

   e. Proceeds distributed in the following order:

      (I) To satisfy landlord's judgment.
      (ii) To satisfy any tax lien.
      (iii) Remainder held by landlord for six (6) months and may be retained by him if no one claims it in that time.

   f. If the proceeds from the sale do not satisfy landlord's judgment, tenant is liable for any deficiency.

2. Landlord may retain the mobile home to satisfy the judgment. To do so, landlord must:

   a. Notify anyone claiming the mobile home in the abandonment proceedings.

   b. If written objection is received within twenty-one (21) days of the notice, landlord must sell the mobile home.

   c. If no written objection is received, landlord may retain the mobile home to satisfy the judgment.

3. Junking the mobile home

a. Landlord must first make a good faith attempt to sell, and be unsuccessful.

b. May dispose of mobile home to demolisher or junkyard.

c. Proceeds, if any, distributed as in public or private sale. See (1)(e)(I).

d. If personal property being junked includes a motor vehicle, court order obtained in abandonment proceedings must be presented to the local law enforcement authority to receive a Certificate of Authority to dispose of the motor vehicle.

NOTE: Before the hearing, landlord should decide how he can best dispose of the mobile home, and, if possible, get price quotations and document any potential buyer's interest. This will make the court's job easier and allow the order to be more specific, thus making it more likely that the sale or disposal is "commercially reasonable."

G. Warning: Landlord's risks.

1. If landlord follows procedure outlined, should not be liable for resulting damages unless they were willful or the result of gross negligence.

2. If landlord fails to follow outlined procedures:

a. Anyone claiming the mobile home may ask the court to enjoin the landlord from disposing of the mobile home.

b. Tenant may recover damages.

3. Personal property which may be disposed of with the mobile home is only that belonging to the tenant. If there is reason to believe that the personal property belongs to someone else, do not include it in abandonment proceedings.

H. Miscellaneous.

1. Landlord may apply rent deposit toward costs of removing, storing, and disposing of abandoned mobile home, whether or not there is a lien on it.

2. Landlord does not have to pay back taxes or obtain a tax clearance statement before removing the mobile home from the mobile home space.

IV Disposal of valueless mobile, modular, or manufactured homes.

1. Chapter 555C requires the same definition of abandonment as Chapter 555B.
2. Chapter 555C can only be used if there is no lien on the home. Tax liens don't prevent you from using Chapter 555C.

3. A valueless home is defined as being located in a mobile home park, and having a value equal to or less than the amount of money owing to the landlord, plus the reasonable costs of disposal.
4. In order to remove the home, it must first meet the definition of abandonment in Chapter 562B.27(1). Your second step is to secure a FED order from the court. Then, without any further notice, you may remove and dispose of the home. Or you may give the home to a disinterested third party. However, you cannot receive any money, or anything of value, when you turn the home over to someone else.

5. Within 10 days of removing the home, you must file an affidavit with the county treasurer outlining a description of the home and what happened to it. In the event that you gave the home to someone, you must list their name so that a new title to the home can be issued. Back taxes cannot be charged to the new owner.

6. If the landlord demolishes, or gives the home away, the law conclusively deems that the home is valueless.

7. Even if the landlord doesn't follow all the procedures correctly, it doesn't prevent a third party from receiving title, if the new title owner acts in good faith.

8. The landlord may dispose of the home with a demolisher, at a sanitary landfill, or any other lawful disposal site.

9. The landlord is not liable to the previous home owner for removing the person's home.

CHAPTER 562B
MOBILE HOME PARKS RESIDENTIAL LANDLORD AND TENANT LAW

DIVISION I
GENERAL PROVISIONS

SEC562B.1 Short title.

This chapter shall be known and may be cited as the "Manufactured home community or mobile home parks Residential Landlord and Tenant Act".

[C79, 81, § 562B.1]

SEC 562B.2 Purposes.

Underlying purposes and policies of this chapter are:

1. To simplify, clarify and establish the law governing the rental of manufactured or mobile home spaces and rights and obligations of landlord and tenant.

2. To encourage landlord and tenant to maintain and improve the quality of manufactured or mobile home living.

[C79, 81, § 562B.2]

SEC 562B.3 Supplementary principles of law applicable.

Unless displaced by the provisions of this chapter, the principles of law and equity, 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 supplement its provisions.

[C79, 81, § 562B.3]

SEC 562B.4 Administration of remedies — enforcement.

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

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

[C79, 81, § 562B.4]

SEC 562B.5 Exclusions from application of chapter.

The provisions of this chapter shall not apply to an occupancy in or operation of public housing as authorized, provided or conducted pursuant to chapter 403A, or pursuant to any federal law or regulation with which it might conflict.

[C79, 81, § 562B.5]

SEC 562B.6 Jurisdiction and service of process.

1. The appropriate district court of this state may exercise jurisdiction over a landlord or tenant with respect to conduct in this state governed by this chapter or with respect to any claim arising from a transaction subject to this chapter. An action under this chapter may be brought as a small claim pursuant to the provisions of chapter 631. In addition to any other method provided by rule or by statute, personal jurisdiction over a landlord or tenant may be acquired in a civil action or proceeding instituted in the appropriate district court by the service of process in the manner provided by this section.

2. If a landlord is not a resident of this state or is a corporation not authorized to do business in this state and engages in conduct in this state governed by this chapter, or engages in a transaction subject to this chapter, the landlord shall designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The designation shall be in writing and filed with the secretary of state. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the secretary of state, but the plaintiff or petitioner shall forthwith mail a copy of this process and pleading by certified mail, return receipt requested, to the defendant or respondent at that person's last reasonably ascertained address. If there is no last reasonably ascertainable address and if the defendant or respondent has not complied with section 562B.14, subsections 1 and 2, then service upon the secretary of state shall be sufficient service of process without the mailing of copies to the defendant or respondent. Service of process shall be deemed complete and the time shall begin to run for the purposes of this section at the time of service upon the secretary of state. The defendant shall appear and answer within thirty days after completion thereof in the manner and under the same penalty as if defendant had been personally served with the summons. An affidavit of compliance with this section shall be filed with the clerk of the district court on or before the return day of the process, or within any further time the court allows.

[C79, 81, § 562B.6]

SEC 562B.7 General definitions.

Subject to additional definitions contained in subsequent sections of this chapter which apply to specific sections thereof, and unless the context otherwise requires, in this chapter:

1. "Building and housing codes" include any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of any manufactured home community or mobile home park, dwelling unit, or manufactured or mobile home space.

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 which is a landlord, owner, manager, or constructive agent pursuant to section 562B.14.

3. "Dwelling unit" excludes real property used to accommodate a manufactured or mobile home.

4. "Landlord" means the owner, lessor or sublessor of a manufactured home community or mobile home park and it also means a manager of the manufactured home community or mobile home park who fails to disclose as required by section 562B.14.

4A. “Manufactured home community” means the same as land-leased community defined in sections 335.30A and 414.28A.

5. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. References in this chapter to "mobile home" include "manufactured homes" and "modular homes" as those terms are defined in section 435.1, if the manufactured homes or modular homes are located in a manufactured home community or a mobile home park.

6. "Mobile home park" shall mean any site, lot, field or tract of land upon which three or more mobile homes, manufactured homes, or modular homes or a combination of any of these homes are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

7. "Mobile home space" means a parcel of land for rent which has been designed to accommodate a mobile home and provide the required sewer and utility connections.

8. "Owner" means one or more persons, jointly or severally, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and a right to present use and enjoyment of the manufactured home community or the mobile home park. The term includes a mortgagee in possession.

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

10. "Rental agreement" means agreements, written or those implied by law, and valid rules and regulations adopted under section 562B.19 embodying the terms and conditions concerning the use and occupancy of a mobile home space.

11. "Rental deposit" means a deposit of money to secure performance of a mobile home space rental agreement under this chapter other than a deposit which is exclusively in advance payment of rent.

12. "Tenant" means a person entitled under a rental agreement to occupy a mobile home space to the exclusion of others.

[C79, 81, § 562B.7]

94 Acts, ch 1110, §23

Effective date of 1994 amendments to subsection 5; see 94 Acts, ch 1110, §24

Subsection 5 amended

SEC 562B.8 Unconscionability.

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

a. A rental agreement or any provision thereof 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 any 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 any 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, § 562B.8]

SEC 562B.9 Notice.

1. Notices required under this chapter, except those = notices identified in section 562B.27A, 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 562B.14.

(2) Delivery evidenced by an acknowledgment of delivery that is signed and dated by the landlord or the landlord's agent designated under section 562B.14.

(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.

SEC 562B.9A Computation of time.

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

SEC 562B.10 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. The tenant shall pay as rent the amount stated in the rental agreement. In the absence of a rental agreement, the tenant shall pay as rent the fair rental value for the use and occupancy of the mobile home space.

3. Rent shall be payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed periodic rent is payable at the beginning of any term and thereafter in equal monthly installments. Rent shall be uniformly apportionable from day to day.

4. For rental agreements in which the rent does not exceed seven hundred dollars per month, a rental agreement shall not provide for a late fee that exceeds twelve dollars per day or a total amount of sixty dollars per month. For rental agreements in which the rent is greater than seven hundred dollars per month, a rental agreement shall not provide for a late fee that exceeds twenty dollars per day or a total amount of one hundred dollars per month.

5. Rental agreements shall be for a term of one year unless otherwise specified in the rental agreement. Rental agreements shall be canceled by at least sixty days' written notice given by either party. A landlord shall not cancel a rental agreement solely for the purpose of making the tenant's mobile home space available for another mobile home.

6. If a tenant should die, the surviving joint tenant or tenant in common in the mobile home shall continue as tenant with all rights, privileges and liabilities as the original tenant.

7. If a tenant who was sole owner of a mobile home dies during the term of a rental agreement then that person's heirs or legal representative or the landlord shall have the right to cancel the tenant's lease by giving sixty days' written notice to the person's heirs or legal representative or to the landlord, whichever is appropriate, and the heirs or the legal representative shall have the same rights, privileges and liabilities of the original tenant.

8. Improvements, except a natural lawn, purchased and installed by a tenant on a mobile home space shall remain the property of the tenant even though affixed to or in the ground and may be removed or disposed of by the tenant prior to the termination of the tenancy, provided that a tenant shall leave the mobile home space in substantially the same or better condition than upon taking possession.

[C79, 81, § 562B.10]

SEC 562B.11 Prohibited provisions in rental agreements.

1. A rental agreement shall not provide that the tenant or landlord does any of the following:

a. Agrees to waive or to forego rights or remedies under this chapter.

b. Agrees to pay the other party's attorney fees.

c. 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.

d. Agrees to a designated agent for the sale of tenant's mobile home.

2. A provision prohibited by subsection 1 of this section included in a rental agreement is unenforceable. If a landlord or tenant knowingly uses a rental agreement containing provisions known to be prohibited by this chapter, the other party may recover actual damages sustained.

Nothing in this chapter shall prohibit a rental agreement from requiring a tenant to maintain liability insurance which names the landlord as an insured as relates to the mobile home space rented by the tenant.

[C79, 81, § 562B.11]

SEC 562B.12 Separation of rents and obligations to maintain property forbidden.

A rental agreement, assignment, conveyance, trust deed or security instrument shall not permit the receipt of rent, unless the landlord has agreed to comply with section 562B.16, subsection 1.

[C79, 81, § 562B.12]

DIVISION II

LANDLORD OBLIGATIONS

SEC562B.13 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, credit union or savings and loan association which is insured by an agency of the federal government. Rental deposits shall not be commingled with the personal funds of the landlord. 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 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 manufactured or mobile home space, 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 manufactured or mobile home space to its condition at the commencement of the tenancy, ordinary wear and tear excepted.

c. To remove, store, and dispose of a manufactured or mobile home if it is abandoned as defined in section 562B.27.

4. 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.

5. 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.

6. Upon termination of a landlord's interest in the manufactured home community or mobile home park, the landlord or the landlord's agent 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 manufactured home community or mobile home park and compliance with the provisions of this subsection, the landlord shall be relieved of any further liability with respect to the rental deposit.

7. Upon termination of the landlord's interest in the manufactured home community or mobile home park, 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.

8. 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.

[C79, 81, § 562B.13]

88 Acts, ch 1138, §15; 93 Acts, ch 154, §14

SEC 562B.14 Disclosure and tender of written rental agreement.

1. The landlord shall offer the tenant the opportunity to sign a written agreement for a mobile home space.

2. The landlord or any person authorized to enter into a rental agreement on the landlord's behalf shall disclose to the tenant in writing at or before entering into the rental agreement the name and address of:

a. The person authorized to manage the manufactured home community or mobile home park.

b. The owner of the manufactured home community or mobile home park 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.

3. The information required to be furnished by this section shall be kept current and refurnished to the tenant upon the tenant's request. When there is a new owner or operator this section extends to and is enforceable against any successor landlord, owner or manager.

4. A person who fails to comply with subsections 1 and 2 becomes an agent of each person who is a landlord for the following purposes:

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 the purpose all rent collected from the manufactured home community or mobile home park.

5. If there is a written rental agreement, the landlord must tender and deliver a signed copy of the rental agreement to the tenant and the tenant must sign and deliver to the landlord one fully executed copy of such rental agreement within ten days after the agreement is executed. Noncompliance with this subsection shall be deemed a material noncompliance by the landlord or the tenant, as the case may be, of the rental agreement.

6. The landlord or any person authorized to enter into a rental agreement on the landlord's behalf shall provide a written explanation of utility rates, charges and services to the prospective tenant before the rental agreement is signed unless the utility charges are paid by the tenant directly to the utility company.

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

[C79, 81, § 562B.14]

SEC 562B.15 Landlord to deliver possession of mobile home space.

At the commencement of the term the landlord shall deliver possession of the mobile home space to the tenant in compliance with the rental agreement and section 562B.16. The landlord may bring an action for possession against a person wrongfully in possession and may recover the damages provided in section 562B.30, subsection 2.

[C79, 81, § 562B.15]

88 Acts, ch 1158, §94

SEC 562B.16 Landlord to maintain fit premises.

1. The landlord shall:

a. Comply with the requirements of all applicable city, county and state codes materially affecting health and safety which are primarily imposed upon the landlord.

b. Make all repairs and do whatever is necessary to put and keep the mobile home space in a fit and habitable condition.

c. Keep all common areas of the manufactured home community or mobile home park in a clean and safe condition.

d. Maintain in good and safe working order and condition all facilities supplied or required to be supplied by the landlord.

e. Provide for removal of garbage, rubbish, and other waste from the manufactured home community or mobile home park.

f. Furnish outlets for electric, water and sewer services.

2. A landlord shall not impose any conditions of rental or occupancy which restrict the tenant in the choice of a seller of fuel, furnishings, goods, services or mobile homes connected with the rental or occupancy of a mobile home space unless such condition is necessary to protect the health, safety, aesthetic value or welfare of mobile home tenants in the park. The landlord may impose reasonable requirements designed to standardize methods of utility connection and hookup. If any such conditions are imposed which result in charges for such goods or services, the charges shall not exceed the actual cost incurred in providing the tenant with such goods or services.

[C79, 81, § 562B.16]

SEC 562B.17 Limitation of liability.

1. A landlord who conveys a manufactured home community or mobile home park 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 a manufactured home community or mobile home park 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, except such notice shall not terminate any agreement or legal liability arising prior to the notice.

[C79, 81, § 562B.17]

DIVISION III

TENANT OBLIGATIONS

SEC 562B.18 Tenant to maintain mobile home space — notice of vacating.

A tenant shall maintain the mobile home space in as good a condition as when the tenant took possession and shall:

1. Comply with all obligations primarily imposed upon tenants by applicable provisions of city, county and state codes materially affecting health and safety.

2. Keep that part of the manufactured home community or mobile home park that the tenant occupies and uses reasonably clean and safe.

3. Dispose from the tenant's mobile home space all rubbish, garbage and other waste in a clean and safe manner.

4. Not deliberately or negligently destroy, deface, damage, impair or remove any part of the manufactured home community or mobile home park or knowingly permit any person to do so.

5. Act and require other persons in the manufactured home community or mobile home park with the tenant's consent to act in a manner that will not disturb the tenant's neighbors' peaceful enjoyment of the manufactured home community or mobile home park.

6. Maintain in good and safe working order all utility lines, pipes, and cables extending from the mobile home to outlets provided by the landlord for electric, water, sewer, and other services. This subsection shall not apply to a tenant who does not own the mobile home.

[C79, 81, § 562B.18]

85 Acts, ch 67, §51

SEC 562B.19 Rules and regulations.

1. A landlord may adopt rules or regulations, however described, concerning the tenant's use and occupancy of the manufactured home community or mobile home park. Such rules or regulations are enforceable against the tenant only if they are written and if:

a. Their purpose is to promote the convenience, safety or welfare of the tenants in the manufactured home community or mobile home park, to preserve the landlord's property from abuse, to make a fair distribution of services and facilities held out for the tenants generally, or to facilitate manufactured home community or mobile home park management.

b. They are reasonably related to the purpose for which adopted.

c. They apply to all tenants in the manufactured home community or mobile home park in a fair manner.

d. They are sufficiently explicit in prohibition, direction or limitation of the tenant's conduct to fairly inform that person of what must or must not be done to comply.

e. They are not for the purpose of evading the obligations of the landlord.

f. The prospective tenant is given a copy of them before the rental agreement is entered into.

2. Notice of all such additions, changes, deletions or amendments shall be given to all mobile home tenants thirty days before they become effective. Any rule or condition of occupancy which is unfair and deceptive or which does not conform to the requirements of this chapter shall be unenforceable. A rule or regulation adopted after the tenant enters into the rental agreement is enforceable against the tenant only if it does not work a substantial modification of that person's rental agreement.

