

REPRINTED

FILED MAR 10 1997

2/23/98 Do Pass
4/29/97 Referred back
to Commerce

SENATE FILE 367
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 172)

Failed to Passed Senate, Date 4/28/97 (p. 1498) Passed House, Date _____
Vote: Ayes 25 Nays 25 Vote: Ayes _____ Nays _____
MTR: Szymoniak Approved _____
4/28/97 (p. 1520)
Passed 3/10/98
File 38-9

A BILL FOR

1 An Act relating to transfers of real property by providing that
2 certain disclosures regarding psychologically impacted
3 property are not required and by amending the definition of
4 transfer.

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

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S.F. 367

1 Section 1. Section 558A.1, subsection 4, Code 1997, is
2 amended to read as follows:

3 4. "Transfer" means the transfer or conveyance by sale,
4 exchange, real estate contract, or any other method by which
5 real estate and improvements are purchased, if the property
6 includes at least one but not more than four dwelling units.
7 However, a transfer does not include any of the following:

8 a. A transfer made pursuant to a court order, including
9 but not limited to a transfer under chapter 633, the execution
10 of a judgment, the foreclosure of a real estate mortgage
11 pursuant to chapter 654, the forfeiture of a real estate
12 contract under chapter 656, a transfer by a trustee in
13 bankruptcy, a transfer by eminent domain, or a transfer
14 resulting from a decree for specific performance, or a
15 transfer pursuant to writ of execution.

16 b. A transfer to a mortgagee by a mortgagor or successor
17 in interest who is in default, or a transfer by a mortgagee
18 who has acquired real property at a sale conducted pursuant to
19 chapter 654, a transfer back to a mortgagor exercising a right
20 of first refusal pursuant to section 654.16A, a nonjudicial
21 voluntary foreclosure procedure under section 654.18 or
22 chapter 655A, or a deed in lieu of foreclosure under section
23 654.19.

24 c. A transfer by a fiduciary in the course of the
25 administration of a decedent's estate, guardianship,
26 conservatorship, or trust, or power of attorney.

27 d. A transfer between joint tenants or tenants in common.

28 e. A transfer made to a spouse, or to a person in the
29 lineal line of consanguinity of a person making the transfer.

30 f. A transfer between spouses resulting from a decree of
31 dissolution of marriage, a decree of legal separation, or a
32 property settlement agreement which is incidental to the
33 decree, including a decree ordered pursuant to chapter 598.

34 g. A transfer to or from the state, a political
35 subdivision of the state, another state, or the United States.

1 h. A transfer by quitclaim deed.

2 i. A transfer of newly constructed residential real
3 property which has never been occupied.

4 Sec. 2. NEW SECTION. 558A.4A PSYCHOLOGICALLY IMPACTED
5 REAL ESTATE -- DISCLOSURE NOT MANDATED.

6 1. The fact that real estate, or any building or structure
7 on such real estate, may be, or is suspected to be,
8 psychologically impacted real estate, or may be in close
9 proximity to psychologically impacted real estate, is not a
10 material adverse fact that is required to be disclosed in a
11 sale, exchange, rental, or other transfer of such real estate.

12 2. a. For purposes of this section, "psychologically
13 impacted real estate" means real estate where an event has
14 occurred including, but not limited to, any of the following:

15 (1) The death or suicide of an individual.

16 (2) A forcible felony, as defined in section 702.11, which
17 is an assault, murder, robbery, or sexual abuse.

18 (3) A newsworthy event which impacts the property as a
19 result of the notoriety of the event.

20 b. "Psychologically impacted real estate" also includes
21 real estate which is allegedly haunted.

22 3. A cause of action shall not arise against a real estate
23 broker or salesperson for the failure to disclose to a buyer
24 or other transferee of real estate that the transferred real
25 estate is or might be psychologically impacted real estate.
26 This section shall not be construed to authorize or permit
27 such broker or salesperson to make any misrepresentation of
28 fact or false statement, or to fail to disclose a material
29 adverse fact.

