



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

March 25, 2009

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 288, an Act relating to county recorders by making changes to fees charged by the county recorder, information required to be endorsed on certain recorded documents and instruments, and standards for indexes maintained by the county recorder.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver", with a long, sweeping flourish extending to the right.

Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





SENATE FILE 288

AN ACT

RELATING TO COUNTY RECORDERS BY MAKING CHANGES TO FEES CHARGED BY THE COUNTY RECORDER, INFORMATION REQUIRED TO BE ENDORSED ON CERTAIN RECORDED DOCUMENTS AND INSTRUMENTS, AND STANDARDS FOR INDEXES MAINTAINED BY THE COUNTY RECORDER.

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

Section 1. Section 10A.108, subsections 4 through 6, Code 2009, are amended to read as follows:

4. The county recorder of each county shall prepare and maintain in the recorder's office an index of liens of debts established based upon benefits or provider payments inappropriately obtained from and owed the department of human services, ~~which provides~~ containing the applicable entries specified in sections 558.49 and 558.52, and providing appropriate columns for all of the following data, under the names of debtors, arranged alphabetically:

- a. The name of the debtor.
- b. "State of Iowa, Department of Human Services" as claimant.
- c. The time that the notice of the lien was ~~received~~ filed for recording.
- d. The date of notice.
- e. The amount of the lien currently due.
- f. The date of the assessment.
- g. The date of satisfaction of the debt.
- h. Any extension of the time period for application of the lien and the date that the notice for extension was filed.

5. The recorder shall endorse on each notice of lien the day and time ~~received~~ filed for recording and the document

reference number, and shall preserve the notice. The recorder shall index the notice and shall record the lien in the manner provided for recording real estate mortgages. The lien ~~shall~~ be is effective from the time of the indexing.

6. The department shall pay, from moneys appropriated to the department for this purpose, a recording fee fees as provided in section 331.604, for the recording of the lien, or for satisfaction of the lien.

Sec. 2. Section 96.14, subsection 3, paragraphs c through e, Code 2009, are amended to read as follows:

c. The county recorder of each county shall prepare and keep in the recorder's office an index ~~to show~~ containing the applicable entries specified in sections 558.49 and 558.52 and showing the following data, under the names of employers, arranged alphabetically:

- (1) The name of the employer.
- (2) The name "State of Iowa" as claimant.
- (3) Time notice of lien was ~~received~~ filed for recording.
- (4) Date of notice.
- (5) Amount of lien then due.
- (6) When satisfied.

d. The recorder shall endorse on each notice of lien the day, hour, and minute when ~~received~~ filed for recording and the document reference number, and shall index the notice in the index and shall record the lien in the manner provided for recording real estate mortgages~~7-and-the~~. The lien ~~shall~~ be is effective from the time of the indexing of the lien.

e. The department shall pay a recording fee fees as provided in section 331.604, for the recording of the lien, or for its satisfaction.

Sec. 3. Section 124C.4, subsection 3, Code 2009, is amended to read as follows:

3. Each notice of lien shall be endorsed with the day, hour, and minute when the notice was ~~received~~ filed for recording and the document reference number, and the notice shall be preserved, indexed, and recorded in the manner provided for recording real estate mortgages. The lien ~~shall~~ be is effective from the time of its indexing. The department shall pay a recording fee fees as provided by section 331.604 for the recording of the lien or for its satisfaction.

Sec. 4. Section 331.602, subsections 8 and 37, Code 2009, are amended to read as follows:

8. Endorse on each notice of an unemployment contribution lien the day, hour, and minute that the lien is ~~received from the department of workforce development~~ filed for recording and the document reference number, index the notice of lien, and record the lien as provided in section 96.14, subsection 3.

37. Carry out duties relating to the indexing of name changes, and the recorder shall charge ~~a fee~~ fees for indexing as provided in section 331.604.

Sec. 5. Section 331.603, subsection 4, Code 2009, is amended to read as follows:

4. The recorder may, in lieu of maintaining separate index books ~~as required by law~~, prepare and maintain a combined index record or system which shall contain the same data and information as required to be kept in the separate index books.

