CHAPTER 648

FORCIBLE ENTRY AND DETAINER

Referred to in §29A.101, §555B.7, §555C.1, §555C.2, §562A.27A, §562B.25, §562B.25A, §562B.27, §602.6405, §631.4, §631.5

648.1 Grounds.
648.1A Nonprofit transitional housing exempted.
648.2 By legal representatives.
648.3 Notice to quit.
648.4 Notice terminating tenancy.
648.5 Venue — service of original notice — hearing.
648.6 Notice to lienholders.
648.7 and 648.8 Repealed by 72 Acts, ch 1124, §282.
648.9 Change of venue.
648.10 Service by publication. Repealed by 2010 Acts, ch 1017, §10, 11.
648.11 through 648.14 Repealed by 72 Acts, ch 1124, §282.
648.15 How title tried.
648.16 Priority of assignment.
648.17 Remedy not exclusive.
648.18 Possession — bar.
648.19 No joinder or counterclaim — exception.
648.20 Order for removal.
648.21 Repealed by 72 Acts, ch 1124, §282.
648.22 Judgment — execution — costs.
648.22A Executions involving mobile homes and manufactured homes.
648.22B Cases where mobile or manufactured home is the subject of a foreclosure action.
648.23 Restitution.

648.1 Grounds.

A summary remedy for forcible entry and detainer is allowable:

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

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

2004 Acts, ch 1101, §87

Referred to in §562A.26, §631.1, §648.3

648.1A Nonprofit transitional housing exempted.

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

2003 Acts, ch 154, §3

648.2 By legal representatives.

The legal representative of a person who, if alive, might have been plaintiff may bring this action after the person's death.

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

648.3 Notice to quit.

1. Before action can be brought under any ground specified in section 648.1, except section 648.1, subsection 1, three days' notice to quit must be given to the defendant in

writing. However, a landlord who has given a tenant three days' notice to pay rent and has terminated the tenancy as provided in section 562A.27, subsection 2, or section 562B.25, subsection 2, if the tenant is renting the manufactured or mobile home or the land from the landlord, may commence the action without giving a three-day notice to quit.

2. A notice to quit required under subsection 1 shall be served on the defendant according to one or more of the following methods:

a. Delivery evidenced by an acknowledgment of delivery that is signed and dated by a resident of the premises who is at least eighteen years of age. Delivery under this paragraph shall be deemed to provide notice to the defendant.

b. Personal service pursuant to **rule of civil procedure 1.305, Iowa court rules**, for the personal service of original notice.

c. Posting on the primary entrance door of the premises and mailing by both regular mail and certified mail, as defined in section 618.15, to the address of the premises or to the defendant's last known address, if different from the address of the premises. A notice posted according to this paragraph shall be posted within the applicable time period for serving notice and shall include the date the notice was posted.

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

[C51, §2365; R60, §3955; C73, §3614; C97, §4210; C24, 27, 31, 35, 39, §**12265;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.3; 81 Acts, ch 183, §2]

84 Acts, ch 1054, §1; 2001 Acts, ch 153, §15; 2001 Acts, ch 176, §80; 2010 Acts, ch 1017, §8, 11; 2013 Acts, ch 30, §165

Referred to in **§562A.27A**, **§562A.29A**, **§562B.25A**, **§562B.27A**

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

648.4 Notice terminating tenancy.

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

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

Farm tenancies, §562.5 – 562.8

See also §562.4, chapters 562A, 562B

648.5 Venue — service of original notice — hearing.

1. An action for forcible entry and detainer shall be brought in a county where all or part of the premises is located. Such an action shall be tried as an equitable action. Upon receipt of the petition, the court shall set a date, time, and place for hearing. The court shall set the date of hearing no later than eight days from the filing date, except that the court shall set a later hearing date no later than fifteen days from the date of filing if the plaintiff requests or consents to the later date of hearing.

2. Original notice shall be served upon a defendant by one or more of the following methods:

a. Delivery evidenced by an acknowledgment of service that is signed and dated by a resident of the premises who is at least eighteen years of age. Delivery under this paragraph shall be deemed to provide notice to all tenants or residents of the premises. Service of original notice under this paragraph is invalid if the acknowledgment of service is signed and dated less than three days prior to the hearing.

b. Personal service pursuant to **rule of civil procedure 1.305, Iowa court rules**, for the personal service of original notice. Service of original notice under this paragraph shall not occur less than three days prior to the hearing.

c. If service cannot be made following two attempts using a method specified under paragraph "*a*" or "*b*", by posting on the primary entrance door of the premises and mailing by both regular mail and certified mail, as defined in section 618.15, to the address of the premises or to the defendant's last known address, if different from the address of the premises. An original notice posted according to this paragraph shall be posted not less than

three days prior to the hearing and shall include the date the original notice was posted. Service of original notice by mailing shall occur not less than three days prior to the hearing.