30 EXPLANATION

31 This bill creates new Code section 558A.4A, which
32 establishes a definition for psychologically impacted real
33 estate. The bill provides that the fact that real estate, or
34 any building or structure on such real estate, may be, or is
35 suspected to be psychologically impacted real estate, or may

1 be sited close to psychologically impacted real estate, is not
2 a material adverse fact that is required to be disclosed in a
3 sale, exchange, rental, or other transfer of such real estate.

4 Psychologically impacted real estate is defined as real
5 estate where an event has occurred or is alleged to have
6 occurred including, but not limited to, the following: an
7 individual has died or committed suicide; a forcible felony,
8 as defined in Code section 702.11, which is an assault,
9 murder, robbery, or sexual abuse has occurred; or a newsworthy
10 event has occurred which impacts the property as a result of
11 the notoriety of the event. The bill provides that
12 psychologically impacted real estate also includes real estate
13 which is allegedly haunted or rumored to be haunted.

14 The bill also provides that a cause of action does not
15 arise against a real estate broker or salesperson for the
16 failure to disclose to a buyer or other transferee of real
17 estate that the transferred real estate is or might be
18 psychologically impacted real estate.

19 The bill also amends the definition of "transfer" for
20 purposes of disclosure requirements under Code chapter 558A,
21 to exclude a transfer pursuant to a writ of execution, a
22 transfer by a fiduciary in administering a decedent's power of
23 attorney, and a transfer of newly constructed residential real
24 property which has never been occupied.

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SENATE FILE 367

S-3155

1 Amend Senate File 367 as follows:
2 1. Page 2, line 25, by inserting after the words
3 "real estate" the following: ", unless such broker or
4 salesperson is informed by the current seller that the
5 broker or salesperson is authorized to disclose such
6 confidential information that the transferred real
7 estate is or might be psychologically impacted real
8 estate and failed to disclose such information".

By WILLIAM D. PALMER
MERLIN BARTZ

S-3155 FILED MARCH 18, 1997

Adopted 4/9/97 (p. 1062)

SENATE FILE 367

S-3230

1 Amend the amendment, S-3155, to Senate File 367, as
2 follows:

3 1. Page 1, line 4, by inserting after the word
4 "informed" the following: "in writing".
5 2. Page 1, line 5, by striking the word "such".
6 3. Page 1, line 8, by striking the word "failed"
7 and inserting the following: "fails".

By MERLIN E. BARTZ

S-3230 FILED MARCH 25, 1997

Adopted 4/9/97 (p. 1062)

SENATE FILE 367

S-3705

1 Amend Senate File 367 as follows:
2 1. Page 2, line 5, by striking the words "--
3 DISCLOSURE NOT MANDATED".
4 2. Page 2, by striking lines 10 and 11 and
5 inserting the following: "material adverse fact, but
6 is information required to be disclosed under section
7 558A.4, if the event which stigmatized the real estate
8 occurred during the period of ownership of the current
9 owner."
10 3. Page 2, line 21, by striking the word
11 "allegedly".
12 4. Page 2, by inserting after line 29 the
13 following:
14 "Sec. ____ . Section 2 of this Act takes effect
15 January 1, 1998."
16 5. By renumbering as necessary.

By MERLIN E. BARTZ

S-3705 FILED APRIL 23, 1997

Adopted 4/28/97 (p. 1498)

