Finding Housing With a Criminal Record: What You Need to Know About Background Checks and the Fair Housing Act

By Alisa Diehl

Nearly one-third of the United States’ population has a criminal record. Many people have trouble getting housing because landlords often will not rent to someone with a criminal record.

Criminal background checks
A landlord has two main ways to access a future tenant’s criminal history. The first is through the Iowa Courts Online Search website. In Iowa, any crime a person is charged with is posted on this website, even if the courts found the person not guilty or the case was dismissed. The second way a landlord can access a future tenant’s criminal history is through a private background check. Private companies screen a prospective tenant’s credit history, rental history, and criminal records in Iowa and other states.

The Fair Credit Reporting Act (FCRA) is a federal law that applies to the private companies that provide criminal background checks. Under this law, the companies are required to provide a copy of the record if the person requests it. If you are denied housing based on a criminal background check, ask for a copy of the record. If the document contains inaccurate, misleading or incomplete information, you should notify the company right away.

Under the FCRA, the company must start an investigation to determine whether the disputed information is correct. If the information is inaccurate, the company has 30 days to remove the data from its files. If the company does not remove the incorrect information from the report, the FCRA gives you the right to sue the company for money.

Criminal background checks and the Fair Housing Act
Under Iowa law and the federal Fair Housing Act (FHA), a landlord cannot refuse to rent to a person on the basis of the person’s race, color, religion, sex, disability, familial status, or national origin. These groups are called protected classes. A person with a criminal record is not a protected class under the FHA. But, the FHA prohibits a landlord from doing something that creates a significant burden for a protected class, even if it is not on purpose.

In Iowa, African Americans and Latinos are convicted and jailed at higher rates than anyone else. If a landlord has a policy not to rent to people with any criminal conviction, the landlord is creating a major burden for African Americans and Latinos.

The U.S. Department of Housing and Urban Development (HUD) ruled that a landlord’s screening policy might violate the FHA if the landlord does not consider when the conviction occurred, the nature of the criminal offense, or what the person has done since.

Access to federally funded housing programs
Federal law requires public housing agencies to have criminal background policies that determine whether someone is eligible to receive public housing assistance. Because public housing agencies can write their own policies, different public housing agencies have different rules.

Federal law also limits the type of criminal activity that disqualifies a person from receiving public housing assistance. In general, a public housing agency can deny a person based on a criminal history for drug-related criminal offenses, violent criminal offenses, criminal offenses that result in a person being placed on the sex offender registry, or criminal activity that threatens the health or safety of the management or other tenants. A person denied public housing assistance does not need to be convicted of a crime, but an arrest alone is not enough.

The disqualifying crime must have occurred within a reasonable period before the prospective tenant applies for assistance. The law does not define how many months or years is a reasonable period. But, it should have some connection to the seriousness of the crime and the circumstances of the case. Usually, a public housing agency will deny all applicants for a certain number of years for certain types of crimes. This disqualification may be something that you can challenge, depending on the circumstances.

A public housing agency must consider mitigating circumstances before denying a person public housing assistance. If denied, a person has the right to an informal review of the denial, and he/she can challenge a denial if the policy is not reasonable.

If you have been denied housing assistance, or denied on a rental application:

• Iowa Legal Aid provides help to low-income Iowans.
• To apply for help from Iowa Legal Aid:
  • apply online at IowaLegalAid.org OR
  • call 800-532-1275
  • Iowans age 60 and over, call 800-992-8161
• If Iowa Legal Aid cannot help, you can look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at IowaBar.org. A private attorney there can talk with you for a fee of $25 for 30 minutes of legal advice.

Alisa Diehl is a staff attorney in Iowa Legal Aid’s Cedar Rapids Regional Office.
Avoiding Financial Exploitation of Older Iowans

By Andrew Cederdahl

Financial exploitation of older Iowans is a big problem. Older Americans likely lose billions of dollars each year to financial scams and abuse. Therefore, older Iowans need to know common scams and methods of exploitation to protect themselves.

Common phone scams
One clever phone scam begins when the caller immediately asks you, “Grandma, do you recognize who this is?” If you ask whether the caller is a specific person, the caller then has the name of the person he can pretend to be. The caller may next tell a story about a sudden emergency, in which he needs you to transfer money to him quickly. For example, the caller could say he was arrested and needs bail money, or lost his passport in a foreign country and needs money for a hotel. The caller may also ask to have money wired to him or to have gift cards sent to him. Such situations are usually scams. You should never transfer money without first verifying the identity of the caller.