3. A landlord shall not:

a. Deny rental unless the tenant or prospective tenant cannot conform to manufactured home community or mobile home park rules and regulations.

b. Require any person as a precondition to renting, leasing or otherwise occupying or removing from a mobile home space in a manufactured home community or mobile home park to pay an entrance or exit fee of any kind unless for services actually rendered or pursuant to a written agreement.

c. Deny any resident of a manufactured home community or mobile home park the right to sell that person's

mobile home at a price of the person's own choosing, but may reserve the right to approve the purchaser of such mobile home as a tenant but such permission may not be unreasonably withheld, provided however, that the landlord may, in the event of a sale to a third party, in order to upgrade the quality of the manufactured home community or mobile home park, require that any mobile home in a rundown condition or in disrepair be removed from the manufactured home community or mobile home park within sixty days.

d. Exact a commission or fee with respect to the price realized by the tenant selling the tenant's mobile home, unless the manufactured home community or mobile home park owner or operator has acted as agent for the mobile home owner pursuant to a written agreement.

e. Require tenant to furnish permanent improvements which cannot be removed without damage thereto or to the mobile home space by tenant at expiration of the rental agreement.

f. Prohibit meetings between tenants in the manufactured home community or mobile home park relating to mobile home living and affairs in the manufactured home community or mobile home park community or recreational hall if such meetings are held at reasonable hours and when the facility is not otherwise in use.

[C79, 81, § 562B.19]

SEC 562B.20 Access.

1. A landlord shall not have the right of access to a mobile home owned by a tenant unless such access is necessary to prevent damage to the mobile home space or is in response to an emergency situation.

2. The landlord may enter onto the mobile home space in order to inspect the mobile home space, make necessary or agreed repairs or improvements, supply necessary or agreed services or exhibit the mobile home space to prospective or actual purchasers, mortgagees, tenants, workers or contractors.

[C79, 81, § 562B.20]

SEC 562B.21 Tenant to occupy as a dwelling unit — authority to sublet.

The tenant shall occupy the tenant's mobile home only as a dwelling unit and may rent the mobile home to another, only upon written agreement with the manufactured home community or mobile home park management.

[C79, 81, § 562B.21]

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DIVISION IV

REMEDIES

SEC 562B.22 Noncompliance by the landlord

1. Except as provided in this chapter, if there is a material noncompliance by the landlord with the rental agreement, the tenant may 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 thirty days after receipt of the notice if the breach is not remedied in fourteen days. If there is a noncompliance by the landlord with section 562B.16 materially affecting health and safety, the tenant may 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 thirty days after receipt of the notice if the breach is not remedied in fourteen days. The rental agreement shall terminate and the mobile home space shall be vacated 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 the landlord adequately remedies the breach prior to the date specified in the notice, the rental agreement will not terminate.

b. 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 in the manufactured home community or mobile home park 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 with section 562B.16.

3. The remedy provided in subsection 2 of this section is in addition to any right of the tenant arising under subsection 1 of this section.

[C79, 81, § 562B.22]

SEC 562B.23 Failure to deliver possession.

1. If the landlord fails to deliver physical possession of the mobile home space to the tenant as provided in section 562B.15, rent abates until possession is delivered and the tenant may do either of the following:

a. Upon written notice to the landlord, terminate the rental agreement and at that time the landlord shall return all deposits.

b. Demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the mobile home space against the landlord and recover the damages sustained by the tenant plus reasonable attorney's fees and court costs.

2. If the landlord delivers physical possession to the tenant but fails to comply with section 562B.16 at the time of delivery, rent shall not abate. The tenant may also proceed with the remedies provided for in section 562B.22.

[C79, 81, § 562B.23]

SEC 562B.24 Tenant's remedies for landlord's unlawful ouster, exclusion or diminution of services.

If the landlord unlawfully removes or excludes the tenant from the manufactured home community or mobile home park 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, require the restoration of essential services or terminate the rental agreement and, in either case, recover an amount not to exceed two months' periodic rent and twice the actual damages sustained by the tenant.

[C79, 81, § 562B.24]

SEC 562B.25 Noncompliance with rental agreement by tenant — failure to pay rent.

1. Except as provided in this chapter, if there is a material noncompliance by the tenant with the rental agreement, 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 thirty days after receipt of the notice if the breach is not remedied in fourteen days. If there is a noncompliance by the tenant with section 562B.18 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 thirty days after receipt of the notice if the breach is not remedied in fourteen days. However, if the breach is remediable by repair 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 will 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 fourteen 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 of 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 otherwise provided in this chapter, the landlord may recover damages, obtain injunctive relief or recover possession of the mobile home space pursuant to an action in forcible entry and detainer under chapter 648 for any material noncompliance by the tenant with the rental agreement or with section 562B.18.

4. The remedy provided in subsection 3 of this section is in addition to any right of the landlord arising under subsection 1 of this section.

[C79, 81, § 562B.25]

93 Acts, ch 154, §15

SEC 562B.25A Termination for creating a clear and present danger to other tenants.

1. Notwithstanding section 562B.25 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, or 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, or 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, § 3

SEC 562B.26 Failure to maintain by tenant.

If there is noncompliance by the tenant with section 562B.18 materially affecting health and safety that can be remedied by repair, replacement of a damaged item or cleaning and the tenant fails to comply as promptly as conditions require in case of emergency or within fourteen 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 mobile home space, and cause the work to be done in a skillful manner and submit an itemized bill for the actual and reasonable cost or the fair and reasonable value thereof as additional rent on the next date when periodic rent is due, or if the rental agreement was terminated, for immediate payment.

[C79, 81, § 562B.26]

SEC 562B.27 Remedies for abandonment — required registration.

1. A tenant is considered to have abandoned a mobile home when the tenant has been absent from the mobile home without reasonable explanation for thirty days or more during which time there is either a default of rent three days after rent is due, or the rental agreement is terminated pursuant to section 562B.25. A tenant's return to the mobile home does not change its status as abandoned unless the tenant pays to the landlord all costs incurred for the mobile home space, including costs of removal, storage, notice, attorneys' fees, and all rent and utilities due and owing.

2. When a mobile home is abandoned on a mobile home space:

a. If a tenant abandons a mobile home on a mobile home space, the landlord shall notify the mobile home owner or other claimant of the mobile home and communicate to that person that the person is liable for any costs incurred for the mobile home space, including rent and utilities due and owing. A claimant includes a holder of a lien as defined in section 555B.2. However, the person is only liable for costs incurred ninety days before the landlord's communication. After the landlord's communication, costs for which liability is incurred shall then become the responsibility of the mobile home owner or other claimant of the mobile home. The mobile home shall not be removed from the mobile home space without a signed written agreement from the landlord showing clearance for removal, and that all debts are paid in full, or an agreement reached with the mobile home owner or other claimant and the landlord.

b. If there is no lien on the mobile home other than a lien for taxes, the landlord may follow the procedure in chapter 555B to dispose of the mobile home.

c. An action pursuant to chapter 555B may be combined with an action for possession under chapter 648 or an action for damages under section 562B.30.

3. A required standardized registration form shall be filled out by each tenant upon the rental of a mobile home space, showing the mobile home make, year, serial number, and also showing if the mobile home is paid for, if there is a lien on the mobile home, and if so the lienholder, and the name of the legal owner of the mobile home. The registration forms shall be kept on file with the landlord as long as the mobile home is on the mobile home space within the manufactured home community or mobile home park. The tenant shall give notice to the landlord within ten days of any new lien, change of existing lien, or settlement of lien.

[C79, 81, § 562B.27; 81 Acts, ch 183, § 1]

83 Acts, ch 102, § 1; 88 Acts, ch 1138, §16; 93 Acts, ch 154, §16, 17

SEC 562B.27A Method of service of notice on tenant.

1. A landlord's written notice of termination to the tenant required under section 562.10, subsection 4, a notice of termination required under section 562B.25, a notice of termination and notice to quit required under section 562B.25A, or a notice to quit required by section 648.3, shall be served upon the tenant 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 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.

SEC 562B.28 Waiver of landlord's right to terminate.

Acceptance of performance by the tenant that varied 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, § 562B.28]

SEC 562B.29 Repealed by 81 Acts, ch 183, § 3.

SEC 562B.30 Periodic tenancy — holdover remedies.

1. The landlord may terminate a tenancy only as provided in this chapter.

2. Notwithstanding section 648.19, 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 recover actual damages. If the tenant's holdover is willful and not in good faith the landlord in addition may recover an amount not to exceed two months' periodic rent and twice the actual damages sustained by the landlord. In any event, the landlord may recover reasonable attorney's fees and court costs.

[C79, 81, § 562B.30]

SEC 562B.31 Landlord and tenant remedies for abuse of access to mobile home space.

1. If the tenant refuses to allow lawful access to the mobile home space, the landlord may terminate the rental agreement and may recover actual damages.

2. If the landlord makes an unlawful entry or a lawful entry to the mobile home space 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 plus attorney's fees.

[C79, 81, § 562B.31]

SEC 562B.32 Retaliatory conduct prohibited.

1. Except as provided in this section, a landlord shall not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession or by failing to renew a rental agreement after any

of the following:

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 manufactured home community or mobile home park materially affecting health and safety. For this subsection to apply, a complaint filed with a governmental body must be in good faith.

b. The tenant has complained to the landlord of a violation under section 562B.16.

c. The tenant has organized or become a member of a tenant's union or similar organization.

d. For exercising any of the rights and remedies pursuant to this chapter.

2. If the landlord acts in violation of subsection 1 of this section, the tenant is entitled to the remedies provided in section 562B.24 and has a defense in an action for possession. In an action by or against the tenant, evidence of a complaint within six months 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 termination of the rental agreement. For the purpose of this subsection, "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 either of the following occurs:

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 household or upon the premises with the tenant's consent.

b. The tenant is in default of rent three days after rent is due. The maintenance of the action does not release the landlord from liability under section 562B.22, subsection 2.

[C79, 81, § 562B.32; 82 Acts, ch 1100, § 25]

HIGHLIGHTS OF THE IOWA MOBILE HOME PARKS RESIDENTIAL LANDLORD AND TENANT LAW

562B.6 If you go to court, you may use district court or small claims court when the claim is less than $5,000.

562B.8 If your lease is unreasonable, a court may rule that all or portions of it are unenforceable.

562B.9 This provision is for notices which won't result in lease terminations. To give such a notice, you can use regular and certified mail. You have to use both. Or you can hand deliver the notice. You can post the notice on the tenant's door. You only have to use one method of notice. Examples of this type of notice would be rent increase and rule change notices.

562B.9A Counting time for all notices shall be made in accordance with Iowa Code, Chapter 4.1(34).

562B.10 Leases are for one year unless you choose a different term. IMHA recommends a month to month lease.

A 60 days' notice is required to terminate a lease, unless rules violations, or nonpayment of rent, lease violations, or clear and present danger are involved.

If a tenant dies, a remaining spouse retains all rights under the lease.

All improvements to the mobile home space paid for by the tenant belong to the tenant. When the tenant leaves, the tenant can take anything belonging to the tenant provided that the mobile home space is left in the same or better condition than when the tenant first rented the space.

The only exception to the ownership rule is a natural lawn. If a tenant plants a new lawn, it belongs to the landlord.

562B.11 A landlord can require that tenants purchase liability insurance, naming the landlord as the insured, in order to protect the mobile home space.

562B.13 The amount of a security deposit cannot exceed two months' rent. The deposit must be kept in a federally insured institution, and must be in an account separate from the landlord's regular financial accounts.

Interest earned on the security accounts belongs to the landlord.
After moving from a mobile home park, the tenant has one (1) year to notify the landlord of the tenant's new address and the tenant's desire to recover the security deposit.
The landlord, upon receipt of this notice, has 30 days to refund all, or a portion, of the refund. If a portion or none of the deposit is to be refunded, then the landlord must explain in writing why all or a portion is not being refunded.

Valid reasons for not refunding all or a portion of a security deposit are as follows:

(1) Rent or other fees owed to landlord.
(2) Damage to mobile home space.

If a landlord doesn't reply in 30 days to the tenant's request for the deposit, the landlord loses all of the security deposit. If the tenant doesn't respond within a year, the security deposit belongs to the landlord.

In any legal actions regarding security deposits, the burden of proof is on the landlord to show why all or a portion of the deposit is being retained by the landlord.

A landlord illegally holding a security deposit can be fined $200.00 plus actual damages.

A landlord must dispose of abandoned mobile homes.

562B.14 The landlord must offer the tenant a written lease. IMHA recommends that written leases be required of all tenants and that the term of the leases be month to month.

The month to month term is important because rent increases require a 60 days' notice before the end of the lease term. If the term is one year, you can only raise rent once a year. If your notice is less than 60 days before the end of an annual lease, the notice is not lawful, and you would have to wait another year before raising rent. Also your 60 days' notice not to renew a lease must be given at least 60 days before the end of the lease term, making an annual term very inflexible.

At or prior to entering into a lease, you must disclose in writing the name and address of the park manager and owner, or the person authorized to act for the owner.

562B.16 The landlord shall comply with all health and safety laws.

The landlord must make all repairs, and keep the mobile home space in good condition. Keep all common areas clean. Provide for garbage removal. Furnish outlets for electric, water, and sewer services.

Generally the landlord cannot restrict the tenants in their purchase of goods and services.

562B.18 The tenant shall obey all health and safety laws. The tenant shall keep the mobile home space in as good a condition as the tenant found it.

The tenant shall be responsible for all utility lines, pipes, & cable extending from their home to the outlets provided by the landlord. This requirement doesn’t apply if the landlord owns the home.

The tenant must act, and require guests to act, in a manner which doesn't disturb neighbors.

562B.19 Park rules don't mean anything unless they are in written form.

A 30 days' notice is required before any changes in park rules take effect.

Park rules must be given to the tenant before a lease is signed. Changes in park rules are unenforceable if they make major changes to the lease.

Entry or exit fees are illegal unless agreed to in writing by the tenant, or for services actually rendered.

The tenant may sell his home to anyone. However, you do not have to accept the buyer as a tenant if there are reasonable grounds. Removing a rundown mobile home is good grounds.

A landlord cannot stop tenants from having a tenants' meeting in your park community or recreation building if the request is made for a reasonable hour and if the building is not already being used.

562B.20 to A landlord cannot enter a tenant's home without permission, unless it is necessary prevent damage to the space or there is clearly an emergency situation.

562B.21 The tenant cannot rent the home to someone else unless the park owner agrees in writing.

562B.22 The tenant may file a 30 days' notice terminating the lease if the landlord is violating the lease or not obeying health and safety rules. After the notice, the landlord has 14 days to correct the problem. If the landlord fails to correct, the lease is void 30 days after the original notice. If the landlord corrects the problem, the lease continues.

The tenant cannot file a 30 days' notice based on problems caused by the tenant's own negligence.

562B.24 If a landlord unlawfully removes a tenant from the park, or shuts off utility service, the tenant may sue and recover possession. The court may award the tenant up to two months in rent and twice the actual damage suffered by the tenant.

562B.25 The landlord may file a 30 days' notice against the tenant if the tenant is violating a park rule, any part of the lease, or a health and safety law. The tenant has 14 days to correct the problem; otherwise, the lease is void 30 days after the original notice. If the problem is corrected by the tenant within 14 days, the lease remains in effect. If the same breach occurs within six months, for which a previous written 30/14 notice was given, the landlord may give a non curable 14 days' notice to break the lease.
If rent is not paid when due, the landlord may give the tenant a 3 days' notice to cure. If the rent is still unpaid after 3 days, then the lease can be terminated.

If the tenant refuses to leave, the landlord may recover damages, and remove the tenant's home, after filing an action for forcible entry or detention of real property. Under no circumstances should a landlord move a tenant's home, unless with a court's permission, or unless the home meets the definition of an abandoned home. Then, if you move the home, you are required to notify the sheriff. The danger is that you could be sued by the tenant.

562B.25A A tenant's lease can be canceled with a 3 days' non curable notice if the tenant creates a clear and present danger to the health and safety of other tenants, the

landlord, the landlord's employees, or agents, or anyone on or within 1000 feet of the landlord's property.

A clear and present danger is defined to include, but is not limited to, the following:

(1) Physical assault or the threat of physical assault.
(2) Illegal use of a firearm or other weapon, the threat to use such a weapon, or the possession of an illegal firearm.
(3) Possession of an illegal controlled substance.

The tenant is responsible for the conduct of guests, and can only protect himself/herself from eviction by taking certain actions against uncontrollable guests.

562B.26 If the tenant has let the mobile home space deteriorate so that there is a health or safety problem and refuses to repair after the 14 days' notice, or sooner if there is any emergency, then the landlord may make the repairs or hire the work done and send an itemized bill to the tenant.

562B.27 A tenant is considered to have "abandoned" a mobile home when the tenant has left the mobile home without reasonable explanation for 30 days or more during which time the rent becomes overdue, or the tenancy is terminated. A tenant's return to the mobile home does not change its status as abandoned, unless the tenant pays to the landlord all costs incurred for the mobile home space.

If there is a lien on a mobile home, and once the tenant is considered to have "abandoned" home (i.e., after 30 days of the tenant being gone from the home as noted above), then the landlord should contact the lienholder and notify the lienholder, in writing, of such abandoned home and of its liability for certain unpaid amounts. Specifically, when a park sends out the aforementioned written notice pursuant to section 562B.27., then the lienholder is responsible for all unpaid rent and utilities going forward, as well as unpaid rent and utilities going back 90 days from the date of that notice. The 90-day look back period for which a lienholder is liable for a tenant's unpaid rent/utilities may include a certain period of time in which the tenant was still living in the home (with such occupied time being no longer than 60 days). Lenders are generally not otherwise responsible for unpaid rent when the tenants are still living in the home and are merely delinquent in their payments.
The legal owner or lender may not remove an abandoned home without a signed written agreement with the park owner that all debts are paid in full.

