

Judiciary. Amend (5134) & Do. Res. 3/4 (p. 603)

Reprinted

FILED MAR 18 1992

SENATE FILE
BY SZYMONIAK

414

Passed Senate, Date 3/10/92 (p. 693) Passed House, Date 4/15/92 (P. 1500)
Vote: Ayes 49 Nays 0 Vote: Ayes 98 Nays 0
Approved May 19, 1992

*Motion to reconsider 3/11 (p. 733)
Adopted (748)*

*Repassed (749) 3/12
Ayes 49 - Nayes 1*

A BILL FOR

1 An Act relating to landlords and tenants.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

SF 414

1 Section 1. NEW SECTION. 562A.27A TERMINATION FOR
2 CREATING A SERIOUS AND CLEAR DANGER TO OTHER TENANTS.

3 1. Notwithstanding section 562A.27 or 648.3, if a tenant
4 has created or maintained a threat constituting a serious and
5 clear danger to the health or safety of other tenants, the
6 landlord, or the landlord's employee or agent, the landlord,
7 after a single three days' written notice of termination and
8 notice to quit, may file suit against the tenant for recovery
9 of possession of the premises pursuant to chapter 648. The
10 tenant shall be given the opportunity to contest the
11 termination in the court proceedings by notice thereof at
12 least five days prior to the hearing.

13 2. A serious and clear danger to the health or safety of
14 other tenants, the landlord, or the landlord's employees or
15 agents includes, but is not limited to, any of the following
16 activities of the tenant or of any person on the premises with
17 the consent of the tenant:

18 a. Physical assault or the threat of physical assault.

19 b. Illegal use of a firearm or other weapon, the threat to
20 use a firearm or other weapon illegally, or possession of an
21 illegal firearm; or possession of any firearm on or about the
22 leased premises if such possession is prohibited by the lease
23 or rules adopted by the landlord.

24 c. Possession of a controlled substance unless the
25 controlled substance was obtained directly from or pursuant to
26 a valid prescription or order by a licensed medical
27 practitioner while acting in the course of the practitioner's
28 professional practice. This paragraph applies to any other
29 person on the premises with the consent of the tenant, but
30 only if the tenant knew or should have known of the possession
31 by the other person of a controlled substance.

32 Sec. 2. NEW SECTION. 562A.29A METHOD OF NOTICE AND
33 SERVICE OF PROCESS.

34 Notwithstanding sections 631.4 and 648.5, the written
35 notice of termination required by section 562A.27, subsection

1 1, a notice of termination and notice to quit under section
2 562A.27A, a notice to quit as required by section 648.3, or a
3 petition for forcible entry and detainer pursuant to chapter
4 648, may be served upon the tenant in any of the following
5 ways:

- 6 1. By personal service.
- 7 2. By restricted certified mail.
- 8 3. By posting the notice on the door of the premises, if
9 personal service has been attempted, and been unsuccessful,
10 and if the affidavit of the process server attesting to the
11 failed attempt to deliver by personal service, completed
12 within a reasonable time after the failed attempt, is
13 maintained for the record by the landlord.

5130 14 Sec. 3. NEW SECTION. 562B.25A TERMINATION FOR CREATING A
15 SERIOUS AND CLEAR DANGER TO OTHER TENANTS.

16 1. Notwithstanding section 562B.25 or 648.3, if a tenant
17 has created or maintained a threat constituting a serious and
18 clear danger to the health or safety of other tenants, the
19 landlord, or the landlord's employee or agent, the landlord,
20 after a single three days' written notice of termination and
21 notice to quit, may file suit against the tenant for recovery
22 of possession of the premises pursuant to chapter 648. The
23 tenant shall be given the opportunity to contest the
24 termination in the court proceedings by notice thereof at
25 least five days prior to the hearing.

