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Manufactured Home Community Owner-Operators Must Take Notice of New Law Now in Effect

Legal Update

05.26.2022

On May 17, Governor Reynolds signed HF 2562 into law, with much of the law being immediately effective as of May 17, 2022. Companies that own, operate and manage manufactured home communities (MHCs or MHC landlords) in Iowa need to take note of this new law, as the law contains several amendments to Iowa Code Chapter 562B relating to manufactured home communities. Also, the law contains few minor tweaks to Iowa Code Chapter 648 relating to evictions.

HF 2562 Law Background

HF 2562 (the Law) is the manufactured housing community omnibus bill negotiated between the Iowa Manufactured Housing Association (IMHA) and a coalition of lawmakers led by Representative Brian Lohse. The Law includes several amendments to Iowa Code Chapter 562B, which will likely require MHC landlords to amend their existing lease agreements and/or rules for their communities. However, the exact impact of the Law on the MHC landlord's forms and practices depend upon the lease agreements, rules and other documents that a MHC landlord uses. Below is a summary of the Law.

HF 2562 Law Summary

Below is a summary of the changes that will affect MHCs, including their practices, policies/forms and evictions. **Remember that this is a general summary of the Law, and each MHC landlord needs to contact their counsel for advice specific to them.**

Increase in Prior Notice for Non-Renewal of a Lease (Division II)

The Law requires that MHC landlords must give at least 90-days' written notice to terminate a rental agreement. This is an increase from 60 days. This provision takes effect immediately.

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Thus, MHCs will need to change their practices, and form notes, regarding the prior notice needed to be given for renewals of leases.

Increase in Prior Notice for Rent Increases (Division II)

The Law requires MHC landlords to give at least 90-days' written notice before any rent increases. This is an increase from the 60 days now required. This provision takes effect immediately.

90-day notice of utility rate increase (Division III)

Per the Law, MHC landlords are now required to give at least 90-days' written notice before any increases in utility rates or charges, such as with increases to rent. There is an exception to this requirement under the Law if the MHC landlord did not itself receive at least 90-days' notice from the utility provider, in which case no prior notice is required prior to the rent increase. This provision is effective July 1. Contact your counsel regarding the implications of this provision within the Law.

Written Notice of Denial for Applicants Wanting to Purchase Existing Home from MHC Resident (Division V)

If a current resident attempts to sell their home and their prospective buyer's park application is denied, the landlord must give a written notice of denial and a general reason for the denial. The landlord is not required to give the specific reason for the denial. Many landlords already do this; others do not. If you do not have a form denial letter, please contact your counsel. This provision would be effective July 1.

Written contract for the sale of manufactured homes (Division VII)

The Law requires that any landlord that sells manufactured homes does so by written agreement that includes certain essential terms such as total cost of the home, finance charges, annual percentage rate, and frequency and amount of payments. Many landlords already do this; others do not. If landlords fail to comply with these requirements, a court may invalidate the sale and award damages, including attorney's fees. Any landlord that sells manufactured homes should contact their attorney to confirm their written contracts conform with this new law. This provision is effective July 1.

Prohibition on requiring certain home modifications (Division VI)

A landlord will not be able to require a tenant to modify their home in a way that substantially impairs the ability for the tenant to move the home, with broad exceptions written into the law for all modifications to manufactured homes required by federal, state or local law, those required by the manufacturer's instructions, and those necessary for safe and proper installation of the home. Landlords should confer with their attorney to determine if their lease contains such requirements. This

provision is effective July 1.

Definition of “Rent” expanded (Division II)

This provision of the Law was one of the IMHA’s affirmative items. The law would expressly confirm that the definition of rent includes base rent, utilities, late fees and other payments due under the lease in each month. This clarification should eliminate the lack of judicial consistency across the state as to whether “Notices of Nonpayment of Rent” can include utilities and late fees. In other words, once magistrates are educated as to the law, landlords should be able to include base rent, late fees and utilities in their “Notices of Nonpayment of Rent.” This provision would be immediately effective upon signing by the Governor.

Provisions that align Chapter 562B and Chapter 562A regarding tenant remedies/rights

- Retaliatory presumption increases to one year (Division I): The presumption that a landlord acted in a retaliatory manner after certain actions taken by a tenant is being expanded from six months to one year to align with Iowa Code Chapter 562A. This provision is effective July 1.
- Liability for failure to supply running water or essential services (Division IV): This provision is identical to the requirement placed upon landlords under Chapter 562A of apartments, single and multi-family dwellings in terms of a landlord’s liability of damages if a landlord deliberately or negligently fails to provide running water or other essential services to manufactured homes within their community. This provision would be immediately effective upon signing by the Governor.

Continuation of Lawful Nonconforming Uses (Division IX)

HF 2562, at Division IX, is one of the IMHA’s affirmative items. Division IX makes small, but important, amendments to the two sections of the Iowa Code implemented in 2019 to ensure cities and counties do not unlawfully prevent an MHC’s lawful continuation of a nonconforming use as it pertains to the replacement of homes. This provision is effective July 1.

Abandoned Mobile Home Actions (Division XI)

HF 2562, at Division XI, is one of the IMHA’s affirmative items. The Law will allow broader use of an action for an abandoned manufactured home, including in situations where there is a lienholder noted on the certificate of title. This was not previously available in Iowa. Further, the Law confirms that an abandoned manufactured home action can be brought against a deceased tenant’s estate and heirs in cases where the deceased tenant was the sole owner of the home. This provision is effective July 1.

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Evictions (Division XI)

This provision is one of the IMHA's affirmative items. Division XI makes small, but important, clarifying amendments to Chapter 468 on evictions. This provision would be effective July 1.

- First, Iowa law requires that the initial hearing for an eviction be held within a certain number of days from the filing of the petition. Certain magistrates have taken this to mean that the hearing cannot be continued beyond that initial timeframe for any reason. The Law confirms that the hearing can be continued beyond the initial court date with the consent of the landlord.
- Second, the Law will eliminate inconsistent rulings across the state in terms of how days are counted for service purposes when the method of service is mailing for which four additional days are added before a document is deemed served. The Law expressly provides that in computing the time for completion of service, the first day shall always be excluded and the fourth/final day shall always be included regardless of whether the fourth day is a Saturday, Sunday or federal holiday.

If you have questions regarding the manufactured housing community omnibus bill or anything else addressed in this article, please contact Jodie McDougal at jmcdougal@fredlaw.com or 515.242.8971.