If there is not a lien on the abandoned home, other than a tax lien, follow the procedure set out in Chapter 555B (see pages 17 - 19). For an explanation of Chapter 555B, read pages 19A - 19G. If the home meets the definition of a valueless home, you may use the quick and easy procedures detailed in Chapter 555C. (See page 19A).

Park owners are required to keep registration forms on all tenants with the following information:

(1) Make, year, and serial number of the home.

(2) Note any liens on the home.
(3) List the legal owner of the home.

The tenant is required to notify the park owner within 10 days after any changes in the lien on the home.

562B.27

This code section lists the ways to provide notice when the notice could result in termination of the lease, such as non payment of rent, clear and present danger, 30/14 lease and regulation violations, and a 60 days' non-renewal of lease. Only one of the following options needs to be used.

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.
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.

562B.28 If a landlord has tolerated violations of the rules and of the lease, he may lose his right to terminate the lease for violations of the tolerated activity. IMHA recommends that the landlord send all tenants a letter stating that all rules of the park and all provisions of the lease will be enforced.

562B.30 If a tenant hasn't moved after a lease has been terminated, the landlord can sue for possession of the space by means of a forcible entry and detainer action, and recover money for actual damage such as back rent.
f the tenant shows a lack of good faith and refuses to move, the landlord may ask for additional damages. The court may rule that the tenant must pay the landlord an amount not to exceed 2 months' rent and twice the actual damages.

The court may also award the landlord reasonable attorney's fees and court costs.

562B.31 If the tenant won't allow the landlord lawful entry to the mobile home space, the landlord may terminate the rental agreement and sue for damages.

If the landlord makes an unlawful entry to the mobile home space, or makes repeated lawful entries which have the effect of harassing the tenant, the tenant may get a court to order the landlord to stop or the tenant may terminate the lease. Either way the tenant may recover an amount not less than 1 months' rent plus attorney's fees.

562B.32 The landlord can't retaliate against the tenant for any of the following actions:
(1) The tenant complains to a governmental agency.
(2) The tenant complains to the landlord about a violation of the landlord tenant law. (Chapter 562B)
(3) The tenant has organized or become a member of a tenants' organization.

(4) For using any of the provisions and remedies of the landlord tenant law.

If the landlord does retaliate against the tenant, the tenant may sue and recover an amount up to 2 months' rent and twice the actual damages. The tenant cannot withhold rent because of alleged retaliation.

In court action involving the charge of retaliation there will be a presumption of retaliation if there is evidence that the tenant had complained to a governmental body or the landlord within 6 months prior to the alleged act of retaliation by the landlord.

There is no presumption of retaliation if a tenant makes a complaint after the landlord's notice of termination.

Even if there is a charge of retaliation, the tenant must correct any health or safety violation and must continue to pay rent.

Written by: Joe M. Kelly
Executive Vice President

The above material is not legal advice. It is a summary and not a verbatim statement. Reliance should only be placed on the actual statute and case law interpreting the statute. If in doubt consult your attorney.

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HOW TO TERMINATE A LEASE

1. Non-payment of Rent - 3 days' notice. (562.B.25 [1(2)])

2. Clear and Present Danger - 3 days' notice (562B.25A)

3. Violation of Park Rule - 30 days' notice - tenant has 14 days to correct the violation of park rule. If tenant refuses to correct the situation, the lease is broken 30 days after the original notice. If the tenant corrects the problem, the lease remains valid.

If substantially the same breach occurs again within a six month period, for which a previous written 30/14 notice was given, the lease may be broken with a non-curable 14 days' notice.

4. 60 days' notice - Iowa law gives you and the tenant this method of ending a lease. You don't have to give a specific reason when using the 60 days' notice, and you shouldn't.

   Just state that Iowa Code 562B.10 (4) gives both parties the right to cancel the lease and that you are exercising that right with the proper notice. However, if your lease term is for a year, the notice can only be given 60 days prior to the end of the lease year.

5. After the lease is terminated, and if the tenant refuses to move, you must go to the clerk of district court and file a forcible entry and detainer (FED) suit using the form available from the clerk.

   A 3 days' notice to quit is required before you file the FED suit unless you are terminating the lease because of non-payment of rent. (648.3)

   In the event you are using the clear and present danger provisions, the law allows you to file the three days' notice to quit at the same time, using on form, that you give notice for clear and present danger. (562B.25A.1)

   The judge will schedule a hearing within 8 days (648.5). You may also ask for a hearing within 15 days. The judge or defendant may ask you to schedule at 15 days instead of 8. You do not have to accept the 15 days if you want the 8 days. Notice must be given to the tenant at least 3 days before the hearing. The sheriff or professional server will deliver this to the tenant. The court may set a new hearing date if the tenant hasn't been given 3 days' notice.

   The judge will rule, primarily on whether the landlord has taken the proper legal steps. If you win, you have the option of having the home removed within 3 days or you can elect to leave the home on site for 60 days so that the evicted resident can sell or move the home. If the resident doesn't move the home during the first 3 days of the 60 days' period, the resident can't move the home without paying all money owed to the landlord. If the home isn't sold or moved after 60 days, the landlord can use provisions of chapter 555B or 555C without further court action. (648.22 A)

   Generally, you should not remove a tenant's home unless you have been given permission by a judge. Otherwise you run the risk of being sued by the tenant for damages. However, if the home is abandoned, you can move it, if you notify the sheriff.

At the same time that you file the FED action, you may also ask for money damages for back rent or other money owed. This provision keeps you from having to file two different court actions and will save you money. (648.19)

Written by: Joe M. Kelly
Executive Vice President

TIME AND NOTIFICATION SUMMARY
OF THE MOBILE HOME LANDLORD AND TENANT LAW

1. In computing time, you don't count the first day and must count the entire last day,. You can count Sunday, except when Sunday is the last day of the count. (4.1[34])

2. Leases are for 1 year unless you specify otherwise. (562B.10[4]) Leases can be canceled for no reason by either the landlord or tenant with a 60 days' notice prior to the end of the lease term. (562B.10[4])

3. Security deposits can't exceed 2 months' rent. (562B.13[1])

4. A landlord has 30 days after getting a forwarding address to return a security deposit or give a written explanation of the withholding of the deposit. (562B.13[5]) A tenant has 1 year to request a refund. (562B.13[5])

5. If there is a written lease, the tenant has 10 days to return a signed copy to the landlord. (562B.14[5])

6. A 60 days' notice is required for a rent increase. (562B.14[7]) Rent cannot be increased prior to the end of the lease term.

7. A 30 days' notice is required for amending your park rules. (562B.19[2])

8. A tenant may file a 30 days' notice to terminate the lease against the landlord with 14 days for the landlord to correct the alleged violation. (562B.22[1])

9. The landlord may give a tenant a 30 days' notice to terminate the lease if the tenant does not correct the alleged violation within 14 days. If the same violation occurs again within six months, for which a previous written notice was given, the lease may be canceled with a 14 days' non curable notice. (562B.25[1])

10. The landlord may give a tenant a 3 days' notice for nonpayment of rent. (562B.25[2])

11. The landlord may give a 3 days' non curable notice for a clear and present danger violation. (562B.25A)

12. You can get a hearing in a suit for possession within 8 days of filing, but a minimum notice to the tenant of 3 days is required before the court hearing. Landlords may also ask for a hearing within 15 days of filing, but do not have to accept a request for the defendant for 15 days. If posting, along with regular and certified mail, are the means of service, then service is not deemed complete until 4 days after the mailing were made. (648.5)

13. The park owner may recover no more than 90 days back rent and utility charges against a lender or legal owner of an abandoned home. (562B.27[1])

14. If you don't file suit for possession within 30 days after you have a right to do so, you cannot file suit for possession based on that breach. (648.18)

15. The tenant must advise the park owner within 10 days of any changes in the lien on a mobile home. (562B.27[2])

16. When a mobile home is sold to a third party, the park owner may, in order to upgrade the park, require that a rundown home be removed from the park. A 60 days' notice is required. (562B.19[3][C])

17. A landlord, after winning an eviction, may choose to leave the resident's home on site for 60 days so that the resident can sell the home. The resident may not live in the home during the 60 days' period. (648.22[A])

Written by: Joe M. Kelly
Executive Vice President

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SUBTITLE 3
LIENS (Chp 570-584)

CHAPTER 570
LANDLORD'S LIEN

Landlord and tenant generally, ch 562, 562A, 562B

SEC 570.1 Lien created — property subjected.

A landlord shall have a lien for the rent upon all crops grown upon the leased premises, and upon any other personal property of the tenant which has been used or kept thereon during the term and which is not exempt from execution.

[C51, § 1270; R60, § 2302; C73, § 2017; C97, § 2992; C24, 27, 31, 35, 39, § 10261; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 570.1]

SEC 570.2 Duration of lien.

Such lien shall continue for the period of one year after a year's rent, or the rent of a shorter period, falls due. But in no case shall such lien continue more than six months after the expiration of the term.

[C51, § 1270; R60, § 2302; C73, § 2017; C97, § 2992; C24, 27, 31, 35, 39, § 10262; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 570.2]

SEC 570.3 Limitation on lien in case of sale under judicial process.

In the event that a stock of goods or merchandise, or a part thereof, subject to a landlord's lien, shall be sold under judicial process, order of court, or by an assignee under a general assignment for benefit of creditors, the lien of the landlord shall not be enforceable against said stock or portion thereof, except for rent due for the term already expired, and for rent to be paid for the use of demised premises for a period not exceeding six months after date of sale, any agreement of the parties to the contrary notwithstanding.

[C97, § 2992; C24, 27, 31, 35, 39, § 10263; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 570.3]

SEC 570.4 Limitation on lien in case of crop failure.

In cases of farm leases involving the rental of farm lands of forty acres or more, where the tenant has defaulted in the payment of the rent and suit has been commenced aided by landlord's attachment for the enforcement of the landlord's lien, the defendant may file as a defense that the default or inability to pay is caused or brought about by reason of drought, flood, hail, storms, or other climatic conditions or infestation of pests affecting the crops in controversy. When such a defense has been filed, the issue as to the cause for the default shall be triable as an equitable action. Upon the hearing, if the court finds that the default or inability to pay is due to drought, flood, hail, storm, or other climatic conditions or infestation of pests affecting the crops in controversy, the court may enter a decree pursuant thereto with the court's finding of fact. Where a decree has been entered finding that the inability to pay was brought about by any of the conditions named in this section, the landlord's lien shall be confined to all of the crops grown and raised upon the premises and to all increase in livestock and hogs raised upon the premises.

The provisions of this section shall not apply to any farm leases executed prior to July 4, 1941.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 570.4]

SEC 570.5 Enforcement — proceeding by attachment.

The lien may be enforced by the commencement of an action, within the period above prescribed, for the rent alone, in which action the landlord shall be entitled to a writ of attachment, upon filing with the clerk a verified petition, stating that the action is commenced to recover rent accrued within one year previous thereto upon premises described in the petition; and the procedure thereunder shall be the same, as nearly as may be, as in other cases of attachment, except no bond shall be required.

[C51, § 1271; R60, § 2303; C73, § 2018; C97, § 2993; C24, 27, 31, 35, 39, § 10264; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 570.5]

Attachment, ch 639

SEC 570.6 Lien upon additional property.

If a lien for rent is given in a written lease or other instrument upon additional

property, it may be enforced in the same manner as a landlord's lien and in the same action.

[C51, § 1271; R60, § 2303; C73, § 2018; C97, § 2993; C24, 27, 31, 35, 39, § 10265; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 570.6]

SEC 570.7 Action by tenant to recover property.

An action brought by a tenant, the tenant's assignee or undertenant, to recover the possession of specific personal property taken under landlord's attachment, may be against the party who sued out the attachment; and the property claimed in such action may, under the writ herefor, be taken from the officer who seized it, when the officer has no other claim to hold it than that derived from the writ.

[R60, § 2770; C73, § 2575; C97, § 3490; C24, 27, 31, 35, 39, § 10266; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 570.7]

SEC 570.8 Acts sufficient to constitute taking of property.

The endorsement of a levy on the property, made upon the process by the officer holding it, shall be a sufficient taking of the property to sustain an action against the party who sued out the writ.

[R60, § 2770; C73, § 2575; C97, § 3490; C24, 27, 31, 35, 39, § 10267; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 570.8]

Levy generally, R.C.P. 258 et seq.; § 639.26

SEC 570.9 Sale of crops held by landlord's lien.

If any tenant of farm lands, with intent to defraud, shall sell, conceal, or in any manner dispose of any of the grain, or other annual products thereof upon which there is a landlord's lien for unpaid rent, without the written consent of the landlord, the tenant shall be guilty of theft.

[S13, § 4852-a; C24, 27, 31, 35, 39, § 10268; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 570.9]

Theft, ch 714

SEC 570.10 Action barred by payment of rent.

The payment of the rent for the lands upon which such grain or other annual products were raised at or before the time the same falls due, shall be a bar to any prosecution under section 570.9 and no prosecution shall be commenced until such rent be wholly due.

[S13, § 4852-b; C24, 27, 31, 35, 39, § 10269; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 570.10]

599.1 Period of minority -- exception for certain inmates.

The period of minority extends to the age of eighteen years, but all minors attain their majority by marriage.

A person who is less than eighteen years old, but who is tried, convicted, and sentenced as an adult and committed to the custody of the director of the department of corrections shall be deemed to have attained the age of majority for purposes of making decisions and giving consent to medical care, related services, and treatment during the period of the person’s incarceration.

Section History: Early form

[C51, § 1487; R60, § 2539; C73, § 2237; C97, § 3188; C24, 27,31,35,39, **§ 10492;** C46, 50, 54,58,62,66,71,73,75,77,79,81, § 599.1]

Section History: Recent form

93 Acts, ch 46, § 2

Internal References

Referred to in § 97B. 34A, 915.38

602.8105 Fees for civil cases and other services--collection and disposition.

1. The clerk of the district court shall collect the following fees:

a. Except as other wise provided in this subsection, for filing and docketing a petition, one hundred eighty-five dollars. In counties having a population of ninety – eight thousand or over, an additional five dollars shall be charged and collected to be known as the journal publication fee and used for the purposes provided for in section 618.13.
aa. For filing and docketing a petition pursuant to chapter 598 other than a dissolution of marriage petition, one hundred dollars.
b. For filing and docketing an application for modification of a dissolution decree to which a written stipulation is attached at the time of filing containing the agreement of the parties to the terms of modification, one hundred dollars.

c. For entering a final decree of dissolution of marriage, fifty dollars. It is the intent of the general assembly that the funds generated from the dissolution fees be appropriated and used for sexual assault and domestic violence centers.

cc. For filing and docketing a petition for adoption pursuant to chapter 600, one hundred dollars. For multiple adoption petitions filed at the same time by the same petitioner under section 600.3, the filing fee and any court costs for any petition filed in addition to the first petition filed are waived.
d. For filing and docketing a small claims action, the amounts specified in section 631.6.

e. For an appeal from a judgment in small claims or for a writ of error, one hundred eighty-five dollars.

f. For a motion to show cause in a civil case, fifty dollars.

2. The clerk of the district court shall collect the following fees for miscellaneous services:

a. For filing, entering, and endorsing a mechanic's lien, fifty dollars, and if a suit is brought, the fee is taxable as other costs in the action.

b. For filing and entering an agricultural supply dealer's lien and any other statutory lien, fifty dollars.

c. For a certificate and seal, twenty dollars. However, there shall be no charge for a certificate and seal to an application to procure a pension, bounty, or back pay for a member of the armed services or other person.

d. For certifying a change in title of real estate, fifty dollars.

e. Other fees provided by law.
gg. For filing a lis pendens, fifty dollars.
3. The clerk of the district court shall pay to the treasurer of state all fees which have come into the clerk's possession and which are unclaimed pursuant to section 556.8 accompanied by a form prescribed by the treasurer. Claims for payment of the moneys must be filed pursuant to chapter 556.

613.16 Parental responsibility for actions of children.

1. The parent or parents of an unemancipated minor child under the age of eighteen years shall be liable for actual damages to person or property caused by unlawful acts of such child. However, a parent who is not entitled to legal custody of the minor child at the time of the unlawful act shall not be liable for such damages.

2. The legal obligation of the parent or parents of an unemancipated minor child under the age of eighteen years to pay damages shall be limited as follows:

a. Not more than two thousand dollars for any one act.

b. Not more than five thousand dollars, payable to the same claimant, for two or more acts.

3. The word "*person*" for the purpose of this section shall include firm, association, partnership or corporation.

4. When an action is brought on parental responsibility for acts of their children, the parents shall be named as defendants therein and, in addition, the minor child shall be named as a defendant. The filing of an answer by the parents shall remove any requirement that a guardian ad litem be required.

Rental Judgments: Statute of Limitations

614 Limitations of Actions.

Section 1. Section 614.1,

5. *Written contracts —— judgments of courts not of record —— recovery of real property and rent .*
a. Except as provided in paragraph *"b"* , those founded on written contracts, or on judgments of any courts except those provided for in subsection 6 , and those brought for the recovery of real property, within ten years.
b. Those founded on claims for rent, within five years.

Sec. 2. Section 615.1, subsection 1
1. After the expiration of a period of two years from the date of entry of judgment, exclusive of any time during which execution on the judgment was stayed pending a bankruptcy action or order of court, a judgment entered in any of the following actions shall be null and void, all liens shall be extinguished, and no execution shall be issued except as a setoff or counterclaim:
a. For a real estate mortgage, deed of trust, or real estate contract executed prior to July 1, 2009, an action for the foreclosure of the real estate mortgage, deed of trust, or real estate contract upon property which at the time the foreclosure is commenced is either used for an agricultural purpose as defined in section 535.13 or as a one-family or two-family dwelling which is the residence of the mortgagor.
b. For a real estate mortgage, deed of trust, or real estate contract executed on or after July 1, 2009, an action for the foreclosure of the real estate mortgage, deed of trust, or real estate contract upon property which at the time of the execution of the mortgage, deed, or contract is either used for, or is being acquired for, an agricultural purpose as defined in section 535.13 or as a one-family or two-family dwelling which is the residence of the mortgagor.