26 2. A serious and clear danger to the health or safety of
27 other tenants, the landlord, or the landlord's employees or
28 agents includes, but is not limited to, any of the following
29 activities of the tenant or of any person on the premises with
30 the consent of the tenant:

- 31 a. Physical assault or the threat of physical assault.
- 32 b. Illegal use of a firearm or other weapon, the threat to
33 use a firearm or other weapon illegally, or possession of an
34 illegal firearm; or possession of any firearm on or about the
35 leased premises if such possession is prohibited by the lease

1 or rules adopted by the landlord.

2 c. Possession of a controlled substance unless the
3 controlled substance was obtained directly from or pursuant to
4 a valid prescription or order by a licensed medical
5 practitioner while acting in the course of the practitioner's
6 professional practice. This paragraph applies to any other
7 person on the premises with the consent of the tenant, but
8 only if the tenant knew or should have known of the possession
9 by the other person of a controlled substance.

10 Sec. 4. NEW SECTION. 562B.27A METHOD OF NOTICE AND
11 SERVICE OF PROCESS.

12 Notwithstanding sections 631.4 and 648.5, the written
13 notice of termination required by section 562B.25, subsection
14 1, a notice of termination and notice to quit under section
15 562B.25A, a notice to quit as required by section 648.3, or a
16 petition for forcible entry and detainer pursuant to chapter
17 648, may be served upon the tenant in any of the following
18 ways:

- 19 1. By personal service.
- 20 2. By restricted certified mail.
- 21 3. By posting the notice on the door of the mobile home
22 upon the leased mobile home lot, if personal service has been
23 attempted, and been unsuccessful, and if the affidavit of the
24 process server attesting to the failed attempt to deliver by
25 personal service, completed within a reasonable time after the
26 failed attempt, is maintained for the record by the landlord.

27 EXPLANATION

28 This bill permits termination of a residential tenancy,
29 including tenancy in mobile home parks, if the tenant creates
30 or maintains a serious and clear danger to other tenants, the
31 landlord, or the landlord's employees or agents. Serious and
32 clear dangers are defined to include assault, illegal use or
33 possession of firearms, or illegal possession of a controlled
34 substance.

35 The bill also provides that written notice of termination,

1 notice to quit, or a forcible entry and detainer petition may
2 be served by posting notice on the door of the premises if
3 personal service is unsuccessful. The bill also provides for
4 service by restricted certified mail or personal service.

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

SENATE FILE 414

S-5130

- 1 Amend Senate File 414 as follows:
2 1. Page 1, line 2, by striking the words "SERIOUS
3 AND CLEAR" and inserting the following: "CLEAR AND
4 PRESENT".
5 2. Page 1, lines 4 and 5, by striking the words
6 "serious and clear" and inserting the following:
7 "clear and present".
8 3. Page 1, line 13, by striking the words
9 "serious and clear" and inserting the following:
10 "clear and present".
11 4. Page 1, line 30, by striking the words "or
12 should have known".
13 5. Page 2, line 15, by striking the words
14 "SERIOUS AND CLEAR" and inserting the following:
15 "CLEAR AND PRESENT".
16 6. Page 2, lines 17 and 18, by striking the words
17 "serious and clear" and inserting the following:
18 "clear and present".
19 7. Page 2, line 26, by striking the words
20 "serious and clear" and inserting the following:
21 "clear and present".
22 8. Page 3, line 8, by striking the words "or
23 should have known".

By COMMITTEE ON JUDICIARY
AL STURGEON, Chairperson

S-5130 FILED MARCH 4, 1992
Adopted 3/10/92 (p. 693)

SENATE FILE 414

S-5212

- 1 Amend Senate File 414 as follows:
2 1. Page 1, by striking lines 21 through 23 and
3 inserting the following: "illegal firearm."
4 2. By striking page 2, line 34 through page 3,
5 line 1 and inserting the following: "illegal
6 firearm."

By ELAINE SZYMONIAK
RAY TAYLOR

S-5212 FILED MARCH 12, 1992
ADOPTED (149)

1 Section 1. NEW SECTION. 562A.27A TERMINATION FOR
2 CREATING A CLEAR AND PRESENT DANGER TO OTHER TENANTS.

3 1. Notwithstanding section 562A.27 or 648.3, if a tenant
4 has created or maintained a threat constituting a clear and
5 present danger to the health or safety of other tenants, the
6 landlord, or the landlord's employee or agent, the landlord,
7 after a single three days' written notice of termination and
8 notice to quit, may file suit against the tenant for recovery
9 of possession of the premises pursuant to chapter 648. The
10 tenant shall be given the opportunity to contest the
11 termination in the court proceedings by notice thereof at
12 least five days prior to the hearing.

