

**CHAPTER 1136****RESIDENTIAL REAL ESTATE INSTALLMENT CONTRACTS —  
DISCLOSURE STATEMENTS***H.F. 2565*

**AN ACT** requiring contract disclosure statements for certain residential real estate installment contracts, providing for a penalty, and providing an applicability date.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. 558.70 CONTRACT DISCLOSURE STATEMENT REQUIRED FOR CERTAIN RESIDENTIAL REAL ESTATE INSTALLMENT SALES.

1. Prior to executing a residential real estate installment sales contract, the contract seller shall deliver a written contract disclosure statement to the contract purchaser which shall clearly set forth the following information:

a. If the real estate subject to the contract has been separately assessed for property tax purposes, the current assessed value of the real estate.

b. (1) A complete description of any property taxes due and payable on the real estate and a complete description of any special assessment on the real estate and the term of the assessment.

(2) Information on whether any property taxes or special assessments are delinquent and whether any tax sale certificates have been issued for delinquent property taxes or special assessments on the real estate.

c. A complete description of any mortgages or other liens encumbering or secured by the real estate, including the identity and address of the current owner of record with respect to each such mortgage or lien, as well as a description of the total outstanding balance and due date under any such mortgage or lien.

d. A complete amortization schedule for all payments to be made pursuant to the contract, which amortization schedule shall include information on the portion of each payment to be applied to principal and the portion to be applied to interest.

e. If the contract requires a balloon payment, a complete description of the balloon payment, including the date the payment is due, the amount of the balloon payment, and other terms related to the balloon payment. For purposes of this paragraph, a "balloon payment" is any scheduled payment that is more than twice as large as the average of earlier scheduled payments.

f. The annual rate of interest to be charged under the contract.

g. A statement that the purchaser has a right to seek independent legal counsel concerning the contract and any matters pertaining to the contract.

h. A statement that the purchaser has a right to receive a true and complete copy of the contract after it has been executed by all parties to the contract.

i. The mailing address of each party to the contract.

j. If the contract is subject to forfeiture, a statement that if the purchaser does not comply with the terms of the contract, the purchaser may lose all rights in the real estate and all sums paid under the contract.

2. The contract disclosure statement shall be dated and signed by each party to the contract, and the contract purchaser shall be provided a complete copy of the contract at the time the disclosure statement is delivered to the contract purchaser pursuant to subsection 1.

3. Within five days after a residential real estate installment sales contract has been executed by all parties to the contract, the contract seller shall mail a true and correct copy of the contract by regular first class mail to the last known address of each contract purchaser. However, this requirement is satisfied as to any purchaser who acknowledges in writing that the purchaser has received a true and correct copy of the fully executed contract.

4. This section applies to a contract seller who entered into four or more residential real es-

tate contracts in the three hundred sixty-five days previous to the contract seller signing the contract disclosure statement. For purposes of this subsection, two or more entities sharing a common owner or manager are considered a single contract seller. This section does not apply to an organization listed in section 535B.2, subsections 1 through 12.

5. A violation of this section affects title to property only as provided in section 558.71.

6. For purposes of this section, "residential real estate" means a residential dwelling containing no more than two single-family dwelling units, which is not located on a tract of land used for agricultural purposes as defined in section 535.13.

7. This section and any rules adopted to administer this section shall not limit or abridge any duty, requirement, obligation, or liability for disclosure created by any other provision of law, or under a contract between the parties.

Sec. 2. NEW SECTION. 558.71 CIVIL LIABILITIES.