615.1A Execution on judgment —— claim for rent.

After the expiration of a period of ten years from the date of entry of judgment of a court not of record, or twenty years from the date of entry of judgment of a court of record, in an action on a claim for rent, exclusive of any time during which execution on the judgment was stayed pending a bankruptcy action or order of court, such judgment shall be null and void, all liens shall be extinguished, and no execution shall be issued. However, in the event that the judgment or the right to collect thereon is sold or otherwise assigned for value to a third party other than a state or federally chartered bank or credit union, such judgment shall be null and void, all liens shall be extinguished, and no execution shall be issued after the expiration of two years from the date of entry of the judgment, exclusive of any time during which execution on the judgment was stayed pending a bankruptcy action or order of court. 2013 Acts, ch 95, §3; 2018 Acts, ch 1148, §2

CHAPTER 618
PUBLICATION AND POSTING OF NOTICES
15 XV 3
Counties; see also ch 349

SEC 618.1 Publications in English.

All notices, proceedings, and other matter whatsoever, required by law or ordinance to be published in a newspaper, shall be published only in the English language and in newspapers published wholly in the English language.

[C73, § 306, 307; C97, § 549; S13, § 549; C24, 27, 31, 35, 39, § 11098; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 618.1]

SEC 618.2 Violation.

Any public official who violates the provisions of section 618.1 or who willfully fails to make publication as now required of the public official by law of any notice, report of proceedings or other matter whatsoever, shall be guilty of a simple misdemeanor.

[C97, § 550; C24, 27, 31, 35, 39, § 11099; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 618.2]

SEC 618.3 Requirements for newspaper for official publication.

For the purpose of establishing and giving assured circulation to all notices and reports of proceedings required by statute to be published within the state, if newspapers are required to be used, only a newspaper which meets all of the following requirements shall be designated for official publication purposes:

1. Is a newspaper of general circulation issued at a regular frequency that has been published within the area and regularly mailed through the post office of entry for at least two years.
2. Has a list of subscribers who have paid, or promised to pay, at more than a nominal rate, for copies to be received during a stated period.
3. Devotes at least twenty-five percent of its total column space in more than one-half of its issues during any twelve-month period to information of a public character other than advertising.
4. Is paid for by at least fifty percent of the persons or subscribers to whom it is distributed.

[C35, § 11099-e1; C39, § 11099.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 618.3]

86 Acts, ch 1183, § 4

SEC 618.4 Change in name — effect.

A change of name or ownership of a newspaper thus designated that does not affect its general circulation as above required shall in no way disqualify such newspaper for selection in making such publication of legal notices.

[C35, § 11099-e2; C39, § 11099.2; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 618.4]

SEC 618.5 Permissible selection.

Publications may be made in a newspaper published once a week.

[C73, § 3832; C97, § 1293; S13, § 1293; C24, 27, 31, 35, 39, § 11100; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 618.5]

SEC 618.6 Selection by plaintiff.

The plaintiff or executor or the plaintiff's or executor's attorney, in all publications concerning actions, executions, and estates, may designate the newspaper in which such publication shall be made.

[C73, § 3832; C97, § 1293; S13, § 1293; C24, 27, 31, 35, 39, § 11101; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 618.6]

SEC 618.7 Selection by county officers.

The clerk of the district court, sheriff, auditor, treasurer, and recorder shall designate the newspapers in which the notices pertaining to their respective

offices shall be published and the board of supervisors shall designate the newspapers in which all other county notices and proceedings, not required to be published in the official county newspapers, shall be published.

[R60, § 314; C73, § 306; C97, § 549; S13, § 549; C24, 27, 31, 35, 39, § 11102; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 618.7]

SEC 618.8 Refusal to publish.

If publication be refused when copy therefor, with the cost or security for payment of the cost, is tendered, such publication may be made in some other newspaper of general circulation at or nearest to the county seat, with the same effect as if made in the newspaper so refusing.

[C73, § 3832; C97, § 1293; S13, § 1293; C24, 27, 31, 35, 39, § 11103; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 618.8]

SEC 618.9 Days of publication.

When the publication is in a newspaper which is published oftener than once a week, the succeeding publications of such notice shall be on the same day of the week as the first publication. This section shall not apply to any notice for the publication of which provision inconsistent herewith is specially made.

[S13, § 1293-a; C24, 27, 31, 35, 39, § 11104; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 618.9]

SEC 618.10 Payment for publication.

Publications required by law shall, in the first instance, be paid for by the party causing publication, and shall be taxed as costs in the proceeding.

[C51, § 2558; R60, § 4165; C73, § 3838; C97, § 1296; C24, 27, 31, 35, 39, § 11105; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 618.10]

SEC 618.11 Fees for publication.

The compensation, when not otherwise fixed, for the publication in a newspaper of any notice, order, citation, or other publication required or allowed by law, shall not exceed twenty-six cents for one insertion, and seventeen cents for each subsequent insertion, for each line of eight-point type two inches in length, or its equivalent. Publication of matter which may be photographically reproduced for printing instead of typeset shall be compensated at a rate not to exceed the lowest available earned rate for any similar advertising matter. Statements of itemized financial and other like columnar matter shall be published in tabular form without additional compensation. In case of controversy or doubt regarding measurements, style, manner, or form, the controversy shall be referred to the executive council, and its decision is final.

[C73, § 3832; C97, § 1293; S13, § 1293; C24, 27, 31, 35, 39, § 11106; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 618.11]

86 Acts, ch 1183, § 5

SEC 618.12 Fee for posting.

In all cases where an officer in the discharge of the officer's duty is required to post an advertisement or notice, the officer shall, when not otherwise provided, be allowed twenty-five cents, and the same mileage as a sheriff.

[C51, § 2558; R60, § 4165; C73, § 3838; C97, § 1296; C24, 27, 31, 35, 39, § 11107; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 618.12]

Effect of notice by posting. See R.C.P. 369.

SEC 618.13 Publication of docket in certain counties.

When the petition provided for in rule of civil procedure 70 is filed with the clerk of the district court in a county of ninety-eight thousand population or over, the names of the parties plaintiff and defendant in such action, the description of the real estate involved, if any, except for quieting title, partition, and suits involving tax assessments, and the names of the attorneys for the plaintiff, and the docket number assigned to such case, may, in the event the majority of the judges of the judiciary district in which such county lies, so direct, be published once in a daily newspaper having a general circulation in said county; such paper to be designated by a majority of the judges of the district court. Provided, that whenever thereafter such case is assigned for trial or any other pleadings are filed therein, or court action taken with reference thereto, except general orders of court for continuations, the title of such case and kind of pleading shall be published, and if it is in an assignment for trial it shall be carried in printed assignment from day to day until final disposition.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 618.13]

92 Acts, ch 1240, § 21

SEC 618.14 Publication of matters of public importance.

The governing body of any municipality or other political subdivision of the state may publish, as straight matter or display, any matter of general public importance, in one or more newspapers, as defined in section 618.3 published in and having general circulation in such municipality or political subdivision, at the legal or appropriate commercial rate, according to the character of the matter published.

In the event there is no such newspaper published in such municipality or political subdivision or in the event publication in more than one such newspaper is desired, publication may be made in any such newspaper having general circulation in such municipality or political subdivision.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 618.14]

87 Acts, ch 221, §34

SEC 618.15 Service by certified mail.

Wherever used in this Code, the following words shall have the meanings respectively ascribed to them unless such meanings are repugnant to the context:

1. The words, "certified mail" mean any form of mail service, by whatever name, provided by the United States post office where the post office provides the mailer with a receipt to prove mailing.

2. The words, "restricted certified mail" mean any form of certified mail as defined in subsection 1 which carries on the face thereof, in a conspicuous place where it will not be obliterated, the endorsement, "Deliver to addressee only", and for which the post office provides the mailer with a return receipt showing the date of delivery, the place of delivery, and person to whom delivered.

[C31, 35, § 5079-d16; C39, § 5038.06; C46, 50, 54, § 321.503; C58, 62, 66, 71, 73, 75, 77, 79, 81, § 618.15]

SEC 618.16 Zoned editions of same newspaper.

Publication requirements for governmental subdivisions of the state shall be deemed satisfied when publication is made in editions or zoned editions which are delivered to an area within the jurisdiction of the subdivision making the publication even though publication is not made in other editions of the same newspaper.

86 Acts, ch 1183, § 6; 89 Acts, ch 214, §6

SEC 618.17 Minimum type size.

A publication required by law shall be printed in type no smaller than six point.

89 Acts, ch 214, §7

SEC 618.18 Timely publication required.

When a publication required by law is not published within one month of submission to the newspaper, the maximum compensation established by law shall be reduced by twenty-five percent.

89 Acts, ch 214, §8

627.6 Exemption of Rents and Security Deposits From Bankruptcy and Garnishment

14. The debtor's interest, not to exceed one thousand dollars in the aggregate, in any cash on hand, bank deposits, credit union share drafts, or other deposits, wherever situated, or in any other personal property whether otherwise exempt or not under this chapter.

CHAPTER 631
SMALL CLAIMS

631.1 Small claims — jurisdiction.

1. The following actions or claims are small claims and shall be commenced, heard and determined as provided in this chapter:

a. A civil action for a money judgment where the amount in controversy is five thousand dollars or less for actions commenced before July 1, 2018, exclusive of interest and costs.

b. A civil action for a money judgment where the amount in controversy is six thousand five hundred dollars or less for actions commenced on or after July 1, 2018, exclusive of interest and costs.

2. The district court sitting in small claims shall have concurrent jurisdiction of an action for forcible entry and detainer which is based on those grounds set forth in section 648.1, subsections 1, 2, 3 and 5. When commenced under this chapter, the action shall be a small claim for the purposes of this chapter.

3. The district court sitting in small claims has concurrent jurisdiction of an action of replevin if the value of the property claimed is five thousand dollars or less for actions commenced before July 1, 2018, and six thousand five hundred dollars or less for actions commenced on or after July 1, 2018. When commenced under this chapter, the action is a small claim for the purposes of this chapter.

4. The district court sitting in small claims has concurrent jurisdiction of motions and orders relating to executions against personal property, including garnishments, where the value of the property or garnisheed money involved is five thousand dollar sor less for actions commenced before July 1, 2018, and six thousand five hundred dollars or less for actions commenced on or after July 1, 2018.

5. The district court sitting in small claims has concurrent jurisdiction of an action for abandonment of a manufactured or mobile home or personal property pursuant to section 555B.3, if no money judgment in excess of five thousand dollars is sought for actions commenced before July 1, 2018, and six thousand five hundred dollars or less for actions commenced on or after July 1, 2018. If commenced under this chapter, the action is a small claim for the purposes of this chapter.

6. The district court sitting in small claims has concurrent jurisdiction of an action to challenge a mechanic's lien pursuant to sections 572.24 and 572.32.

7. The district court sitting in small claims has concurrent jurisdiction of an action for the collection of taxes brought by a county treasurer pursuant to sections 445.3 and 445.4 where the amount in controversy is five thousand dollars or less for actions commenced before July 1, 2018, and six thousand five hundred dollars or less for actions commenced on or after July 1, 2018, exclusive of interest and costs.

8. The district court sitting in small claims has concurrent jurisdiction of motions and orders relating to releases of judgments in whole or in part including motions and orders under section 624.23, subsection 2, paragraph "c" and section 624.37, where the amount owing on the judgment, including interests and costs, is five thousand dollars or less for actions commenced before July 1, 2018, and six thousand five hundred dollars or less for actions commenced on or after July 1, 2018.

9. The district court sitting in small claims has concurrent jurisdiction of an action to determine ownership of goods under section 714.28 relating to claims against purchased or pledged goods held by pawnbrokers, regardless of the value of the items in dispute.

SEC 631.2 Jurisdiction and procedures.

1. The district court sitting in small claims shall exercise the jurisdiction conferred by this chapter, and shall determine small claims according to the statutes and the rules prescribed by this chapter. Except when transferred from the small claims docket as provided in section 631.8, small claims may be tried by a judicial magistrate, a district associate judge, or a district judge.

2. The clerk of the district court shall maintain a separate small claims docket which shall contain all matters relating to small claims which are required by section 602.8104, subsection 2, paragraph "e", to be contained in a combination docket.

3. Statutes and rules relating to venue and jurisdiction shall apply to small claims, except that a provision of this chapter which is inconsistent therewith shall supersede that statute or rule.

SEC 631.3 Commencement of actions — clerk to furnish forms — subpoena.

1. All actions shall be commenced by the filing of an original notice with the clerk. At the time of filing, the clerk shall enter on the original notice and the copies to be served, the file number and the date the action is filed.

2. The clerk shall furnish standard forms as provided in section 631.15, as such pleadings may be required. The clerk may furnish information to any party to enable the party to complete a form.

3. The clerk shall cause to be entered upon each copy of the original notice and in the docket the time within which the defendant is required to appear, which time shall be determined in accordance with section 631.4.

4. Upon the request of a party to the action, the clerk or a judicial officer shall issue subpoenas for the attendance of witnesses at a hearing. Sections 622.63 to 622.67, 622.69, 622.76 and 622.77 apply to subpoenas issued pursuant to this chapter.

SEC 631.4 Service — time for appearance.

The manner of service of original notice and the times for appearance shall be as provided in this section.

1. Actions for money judgment or replevin. In an action for money judgment or an action of replevin the clerk shall cause service to be obtained as follows, and the defendant is required to appear within the period of time specified:

a. If the defendant is a resident of this state, or if the defendant is a nonresident of this state and is subject to the jurisdiction of the court under rule of civil procedure 56.2, the plaintiff may elect service under this paragraph, and upon receipt of the prescribed costs the clerk shall mail to the defendant by certified mail, restricted delivery, return receipt to the clerk requested, a copy of the original notice together with a conforming copy of an answer form. The defendant is required to appear within twenty days following the date service is made.

b. If the defendant is a resident of this state, or if the defendant is a nonresident of this state and is subject to the jurisdiction of the court under rule of civil procedure 56.2, the plaintiff may elect service under this paragraph, and upon receipt of the prescribed costs the clerk shall cause a copy of the original notice and a conforming copy of an answer form to be delivered to a peace officer or other person for personal service as provided in rule of civil procedure 52, 56.1 or 56.2. The defendant is required to appear within twenty days following the date service is made.

c. If the defendant is a nonresident of this state and is subject to the jurisdiction of the court under rule of civil procedure 56.2, the plaintiff may elect service in any other manner that is approved by the court as provided in that rule, and the defendant is required to appear within sixty days after the date of service.

d. If the defendant is a nonresident of this state and is subject to the jurisdiction of the court under section 617.3, the plaintiff may elect that service be made as provided in that section. The clerk shall collect the prescribed fees and costs, and shall cause duplicate copies of the original notice to be filed with the secretary of state and shall cause a copy of the original notice and a conforming copy of an answer form to be mailed to the defendant in the manner prescribed in section 617.3. The defendant is required to appear within sixty days from the date of filing with the secretary of state.

2. Actions for forcible entry or detention.

a. In an action for forcible entry and detainer under chapter 648, the clerk shall set a date, time and place for hearing, and shall cause service as provided in this subsection.

b. Original notice shall be served personally upon each defendant as provided in rule 56.1 of the rules of civil procedure, which service shall be made at least three days prior to the date set for hearing. Upon receipt of the prescribed costs the clerk shall cause the original notice to be delivered to a peace officer or other person for service upon each defendant.

c. If personal service cannot be made upon each defendant, as provided in rule of civil procedure 56.1, the plaintiff may elect to post, after at least two attempts to perfect service upon each defendant, one or more copies of the original notice upon the real property being detained by each defendant at least three days prior to the date set for hearing. The attempts to perfect personal service may be made on the same day. In addition to posting, the plaintiff shall also mail, by certified mail, to each defendant, at the place held out by each defendant as the place for receipt of such communications or, in the absence of such designation, at each defendant's last known place of residence, a copy of the original notice at least three days prior to the date set for hearing. Under this paragraph, service shall be deemed complete upon each defendant by the filing with the clerk of the district court of one or more affidavits indicating that a copy of the original notice was both posted and mailed to each defendant as provided in this paragraph, whether or not the defendant signs a receipt for the notice.

d. If personal service cannot be made upon each defendant in an action for forcible entry and detainer joined with an action for rent or recovery pursuant to section 648.19, service may be made pursuant to paragraph "c".

3. Actions for abandonment of manufactured or mobile homes or personal property pursuant to chapter 555B.

a. In an action for abandonment of a manufactured or mobile home or personal property, the clerk shall set a date, time, and place for hearing, and shall cause service to be made as provided in this subsection.

b. Original notice shall be served personally on each defendant as provided in section 555B.4.

SEC 631.5 Appearance — default.

This section applies to all small claims except actions for forcible entry and detainer pursuant to chapter 648 and actions for abandonment of mobile homes or personal property pursuant to chapter 555B.

1. Appearance. A defendant may appear in person or by attorney, and by the denial of a claim a defendant does not waive any defenses.

2. Hearing set. If all defendants either have entered a timely appearance or have defaulted, the clerk shall assign a contested claim to the small claims calendar for hearing at a place and time certain. The time of hearing shall be not less than five days nor more than twenty days after the latest timely appearance, unless otherwise ordered by the court. The clerk shall transmit the original notice and all other papers relating to the case to the judicial officer to whom the case is assigned, and copies of all papers so transmitted shall be retained in the clerk's office.

3. Partial service. If the plaintiff has joined more than one defendant, and less than all defendants are served with notice as determined by subsection 4, the plaintiff may elect to proceed against all defendants served or may elect to have a continuance, issuable by the clerk, to a date certain not more than sixty days thereafter. If the plaintiff elects to proceed, the action shall be dismissed without prejudice as against each defendant not served with notice.

