

## **Second Funnel Week Ends**

Last Friday was the second funnel deadline, which marked the end of the line for many legislative proposals. The Legislature is scheduled to adjourn on March 31<sup>st</sup> so most of the focus will be on the budget for the next few weeks in preparation for adjournment. This week will include lots of floor debate and budget committee meetings.

The issues the IAR is following this week are listed below and new information will be highlighted in bold as **“Updated Information”**:

**Updated Information – SF 2326 (formerly SSB 3167) – Real Estate license law changes: The legislation passed the House Commerce committee this week and will be put on the House debate calendar. The legislation has already passed the Senate.** This legislation re-arranges code sections to where they are better suited, and further distinguishes between an Applicant and a Current Licensee when they are potentially subject to denial/revocation due to crimes. It also places administrative time frame upon the commission to quickly act – so those who have been convicted of a crime may have an expedited process. Finally, it allows the Real Estate Commission some discretion when considering granting a license to someone who may have been convicted of a crime. The bill allows the Real Estate Commission to consider the nature of the offense, extenuating circumstances, the time elapsed since the conviction, any restitution, etc.

**Updated information: Landlord Tenant Eviction notice – SF 2300: This legislation was signed by the Governor on March 2 and will go into effect immediately.** This bill amends the service of notice requirements for landlords and tenants. The bill is in response to the Iowa Supreme Court’s November 20, 2009, decision in War Eagle Village Apartments v. Plummer. The bill changes Code sections, dealing with certain notices to quit, and certain notices of termination.

Under the bill, such notices to quit must be served upon the tenant according to one or more specified methods. The acceptable methods of service for a notice include delivery evidenced by an acknowledgment of delivery that is signed and dated by a resident of the dwelling unit, personal service in the manner provided by the Iowa rules of civil procedure for the personal service of original notice, and both posting on the primary entrance door of the dwelling unit and mailing by both regular mail and certified mail. If the original notice is posted, it must be posted not less than three days prior to the hearing and shall include the date the original notice was posted.

**The IAR supports SF 2300.**

**Escrow Licensing legislation – SF 2348 (formerly SSB 3155 and HSB 629) Update: This legislation passed the Senate last week and also was approved by the House Commerce Committee. It now goes to the House floor for consideration.** This legislation passed the Senate Commerce Committee. The legislation was amended to change the bonding requirement for escrow companies

from \$250,000 to \$25,000. This is a study bill providing for the licensing and regulation of real estate closing agents. This legislation will require escrow/closing companies to establish a trust account for funds received and also will establish a bond requirement for these companies. This legislation is proposed by the Iowa Finance Authority and will be regulated by the Banking Division. Real estate licensees and brokers are exempt from the legislation, as well as, insurance companies, bankers, attorneys and others. The IAR is still working on an amendment to the legislation to ensure the language works for closing agents and companies that are affiliated with real estate brokerages.

### **Fire sprinkler legislation – HF 2062/SF 2051:**

**Update: This legislation did not survive the second funnel deadline, but the IAR will continue to work to find another legislative solution to ensure that fire sprinklers are not mandated on all new construction.** The language in this legislation has been amended several times and as of Thursday night the bill language simply states that a city or county wanting to implement a fire sprinkler requirement must do so by taking a separate vote on the issue. This language still allows for home rule to apply. Originally, the IAR had accepted language that would grandfather in the cities that already had a requirement for fire sprinklers on new construction and still allow home rule for cities who wanted to pass a requirement in the future for properties with 8,000 square feet of livable square footage or higher. However, this language was unacceptable to some legislators. The IAR will continue to support the legislation moving forward as amended with the local vote (home rule) requirement. The International Firefighters group and the State Fire Marshall continue to oppose our legislation.

Recently the state building commissioner developed rules that included recommendations for fire sprinklers in all new residential construction by 2013. The legislature's Administrative Rules Review Committee granted a "session delay", providing lawmakers an opportunity to act on the issue. The IAR will actively support legislation that will prohibit a state agency, county or city ordinance from mandating sprinklers in new residential construction – HF 2062/SF 2051.

### **Carbon monoxide detector mandate - HSB 577/SSB 3023:**

**Update: This legislation did not survive the first funnel deadline, but the IAR will continue to watch for this legislation to come up in the form of amendments on other bills.** The carbon monoxide detector mandate bill was originally drafted to mirror current laws which mandate smoke detectors. Homeowners are required to sign on their homestead tax credit forms that they have a smoke detector. This legislation would have also made a homeowner sign off that they have installed carbon monoxide detectors as well. This language was acceptable to the IAR, but in the last hours before the bill was to be debated in committee the language changed, and the IAR could not support it. This bill is not eligible for further debate this year, but the IAR may study the issue during the legislative interim.

The legislation will mandate the installation of carbon monoxide detectors in multiple unit residential buildings and single family homes. This requirement would apply to both existing and new construction homes. The owner of a single family home is responsible for installing a carbon monoxide detector and shall certify such installation upon filing for a homestead credit. Owners of multiple unit residential buildings and single family rental units are also required to supply light-emitting carbon monoxide detectors for hearing-impaired tenants.

### **Private transfer fees – SF 2192:**

**Update: This legislation was approved by the Senate with a vote of 50-0, and was also approved last week by the House Commerce Committee. The House will likely take the bill up for debate within the next two weeks.**

This legislation will prevent companies from creating private transfer fees. It has been brought to NAR's attention that companies dealing with the creation and management of "private transfer fees" are actively marketing their products to developers across the country. It is their intention to "bundle" these fees so they can be securitized and resold on the open market. If they succeed in developing a "stream" of these fees to make a credible securitization market, then the use of private transfer fees will increase exponentially since the profit incentive will go up for developers. Just like transfer fees collected by state and local governments, private transfer fees to developers are an increased cost to housing

Private transfer fees are covenants that purport to run with title to the property (either perpetually or for a defined term) that typically require a fee be paid to the property owner or developer who creates the covenant upon each subsequent transfer of the affected property. These are fees not paid to local or state governments, but to private corporations or investors, in some cases for up to 99 years. Also, since it is a covenant on the deed of the property, the property cannot be transferred with clear title until the fee is paid. In cases where these fees have been attached to property transfers, they have been as much as 1% of the purchase price of the property.

The IAR will actively support legislation to prohibit these private transfer fees.

### **Central registry for mechanic's liens – HSB 559/SSB 3076:**

**Updated information: This legislation did not survive the second funnel deadline.**

This bill creates a central state construction registry for residential construction property for general contractors, owner-builders, and subcontractors to protect their lien rights. The state construction registry would be a publicly accessible centralized electronic

database created and maintained by the Iowa finance authority. The registry provides a centralized resource of all persons or companies furnishing labor or materials who may file a lien upon the improved property. The IAR will support this legislation.

**SF 2157 – Real Estate Installment Contract Sales**

**Update: This bill has passed the Senate and was approved by the House**

**Commerce Committee last week.** This bill deals with the amount of time to record a real estate installment sales contracts. This legislation changes current code and states that the contract seller must file the documents with the county recorder within 90 days as opposed to the current law which is 180 days from the date the contract was signed. The bill also states that any contract disclosure statements that are required in installment sales must be recorded within 30 days rather than the current codes 45 days.