13 2. A clear and present danger to the health or safety of
14 other tenants, the landlord, or the landlord's employees or
15 agents includes, but is not limited to, any of the following
16 activities of the tenant or of any person on the premises with
17 the consent of the tenant:

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

30 Sec. 2. NEW SECTION. 562A.29A METHOD OF NOTICE AND
31 SERVICE OF PROCESS.

32 Notwithstanding sections 631.4 and 648.5, the written
33 notice of termination required by section 562A.27, subsection
34 1, a notice of termination and notice to quit under section
35 562A.27A, a notice to quit as required by section 648.3, or a

1 petition for forcible entry and detainer pursuant to chapter
2 648, may be served upon the tenant in any of the following
3 ways:

- 4 1. By personal service.
- 5 2. By restricted certified mail.
- 6 3. By posting the notice on the door of the premises, if
7 personal service has been attempted, and been unsuccessful,
8 and if the affidavit of the process server attesting to the
9 failed attempt to deliver by personal service, completed
10 within a reasonable time after the failed attempt, is
11 maintained for the record by the landlord.

12 Sec. 3. NEW SECTION. 562B.25A TERMINATION FOR CREATING A
13 CLEAR AND PRESENT DANGER TO OTHER TENANTS.

14 1. Notwithstanding section 562B.25 or 648.3, if a tenant
15 has created or maintained a threat constituting a clear and
16 present danger to the health or safety of other tenants, the
17 landlord, or the landlord's employee or agent, the landlord,
18 after a single three days' written notice of termination and
19 notice to quit, may file suit against the tenant for recovery
20 of possession of the premises pursuant to chapter 648. The
21 tenant shall be given the opportunity to contest the
22 termination in the court proceedings by notice thereof at
23 least five days prior to the hearing.

24 2. A clear and present danger to the health or safety of
25 other tenants, the landlord, or the landlord's employees or
26 agents includes, but is not limited to, any of the following
27 activities of the tenant or of any person on the premises with
28 the consent of the tenant:

- 29 a. Physical assault or the threat of physical assault.
- 30 b. Illegal use of a firearm or other weapon, the threat to
31 use a firearm or other weapon illegally, or possession of an
32 illegal firearm.
- 33 c. Possession of a controlled substance unless the
34 controlled substance was obtained directly from or pursuant to
35 a valid prescription or order by a licensed medical

1 practitioner while acting in the course of the practitioner's
2 professional practice. This paragraph applies to any other
3 person on the premises with the consent of the tenant, but
*4 only if the tenant knew of the possession by the other person
5 of a controlled substance.

6 Sec. 4. NEW SECTION. 562B.27A METHOD OF NOTICE AND
7 SERVICE OF PROCESS.

8 Notwithstanding sections 631.4 and 648.5, the written
9 notice of termination required by section 562B.25, subsection
10 1, a notice of termination and notice to quit under section
11 562B.25A, a notice to quit as required by section 648.3, or a
12 petition for forcible entry and detainer pursuant to chapter
13 648, may be served upon the tenant in any of the following
14 ways:

- 15 1. By personal service.
- 16 2. By restricted certified mail.
- 17 3. By posting the notice on the door of the mobile home
18 upon the leased mobile home lot, if personal service has been
19 attempted, and been unsuccessful, and if the affidavit of the
20 process server attesting to the failed attempt to deliver by
21 personal service, completed within a reasonable time after the
22 failed attempt, is maintained for the record by the landlord.

23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 414

H-5492

1 Amend Senate File 414, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 9, by inserting after the figure
4 "648" the following: ", except as otherwise provided
5 in subsection 3".