4. Return of service. Proper notice shall be established by a signed return receipt or a return of service as provided in rule 59 of the rules of civil procedure.

5. Notification to parties. When a small claim is set for hearing the clerk immediately shall notify by ordinary mail each party or the attorney representing the party, and the judicial officer to whom the action is assigned, of the date, time and place of hearing.

6. Default. If a defendant fails to appear and the clerk in accordance with subsection 4 determines that proper notice has been given, judgment shall be rendered against the defendant by the clerk if the relief is readily ascertainable. If the relief is not readily ascertainable the claim shall be assigned to a judicial magistrate for determination and the clerk shall immediately notify the plaintiff or the plaintiff's attorney and the judicial magistrate of such assignment by ordinary mail.

SEC 631.6 Fees and costs.

1. The clerk of the district court shall collect the following fees and costs in small claims actions, which shall be paid in advance and assessed as costs in the action:

a. Fees for filing and docketing shall be fifty dollars.

b. Fees for service of notice on nonresidents are as provided in section 617.3.

c. Postage charged for the mailing of original notice shall be the actual costs of the postage.

d. Fees for personal service by peace officers or other officials of the state are the amounts specified by law.

2. The amounts collected for filing and docketing shall be distributed as provided in section 602.8108.

Section stricken and rewritten

SEC 631.7 Parties, pleadings and motions.

1. Except as specifically provided in this chapter, there shall be no written pleadings or motions unless the court in the interests of justice permits them, in which event they shall be similar in form to the original notice.

2. Motions, except a motion under rule 34 of the rules of civil procedure, shall be heard only at the time set for a hearing on the merits.

3. Except as provided in section 631.8, subsection 4, a counterclaim, cross-petition or intervention shall be in writing and in the form promulgated under section 631.15. Copies shall be submitted for each party appearing, and shall be mailed by ordinary mail to those parties by the clerk. A cross-petition against persons not a party to the action shall be made pursuant to rule 34 of the rules of civil procedure and the new party shall be served with notice as provided in this chapter.

4. The rules of civil procedure pertaining to actions, joinder of actions, parties and intervention shall apply to small claims actions, except that rule 29 shall not apply. No counterclaim is necessary to assert an offset arising out of the subject matter of the plaintiff's claim. A counterclaim, cross-petition, or intervention against an existing party is deemed denied and no responsive pleading by such party is required.

SEC 631.8 Procedure.

1. Small claims not determined within ninety days following the expiration of any period of continuance or following the last entry placed on the record for that action shall be dismissed by the clerk without prejudice.

2. In small claims actions, if a party joins a small claim with one which is not a small claim, the court shall:

a. Order the small claim to be heard under this chapter and dismiss the other claim without prejudice, or

b. As to parties who have appeared or are existing parties, either (1) order the small claim to be heard under this chapter and the other claim to be tried by regular procedure or (2) order both claims to be tried by regular procedure.

3. If commenced as a regular civil action or under the statutes relating to probate proceedings, a small claim shall be transferred to the small claims docket. A small claim commenced as a regular action shall not be dismissed but shall be transferred to the small claims docket. Civil and probate actions not small claims but commenced hereunder shall be dismissed without prejudice except for defendants who have appeared, as to whom such actions shall be transferred to the combination or probate docket, as appropriate.

4. In small claims actions, a counterclaim, cross claim, or intervention in a greater amount than that of a small claim shall be in the form of a regular pleading. A copy shall be filed for each existing party. New parties, when permitted by order, may be brought in under rule 34 of the rules of civil procedure and shall be given notice under the rules of civil procedure pertaining to commencement of actions. The court shall either order such counterclaim, cross claim, or intervention to be tried by regular procedure and the other claim to be heard under this division, or order the entire action to be tried by regular procedure.

5. In regular action, when a party joins a small claim with one which is not a small claim, regular procedure shall apply to both unless the court transfers the small claim to the small claims docket for hearing under this division.

6. In regular actions, a counterclaim, cross claim, or intervention in the amount of a small claim shall be pleaded, tried, and determined by regular procedure, unless the court transfers the small claim to the small claims docket for hearing under this division.

7. Pleadings which are not in correct form under this section shall be ordered amended so as to be in correct form; but a small claim which is proceeding under this chapter need not be amended although in the form of a regular pleading.

8. Copies of any papers filed by the parties which are not required to be served, shall be mailed or delivered by the clerk as provided in rule 82 of the rules of civil procedure.

SEC 631.9 Jurisdiction determined.

At the time set for the hearing of a small claim, the court first shall determine that proper notice as provided in section 631.5, subsection 4, has been given a party before proceeding further as to that party, unless the party has appeared or is an existing party, and also shall determine that the action is properly brought as a small claim.

SEC 631.10 Failure to appear — effect.

Unless good cause to the contrary is shown, if the parties fail to appear at the time of hearing the claim shall be dismissed without prejudice by the court; if the plaintiff fails to appear but the defendant appears, the claim shall be dismissed with prejudice by the court with costs assessed to the plaintiff; and if the plaintiff appears but the defendant fails to appear, judgment may be rendered against the defendant by the court. The filing by the plaintiff of a verified account, or an instrument in writing for the payment of money with an affidavit the same is genuine, shall constitute an appearance by plaintiff for the purpose of this section.

SEC 631.11 Hearing.

1. Informality. The hearing shall be to the court, shall be simple and informal, and shall be conducted by the court itself, without regard to technicalities of procedure.

2. Evidence. The court shall swear the parties and their witnesses, and examine them in such a way as to bring out the truth. The parties may participate, either personally or by attorney. The court may continue the hearing from time to time and may amend new or amended pleadings, if justice requires.

3. Record. Upon the trial, the judicial magistrate shall make detailed minutes of the testimony of each witness and append the exhibits or copies thereof to the record. The proceedings upon trial shall not be reported by a certified court reporter, unless the party provides the reporter at such party's expense. The magistrate, in the magistrate's discretion, may cause the proceedings upon trial to be reported electronically. If the proceedings are being electronically recorded both parties shall be notified in advance of that recording. If the proceedings have been reported electronically the recording shall be retained under the jurisdiction of the magistrate unless appealed, and upon appeal shall be transcribed only by a person designated by the court under the supervision of the magistrate.

4. Judgment. Judgment shall be rendered, based upon applicable law and upon a preponderance of the evidence.

5. Destruction of recordings. Unless an appeal is taken, an electronic recording of a proceeding in small claims shall be retained until the time for appeal has expired as specified in section 631.13. Thereafter, the magistrate may direct that the recording tape or other device be erased and used for subsequent recordings. If the proceeding is appealed, the recording may be erased following entry of judgment by the district judge hearing the appeal.

SEC 631.12 Entry of judgment — setting aside default judgment.

The judgment shall be entered in a space on the original notice first filed, and the clerk shall immediately enter the judgment in the small claims docket and district court lien book, without recording. Such relief shall be granted as is appropriate. Upon entering judgment, the court may provide for installment payments to be made directly by the party obligated to the party entitled thereto; and in such event execution shall not issue as long as such payments are made but execution shall issue for the full unpaid balance of the judgment upon the filing of an affidavit of default. When entered on the small claims docket and district court lien book, a small claims judgment shall constitute a lien to the same extent as regular judgments entered on the district court judgment docket and lien book; but if a small claims judgment requires installment payments, it shall not be enforceable until an affidavit of default is filed.

A defendant may move to set aside a default judgment in the manner provided for doing so in district court by rule of civil procedure 236.

SEC 631.13 Appeals.

1. Notice. An appeal from a judgment in small claims may be taken by any party by giving oral notice to the court at the conclusion of the hearing, or by filing a written notice of appeal with the clerk within twenty days after judgment is rendered. In either case, the appealing party shall pay to the clerk within that twenty days the usual district court docket fee to perfect the appeal. No appeal shall be taken after twenty days.

2. Stay of judgment. Execution of judgment shall be stayed upon the filing with the clerk of the district court an appeal bond with surety approved by the clerk, in the sum specified in the judgment.

3. Transcript. Within twenty days after an appeal is taken, unless extended by order of a district judge or by stipulation of the parties, any party may file with the clerk as part of the record a transcript of the official report, if any, or in the event the report was made electronically, a transcription of the recording. If a transcription of an electronic recording is filed, the record on appeal shall contain the tape or other medium on which the proceedings were preserved. A transcription of an electronic recording shall be provided any party upon request and upon payment by the party of the actual costs of transcription.

4. Procedure on appeal.

a. The appeal shall be promptly heard upon the record thus filed without further evidence. If the original action was tried by a district judge, the appeal shall be decided by a different district judge. If the original action was tried by a district associate judge, the appeal shall be decided by a district judge. If the original action was tried by a judicial magistrate, the appeal shall be decided by a district judge or a district associate judge. The judge shall decide the appeal without regard to technicalities or defects which have not prejudiced the substantial rights of the parties, and may affirm, reverse, or modify the judgment, or render judgment as the judge or magistrate should have rendered.

If the record, in the opinion of the deciding judge, is inadequate for the purpose of rendering a judgment on appeal, the judge may order that additional evidence be presented relative to one or more issues, and may enter any other order which is necessary to protect the rights of the parties. The judge shall take minutes of any additional evidence, but the hearing shall not be reported by a certified court reporter.

b. Upon entry of judgment the clerk may cause any recording tape or other device contained in the record to be erased for subsequent use.

SEC 631.14 Representation in small claims actions.

1. Actions constituting small claims may be brought or defended by an individual, partnership, association, corporation, or other entity. In actions in which a person other than an individual is a party, that person may be represented by an officer or an employee.

2. In actions concerning residential rental property that is titled in the name of one or more individuals, an employee of one or more of the titled owners, or an officer or employee of a property management entity acting on behalf of one or more of the titled owners, may bring or defend an action in the name of the titled owners, the property management entity, or the name by which the property is commonly known. Notwithstanding any other provision to the contrary, if the defendant or plaintiff has been improperly named in the petition in an action concerning residential rental property, the real party in interest shall be substituted at the time the error is identified and the action shall not be dismissed or delayed except to the extent necessary to identify and serve the real parties in interest.

3..A person who in the regular course of business takes assignments of instruments or accounts pursuant to chapter 539, which assignments constitute small claims, may bring an action on an assigned instrument or account in the person's own name and need not be represented by an attorney, provided that in an action brought to recover payment on a dishonored check or draft, as defined in section 554.3104, the action is brought in the county of residence of the maker of the check or draft or in the county where the draft or check was first presented. Any person, however, may be represented in a small claims action by an attorney.

SEC 631.15 Standard forms.

The supreme court shall prescribe standard forms of pleadings to be used in small claims actions. Standard forms promulgated by the supreme court shall be the exclusive forms used.

Forms prescribed by the Supreme Court are published in the compilation "Iowa Court Rules"

SEC 631.16 Discretionary review.

1. A civil action originally tried as a small claim shall not be appealed to the supreme court except by discretionary review as provided herein.

2. "Discretionary review" is the process by which the supreme court may exercise its discretion, in like manner as under the rules pertaining to interlocutory appeals and certiorari in civil cases, to review specified matters not subject to appeal as a matter of right. The supreme court may adopt additional rules to control access to discretionary review.

3. The party seeking review shall be known as the appellant and the adverse party as the appellee, but the title of the action shall not be changed from that in the court below.

4. The record and case shall be presented to the appellate court as provided by the rules of appellate procedure; and the provisions of law in civil procedure relating to the filing of decisions and opinions of the appellate court shall apply in such cases.

5. The appellate court, after an examination of the entire record, may dispose of the case by affirmation, reversal or modification of the lower court judgment, and may order a new trial.

6. The decision of the appellate court with any opinion filed or judgment rendered must be recorded by the supreme court clerk. Procedendo shall be issued as provided in the rules of appellate procedure.

7. The jurisdiction of the appellate court shall cease when procedendo is issued. All proceedings for executing the judgment shall be had in the trial court or by its clerk.

Rules adopted by the Supreme Court are published in the compilation "Iowa Court Rules"

SEC 631.17 Prohibited practices.

1. The district court, after due notice and hearing, may bar a person from appearing on the person's own behalf in any court governed by this chapter on a cause of action purchased by or assigned for collection to that person for any of the following:

a. Falsely holding oneself out as an attorney at law.

b. Repeatedly filing claims for costs allowed under section 625.22 which have been found by the court to have been exaggerated or without merit.

c. A pattern of conduct in violation of article 7 of chapter 537.

2. A person barred pursuant to subsection 1 shall not derive any benefit, directly or indirectly, from any case brought pursuant to this chapter within the purview of the order of bar issued by the district court.

3. The district court shall dismiss any pending case based on a cause of action purchased or assigned for collection brought on the person's own behalf by a person barred pursuant to subsection 1, and shall assess the costs against that person.

4. The district court shall dismiss any case subsequently brought directly or indirectly by a person subject to a bar pursuant to subsection 1 in violation of that subsection and shall assess all costs to that person, and the court shall assess a further civil fine of one hundred dollars against that person for each such case dismissed.

5. The district court shall retain jurisdiction over a person barred pursuant to subsection 1 and may punish violations of the court's order of bar as a matter of criminal contempt.

CHAPTER 648
FORCIBLE ENTRY OR DETENTION OF REAL PROPERTY

SEC 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]

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.

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 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.

SEC 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 to 562.7

See also § 562.4, ch 562A, 562B

SEC 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. The notice requirements of this section shall be deemed to have been satisfied if the defendant or the defendant’s attorney appears at the hearing. If the hearing will be held fewer than three days after service of the original notice or if notice is deemed satisfied pursuant to this subsection, the court shall inform the defendant that the defendant has the right to a continuance and shall grant a continuance at the defendant’s request to allow the defendant to prepare for the hearing or to retain an attorney.

6. 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.

7. 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.

SEC 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.

SEC 648.9 Change of venue.

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

SEC 648.10 to 648.14 Repealed by 72 Acts, ch 1124, § 282.

SEC 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]

SEC 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]

SEC 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.

SEC 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.

SEC 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

SEC 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]
SEC 648.21 Repealed by 72 Acts, ch 1124, § 282.
15 XV 5 648sec648.21 648.21 Repealed by 72 Acts, ch 1124, § 282.

SEC 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 accordingly, to which shall be added a clause commanding the officer to collect the costs as in ordinary cases.

SEC 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 648.22B.

SEC 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 agreement 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 the 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 disbursement 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.

SEC 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]

CHAPTER 657 NUISANCES

657.1 NUISANCE -- WHAT CONSTITUTES -- ACTION TO ABATE -- ELECTRIC UTILITY DEFENSE.

1. Whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstruction to the free use of property, so as essentially to interfere unreasonably with the comfortable enjoyment of life or property, is a nuisance, and a civil action by ordinary proceedings may be brought to enjoin and abate the nuisance and to recover damages sustained on account of the nuisance. A petition filed under this subsection shall include the legal description of the real property upon which the nuisance is located unless the nuisance is not situated on or confined to a parcel of real property or is portable or capable of being removed from the real property.

2. Notwithstanding subsection 1, in an action to abate a nuisance against an electric utility, an electric utility may assert a defense of comparative fault as set out in section 668.3 if the electric utility demonstrates that in the course of providing electric services to its customers it has complied with engineering and safety standards as adopted by the utilities board of the department of commerce, and if the electric utility has secured all permits and approvals, as required by state law and local ordinances, necessary to perform activities alleged to constitute a nuisance. Section History: Early Form

657.2 WHAT DEEMED NUISANCES.

The following are nuisances:

1. The erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.

2. The causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.

3. The obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.

4. The corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.

5. The obstructing or encumbering by fences, buildings, or otherwise the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.

6. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, places resorted to by persons participating in criminal gang activity prohibited by chapter 723A, or places resorted to by persons using controlled substances, as defined in section 124.101, subsection 5, in violation of law, or houses where drunkenness, quarreling, fighting, or breaches of the peace are carried on or permitted to the disturbance of others.

7. Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard, or alley or of a railroad or street railway track as to render dangerous the use thereof.

8. Any object or structure hereafter erected within one thousand feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation, including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.

9. The depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by dealers in such articles within the fire limits of a city, unless in a building of fireproof construction, is a public nuisance.

10. The emission of dense smoke, noxious fumes, or fly ash in cities is a nuisance and cities may provide the necessary rules for inspection, regulation and control.

11. Dense growth of all weeds, vines, brush, or other vegetation in any city so as to constitute a health, safety, or fire hazard is a public nuisance.

12. Trees infected with Dutch elm disease in cities.

Section History: Early Form

657.3 PENALTY -- ABATEMENT.

Whoever is convicted of erecting, causing, or continuing a public or common nuisance as provided in this chapter, or at common law when the same has not been modified or repealed by statute, where no other punishment therefor is specially provided, shall be guilty of an aggravated misdemeanor and the court may order such nuisance abated, and issue a warrant as hereinafter provided.

657.4 PROCESS.

When upon indictment, complaint, or civil action any person is found guilty of erecting, causing, or continuing a nuisance, the court before whom such finding is had may, in addition to the fine imposed, if any, or to the judgment for damages or cost for which a separate execution may issue, order that such nuisance be abated or removed at the expense of the defendant, and, after inquiry into and estimating as nearly as may be the sum necessary to defray the expenses of such abatement, the court may issue a warrant therefor.

657.6 STAY OF EXECUTION.

Instead of issuing such warrant, the court may order the same to be stayed upon motion of the defendant, and upon the defendant's entering into an undertaking to the state, in such sum and with such surety as the court may direct, conditioned either that the defendant will discontinue said nuisance, or that, within a time limited by the court, and not exceeding six months, the defendant will cause the same to be abated and removed, as either is directed by the court; and, upon the defendant's failure to perform the condition of the defendant's undertaking, the same shall be forfeited, and the court, upon being satisfied of such default, may order such warrant forthwith to issue, and action may be brought on such undertaking.