Another common phone scam occurs when a caller claims you owe a debt and that you will soon be thrown in jail if you don’t pay the debt immediately. The caller may apply extreme pressure and a sense of urgency by offering a “discount” on the alleged debt if you pay immediately. You should not pay anything to these callers. Even if you have legitimate consumer debt, you will not be thrown in jail because of the debt. Depending on your income and the value of your assets, creditors may not be able to collect any money from you. Iowa Legal Aid can assist you with debt collection issues.

To better protect yourself from these and other similar scams, you should not give out your personal information to other people without verifying who they are and why they need the information. You should never transfer money to someone you do not know before verifying who is requesting it. If you recognize that someone is trying to scam you, it may be a good idea to report the scam to the Iowa Attorney General’s Consumer Protection Division at 515-281-5926.

Exploitation by family and friends
Older Iowans can be victimized in other ways. Family members, or friends, often use a financial power of attorney document to steal money and property. Many older Iowans who give another person financial power of attorney do not understand what their agents can do. They may not know that their agents can be given power to do almost anything to their assets. Your agents must use your assets only for your expenses. To avoid the chance of being exploited, it is best to appoint only the most trustworthy and responsible people as your financial agent.

If a family member or caretaker is stealing your money, you may ask a judge to enter a protective order to stop the exploitation and return the stolen money. Older Iowan victims, or someone else on their behalf, can file the Petition for Relief from Elder Abuse, or contact the Department of Human Services (DHS) to report dependent adult abuse. The DHS number to report abuse and exploitation is 800-362-2178.

Iowa Legal Aid’s Legal Hotline for Older Iowans assists older Iowans in determining whether a caller is trying to scam them, and with financial exploitation issues. To speak to a Hotline attorney, call 800-992-8161 (or in Des Moines, call 282-8161). The Equal Justice Journal is published four times a year by Iowa Legal Aid. The Equal Justice Journal is free to low-income people in all counties of Iowa. All others must pay a $10 annual subscription fee. The EJJ is available in a larger-print edition upon request.

All correspondence should be sent to:
The Equal Justice Journal
Iowa Legal Aid
1111 9th Street, Suite 230
Des Moines, IA 50314-2527

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By Andrew Cederdahl

The information in this newsletter was correct as of the date it was printed. The laws may have changed. DO NOT ASSUME THAT THE INFORMATION IS CORRECT AFTER THE DATE OF PUBLICATION.

You should see a lawyer to get complete, correct, and up-to-date legal advice. Do not rely on the general information in this newsletter for your specific case. If you need a lawyer but can’t afford one, contact Iowa Legal Aid. You may be able to get free legal help. Call or write Iowa Legal Aid, or apply on line at iowalegalaid.org.

AS YOU READ THIS NEWSLETTER, REMEMBER IT IS NOT A SUBSTITUTE FOR LEGAL ADVICE.

PUBLIC NOTICE
Meetings of the Iowa Legal Aid Board of Directors are open to the public. The Board of Directors meets at least four times each year. The public is encouraged to attend.

The next meeting of the Board of Directors is scheduled to take place on Saturday, July 21, in Des Moines. For details on the next meeting of the Board, call toll-free: 800-532-1275, and ask for Arlys.

Free Help with Tax Questions and Problems
- Find out about tax credits like the Earned Income Credit
- Get Help with Problems with the IRS
Call Iowa Legal Aid for details about the Low-Income Taxpayer Clinic (LITC).
800-532-1275
Or visit Iowa Legal Aid’s website: iowalegalaid.org

The LITC does not provide tax preparation.
Celebrating Patrick McClintock
March 30, 1951– February 27, 2018

by Dennis Groenenboom

Iowa Legal Aid is the organization that it is today in large part because of the many contributions of Patrick McClintock. Pat began his service on May 28, 1974, with what was then Black Hawk County Legal Aid. His official last day with Iowa Legal Aid was December 31, 2016, but Pat continued to assist as a consultant and as a volunteer. Pat’s service continued almost until the day of his death, February 27, 2018.

The early years
Pat worked as a paralegal in the Black Hawk County Legal Aid office in Waterloo from 1974 until early 1977. Pat also had a brief stint with the Legal Aid Society of Polk County. Later in 1977, Pat became the deputy director for Paralegal Advocacy with the newly formed Legal Services Corporation of Iowa, now called Iowa Legal Aid. The office in Waterloo was one of the four county legal aid offices that merged to create the new statewide organization. Pat worked with offices that merged to create the new Iowa Legal Aid, now called Iowa Legal Aid. The office in Waterloo was one of the four county legal aid offices that merged to create the new statewide organization. Pat worked with the newly formed Legal Services Corporation of Iowa, now called Iowa Legal Aid. The office in Waterloo was one of the four county legal aid offices that merged to create the new statewide organization. Pat worked with the new organization.