6 2. Page 1, by inserting after line 29 the
7 following:

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

14 a. The tenant seeks a protective order,
15 restraining order, order to vacate the homestead, or
16 other similar relief pursuant to chapter 236, 598, or
17 910A, or any other applicable provision which would
18 apply to the person conducting the activities causing
19 the clear and present danger.

20 b. The tenant reports the activities causing the
21 clear and present danger to a law enforcement agency
22 or the county attorney in an effort to initiate a
23 criminal action against the person conducting the
24 activities.

25 c. The tenant writes a letter to the person
26 conducting the activities causing the clear and
27 present danger, telling the person not to return to
28 the premises and that a return to the premises may
29 result in a trespass action against the person, and
30 the tenant sends a copy of the letter to a law
31 enforcement agency whose jurisdiction includes the
32 premises."

33 3. Page 2, by striking lines 6 through 11.

34 4. Page 2, line 20, by inserting after the figure
35 "648" the following: ", except as otherwise provided
36 in subsection 3".

37 5. Page 3, by inserting after line 5 the
38 following:

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

45 a. The tenant seeks a protective order,
46 restraining order, order to vacate the homestead, or
47 other similar relief pursuant to chapter 236, 598, or
48 910A, or any other applicable provision which would
49 apply to the person conducting the activities causing
50 the clear and present danger.

H-5492

H-5492

Page 2

1 b. The tenant reports the activities causing the
2 clear and present danger to a law enforcement agency
3 or the county attorney in an effort to initiate a
4 criminal action against the person conducting the
5 activities.

6 c. The tenant writes a letter to the person
7 conducting the activities causing the clear and
8 present danger, telling the person not to return to
9 the premises and that a return to the premises may
10 result in a trespass action against the person, and
11 the tenant sends a copy of the letter to a law
12 enforcement agency whose jurisdiction includes the
13 premises."

14 6. Page 3, by striking lines 17 through 22.

15 7. By renumbering and correcting internal
16 references as necessary.

By COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT
JAY of Appanoose, Chairperson

H-5492 FILED MARCH 24, 1992

Adopted as amended by 56 95 4/15 (p 1500)

SENATE FILE 414

H-5614

1 Amend the amendment, H-5492, to Senate File 414, as
2 amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, by striking lines 3 through 32 and
5 inserting the following:

6 "_____. Page 1, by striking lines 2 through 6 and
7 inserting the following: "CREATING A SPECIFIED CRIME
8 PROPERTY.

9 1. Notwithstanding section 562A.27 or 648.3, if a
10 tenant has created or maintained a threat causing a
11 landlord to receive notice by a city or county that
12 the premises rented by the tenant is a specified crime
13 property pursuant to a city or county ordinance, then
14 the landlord,".

15 _____ . Page 1, by striking lines 13 through 29 and
16 inserting the following:

17 "2. As used in this section, unless the context
18 otherwise requires, "a specified crime property" means
19 any building or structure, including, but not limited
20 to, the edifice, a unit, or other portions of a
21 building or structure, in which one or more of the
22 following activities occur:

23 a. Possession, delivery, distribution, or
24 manufacture of a controlled substance, counterfeit
25 substance, or simulated controlled substance, as
26 defined in chapter 204, in a manner prohibited by
27 chapter 204.

28 b. Prostitution, pimping, or pandering, as
29 prohibited in chapter 725.

30 c. Illegal gambling prohibited by chapter 99B or
31 725.

32 d. Bootlegging as prohibited in chapter 123.

33 If a city or county enacts a specified crime
34 property ordinance, the ordinance shall provide proper
35 notice and other due process requirements for property
36 owners and tenants.""

37 2. By striking page 1, line 34, through page 2,
38 line 13, and inserting the following:

39 "_____. Page 2, by striking lines 13 through 17,
40 and inserting the following: "SPECIFIED CRIME
41 PROPERTY.

42 1. Notwithstanding section 562B.25 or 648.3, if a
43 tenant has created or maintained a threat causing a
44 landlord to receive notice by a city or county that
45 the premises rented by the tenant is a specified crime
46 property pursuant to a city or county ordinance, then
47 the landlord,".

