

House Jud & Law

FILED FEB 27 1989

SENATE FILE 290  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 99)

Passed Senate, Date 3-13-89 (p. 152) Passed House, Date \_\_\_\_\_  
Vote: Ayes 45 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to a spouse relinquishing rights in a homestead  
2 and other inchoate dower rights.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 290

1 Section 1. Section 561.13, Code 1989, is amended to read  
2 as follows:

3 561.13 CONVEYANCE OR ENCUMBRANCE.

4 A conveyance or encumbrance of, or contract to convey or  
5 encumber the homestead, if the owner is married, is not valid,  
6 unless and until the spouse of the owner executes the same or  
7 a like instrument, or a power of attorney for the execution of  
8 the same or a like instrument, ~~and the instrument or power of~~  
9 ~~attorney sets out the legal description of the homestead.~~  
10 ~~However, when.~~ When the homestead is conveyed or encumbered  
11 along with or in addition to other real estate, it is not  
12 necessary to particularly describe or set aside the tract of  
13 land constituting the homestead, whether the homestead is  
14 exclusively the subject of the contract or not, but the  
15 contract may be enforced as to real estate other than the  
16 homestead at the option of the purchaser or encumbrancer. If  
17 a spouse who holds only homestead and inchoate dower rights in  
18 the homestead specifically relinquishes homestead rights in an  
19 instrument, it is not necessary for the spouse to join in the  
20 granting clause of the same or a like instrument.

21 Sec. 2. Section 597.5, Code 1989, is amended to read as  
22 follows:

23 597.5 ATTORNEY IN FACT.

24 A husband or wife may constitute the other spouse as the  
25 husband's or wife's attorney in fact, to control and dispose  
26 of the husband's or wife's property, including the  
27 relinquishment of an inchoate dower interest, for their mutual  
28 benefit, and may revoke the appointment, the same as other  
29 persons.

30 EXPLANATION

31 This bill provides that a spouse is allowed to relinquish  
32 the other spouse's inchoate dower interest (an interest in  
33 real estate which vests in the husband or wife upon the death  
34 of the husband's or wife's spouse) through the use of a power  
35 of attorney and also eliminates the requirement that the home-

1 stead be specifically described in the power of attorney.

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VARN, CH.  
GRONSTAL  
DAGERLA

SSB 99  
JUDICIARY  
Now

SENATE FILE 296  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

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