

*Reprinted*

HOUSE FILE 618  
BY COMMITTEE ON JUDICIARY  
AND LAW ENFORCEMENT

MAR 25 1991

Place On Calendar

(SUCCESSOR TO HSB 160)

(COMPANION TO SF 370)

Passed House, Date 4/8/91 (P. 1156) Passed Senate, Date 4/17/91 (P. 1332)  
Vote: Ayes 96 Nays 2 Vote: Ayes 50 Nays 0  
Approved May 17, 1991

A BILL FOR

1 An Act relating to the marketable title of real estate.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 618

1 Section 1. Section 558.5, Code 1991, is amended to read as  
2 follows:

3 558.5 CONTRACT FOR DEED -- PRESUMPTION OF ABANDONMENT.

4 When the record shows that a contract or bond for a deed  
5 has been ~~given prior to January 17, 1970~~ executed more than ten  
6 years earlier, and the record discloses no performance of the  
7 same and that more than ten years have elapsed since the  
8 contract by its terms was to be performed, the contract shall  
9 be deemed abandoned and of no effect and the land shall be  
10 freed from any lien or defect on account of the contract.

11 On and after July 1, 1992, this section shall apply to a  
12 contract or bond described in this section, if the contract or  
13 bond is not filed of record but referred to in another  
14 instrument which is filed of record. The contract or bond  
15 shall be deemed abandoned ten years from the date that the  
16 contract or bond is to be performed according to the recorded  
17 instrument. However, if the recorded instrument does not  
18 refer to a performance date for the contract or bond, the  
19 contract or bond shall be deemed abandoned ten years after the  
20 date that the instrument containing the reference is recorded.

21 Sec. 2. Section 558.14, Code 1991, is amended to read as  
22 follows:

23 558.14 GRANTOR DESCRIBED AS "SPOUSE" OR "HEIR" --  
24 PRESUMPTION.

25 All conveyances or the record title thereof of real estate  
26 ~~executed prior to January 17, 1950~~ more than ten years earlier,  
27 wherein the grantor or grantors described themselves as the  
28 surviving spouse, heir at law, heirs at law, surviving spouse  
29 and heir at law, or surviving spouse and heirs at law, of some  
30 person deceased in whom the record title or ownership of said  
31 real estate previously vested, shall be conclusive evidence of  
32 the facts so recited as far as they relate to the right of the  
33 grantor or grantors to convey, as fully as if the record title  
34 of said grantor or grantors had been established by due  
35 probate proceedings in the county wherein the real estate is

1 situated.

2 Sec. 3. Section 587.10, Code 1991, is amended to read as  
3 follows:

4 587.10 AFFIDAVIT OF PUBLICATION OF NOTICE BY ASSISTANT  
5 PUBLISHER.

6 All affidavits of proof of publication of any notice or  
7 original notice made by the assistant publisher of any  
8 newspaper of general circulation, which were executed and  
9 filed ~~prior to January 17, 1970~~ more than ten years earlier,  
10 are hereby legalized, declared valid, binding, and of full  
11 force and effect.

12 Sec. 4. Section 589.1, Code 1991, is amended to read as  
13 follows:

14 589.1 ACKNOWLEDGMENTS -- SEAL NOT AFFIXED.

15 All deeds, mortgages, or other instruments in writing for  
16 the conveyance of lands which have been made and executed  
17 ~~before July 17, 1970~~ more than ten years earlier, and the  
18 officer taking the acknowledgment has not affixed the  
19 officer's seal to the acknowledgment; the acknowledgment is,  
20 nevertheless, good and valid in law and equity, ~~anything in~~  
21 ~~any law passed before July 17, 1970,~~ any other provision of law  
22 to the contrary notwithstanding.

23 Sec. 5. Section 589.2, Code 1991, is amended to read as  
24 follows:

25 589.2 CONVEYANCES BY COUNTY.

26 All deeds executed ~~before July 17, 1970~~ more than ten years  
27 earlier, by a court or the chairperson of the board of  
28 supervisors of a county, and to which the officer executing  
29 the deed has failed or omitted to affix the county seal, and  
30 all deeds where the clerk has failed or omitted to countersign  
31 when required so to do, are legalized and valid as though the  
32 law had in all respects been fully complied with.

33 Sec. 6. Section 589.3, Code 1991, is amended to read as  
34 follows:

35 589.3 ABSENCE OF OR DEFECTIVE ACKNOWLEDGMENTS.