SENATE FILE 367

S-3442

- 1 Amend Senate File 367 as follows:
- 2 1. Page 2, line 4, by striking the words
- 3 "PSYCHOLOGICALLY IMPACTED" and inserting the
- 4 following: "STIGMATIZED".
- 5 2. Page 2, line 8, by striking the words
- 6 "psychologically impacted" and inserting the
- 7 following: "stigmatized".
- 8 3. Page 2, line 9, by striking the words
- 9 "psychologically impacted" and inserting the
- 10 following: "stigmatized".
- 11 4. Page 2, line 12, by striking the word
- 12 "psychologically".
- 13 5. Page 2, line 13, by striking the word
- 14 "impacted" and inserting the following:
- 15 "stigmatized".
- 16 6. Page 2, line 20, by striking the words
- 17 "Psychologically impacted" and inserting the
- 18 following: "Stigmatized".
- 19 7. Page 2, line 25, by striking the words
- 20 "psychologically impacted" and inserting the
- 21 following: "stigmatized".
- 22 8. Title page, line 2, by striking the words
- 23 "psychologically impacted" and inserting the
- 24 following: "stigmatized".

By MERLIN E. BARTZ
MIKE CONNOLLY

S-3442 FILED APRIL 9, 1997
ADOPTED (p. 1069)

SENATE FILE 367

S-3451

- 1 Amend Senate File 367 as follows:
- 2 1. Page 2, line 22, by striking the words "A
- 3 cause" and inserting the following:
- 4 "Except when the broker or salesperson is working
- 5 solely as a buyer's agent and has knowledge about the
- 6 stigma, a cause".

By MERLIN E. BARTZ
MARY NEUHAUSER

S-3451 FILED APRIL 9, 1997

Adapted 4/28/97 (p. 1498)

H. 3/12/98 Commerce & Regulation
H. 3/18/98 Do Pass
H. 3/26/98 Unfinished Bus. Calendar

SENATE FILE 367
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 172)

(AS AMENDED AND PASSED BY THE SENATE MARCH 10, 1998)

_____ - New Language by the Senate
* - Language Stricken by the Senate

(P. 606)

Passed Senate, Date 3/10/98 Passed House, Date _____
Vote: Ayes 38 Nays 9 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to transfers of real property by providing that
2 certain disclosures regarding stigmatized property are not
3 required and by amending the definition of transfer.

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

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S.F. 367

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2 amended to read as follows:

3 4. "Transfer" means the transfer or conveyance by sale,
4 exchange, real estate contract, or any other method by which
5 real estate and improvements are purchased, if the property
6 includes at least one but not more than four dwelling units.
7 However, a transfer does not include any of the following:

8 a. A transfer made pursuant to a court order, including
9 but not limited to a transfer under chapter 633, the execution
10 of a judgment, the foreclosure of a real estate mortgage
11 pursuant to chapter 654, the forfeiture of a real estate
12 contract under chapter 656, a transfer by a trustee in
13 bankruptcy, a transfer by eminent domain, ~~or~~ a transfer
14 resulting from a decree for specific performance, or a
15 transfer pursuant to writ of execution.

16 b. A transfer to a mortgagee by a mortgagor or successor
17 in interest who is in default, or a transfer by a mortgagee
18 who has acquired real property at a sale conducted pursuant to
19 chapter 654, a transfer back to a mortgagor exercising a right
20 of first refusal pursuant to section 654.16A, a nonjudicial
21 voluntary foreclosure procedure under section 654.18 or
22 chapter 655A, or a deed in lieu of foreclosure under section
23 654.19.

24 c. A transfer by a fiduciary in the course of the
25 administration of a decedent's estate, guardianship,
26 conservatorship, ~~or~~ trust, or power of attorney.

27 d. A transfer between joint tenants or tenants in common.

28 e. A transfer made to a spouse, or to a person in the
29 lineal line of consanguinity of a person making the transfer.

30 f. A transfer between spouses resulting from a decree of
31 dissolution of marriage, a decree of legal separation, or a
32 property settlement agreement which is incidental to the
33 decree, including a decree ordered pursuant to chapter 598.

34 g. A transfer to or from the state, a political
35 subdivision of the state, another state, or the United States.

1 h. A transfer by quitclaim deed.

2 i. A transfer of newly constructed residential real
3 property which has never been occupied.

* 4 Sec. 2. NEW SECTION. 558A.4A STIGMATIZED REAL ESTATE.