Sec. 6. Section 331.604, Code 2009, is amended to read as follows:

331.604 ~~GENERAL~~ RECORDING AND FILING FEE FEES.

1. Except as otherwise provided by state law, subsection 2 ~~4~~, or section 331.605, the recorder shall collect a fee of five dollars for each page or fraction of a page of an instrument which is filed or recorded in the recorder's office. If a page or fraction of a page contains more than one transaction, the recorder shall collect the fee for each transaction.

2. a. The recorder shall also collect a fee of one dollar for each recorded transaction for which a fee is paid pursuant to subsection 1 to be used exclusively for the purpose of preserving and maintaining public records. The treasurer, on behalf of the recorder, shall establish and maintain a county recorder's records management fund into which all moneys collected pursuant to this subsection shall be deposited. Interest earned on moneys deposited in the fund shall be credited to the county recorder's records management fund. The recorder shall use the moneys deposited in the fund to produce and maintain public records that meet archival standards, and to enhance the technological storage, retrieval, and transmission capabilities related to archival quality records. The recorder may cooperate with other entities, boards, and agencies to establish methods of records management, and participate in other joint ventures which further the purposes of this subsection.

b. Fees collected pursuant to this subsection shall be used to accomplish the following purposes:

(1) Preserve and maintain public records.

(2) Assist counties in reducing record preservation costs.

(3) Encourage and foster maximum access to public records maintained by county recorders at locations throughout the state.

(4) Establish plans for anticipated and possible future needs, including the handling and preservation of vital statistics.

3. a. The county recorder shall also collect a fee of one dollar for each recorded transaction, regardless of the number of pages, for which a fee is paid pursuant to subsection 1 to be used for the purpose set forth in paragraph "c".

b. The county treasurer, on behalf of the recorder, shall establish and maintain a county recorder's electronic transaction fund into which all moneys collected pursuant to paragraph "a" shall be deposited. Interest earned on moneys deposited in this fund shall be computed based on the average monthly balance in the fund and shall be credited to the county recorder's electronic transaction fund.

c. The local government electronic transaction fund is established in the office of the treasurer of state under the control of the treasurer of state. Moneys deposited into the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest or earnings on moneys in the local government electronic transaction fund shall be credited to the fund. Moneys in the local government electronic transaction fund are not subject to transfer, appropriation, or reversion to any other fund, or any other use except as provided in this paragraph "c". On a monthly basis, the county treasurer shall pay each fee collected pursuant to paragraph "a" to the treasurer of state for deposit into the local government electronic transaction fund. Moneys credited to the local government electronic transaction fund are appropriated to the treasurer of state for the payment of claims approved by the governing board of the county land record information system. Expenditures from the fund shall be for the purpose of planning and implementing electronic recording and electronic transactions in each county and developing county and statewide internet websites to provide electronic access to records and information and to pay the ongoing costs of integrating and maintaining the statewide internet website.

d. The recorder shall make available any information required by the county auditor or auditor of state concerning the fees collected under this subsection for the purposes of determining the amount of fees collected and the uses for which such fees are expended.

~~2- 4.~~ A county shall not be required to pay a fee to the recorder for filing or recording instruments. However, a county treasurer is required to pay recording fees pursuant to section 437A.11.

Sec. 7. Section 331.605B, subsection 1, Code 2009, is amended to read as follows:

1. The recorder shall make available any information required by the county or state auditor concerning the fees collected under ~~section 331-605A~~ 331.604, subsection 2, for the purposes of determining the amount of fees collected and the uses for which such fees are expended.

Sec. 8. Section 331.606B, subsection 2, paragraph b, Code 2009, is amended to read as follows:

b. ~~The~~ For any instrument of conveyance, the name of the taxpayer and a complete mailing address ~~for-any-document-or instrument-of-conveyance.~~

Sec. 9. Section 331.606B, subsection 6, Code 2009, is amended to read as follows:

6. a. On and after July 1, 2005, a document or instrument that does not conform to the format standards specified in subsections 1 through 3 shall not be ~~recorded~~ accepted for recording except upon payment of an additional recording fee of ten dollars per document or instrument. The requirement applies only to documents or instruments dated on or after July 1, 2005, and does not apply to those documents or instruments specifically exempted in subsection 4.

b. On and after July 1, 2009, a document or instrument that does not conform to the format standards specified in subsection 1, paragraphs "c" and "e", or subsection 2, paragraph "b", shall not be accepted for recording. This paragraph applies only to documents or instruments dated on or after July 1, 2009, and does not apply to those documents or instruments specifically exempted in subsection 4.