1 Any instrument in writing affecting the title to real  
2 estate within the state of Iowa, to which is attached no  
3 certificate of acknowledgment, or to which is attached a  
4 defective certificate of acknowledgment, which was, prior-~~to~~  
5 ~~January-17-1970~~ more than ten years earlier, recorded or  
6 spread upon the records in the office of the recorder of the  
7 county in which the real estate described in the instrument is  
8 located, is, together with the recording and the record of the  
9 recording, valid, legal, and binding as if the instrument had  
10 been properly acknowledged and legally recorded.

11 Sec. 7. Section 589.4, Code 1991, is amended to read as  
12 follows:

13 589.4 ACKNOWLEDGMENTS BY CORPORATION OFFICERS.

14 The acknowledgments of all deeds, mortgages, or other  
15 instruments in writing taken or certified ~~before-July-17-1970~~  
16 more than ten years earlier, which instruments have been  
17 recorded in the recorder's office of any county of this state,  
18 including acknowledgments of instruments made by a  
19 corporation, or to which the corporation was a party, or under  
20 which the corporation was a beneficiary, and which have been  
21 acknowledged before or certified by a notary public who was at  
22 the time of the acknowledgment or certifying a stockholder or  
23 officer in the corporation, are legal and valid official acts  
24 of the notaries public, and entitle the instruments to be  
25 recorded, anything in the laws of the state of Iowa in regard  
26 to acknowledgments to the contrary notwithstanding. This  
27 section does not affect pending litigation.

28 Sec. 8. Section 589.5, Code 1991, is amended to read as  
29 follows:

30 589.5 ACKNOWLEDGMENTS BY STOCKHOLDERS.

31 All deeds and conveyances of lands within this state  
32 executed ~~before-July-17-1970~~ more than ten years earlier, but  
33 which have been acknowledged or proved according to and in  
34 compliance with the laws of this state before a notary public  
35 or other official authorized by law to take acknowledgments

1 who was, at the time of the acknowledgment, an officer or  
2 stockholder of a corporation interested in the deed or  
3 conveyance, or otherwise interested in the deeds or  
4 conveyances, are, if otherwise valid, valid in law as though  
5 acknowledged or proved before an officer not interested in the  
6 deeds or conveyances; and if recorded ~~before July 17, 1970~~ more  
7 than ten years earlier, in the respective counties in which  
8 the lands are, the records are valid in law as though the  
9 deeds and conveyances, so acknowledged or proved and recorded,  
10 had, prior to being recorded, been acknowledged or proved  
11 before an officer having no interest in the deeds or  
12 conveyances.

13 Sec. 9. Section 589.6, Code 1991, is amended to read as  
14 follows:

15 589.6 INSTRUMENTS AFFECTING REAL ESTATE.

16 All instruments in writing executed by a corporation prior  
17 ~~to July 17, 1970~~ more than ten years earlier, conveying,  
18 encumbering, or affecting real estate, including releases,  
19 satisfactions of mortgages, judgments, or any other liens by  
20 entry of the release or satisfaction upon the page where the  
21 lien appears recorded or entered, where the corporate seal of  
22 the corporation has not been affixed or attached, and which  
23 are otherwise legally and properly executed, are legal, valid,  
24 and binding as though the corporate seal had been attached or  
25 affixed.

26 Sec. 10. Section 589.8, Code 1991, is amended to read as  
27 follows:

28 589.8 MORTGAGES, TRUST DEEDS AND REALTY LIENS -- RELEASES  
29 ~~BEFORE JULY 17, 1970~~ EXECUTED, FILED, AND RECORDED FOR MORE  
30 THAN TEN YEARS.

31 A release or satisfaction of a mortgage or trust deed, or  
32 of an instrument in writing creating a lien upon real estate  
33 where the release or satisfaction has been recorded in the  
34 recorder's office of the county in this state, or upon the  
35 margin of the record, where the original instrument was

1 recorded and which release or satisfaction was made by an  
2 individual, association, copartnership, assignee, corporation,  
3 attorney in fact, or by a resident or foreign executor,  
4 administrator, referee, receiver, trustee, guardian, or  
5 commissioner, and which release or satisfaction was executed,  
6 filed, and recorded ~~prior-to-July-17-1970~~ more than ten years  
7 earlier, is valid, legal and binding, any defects in the  
8 execution, acknowledgment, recording, filing, or otherwise of  
9 the releases or satisfactions to the contrary notwithstanding.

10 Sec. 11. Section 589.9, Code 1991, is amended to read as  
11 follows:

12 589.9 MARGINAL RELEASES OF SCHOOL-FUND MORTGAGES.

13 The release or satisfaction of a school-fund mortgage  
14 entered on the margin of the record of the mortgage by the  
15 auditor of the county ~~prior-to-July-17-1970~~ more than ten  
16 years earlier, is legalized as though the auditor had, at the  
17 time of entering the release or satisfaction, the same power  
18 thereafter conferred upon the auditor by chapter 53 of the  
19 Acts of the Twenty-fifth General Assembly.

