

MAR 7 2006
Place On Calendar

HOUSE FILE 2695
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 649)

Passed House, Date 3-21-06 Passed Senate, Date _____
Vote: Ayes 99 Nays 0 Vote: Ayes _____ Nays _____
Approved April 7, 2006

A BILL FOR

1 An Act relating to landlords and tenants including notice
2 requirements to terminate a periodic tenancy, representation
3 of an owner of residential rental property in small claims
4 court, and service of a petition for forcible entry and
5 detainer by publication.

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

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HF 2695

HOUSE FILE 2695

H-8283

- 1 Amend House File 2695 as follows:
- 2 1. By striking page 1, line 8, through page 2,
- 3 line 4.
- 4 2. Title page, by striking lines 2 through 4 and
- 5 inserting the following: "requirements to terminate a
- 6 periodic tenancy and service of a petition for
- 7 forcible entry and".
- 8 3. By renumbering as necessary.

By EICHHORN of Hamilton

H-8283 FILED MARCH 15, 2006

TLSB 6073HV 81

kk/gg/14

1 Section 1. Section 562A.34, Code 2005, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 2A. The landlord or the tenant may
4 terminate a tenancy having a term longer than month-to-month
5 by a written notice given to the other at least thirty days
6 prior to the end of the first or subsequent term of the
7 tenancy specified in the notice.

8 Sec. 2. Section 631.14, Code 2005, is amended to read as
9 follows:

10 631.14 REPRESENTATION IN SMALL CLAIMS ACTIONS.

11 1. Actions constituting small claims may be brought or
12 defended by an individual, partnership, association,
13 corporation, or other entity. In actions in which a person
14 other than an individual is a party, that person may be
15 represented by an officer or an employee.

16 2. In actions concerning residential rental property that
17 is titled in the name of one or more individuals, an employee
18 of one or more of the titled owners, or an officer or employee
19 of a property management entity acting on behalf of one or
20 more of the titled owners, may bring or defend an action in
21 the name of the titled owners.

22 Notwithstanding any other provision to the contrary, if the
23 defendant or plaintiff has been improperly named in the
24 petition in an action concerning residential rental property,
25 the real party in interest shall be substituted at the time
26 the error is identified and the action shall not be dismissed.
27 The action may be delayed for good cause or to prevent
28 injustice to the parties.

29 3. A person who in the regular course of business takes
30 assignments of instruments or accounts pursuant to chapter
31 539, which assignments constitute small claims, may bring an
32 action on an assigned instrument or account in the person's
33 own name and need not be represented by an attorney, provided
34 that in an action brought to recover payment on a dishonored
35 check or draft, as defined in section 554.3104, the action is

1 brought in the county of residence of the maker of the check
2 or draft or in the county where the draft or check was first
3 presented. Any person, however, may be represented in a small
4 claims action by an attorney.

5 Sec. 3. Section 648.10, Code 2005, is amended to read as
6 follows:

7 648.10 SERVICE BY PUBLICATION.

8 Notwithstanding the requirements of section 648.5, service
9 may be made by publishing such notice for one week in a
10 newspaper of general circulation published in the county where
11 the petition is filed, provided the petitioner files with the
12 court an affidavit stating that an attempt at personal service
13 ~~made-by-the-sheriff~~ was unsuccessful because the defendant is
14 avoiding service by concealment or otherwise, and that a copy
15 of the petition and notice of hearing has been mailed to the
16 defendant at the defendant's last known address or that the
17 defendant's last known address is not known to the petitioner.
18 Service under this section is complete seven days after
19 publication. The court shall set a new hearing date if
20 necessary to allow the defendant the three-day minimum notice
21 required under section 648.5.

22 EXPLANATION

23 This bill relates to landlords and tenants by providing for
24 notice requirements to terminate a periodic tenancy,
25 representation of an owner of a rental property in small
26 claims court, and service of a petition for forcible entry and
27 detainer by publication.

28 The bill provides that either a landlord or a tenant may
29 terminate a periodic tenancy that is for a term longer than
30 month-to-month by giving a written notice to the other at
31 least 30 days prior to the end of the first or subsequent term
32 of the tenancy.