48 _____ . By striking page 2, line 24, through page 3,
49 line 5, and inserting the following:

50 "2. As used in this section, unless the context

H-5614

1 otherwise requires, "a specified crime property" means
2 any building or structure, including, but not limited
3 to the edifice, a unit, or other portions of a
4 building or structure, in which one or more of the
5 following activities occur:

6 a. Possession, delivery, distribution, or
7 manufacture of a controlled substance, counterfeit
8 substance, or simulated controlled substance, as
9 defined in chapter 204, in a manner prohibited by
10 chapter 204.

11 b. Prostitution, pimping, or pandering, as
12 prohibited in chapter 725.

13 c. Illegal gambling prohibited by chapter 99B or
14 725.

15 d. Bootlegging as prohibited in chapter 123.

16 If a city or county enacts a specified crime
17 property ordinance, the ordinance shall provide proper
18 notice and other due process requirements for property
19 owners and tenants."

20 3. By renumbering, relettering, redesignating,
21 and correcting internal references as necessary.

By SHERZAN of Polk

H-5614 FILED MARCH 31, 1992

W/15 +115 (p 1500)

H-5695

1 Amend the amendment, H-5492, to Senate File 414, as
2 amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, line 29, by inserting after the word
5 "trespass" the following: "or other".
6 2. Page 1, line 12, by inserting after the word
7 "premises." the following: "If the tenant has
8 previously written a letter to the person as provided
9 in this paragraph, without taking an action specified
10 in paragraph "a" or "b" or filing a trespass or other
11 action, and the person to whom the letter was sent
12 conducts further activities causing a clear and
13 present danger, the tenant must take one of the
14 actions specified in paragraph "a" or "b" to be exempt
15 from proceedings pursuant to subsection 1.

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

22 3. Page 1, by inserting before line 33 the
23 following:

24 " . . . Page 2, by striking line 5 and inserting
25 the following:

26 "2. By sending notice by certified or restricted
27 certified mail, whether or not the tenant signs a
28 receipt for the notice."

29 4. Page 2, line 10, by inserting after the word
30 "trespass" the following: "or other".

31 5. Page 2, line 13, by inserting after the word
32 "premises." the following: "If the tenant has
33 previously written a letter to the person as provided
34 in this paragraph, without taking an action specified
35 in paragraph "a" or "b" or filing a trespass or other
36 action, and the person to whom the letter was sent
37 conducts further activities causing a clear and
38 present danger, the tenant must take one of the
39 actions specified in paragraph "a" or "b" to be exempt
40 from proceedings pursuant to subsection 1.

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

47 6. Page 2, by inserting before line 14 the fol-
48 lowing:

49 " . . . Page 3, by striking line 16 and inserting
50 the following:

Page 2

1 "2. By sending notice by certified or restricted
2 certified mail, whether or not the tenant signs a
3 receipt for the notice."

4 7. By renumbering and correcting internal
5 references as necessary.

By PONCY of Wapello

H-5695 FILED APRIL 2, 1992

Adopted 4/15 (p. 1500)

HOUSE AMENDMENT TO
SENATE FILE 414

S-5720

1 Amend Senate File 414, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 9, by inserting after the figure
4 "648" the following: ", except as otherwise provided
5 in subsection 3".

6 2. Page 1, by inserting after line 29 the
7 following:

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

14 a. The tenant seeks a protective order,
15 restraining order, order to vacate the homestead, or
16 other similar relief pursuant to chapter 236, 598, or
17 910A, or any other applicable provision which would
18 apply to the person conducting the activities causing
19 the clear and present danger.

20 b. The tenant reports the activities causing the
21 clear and present danger to a law enforcement agency
22 or the county attorney in an effort to initiate a
23 criminal action against the person conducting the
24 activities.