Sec. 10. Section 331.607, subsection 5, Code 2009, is amended by striking the subsection and inserting in lieu thereof the following:

5. An index for records of private drainage systems as provided in section 468.623.

Sec. 11. Section 331.609, subsection 4, Code 2009, is amended to read as follows:

4. The ~~fee~~ fees for filing or recording, and indexing each notice of lien or certificate or notice affecting the lien shall be as provided in section 331.604. The officer shall bill the internal revenue service or any other appropriate federal agency on a monthly basis for fees for documents filed or recorded by it.

Sec. 12. Section 359A.10, Code 2009, is amended to read as follows:

359A.10 ENTRY AND RECORD OF ORDERS.

Such orders, decisions, notices, and returns shall be entered of record at length by the township clerk, and a copy thereof certified by the township clerk to the county recorder, who shall record the same in the recorder's office in a book kept for that purpose, and index such record in the name of each adjoining owner as grantor to the other. The county recorder shall collect fees specified in section 331.604.

Sec. 13. Section 359A.12, Code 2009, is amended to read as follows:

359A.12 DIVISION BY AGREEMENT -- RECORD.

The several owners may, in writing, agree upon the portion of partition fences between their lands which shall be erected and maintained by each, which writing shall describe the lands and the parts of the fences so assigned, be signed and acknowledged by them, and filed and recorded in the office of the recorder of deeds of the county or counties in which they are situated. The county recorder shall collect fees specified in section 331.604.

Sec. 14. Section 422.26, subsections 4 and 5, Code 2009, are amended to read as follows:

4. The county recorder of each county shall keep in the recorder's office an index ~~and record to show~~ containing the applicable entries in sections 558.49 and 558.52 and showing the following data, under the names of taxpayers, arranged alphabetically:

- a. The name of the taxpayer.
- b. The name "State of Iowa" as claimant.

- c. Time notice of lien was ~~received~~ filed for recording.
- d. Date of notice.
- e. Amount of lien then due.
- f. Date of assessment.
- g. When satisfied.

The recorder shall endorse on each notice of lien the day, hour, and minute when ~~received-and~~ filed for recording and the document reference number, shall preserve the same, and shall index the notice in the index and shall record the lien in the manner provided for recording real estate mortgages~~7-and-the~~. The lien ~~shall-be~~ is effective from the time of the indexing of the lien.

5. The department shall pay a recording fee fees as provided in section 331.604, for the recording of the lien, or for its satisfaction.

Sec. 15. Section 424.11, unnumbered paragraphs 4 and 5, Code 2009, are amended to read as follows:

The recorder shall endorse on each notice of lien the day, hour, and minute when ~~received~~ filed for recording and the document reference number, and shall preserve the notice~~7-and~~. The recorder shall also immediately index the notice and record the lien in the manner provided for recording real estate mortgages~~7-and-the~~. The lien ~~shall-be~~ is effective from the time of its indexing.

The department shall pay a recording fee fees as provided in section 331.604, for the recording of the lien, or for its satisfaction.

Sec. 16. Section 428A.4, unnumbered paragraph 2, Code 2009, is amended to read as follows:

The county recorder shall refuse to record any deed, instrument, or writing by which any real property in this state shall be granted, assigned, transferred, or otherwise conveyed, except those transfers exempt from tax under section 428A.2, subsections 2 ~~to~~ through 5, and 7 ~~to~~ through 13, and 16 through 21, or under section 428A.2, subsection 6, except in the case of a federal agency or instrumentality, until the declaration of value has been submitted to the county recorder. A declaration of value shall not be required with a deed given in fulfillment of a recorded real estate contract provided the deed has a notation that it is given in fulfillment of a contract.

