

FILED MAY 4 1977

SENATE FILE 379

By COMMITTEE ON COUNTY GOVERNMENT

Passed Senate, Date 5-6-77 (p. 1378) Passed House, Date 5-20-77 (p. 2598)

Vote: Ayes 40 Nays 0 Vote: Ayes 72 Nays 1

Approved July 13, 1977

A BILL FOR

1 An Act relating to the platting of land.

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

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

S.F. 379

1 Section 1. Section four hundred nine point one (409.1),
2 unnumbered paragraph one (1), Code 1977, is amended to read
3 as follows:

4 409.1 SUBDIVISIONS OR ADDITIONS. Every ~~original~~ proprietor
5 of any tract or parcel of land of forty acres or less or of
6 more than forty acres if divided into parcels any of which
7 are less than forty acres and every ~~original~~ proprietor of
8 any tract or parcel of land of any size located within a city
9 or within two miles of a city subject to the provisions of
10 section 409.14, who shall subdivide the same into three or
11 more parts, shall cause a registered land surveyor's plat
12 of such subdivision, with references to known or permanent
13 monuments, to be made by a registered land surveyor holding
14 a certificate issued under the provisions of chapter 114,
15 giving the bearing and distance from some corner of the
16 subdivision to some corner of the congressional division of
17 which it is a part, which shall accurately describe all the
18 subdivisions thereof, numbering the same by progressive
19 numbers, giving their dimensions by length and breadth, and
20 the breadth and courses of all the streets and alleys
21 established therein.

22 Sec. 2. Section four hundred nine point one (409.1),
23 unnumbered paragraphs two (2) and three (3), Code 1977, are
24 amended by striking the paragraphs.

25 Sec. 3. Section four hundred nine point nine (409.9),
26 unnumbered paragraph one (1), Code 1977, is amended to read
27 as follows:

28 Every plat shall be accompanied by a complete abstract
29 of title and an opinion from an attorney at law showing that
30 the fee title is in the proprietor and that the land platted
31 is free from encumbrance, or is free from encumbrance other
32 than that secured by the bond provided for in section 409.11,
33 and a certified statement from the treasurer of the county
34 in which the land lies that it is free from taxes, and from
35 the clerk of the district court that it is free from all

1 judgments, attachments, mechanics' or other liens as appears
2 by the record in his office, and from the recorder of the
3 county that the title in fee is in such proprietor and that
4 it is free from encumbrance or free from encumbrance other
5 than that secured by the bond provided for in section 409.11,
6 as shown by the records of his office; however, the opinion
7 of the attorney or the certificate of the recorder may show
8 a mortgage or encumbrance if the plat is accompanied by a
9 consent to such platting by the holder of the mortgage or
10 encumbrance and a release from the mortgage or encumbrance
11 of all streets, easements and other areas to be conveyed or
12 dedicated to the local governmental unit within which such
13 land is located. Sections four hundred nine point ten (409.10)
14 and four hundred nine point eleven (409.11) of the Code shall
15 not apply if a mortgage or encumbrance is shown on the opinion
16 of the attorney or the certificate of the recorder and a
17 release from the mortgage or encumbrance is obtained in
18 accordance with the foregoing sentence.

19 Sec. 4. Section four hundred nine point twelve (409.12),
20 Code 1977, is amended to read as follows:

21 409.12 RECORD--FILING. The signed and acknowledged plat
22 and the attorney's opinion, together with the certificates
23 of the clerk, recorder, and treasurer, and the affidavit and
24 bond, if any, together with the certificate of approval of
25 the ~~council~~ local governing body, shall be entered of record
26 in the proper record books in the office of the county
27 recorder. When so entered, the plat only shall be entered
28 of record in the offices of the county auditor and assessor
29 and shall be of no validity until so filed, in those offices.
30 A certified plat ~~certified~~ approved by the ~~council~~ local
31 governing body shall supersede any plat recorded for assessment
32 and taxation purposes ~~pursuant to section 409.1~~ and any plat
33 so superseded shall be voided.

34 Sec. 5. Section four hundred nine point thirty (409.30),
35 subsection three (3), Code 1977, is amended to read as follows:

1 3. Monuments other than the permanent control monuments
2 required in subsection 1 of this section shall not be required
3 to be established before the recording of the plat or the
4 conveyancing of lands by reference to the plat if the
5 registered land surveyor includes in the ~~certification-of~~
6 surveyor's statement on the plat that the additional monuments
7 required by this chapter or by any local ordinance shall be
8 established before a ~~specified-future-date~~ date specified
9 in the statement or within one year from the date the plat
10 is signed by the registered land surveyor, whichever is
11 earlier.

12 Sec. 6. Section four hundred nine point thirty-one
13 (409.31), Code 1977, is amended by adding the following new
14 subsection:

15 NEW SUBSECTION. The plat shall contain a statement by
16 a registered land surveyor that the plat was prepared by the
17 surveyor or under the surveyor's direct personal supervision
18 and shall be signed and dated by the surveyor and bear the
19 surveyor's Iowa registration number or seal.