3. Service of original notice by mail is deemed completed four days after the notice is deposited in the mail and postmarked for delivery, whether or not the recipient signs a receipt for the original notice.

4. If service of original notice is made by posting and mailing under subsection 2, paragraph "c", the plaintiff shall, at or before the time of the hearing, file one or more affidavits describing the time and manner in which the notice was posted and mailed. The plaintiff shall attach copies of the documents that were mailed and posted to the affidavits.

5. A default judgment shall not be entered against a defendant if original notice has not been served on the defendant as required in this section. If the original notice cannot be served within the time periods required in this section, the court may set a new hearing date and time.

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

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

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

648.6 Notice to lienholders.

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

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

Referred to in **§648.22A**

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

648.9 Change of venue.

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

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

648.10 Service by publication. Repealed by .

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

648.15 How title tried.

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

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

Referred to in **§648.17**

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]

Referred to in **§648.17**

648.17 Remedy not exclusive.

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

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

648.18 Possession — bar.

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

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

Referred to in **§648.22A**, **§648.22B**

648.19 No joinder or counterclaim — exception.

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

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

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

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

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

Referred to in **§562B.30**

648.20 Order for removal.

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

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

648.21 Repealed by 72 Acts, ch 1124, §282.

648.22 Judgment — execution — costs.

If the defendant is found guilty, judgment shall be entered that the defendant be removed from the premises, and that the plaintiff be put in possession of the premises, and an execution for the defendant's removal within three days from the judgment shall issue accordingly, to which shall be added a clause commanding the officer to collect the costs as in ordinary cases.

[C51, §2370; R60, §3960; C73, §3619; C97, §4221; C24, 27, 31, 35, 39, §**12283;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §648.22]

86 Acts, ch 1130, §4; 95 Acts, ch 125, §15

Referred to in **§648.22A**

648.22A Executions involving mobile homes and manufactured homes.

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

a. The plaintiff consents and the plaintiff has complied with the provisions of section 648.6.

b. The party making the election files a written notice of such election with the court and

sends a copy of the notice of election with a copy of the judgment to the sheriff, the other party at the other party's last known address, each record lienholder, and the county treasurer in the same manner as in section 648.6.

c. All utilities to the mobile home or manufactured home are disconnected prior to expiration of three days from the filing of the election. Payment of any reasonable costs incurred in disconnecting utilities and protecting the home from damage is the responsibility of the defendant.

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

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

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

5. If, within the sixty-day period, the home is not sold to an approved purchaser or removed from the manufactured home community or mobile home park, the plaintiff may sell or dispose of the home in accordance with the provisions of section 555B.9 without an order for disposal, or chapter 555C, and may do so free and clear of all liens, claims, or encumbrances of third parties except any tax lien, at which time all of the following shall occur:

a. The proceeds from the sale shall first be applied to any judgments against the defendant obtained by the plaintiff, any unpaid rent or additional costs incurred by plaintiff, and reasonable attorney fees. Any remaining proceeds shall next be applied to any tax lien with the remainder to be held in accordance with section 555B.9, subsection 3, paragraph "*c*".

b. Any money judgment against the defendant and in favor of the plaintiff relating to the previous tenancy shall be deemed satisfied, except those arising from independent torts.

c. If plaintiff elects to retain the home pursuant to section 555B.9, the county treasurer, upon receipt of a fee equal to the fee specified in section 321.42 for replacement of certificates of title for motor vehicles, and upon receipt of an affidavit submitted by the plaintiff verifying that the home was not sold to an approved purchaser or removed within the time specified in this subsection, shall issue to the plaintiff a new title for the home.

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

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

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

9. This section does not preclude the exercise of a lienholder's rights under section 648.22B.

98 Acts, ch 1107, §32; 2001 Acts, ch 153, §16; 2003 Acts, ch 154, §5

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

1. When a mobile or manufactured home located in a manufactured home community or mobile home park is the subject of an action by a lienholder to foreclose a lienhold interest, the plaintiff may advance all moneys due and owing to the landlord and enter into an 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 subsection 1 and shall be entitled to recover costs and attorney fees incurred.

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

5. In any case where this section has become operative, the provisions of section 648.18 shall not apply.

2000 Acts, ch 1210, §2; 2001 Acts, ch 153, §16

Referred to in **§648.22A**

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]