25 c. The tenant writes a letter to the person
26 conducting the activities causing the clear and
27 present danger, telling the person not to return to
28 the premises and that a return to the premises may
29 result in a trespass or other action against the
30 person, and the tenant sends a copy of the letter to a
31 law enforcement agency whose jurisdiction includes the
32 premises. If the tenant has previously written a
33 letter to the person as provided in this paragraph,
34 without taking an action specified in paragraph "a" or
35 "b" or filing a trespass or other action, and the
36 person to whom the letter was sent conducts further
37 activities causing a clear and present danger, the
38 tenant must take one of the actions specified in
39 paragraph "a" or "b" to be exempt from proceedings
40 pursuant to subsection 1.

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

47 3. Page 2, by striking line 5 and inserting the
48 following:

49 "2. By sending notice by certified or restricted
50 certified mail, whether or not the tenant signs a

S-5720

S-5720

Page 2

1 receipt for the notice."

2 4. Page 2, by striking lines 6 through 11.

3 5. Page 2, line 20, by inserting after the figure
4 "648" the following: ", except as otherwise provided
5 in subsection 3".

6 6. Page 3, by inserting after line 5 the
7 following:

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

14 a. The tenant seeks a protective order,
15 restraining order, order to vacate the homestead, or
16 other similar relief pursuant to chapter 236, 598, or
17 910A, or any other applicable provision which would
18 apply to the person conducting the activities causing
19 the clear and present danger.

20 b. The tenant reports the activities causing the
21 clear and present danger to a law enforcement agency
22 or the county attorney in an effort to initiate a
23 criminal action against the person conducting the
24 activities.

25 c. The tenant writes a letter to the person
26 conducting the activities causing the clear and
27 present danger, telling the person not to return to
28 the premises and that a return to the premises may
29 result in a trespass or other action against the
30 person, and the tenant sends a copy of the letter to a
31 law enforcement agency whose jurisdiction includes the
32 premises. If the tenant has previously written a
33 letter to the person as provided in this paragraph,
34 without taking an action specified in paragraph "a" or
35 "b" or filing a trespass or other action, and the
36 person to whom the letter was sent conducts further
37 activities causing a clear and present danger, the
38 tenant must take one of the actions specified in
39 paragraph "a" or "b" to be exempt from proceedings
40 pursuant to subsection 1.

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

47 7. Page 3, by striking line 16 and inserting the
48 following:

49 "2. By sending notice by certified or restricted
50 certified mail, whether or not the tenant signs a

S-5720

-2-

S-5720

Page 3

1 receipt for the notice."

2 8. Page 3, by striking lines 17 through 22.

3 9. By renumbering and correcting internal
4 references as necessary.

RECEIVED FROM THE HOUSE

S-5720 FILED APRIL 16, 1992

Senate concurred 5/2 (p. 1763)

SENATE FILE 414

S-5932

1 Amend the House amendment, S-5720, to Senate File
2 414, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, line 5, by inserting after the figure
5 "3" the following: "or 4".

6 2. Page 1, by inserting after line 46 the
7 following:

8 "4. If the landlord and tenant enter into a
9 written lease, this section shall not apply to a
10 tenant unless the landlord has provided to the tenant
11 with the tenant's lease an explanation, in writing,
12 concerning the effect of this section and the steps
13 the tenant must take to be exempt from this section.
14 If the landlord and tenant do not enter into a written
15 lease, the landlord must provide the explanation
16 required in this subsection, in writing, before this
17 section shall apply. This section shall not apply to
18 activities constituting a clear and present danger
19 which occur before the tenant receives the explanation
20 required by this section."

21 3. Page 1, by inserting before line 47 the
22 following:

23 "____. By striking page 1, line 30 through page 2,
24 line 3 and inserting the following:

25 "Sec. ____ . NEW SECTION. 562A.29A METHOD OF
26 NOTICE.

27 A notice of termination and notice to quit under
28 section 562A.27A may be served upon the tenant in
29 either of the following ways: ". "

30 4. Page 2, by inserting after line 2 the
31 following:

32 "____. Page 2, by inserting before line 12 the
33 following:

34 "While the notice of termination and notice to quit
35 under section 562A.27A may be served as provided in
36 this section, an original notice and petition for
37 forcible entry and detainer for an action in
38 accordance with section 562A.27A shall be served as
39 provided in sections 631.4 and 648.5."