657.7 EXPENSES -- HOW COLLECTED.

The expense of abating a nuisance by virtue of a warrant can be collected by the officer in the same manner as damages and costs are collected on execution, except that the materials of any buildings, fences, or other things that may be removed as a nuisance may be first levied upon and sold by the officer, and if any of the proceeds remain after satisfying the expense of the removal, such balance must be paid by the officer to the defendant, or to the owner of the property levied upon; and if said proceeds are not sufficient to pay such expenses, the officer must collect the residue thereof.

657.10 MEDIATION NOTICE.

Notwithstanding this chapter, a person, required under chapter 654B to participate in mediation, shall not begin a proceeding subject to this chapter until the person receives a mediation release under section 654B.8, or until the court determines after notice and hearing that one of the following applies:

1. The time delay required for the mediation would cause the person to suffer irreparable harm.
2. The dispute involves a claim which should be resolved as a class action.

Section History: Recent Form

90 Acts, ch 1143, §27

Exemption of Manufactured Homes From City Abandoned Buildings Enforcement

3. “Building” means a building or structure, excluding a mobile home, a modular home, and a manufactured home as defined in section 435.1, unless the mobile home or manufactured home has been converted to real estate pursuant to section 435.26, located in a city or outside the limits of a city in a county, which is used or intended to be used for commercial or industrial purposes or which is used or intended to be used for residential purposes and includes a building or structure in which some floors may be used for retail stores, shops, salesrooms, markets, or similar commercial uses, or for offices, banks, civic administration activities, professional services, or similar business or civic uses, and other floors are used, designed, or intended to be used for residential purposes.

CHAPTER 714
THEFT, FRAUD, AND RELATED OFFENSES

714.1 Theft defined.

6. Makes, utters, draws, delivers, or gives any check, share draft, draft, or written order on any bank, credit union, person or corporation, and obtains property, the use of property, including rental property, or service in exchange therefor, for such instrument, if the person knows that such check, share draft, draft or written order will not be paid when presented.

Whenever the drawee of such instrument has refused payment because of insufficient funds, and the maker has not paid the holder of the instrument the amount due thereon within ten days of the maker's receipt of notice from the holder that payment has been refused by the drawee, the court or jury may infer from such facts that the maker knew that the instrument would not be paid on presentation. Notice of refusal of payment shall be by certified mail, or by personal service in the manner prescribed for serving original notices.

Whenever the drawee of such instrument has refused payment because the maker has no account with the drawee, the court or jury may infer from such fact that the maker knew that the instrument would not be paid on presentation.

Iowa Code 716.7(2), 716.8 Penalties for Treaspassing

(2) Entering or remaining upon or in property without justification after being notified or requested to abstain from entering or to remove or vacate therefrom by the owner, lessee, or person in lawful possession, or the agent or employee of the owner, lessee, or person in lawful possession, or by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property. A person has received notice to abstain from entering or remaining upon or in property within the meaning of this subparagraph (2) if any of the following is applicable:

(a) The person has been notified to abstain from entering or remaining upon or in property personally, either orally or in writing, including by a valid court order under chapter 236.

(b) A printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to the property or the forbidden part of the property.

Sec. 2. Section 716.8, subsections 1 and 5, Code 2017, are amended to read as follows:

1. Any person who knowingly trespasses upon the property of another commits a simple misdemeanor , except that any person who intentionally trespasses as defined in section 716.7, subsection 2 , paragraph *"a"* , subparagraph (7), commits a serious misdemeanor punishable as a scheduled violation under section 805.8C, subsection 11 . A peace officer shall consider arresting and may arrest the person under section 805.9, subsection 3, paragraph *"c"* , if the person refuses to leave the property after receiving a citation or immediately returns to the property after receiving a citation, or may arrest the person as otherwise provided under law

5. A person who commits a trespass while hunting deer, other than a farm deer as defined in section 170.1 or preserve whitetail as defined in section 484C.1 , commits a simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 11 . A peace officer shall consider arresting and may arrest the person under section 805.9, subsection 3, paragraph *"c"* , if the person refuses to leave the property after receiving a citation or immediately returns to the property after receiving a citation, or may arrest the person as otherwise provided under law. The person shall also be subject to civil penalties as provided in sections 481A.130 and 481A.131 . A deer taken by a person while committing such a trespass shall be subject to seizure as provided in section 481A.12 .

Sec. 3. Section 716.8, Code 2017, is amended by adding the following new subsection: NEW SUBSECTION .

7. Any person who intentionally trespasses as defined in section 716.7, subsection 2, paragraph *"a"* , subparagraph (7), commits a serious misdemeanor.

701—15.13(422,423) Freight, other transportation charges, and exclusions from the exemption applicable to these services.

The determination of whether freight and other transportation charges shall be subject to sales or use tax is dependent upon the terms of the sale agreement.

When tangible personal property or a taxable service is sold at retail in Iowa or purchased for use in Iowa and under the terms of the sale agreement the seller is to deliver the property to the buyer or the purchaser is responsible for delivery and such delivery charges are stated and agreed to in the sale agreement or the charges are separate from the sale agreement, the gross receipts derived from the freight or transportation charges shall not be subject to tax. As of May 20, 1999, this exemption does not apply to the service of transporting electrical energy. As of April 1, 2000, this exemption does not apply to the service of transporting natural gas.

When freight and other transportation charges are not separately stated in the sale agreement or are not separately sold, the gross receipts from the freight or transportation charges become a part of the gross receipts from the sale of tangible personal property or a taxable service and are subject to tax.

Where a sales agreement exists, the freight and other transportation charges are subject to tax unless the freight and other transportation charges are separately contracted. If the written contract contains no provisions separately itemizing such charge, tax is due on the full contract price with no deduction for transportation charge, regardless of whether or not such transportation charges are itemized separately on the invoice. *Clarion Ready Mixed Concrete Company v. Iowa State Tax Commission,* 252 Iowa 500, 107 N.W.2d 553(1961); *Schemmer v. Iowa State Tax Commission,* 254 Iowa 315, 117 N.W.2d 420(1962); *City of Ames v. Iowa State Tax Commission,* 246 Iowa 1016, 71 N.W.2d 15(1959); *Dain Mfg. Company v. Iowa State Tax Commission,* 237 Iowa 531, 22 N.W.2d 786(1946).

Effective July 1, 2001, gross receipts from charges for delivery of electricity or natural gas are exempt from tax to the extent that the gross receipts from the sale, furnishing, or service of electricity or natural gas or its use are exempt from sales or use tax under Iowa Code chapters 422 and 423.

The exclusions from this exemption relating to the transportation of natural gas and electricity are applicable to all contracts for the performance of these transportation services. Below are examples which explain some of the principal circumstances in which the transport of natural gas or electricity is a service subject to tax.

Freight and transportation charges include, but are not limited to, the following charges or fees: freight; transportation; shipping; delivery; or trip charges.

701—18.25(422,423) Warranties and maintenance contracts.

18.25(1) In general—definitions. "Mandatory warranty." A warranty is mandatory within the meaning of this regulation when the buyer, as a condition of the sale, is required to purchase the warranty or guaranty contract from the seller. "Optional warranty." A warranty is optional within the meaning of this regulation when the buyer is not required to purchase the warranty or guaranty contract from the seller.

18.25(2) Mandatory warranties. When the sale of tangible personal property or services includes the furnishing or replacement of parts or materials which are pursuant to the guaranty provisions of the sales contract, a mandatory warranty exists. If the property subject to the warranty is sold at retail, and the measure of the tax includes any amount charged for the guaranty or warranty, whether or not such amount is purported to be separately stated from the purchase price, the sale of replacement parts and materials to the seller furnishing them thereunder is a sale for resale and not taxable. Labor performed under a mandatory warranty which is in connection with an enumerated taxable service is also exempt from tax.

18.25(3) Optional warranties. For periods after June 30, 1981.

a. The sale of optional service or warranty contracts which provide for the furnishing of labor and materials and require the furnishing of any taxable service enumerated under Iowa Code section 422.43 is considered a sale of tangible personal property the gross receipts from which are subject to tax at the time of sale except as described below.

b. On and after July 1, 1995, the sale of a residential service contract regulated under Iowa Code chapter 523C is not considered to be the sale of tangible personal property, and gross receipts from the sales of these service contracts are no longer subject to tax, and the gross receipts from taxable services performed for the providers of residential service contracts are now subject to tax. See the examples below for more detailed explanation. A "residential service contract" is defined in Iowa Code subsection 523C.1 (8) to be: a contract or agreement between a residential customer and a service company which undertakes, for a predetermined fee and for a specified period of time, to maintain, repair, or replace all or any part of the structural components, appliances, or electrical, plumbing, heating, cooling, or air-conditioning systems of residential property containing not more than four dwelling units. EXAMPLE A. John Jones purchases a residential service contract for $3,000 on July 1, 1994. He pays $150 of Iowa state sales tax. On December 1, 1994, his furnace malfunctions. The service company which sold Mr.Jones the contract pays Smith Furnace Repair $700 to fix the furnace. No sales tax is due on the $700 charge.

EXAMPLE B. Bob Jones purchases a residential service contract for $3,000 on July 1, 1995. No sales tax is owing or paid. On December 1, 1995, his furnace becomes inoperable. The service company which sold Mr. Jones the contract pays Smith Furnace Repair $900 to fix Mr. Jones' furnace. Sales tax of $45 is due based on the $900.

c. On and after July 1, 1998, if an optional service or warranty contract is computer software maintenance or support service contract and the contract provides for the furnishing of technical support services only and not for the furnishing of any materials, then no tax is imposed on the furnishing of those services under this subrule. If a computer software maintenance or support service contract provides for the performance of nontaxable services and the taxable transfer of the tangible personal property, and no separate fee is stated for either the performance of the service or the transfer of the property, then state sales tax 5 percent shall be imposed on 50 percent of the gross receipts from the sale of the contract. If a charge for the performance of the nontaxable service is separately stated, see subrule 18.25(5) below.

18.25 (4) A preventive maintenance contract is a contract which requires only the visual inspection of equipment and no repair is or shall be included. The gross receipt from the sale of a preventive maintenance contract is not subject to tax.

18.25 (5) Additional charges for parts and labor furnished in addition to that covered by a warranty or maintenance contract which are for enumerated taxable services shall be subject to tax. Only parts and not labor will be subject to tax where a nontaxable service is performed if the labor charge is separately stated. This rule is intended to implement Iowa Code sections 422.42 and 423.2 and Iowa Code Supplement section 422.43 as amended by 1998 Iowa Acts, Senate File 2288.

701 — 18.40(422, 423) Renting of rooms. The gross receipts from the renting of any and all rooms, including but not limited to sleeping rooms, banquet rooms or conference rooms in any hotel, motel, inn, public lodging house, rooming or tourist court, or in any place where sleeping accommodations are furnished to transient guests, whether with or without meals, are subject to the tax. The rental of a mobile home or of a manufactured housing which is tangible personal property is treated as a room rental rather than tangible personal property rental. The renting of all rooms would be exempt from the tax if rented by the same person for a period of more than 31 consecutive days. The renter must contract to rent for a single period of 31 days ore more. The renter may not accumulate these 31 days by contracting for two or more rental transactions. The incremental manner in which the hotel, morel, inn, public lodging house, rooming or tourist court, or any place where sleeping accommodations are furnished to transient guests bulls its customers does not influence the accumulation of days that is required to claim the exemption. The rule is intended to implement Iowa Code section 422.43.

26.18(2) Equipment and tangible personal property rental.

c. Rental of tangible personal property and rental of fixtures. The rental of tangible personal property which shall, prior to its use by the renter under the rental contract, become a fixture shall not be subject to tax. Such a rental is the rental of real property rather than tangible personal property. In general, any tangible personal property which is connected to real property in a way that it cannot be removed without damage to itself or to the real property is a fixture. *Equitable Life Assurance Society of the United States v. Chapman*, 282 N.W.2d 355 (Iowa 1983) and *Marty v. Champlin Refining Co.*, 36 N.W.2d 360 (Iowa 1949). The rental of a mobile home or manufactured housing, not sufficiently attached to realty to constitute a fixture, is room rental rather than tangible personal property rental and subject to tax on that basis; see *Broadway Mobile Home Sales Corp. v. State Tax Commission*, 413 N.Y.S.2d 231 (N.Y. 1979). See also rule 701—18.40(422,423).

CHAPTER 73
PROPERTY TAX CREDIT AND RENT REIMBURSEMENT
[Prior to 12/17/86, Revenue Department[730]]

701—73.1(425) Eligible claimants. The property tax credit and rent reimbursement programs are available to claimants who: (1) were at least 23 years of age or a head of household on December 31 of the base year, (2) were not or will not be claimed as a dependent on another person's federal or state income tax return for the base year in the case of a claimant who is not disabled or at least 65 years of age, (3) did not have household income in excess of the indexed amount determined pursuant to Iowa
Code section 425.23(4) during the base year, and (4) are domiciled in Iowa at the time the claim is filed or were at the time of the claimant's death.
In the case of a claim for rent reimbursement, the claimant must have occupied and rented the property during any part of the base year. In the case of a claim for property tax credit, the claimant must have occupied the property during any part of the fiscal year beginning July 1 of the base year.
If a homestead is occupied by two or more eligible claimants, each person may file a claim based upon each person's income and each person's share of the rent paid or property taxes due.
The computed credit or reimbursement shall be determined in accordance with the applicable schedule provided in Iowa Code section 425.23(1) as adjusted by the indexed amount determined in section 425.23(4).
This rule is intended to implement Iowa Code section 425.17(2) as amended by 1999 Iowa Acts, chapter 152, and section 425.23, and is effective for property tax credit and rent reimbursement claims filed on or after January 1, 2000.

701—73.11(425) Mobile, modular, and manufactured homes. An eligible claimant whose homestead is a mobile, modular, or manufactured home which the claimant owns and which was assessed as real estate resulting in property tax due may file a claim for credit for property tax due on the home and the land on which the home is located, provided the land is owned by the claimant. An eligible claimant whose homestead is a mobile, modular, or manufactured home subject to the annual tax as provided in Iowa Code chapter 435 may file a claim for credit for property taxes due on the land upon which the home is located provided the land is owned by the claimant. Rent paid for
occupancy of a home and the space occupied by the home is subject to reimbursement regardless of how the home is taxed. This rule is intended to implement Iowa Code subsection 425.17(4).

701—73.20(425) Leased land. An individual who owns a dwelling located on land owned by another may claim a credit of property taxes due on the dwelling and a reimbursement of rental payments made for the use of the land if the land has been assessed for taxation. This rule is intended to implement Iowa Code subsection 425.17(4).

CHAPTER 74
MOBILE, MODULAR, AND MANUFACTURED HOME TAX

[Prior to 12/17/86, Revenue Department [730]]

701—74.1(435) Definitions.

1. "*Mobile home*" means any vehicle without motive power used or so manufactured or construed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A "mobile home" is not built to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976.

2. "*Manufactured home*" is a factory-built structure built under authority of 42 U.S.C. § 5403, is required by federal law to display a seal from the United States Department of Housing and Urban Development, and was constructed on or after June 15, 1976.

3. "*Modular home*" means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the state of Iowa building code for modular factory-built structures, and must display the seal issued by the state building code commissioner.

4. "*Mobile home park*" means any land upon which three or more mobile or manufactured homes, or a combination of such homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available. It does not include homes where the owner of the land is providing temporary housing for the owner's employees of students. Wherever used in this chapter, "home" means a mobile home, a manufactured home, or a modular home unless specific reference is made to a particular type of home.

This rule is intended to implement Iowa Code section 435.1 as amended by 1998 Iowa Acts, Senate File 2400.

701—74.2(435) Movement of home to another county. If one or both installments of the tax for the current fiscal year have been paid and subsequently the home is moved to another county, the tax paid shall remain in the county in which originally collected. No reimbursement shall be made either to the owner of the home or to the county to which the home is moved. If only the first installment has been paid and the home is moved prior to January 1, the second installment shall be made to the county to which the home is moved.

This rule is intended to implement Iowa Code section 435.22.

701—74.3(435) Sale of home. If the owner of a home has paid one or both installments of the tax for the current fiscal year and subsequently sells the home, no reimbursement shall be made to the seller for any portion of the tax paid. If only the first installment has been paid and the home is sold prior to January 1, the purchaser is responsible for the second installment.

This rule is intended to implement Iowa Code section 435.22.

701—74.4(435) Reduced tax rate.

74.4(1) *Claimant.* The reduced rate of tax for Iowa residents who were at least 23 years of age on December 31 of the base year shall be computed as provided in Iowa Code subsection 435.22(2). The claimant's name must appear on the title to the home.

74.4(2) *Income.* In determining eligibility for the reduced tax rate, the claimant's income and that of the claimant's spouse shall be the income received during the base year, or the income tax account-ing period ending during the base year, and must be less than the indexed amount determined pursuant to Iowa Code section 435.22(2). The base year is the calendar year immediately preceding the year in which the claim is filed.

74.4(3) *Claims.* Claims for the reduced tax rate must be filed with the county treasurer on or before June 1 immediately preceding the fiscal year during which the taxes are due. The county treasurer may extend the time for filing a claim for reduced tax rate through September 30 of the same year. The director of revenue and finance may extend the time for filing a claim through December 31 if good cause exists. Late reduced tax rate claims will be reimbursed by the director directly to the claim-ant upon proof of tax payment. The claimant must own and occupy the home at the time the claim for credit is filed or, if deceased, at the time of the claimant's death or, if a late claim, on June 1 of the claim year. The claim forms shall be provided by the department of revenue and finance.

