

Advisory - CCC



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Department of Justice

CONSUMER PROTECTION DIVISION

ADDRESS REPLY TO:
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April 1, 1985

RE: Late Charges on Residential Rental Payments

Dear

You recently inquired whether a publication released several years ago by the Consumer Protection Division of this office is still an accurate statement of the law on late charges on residential rentals. The publication in question was an undated one page document entitled: "Report for the Iowa Consumer, Do You Rent? 'Late Charges'."

The information contained in this report is no longer entirely accurate due to changes in Iowa law. As you know, since January 1, 1979, the Uniform Residential Landlord and Tenant Act has governed landlord-tenant relations. The landlord-tenant act does not include any reference to late charges. Although the act does not regulate the amount of late charges, it does provide general authority for assessing such charges:

1. The landlord and tenant may include in a rental agreement, terms and conditions not prohibited by this chapter or other rule of law including rent, term of the agreement, and other provisions governing the rights and obligations of the parties.

§ 562A.9, Iowa Code Ch. 562A (1983)

Assuming that "late charges" on rent can be deemed to be "interest", then these charges are governed by Iowa Code Ch. 535 (1983). If the rental agreement is in writing and if it specifically provides for such charges, then the maximum rate which could be assessed is determined by § 535.2(3)(a) which provides:

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The maximum lawful rate of interest which may be provided for in any written agreement for the payment of interest entered into during any calendar month commencing on or after April 13, 1979, shall be two percentage points above the monthly average ten year constant maturity interest rate of United States government notes and bonds....

On or before the twentieth day of each month the superintendent of banking shall determine the maximum lawful rate of interest for the following calendar month as prescribed herein,....

(See also: 1978 Op. Att'y Gen. 838-9 [copy enclosed].)

The rate provided in § 535.2(3)(a) is essentially a floating rate which is determined and published monthly by the Iowa Department of Banking in the Iowa Administrative Bulletin (see enclosure). Since the rate is subject to change monthly, then presumably a rental agreement would have to make specific reference to this code section rather than set a certain rate in the agreement.

If the rental agreement is not in writing, then the provisions of § 535.2(1) would apply. This provision of the usury statute has remained unchanged over the past several years.

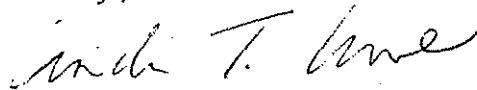
..., the rate of interest shall be five cents on the hundred by the year...unless the parties shall agree in writing for the payment of interest at a rate not exceeding the rate permitted by subsection 3:....

(See also: § 535.2[3][a] cited above.)

When there is no written rental agreement, late charges would be limited to an annual percentage rate of five percent (5%).

I hope this information answers your inquiry. Please be advised that this letter is merely a response to your inquiry. It is not an opinion of the Attorney General and therefore it may not be relied upon as such.

Sincerely,



LINDA THOMAS LOWE
Assistant Attorney General

cf

Enclosures: § 535.2(1)

§ 535.2(3)(a)

1978 Op. Att'y Gen. 838-9

I.A.B., 1-30-85, p. 1079