20 Sec. 7. Section four hundred nine point forty-three
21 (409.43), unnumbered paragraph one (1), Code 1977, is amended
22 to read as follows:

23 409.43 PLAT CERTIFIED AND FILED--EFFECT. When the surveyor
24 has completed the plat pursuant to the resurvey, he the
25 surveyor shall attach his-certificate-thereto,-to-the-effect
26 that-it-is-a-just,-true,-and-accurate-plat-of-said-city,-or
27 addition-so-surveyed-by-him,-which a statement that the
28 resurvey plat was prepared by the surveyor or under the
29 surveyor's direct personal supervision and shall be signed
30 by such surveyor, dated, and bear the surveyor's Iowa
31 registration number or seal; and the resurvey plat shall be
32 filed for record in the offices of the county recorder, county
33 auditor and assessor, and from the date of such filing it
34 shall be treated in all courts of this state as though the
35 same had been made by the ~~original~~ proprietor thereof.

1 Sec. 8. Section four hundred forty-one point sixty-five
2 (441.65), Code 1977, is amended to read as follows:

3 441.65 PLATTING FOR ASSESSMENT AND TAXATION BY AUDITOR.

4 Whenever a lot or subdivision of land is owned by two or more
5 persons in severalty, and the decription of one or more of
6 the different parts or parcels thereof cannot, in the judgment
7 of the county auditor or the assessor, be made sufficiently
8 certain and accurate for the purposes of assessment and
9 taxation without noting the metes and bounds of the same,
10 or whenever the ~~original~~ proprietor of any subdivision of
11 land has sold or conveyed any part thereof, or invested the
12 public with any rights therein, and has failed to file for
13 record a plat as provided in chapter 409, the county auditor
14 by certified mail shall notify all of the owners, and demand
15 compliance. If the owners fail to execute and file the plat
16 within sixty days after the issuance of such notice to execute
17 and file said plat for record, the auditor shall cause a plat
18 to be made as the auditor deems appropriate in accordance
19 with the provisions of chapter 409. The auditor may contract
20 for the services of a registered land surveyor as necessary
21 to comply with this section. Every conveyance of land in
22 this state shall be deemed to be a warranty that the
23 description therein contained is sufficiently definite and
24 accurate to enable the auditor to enter the same on the plat
25 book required to be kept; and when there is presented for
26 entry on the transfer book any conveyance in which the
27 description is not sufficiently definite and accurate, the
28 auditor shall note such fact on the deed, with that of the
29 entry for transfer, and shall notify the person presenting
30 it that the land therein is not sufficiently described, and
31 that it must be platted within sixty days thereafter. If
32 the grantor in the conveyance shall neglect for sixty days
33 thereafter to file for record a plat thereof, then the auditor
34 shall proceed as is provided in this section, and cause the
35 plat to be made in accordance with the provisions of chapter

1 409 and recorded in the office of the auditor, and the office
2 of the county recorder, and in the office of the assessor.

3 Sec. 9. This Act is effective January 1, 1978.

4 EXPLANATION

5 The bill provides that the platting requirement of chapter
6 409 of the Code apply to a proprietor who divides a parcel
7 of land into three or more parts. The requirement presently
8 applies to an original proprietor.

9 The bill also allows land to be platted subject to an
10 encumbrance if the plat is accompanied by the consent of the
11 holder of the encumbrance to the platting and a release from
12 the encumbrance for all areas to be dedicated or conveyed
13 for streets or easements. The bill allows the establishment
14 of additional permanent monuments within one year of the
15 signing of the plat by the surveyor.

16 The bill provides a statement that the plat was prepared
17 by the surveyor or under the surveyor's direct personal
18 supervision and the surveyor's signature and Iowa registration
19 number or seal.

20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

LSB 1450S
trj/sd/14

SENATE FILE 379

AN ACT

RELATING TO THE PLATTING OF LAND.

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

Section 1. Section four hundred nine point one (409.1), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

409.1 SUBDIVISIONS OR ADDITIONS. Every ~~original~~ proprietor of any tract or parcel of land of forty acres or less or of more than forty acres if divided into parcels any of which are less than forty acres and every ~~original~~ proprietor of any tract or parcel of land of any size located within a city or within two miles of a city subject to the provisions of section 409.14, who shall subdivide the same into three or more parts, shall cause a registered land surveyor's plat of such subdivision, with references to known or permanent monuments, to be made by a registered land surveyor holding a certificate issued under the provisions of chapter 114, giving the bearing and distance from some corner of the subdivision to some corner of the congressional division of which it is a part, which shall accurately describe all the subdivisions thereof, numbering the same by progressive numbers, giving their dimensions by length and breadth, and the breadth and courses of all the streets and alleys established therein.

Sec. 2. Section four hundred nine point one (409.1), unnumbered paragraphs two (2) and three (3), Code 1977, are amended by striking the paragraphs.