20 Sec. 12. Section 589.10, Code 1991, is amended to read as  
21 follows:

22 589.10 MARGINAL ASSIGNMENT OF MORTGAGE OR LIEN.

23 If an assignment of a mortgage or other recorded lien on  
24 real estate has been ~~made-before-July-17-1970~~ executed more  
25 than ten years earlier, by written assignment on the margin of  
26 the record where the mortgage or other lien is recorded or  
27 entered, the assignment passed all the right, title, and  
28 interest in the real estate, which the assignor at the time  
29 had, with like force and effect as if the assignment had been  
30 made by separate instrument duly acknowledged and recorded;  
31 and an assignment or a duly authenticated copy of an  
32 assignment when accompanied by a duly authenticated copy of  
33 the record of the instrument or lien it purports to assign, is  
34 admissible in evidence as provided by law for the admission of  
35 the records of deeds and mortgages.

1     Sec. 13. Section 589.11, Code 1991, is amended to read as  
2 follows:

3     589.11 CONVEYANCES BY FIDUCIARIES.

4     ~~If prior to the year 1970~~, an executor, administrator,  
5 trustee, guardian, assignee, receiver, referee, or  
6 commissioner, acting in that capacity in this or any state,  
7 has conveyed in the trust capacity real estate lying in this  
8 state and the conveyance has been of record ~~since prior to~~  
9 January 17, 1970 for more than ten years, in the county where  
10 the real estate so conveyed is located and which conveyance  
11 purports to sustain the title in the present record owner, the  
12 conveyance is not void or insufficient because due and legal  
13 notice of all proceedings with reference to the making of the  
14 conveyance was not served upon all interested or necessary  
15 parties, or that the executor, administrator, trustee,  
16 guardian, assignee, receiver, referee, or commissioner is not  
17 shown to have been duly authorized by an order of court to  
18 make and execute the conveyance, that a bond was not given, or  
19 that a report of the sale was not made; or the sale or deed of  
20 conveyance was not approved by order of court, or a foreign  
21 executor, administrator, trustee, guardian, assignee,  
22 receiver, referee, or commissioner was not appointed or  
23 qualified in the state of Iowa prior to the making of the  
24 conveyance, or the record fails to disclose compliance with  
25 any law, and all such conveyances are valid, legal, and  
26 binding. Allotments by referees in partition are conveyances  
27 within the meaning of this section.

28     Sec. 14. Section 589.12, Code 1991, is amended to read as  
29 follows:

30     589.12 SHERIFFS' DEEDS.

31     A ~~foreclosure proceeding or sale of real estate on~~  
32 ~~execution prior to January 17, 1970~~, ~~if a~~ sheriff's deed was  
33 executed more than ten years earlier which purports to sustain  
34 the record title is not ineffectual on account of the failure  
35 of the record to show that any of the steps in obtaining the

1 judgment or in the sale of the property were complied with.  
2 The proceedings are legalized as if the record showed that the  
3 law has been complied with.

4 Sec. 15. Section 589.13, Code 1991, is amended to read as  
5 follows:

6 589.13 SHERIFF'S DEED EXECUTED BY DEPUTY.

7 All conveyances of land in this state, executed in this  
8 state by a deputy sheriff, and properly recorded in the office  
9 of the county recorder of the county where the land is  
10 located, ~~prior to January 17, 1970~~ more than ten years earlier,  
11 have the same force and effect as though the conveyance had  
12 been executed by the sheriff.

13 Sec. 16. Section 589.14, Code 1991, is amended to read as  
14 follows:

15 589.14 DEFECTIVE TAX DEEDS.

16 ~~A sale of real property for taxes made prior to January 17,~~  
17 ~~1970, in which the tax deed was executed and the deed~~ more  
18 than ten years earlier which purports to sustain the record  
19 title, is not ineffectual because of the failure of the record  
20 to show that any of the steps in the sale and deeding of the  
21 property were complied with and these proceedings are  
22 legalized and valid as if the record showed that the law had  
23 been complied with.

24 Sec. 17. Section 589.17, Code 1991, is amended to read as  
25 follows:

26 589.17 CONVEYANCES BY SPOUSE UNDER POWER.

