

House Study Bill 2

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON SWAIM)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the conveyance or encumbrance of a homestead.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
3 TLSB 1328HC 82
4 rh/sh/8

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1 1 Section 1. Section 561.13, Code 2007, is amended to read
1 2 as follows:
1 3 561.13 CONVEYANCE OR ENCUMBRANCE.
1 4 A conveyance or encumbrance of, or contract to convey or
1 5 encumber the homestead, if the owner is married, is not valid,
1 6 unless and until the spouse of the owner executes the same or
1 7 a like instrument, or a power of attorney for the execution of
1 8 the same or a like instrument, ~~and the instrument or power of~~
~~1 9 attorney sets out the legal description of the homestead.~~
1 10 However, when the homestead is conveyed or encumbered along
1 11 with or in addition to other real estate, it is not necessary
1 12 to particularly describe or set aside the tract of land
1 13 constituting the homestead, whether the homestead is
1 14 exclusively the subject of the contract or not, but the
1 15 contract may be enforced as to real estate other than the
1 16 homestead at the option of the purchaser or encumbrancer. If
1 17 a spouse who holds only homestead rights and surviving
1 18 spouse's statutory share in the homestead specifically
1 19 relinquishes homestead rights in an instrument, including a
1 20 power of attorney constituting the other spouse as the
1 21 husband's or wife's attorney in fact, as provided in section
1 22 597.5, it is not necessary for the spouse to join in the
1 23 granting clause of the same or a like instrument.
1 24 EXPLANATION
1 25 This bill eliminates the requirement that the married
1 26 spouse of a person who conveys or encumbers a homestead must,
1 27 in the conveyance instrument or through a power of attorney,
1 28 set out the legal description of the homestead.
1 29 LSB 1328HC 82
1 30 rh:nh/sh/8