Sec. 3. Section four hundred nine point nine (409.9), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

Every plat shall be accompanied by a complete abstract of title and an opinion from an attorney at law showing that

the fee title is in the proprietor and that the land platted is free from encumbrance, or is free from encumbrance other than that secured by the bond provided for in section 409.11, and a certified statement from the treasurer of the county in which the land lies that it is free from taxes, and from the clerk of the district court that it is free from all judgments, attachments, mechanics' or other liens as appears by the record in his office, and from the recorder of the county that the title in fee is in such proprietor and that it is free from encumbrance or free from encumbrance other than that secured by the bond provided for in section 409.11, as shown by the records of his office; however, the opinion of the attorney or the certificate of the recorder may show a mortgage or encumbrance if the plat is accompanied by a consent to such platting by the holder of the mortgage or encumbrance and a release from the mortgage or encumbrance of all streets, easements and other areas to be conveyed or dedicated to the local governmental unit within which such land is located. Sections four hundred nine point ten (409.10) and four hundred nine point eleven (409.11) of the Code shall not apply if a mortgage or encumbrance is shown on the opinion of the attorney or the certificate of the recorder and a release from the mortgage or encumbrance is obtained in accordance with the foregoing sentence.

Sec. 4. Section four hundred nine point twelve (409.12), Code 1977, is amended to read as follows:

409.12 RECORD--FILING. The signed and acknowledged plat and the attorney's opinion, together with the certificates of the clerk, recorder, and treasurer, and the affidavit and bond, if any, together with the certificate of approval of the ~~council~~ local governing body, shall be entered of record in the proper record books in the office of the county recorder. When so entered, the plat only shall be entered of record in the offices of the county auditor and assessor and shall be of no validity until so filed, in those offices. A certified plat certified approved by the ~~council~~ local

governing body shall supersede any plat recorded for assessment and taxation purposes ~~pursuant to section 409.4~~ and any plat so superseded shall be voided.

Sec. 5. Section four hundred nine point thirty (409.30), subsection three (3), Code 1977, is amended to read as follows:

3. Monuments other than the permanent control monuments required in subsection 1 of this section shall not be required to be established before the recording of the plat or the conveyancing of lands by reference to the plat if the registered land surveyor includes in the certification of surveyor's statement on the plat that the additional monuments required by this chapter or by any local ordinance shall be established before a specified-future-date date specified in the statement or within one year from the date the plat is signed by the registered land surveyor, whichever is earlier.

Sec. 6. Section four hundred nine point thirty-one (409.31), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The plat shall contain a statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor's direct personal supervision and shall be signed and dated by the surveyor and bear the surveyor's Iowa registration number or seal.

Sec. 7. Section four hundred nine point forty-three (409.43), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

409.43 PLAT CERTIFIED AND FILED--EFFECT. When the surveyor has completed the plat pursuant to the resurvey, he the surveyor shall attach his certificate thereto, to the effect that it is a just, true, and accurate plat of said city, or addition so surveyed by him, which a statement that the resurvey plat was prepared by the surveyor or under the surveyor's direct personal supervision and shall be signed by such surveyor, dated, and bear the surveyor's Iowa registration number or seal; and the resurvey plat shall be

filed for record in the offices of the county recorder, county auditor and assessor, and from the date of such filing it shall be treated in all courts of this state as though the same had been made by the ~~original~~ proprietor thereof.

Sec. 8. Section four hundred forty-one point sixty-five (441.65), Code 1977, is amended to read as follows:

441.65 PLATTING FOR ASSESSMENT AND TAXATION BY AUDITOR. Whenever a lot or subdivision of land is owned by two or more persons in severalty, and the description of one or more of the different parts or parcels thereof cannot, in the judgment of the county auditor or the assessor, be made sufficiently certain and accurate for the purposes of assessment and taxation without noting the metes and bounds of the same, or whenever the ~~original~~ proprietor of any subdivision of land has sold or conveyed any part thereof, or invested the public with any rights therein, and has failed to file for record a plat as provided in chapter 409, the county auditor by certified mail shall notify all of the owners, and demand compliance. If the owners fail to execute and file the plat within sixty days after the issuance of such notice to execute and file said plat for record, the auditor shall cause a plat to be made as the auditor deems appropriate in accordance with the provisions of chapter 409. The auditor may contract for the services of a registered land surveyor as necessary to comply with this section. Every conveyance of land in this state shall be deemed to be a warranty that the description therein contained is sufficiently definite and accurate to enable the auditor to enter the same on the plat book required to be kept; and when there is presented for entry on the transfer book any conveyance in which the description is not sufficiently definite and accurate, the auditor shall note such fact on the deed, with that of the entry for transfer, and shall notify the person presenting it that the land therein is not sufficiently described, and that it must be platted within sixty days thereafter. If the grantor in the conveyance shall neglect for sixty days

thereafter to file for record a plat thereof, then the auditor shall proceed as is provided in this section, and cause the plat to be made in accordance with the provisions of chapter 409 and recorded in the office of the auditor, and the office of the county recorder, and in the office of the assessor.

Sec. 9. This Act is effective January 1, 1978.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 379, Sixty-seventh General Assembly.

STEVEN C. CROSS
Secretary of the Senate

Approved July 13, 1977

ROBERT D. RAY
Governor