33 In an action brought in small claims court concerning a
34 residential rental property that is titled in the name of one
35 or more individuals, an employee of one or more of the titled

1 owners or an officer or employee of a property management
2 entity acting on behalf of a titled owner may bring or defend
3 an action in small claims court in the name of the titled
4 owners. If in such an action either the plaintiff or
5 defendant has been improperly named in the petition, the court
6 shall substitute the correct real party in interest in the
7 action and the action shall not be dismissed but may be
8 delayed for good cause or to prevent injustice to the parties.

9 The bill removes a requirement relating to the service of a
10 petition for a forcible entry and detainer action by
11 publication. Under current law, a petition for a forcible
12 entry and detainer action must be personally served on the
13 defendant but does not restrict the performance of the
14 personal service to the sheriff only. However, current law
15 provides that if personal service is unsuccessful, then
16 service of the petition may be made by publication in a
17 newspaper of general circulation but only if an affidavit is
18 filed with the court stating that "the sheriff" was
19 unsuccessful at obtaining personal service. The bill strikes
20 the requirement that the affidavit for service by publication
21 state that service was unsuccessfully "made by the sheriff" to
22 address the inconsistency.

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HOUSE FILE 2695
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 649)

(As Amended and Passed by the House March 21, 2006)

Passed House, Date _____ Passed Senate, Date 3-28-06
Vote: Ayes _____ Nays _____ Vote: Ayes 48 Nays 0
Approved _____

A BILL FOR

1 An Act relating to landlords and tenants including notice
2 requirements to terminate a periodic tenancy and service of a
3 petition for forcible entry and detainer by publication.

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

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6 Deleted Language *
7 House Amendments _____
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1 Section 1. Section 562A.34, Code 2005, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 2A. The landlord or the tenant may
4 terminate a tenancy having a term longer than month-to-month
5 by a written notice given to the other at least thirty days
6 prior to the end of the first or subsequent term of the
7 tenancy specified in the notice.

* 8 Sec. 2. Section 648.10, Code 2005, is amended to read as
9 follows:

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11 Notwithstanding the requirements of section 648.5, service
12 may be made by publishing such notice for one week in a
13 newspaper of general circulation published in the county where
14 the petition is filed, provided the petitioner files with the
15 court an affidavit stating that an attempt at personal service
16 ~~made-by-the-sheriff~~ was unsuccessful because the defendant is
17 avoiding service by concealment or otherwise, and that a copy
18 of the petition and notice of hearing has been mailed to the
19 defendant at the defendant's last known address or that the
20 defendant's last known address is not known to the petitioner.
21 Service under this section is complete seven days after
22 publication. The court shall set a new hearing date if
23 necessary to allow the defendant the three-day minimum notice
24 required under section 648.5.

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Eichhammer
Boer
Olsen, R

Succeeded By
SF 02695

HSB 649

JUDICIARY

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON PAULSEN)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to landlords and tenants including notice
2 requirements to terminate a periodic tenancy, representation
3 of an owner of residential rental property in small claims
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7 notice.

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10 631.14 REPRESENTATION IN SMALL CLAIMS ACTIONS.

11 1. Actions constituting small claims may be brought or
12 defended by an individual, partnership, association,
13 corporation, or other entity. In actions in which a person
14 other than an individual is a party, that person may be
15 represented by an officer or an employee.

16 2. In actions concerning residential rental property that
17 is titled in the name of one or more individuals, an employee
18 of one or more of the titled owners, or an officer or employee
19 of a property management entity acting on behalf of one or
20 more of the titled owners, may bring or defend an action in
21 the name of the titled owners, the property management entity,
22 or the name by which the property is commonly known.

23 Notwithstanding any other provision to the contrary, if the
24 defendant or plaintiff has been improperly named in the
25 petition in an action concerning residential rental property,
26 the real party in interest shall be substituted at the time
27 the error is identified and the action shall not be dismissed
28 or delayed except to the extent necessary to identify and
29 serve the real parties in interest.

