

Senate Study Bill 3149

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CO=CHAIRPERSON MILLER)

Passed Senate, Date _____ Passed House, 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
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:
7 TLSB 6073SK 81
8 kk/gg/14

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1 1 Section 1. Section 562A.34, Code 2005, is amended by
1 2 adding the following new subsection:
1 3 NEW SUBSECTION. 2A. The landlord or the tenant may
1 4 terminate a tenancy having a term longer than month-to-month
1 5 by a written notice given to the other at least thirty days
1 6 prior to the end of the term of the tenancy specified in the
1 7 notice.
1 8 Sec. 2. Section 631.14, Code 2005, is amended to read as
1 9 follows:
1 10 631.14 REPRESENTATION IN SMALL CLAIMS ACTIONS.
1 11 1. Actions constituting small claims may be brought or
1 12 defended by an individual, partnership, association,
1 13 corporation, or other entity. In actions in which a person
1 14 other than an individual is a party, that person may be
1 15 represented by an officer or an employee.
1 16 2. In actions concerning residential rental property that
1 17 is titled in the name of one or more individuals, an employee
1 18 of one or more of the titled owners, or an officer or employee
1 19 of a property management entity acting on behalf of one or
1 20 more of the titled owners, may bring or defend an action in
1 21 the name of the titled owners, the property management entity,
1 22 or the name by which the property is commonly known.
1 23 Notwithstanding any other provision to the contrary, if the
1 24 defendant or plaintiff has been improperly named in the
1 25 petition in an action concerning residential rental property,
1 26 the real party in interest shall be substituted at the time
1 27 the error is identified and the action shall not be dismissed
1 28 or delayed except to the extent necessary to identify and
1 29 serve the real parties in interest.
1 30 3. A person who in the regular course of business takes
1 31 assignments of instruments or accounts pursuant to chapter
1 32 539, which assignments constitute small claims, may bring an
1 33 action on an assigned instrument or account in the person's
1 34 own name and need not be represented by an attorney, provided
1 35 that in an action brought to recover payment on a dishonored
2 1 check or draft, as defined in section 554.3104, the action is
2 2 brought in the county of residence of the maker of the check
2 3 or draft or in the county where the draft or check was first
2 4 presented. Any person, however, may be represented in a small
2 5 claims action by an attorney.
2 6 Sec. 3. Section 648.10, Code 2005, is amended to read as
2 7 follows:
2 8 648.10 SERVICE BY PUBLICATION.
2 9 Notwithstanding the requirements of section 648.5, service
2 10 may be made by publishing such notice for one week in a
2 11 newspaper of general circulation published in the county where
2 12 the petition is filed, provided the petitioner files with the
2 13 court an affidavit stating that an attempt at personal service

2 14 made by the sheriff was unsuccessful because the defendant is
2 15 avoiding service by concealment or otherwise, and that a copy
2 16 of the petition and notice of hearing has been mailed to the
2 17 defendant at the defendant's last known address or that the
2 18 defendant's last known address is not known to the petitioner.
2 19 Service under this section is complete seven days after
2 20 publication. The court shall set a new hearing date if
2 21 necessary to allow the defendant the three-day minimum notice
2 22 required under section 648.5.

2 23 EXPLANATION

2 24 This bill relates to landlords and tenants by providing for
2 25 notice requirements to terminate a periodic tenancy,
2 26 representation of an owner of a rental property in small
2 27 claims court, and service of a petition for forcible entry and
2 28 detainer by publication.

2 29 The bill provides that either a landlord or a tenant may
2 30 terminate a periodic tenancy that is for a term longer than
2 31 month-to-month by giving a written notice to the other at
2 32 least 30 days prior to the end of the term of the tenancy.

2 33 In an action brought in small claims court concerning a
2 34 residential rental property that is titled in the name of one
2 35 or more individuals, an employee of one or more of the titled
3 1 owners or an officer or employee of a property management
3 2 entity acting on behalf of a titled owner may bring or defend
3 3 an action in small claims court in the name of the titled
3 4 owners, the name of the property management entity, or the
3 5 name by which the property is commonly known. If in such an
3 6 action either the plaintiff or defendant has been improperly
3 7 named in the petition, the court shall substitute the correct
3 8 real party in interest in the action and the action shall not
3 9 be delayed or dismissed except as necessary to identify and
3 10 serve the correct parties to the action.

3 11 The bill removes a requirement relating to the service of a
3 12 petition for a forcible entry and detainer action by
3 13 publication. Under current law, a petition for a forcible
3 14 entry and detainer action must be personally served on the
3 15 defendant but does not restrict the performance of the
3 16 personal service to the sheriff only. However, current law
3 17 provides that if personal service is unsuccessful, then
3 18 service of the petition may be made by publication in a
3 19 newspaper of general circulation but only if an affidavit is
3 20 filed with the court stating that "the sheriff" was
3 21 unsuccessful at obtaining personal service. The bill strikes
3 22 the requirement that the affidavit for service by publication
3 23 state that service was unsuccessfully "made by the sheriff" to
3 24 address the inconsistency.

3 25 LSB 6073SK 81

3 26 kk:nh/gg/14