

FILED MAR 2 1998

SENATE FILE 2378

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2181)

Passed Senate, ^(P.542) Date 3/3/98 Passed House, ^(P.1179) Date 4-1-98
 Vote: Ayes 49 Nays 0 Vote: Ayes 96 Nays 0
 Approved April 23, 1998

(P.1102) Passed 4-7-98
Vote 49-0

A BILL FOR

1 An Act relating to real estate titles involving bankruptcy.
 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2378

1 Section 1. NEW SECTION. 626C.1 DEFINITION.

2 As used in this chapter, unless the context otherwise
3 requires, "bankruptcy transcript" means a document or
4 documents certified by the clerk or deputy clerk of any United
5 States bankruptcy court as being true and correct copies of
6 documents on file with the United States bankruptcy court of
7 any district in the United States which is entitled to full
8 faith and credit in this state. "Bankruptcy transcript"
9 includes a bankruptcy court clerk's certificate of the
10 proceedings that have transpired in a bankruptcy as is
11 necessary to satisfy all applicable title standards of this
12 state.

13 Sec. 2. NEW SECTION. 626C.2 FILING AND STATUS OF
14 BANKRUPTCY TRANSCRIPTS.

15 A bankruptcy transcript authenticated in accordance with an
16 Act of Congress or the statutes of the state may be filed in
17 the office of the clerk of the district court of a county in
18 which real estate affected by the bankruptcy is located.

19 Sec. 3. NEW SECTION. 626C.3 NOTICE OF FILING.

20 1. At the time of the filing of the bankruptcy transcript,
21 the person filing the transcript shall make and file with the
22 clerk of the district court an affidavit setting forth the
23 name and last known post office address of the owner of the
24 affected real estate and of the person filing the bankruptcy
25 transcript.

26 2. Promptly upon the filing of the bankruptcy transcript
27 and the affidavit as provided in subsection 1, the clerk shall
28 mail notice of the filing of the bankruptcy transcript to the
29 owner of the affected real estate at the address given and
30 shall make a note of the mailing in the docket. The notice
31 shall include the name and post office address of the person
32 filing the bankruptcy transcript and the attorney for that
33 person, if any, in this state.

34 Sec. 4. NEW SECTION. 626C.4 STAY.

35 If the real estate owner shows the district court in which

1 the bankruptcy transcript is filed that an appeal from any
2 portion of the bankruptcy transcript is pending or will be
3 taken, or that a stay of execution has been granted, the court
4 shall stay the effect of the bankruptcy transcript until the
5 appeal is concluded, the time for appeal expires, or the stay
6 of execution expires or is vacated.

7 Sec. 5. NEW SECTION. 626C.5 AMENDMENT.

8 A bankruptcy transcript may be amended as necessary to
9 clear title to all real estate located in the county of filing
10 which is affected by any bankruptcy without payment of any
11 additional fee.

12 Sec. 6. NEW SECTION. 626C.6 FEE.

13 For filing a bankruptcy transcript, the clerk shall collect
14 a fee in the amount collected for filing and docketing a
15 petition under section 602.8105, subsection 1, paragraph "a".

16 Sec. 7. NEW SECTION. 626C.7 OPTIONAL PROCEDURE.

17 The right of a party in interest or the owner of real
18 estate to record all documents necessary to clear title to
19 real estate involved in a bankruptcy case, instead of
20 proceeding under this chapter, remains unimpaired.

21 EXPLANATION

22 This bill provides an alternative method for getting the
23 record of bankruptcies into the records of the counties in
24 which real estate of bankrupt debtors is located. At the
25 current time, the only uniform way of getting the information
26 into the county records is recording each page at a set fee
27 per page. The bill allows for a bankruptcy transcript, which
28 has been authenticated in accordance with federal or Iowa law,
29 to be filed in the office of the clerk of the district court
30 of the county in which real estate affected by the bankruptcy
31 is located. A "bankruptcy transcript" is any documents
32 certified by the clerk of any United States bankruptcy court
33 as being true and correct copies of documents on file with the
34 bankruptcy court which is entitled to full faith and credit by
35 this state. Once a bankruptcy transcript is filed, notice

1 will be provided to the owner of the real estate affected by
2 the transcript.

3 The owner of the real property may receive a stay of the
4 effect of the bankruptcy transcript if the owner shows the
5 district court that an appeal is pending or will be taken or
6 that a stay of execution has been granted. The stay of the
7 effect of the bankruptcy transcript will remain in effect
8 until the appeal is concluded, the time of appeal expires, or
9 the stay of execution expires or is vacated, whichever is
10 applicable.

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SENATE FILE 2378

H-8607

1 Amend Senate File 2378, as passed by the Senate, as
2 follows:

3 1. Page 1, line 26, by striking the word
4 "Promptly" and inserting the following: "Within three
5 business days".

6 2. Page 1, by striking line 35 and inserting the
7 following:

8 "1. If the real estate owner files an application
9 for stay within twenty days of the date of mailing the
10 notice of filing the bankruptcy transcript by the
11 clerk with the district court in which".

12 3. Page 2, by inserting after line 6 the
13 following:

14 "2. The district court for the county in which the
15 bankruptcy transcript is filed has no jurisdiction to
16 stay the effects of the bankruptcy transcript either
17 as initially filed or as amended if the transcript
18 contains a certificate by the clerk of the bankruptcy
19 court of any of the following:

20 a. The order affecting real estate has not been
21 appealed and the time for filing an appeal has
22 expired.