5 1. The fact that real estate, or any building or structure
6 on such real estate, may be, or is suspected to be,
7 stigmatized real estate, or may be in close proximity to
8 stigmatized real estate, is not a material adverse fact, but
9 is information required to be disclosed under section 558A.4,
10 if the event which stigmatized the real estate occurred during
11 the period of ownership of the current owner.

12 2. a. For purposes of this section, "stigmatized real
13 estate" means real estate where an event has occurred
14 including, but not limited to, any of the following:

15 (1) The death or suicide of an individual.

16 (2) A forcible felony, as defined in section 702.11, which
17 is an assault, murder, robbery, or sexual abuse.

18 (3) A newsworthy event which impacts the property as a
19 result of the notoriety of the event.

20 b. "Stigmatized real estate" also includes real estate
* 21 which is haunted.

22 3. Except when the broker or salesperson is working solely
23 as a buyer's agent and has knowledge about the stigma, a cause
24 of action shall not arise against a real estate broker or
25 salesperson for the failure to disclose to a buyer or other
26 transferee of real estate that the transferred real estate is
27 or might be stigmatized real estate, unless such broker or
28 salesperson is informed in writing by the current seller that
29 the broker or salesperson is authorized to disclose
30 confidential information that the transferred real estate is
31 or might be psychologically impacted real estate and fails to
32 disclose such information. This section shall not be
33 construed to authorize or permit such broker or salesperson to
34 make any misrepresentation of fact or false statement, or to
35 fail to disclose a material adverse fact.

1 Sec. 3. Section 2 of this Act takes effect January 1,
2 1998.

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SENATE FILE 367

H-8483

- 1 Amend Senate File 367, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 2, by striking lines 20 and 21.
- 4 2. By renumbering as necessary.

By DODERER of Johnson
DINKLA of Guthrie
WISE of Lee

H-8483 FILED MARCH 18, 1998

SENATE FILE 367

H-8484

- 1 Amend Senate File 367, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 3, by striking lines 1 and 2.

By DODERER of Johnson
DINKLA of Guthrie
WISE of Lee

H-8484 FILED MARCH 18, 1998

SENATE FILE 367

H-8765

- 1 Amend Senate File 367, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 2, line 11, by inserting after the word
- 4 "owner" the following: "or during the preceding three
- 5 years, whichever time period is greater".

By WEIGEL of Chickasaw

H-8765 FILED MARCH 30, 1998

SENATE FILE 367

H-8992

- 1 Amend Senate File 367, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 2, line 9, by striking the figure
- 4 "558A.4," and inserting the following: "558A.4."
- 5 2. Page 2, by striking lines 10 and 11.
- 6 3. Page 2, by striking lines 22 through 32 and
- 7 inserting the following:
- 8 "3. A cause of action shall arise against a
- 9 seller, real estate broker, or salesperson for the
- 10 failure to disclose to a buyer or other transferee of
- 11 real estate that the transferred real estate is or
- 12 might be stigmatized real estate if such seller,
- 13 broker, or salesperson knows that the fact that the
- 14 property is or might be stigmatized real estate is
- 15 unknown to the buyer or could not be known by the
- 16 buyer through diligent attention or observation. This
- 17 section shall not be".
- 18 4. Page 2, line 33, by striking the words "such
- 19 broker" and inserting the following: "such seller,
- 20 broker,".
- 21 5. Title page, line 2, by striking the word
- 22 "not".

By HOLVECK of Polk

H-8992 FILED APRIL 7, 1998

SENATE FILE 367

H-9026

1 Amend Senate File 367, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 2, line 9, by striking the figure
4 "558A.4," and inserting the following: "558A.4."
5 2. Page 2, by striking lines 10 and 11.
6 3. Page 2, by striking lines 22 through 32 and
7 inserting the following:
8 "3. A cause of action shall arise against a real
9 estate broker or salesperson for the failure to
10 disclose to a buyer or other transferee of real estate
11 that the transferred real estate is or might be
12 stigmatized real estate. This section shall not be".
13 4. Title page, line 2, by striking the word
14 "not".