40 5. Page 2, line 5, by inserting after the figure
41 "3" the following: "or 4".

42 6. Page 2, by inserting after line 46 the
43 following:

44 "4. If the landlord and tenant enter into a
45 written lease, this section shall not apply to a
46 tenant unless the landlord has provided to the tenant
47 with the tenant's lease an explanation, in writing,
48 concerning the effect of this section and the steps
49 the tenant must take to be exempt from this section.
50 If the landlord and tenant do not enter into a written

S-5932

S-5932

Page 2

1 lease, the landlord must provide the explanation
 2 required in this subsection, in writing, before this
 3 section shall apply. This section shall not apply to
 4 activities constituting a clear and present danger
 5 which occur before the tenant receives the explanation
 6 required by this section."

7 7. Page 2, by inserting before line 47 the
 8 following:

9 "____. Page 3, by striking lines 6 through 14 and
 10 inserting the following:

11 "Sec. ____ . NEW SECTION. 562B.27A METHOD OF
 12 NOTICE.

13 A notice of termination and notice to quit under
 14 section 562B.25A may be served upon the tenant in
 15 either of the following ways:."

16 8. Page 3, line 2, by striking the figure "22."
 17 and inserting the following: "22, and inserting the
 18 following:

19 "While the notice of termination and notice to quit
 20 under section 562B.25A may be served as provided in
 21 this section, an original notice and petition for
 22 forcible entry and detainer for an action in
 23 accordance with section 562B.25A shall be served as
 24 provided in sections 631.4 and 648.5."

25 9. By renumbering and correcting internal
 26 references as necessary.

By RALPH ROSENBERG

S-5932 FILED MAY 1, 1992

A- Lost 5/2 (p. 1762) B- Withdrawn 5/2 (p. 1763)

SENATE FILE 414

AN ACT
RELATING TO LANDLORDS AND TENANTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 562A.27A TERMINATION FOR
CREATING A CLEAR AND PRESENT DANGER TO OTHER TENANTS.

1. Notwithstanding section 562A.27 or 648.3, if a tenant has created or maintained a threat constituting a clear and present danger to the health or safety of other tenants, the landlord, or the landlord's employee or agent, the landlord, after a single three days' written notice of termination and notice to quit, may file suit against the tenant for recovery of possession of the premises pursuant to chapter 648, except as otherwise provided in subsection J. The tenant shall be

given the opportunity to contest the termination in the court proceedings by notice thereof at least five 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 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, or 910A, 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".

Sec. 2. NEW SECTION. 562A.29A METHOD OF NOTICE AND SERVICE OF PROCESS.

Notwithstanding sections 631.4 and 648.5, the written notice of termination required by section 562A.27, subsection 1, a notice of termination and notice to quit under section 562A.27A, a notice to quit as required by section 648.3, or a petition for forcible entry and detainer pursuant to chapter 648, may be served upon the tenant in any of the following ways:

1. By personal service.
2. By sending notice by certified or restricted certified mail, whether or not the tenant signs a receipt for the notice.

Sec. 3. NEW SECTION. 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, the landlord, after a single three days' written notice of termination and notice to quit, 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 tenant shall be given the opportunity to contest the termination in the court proceedings by notice thereof at least five 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 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, or 910A, 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".

Sec. 4. NEW SECTION. 562B.27A METHOD OF NOTICE AND SERVICE OF PROCESS.

Notwithstanding sections 631.4 and 648.5, the written notice of termination required by section 562B.25, subsection 1, a notice of termination and notice to quit under section 562B.25A, a notice to quit as required by section 648.3, or a petition for forcible entry and detainer pursuant to chapter 648, may be served upon the tenant in any of the following ways:

1. By personal service.

2. By sending notice by certified or restricted certified mail, whether or not the tenant signs a receipt for the notice.

MICHAEL E. GRONSTAL
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 414, Seventy-fourth General Assembly.

JOHN P. DWYER
Secretary of the Senate

Approved May 14, 1992

TERRY E. BRANSTAD
Governor