



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

April 7, 2006

The Honorable Chester Culver
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 2264, an Act relating to the duties of county recorders and county auditors concerning instruments affecting real estate and certain other filings recorded by the county recorder.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Vilsack".

Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House





SENATE FILE 2264

AN ACT

RELATING TO THE DUTIES OF COUNTY RECORDERS AND COUNTY AUDITORS
CONCERNING INSTRUMENTS AFFECTING REAL ESTATE AND CERTAIN
OTHER FILINGS RECORDED BY THE COUNTY RECORDER.

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

Section 1. Section 331.602, subsection 5, Code Supplement 2005, is amended by striking the subsection.

Sec. 2. Section 331.603, subsection 3, Code 2005, is amended to read as follows:

3. The recorder may reproduce in miniature on a durable medium any instrument to be recorded. When a recorded instrument involves a release, or assignment, or other subsequent reference to an original document, the separate instrument filed acknowledging the release, or assignment, or other subsequent reference shall be reproduced. In lieu of marginal entries, the recorder shall ~~make notations on both the index and the record of the original instrument~~ cross-reference the release, assignment, or other subsequent reference with the record of the original document. When an official record is produced in miniature, a security copy

shall be reproduced at the same time and kept outside of the courthouse.

Sec. 3. Section 331.606B, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Each document or instrument, other than a plat or survey or a drawing related to a plat or survey, that is presented for recording ~~and-that-contains-any-of~~ shall contain the following information ~~shall-have-that-information~~ on the first page below the three-inch margin:

Sec. 4. Section 331.607, subsection 1, Code 2005, is amended to read as follows:

1. ~~A-record-for-military-discharges~~ Military personnel records as provided in section 331.608.

Sec. 5. Section 331.608, subsections 3 and 9, Code Supplement 2005, are amended to read as follows:

3. The recorder shall record without charge the commissions and warrants of veteran officers and noncommissioned officers₇; orders citing a veteran for bravery and meritorious action₇~~and~~; citations and bestowals of medals from the state, federal₁, or foreign governments; and any other documents needed to perfect a claim.

9. As used in this section, "veteran" means a veteran as defined in section 35.1, who enlisted or was inducted from the county, resided at any time in the county, or is buried in the county. For purposes of records maintained for claims filed under chapter 426A, "veteran" also means a veteran as defined in section 426A.11, subsection 4.

Sec. 6. Section 458A.22, Code 2005, is amended to read as follows:

458A.22 DUTY TO HAVE FORFEITED LEASE RELEASED -- AFFIDAVIT OF NONCOMPLIANCE -- NOTICE TO LANDOWNER -- REMEDIES.

1. When any oil, gas, or metallic mineral lease given on land situated in Iowa and recorded, becomes forfeited by failure of the lessee to comply with its provisions or the Iowa law, the lessee shall, within sixty days after date of forfeiture of the lease, have the lease surrendered in writing, duly acknowledged₁, and placed on record in the county where the leased land is situated₇~~or-the-lease-may-be released-by-a-marginal-release-on-margin-of-the-record-without~~

~~cost-to-the-owner-of-land-described-in-the-lease.~~ If the lessee fails to execute and record a release of the recorded lease within the time provided for, the owner of the land may execute ~~and-file-with-the-recorder-of-the-counties-in-which-the-forfeited-lease-has-been-recorded~~ an affidavit of noncompliance in substantially the following form:

AFFIDAVIT OF NONCOMPLIANCE

State of Iowa)
County of) ss.

....., being first duly sworn, upon oath deposes and says that the deponent is as referred to in an (oil and gas) (metallic mineral) mining lease dated the ... day of (month), (year), which lease is recorded in Volume ..., Page ..., or as Instrument # ... of the County Records of County, ..., and which lease covers the following described lands:

And further, deponent says that on the ... day of (month), (year), under the terms of said lease, there should have been paid to the deponent or deposited to the deponent's credit in the Bank of the sum of Dollars (\$....), the payment of which was necessary in order to keep the above described lease in force and effect. Deponent hereby swears the above payment has never been made to the deponent or the deponent's representatives, in money or otherwise, nor has same been deposited to the deponent's credit in the above bank.

And further, deponent says that there has been no drilling or development of any nature or kind whatsoever done on the land covered by the lease referred to herein, as called for under the terms of said lease.

.....
.....

Subscribed and sworn to before me, a Notary Public for the State of Iowa, this day of (month), ... (year)

.....
Notary Public

My commission expires

AFFIDAVIT OF THE BANKER

State of)
County of) ss.

I,, (Cashier) (President) of the Bank of, being first duly sworn, upon my oath declare that there has not been deposited to the credit of in the Bank of, by or any other party, any sum of money whatsoever, in payment of rental under the terms of the (oil and gas) (metallic mineral) mining lease referred to in this affidavit.