23 b. The order affecting real estate has been
24 appealed and the order has been affirmed on appeal and
25 is not further appealable.

26 c. An appeal from the order affecting real estate
27 has been filed and no stay from that order has been
28 granted by the bankruptcy court to the appealing
29 party.

30 3. An amendment to the bankruptcy transcript
31 demonstrating the finality of the bankruptcy court
32 proceedings shall terminate any jurisdiction of the
33 district court to stay the effects of the bankruptcy
34 transcript."

By GARMAN of Story

H-8607 FILED MARCH 24, 1998

adopted
4-1-98
(p.1178)

HOUSE AMENDMENT TO
SENATE FILE 2378

S-5484

1 Amend Senate File 2378, as passed by the Senate, as
2 follows:
3 1. Page 1, line 26, by striking the word
4 "Promptly" and inserting the following: "Within three
5 business days".
6 2. Page 1, by striking line 35 and inserting the
7 following:
8 "1. If the real estate owner files an application
9 for stay within twenty days of the date of mailing the
10 notice of filing the bankruptcy transcript by the
11 clerk with the district court in which".
12 3. Page 2, by inserting after line 6 the
13 following:
14 "2. The district court for the county in which the
15 bankruptcy transcript is filed has no jurisdiction to
16 stay the effects of the bankruptcy transcript either
17 as initially filed or as amended if the transcript
18 contains a certificate by the clerk of the bankruptcy
19 court of any of the following:
20 a. The order affecting real estate has not been
21 appealed and the time for filing an appeal has
22 expired.
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26 c. An appeal from the order affecting real estate
27 has been filed and no stay from that order has been
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31 demonstrating the finality of the bankruptcy court
32 proceedings shall terminate any jurisdiction of the
33 district court to stay the effects of the bankruptcy
34 transcript."

RECEIVED FROM THE HOUSE

S-5484 FILED APRIL 2, 1998

*4/7/98 Senate Concurred**(p. 1102)*

McKibben
Redfern
Harper

SSB-2181

Judiciary
Sponsored by

SENATE FILE SP/HF 2378
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON MCKEAN)

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

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13 For filing a bankruptcy transcript, the clerk shall collect
14 a fee in the amount collected for filing and docketing a
15 petition under section 602.8105, subsection 1, paragraph "a".

16 Sec. 7. NEW SECTION. 626C.7 OPTIONAL PROCEDURE.

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35 this state. Once a bankruptcy transcript is filed, notice

SSB 2181

S.F. _____ H.F. _____

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SENATE FILE 2378

AN ACT
RELATING TO REAL ESTATE TITLES INVOLVING BANKRUPTCY.

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

Section 1. NEW SECTION. 626C.1 DEFINITION.

As used in this chapter, unless the context otherwise requires, "bankruptcy transcript" means a document or documents certified by the clerk or deputy clerk of any United States bankruptcy court as being true and correct copies of documents on file with the United States bankruptcy court of any district in the United States which is entitled to full faith and credit in this state. "Bankruptcy transcript" includes a bankruptcy court clerk's certificate of the proceedings that have transpired in a bankruptcy as is necessary to satisfy all applicable title standards of this state.

Sec. 2. NEW SECTION. 626C.2 FILING AND STATUS OF BANKRUPTCY TRANSCRIPTS.

A bankruptcy transcript authenticated in accordance with an Act of Congress or the statutes of the state may be filed in the office of the clerk of the district court of a county in which real estate affected by the bankruptcy is located.

Sec. 3. NEW SECTION. 626C.3 NOTICE OF FILING.

1. At the time of the filing of the bankruptcy transcript, the person filing the transcript shall make and file with the clerk of the district court an affidavit setting forth the name and last known post office address of the owner of the affected real estate and of the person filing the bankruptcy transcript.

2. Within three business days upon the filing of the bankruptcy transcript and the affidavit as provided in subsection 1, the clerk shall mail notice of the filing of the

bankruptcy transcript to the owner of the affected real estate at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post office address of the person filing the bankruptcy transcript and the attorney for that person, if any, in this state.

Sec. 4. NEW SECTION. 626C.4 STAY.

1. If the real estate owner files an application for stay within twenty days of the date of mailing the notice of filing the bankruptcy transcript by the clerk with the district court in which the bankruptcy transcript is filed that an appeal from any portion of the bankruptcy transcript is pending or will be taken, or that a stay of execution has been granted, the court shall stay the effect of the bankruptcy transcript until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

2. The district court for the county in which the bankruptcy transcript is filed has no jurisdiction to stay the effects of the bankruptcy transcript either as initially filed or as amended if the transcript contains a certificate by the clerk of the bankruptcy court of any of the following:

a. The order affecting real estate has not been appealed and the time for filing an appeal has expired.

b. The order affecting real estate has been appealed and the order has been affirmed on appeal and is not further appealable.

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For filing a bankruptcy transcript, the clerk shall collect a fee in the amount collected for filing and docketing a petition under section 602.8105, subsection 1, paragraph "a".

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The right of a party in interest or the owner of real estate to record all documents necessary to clear title to real estate involved in a bankruptcy case, instead of proceeding under this chapter, remains unimpaired.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2378, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved April 23, 1998

TERRY E. BRANSTAD
Governor