By HOLVECK of Polk
KREIMAN of Davis
DODERER of Johnson

H-9026 FILED APRIL 8, 1998

SENATE FILE 367

H-9106

1 Amend Senate File 367, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 2, line 9, by striking the figure
4 "558A.4," and inserting the following: "558A.4."
5 2. Page 2, by striking lines 10 and 11.
6 3. Page 2, by striking lines 22 through 32 and
7 inserting the following:
8 "3. A cause of action shall arise against a
9 seller, real estate broker, or salesperson for the
10 failure to disclose to a buyer or other transferee of
11 real estate that the transferred real estate is or
12 might be stigmatized real estate. This section shall
13 not be".
14 4. Title page, line 2, by striking the word
15 "not".

By HOLVECK of Polk
KREIMAN of Davis
DODERER of Johnson

H-9106 FILED APRIL 9, 1998

SENATE FILE 367

H-9155

1 Amend Senate File 367, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 2, line 11, by inserting after the word
4 "owner." the following: "A person making a disclosure
5 pursuant to this section regarding stigmatized
6 property shall also disclose the reason or event which
7 the person believes resulted in the real estate being
8 stigmatized."

By KREIMAN of Davis

H-9155 FILED APRIL 14, 1998

SENATE FILE 367

H-9027

1 Amend Senate File 367, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 2, line 9, by striking the figure
 4 "558A.4," and inserting the following: "558A.4."
 5 2. Page 2, by striking lines 10 and 11.
 6 3. Page 2, by striking lines 22 through 32 and
 7 inserting the following:
 8 "3. A cause of action shall arise against a real
 9 estate broker or salesperson for the failure to
 10 disclose to a buyer or other transferee of real estate
 11 that the transferred real estate is or might be
 12 stigmatized real estate if such broker or salesperson
 13 knows that the fact that the property is or might be
 14 stigmatized real estate is unknown to the buyer or
 15 could not be known by the buyer through diligent
 16 attention or observation. This section shall not be".
 17 4. Title page, line 2, by striking the word
 18 "not".

By HOLVECK of Polk
 KREIMAN of Davis
 DODERER of Johnson

H-9027 FILED APRIL 8, 1998

SENATE FILE 367

H-9028

1 Amend Senate File 367, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 2, by striking lines 8 through 11 and
 4 inserting the following: "stigmatized real estate, is
 5 a material adverse fact required to be disclosed as
 6 provided in section 543B.56."

By HOLVECK of Polk
 KREIMAN of Davis
 DODERER of Johnson

H-9028 FILED APRIL 8, 1998

Bartz - Chair
Schuerer
Palmer

SSB 172

Commerce

Succeeded By

SF/HF 367

SENATE FILE
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CHAIRPERSON JENSEN)

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

A BILL FOR

1 An Act relating to transfers of real property by providing that
2 certain disclosures regarding psychologically impacted
3 property are not required and by amending the definition of
4 transfer.

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

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2 amended to read as follows:

3 4. "Transfer" means the transfer or conveyance by sale,
4 exchange, real estate contract, or any other method by which
5 real estate and improvements are purchased, if the property
6 includes at least one but not more than four dwelling units.

7 However, a transfer does not include any of the following:

8 a. A transfer made pursuant to a court order, including
9 but not limited to a transfer under chapter 633, the execution
10 of a judgment, the foreclosure of a real estate mortgage
11 pursuant to chapter 654, the forfeiture of a real estate
12 contract under chapter 656, a transfer by a trustee in
13 bankruptcy, a transfer by eminent domain, ~~or~~ a transfer
14 resulting from a decree for specific performance, or a
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16 b. A transfer to a mortgagee by a mortgagor or successor
17 in interest who is in default, or a transfer by a mortgagee
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19 chapter 654, a transfer back to a mortgagor exercising a right
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21 voluntary foreclosure procedure under section 654.18 or
22 chapter 655A, or a deed in lieu of foreclosure under section
23 654.19.