Retrenchment and reorganization
As is the case with probably everyone working with Iowa Legal Aid through the years, Pat’s job responsibilities evolved over his 42-year career. With the significant funding reductions that came as a part of the Reagan years, Pat’s role changed dramatically.

As Pat said in an article included in Iowa Legal Aid’s 40th-anniversary edition of the Equal Justice Journal, these years were a period of retrenchment and retooling. The program closed offices and set about to ensure the long-term survival and success of Iowa Legal Aid.

One key aspect of that retooling was Pat assuming new responsibilities as program administrator. While many people left the program at that time, Pat’s dedication to ensuring that low-income Iowans had high-quality legal services resulted in him taking on these new responsibilities.

One of the essential tasks that must be performed by an organization is ensuring that staff is paid on time, landlords receive their rent payments, and vendors are paid on time. Not-for-profits must be fiscally sound and accountable to funders. Pat headed up the fiscal department. Working with others, including Iowa Legal Aid Fiscal Managers Phyllis Hetheriton and Dennis “Dutch” Van Fleet, Pat led the effort to ensure there was a reliable infrastructure in place for Iowa Legal Aid. This work was done through some very challenging times for the program.

Many not-for-profit organizations struggle with ensuring fiscal accountability. Iowa Legal Aid, under Pat’s leadership, received clean audits with no reportable conditions or deficiencies throughout his time in the position.

Technology innovations
Another part of Pat’s retooling was to stay abreast of technological developments. Pat worked to upgrade and update Iowa Legal Aid’s case management software to a web-based system. New telephone systems were put in place using voice over Internet protocol (VoIP) technologies. This telephone system allowed Iowa Legal Aid clients to receive services more efficiently. It also allowed Iowa Legal Aid to begin operating as a statewide law firm, rather than ten separate offices.

Pat also led the development of Iowa Legal Aid’s website, which had more than 600 legal resources and 363,839 unique users in 2017.

Pat’s contributions were acknowledged in many ways over the years. In 2008, the National Legal Aid and Defender Association recognized Iowa Legal Aid with the Association’s Innovations and Equal Justice Award. This award was for outstanding vision and leadership in improving the delivery of legal services to low-income people. Pat was the person responsible for Iowa Legal Aid being acknowledged as one of the most technologically advanced legal aid programs in the nation.

A national resource
Pat assisted at the national level by reviewing proposed regulations and policies. The National Legal Aid and Defender Association and the Legal Services Corporation utilized Pat as a resource. Within the Midwest, other program administrators consulted Pat to assist them in addressing the many challenges confronted by legal aid programs.

Pat’s skills and contributions were recognized at the national level with the Denison Ray Award, presented to Pat at the 2000 annual meeting of the National Legal Aid and Defender Association. The award recognized the creativity, perseverance, and dedication that Pat brought to the cause of equal justice for the most vulnerable members of our society.

And so much more
Pat’s commitment to ensure justice for low-income Iowans took on many additional facets as well. Pat assisted with fundraising and development of new projects. He had many contacts in the public and private sector. These contacts were utilized to expand the services that Iowa Legal Aid could provide to assist clients in need of access to the justice system.

Pat helped in putting together funding applications. He prepared budgets and wrote grants. Pat was an excellent writer and helped improve the work product of Iowa Legal Aid in so many ways. His creativity in designing substantive as well as technological projects resulted in services including:

- Iowa Legal Aid’s Legal Hotline for Older Iowans
- increased services for victims of domestic violence
- computers installed in senior centers
- LiveHelp website chat feature
- graphic online intake

Principled advocate
For those of us who had the pleasure to work with Pat, we were fortunate that he readily shared his belief that the justice system was a valuable tool for advancing social justice. People who are vulnerable are too often taken advantage of by powerful interests, including governments, financial institutions, landlords, and others. Pat was always a clear voice to make sure that Iowa Legal Aid stayed true to its mission of providing low-income Iowans meaningful access to the justice system. His work ensured that Iowa Legal Aid provided hope, dignity, and justice to Iowans.

Dennis Groenenboom is the former executive director of Iowa Legal Aid, serving in that capacity from May 1992–January 2018.

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Federal Law Protects Migrant and Seasonal Agricultural Workers

By Carrie Condon

What is the Migrant and Seasonal Agricultural Worker Protection Act (AWPA)?
The Migrant and Seasonal Agricultural Worker Protection Act (AWPA) protects migrant and seasonal farmworkers. If their employer violates AWPA, a worker can sue the employer. If an employer is found to have violated AWPA, the worker is entitled to damages up to $500 for each violation. An employer cannot retaliate against a worker who asserts their rights under AWPA.

Who is protected under AWPA?
AWPA protects farmworkers who perform migrant (temporary) or seasonal work.