27 A conveyance of real estate ~~made before July 17, 1970~~  
28 executed more than ten years earlier, in which the husband or  
29 wife conveyed or contracted to convey the inchoate right of  
30 dower through the other spouse, acting as the attorney in  
31 fact, by virtue of a power of attorney executed by the spouse,  
32 the power of attorney not having been executed as a part of a  
33 contract of separation, are not invalid ~~as contravening~~  
34 ~~section 3154 of the Code of 1897, or section 10447 of~~  
35 ~~subsequent Codes to and including the Code of 1939, but all~~



1 ~~such conveyances are legalized and effective.~~

2 Sec. 18. Section 589.18, Code 1991, is amended to read as  
3 follows:

4 589.18 CONVEYANCES BY FOREIGN EXECUTORS.

5 All conveyances of real property ~~made prior to January 17,~~  
6 1970 executed more than ten years earlier, by executors or  
7 trustees under foreign wills and prior to the date upon which  
8 the will was admitted to probate in Iowa or prior to the  
9 expiration of three months after the recording of a duly  
10 authenticated copy of the will, original record of  
11 appointment, qualification, and bond ~~as required by section~~  
12 ~~3295 of the Code of 1897 or sections 11878 to 11881,~~  
13 ~~inclusive of subsequent Codes to and including the Code of~~  
14 1939, and in which the will was, subsequent to the conveyance,  
15 probated in Iowa, and in which a duly authenticated copy of  
16 the will, original record of appointment, qualification, and  
17 bond ~~as required by these sections~~ was, subsequent to the  
18 conveyance, made a matter of record as provided in those  
19 sections, are legalized and valid in law and in equity as  
20 though the will had been probated in Iowa prior to the  
21 conveyance ~~and as though the sections had been strictly~~  
22 ~~complied with.~~ However, this section does not affect pending  
23 litigation.

24 Sec. 19. Section 589.19, Code 1991, is amended to read as  
25 follows:

26 589.19 CONVEYANCES UNDER SCHOOL-FUND FORECLOSURES.

27 If the title to real estate has been conveyed ~~prior to~~  
28 January 17, 1970 more than ten years earlier, by the sheriff of  
29 a county pursuant to sheriff's sale under the foreclosure of  
30 permanent school-fund mortgages to the state, or to the state  
31 for the use of the school fund, or to the county for the  
32 school fund; and the land has been sold under authority of the  
33 board of supervisors of the county and conveyed under its  
34 authority, ~~prior to January 17, 1970~~ more than ten years  
35 earlier, and the full purchase price paid and credited to, and

1 used by, the county for the permanent school fund of the  
2 county, all right, title, or interest of the state in and to  
3 the real estate is relinquished and quitclaimed to the  
4 purchaser or the purchaser's grantees forever, and the title  
5 confirmed in the purchaser, or the purchaser's grantees  
6 insofar as the erroneous conveyance is concerned.

7 Sec. 20. Section 589.21, Code 1991, is amended to read as  
8 follows:

9 589.21 RELEASES AND DISCHARGES.

10 All releases and discharges of judgments, mortgages, or  
11 deeds of trust affecting property in this state made-prior-to  
12 January-17-1970 executed more than ten years earlier, by  
13 administrators, executors, or guardians appointed by the court  
14 of any other state or country ~~without-complying-with-section~~  
15 ~~3308-of-the-Code-of-1897-and-sections-11897-to-11899,~~  
16 ~~inclusive-of-subsequent-Codes-to-and-including-the-Code-of~~  
17 ~~1931~~ are legalized, valid and effective in law and in equity  
18 ~~as-though-the-sections-had-been-strictly-followed~~. However,  
19 this section does not affect pending litigation.

20 Sec. 21. Section 589.23, Code 1991, is amended to read as  
21 follows:

22 589.23 DESCRIPTIONS REFERRING TO DEFECTIVE PLATS.

23 The description of land in all instruments, conveyances,  
24 and encumbrances describing lots in or referring to plats of  
25 survey or to plats made by the a county auditors-of-Iowa  
26 auditor, or by the a county surveyor for the owner, and placed  
27 of record by the a county recorders-of-Iowa-prior-to-January  
28 17-1970 recorder more than ten years earlier, are legalized,  
29 valid and binding ~~as-though-the-plats-had-been-signed-and~~  
30 ~~acknowledged-and-filed-and-recorded-in-strict-compliance-with~~  
31 law.

32 Sec. 22. Section 589.24, Code 1991, is amended to read as  
33 follows:

34 589.24 DEFECTIVE INSTRUMENTS.