30 3. A person who in the regular course of business takes
31 assignments of instruments or accounts pursuant to chapter
32 539, which assignments constitute small claims, may bring an
33 action on an assigned instrument or account in the person's
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1 check or draft, as defined in section 554.3104, the action is
2 brought in the county of residence of the maker of the check
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6 Sec. 3. Section 648.10, Code 2005, is amended to read as
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8 648.10 SERVICE BY PUBLICATION.

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10 may be made by publishing such notice for one week in a
11 newspaper of general circulation published in the county where
12 the petition is filed, provided the petitioner files with the
13 court an affidavit stating that an attempt at personal service
14 ~~made-by-the-sheriff~~ was unsuccessful because the defendant is
15 avoiding service by concealment or otherwise, and that a copy
16 of the petition and notice of hearing has been mailed to the
17 defendant at the defendant's last known address or that the
18 defendant's last known address is not known to the petitioner.
19 Service under this section is complete seven days after
20 publication. The court shall set a new hearing date if
21 necessary to allow the defendant the three-day minimum notice
22 required under section 648.5.

23 EXPLANATION

24 This bill relates to landlords and tenants by providing for
25 notice requirements to terminate a periodic tenancy,
26 representation of an owner of a rental property in small
27 claims court, and service of a petition for forcible entry and
28 detainer by publication.

29 The bill provides that either a landlord or a tenant may
30 terminate a periodic tenancy that is for a term longer than
31 month-to-month by giving a written notice to the other at
32 least 30 days prior to the end of the term of the tenancy.

33 In an action brought in small claims court concerning a
34 residential rental property that is titled in the name of one
35 or more individuals, an employee of one or more of the titled

1 owners or an officer or employee of a property management
2 entity acting on behalf of a titled owner may bring or defend
3 an action in small claims court in the name of the titled
4 owners, the name of the property management entity, or the
5 name by which the property is commonly known. If in such an
6 action either the plaintiff or defendant has been improperly
7 named in the petition, the court shall substitute the correct
8 real party in interest in the action and the action shall not
9 be delayed or dismissed except as necessary to identify and
10 serve the correct parties to the action.

11 The bill removes a requirement relating to the service of a
12 petition for a forcible entry and detainer action by
13 publication. Under current law, a petition for a forcible
14 entry and detainer action must be personally served on the
15 defendant but does not restrict the performance of the
16 personal service to the sheriff only. However, current law
17 provides that if personal service is unsuccessful, then
18 service of the petition may be made by publication in a
19 newspaper of general circulation but only if an affidavit is
20 filed with the court stating that "the sheriff" was
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22 the requirement that the affidavit for service by publication
23 state that service was unsuccessfully "made by the sheriff" to
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HOUSE FILE 2695

AN ACT
RELATING TO LANDLORDS AND TENANTS INCLUDING NOTICE
REQUIREMENTS TO TERMINATE A PERIODIC TENANCY AND
SERVICE OF A PETITION FOR FORCIBLE ENTRY AND DETAINER
BY PUBLICATION.

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

Section 1. Section 562A.34, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The landlord or the tenant may terminate a tenancy having a term longer than month-to-month by a written notice given to the other at least thirty days prior to the end of the first or subsequent term of the tenancy specified in the notice.

Sec. 2. Section 648.10, Code 2005, is amended to read as follows:

648.10 SERVICE BY PUBLICATION.

Notwithstanding the requirements of section 648.5, service may be made by publishing such notice for one week in a newspaper of general circulation published in the county where the petition is filed, provided the petitioner files with the court an affidavit stating that an attempt at personal service made-by-the-sheriff was unsuccessful because the defendant is avoiding service by concealment or otherwise, and that a copy of the petition and notice of hearing has been mailed to the defendant at the defendant's last known address or that the defendant's last known address is not known to the petitioner. Service under this section is complete seven days after

publication. The court shall set a new hearing date if necessary to allow the defendant the three-day minimum notice required under section 648.5.

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2695, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2006

THOMAS J. VILSACK
Governor