

Senate File 261 - Enrolled

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SENATE FILE 261

AN ACT

REQUIRING CERTAIN PRIVATE SEWAGE DISPOSAL SYSTEM-RELATED
INSPECTIONS TO BE CONDUCTED WHEN CERTAIN PROPERTY IS SOLD
OR TRANSFERRED AND INCLUDING AN EFFECTIVE DATE PROVISION.

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

Section 1. Section 455B.172, Code 2007, is amended by
adding the following new subsection:

NEW SUBSECTION. 11. a. A building where a person
resides, congregates, or is employed that is served by a
private sewage disposal system shall have the sewage disposal
system serving the building inspected prior to any transfer of
ownership of the building. The requirements of this
subsection shall be applied to all types of ownership transfer
including at the time a seller financed real estate contract
is signed. The county recorder shall not record a deed or any
other property transfer or conveyance document until either a
certified inspector's report is provided which documents the
condition of the private sewage disposal system and whether
any modifications are required to conform to standards adopted
by the department or, in the event that weather or other
temporary physical conditions prevent the certified inspection
from being conducted, the buyer has executed and submitted a
binding acknowledgment with the county board of health to
conduct a certified inspection of the private sewage disposal
system at the earliest practicable time and to be responsible
for any required modifications to the private sewage disposal
system as identified by the certified inspection. Any type of
on-site treatment unit or private sewage disposal system must
be inspected according to rules developed by the department.

For the purposes of this subsection, "transfer" means the
transfer or conveyance by sale, exchange, real estate
contract, or any other method by which real estate and
improvements are purchased, if the property includes at least
one but not more than four dwelling units. However,
"transfer" does not include any of the following:

(1) A transfer made pursuant to a court order, including
but not limited to a transfer under chapter 633 or 633A, the
execution of a judgment, the foreclosure of a real estate
mortgage pursuant to chapter 654, the forfeiture of a real
estate contract under chapter 656, a transfer by a trustee in
bankruptcy, a transfer by eminent domain, or a transfer
resulting from a decree for specific performance.

(2) A transfer to a mortgagee by a mortgagor or successor
in interest who is in default, or a transfer by a mortgagee
who has acquired real property at a sale conducted pursuant to
chapter 654, a transfer back to a mortgagor exercising a right
of first refusal pursuant to section 654.16A, a nonjudicial
voluntary foreclosure procedure under section 654.18 or
chapter 655A, or a deed in lieu of foreclosure under section
654.19.

(3) A transfer by a fiduciary in the course of the
administration of a decedent's estate, guardianship,
conservatorship, or trust.

(4) A transfer between joint tenants or tenants in common.

(5) A transfer made to a spouse, or to a person in the
lineal line of consanguinity of a person making the transfer.

(6) A transfer between spouses resulting from a decree of
dissolution of marriage, a decree of legal separation, or a
property settlement agreement which is incidental to the
decree, including a decree ordered pursuant to chapter 598.

b. The inspection requirement of paragraph "a" does not
apply to a transfer in which the transferee intends to
demolish or raze the building. The department shall adopt
rules pertaining to such transfers.

c. At the time of inspection, any septic tank existing as
part of the sewage disposal system shall be opened and have
the contents pumped out and disposed of as provided for by
rule. In the alternative, the owner may provide evidence of
the septic tank being properly pumped out within three years

3 4 prior to the inspection by a commercial septic tank cleaner
3 5 licensed by the department which shall include documentation
3 6 of the size and condition of the tank and its components at
3 7 the time of such occurrence.
3 8 d. If a private sewage disposal system is failing to
3 9 ensure effective wastewater treatment or is otherwise
3 10 improperly functioning, the private sewage disposal system
3 11 shall be renovated to meet current construction standards, as
3 12 adopted by the department, either by the seller or, by
3 13 agreement, within a reasonable time period as determined by
3 14 the county or the department, by the buyer. If the private
3 15 sewage disposal system is properly treating the wastewater and
3 16 not creating an unsanitary condition in the environment at the
3 17 time of inspection, the system is not required to meet current
3 18 construction standards.
3 19 e. Inspections shall be conducted by an inspector
3 20 certified by the department.
3 21 f. Pursuant to chapter 17A, the department shall adopt
3 22 certification requirements for inspectors including training,
3 23 testing, and fees, and shall establish uniform statewide
3 24 inspection criteria and an inspection form. The inspector
3 25 certification training shall include use of the criteria and
3 26 form. The department shall maintain a list of certified
3 27 inspectors.
3 28 g. County personnel are eligible to become certified
3 29 inspectors. A county may set an inspection fee for
3 30 inspections conducted by certified county personnel. A county
3 31 shall allow any department certified inspector to provide
3 32 inspection services under this subsection within the county's
3 33 jurisdiction.
3 34 h. Following an inspection, the inspection form and any
3 35 related reports shall be provided to the county for
4 1 enforcement of any follow-up mandatory system improvement and
4 2 to the department for record.
4 3 i. An inspection is valid for a period of two years for
4 4 any ownership transfers during that period. Title abstracts
4 5 to property with private sewage disposal systems shall include
4 6 documentation of the requirements in this subsection.
4 7 Sec. 2. EFFECTIVE DATE. This Act takes effect July 1,
4 8 2009.

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4 12 _____
4 13 JOHN P. KIBBIE
4 14 President of the Senate

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4 17 PATRICK J. MURPHY
4 18 Speaker of the House

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4 20 I hereby certify that this bill originated in the Senate and
4 21 is known as Senate File 261, Eighty-second General Assembly.

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4 25 MICHAEL E. MARSHALL
4 26 Secretary of the Senate

4 27 Approved _____, 2008

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4 30 _____
4 31 CHESTER J. CULVER
4 32 Governor