Sec. 17. Section 428A.5, Code 2009, is amended to read as follows:

428A.5 DOCUMENTATION OF PAYMENT.

The amount of tax imposed by this chapter shall be paid to the county recorder in the county where the real property is located and the amount received ~~and the initials of the county recorder~~ shall appear on the face of the document or instrument. The method of documentation of a transfer tax shall be approved by the department of revenue.

Sec. 18. Section 437A.11, unnumbered paragraph 2, Code 2009, is amended to read as follows:

The county recorder of each county shall ~~prepare and keep in the recorder's office an~~ index each lien showing the applicable entries specified in sections 558.49 and 558.52 and record to show showing, under the names of taxpayers arranged alphabetically, all of the following:

Sec. 19. Section 437A.11, subsection 3, Code 2009, is amended to read as follows:

3. Time the notice of lien was ~~received~~ filed for recording.

Sec. 20. Section 437A.11, unnumbered paragraphs 3 through 5, Code 2009, are amended to read as follows:

The recorder shall endorse on each notice of lien the day, hour, and minute when ~~received and preserve such notice, and filed for recording~~ and the document reference number, shall preserve such notice, shall index the notice in the index, and shall promptly record the lien in the manner provided for recording real estate mortgages. The lien is effective from the time of the indexing of the lien.

The county treasurer or chief financial officer of the city shall pay a recording ~~fee~~ fees as provided in section 331.604, for the recording of the lien, or for its satisfaction.

Upon the payment of the replacement tax as to which a county treasurer or chief financial officer of a city has filed notice with a county recorder, the county treasurer or chief financial officer of the city shall promptly file with the recorder a satisfaction of the replacement tax. The recorder shall ~~enter the satisfaction on the~~ record the notice on file in the recorder's office and indicate that fact on the index of satisfaction showing the applicable entries specified in sections 558.49 and 558.52.

Sec. 21. Section 437A.22, unnumbered paragraph 3, Code 2009, is amended to read as follows:

The county recorder of each county shall ~~prepare and keep in the recorder's office an~~ index each lien showing the applicable entries specified in sections 558.49 and 558.52 and record to show showing, under the names of taxpayers arranged alphabetically, all of the following:

Sec. 22. Section 437A.22, subsection 3, Code 2009, is amended to read as follows:

3. Time the notice of lien was ~~received~~ filed for recording.

Sec. 23. Section 437A.22, unnumbered paragraphs 4 and 5, Code 2009, are amended to read as follows:

The recorder shall endorse on each notice of lien the day, hour, and minute when ~~received and~~ filed for recording and the document reference, shall preserve such notice, and shall promptly record the lien in the manner provided for recording real estate mortgages. The lien is effective from the time of the indexing of the lien.

The director, from moneys appropriated to the department of revenue for this purpose, shall pay a recording ~~fee~~ fees as provided in section 331.604 for the recording of the lien, or for its satisfaction.

Sec. 24. Section 468.623, Code 2009, is amended to read as follows:

468.623 PRIVATE DRAINAGE SYSTEM -- RECORD.

1. Any person who has provided a system of drainage on land owned by the person may have the same made a matter of record in the office of the county recorder of the county in which the drainage system is located, provided any drainage system constructed after July 1, 1969, shall be made a matter of record, ~~as is hereinafter provided~~. The record shall contain the applicable entries specified in sections 558.49 and 558.52.

2. Records under subsection 1 may be used to give the owner's name, description of tracts of land drained, stating the time when the drainage system was established, the kind, quality, and brand of tile used, the name and place of the manufacturing plant, the name of contractors who laid the tile, the name of the engineer in charge of the survey and installation, the cost of tile, delivery, installation, and engineering expense, depths, grades, outlets, connections,

contracts for agreements with adjoining landowners as to connections, and any other matters or information that may be considered of value, and such information may be furnished by the landowner or the engineer having charge of the installation and certified to under oath.

Sec. 25. Section 468.626, Code 2009, is amended to read as follows:

468.626 ORIGINAL PLAT FILED.

In lieu of making the record as herein provided any landowner may file with the county recorder the original plat used in the establishment of ~~said~~ the drainage system, or a copy ~~thereof of the plat~~, which shall be certified by the engineer having made the same. If practicable, a plat filed under this section shall be made a matter of record and shall contain the applicable entries specified in sections 558.49 and 558.52.