1. A contract purchaser injured by a violation of section 558.70 may within one year of the execution of the contract bring an equitable action in the district court of record where the real estate is located to obtain relief as follows:

a. The court may rescind a contract that remains in existence at the time the action is commenced, and award restitution to the contract purchaser determined in accordance with the standards for damages specified in paragraph "b".

b. If the contract has been terminated by any means prior to commencement of the action, the contract purchaser may recover a money judgment against the original contract seller for a sum equal to all amounts the contract purchaser paid to the contract seller, plus the reasonable value of any improvements to the real estate made by the contract purchaser, plus any other proximately caused or incidental damages, less the fair rental value of the real estate for the period of time the contract purchaser was in possession of the real estate. For the purposes of this paragraph, the fair rental value of the real estate shall be based on the fair rental value of the real estate as of the date the real estate installment sales contract was executed by all parties to the contract.

2. A contract purchaser alleging a violation of section 558.70 bears the burden of establishing such violation by a preponderance of the evidence.

3. An order of rescision or a money judgment awarded shall not affect any rights or responsibilities arising from any conveyance or encumbrance made by either the contract purchaser or the contract seller prior to the filing of a lis pendens in the action in which such relief is sought, unless it is established by clear and convincing evidence that the recipient of such conveyance or encumbrance had prior knowledge that the contract was executed in violation of the requirements of section 558.70.

4. In an action in which a contract purchaser obtains relief under this section, the court shall also award to such contract purchaser reasonable attorney fees incurred in bringing the action.

Sec. 3. Section 558.46, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If a contract seller is subject to the requirements of section 558.70, the contract must be recorded within forty-five days rather than one hundred eighty days and the recording requirement is only satisfied by recording the real estate contract rather than a memorandum of the contract.

Sec. 4. Section 558A.4, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A transferor subject to the requirements of section 558.70 shall recommend in writing that the transferee obtain an independent home inspection report to provide full and complete information as required to be disclosed under this section and under rules adopted by the real estate commission pursuant to section 543B.9.

A transferor subject to section 558.70 shall provide the real estate disclosure statement required by this chapter at least seven days before the real estate installment sales contract is executed by all parties to the contract.

Sec. 5. Section 714.8, Code 2001, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 20. A contract seller who intentionally provides inaccurate information with regard to any matter required to be disclosed under section 558.70, subsection 1, or section 558A.4.

Sec. 6. **APPLICABILITY DATE.** This Act applies to residential real estate installment sales contracts entered into on or after the effective date of this Act by contract sellers who entered into four or more residential real estate installment sales contracts in the three hundred sixty-five days previous to a contract entered into on or after the effective date of this Act.

Approved April 26, 2002

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## CHAPTER 1137

### ANIMAL FEEDING OPERATIONS AND ENVIRONMENTAL REGULATION

S.F. 2293

**AN ACT** relating to animal agriculture, providing for fees, providing for penalties, and including retroactive applicability and effective date provisions.

*Be It Enacted by the General Assembly of the State of Iowa:*

#### DIVISION I REGULATION OF ANIMAL FEEDING OPERATIONS

Section 1. Section 4.1, Code 2001, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 9A. "Internet" means the federated international system that is composed of allied electronic communication networks linked by telecommunication channels, that uses standardized protocols, and that facilitates electronic communication services, including but not limited to use of the world wide web; the transmission of electronic mail or messages; the transfer of files and data or other electronic information; and the transmission of voice, image, and video.

Sec. 2. Section 455B.109, subsection 4, Code 2001, is amended to read as follows:  
4. All civil penalties assessed by the department and interest on the penalties shall be deposited in the general fund of the state. However, civil penalties assessed by the department and interest on the civil penalties, arising out of violations ~~committed by~~ involving animal feeding operations under division II, part 2, shall be deposited in the ~~manure storage indemnity animal agriculture compliance~~ fund as created in section ~~455J.2~~ 455B.127. Civil penalties assessed by the department and interest on the penalties arising out of violations committed by animal feeding operations under division III, which may be assessed pursuant to section 455B.191, shall also be deposited in the ~~manure storage indemnity animal agriculture compliance~~ fund as created in section 455J.2.

Sec. 3. Section 455B.110, subsection 3, Code 2001, is amended by striking the subsection.