

FEB 14 1990

Place On Calendar

HOUSE FILE 2423

BY COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

(SUCCESSOR TO HSB 748)

(COMPANION TO SF 2284)

Substituted for S.F. 2284 3/5

Passed House, Date 2/20/90 (p. 488)

Passed Senate, Date 3/12/90 (p. 1014)

Vote: Ayes 91 Nays 0

Vote: Ayes 47 Nays 3

Approved March 23, 1990

A BILL FOR

1 An Act relating to establishing title where a surviving spouse is
2 a joint tenant of real estate with a deceased spouse.

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

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HF 2423

1 Section 1. Section 558.66, Code 1989, is amended to read
2 as follows:

3 558.66 TITLE DECREE -- ENTRY ON TRANSFER BOOKS.

4 Upon receipt of a certificate from the clerk of the
5 district court or an appellate court that the title to real
6 estate has been finally established in any named person by
7 judgment or decree or by will or by affidavit of the surviving
8 spouse, the auditor shall enter the information in the
9 certificate upon the transfer books, upon payment of a fee in
10 the amount specified in section 331.507, subsection 2,
11 paragraph "a", which fee shall be taxed as court costs,
12 collected by the clerk, and paid to the treasurer by the
13 recorder as provided in section 331.902, subsection 3.

14 An affidavit of the surviving spouse shall be filed with
15 the clerk only when real estate owned by a decedent, who died
16 on or after January 1, 1988, was held in joint tenancy with
17 right of survivorship solely with the surviving spouse and
18 shall be in the following form:

19 AFFIDAVIT OF SURVIVING SPOUSE FOR CHANGE OF TITLE TO REAL ESTATE

20 STATE OF IOWA)

21 _____) ss:

22 COUNTY OF)

23 I, _____, being first duly
24 sworn on oath, depose and state as follows:

25 1. I am the surviving spouse of _____,
26 who died on the _____ day of _____, 19 _____.

27 2. The following described real estate was owned only by
28 _____ and this Affiant, as joint tenants
29 with full rights of survivorship at the time of my spouse's
30 death:

31 _____
32 _____
33 _____

34 3. I hereby request that the Clerk of Court certify the
35 change of title to the above described real estate to the

1 County Auditor pursuant to Section 602.8102(10) of the Iowa
2 Code.

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Subscribed and sworn to before me this _____ day of
_____, 19 ____.

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Notary Public in and for the State of Iowa

8 Sec. 2. Section 602.8102, subsection 10, Code Supplement 1989,
9 is amended to read as follows:

10 10. When title to real estate is finally established in a
11 person by a judgment or decree of the district court or by
12 decision of an appellate court or when the title to real
13 estate is changed by judgment, decree, will, proceeding,
14 filing of an affidavit of the surviving spouse pursuant to
15 section 558.66, or order in probate, certify the final decree,
16 judgment, affidavit of the surviving spouse, or decision under
17 seal of the court to the auditor of the county in which the
18 real estate is located.

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EXPLANATION

20 This bill provides that title to real estate may be estab-
21 lished by an affidavit of the surviving spouse when a decedent
22 who died on or after January 1, 1988, owned real estate which
23 was held in joint tenancy with a right of survivorship solely
24 with the surviving spouse.

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HOUSE FILE 2423
BY (PROPOSED COMMITTEE ON
JUDICIARY AND LAW
ENFORCEMENT BILL BY
CHAIRPERSON JAY)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to establishing title where a surviving spouse is
2 a joint tenant of real estate with a deceased spouse.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 558.66, Code 1989, is amended to read
2 as follows:

3 558.66 TITLE DECREE -- ENTRY ON TRANSFER BOOKS.

4 Upon receipt of a certificate from the clerk of the
5 district court or an appellate court that the title to real
6 estate has been finally established in any named person by
7 judgment or decree or by will or by affidavit of the surviving
8 spouse, the auditor shall enter the information in the
9 certificate upon the transfer books, upon payment of a fee in
10 the amount specified in section 331.507, subsection 2,
11 paragraph "a", which fee shall be taxed as court costs,
12 collected by the clerk, and paid to the treasurer by the
13 recorder as provided in section 331.902, subsection 3.