35 A deed of conveyance, or other instrument purporting to

1 convey real estate within the state, where the deed or  
2 instrument has been recorded in the office of the recorder of  
3 any county in which the real estate is situated, and the deed  
4 or instrument was executed by a county treasurer under a tax  
5 sale, a sheriff under execution sale, or by a resident or  
6 foreign executor, administrator, referee, receiver, trustee,  
7 guardian, commissioner, individual, copartnership,  
8 association, or corporation, and was executed and recorded  
9 prior-to-January-17-1970 more than ten years earlier, and if  
10 the grantee named in the deed or conveyance, or other  
11 instrument, or the grantee's heirs or devisees, by direct line  
12 of title or conveyance have been in the actual, open, adverse  
13 possession of the premises since that date, is legalized,  
14 valid, and binding, notwithstanding defects in the execution  
15 of the deed or instrument.

16 Sec. 23. Section 589.25, Code 1991, is amended to read as  
17 follows:

18 589.25 SALES OF REAL ESTATE BY SCHOOL DISTRICT.

19 All deeds and conveyances of land made executed by or  
20 purporting to be made executed by a school district or by the  
21 board of directors of a school district prior-to-July-17-1970,  
22 and placed of record prior-to-July-17-1970 more than ten years  
23 earlier, which deeds or conveyances purport to sustain the  
24 record title, are legalized and valid, even though the record  
25 fails to show that all necessary steps in the sale and deeding  
26 of the property were complied with. The deeds and  
27 conveyances are legalized and valid as if the record showed  
28 that the law had been complied with, and that the sales had  
29 been duly authorized by the electors of the school district.

30 Sec. 24. Section 589.26, Code 1991, is amended to read as  
31 follows:

32 589.26 SOCIALS-WELFARE-DEPARTMENT LAND TRANSFERS BY THE  
33 DEPARTMENT OF HUMAN SERVICES LEGALIZED.

34 Every deed, release or other instrument in writing  
35 purporting to transfer any interest in land held or claimed by

1 either the state department of social-welfare-or-the-state  
2 board-of-social-welfare-of-the-state-of-iowa human services or  
3 a predecessor agency, which is signed for-either-or-both-said  
4 bodies by the-secretary-of-either a departmental official, and  
5 which are-now was filed or of record as-of-February-17-1961  
6 more than ten years earlier, in the office of the auditor or  
7 recorder or clerk of the district court of any county in-iowa,  
8 and-any-writing-~~was~~-signed,~~-filed-or-recorded-which-purports~~  
9 ~~to-release-any-old-age-assistance-then-on-any-real-estate-in~~  
10 iowa is hereby legalized and shall be good and valid in law  
11 and in equity as fully as if the record expressly showed that  
12 ~~same~~ it in all respects complied with and was fully authorized  
13 as provided in any statute pertaining to such instrument,  
14 ~~anything-in-the-laws-of-iowa~~ any other provision of law to the  
15 contrary notwithstanding.

16 Sec. 25. Section 592.3, Code 1991, is amended to read as  
17 follows:

18 592.3 CITY AND TOWN PLATS.

19 1. In all cases where, prior to January 1, ~~1970~~ 1980, any  
20 person has laid out any parcel of land into town or city lots  
21 and the plat of the lots has been recorded and the plat  
22 appears to be insufficient because of failure to show  
23 certificates of the county clerk of the district court, county  
24 treasurer, or county recorder, or the affidavit and bond, if  
25 any, and the certificate of approval of the local governing  
26 body or because the certificates are defective, or because of  
27 a failure to fully comply with all of the provisions of  
28 chapter 489 409A of the Code of-1966-as-amended-to-December  
29 31-1969 in effect at the time of the recording of the plat,  
30 or corresponding statutes of earlier Codes, or because the  
31 plat failed to show signatures or acknowledgment of  
32 proprietors as provided by law, or because the acknowledgment  
33 was defective, and subsequent to the platting, lots or  
34 subdivisions of the lots have been sold and conveyed, all such  
35 said plats which have not been vacated, are legalized as if

1 the date of the recording of the plat, the same as though all  
2 certificates have been attached and all the other necessary  
3 steps taken as provided by law, and the record of the plat  
4 shall be conclusive evidence that the person was the  
5 proprietor of the tract of land and the owner of the tract at  
6 the time of the platting, and that the tract of land was free  
7 and clear of all encumbrances unless an affidavit to the  
8 contrary was filed at the time of recording the plat.

9 PARAGRAPH DIVIDED. After July 1, 1981, 1992, no action  
10 shall be brought on any cause arising after December-31, 1949,  
11 and before January-17, 1970 more than ten years earlier or  
12 which has been in existence for more than ten years, to  
13 establish, enforce, or recover any right, title, interest,  
14 lien, or condition existing at the time of the platting after  
15 December-31, 1949, and before January-17, 1970, and adverse to  
16 a clear and unqualified title in fee simple in the owner  
17 unless on or before July 1, 1981, 1992, there is filed in the  
18 office of county recorder of the county where the real estate  
19 involved is located a written statement, acknowledged by the  
20 claimant, definitely describing the real estate involved,  
21 stating the nature and extent of the right or interest  
22 claimed, and stating the facts upon which the claim is based.