• A migrant agricultural worker is someone who works an agricultural job on a seasonal or temporary basis. To be a migrant worker, the worker must be absent overnight from their permanent place of residence.

• A seasonal agricultural worker is someone who works an agricultural job on a seasonal or temporary basis but is NOT required to be absent overnight from his or her permanent place of residence. The worker must perform fieldwork on a farm or ranch or be employed in canning, packing, or similar activities and transported by day haul.

AWPA excludes year-round agricultural workers at dairies or egg farms from these protections. However, they may have legal remedies under other laws. Also excluded are foreign workers who are brought to the United States under the H-2A temporary agricultural worker visa program. Some family businesses and small employers are also exempt from AWPA requirements.

Who is required to follow the AWPA?
• Agricultural employers. A farmer, packer, or processor who recruits, solicits, hires, furnishes, or transports migrant or seasonal workers.

• Agricultural associations. A grower association or cooperative of growers and farmers that recruits, solicits, hires, furnishes, or transports migrant or seasonal workers.

• Farm labor contractors (FLCs). Any person who is paid to recruit, solicit, hire, employ, furnish, or transport migrant or seasonal farmworkers. They are also known as crew leaders, labor recruiters, or a labor agency.

FLCs must register with the United States Department of Labor and get authorization for each activity that they do. FLCs must carry their registration certificate with them and show it to workers if asked. If an employer uses an FLC, they must take reasonable steps to determine that the FLC is registered.

General obligations of employers and FLCs
• cannot knowingly give false or misleading information to a worker – including the amount of money to be earned;

• cannot require workers to purchase any goods exclusively from the employer/FLC;

• cannot violate the terms of any “working arrangement” with a worker.

What is a working arrangement?
A working arrangement is the understanding between the employer and worker about the expected terms and conditions of the job. It is a contract but does not need to be in writing to be enforceable.

What obligations does a recruiter of workers have?
They must give written disclosures of employment terms to workers that include:
• place of work, name, and address of the employer;

• wage to be paid;

• crops and other activities the worker will be involved with;

• the period of employment (stop and start date);

• the provided benefits (transportation, housing) and how much the worker must pay for them; and

• whether workers’ compensation coverage exists.

Disclosures must be in writing, in the workers’ native language, and understandable to the worker.

What are the employer’s obligations?
• post a notice at the job site stating workers’ rights under the AWPA;

• upon request at the place of employment, provide a written statement of terms and conditions of employment;

• make and keep detailed payroll records for each pay period;

• give each worker an accurate pay stub that includes the number of hours worked, basis on which wages are paid, number of pieces (if the worker is paid a piece-rate), total earnings for the pay period, and any amounts withheld or deducted along with the reason for the deduction;

• pay workers at least every two weeks; and

• pay workers their wages, in full, on the day they are due.

Transportation obligations (if the employer has agreed to provide transportation)
• the vehicle must comply with federal and state safety standards;

• driver(s) must have a valid license;

• must have proper insurance; and

• must obey the traffic laws while driving.

Housing obligations (if the employer has agreed to provide housing)
• must comply with all federal and state health and safety standards;

• an appropriate agency must certify compliance with the health and safety standards; and

• must post the certificate of compliance.

What can I do if I think that my employer or FLC has violated the AWPA?
Iowa Legal Aid’s Farmworker Project helps advise workers about these protections and assert their rights under the law. Call Iowa Legal Aid at 800-532-1275 to make an application for assistance in your native language. You can also make an application online at IowaLegalAid.org or in person at one of our regional offices. Iowa Legal Aid understands that workers may be reluctant to make an allegation about an employer during their employment. Iowa Legal Aid can assist you with an application for assistance even after your job has ended or if you’ve returned to your home state or country.

• Iowa Legal Aid provides help to low-income Iowans.

• To apply for help from Iowa Legal Aid:
  • apply online at IowaLegalAid.org
  • call 800-532-1275
  • Iowans age 60 and over, call 800-992-8161

If Iowa Legal Aid cannot help, you can look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at iowabar.org. A private attorney there can talk with you for a fee of $25 for 30 minutes of legal advice.

Carrie Condon is a paralegal in Iowa Legal Aid’s Central Iowa Regional Office in Des Moines.
By Laura Jontz

Written when Sue’s mortgage company served her foreclosure papers, she was scared and her children would lose their home. Sue didn’t want to leave the house, but she had to support her children that she didn’t have enough money for school districts, so she searched for any way to save her home. Her credit union turned her down for a loan, and Sue did not want to ask her family and friends for money. The court eventually ruled against her in the foreclosure case, and Sue thought she and her children might become homeless.