74.4(4) *Reports to department of revenue and finance*. On or before November 15 of each year, the county treasurer of each county shall report to the department of revenue and finance the amount of taxes not to be collected for the current fiscal year as a result of the reduced tax rate provided in Iowa Code subsection 435.22(2). All reports shall be made on forms provided by the department of revenue and finance.

74.4(5) *Payment of claims*. On December 15 of each year the department of revenue and finance

shall remit to each county treasurer an amount equal to the taxes not collected during the current fiscal year as a result of the granting of the reduced tax rate.
This rule is intended to implement Iowa Code section 435.22 as amended by 1999 Iowa Acts, chap-termination 152, and is effective for reduced tax rate claims filed on or after January 1, 2000.
701—74.5(435) Taxation—real estate. Homes located outside of mobile home parks must be placed on a permanent foundation and are subject to assessment and taxation as real estate. The homes are eligible for all property tax credits and exemptions applicable to other real estate. The assessor shall collect the title to a home only when a security interest is noted on the title and the secured party is given a mortgage on the land on which the home is located. Homes located outside mobile home parks as of July 1, 1994, are not subject to the permanent foundation requirements unless the home is relocated. The homes are subject to assessment as real estate beginning January 1, 1995.
This rule is intended to implement Iowa Code section 435.26 as amended by 1994 Iowa Acts, chap-ter 1110.
701—74.6(435) Taxation—square footage. Homes located within mobile home parks are subject to a square footage tax at the rates specified in Iowa Code section 435.22. It shall be the responsibility of the owner to provide the county treasurer with appropriate documentation to verify eligibility for the reduced tax due to the home's age. Modular home placed in mobile home parks that were not in exis-tence on or before January 1, 1998, shall be subject to assessment and taxation as real estate.
This rule is intended to implement Iowa Code section 435.22 as amended by 1998 Iowa Acts, Sen-ate File 2400.

701—74.7(435) Audit by department of revenue and finance. The director of revenue and finance may audit the books and records of the county treasurer to determine if the amounts certified by the county treasurer to the director of revenue and finance as tax not collected due to the reduced tax rate are true and correct. Upon investigation, the director of revenue and finance may order the county treasurer to reimburse the state of Iowa any amounts that were erroneously paid to the county treasurer. The director of revenue and finance may also require that additional payments be made to the county treasurer by the owner of a home if investigation reveals that the county treasurer did not receive the full amounts due in accordance with Iowa Code section 435.22.
The director of revenue and finance may initiate investigations or assist the county treasurer's in-vestigations into eligibility of a claimant for the reduced tax rate in accordance with Iowa Code section 435.22. Upon investigation, the director of revenue and finance may order a claimant to reimburse the state of Iowa any amount erroneously claimed as a reduced tax rate which was reimbursed by the de-partment of revenue and finance to the county treasurer in accordance with Iowa Code section 435.22. The director of revenue and finance may also issue a reimbursement directly to the claimant if it is determined the claimant did not receive the full benefits to which entitled pursuant to Iowa Code sec-tion 435.22.
This rule is intended to implement Iowa Code section 435.22.
701—74.8(435) Collection of tax.
74.8(1) *Partial payment of tax.* Partial payments of taxes may be allowed at the discretion of the county treasurer. If the treasurer elects to permit partial payments, the authorization shall apply to all taxpayers within the county. The treasurer may establish a minimum payment amount that must be made for partial payments to be accepted. If the partial payments made are insufficient to fully satisfy an installment due by the delinquency date, the unpaid portion of the installment shall draw interest as provided in Iowa Code section 445.39. Current year taxes may be paid at any time regardless of any prior year delinquent taxes. The minimum payment for delinquent taxes must be equal to or exceed the interest, fees, and costs attributed to the oldest delinquent installment due.
74.8(2) *When delinquent.* The date on which unpaid taxes become delinquent is to be determined as follows:
a. If the home is put to use between January 1 and March 31, the prorated tax for the period from the date the home is put to use through June 30 becomes delinquent on April 1.
b. If the home is put to use between April 1 and June 30, the prorated tax for the period from the date the home is put to use through June 30 becomes delinquent October 1.
c. If the home is put to use between July 1 and September 30, the prorated tax for the period from the date the home is put to use through December 31.
d. If the home is put to use between October 1 and December 31, the prorated tax for the period from the date home is put to use through December 31 becomes delinquent on April 1 of the follow-ing calendar.
e. For purposes of this rule, a mobile home is "put to use" upon its acquisition from a dealer or its being brought into Iowa for immediate use by a person who is not engaged in the business of manufacturing, sale, or transportation of homes.

74.8(3) *Collection of delinquent tax*. Delinquent taxes shall be collected by offering the home at tax sale in accordance with Iowa Code chapter 446.

This rule is intended to implement Iowa Code sections 435.24 and 435.25 and Iowa Code section 445.37 as amended by 1995 Iowa Acts, Senate File 458.

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CHAPTER 75
PROPERTY TAX ADMINISTRATION

701—75.1(441) Tax year. The assessment date is January 1 for taxes for the fiscal year which commences 6 months after the assessment date and which become delinquent during the fiscal year commencing 18 months after the assessment date. For example, taxes payable in fiscal year 1991-1992 are for fiscal year 1990-1991 and are based on the January 1, 1990, assessment.

This rule is intended to implement Iowa Code section 441.46.

701—75.2(445) Partial payment of tax. Partial payments of taxes may be allowed at the discretion of the county treasurer. If the treasurer elects to permit partial payments, the authorization shall apply to all taxpayers within the county. The treasurer may establish a minimum payment amount that must be made for partial payments to be accepted. If the partial payments made are insufficient to fully satisfy an installment due by the delinquency date, the unpaid portion of the installment shall draw interest at the rate specified in Iowa Code section 445.39. Current year taxes may be paid at any time regardless of any outstanding prior year delinquent tax. The minimum payment for delinquent taxes must be equal to or exceed the interest, fees, and costs attributed to the oldest delinquent installment due.

This rule is intended to implement Iowa Code section 445.36A.

701—75.3(445) When delinquent. The first half installment of taxes shall become delinquent if not received by the county treasurer on or before the last business day preceding October 1 and the second half installment shall become delinquent if not received by the county treasurer on or before the last business day preceding April 1. If mailed, the payment envelope must bear a postmark date preceding October 1 or April 1 to avoid delinquency. Delinquent taxes shall draw interest at the rate specified in Iowa Code section 445.39.

This rule is intended to implement Iowa Code section 445.37 as amended by 1997 Iowa Acts, House File 645.

701—75.4(446) Payment of subsequent year taxes by purchaser. Taxes for a subsequent year may not be paid by the purchaser of the property sold at tax sale until 14 days following the date from which an installment becomes delinquent.

This rule is intended to implement Iowa Code section 446.32 as amended by 1993 Iowa Acts, chapter 73.

701—75.5(428,433,437,438) Central assessment confidentiality. The release of information contained in any reports filed under Iowa Code chapters 428, 433, 434, 437, and 438, or obtained by the department in the administration of those chapters, is governed by the general provisions of Iowa Code chapter 22 since there are no specific provisions relating to confidential information contained in those chapters. Any request for information must be made pursuant to rule 701—6.2(17A). See rule 701—6.3(17A).

Any request for information pertaining to a taxpayer's business affairs, operations, source of in-come, profits, losses, or expenditures must be made in writing to the director. The taxpayer to whom the information relates will be notified of the request for information and will be allowed 30 days to substantiate any claim of confidentiality under Iowa Code chapter 22 or any other statute such as Iowa Code section 422.72. If substantiated, the request will be denied; otherwise, the information will be released to the requesting party. This rule will not prevent the exchange of information between state and federal agencies.

This rule is intended to implement Iowa Code chapters 428, 433, 434, 437, and 438.

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701—75.6(446) Tax sale. The county treasurer shall hold the annual tax sale on the third Monday in June. If, for good cause, the treasurer is unable to hold the tax sale on that date, the treasurer may designate a different date in June for the sale.

This rule is intended to implement Iowa Code section 446.7 as amended by 1999 Iowa Acts, chapter 4, section 1.

701—75.7(445) Refund of tax. The board of supervisors shall order the county treasurer to refund taxes found to have been erroneously or illegally collected. A claim for refund must be presented to the board within two years of the date of tax was due or if appealed within two years of the final decision. This rule is intended to implement Iowa Code section 445.60 as amended by 1999 Iowa Acts, chapter 174, section 6.

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80.1(2) ***Eligibility for credit.***

a. If homestead property is owned jointly by persons who are not related or formerly related by blood, marriage or adoption, no homestead tax credit shall be allowed unless all the owners actually occupy the homestead property on July 1 of each year. (1944 O.A.G. 26; Letter O.A.G. October 18, 1941)

b. No homestead tax credit shall be allowed if the homestead property is owned or listed and assessed to a corporation, other than a family farm corporation, partnership, company or any other business or nonbusiness organization. (1938 O.A.G. 441; *Verne Deskin v. Briggs,* State Board of Tax Review, No. 24, February 1, 1972)

c. A person acquiring homestead property under a contract of purchase remains eligible for a homestead tax credit even though such person has assigned his or her equity in the homestead property as security for a loan. (1960 O.A.G 263)

d. A person occupying homestead property pursuant to Iowa Code chapter 499A or 499B is eligible for a homestead tax credit. (1978 O.A.G. 78–2–5; 1979 O.A.G. 79–12–2)

e. A person who has a life estate interest in homestead property shall be eligible for a homestead tax credit, provided the remainder man is related or formerly related to the life estate holder by blood, marriage or adoption or the reversionary interest is held by a nonprofit corporation organized under Iowa Code chapter 504A. (1938 O.A.G. 193)

f. A homestead tax credit may not be allowed upon a mobile home which is not assessed as real estate. (1962 O.A.G. 450)

g. A person owning a homestead dwelling located upon land owned by another person or entity is not eligible for a homestead tax credit. (1942 O.A.G. 160, O.A.G. 84-4-9) This rule is not applicable to a person owning a homestead dwelling pursuant to Iowa Code chapter 499B or a person owning a homestead dwelling on land owned by a community land trust pursuant to 42 U.S.C. Section 12773.

Veterans Credit

80.2(2) ***Eligibility for exemption.***

j. A military service tax exemption shall not be allowed on a mobile home which is not assessed as real estate. (1962 O.A.G. 450)

Storm Shelter Exemption

701—80.14(427) Mobile home park storm shelter.

80.14(1) ***Application for exemption.*** **An application for exemption must be filed with the assessing authority by February 1 of the first year the exemption is requested. Applications for exemption are not required in subsequent years if the property remains eligible for exemption.**

80.14(2) ***Eligibility for exemption.*** **The structure must be located in a mobile home park as defined in Iowa Code section 435.1.**

80.14(3) ***Valuation exempted.*** **If the structure is used exclusively as a storm shelter, it shall be fully exempt from taxation. If the structure is not used exclusively as a storm shelter, the exemption shall be limited to 50 percent of the structure's commercial valuation.**

This rule is intended to implement Iowa Code Supplement section 427.1(30).

Property Assessment Appeal Board

71.21(6) *Applicability and scope.* These subrules set forth herein govern the proceedings for all cases in which the property assessment appeal board (board) has jurisdiction to hear appeals from the action of a local board of review. For the purpose of these subrules, the following definitions shall apply: *"Appellant"* means the party filing the notice of appeal with the secretary of the property assessment appeal board.
"Board" means the property assessment appeal board as created by chapter 150 of the Acts of the Eighty-first General Assembly and governed by Iowa Code chapter 17A and sections 421.1A and 441.37A.
"Department" means the Iowa department of revenue.
"Local board of review" means the board of review as defined by Iowa Code section 441.31.
"Party" means a property owner, an aggrieved taxpayer, an assessor, or an appellant in an appeals process before the board, as provided in Iowa Code section 441.42.
"Presiding officer" means the chairperson, member or members of the property assessment appeal board who preside over an appeal of proceedings before the property assessment appeal board. *"Secretary"* means the secretary for the property assessment appeal board.
71.21(7) *Appeal and jurisdiction.* Notice of appeal confers jurisdiction for the board. The procedure for appeals and parameters for jurisdiction are as follows:
a. Jurisdiction is conferred upon the board by written notice of appeal given to the secretary. The written notice of appeal shall include a petition setting forth the basis of the appeal and the relief sought. The written notice of appeal shall be filed with the secretary within 20 days after the postmarked date of the disposition of the protest by the local board of review. The appellant may appeal the action of the board of review relating to protests of assessment, valuation, or the application of an equalization order. Within 20 days of the filing of an appeal, either party may request a telephonic hearing before the board.
b. The notice of appeal must be proper in format and content as set forth in subrule 71.21(9), which governs the notice of appeal. Notice of appeal may be mailed or delivered in person to the secretary of the board. The mailing address for the board is Secretary of the Property Assessment Appeal Board, 401 SW 7th Street, Suite D, Des Moines, Iowa 50309-4634.
71.21(8) *Scope of review.* The board shall determine anew all questions arising before the local board of review which relate to the liability of the property to assessment or the amount thereof. The board will consider only those grounds set out in the protest to the local board of review. However, additional evidence may be introduced in the board proceedings relevant to the grounds set out in the protest. The board shall afford each party an opportunity to present briefs and oral arguments. There shall be no presumption as to the correctness of the valuation of the assessment appealed from.
71.21(9) *Form of appeal.* The written notice of appeal shall contain a caption in the following form:

THE PROPERTY ASSESSMENT APPEAL BOARD
401 SW 7th STREET, SUITE D
DES MOINES, IOWA 50309-4634

NOTICE OF APPEAL and PETITION

IN THE MATTER OF _____
(Appellant's name and address)

DOCKET NO. _____
(Docket No. assigned by board)

The notice of appeal shall include:

a. The appellant's name and mailing address;

b. A copy of the petition to the local board of review;

c. Copies of all evidence submitted to the local board of review in support of the petition to the local board of review;

d. A copy of the postmarked envelope and a copy of the letter of disposition by the local board of review;

e. A short and plain statement of the claim showing that the appellant is entitled to relief;

f. The relief sought; and

g. The signature of the appealing party or the party's legal representative. To have legal representation before the board, a party must file a valid and complete power of attorney form as provided by the board or in compliance with the power of attorney form provided by the board.

71.21(10) *Notice to local board of review.* The secretary shall mail a copy of the appellant's written notice of appeal and petition to the local board of review whose decision is being appealed. Notice to all affected taxing districts shall be deemed to have been given when written notice is provided to the local board of review.
71.21(11) *Certification by local board of review.* Within seven days after notice of appeal is given, the local board of review shall certify to the board all records, documents, or reports, or disposition order or directive from which an appeal is taken, and all other pertinent information. The local board of review shall submit to the board in writing the name, address, and telephone

number of the attorney representing the local board of review before the board. The local board of review may request additional time to certify a copy of its record to the board. The board, at its discretion, may grant additional time for certification.

71.21(12) *Docketing.* Appeals shall be assigned consecutive docket numbers. Records consisting of the case name and the corresponding docket number assigned to the case must be maintained by the secretary. The records of each case shall also include each action and each act done, with the proper dates as follows:

a. The title of the appeal including jurisdiction and parcel identification number;

b. Brief statement of the grounds for the appeal and the relief sought;

c. Postmarked date of the local board of review's letter of disposition;

d. The manner and date/time of service of notice of appeal;

e. Date of notice of hearing;

f. Date of hearing; and

g. The decision by the board, or other disposition of the case, and date thereof.

71.21(13) *Appearances by appellant.* An appellant may appear in person or by the appellant's legal representative. In order to be considered the legal representative for an appellant before the board, a valid power of attorney form as provided by the board or in compliance with the power of attorney form provided by the board must be properly completed and filed with the board.

71.21(14) *Filing of papers.* After the notice of appeal and petition have been filed, either in person or by U.S. mail, all motions, pleadings, briefs, and other papers to be filed shall be filed with the secretary at 401 SW 7th Street, Suite D, Des Moines, Iowa 50309-4634. Parties shall also send copies to the local board of review and to all other parties of record, unless represented by counsel of record, and then to such counsel.

71.21(15) *Motions.* All motions shall be in writing and shall be filed with the secretary within 30 days after the filing of the attached notice of appeal and shall contain the reasons and grounds supporting the motion. The board shall act upon such motions as justice may require. Motions based on matters which do not appear of record shall be supported by affidavit.

71.21(16) *Authority of board to issue procedural orders.* The board may issue preliminary orders regarding procedural matters. The secretary shall mail copies of all procedural orders to the parties.

71.21(17) *Members participating.* An appeal may be reviewed and considered by less than a majority of the members of the board, and the chairperson of the board may assign members to consider appeals. Orders and decisions shall be signed by one member of the board and shall name participating members. Decisions shall affirm, modify, or reverse the decision, order, or directive from which an appeal was made. In order for the decision to be valid, a majority of the board must concur on the decision on appeal.

71.21(18) *Notice of hearing.* Unless otherwise designated by the board, the hearing shall be held in the hearing room of the board at 401 SW 7th Street, Suite D, Des Moines, Iowa. All hearings are open to the public. If a hearing is requested, the secretary shall mail a notice of hearing to the parties at least 30 days prior to the hearing. The notice of hearing shall contain the following information:

a. A statement of the date, time, and place of the hearing;

b. A statement of legal authority and jurisdiction under which the hearing is to be held;

c. A reference to the particular sections of the statutes and rules involved;

d. That the parties may appear and present oral arguments;

e. That the parties may submit evidence and briefs;

f. That the hearing will be electronically recorded by the board;

g. That a party may obtain a certified court reporter for the hearing at the party's own expense;

h. That audio visual aids and equipment are to be provided by the party intending to use them;

i. A statement that, upon submission of the appeal, the board will take the matter under advisement. A letter of disposition will be mailed to the parties; and

j. A compliance notice required by the Americans with Disabilities Act (ADA).