23 2. After July 1, 1992, in all cases where more than ten  
24 years earlier, a plat of lots from a parcel of land which has  
25 been laid into town or city lots has been recorded and the  
26 plat appears to be insufficient, the plat is legalized as of  
27 the date of the recording of the plat to the same extent as if  
28 the plat did not appear insufficient, if subsequent to the  
29 platting, the lots or a subdivision of the lots have been sold  
30 and conveyed, and the plats have not been vacated. A plat  
31 shall appear insufficient because of one of the following:

32 a. A failure to show or a deficiency in a certificate of  
33 the county clerk of the district court, county treasurer, or  
34 county recorder, or an affidavit and bond, or a certificate of  
35 approval of a local governing body.

1 b. A failure to fully comply with Code provisions in  
2 effect at the time of the recording of the plat.

3 c. A failure to show or a deficiency in a signature or  
4 acknowledgment of a proprietor as provided by law.

5 The record of the plat shall be conclusive evidence that  
6 the person was the proprietor of the tract of land and the  
7 owner of the tract at the time of the platting, and that the  
8 tract of land was free and clear of all encumbrances unless an  
9 affidavit to the contrary was filed at the time of recording  
10 the plat.

11 Sec. 26. Section 614.14, Code 1991, is amended to read as  
12 follows:

13 614.14 RECOVERY BY BENEFICIARY OF TRUST.

14 1. In all cases where a deed of trust or declaration of  
15 trust has been executed and the real estate affected by the  
16 deed or declaration has been conveyed by the trustee or the  
17 surviving spouse or heirs of the trustee and the conveyance  
18 was recorded in the proper county prior to January March 1,  
19 1970 1982, and the interest of the beneficiary of the trust in  
20 the real estate has not been conveyed or established by proper  
21 proceedings in court, by the beneficiary, an action, suit or  
22 proceeding shall not be commenced or maintained to foreclose  
23 the same, or to establish or recover the interest of the  
24 beneficiary in the real estate, or of the surviving spouse or  
25 heirs of the beneficiary, unless the action, suit, or  
26 proceeding is commenced by filing petition and service of  
27 notice not later than March 1, 1981 1992.

28 2. In all cases where a deed of trust or declaration of  
29 trust has been executed, no legal action shall be commenced or  
30 maintained to foreclose real estate or establish or recover  
31 the interest of a beneficiary or of the surviving spouse or an  
32 heir of the beneficiary in the real estate, if all the  
33 following conditions are satisfied:

34 a. The real estate affected by the deed or declaration of  
35 trust has been conveyed by the trustee or the surviving spouse

1 or heir of the trustee.

2 b. The conveyance was recorded in the proper county for  
3 more than ten years.

4 c. The interest of the beneficiary of the trust and the  
5 real estate has not been conveyed or established by the proper  
6 proceedings in court.

7 However, this section shall not apply if the legal action  
8 is commenced by filing a petition of service of notice within  
9 ten years of the recording of the conveyance.

10 Sec. 27. Section 614.15, Code 1991, is amended to read as  
11 follows:

12 614.15 SPOUSE FAILING TO JOIN IN CONVEYANCE.

13 1. In all cases where the holder of the legal or equitable  
14 title or estate to real estate situated within this state,  
15 prior to January July 1, 1970 1981, conveyed the real estate  
16 or any interest in the real estate by deed, mortgage, or other  
17 instrument, and the spouse failed to join in the conveyance,  
18 the spouse or the heirs at law, personal representatives,  
19  devisees, grantees, or assignees of the spouse are barred from  
20 recovery unless suit is brought for recovery within one year  
21 after July 1, 1980 1991. But in case the right to the  
22 distributive share has not accrued by the death of the spouse  
23 making executing the instrument, then the one not joining is  
24 authorized to file in the recorder's office of the county  
25 where the land is situated, a notice with affidavit setting  
26 forth affiant's claim, together with the facts upon which the  
27 claim rests, and the residence of the claimants. If the  
28 notice is not filed within two years from July 1, 1980 1991,  
29 the claim is barred forever. Any action contemplated in this  
30 section may include land situated in different counties, by  
31 giving notice as provided by section 617.13.