Sue returned home after work one evening and found a postcard stuck to her door. The postcard claimed she could save her house by making one phone call. Sue called the number on the postcard, and the person who answered said he had helped many homeowners in the situation and he could help her.

Sue met with the businessman the next day, and he told her to sign some papers. He said the paperwork was “just a formality,” and Sue was not giving up ownership of her home. Sue was able to make monthly payments to the businessman, and she assumed everything was fine.

Six months after Sue signed the paperwork, she came home and found an eviction notice taped to her door. The notice was from the businessman, and it said he was terminating their rental agreement. One week later, Sue had to appear in court and tell a judge she didn’t realize she had given the businessman ownership of her home and was paying “rent” to the businessman.

Sue was the victim of a foreclosure reconveyance scam.

Unfortunately, victims of these scams pay large amounts of money to individuals who claim to be able to “save the home” from foreclosure. Victims can wind up homeless, while the individuals running the scams may pay very little money and wind up owning a home with equity.

Be cautious of any quick foreclosure solution.

Foreclosure is stressful. Homeowners in foreclosure often want to find a way to stay in their homes. Solutions to foreclosure that seem too good to be true usually are.

The foreclosure process can be extended if homeowners file a response to the petition (an answer) and a form to delay the sheriff’s sale of the home. Homeowners who file these documents will likely have several months to deal with the foreclosure. Homeowners should contact Iowa Legal Aid to discuss documents that should be filed with the court.

In addition, homeowners should contact Iowa Mortgage Help, a free mortgage counseling resource sponsored by the State of Iowa. Homeowners who work with counselors at Iowa Mortgage Help must complete paperwork showing their household expenses and budget. Counselors at Iowa Mortgage Help work with homeowners to negotiate workable solutions. Homeowners will have to spend time and effort completing paperwork for Iowa Mortgage Help, but this service is intended to help homeowners—not take homeowners’ money and homes.

Foreclosure reconveyance is a legal method of transferring title from the foreclosed homeowner to another party. The title is then given back to the homeowner after the homeowner has paid a specific amount of money or completed other requirements. The foreclosure reconveyance process can only be used if the foreclosure reconveyance company follows all of the specific rules below. If foreclosure reconveyance laws are not followed, homeowners may take action in court.

Homeowners who believe they have been the victims of a foreclosure reconveyance scam should contact Iowa Legal Aid, another attorney, or the Iowa Attorney General’s office as soon as possible.

Requirements of a proper foreclosure reconveyance:

1) The foreclosed homeowner and the other party must sign and date a written contract. The written contract must be very detailed.

2) The foreclosed homeowner has the legal right to cancel the contract after he/she has signed the contract. The homeowner has three days to cancel the contract. The cancellation must be in writing. The initial contract needs to include a notice of cancellation. The party receiving title to the home cannot accept a signed deed or record a deed until the cancellation period has passed.

3) The parties cannot waive the requirement to have a notice of cancellation in the contract.

4) The foreclosed homeowner must show he/she can make payments to the other party. This means the homeowners must provide paystubs, bank statements, etc. to the other party before title is transferred.

5) Title must be transferred at a real estate closing. The foreclosed homeowner must be informed that he/she is signing a real estate title to another individual.

6) If the foreclosed homeowner vacates the property, he/she needs to receive at least 82% of the fair market value of the property. This prevents the other party from evicting the foreclosed homeowner from the home and receiving 100% of the equity in the home.

7) The party taking title from the foreclosed homeowner cannot say he/she is acting on behalf of the foreclosed homeowner. This means parties taking title from a foreclosed homeowner cannot claim they are trying to “save the house.”

8) The party taking title cannot deceive or mislead the foreclosed homeowner about the value of the house or proceeds from the house.

9) Foreclosed homeowners who receive eviction papers during a foreclosure reconveyance can postpone an eviction and may have a defense to an eviction.

10) Individuals who do not follow the requirements for a proper foreclosure reconveyance can be sued by the foreclosed homeowner and could be criminally charged.

To avoid becoming a victim of a foreclosure reconveyance scam, homeowners in foreclosure should contact Iowa Legal Aid, Iowa Mortgage Help (877-622-4866 or iowamortgagehelp.com), or other reputable organization. If a stranger contacts the homeowners in foreclosure and promises to “save the house,” the homeowner should not sign documents or agree to a payment plan with this individual.

Foreclosed homeowners who have agreed to a proper foreclosure reconveyance have the right to cancel the foreclosure reconveyance. Finally, foreclosed homeowners who receive eviction papers may be able to postpone or defeat an eviction if the person with title to the home did not follow Iowa law.

If you have been the victim of a foreclosure reconveyance scam:

1) Iowa Legal Aid provides help to low-income Iowans.