Sec. 26. Section 468.628, Code 2009, is amended to read as follows:

468.628 FEES FOR RECORD-AND-COPIES RECORDING.

~~The county~~ When information is filed with the county recorder pursuant to section 468.623 or 468.626, the recorder shall be entitled to collect recording fees for the filing and information heretofore provided for, and for the making of copies of such records the same as is provided for other work of a similar nature in the amounts specified in section 331.604.

Sec. 27. Section 499A.1, unnumbered paragraph 1, Code 2009, is amended to read as follows:

Any two or more persons of full age, a majority of whom are citizens of the state, may organize themselves for the following or similar purposes: Ownership of residential, business property on a cooperative basis. A corporation is a person within the meaning of this chapter. The organizers shall adopt, and sign and acknowledge the articles of incorporation, stating the name by which the cooperative shall be known, the location of its principal place of business, its business or objects, the number of directors to conduct the cooperative's business or objects, the names of the directors for the first year, the time of the cooperative's annual meeting, the time of the annual meeting of its directors, and the manner in which the articles may be amended. The articles of incorporation shall be filed with the secretary of state

who shall, if the secretary approves the articles, endorse the secretary of state's approval on the articles, record the articles, and forward the articles to the county recorder of the county where the principal place of business is to be located, and there the articles shall be recorded, and upon recording be returned to the cooperative. The articles shall not be filed by the secretary of state until a filing fee of five dollars together with a recording fee of fifty cents per page is paid, and upon the payment of the fees and the approval of the articles by the secretary of state, the secretary shall issue to the cooperative a certificate of incorporation as a cooperative not for pecuniary profit. The county recorder shall collect recording fees pursuant to section 331.604 for articles forwarded for recording under this section.

Sec. 28. Section 499B.3, unnumbered paragraph 1, Code 2009, is amended to read as follows:

When the sole owner or all of the owners, or the sole lessee or all of the lessees of a lease desire to submit a parcel of real property upon which a building is located or to be constructed to the horizontal property regime established by this chapter, a declaration to that effect shall be executed and acknowledged by the sole owner or lessee or all of such owners or lessees and shall be recorded in the office of the county recorder of the county in which such property lies. The county recorder shall collect recording fees pursuant to section 331.604.

Sec. 29. Section 499B.5, subsection 1, Code 2009, is amended to read as follows:

1. Description of land as provided in section 499B.4, including the ~~book~~7-page document reference number and date of recording of the declaration.

Sec. 30. Section 501.105, subsection 6, Code 2009, is amended to read as follows:

6. The secretary of state shall forward for recording a copy of each original, amended, and restated articles, articles of merger, articles of consolidation, and articles of dissolution to the recorder of the county in which the cooperative has its principal place of business, or in the case of a merger or consolidation, to the recorders of each of the counties in which the merging or consolidating cooperatives have their principal offices. The county

recorder shall collect recording fees pursuant to section 331.604 for documents forwarded for recording under this subsection.

Sec. 31. Section 547.3, Code 2009, is amended to read as follows:

547.3 FEE FOR RECORDING.

The county recorder shall ~~charge-and-receive-a-fee~~ collect fees in the amount specified in section 331.604 for each verified statement recorded under this chapter. The recorder may return the original instrument to the sender or dispose of the instrument if the sender does not wish to have the instrument returned. An instrument filed in the recorder's office before July 1, 1990, may be returned to the sender or disposed of if the sender does not wish to have the instrument returned and if there is an official copy of the instrument in the recorder's office.

Sec. 32. Section 557.24, Code 2009, is amended to read as follows:

557.24 FEE.

A person having the name of the person's farm recorded as provided in section 557.22 shall first pay to the county recorder ~~a-fee-in-the-amount~~ the fees specified in section 331.604, which ~~fee~~ shall be paid to the county treasurer as other fees are paid to the county treasurer by the recorder.