24 c. A transfer by a fiduciary in the course of the
25 administration of a decedent's estate, guardianship,
26 conservatorship, ~~or trust,~~ or power of attorney.

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28 e. A transfer made to a spouse, or to a person in the
29 lineal line of consanguinity of a person making the transfer.

30 f. A transfer between spouses resulting from a decree of
31 dissolution of marriage, a decree of legal separation, or a
32 property settlement agreement which is incidental to the
33 decree, including a decree ordered pursuant to chapter 598.

34 g. A transfer to or from the state, a political
35 subdivision of the state, another state, or the United States.

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3 property which has never been occupied.

4 Sec. 2. NEW SECTION. 558A.4A PSYCHOLOGICALLY IMPACTED
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6 1. The fact that real estate, or any building or structure
7 on such real estate, may be, or is suspected to be,
8 psychologically impacted real estate, or may be in close
9 proximity to psychologically impacted real estate, is not a
10 material adverse fact that is required to be disclosed in a
11 sale, exchange, rental, or other transfer of such real estate.

12 2. a. For purposes of this section, "psychologically
13 impacted real estate" means real estate where an event has
14 occurred including, but not limited to, any of the following:

- 15 (1) The death of an individual.
- 16 (2) A forcible felony as defined in section 702.11, or any
17 other felony.
- 18 (3) A suicide.
- 19 (4) A newsworthy event which impacts the property as a
20 result of the notoriety of the event.

21 (5) An occupant of the real estate was infected with the
22 human immunodeficiency virus, or diagnosed with acquired
23 immune deficiency syndrome, or with some other disease which,
24 as determined by medical evidence, would be highly unlikely to
25 be transmitted as a result of occupying such real estate.

26 b. "Psychologically impacted real estate" also includes
27 real estate which is allegedly haunted.

28 3. A cause of action shall not arise against a real estate
29 broker or salesperson for the failure to disclose to a buyer
30 or other transferee of real estate that the transferred real
31 estate is or might be psychologically impacted real estate.

32 This section shall not be construed to authorize or permit
33 such broker or salesperson to make any misrepresentation of
34 fact or false statement, or to fail to disclose a material
35 adverse fact.

EXPLANATION

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2 This bill creates new Code section 558A.4A, which
3 establishes a definition for psychologically impacted real
4 estate. The bill provides that the fact that real estate, or
5 any building or structure on such real estate, may be, or is
6 suspected to be psychologically impacted real estate, or may
7 be sited close to psychologically impacted real estate, is not
8 a material adverse fact that is required to be disclosed in a
9 sale, exchange, rental, or other transfer of such real estate.

10 Psychologically impacted real estate is defined as real
11 estate where an event has occurred or is alleged to have
12 occurred including, but not limited to, the following: an
13 individual has died; a forcible felony as defined in Code
14 section 702.11, or any other felony, has occurred; a suicide
15 has occurred; a newsworthy event has occurred which impacts
16 the property as a result of the notoriety of the event; or an
17 occupant of the real estate was infected with the human
18 immunodeficiency virus, or diagnosed with acquired immune
19 deficiency syndrome, or with some other disease which, as
20 determined by medical evidence, would be highly unlikely to be
21 transmitted as a result of occupying such real estate. The
22 bill provides that psychologically impacted real estate also
23 includes real estate which is allegedly haunted or rumored to
24 be haunted.

25 The bill also provides that a cause of action does not
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30 The bill also amends the definition of "transfer" for
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32 to exclude a transfer pursuant to a writ of execution, a
33 transfer by a fiduciary in administering a decedent's power of
34 attorney, and a transfer of newly constructed residential real
35 property which has never been occupied.