

REC'D FEB 3 1982

SENATE FILE 2126

BY COMMITTEE ON JUDICIARY
approved 2/3 (p. 278)

substituted for H. F. 2332 2/16

Passed Senate, Date 2-8-82 (p. 314) Passed House, Date 2-16-82 (p. 418)

Vote: Ayes 44 Nays 0 Vote: Ayes 94 Nays 1

Approved March 2, 1982

A BILL FOR

1 An Act to change the date of legalization to 1970 for all
2 defects and irregularities in those acts and instruments
3 included in section 586.1.

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

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1 Section 1. Section 586.1, subsections 1, 2, 4, 6, 7, 8,
2 and 9, Code 1981, are amended to read as follows:

3 1. Official acts performed before ~~1960~~ 1970 by notaries
4 public during the time that they held over in office without
5 qualifying after the expiration of the preceding term, if
6 such notaries public have since qualified.

7 2. Acknowledgments taken before ~~1960~~ 1970 by notaries
8 public outside their jurisdiction.

9 4. Acknowledgments of deeds, mortgages, school fund
10 mortgages and contracts taken and certified before ~~1960~~ 1970
11 by any county auditor, deputy county auditor, or deputy clerk
12 of the district court although such officer was not authorized
13 to take such acknowledgments at the time they were taken.

14 6. Acknowledgments taken, certified, and recorded before
15 ~~1960~~ 1970 in the proper counties, and which are defective
16 only in the form of the certificate of the officer taking
17 the acknowledgment or because made before an official not
18 qualified to take such acknowledgment but who was qualified
19 to take acknowledgments generally.

20 7. Acknowledgments taken outside the United States before
21 ~~1960~~ 1970 by officers authorized by section 10092, Codes 1924
22 to 1939 and section 558.28, Code 1946 to and including the
23 Code of 1966, to take such acknowledgments, whether or not
24 a certificate of authenticity as provided by section 10093,
25 Codes of 1924 to 1939 and section 558.29, Code 1946 to and
26 including the Code of 1966, is attached to such instrument;
27 and the certificate of acknowledgment of such officer is
28 hereby made conclusive evidence that such officer was duly
29 qualified to make such certificate of acknowledgment.

30 8. Any instrument affecting real estate executed before
31 ~~1960~~ 1970 by an attorney in fact for the grantor where a duly
32 executed and sufficient power of attorney was on file in the
33 county where the land was situated, although the instrument
34 was executed and acknowledged in the form of "A, attorney
35 in fact for B", instead of "B, by A, his attorney in fact";

1 or if such instrument is duly recorded and there is no record
2 in the county where the land is situated of a power of attorney
3 authorizing the attorney in fact to so act.

4 9. Any written instrument and the recording thereof,
5 recorded prior to ~~1960~~ 1970 in the office of the recorder
6 of the proper county, although there is attached to the
7 instrument a defective certificate of acknowledgment.

8 EXPLANATION

9 This bill changes the years from 1960 to 1970 of the statute
10 curing defects in the acts of notaries public, defective
11 acknowledgments, and defective execution by an attorney in
12 fact executed or recorded before a certain year.

13 The bill takes effect July 1 following enactment.

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SENATE FILE 2126

AN ACT

TO CHANGE THE DATE OF LEGALIZATION TO 1970 FOR ALL DEFECTS AND IRREGULARITIES IN THOSE ACTS AND INSTRUMENTS INCLUDED IN SECTION 586.1.

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

Section 1. Section 586.1, subsections 1, 2, 4, 6, 7, 8, and 9, Code 1981, are amended to read as follows:

1. Official acts performed before ~~1960~~ 1970 by notaries public during the time that they held over in office without qualifying after the expiration of the preceding term, if such notaries public have since qualified.

2. Acknowledgments taken before ~~1960~~ 1970 by notaries public outside their jurisdiction.

4. Acknowledgments of deeds, mortgages, school fund mortgages and contracts taken and certified before ~~1960~~ 1970 by any county auditor, deputy county auditor, or deputy clerk of the district court although such officer was not authorized to take such acknowledgments at the time they were taken.

6. Acknowledgments taken, certified, and recorded before ~~1960~~ 1970 in the proper counties, and which are defective only in the form of the certificate of the officer taking the acknowledgment or because made before an official not qualified to take such acknowledgment but who was qualified to take acknowledgments generally.

7. Acknowledgments taken outside the United States before ~~1960~~ 1970 by officers authorized by section 10092, Codes 1924 to 1939 and section 558.28, Code 1946 to and including the Code of 1966, to take such acknowledgments, whether or not a certificate of authenticity as provided by section 10093, Codes of 1924 to 1939 and section 558.29, Code 1946 to and including the Code of 1966, is attached to such instrument; and the certificate of acknowledgment of such officer is hereby made conclusive evidence that such officer was duly qualified to make such certificate of acknowledgment.

8. Any instrument affecting real estate executed before ~~1960~~ 1970 by an attorney in fact for the grantor where a duly executed and sufficient power of attorney was on file in the county where the land was situated, although the instrument was executed and acknowledged in the form of "A, attorney in fact for B", instead of "B, by A, his attorney in fact"; or if such instrument is duly recorded and there is no record in the county where the land is situated of a power of attorney authorizing the attorney in fact to so act.

9. Any written instrument and the recording thereof, recorded prior to ~~1960~~ 1970 in the office of the recorder of the proper county, although there is attached to the instrument a defective certificate of acknowledgment.

TERRY E. BRANSTAD
President of the Senate

DELWYN STROMER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2126, Sixty-ninth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved *March 2* 1982

ROBERT D. RAY
Governor