Witness my hand this day of (month), ... (year)

.....
(Cashier) (President) of Bank

Subscribed and sworn to before me, a Notary Public for the State of Iowa on the day of (month), ... (year)

.....
Notary Public

My commission expires

2. The owner of the land shall retain the original affidavit and shall mail a copy of the affidavit by restricted certified mail, as defined in section 618.15, to the lessee. If the lessee ~~shall~~, within thirty days after receipt of the filing-of-such affidavit, ~~give~~ gives notice in writing, by restricted certified mail, to the ~~county-recorder-of-the county-where-said~~ owner of the land is-located that ~~said the~~ lease has not been forfeited and that ~~said the~~ lessee still claims that ~~said the~~ lease is in full force and effect, then the ~~said-affidavit-shall-not-be-recorded-but-the-county recorder-shall-notify-the-owner-of-the-land-of-the-action-of the-lessee,-and-the~~ owner of the land shall be entitled to the remedies provided by this chapter for the cancellation of such disputed lease.

3. If the lessee ~~shall~~ does not notify the ~~county-recorder owner of the land~~ as ~~above~~ provided in subsection 2, then the ~~county-recorder~~ owner shall ~~record-said~~ file the original affidavit for recording with the county recorder, and thereafter the record of the ~~said~~ lease shall not be notice to the public of the existence of ~~said the~~ lease or of any interest therein or rights thereunder, and ~~said the~~ record

shall not be received in evidence in any court of the state on behalf of the lessee against the lessor, and ~~said~~ the lease shall stand forfeited.

Sec. 7. Section 558.41, subsection 4, Code 2005, is amended to read as follows:

4. TERMINATION OF LIFE ESTATE. Upon the termination of a life estate interest through the death of the holder of the life estate, any surviving holder or successor in interest shall prepare a change of title or affidavit for tax purposes and ~~delivery-of-the-deed-or-change-of-title~~ shall deliver such instrument to the county recorder of the county in which each parcel of real estate is located.

Sec. 8. Section 558.49, subsection 3, Code 2005, is amended to read as follows:

3. The date and time when the instrument was filed with the recorder.

Sec. 9. Section 558.57, Code 2005, is amended to read as follows:

558.57 ENTRY ON AUDITOR'S TRANSFER BOOKS.

~~The~~ After the recorder ~~shall not record~~ has accepted for recording and indexed any deed, real estate installment contract, or other instrument unconditionally conveying real estate or altering a real estate contract by assigning the buyer's or seller's interest, changing the name of the buyer or seller, changing the legal description of the property, forfeiting or canceling the contract, or making other significant changes, ~~until~~ the auditor shall make the proper entries have-been-made upon the transfer books in the auditor's office, ~~and endorsement made upon the deed, real estate installment contract, or other instrument properly dated and officially signed, in substantially the following form:~~

~~Entered-upon-transfer-books-and-for-taxation-this--day-of~~
~~--(month)--(year)--My-fee-\$--collected-by-recorder-~~

.....
Auditor-

Sec. 10. Section 558.58, subsection 1, Code 2005, is amended to read as follows:

1. At the time of filing a deed, real estate installment contract, or other instrument mentioned in section 558.57, the recorder shall collect ~~from the person filing the deed, real estate installment contract, or instrument,~~ and note payment of, the recording fee ~~provided by law~~ and the auditor's transfer fee, as provided by law, except as provided in subsection 2. ~~The recorder shall deliver the deed, real estate installment contract, or instrument to the county auditor after endorsing upon the instrument the following:~~

~~Filed for record, indexed, and delivered to the county auditor this --- day of ---- (month), --- (year), at --- o'clock ---m.~~

~~Recorder's and auditor's fee \$--- paid.~~

Recorder.

After the recorder has accepted the instrument for recording, the instrument shall be indexed and then delivered to the auditor to be placed on the auditor's transfer books.

Sec. 11. Section 558.60, Code 2005, is amended to read as follows:

558.60 TRANSFER AND INDEX BOOKS.

The county auditor shall keep in the county auditor's office books for the transfer of real estate, which shall consist of a transfer book, index book, and plat book. As used in this context, "book" means the method of data storage and retrieval utilized by the county auditor.

The auditor shall index the real estate transfers by block and lot or by township, range, section, section quarter, and subdivision, as occasion may require. The transfer books shall show all of the following:

1. Each grantor.
2. Each grantee.
3. The date of the instrument.
4. The nature of the instrument.
5. The document reference number where the record of the instrument may be found.
6. The description of the real estate conveyed.

