

Judiciary
Taylor, Chairperson
Rush
Dreazen

(636)

HOUSE FILE 430

FEB 18 1981

BY COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

Place On Calendar

(Formerly Study Bill 78)

Passed House, Date 2-23-81 (p. 481) Passed Senate, Date 3-13-81 (p. 774)

Vote: Ayes 37 Nays 4 Vote: Ayes 44 Nays 0

Approved March 26, 1981

A BILL FOR

1 An Act eliminating the requirement that spouses execute
2 the same joint instrument to convey the homestead.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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430

1 Section 1. Section 561.13, Code 1981, is amended to read
2 as follows:

3 561.13 CONVEYANCE OR ENCUMBRANCE. No A conveyance or
4 encumbrance of, or contract to convey or encumber the
5 homestead, if the owner is married, is not valid, unless and
6 until the ~~husband-and-wife-join-in-the-execution-of-the-same~~
7 ~~joint~~ spouse of the owner executes the same or a like
8 instrument, or a power of attorney for the execution of the
9 same or a like instrument, and the instrument or power of
10 attorney sets out the legal description of the homestead,
11 ~~provided,-however,-that-where.~~ However, when the homestead
12 is conveyed or encumbered along with or in addition to other
13 real estate, ~~it shall~~ is not be necessary to particularly
14 describe or set aside the tract of land constituting ~~such~~
15 the homestead, whether the homestead is exclusively the subject
16 of the contract or not, ~~but such~~ the ~~contracts~~ contract may
17 be enforced as to real estate other than the homestead at
18 the option of the purchaser or encumbrancer. If a spouse
19 who holds only homestead and inchoate dower rights in ~~said~~
20 the homestead specifically relinquishes homestead rights in
21 ~~said~~ an instrument, ~~it shall~~ is not be necessary for ~~such~~
22 the spouse to join in the granting clause of the same or a
23 like instrument.

24 EXPLANATION

25 This bill eliminates the requirement that both spouses
26 execute the same joint instrument in order to convey or
27 encumber the homestead. Instead, the spouse of the
28 titleholder, if the spouses do not hold joint title to the
29 property, may execute a like instrument or a power of attorney
30 for the execution of the instrument or a like instrument
31 conveying or encumbering the homestead. This bill takes
32 effect July 1 following its enactment.

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the spouse to join in the granting clause of the same or a like instrument.

HOUSE FILE 430

AN ACT

ELIMINATING THE REQUIREMENT THAT SPOUSES EXECUTE THE SAME JOINT INSTRUMENT TO CONVEY THE HOMESTEAD.

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

Section 1. Section 561.13, Code 1981, is amended to read as follows:

561.13 CONVEYANCE OR ENCUMBRANCE. No A conveyance or encumbrance of, or contract to convey or encumber the homestead, if the owner is married, is not valid, unless and until the ~~husband-and-wife-join-in-the-execution-of-the-same~~ joint spouse of the owner executes the same or a like instrument, or a power of attorney for the execution of the same or a like instrument, and the instrument or power of attorney sets out the legal description of the homestead provided, however, that where. However, when the homestead is conveyed or encumbered along with or in addition to other real estate, it ~~shall~~ is not be necessary to particularly describe or set aside the tract of land constituting ~~such~~ the homestead, whether the homestead is exclusively the subject of the contract or not, but ~~such the contracts contract~~ may be enforced as to real estate other than the homestead at the option of the purchaser or encumbrancer. If a spouse who holds only homestead and inchoate dower rights in ~~said~~ the homestead specifically relinquishes homestead rights in ~~said~~ an instrument, it ~~shall~~ is not be necessary for ~~such~~

DELWYN STROMER
Speaker of the House

TERRY R. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 430, Sixty ninth General Assembly.

PAT H. HARPER
Chief Clerk of the House

Approved March 26, 1981

ROBERT D. RAY
Governor

H.F. 430