2) To apply for help from Iowa Legal Aid:

• apply online at IowaLegalAid.org

• call 800-532-1275

• Iowaans age 60 and over, call 800-992-8161

If Iowa Legal Aid cannot help, you can look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at iowabaronline.org. A private attorney there can talk with you for a fee of $25 for 30 minutes of legal advice. You should also file a complaint with the Iowa Attorney General. You can do that by visiting iowatortorneygeneral.com/or-consumers/file-a-consumer-complaint/, calling 515-281-9526, or sending an email to consumer@ag.iowa.gov.

Laura Jontz is a former staff attorney in Iowa Legal Aid’s Central Iowa Regional Office in Des Moines.

Readers can get legal help at Iowa Legal Aid Help Line, 1-800-992-8161 (282-8161 in Des Moines).

The Legal Hotline for Older Iowans (282-8161)

An Iowa Legal Aid Project
WANT TO SERVE IOWA LEGAL AID CLIENTS?

Part-time and Full-time AmeriCorps positions available starting September 2018

Iowa Legal Aid seeks applicants to fill part-time and full-time AmeriCorps member positions for its regional offices throughout the state. Iowa Legal Aid provides free, high-quality legal education, advice and representation to low-income and elderly Iowans with civil legal problems that most dramatically affect poor and vulnerable Iowans. We seek applicants with a variety of backgrounds and interests, including:

- Law, social work, or paralegal students, or individuals considering law school;
- People with skills in:
  - graphic design, project planning, teaching, volunteer management, and/or data collection and measurement;
  - bi-lingual oral or written communication in Spanish, Bosnian, Arabic, Chinese, Vietnamese, languages of Burma, or American Sign Language;
- people with experience working with those who are low-income, elderly, victims of domestic/sexual abuse, from other cultural and/or ethnic backgrounds, and/or have disabilities;
- AmeriCorps members’ responsibilities include helping seniors, veterans, immigrants, people with disabilities, and other low-income Iowans get free legal help; enforcing the client intake system; increasing outreach to underserved Iowans; advancing self-help legal education; recruiting and managing volunteers; connecting low-income and elderly Iowans to financial/social supports; enhancing Iowa Legal Aid’s website; performing public relations activities.

AmeriCorps members receive a modest living stipend, forbearance on repayment of qualified student loans, and upon successful completion of their contract, are eligible for a Segal Education award. Health insurance is also available to full-time members.

Find out more by visiting IowaLegalAid.org or by contacting Gail R. Klearman at 800-532-1275.

Bail Bondsmen continued from outside front cover

When the court sets the cash bail, the criminal defendant’s friends or family may post the entire amount of the bond. This cash bail will result in a total refund at the end of the criminal case. More often, however, friends or family will agree to pay a percentage of the bail amount—typically 10 to 12 percent—to a bail bond agent, in exchange for the defendant’s release from jail. For example, if a court sets bail at $10,000, a bail bond agent will typically require a $1,000 payment. This payment is called a premium. This bail bond premium will not be refunded.

Bail bonds are a form of insurance called a surety. In a bail bond surety agreement, the bail bond agent insures to the court that a criminal defendant will appear.

Bail bond premium financing
Cash bail bonds are often financed, allowing individuals to pay the premium in installments. With cash bail bonds, premium financing often requires collateral, such as a car. The person who signs the bail bond surety agreement may agree to post their vehicle as collateral in exchange for the ability to make premium payments in installments.

Risks of dealing with bail bond agents
Consumers who are desperate to get a loved one out of jail may not always consider the risks of dealing with a bail bond agent. Cash bail transactions can pose two types of problems. First, a premium financing agreement may be written poorly or contain unfavorable terms for the consumer, such as weekly premium payments or expensive additional fees. Second, bail bond agents sometimes engage in predatory practices to collect their debts. A bail bond agent looking to collect a debt may repossess a vehicle in the middle of the night, send threatening messages, or even detain an individual and return him to jail. Many of these actions may be against the law.

Consumer protections against the bail bond industry
Across the country, bail bond agents face an increasing number of lawsuits for predatory business practices. Although Iowa law does not explicitly regulate bail bond agents, other existing laws can provide Iowans with strong protections against these predatory practices.

The Iowa Consumer Credit Code (ICCC) regulates consumer credit transactions by ensuring that businesses follow a set of standard procedures. If the bail bond agent doesn’t follow standard procedures, the business may be liable for money damages.

When a bail bond agent who regularly sells cash bail bonds enters into a premium financing agreement with an Iowa consumer, the ICCC is likely to apply. Bail bond agents may violate the ICCC if their agreements do not include required disclosures, such as a notice that cosigners will be obligated on the debt.

