

Working toward adjournment

Although many believed the legislature could wrap up business by the end of the week last week, there were a few issues that kept the legislators in deadlock. The House and Senate continued to work through Saturday night in an effort to complete their business, but fell short of the goal. Two of the main hurdles they must overcome are the gun bill or “shall carry” and the standings bill, which is an appropriations bill and typically the last bill of the legislature. The official adjournment date and end of the legislators per diem ends Wednesday, March 31, and it is expected they will be finished by that deadline.

The real estate related issues are completed through the process by this point and the following is a summary of those issues. New information will be highlighted in bold as **“Updated Information”**:

Updated Information – SF 2326 (formerly SSB 3167) – Real Estate license law changes: This legislation was signed by the Governor and will be effective July 1, 2010. 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 both chambers and will be sent to the Governor for his 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:

Update: The original legislation (HF 2062 and SF 2051) did not survive the funnel deadline, but new language was introduced as a Senate Joint Resolution – SJR 2009. SJR 2009 is a bill that nullified the state building commission rules regarding fire sprinklers. This legislation passed the Senate and the House and because it is a resolution, does not need a signature from the Governor. The nullification of the fire sprinkler rules goes into effect immediately. However, a municipality may still adopt a fire sprinkler mandate locally, and because of this, the IAR would ask all local boards to contact the state association of any pending local ordinances dealing with this issue.

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 - **SJR 2009**

Carbon monoxide detector mandate - HSB 577/SSB 3023:

Update: This legislation did not survive the first funnel deadline, and the legislation is not being considered currently. 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 both chambers and will be sent to the Governor for his consideration.

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 and is no longer eligible for consideration.

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 passed both chambers and was signed by the Governor. The bill goes into effect immediately. 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.