Sec. 33. Section 557.26, Code 2009, is amended to read as follows:

557.26 CANCELLATION -- FEE.

If the owner of a registered farm desires to cancel the registered name of the farm, the owner shall acknowledge cancellation of the name by execution of an instrument in writing referring to the farm name, and shall record the instrument. For the latter service the county recorder shall ~~charge-a-fee-in~~ collect the ~~amount~~ fees specified in section 331.604, which shall be paid to the county treasurer as other fees are paid to the county treasurer by the recorder.

Sec. 34. Section 558.55, Code 2009, is amended to read as follows:

558.55 FILING AND INDEXING -- CONSTRUCTIVE NOTICE.

The recorder must endorse upon every instrument properly filed for ~~record~~ recording in the recorder's office, the day, hour, and minute ~~of-the-filing~~ when filed for recording and the document reference number, and enter in the index the

entries required to be entered pursuant to sections 558.49 and 558.52~~7-and-the-filing~~. The recording and indexing shall constitute constructive notice to all persons of the rights of the grantees conferred by the instruments.

Sec. 35. Section 558.66, unnumbered paragraph 1, Code 2009, is amended to read as follows:

Upon receipt of a certificate issued by the clerk of the district court or clerk of the supreme court indicating that the title to real estate has been finally established in any named person by judgment or decree or by will or by affidavit of or on behalf of a surviving spouse that has been recorded by the recorder, the auditor shall enter the information in the certificate upon the transfer books, upon payment of a fee in the amount specified in section 331.507, subsection 2, paragraph "a". In the case of the affidavit filed with the recorder, the fee set forth in section 331.507, subsection 2, paragraph "a", and the fee fees set forth in section 331.604, shall be collected by the recorder and paid to the treasurer as provided in section 331.902, subsection 3.

Sec. 36. Section 598.21, subsection 2, Code 2009, is amended to read as follows:

2. DUTIES OF COUNTY RECORDER. The county recorder shall record each quitclaim deed or change of title and shall collect the fee fees specified in section 331.507, subsection 2, paragraph "a", and the fee specified in section 331.604~~7 subsection-1~~.

Sec. 37. Section 633.481, Code 2009, is amended to read as follows:

633.481 CERTIFICATE TO COUNTY RECORDER FOR TAX PURPOSES WITHOUT ADMINISTRATION.


When an inventory or report is filed under section 450.22, without administration of the estate of the decedent, the heir or heir's attorney shall prepare and deliver to the county recorder of the county in which the real estate is situated a certificate pertaining to each parcel of real estate described in the inventory or report. Any fees for certificates or recording fees required by this section or section 633.480 shall be assessed as costs of administration. The fee fees for recording and indexing the instrument shall be as provided in section 331.604. The county recorder shall deliver the certificates to the county auditor as provided in section 558.58.

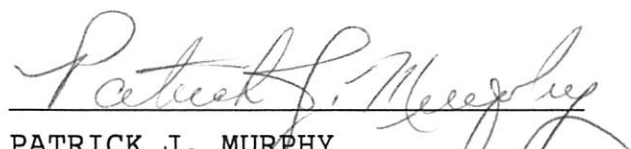
Sec. 38. Section 674.14, Code 2009, is amended to read as follows:

674.14 INDEXING IN REAL PROPERTY RECORD.


The county recorder and county auditor of each county in which the petitioner owns real property shall ~~charge~~ collect fees in the amounts specified in sections 331.604 and 331.507, subsection 2, paragraph "b", for indexing a change of name for each parcel of real estate.

Sec. 39. Sections 331.605A, 331.605C, 468.624, and 468.625, Code 2009, are repealed.

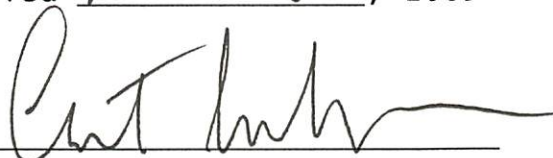

JOHN P. KIBBIE
President of the Senate


PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 288, Eighty-third General Assembly.


MICHAEL E. MARSHALL
Secretary of the Senate

Approved March 25th, 2009


CHESTER J. CULVER
Governor