32 2. In all cases where the holder of the legal or equitable  
33 title or estate to real estate situated within this state,  
34 after July 1, 1991, conveyed the real estate or any interest  
35 in the real estate by deed, mortgage, or other instrument, and

1 spouse failed to join in the conveyance, the spouse or the  
2 heirs at law, personal representative, devisees, grantees, or  
3 assignees of the spouse are barred from recovery unless suit  
4 is brought for recovery within ten years from the date of the  
5 conveyance. However, in the case where the right to the  
6 distributive share has not accrued by the death of the spouse  
7 executing the instrument, then the party not joining is  
8 authorized to file in the recorder's office in the county  
9 where the land is situated, a notice with affidavit setting  
10 forth the affiant's claim, together with the facts upon which  
11 the claim is based, and the residence of the claimants. If  
12 the notice is not filed within ten years from the date of the  
13 execution of the instrument the claim is barred forever. Any  
14 action contemplated in this section may include land situated  
15 in different counties by giving notice as provided in section  
16 617.13. The effect of filing the notice with affidavit shall  
17 extend for a further period of ten years the time within which  
18 the action may be brought. Successive notices may be filed  
19 extending this period.

20 Sec. 28. Section 614.16, Code 1991, is amended to read as  
21 follows:

22 614.16 INTERPRETATIVE CLAUSE.

23 Sections 614.14 and 614.15 do not affect litigation pending  
24 on July 1, ~~1980~~ 1991, nor do they operate to revive rights or  
25 claims barred previous to that date, nor permit an action to  
26 be brought or maintained upon any claim or cause of action  
27 which is barred by a statute in force prior to July 1, ~~1980~~  
28 1991.

29 Sec. 29. Section 614.17, Code 1991, is amended to read as  
30 follows:

31 614.17 CLAIMS TO REAL ESTATE ANTEDATING ~~1970~~ 1980.

32 An action based upon a claim arising or existing prior to  
33 January 1, ~~1970~~ 1980, shall not be maintained, either at law  
34 or in equity, in any court to recover real estate in this  
35 state or to recover or establish any interest in or claim to



1 real estate, legal or equitable, against the holder of the  
2 record title to the real estate in possession, when the holder  
3 of the record title and the holder's immediate or remote  
4 grantors are shown by the record to have held chain of title  
5 to the real estate, since January 1, ~~1970~~ 1980, unless the  
6 claimant in person, or by the claimant's attorney or agent, or  
7 if the claimant is a minor or under legal disability, by the  
8 claimant's guardian, trustee, or either parent, within one  
9 year from and after July 1, ~~1980~~ 1991, files in the office of  
10 the recorder of deeds of the county in which the real estate  
11 is situated, a statement in writing, which is duly  
12 acknowledged, definitely describing the real estate involved,  
13 the nature and extent of the right or interest claimed, and  
14 stating the facts upon which the claim is based.

15 For the purposes of this section, section 614.17A, and  
16 sections 614.18 to 614.20, a person who holds title to real  
17 estate by will or descent from a person who held the title of  
18 record to the real estate at the date of that person's death  
19 or who holds title by decree or order of a court, or under a  
20 tax deed, trustee's, referee's, guardian's, executor's,  
21 administrator's, receiver's, assignee's, master's in chancery,  
22 or sheriff's deed, holds chain of title the same as though  
23 holding by direct conveyance.

24 For the purposes of this section and section 614.17A, such  
25 possession of real estate may be shown of record by affidavits  
26 showing the possession, and when the affidavits have been  
27 filed and recorded, it is the duty of the recorder to enter  
28 upon the margin of the record, a certificate to the effect  
29 that the affidavits were filed by the owner in possession, as  
30 named in the affidavits, or by the owner's attorney in fact,  
31 as shown by the records and in like manner, the affidavits may  
32 be filed and recorded where any action was barred on any claim  
33 by this section as in force prior to July 1, ~~1980~~ 1991.

34 Sec. 30. NEW SECTION. 614.17A CLAIMS TO REAL ESTATE  
35 AFTER 1992.

1 1. After July 1, 1992, an action shall not be maintained  
2 in a court, either at law or in equity, in order to recover or  
3 establish an interest in or claim to real estate if all the  
4 following conditions are satisfied:

5 a. The action is based upon a claim arising more than ten  
6 years earlier or existing for more than ten years.

7 b. The action is against the holder of the record title to  
8 the real estate in possession.

9 c. The holder of the record title to the real estate in  
10 possession and the holder's immediate or remote grantors are  
11 shown by the record to have held chain of title to the real  
12 estate for more than ten years.

13 2. The claimant within ten years of the date on which the  
14 claim arose or first existed must file with the county  
15 recorder in the county where the real estate is located a  
16 written statement which is duly acknowledged and definitely  
17 describes the real estate involved, the nature and extent of  
18 the right of interest claimed, and the facts upon which the  
19 claim is based. The claimant must file the statement in  
20 person or by the claimant's attorney or agent. If the  
21 claimant is a minor or under a legal disability, the statement  
22 must be filed by the claimant's guardian, trustee, or by  
23 either parent.