Bail bond agents may also violate the ICCC by failing to provide a notice to cure an alleged violation of the agreement. For example, if a consumer provides a vehicle title as collateral for a financed bail bond, then misses a payment, the bail bond agent cannot repossess the vehicle without giving the consumer proper written notice and an opportunity to cure the debt.

The ICCC is just one example of a law that applies to bail bond agents. Other consumer protection laws may also apply, depending on the transaction or collection method employed by the bail bond agent.

How to protect yourself and others against abusive bail bond practices
If you feel like a bail bond agent has behaved badly or taken advantage of you or someone you know, you may have legal options. Contact a consumer protection lawyer or if you cannot afford to hire a lawyer, contact Iowa Legal Aid at 800-532-1275. To report an abusive bail bond practice, contact the Consumer Protection Division of the Iowa Attorney General’s Office at 888-777-4590, or the Iowa Insurance Commissioner at 515-281-5705.

Iowa Legal Aid provides help to low-income Iowans. To apply for help from Iowa Legal Aid:

- apply online at IowaLegalAid.org
- call 800-532-1275
- Iowans age 60 and over, call 800-992-8161
- If Iowa Legal Aid cannot help, you can look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at IowaBar.org. A private attorney there can talk with you for a fee of $25 for 30 minutes of legal advice.

Rob Poggenklass is a staff attorney in Iowa Legal Aid’s Central Iowa Regional Office in Des Moines.
Tax Basics for Small Businesses

By Jason Burdick

If you are considering starting a small business, what are the basics you should know before you begin? Here are a few things to consider.

Recordkeeping
Your income minus your expenses is your profit. Generally, small businesses pay tax on their profits. Your profit can be a negative number. In this case, you have a business loss.

It is essential to keep records showing your business income and expenses for many reasons. Poor recordkeeping can ruin an otherwise successful business. Don’t let this happen to you!

One reason to keep good records is so you can calculate their tax due, and for documentation if you are audited. Retain receipts, invoices, mileage logs, bank records, and similar documents. Log records as the events happen. For instance, if you drive a vehicle for business, you should log the mileage at that time.

Some good options for documenting small business billing and receivables are carbon copy invoice books and receipt books available at office-supply stores. Some people use accounting software and even phone apps to help keep track of their income and expenses. For instance, you can track the number of miles driven for a business using a phone app. Or you can use software to keep all your books in one place and keep track of payments. Of course, most business owners, even small business owners, are probably better off hiring a tax or accounting professional if they can afford it.

At a minimum, a business owner should keep track of expenses and income in some form—some small businesses can use a notebook to write down expenses on one page and income on another page.

Quarterly estimated taxes
All taxpayers, including small business owners, are required to pay taxes as they earn income in the pay-as-you-go system. Most people who work for someone else have estimated taxes withheld from their paychecks. However, a small business owner, you are responsible for withholding your own income taxes during the tax year, since you do not have an employer withholding taxes for you. Most small business owners will file a Form 1040-ES and pay estimated taxes around April 15, June 15, September 15, and January 15 each year. Small business owners will use their business records and follow the instructions on the 1040-ES to estimate their profit or loss and pay the estimated taxes. It is especially important for those in their first year of business to get used to withholding estimated taxes. A good rule of thumb for a small business is to set aside 40% of profit for federal and state income taxes.

End-of-year tax returns
At the end of the year, a small business owner should have a Schedule C. Schedule C-EZ, Schedule K-1, or Schedule F prepared to show the final profit or loss for the business. The business owner will then file an individual tax return such as Form 1040. Determining which forms to use depends on how your business is organized and has elected to pay taxes. Some businesses may organize as self-employed, others as a limited liability company (LLC), or as a corporation, as a partnership, or others. This article does not discuss the significance of the different business organizations or the different taxable elections (like an LLC electing to be taxed as a corporation). One of the most common and simplest forms of business organization is a self-employed individual that files a Form 1040 along with Schedule C-EZ.

Some small businesses may qualify for free tax assistance at IRS-funded Volunteer Income Tax Assistance (VITA) sites. These sites open across the country during tax season, from mid- to late January up to around mid-April. Find a site near you here at irs.treasury.gov/ freetaxprep / . If a small business can file a Schedule C-EZ, or would otherwise be able to file a Schedule C-E but can and because expenses exceed the C-EZ $5,000 limit, but under $25,000, VITA may be able to help with a return. VITA will not assist small business owners who take a home office deduction (such as those that have a daycare business in their home), have employees, have other businesses, did not use the cash method of accounting, or had a net loss. If you do not qualify for VITA tax preparation, the best practice is to hire a reputable tax professional to prepare your returns.