71.21(19) *Transcript of hearing.* All hearings shall be electronically recorded. Any party may provide a certified court reporter at the party's own expense. Any party may request a transcription of the hearing. The board reserves the right to impose a charge for copies and transcripts.

71.21(20) *Continuance.* Any hearing may be continued for "good cause." Requests for continuance prior to the hearing shall be in writing and promptly filed with the secretary of the board immediately upon "the cause" becoming known. An emergency oral continuance may be obtained from the board or a member of the board based on "good cause" and at the discretion of the board or board member.

71.21(21) *Telephone proceedings.* The board, at its discretion and based on "good cause," may conduct a telephone conference in which all parties have an opportunity to participate. The board will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when the location is chosen.

71.21(22) *Disqualification of board member.* A board member or members must, on their own motion or on a motion from a party in the proceeding, withdraw from participating in an appeal if there are circumstances that warrant disqualification.

a. A board member or members shall withdraw from participation in the making of any proposed or final decision in an appeal before the board if that member is involved in one of the following circumstances:

(1) Has a personal bias or prejudice concerning a party or a representative of a party;

(2) Has personally investigated, prosecuted, or advocated in connection with the appeal, the specific controversy underlying that appeal, or another pending factually related matter, or a pending factually related controversy that may culminate in an appeal involving the same parties;

(3) Is subject to the authority, direction, or discretion of any person who has personally investigated, prosecuted, or advocated in connection with that matter, the specific controversy underlying the appeal, or a pending factually related matter or controversy involving the same parties;
(4) Has acted as counsel to any person who is a private party to that proceeding within the past two years;
(5) Has a personal financial interest in the outcome of the appeal or any other significant personal interest that could be substantially affected by the outcome of the appeal;
(6) Has a spouse or relative within the third degree of relationship who:
1. Is a party to the appeal, or an officer, director or trustee of a party;
2. Is a lawyer in the appeal;
3. Is known to have an interest that could be substantially affected by the outcome of the appeal;
or
4. Is likely to be a material witness in the appeal; or
(7) Has any other legally sufficient cause to withdraw from participation in the decision making in that appeal.
b. Motion for disqualification. If a party asserts disqualification on any appropriate ground, including those listed in paragraph *"a,"* the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.11. The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification, but must establish the grounds by the introduction of evidence into the record. If a majority of the board determines that disqualification is appropriate, the board member shall withdraw. If a majority of the board determines that withdrawal is not required, the board shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal and a stay as provided under 701—Chapter 7.
c. The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated" does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other functions of the board, including fact gathering for purposes other than investigation of the matter which culminates in an appeal. Factual information relevant to the merits of an appeal received by a person who later serves as presiding officer or a member of the board shall be disclosed if required by Iowa Code section 17A.11 and this rule.
d. Withdrawal. In a situation where a presiding officer or any other board member knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.
71.21(23) *Consolidation and severance.* A majority of the board may determine, in its discretion, if consolidation or severance of issues or proceedings should be performed in order to efficiently resolve matters on appeal before the board.
a. Consolidation. The presiding officer may consolidate any or all matters at issue in two or more appeal proceedings where:
(1) The matters at issue involve common parties or common questions of fact or law;
(2) Consolidation would expedite and simplify consideration of the issues involved; and
(3) Consolidation would not adversely affect the rights of any of the parties to those proceedings.
b. Severance. The presiding officer may, for good cause shown, order any appeal proceedings or portions of the proceedings severed.
71.21(24) *Withdrawal.* An appellant may withdraw the appeal prior to the hearing. Such a withdrawal of an appeal must be in writing and signed by the appellant or the appellant's legal representative. Unless otherwise provided, withdrawal shall be with prejudice and the appellant shall not be able to refile the appeal.
71.21(25) *Hearing procedures.* A party to the appeal may request a hearing, or the appeal may proceed without a hearing. The local board of review may be present and participate at such hearing.
a. Authority of presiding officer. The presiding officer presides at the hearing and may rule on motions, require briefs, issue a decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.
b. Representation. Parties to the appeal have the right to participate or to be represented in all hearings. Any party may be represented by an attorney or another person authorized by law. To have legal representation before the board, a party must complete a power of attorney form as provided by the board or in compliance with the power of attorney form provided by the board.
c. Participation in hearing. The parties to the appeal have the right to introduce evidence relevant to the grounds set out in the protest to the local board of review. Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.
d. Decorum. The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.
e. Conduct of the hearing. The presiding officer shall conduct the hearing in the following manner:
(1) The presiding officer shall give an opening statement briefly describing the nature of the proceedings;
(2) The parties shall be given an opportunity to present opening statements;

(3) The parties shall present their cases in the sequence determined by the presiding officer;
(4) Each witness shall be sworn or affirmed by the presiding officer and shall be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law; and
(5) When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

71.21(26) *Evidence.*

a. Admissibility. The presiding officer shall rule on admissibility of evidence and may take official notice of facts in accordance with all applicable requirements of law.

b. Stipulations. Stipulation of facts by the parties is encouraged. The presiding officer may make a decision based on stipulated facts.

c. Scope of admissible evidence. Evidence in the proceeding shall be confined to the issues contained in the notice from the board prior to the hearing, unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. Admissible evidence is that which, in the opinion of the board, is determined to be material, relevant, or necessary for the making of a just decision.

d. Exhibits and briefs. The party seeking admission of an exhibit must provide an opposing party with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents to be used as evidence shall be provided to the opposing party. All exhibits and briefs admitted into evidence shall be appropriately marked and be made part of the record.

e. Objections. Any party may object to specific evidence or may request limits on the scope of examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which the objection is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

f. Offers of proof. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. ,If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

71.21(27) *Dismissal.* If a party fails to appear or participate in an appeal hearing after proper service of notice, the presiding officer may dismiss the appeal unless a continuance is granted for good cause. If an appeal is dismissed for failure to appear, the board shall have no jurisdiction to consider any subsequent appeal on the appellant's protest.

71.21(28) *Appeals of board decisions.* A party may seek judicial review of a decision rendered by the board by filing a written notice of appeal with the clerk of the district court within 20 days after the letter of disposition of the appeal by the board is mailed to the appellant.

71.21(29) *Time requirements.* Time shall be computed as provided in Iowa Code section 4.1(34).

71.21(30) *Judgment of the board.* Nothing stated in this rule should be construed as prohibiting the exercise of honest judgment, as provided by law, by the board in matters pertaining to valuation and assessment of individual properties.

This rule is intended to implement Iowa Code sections 421.1, 421.1A, 421.2, 441.37A, 441.38 and 441.49 and chapter 17A.

701—97.1(423G) Definitions.

97.1(1) *Incorporation of definitions.* To the extent they are consistent with Iowa Code chapter 423G, all words and phrases used in this chapter shall mean the same as defined in Iowa Code section 423.1 and rule 701—211.1(423).

97.1(2) *Chapter-specific definitions.* For the purposes of this chapter, unless the context otherwise requires:

"Facilities" means any storage tanks, water towers, wells, plants, reservoirs, aqueducts, hydrants, pumps, pipes, or any other similar devices, mechanisms, equipment, or amenities designed to hold, treat, sanitize, or deliver water.

"State-imposed tax" or *"tax,"* unless otherwise indicated, means the water service excise tax imposed by Iowa Code section 423G.3.

"Water utility" means the same as defined in Iowa Code section 423.3(103). "Corporation" as used in Iowa Code section 476.1(3) and as incorporated by Iowa Code section 423.3(103), includes municipal corporations. See 1968 Iowa Op. Atty. Gen. 1-21, 1968 WL 172465.

This rule is intended to implement Iowa Code sections 423G.2 and 423G.3.

[**ARC 4217C**, IAB 1/2/19, effective 2/6/19]

701—97.2(423G) Imposition. A state-imposed tax of 6 percent is imposed upon the sales price of water service furnished by a water utility to a purchaser.

This rule is intended to implement Iowa Code section 423G.3.

[**ARC 4217C**, IAB 1/2/19, effective 2/6/19]

701—97.3(423G) Administration.

97.3(1) *Generally.* The department is charged with the administration of the tax, subject to the rules, regulations, and direction of the director. The department is required to administer the tax as nearly as possible in conjunction with the administration of the state sales tax except that portion of the Iowa Code which implements the streamlined sales and use tax agreement.

97.3(2) *Application of 701—Chapter 11.* The requirements of 701—Chapter 11 shall apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

This rule is intended to implement Iowa Code sections 423.3(103), 423G.3, and 423G.5.

[**ARC 4217C**, IAB 1/2/19, effective 2/6/19]

701—97.4(423G) Charges and fees included in the provision of water service.

97.4(1) *Sales integral to the ability to furnish water service.* The water service excise tax applies to the sale of water by piped distribution to consumers or users, including sales of accompanying services that are integral to furnishing water by piped distribution, even if the water service and accompanying services are billed separately.

97.4(2) *Examples of sales integral to the provision of water service.* Sales of services to customers or users that are considered integral to the furnishing of water by piped distribution include, but are not limited to, the following:

a. Sales of nonitemized tangible personal property included with the sale of water service or an accompanying service that is integral to the provision of water service. See subparagraph 97.4(4)*"a"*(2).

b. The sales price of water sold, regardless of whether the water is metered.

c. Service, account, or administrative charges or fees for water service, including but not limited to new customer account charges and minimum charges for access to water service, whether the customer uses the water service or not.

d. Fees for connection, disconnection, or reconnection to or from a water utility's facilities, including tap fees.

e. Fees for maintenance, inspection, and repairs of the water distribution system, water supplies, and facilities, including but not limited to fees for labor or materials.

f. Fees for using or checking water meters.

g. Water distribution system infrastructure and improvement fees.

97.4(3) *Examples of sales that are not water service or are not integral to the provision of water service.* Sales of services that are not integral to the furnishing of water by piped distribution include, but are not limited to, the following:

a. Residential service contracts regulated under Iowa Code chapter 523C.

b. Sales or rentals of tangible personal property, other than water, sold for a separately itemized price. See subparagraph 97.4(4)*"a"*(1).

c. Returned check fees.

d. Deposits, including but not limited to check and meter deposits.

e. Fees for printed bills, statements, labels, and other documents.

f. Fees for late charges and nonpayment penalties.

g. Leak detection fees.

97.4(4) *Sales generally not subject to water service excise tax.* Water utilities may make sales that may or may not be integral to the sale of water service but that are not subject to water service excise tax because those nonintegral sales are subject to sales tax under Iowa Code section 423.2 as the sale of tangible personal property or as enumerated non-water services.

a. Sales of tangible personal property. Whether the sale of tangible personal property that is integral to water service is subject to the water service excise tax depends on whether the tangible personal property is sold to the consumer or user for a separately itemized price.

(1) Itemized tangible personal property. Sales or rentals of tangible personal property by a water utility for a separately itemized price are not subject to the water service excise tax but may be subject to sales and use tax.

(2) Nonitemized tangible personal property. If the sale of tangible personal property is not itemized but is instead bundled with the sale of water service, including sales of services listed in subrule 97.4(2), then the entire sales price is subject to the water service excise tax.

b. Painting of hydrants. The painting of hydrants constitutes painting services under Iowa Code section 423.2(6)*"aj."* Painting is subject to sales tax and is not subject to water service excise tax.

c. Plumbing and pipefitting. Some repairs of a water distribution system may constitute plumbing and pipefitting under Iowa Code section 423.2(6)*"an."* Plumbing and pipefitting services are subject to sales tax and are not subject to water service excise tax.

97.4(5) *Exemptions.* The exemptions from sales tax under Iowa Code section 423.3 also apply to sales subject to water service excise tax. For example, a water utility that purchases water service from a different water utility may be eligible to claim the sale for resale exemption pursuant to Iowa Code section 423.3(2).

This rule is intended to implement Iowa Code sections 423G.4 and 423G.5.

[**ARC 4217C**, IAB 1/2/19, effective 2/6/19]

701—97.5(423G) When water service is furnished for compensation.

97.5(1) *Itemized sales of water service.* Water service is furnished for compensation when water service is sold for a separately itemized price.

EXAMPLE: Itemized sale of water service. Z is an entity that provides water from a well by piped distribution to various homes in the community. Each home that is connected to the well pays $20 per month, which is used by Z for maintaining the water distribution system. Z is a

water utility making sales of water service and must collect and remit water service excise tax on the $20 monthly fee charged to each of Z's members. See *In the Matter of Lakewood Utils.*, Iowa Dep't of Revenue, Docket No. 78-161-6A-RC (Feb. 8, 1980).

EXAMPLE: Sale for resale. An apartment owner purchases water from a city water utility and distributes the water to each unit through a system of pipes. The city meters the apartment owner's use of water each month and charges the apartment owner for the water service. The apartment owner separately bills each of the tenants $40 per month for water service, including the cost of water and maintenance on the water distribution system. The apartment owner is a water utility and must collect and remit water service excise tax on the $40 monthly charge for water service. The apartment owner may purchase the water from the city tax exempt as a sale for resale.

97.5(2) *Water service sold for an identifiable price.* Water service is furnished for compensation when the price of the water service is identifiable from an invoice, bill, catalogue, price list, rate card, receipt, agreement, or other similar document, including where the total sales price increases when water service is included in the sale.

EXAMPLE: Cost varies with inclusion of water service. A campground provides three campsite packages to its customers:

Package A includes only campsite access for $10 per night.

Package B includes campsite access and an electrical hookup for $20 per night.

Package C includes campsite access, an electrical hookup, and water service for $30 per night.

Sales of package C by the campground include sales of water service. The campground must collect and remit water service excise tax on $10—the identifiable sales price of water service.

97.5(3) *Water service not furnished for compensation; incidental sales.* No sale of water service for compensation occurs where water service is not sold for a separately itemized or identifiable price and is incidental to the rental of real property.

EXAMPLE: Water service sold with real estate rental for one nonitemized price. A manufactured housing community (MHC) owner owns a well and pipes water to the lots. The MHC owner charges tenants $500 per month for each lot rental. Water from the well is included in the $500 rental charge. The MHC owner does not do any of the following: charge a flat water fee, charge tenants based on their actual water used, or offer comparable lots at a lower price that do not have access to water service. The MHC owner is not required to collect or remit water service excise tax because water is not being furnished for compensation; it is incidental to the rental of real property.

EXAMPLE: Water service sold with real estate rental for one nonitemized price. A manufactured housing community (MHC) purchases water from a city water utility and distributes the water to each lot in the community through a system of pipes. The city meters the MHC's use of water each month and charges the MHC for the water service and the applicable water service excise tax. The MHC charges its tenants $500 for lot rental. As in the previous example, the MHC owner does not do any of the following: charge a flat water fee, charge tenants based on their actual water used, or offer comparable lots at a lower price that do not have access to water service. The MHC owner is not required to collect or remit water service excise tax because water is not being furnished for compensation; it is incidental to the rental of real property.

This rule is intended to implement Iowa Code section 423G.3.

[**ARC 4217C**, IAB 1/2/19, effective 2/6/19]

701—97.6(423G) Itemization of tax required. A water utility shall add the tax to the sales price of the water service, and the tax, when collected, shall be stated as a distinct item on any bill, receipt, agreement, or other similar document. The tax shall be identified as the water service excise tax, and the amount of tax paid shall be displayed clearly on the bill, receipt, agreement, or other similar document provided to the purchaser.

This rule is intended to implement Iowa Code section 423G.3.

[**ARC 4217C**, IAB 1/2/19, effective 2/6/19]

701—97.7(423G) Date of billing—effective date and repeal date. For purposes of determining whether sales tax or water service excise tax applies to billings which span across the 2018 Iowa Acts, Senate File 512, effective date of July 1, 2018, and the future repeal date as described in Iowa Code section 423G.7, the provisions of 701—subrule 14.3(9) shall apply.

This rule is intended to implement Iowa Code section 423G.5.

[**ARC 4217C**, IAB 1/2/19, effective 2/6/19]

701—97.8(423G) Filing returns; payment of tax; penalty and interest.

97.8(1) *Application of 701—Chapter 12.* The requirements of 701—Chapter 12 shall apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

97.8(2) *Frequency of deposit filing based on combined water service excise tax and sales tax.* With respect to the tax thresholds used for determining whether a retailer must remit sales tax semimonthly, monthly, quarterly, or annually, as described in rule 701—12.13(422), the threshold for determining how frequently a water utility must remit the water service excise tax shall be based on the sum of the total amount of sales tax collected and the total amount of water service excise tax collected.

EXAMPLE: Prior to the imposition of the water service excise tax, a water utility collected $70,000 in sales tax per year. Pursuant to 701—subrule 12.13(2), the water utility filed its sales tax deposits with the department on a semimonthly basis. Following the imposition of the water service excise tax, the water utility now collects $35,000 in sales tax per year and $35,000 in water service excise tax per year. The combined sum of the water utility's monthly collected sales tax and water service excise tax is $70,000. Therefore, the water utility will continue to make semimonthly deposits.

This rule is intended to implement Iowa Code section 423G.5.

[**ARC 4217C**, IAB 1/2/19, effective 2/6/19]

701—97.9(423G) Permits.

97.9(1) *Application of 701—Chapter 13.* The requirements of 701—Chapter 13 shall apply to water utilities in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

97.9(2) *Separate water service excise tax permit required.* All water utilities must register for a water service excise tax permit, and the water service excise tax shall be remitted under that permit. Water utilities that make water service sales subject to water service excise tax and other sales subject to sales tax shall obtain a water service excise tax permit in addition to their current sales tax permit and shall remit all sales tax under the sales tax permit and all water service excise tax under the water service excise tax permit.

This rule is intended to implement Iowa Code section 423G.5.

[**ARC 4217C**, IAB 1/2/19, effective 2/6/19]

[Filed ARC 4217C (Amended Notice ARC 4083C, IAB 10/24/18; Notice ARC 3896C, IAB 7/18/18), IAB 1/2/19, effective 2/6/19]