14 An affidavit of the surviving spouse shall be filed with
15 the clerk only when real estate owned by a decedent, who died
16 on or after January 1, 1988, was held in joint tenancy with
17 right of survivorship solely with the surviving spouse and
18 shall be in the following form:

19 AFFIDAVIT OF SURVIVING SPOUSE FOR CHANGE OF TITLE TO REAL ESTATE

20 STATE OF IOWA)

21 _____) ss:

22 COUNTY OF)

23 I, _____, being first duly
24 sworn on oath, depose and state as follows:

25 1. I am the surviving spouse of _____,
26 who died on the _____ day of _____, 19 _____.

27 2. The following described real estate was owned only by
28 _____ and this Affiant, as joint tenants
29 with full rights of survivorship at the time of my spouse's
30 death:

31 _____
32 _____
33 _____

34 3. I hereby request that the Clerk of Court certify the
35 change of title to the above described real estate to the

1 County Auditor pursuant to Section 602.8102(10) of the Iowa
2 Code.

3 _____
4 Subscribed and sworn to before me this _____ day of
5 _____, 19 ____.

6 _____
7 Notary Public in and for the State of Iowa

8 Sec. 2. Section 602.8102, subsection 10, Code 1989,
9 is amended to read as follows:

10 10. When title to real estate is finally established in a
11 person by a judgment or decree of the district court or by
12 decision of an appellate court or when the title to real
13 estate is changed by judgment, decree, will, proceeding,
14 filing of an affidavit of the surviving spouse pursuant to
15 section 558.66, or order in probate, certify the final decree,
16 judgment, affidavit of the surviving spouse, or decision under
17 seal of the court to the auditor of the county in which the
18 real estate is located.

19 EXPLANATION

20 This bill provides that title to real estate may be estab-
21 lished by an affidavit of the surviving spouse when a decedent
22 who died on or after January 1, 1988, owned real estate which
23 was held in joint tenancy with a right of survivorship solely
24 with the surviving spouse.

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on or after January 1, 1988, was held in joint tenancy with right of survivorship solely with the surviving spouse and shall be in the following form:
AFFIDAVIT OF SURVIVING SPOUSE FOR CHANGE OF TITLE TO REAL ESTATE
STATE OF IOWA)
) ss:
COUNTY OF)

HOUSE FILE 2423

AN ACT

RELATING TO ESTABLISHING TITLE WHERE A SURVIVING SPOUSE IS A JOINT TENANT OF REAL ESTATE WITH A DECEASED SPOUSE.

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

Section 1. Section 558.66, Code 1989, is amended to read as follows:

558.66 TITLE DECREE -- ENTRY ON TRANSFER BOOKS.

Upon receipt of a certificate from the clerk of the district court or an appellate court 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 the surviving spouse, 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", which fee shall be taxed as court costs, collected by the clerk, and paid to the treasurer by the recorder as provided in section 331.902, subsection 3.

An affidavit of the surviving spouse shall be filed with the clerk only when real estate owned by a decedent, who died

I, _____, being first duly sworn on oath, depose and state as follows:

1. I am the surviving spouse of _____, who died on the _____ day of _____, 19 .
2. The following described real estate was owned only by _____ and this Affiant, as joint tenants with full rights of survivorship at the time of my spouse's death:

3. I hereby request that the Clerk of Court certify the change of title to the above described real estate to the County Auditor pursuant to Section 602.8102(10) of the Iowa Code.

Subscribed and sworn to before me this _____ day of _____, 19 .

Notary Public in and for the State of Iowa

Sec. 2. Section 602.8102, subsection 10, Code Supplement 1989, is amended to read as follows:

10. When title to real estate is finally established in a person by a judgment or decree of the district court or by decision of an appellate court or when the title to real estate is changed by judgment, decree, will, proceeding, filing of an affidavit of the surviving spouse pursuant to section 558.66, or order in probate, certify the final decree,

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judgment, affidavit of the surviving spouse, or decision under seal of the court to the auditor of the county in which the real estate is located.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2423, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved March 23, 1990

TERRY E. BRANSTAD
Governor