Employment taxes
If your small business has employees, it has greater duties and obligations. Failure to withhold, file returns, and pay employee taxes (examples include Social Security, Medicare, or federal unemployment taxes) can result in serious consequences for a small business owner. Business managers and officers can be personally liable for employee taxes even if you have structured your business to limit your liability, such as by incorporating or forming a limited liability corporation (LLC). Most businesses with employees will file a Form 941 quarterly report. See IRS Publication 15, Employer’s Tax Guide for further information about employee taxes, Form W-4, and other issues for businesses with employees.

Self-employed individuals are responsible for paying a self-employment tax for themselves which means they are paying the employer and employee portions of the employee taxes. Someone starting a business should be aware this is one example where owning a business is more expensive than being a wage employee.

Sales and use tax
Another potential danger for a new business owner is state sales tax. In Iowa, in general, there is a 6% sales tax and a possible 1% local optional sales tax. There is also a use tax that is complementary to the sales tax. Sales tax applies to the sale of tangible personal property or taxable services.

Generally, services are not taxable unless there is an exception. However, there are many exceptions, and often a business owner may have no idea they had a sales tax obligation. For instance, a cleaning business does not pay sales tax for cleaning residential properties but will pay a sales tax if cleaning commercial properties. As with employee taxes, a small business owner owing sales tax can be personally responsible for the liability even if the business is set up to limit liability. A business owner should check with the Department of Revenue to see if they need to obtain a sales and use tax permit before operating. Sales and use tax returns are filed quarterly.

1099-MISC obligations
If your business made payments over $600 to someone (not a corporation) who is not your employee, you must file 1099-MISC with the IRS and provide a copy to the payee. You must generally mail the form to the payee by January 31 of the following year and file the form with the IRS by February 28.

Other obligations
Small businesses have other tax obligations, too—unemployment taxes, state income taxes, in some cases excise taxes. It can be challenging to know all your tax and other legal requirements. In some cases, it may be wise for you to talk to a lawyer.

New Iowa Legal Aid resource
Iowa Legal Aid has created a new Community Economic Development project that provides free legal help to low-income small business owners. Call Iowa Legal Aid at 888-532-1275 to apply for assistance in your native language. You can also complete an application online at IowaLegalAid.org or in-person at one of our regional offices.

• To apply for help from Iowa Legal Aid:
  • apply online at IowaLegalAid.org
  • call 888-532-1275
  • Iowans age 60 and over, call 800-992-8161

• If Iowa Legal Aid cannot help, you can look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at IowaBar.org. A private attorney there can talk with you for a fee of $25 for 30 minutes of legal advice.

Jason Burdick is a senior staff attorney in Iowa Legal Aid’s Central Iowa Regional Office in Des Moines.
Bail Bondsmen and Consumer Rights

By Rob Poggenkass

Most people spend very little time thinking about bail bondsmen—up until the moment a loved one lands in jail. When a friend or family member is arrested and charged with a crime, a bail bond agent can seem like the most valuable person in the world. In Iowa, a few hundred dollars paid to a bail bond agent at the right time can sometimes help secure a loved one’s freedom.

Although all consumers hope they will never have to buy a bail bond, nationwide, the bail bond industry collects about $2 billion each year. In the cash bail system, where money secures freedom, some bail bond agents will go to great lengths to collect their profits. Consumers should know the risks of bail bond agreements. Consumers should also know their rights when things go wrong.

How bail bonds work

When a person is charged with a crime and held in jail, courts have several options to release them while also encouraging them to appear in court. Courts will sometimes release criminal defendants on their own recognizance, or under the supervision of a pretrial probation officer. On their own recognizance means the person is responsible on their own for making sure they appear for court hearings.

Courts can also set a cash bail amount for an individual’s pretrial release. Bail amounts vary based on a range of factors but are often set between $500 and $20,000.

Iowa Legal Aid helps low-income Iowans

Did you know... after calling what looked like a local number for “legal aid” in the phone book, some Iowans got return calls from somewhere in Kentucky?

Don’t be misled...

• Iowa Legal Aid provides FREE legal assistance to those who qualify.

• Iowa Legal Aid helps low-income Iowans with civil legal problems including:
  • Domestic violence
  • Housing
  • Public benefit programs

The intake number for Iowa Legal Aid is 800-532-1275 (se habla español)

Iowans age 60 and over, call Iowa Legal Aid’s Legal Hotline for Older Iowans at 800-992-8161

Visit us online at IowaLegalAid.org

LOW-INCOME READERS OF THE EQUAL JUSTICE JOURNAL

If you have a question about something you read in this newsletter, call THE EJJ HOTLINE at 800-992-8161. When your call is answered, tell the receptionist you want The EJJ Hotline. Your call will be transferred to a staff member who will assist you in getting your questions answered.

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