Sec. 12. Section 558.63, Code 2005, is amended to read as follows:

558.63 BOOK OF PLATS -- HOW KEPT.

The auditor shall keep the book of plats ~~so-as-to-show~~ showing the number of lot and block, or township and range, divided into sections and subdivisions as occasion may require, and shall designate thereon each piece of real estate, and ~~mark-in-pencil~~ the name of the owner thereon, ~~in-a legible-manner, which.~~ The plats shall be lettered or numbered so that they may be conveniently referred to ~~by-the memoranda-of~~ in the transfer book, ~~and-shall-be-drawn-on-the scale-of-not-less-than-four-inches-to-the-mile.~~

Sec. 13. Section 561.4, Code 2005, is amended to read as follows:

561.4 SELECTING -- PLATTING.

The owner, husband or wife, or a single person, may select the homestead and cause it to be platted, but a failure to do so shall not render the same liable when it otherwise would not be, and a selection by the owner shall control. When selected, it shall be designated by a legal description, or if impossible it shall be marked off by permanent, visible monuments, and the description shall give the direction and distance of the starting point from some corner of the dwelling, which description, with the plat, shall be filed and recorded by the recorder of the proper county ~~in-the-homestead book, which-shall-be, as-nearly-as-may-be, in-the-form-of-the record-books-for-deeds, with-an-index-kept~~ in the same manner provided in sections 558.49 and 558.52.

Sec. 14. Section 614.21, unnumbered paragraph 1, Code 2005, is amended to read as follows:

No action shall be maintained to foreclose or enforce any real estate mortgage, bond for deed, trust deed, or contract for the sale or conveyance of real estate, after twenty years from the date thereof, as shown by the record of such instrument, unless the record of such instrument shows that less than ten years have elapsed since the date of maturity of the indebtedness or part thereof, secured thereby, or since the right of action has accrued thereon, or unless the record shows an extension of the maturity of the instrument or of the debt or a part thereof, and that ten years from the expiration of the time of such extension have not yet expired. The date

of maturity, when different than as appears by the record of the instrument, and the date of maturity of any extension of said indebtedness or part thereof, may be shown at any time prior to the expiration of the above periods of limitation by the holder of the debt or the owner or assignee of the instrument filing an extension agreement, duly acknowledged as the original instrument was required to be acknowledged, in the office of the recorder where the instrument is recorded, ~~or-by-noting-on-the-margin-of-the-record-of-such-instrument-in-the-recorder's-office-an-extension-of-the-maturity-of-the-instrument-or-of-the-debt-secured,or-any-part-thereof;each~~ notation to be witnessed by the recorder and entered upon the ~~index-of-mortgages-in-the-name-of-the-mortgagor-and-mortgagee.~~

Sec. 15. Section 614.35, Code 2005, is amended to read as follows:

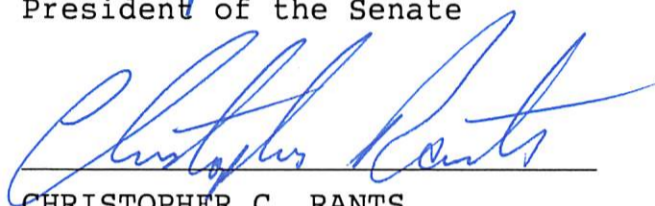
614.35 RECORDING INTEREST.

To be effective and to be entitled to record, the notice above referred to shall contain an accurate and full description of all land affected by such notice which description shall be set forth in particular terms and not by general inclusions; but if ~~said~~ the claim is founded upon a recorded instrument, then the description in such notice may be the same as that contained in such recorded instrument. Such notice shall be filed for record in the office of the county recorder of the county or counties where the land described ~~therein~~ in the notice is situated. The recorder of each county shall accept all such notices presented to the recorder which describe land located in the county in which the recorder serves and shall enter and record full copies ~~thereof-in-the-same-way-that-deeds-and-other-instruments-are-recorded~~ of the notices in the manner provided in sections 558.49 and 558.52, and each recorder shall be entitled to charge the same fees for the recording ~~thereof~~ of the notices as are charged for recording deeds. In indexing such notices in the recorder's office each recorder shall enter such notices under the grantee indexes of deeds in the names of the claimants appearing in such notices. ~~Such-notices-shall-also-be-indexed-under-the-description-of-the-real-estate-involved-in-a-book-set-apart-for-that-purpose-to-be-known-as-the~~ "claimant's book."

Sec. 16. Sections 558.61, 558.62, and 558.64, Code 2005, are repealed.



JEFFREY M. LAMBERTI
President of the Senate



CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2264, Eighty-first General Assembly.



MICHAEL E. MARSHALL
Secretary of the Senate

Approved April 7, 2006



THOMAS J. VILSACK
Governor