24 The filing of a claim shall extend for a further period of  
25 ten years the time within which such action may be brought by  
26 any person entitled to bring the claim. The person may file  
27 extensions for successive claims.

28 3. Nothing in this section shall be construed to revive  
29 any cause of action barred by section 614.17.

30 Sec. 31. Section 614.20, Code 1991, is amended to read as  
31 follows:

32 614.20 LIMITATION ON ACT.

33 Sections 614.17 to 614.19 do not limit or extend the time  
34 within which actions by a spouse to recover dower or  
35 distributive share in real estate within this state may be

1 brought or maintained under the provisions of section 614.15,  
2 nor do they limit or extend the time within which actions may  
3 be brought or maintained to foreclose or enforce any real  
4 estate mortgage, bond for deed, trust deed, or contract for  
5 the sale or conveyance of real estate under the provisions of  
6 section 614.21, nor do they revive or permit an action to be  
7 brought or maintained upon any claim or cause of action which  
8 is barred by a statute which is in force prior to July 1, ~~1980~~  
9 1991; nor do they affect litigation pending on July 1, ~~1980~~  
10 1991.

11 Sec. 32. Section 614.22, Code 1991, is amended to read as  
12 follows:

13 614.22 ACTION AFFECTING ANCIENT DEEDS.

14 1. An action shall not be maintained to set aside, cancel,  
15 annul, declare void or invalid, or to redeem from a tax deed,  
16 guardian's deed, executor's deed, administrator's deed,  
17 receiver's deed, referee's deed, assignee's deed or sheriff's  
18 deed which has been recorded in the office of the recorder of  
19 the county or counties in this state in which the land  
20 described in the deed is situated prior to January 1, ~~1976~~  
21 1980, unless the action is commenced prior to January 1, ~~1981~~  
22 1992, and if an action to set aside, cancel, annul, declare  
23 void or invalid, or to redeem from the deed is not commenced  
24 prior to January 1, ~~1981~~ 1992, then the deed and all the  
25 proceedings upon which the deed is based are valid and  
26 unimpeachable and effective to convey title as stated in the  
27 deed, without exception for infancy, mental illness, absence  
28 from the state, or other disability or cause; provided that  
29 this section and section 614.23 do not apply to real property  
30 described in a deed which is not on July 1, ~~1980~~ 1991, in the  
31 possession of those claiming title under the deed.

32 2. On and after January 1, 1992, an action shall not be  
33 maintained to set aside, cancel, annul, or void a deed, and an  
34 action shall not be maintained to redeem from such deed, if  
35 the deed has been recorded in the office of the recorder for

1 more than ten years. The deed must be recorded in the office  
2 of the recorder of the county or counties in which the land  
3 described in the deed is situated. If an action under this  
4 subsection is not commenced within ten years of the recording  
5 of the deed, then the deed and all proceedings upon which the  
6 deed is based are valid and unimpeachable and effective to  
7 convey title as stated in the deed, without exception for  
8 infancy, mental illness, absence from the state, or other  
9 disability or cause. As used in this subsection "deed" means  
10 a tax deed, guardian's deed, executor's deed, administrator's  
11 deed, receiver's deed, referee's deed, assignee's deed, or  
12 sheriff's deed.

13 However, this subsection and section 6-4.23 do not apply to  
14 real property described in any deed which is for more than ten  
15 years in the possession of a person claiming title under the  
16 deed.

17 Sec. 33. Section 589.20, Code 1991, is repealed.

18 EXPLANATION

19 This bill amends various sections of the Code relating to  
20 marketable title, by changing periods of time when title to  
21 real estate may be considered marketable regardless of errors  
22 of record. Sections affected by the bill relate to contracts  
23 or bonds for deeds, affidavits evidencing notice,  
24 acknowledgments, deeds executed by a court or a county board  
25 of supervisors, instruments executed by corporations, releases  
26 of certain mortgages or liens, assignments of mortgages or  
27 liens, conveyances by fiduciaries, sheriff's deeds, tax deeds,  
28 conveyances by spouses through a power of attorney,  
29 conveyances by foreign executors, conveyances under schoolfund  
30 foreclosures, releases and discharges of judgments, mortgages,  
31 or deeds of trust, instruments referring to plats, instruments  
32 of conveyance, conveyances of real estate by school districts,  
33 transfers by the department of human services, city plats,  
34 conveyances by a trustee, conveyances executed without  
35 spouses, claims to an interest in real estate, and deeds

1 generally.

2 Traditionally sections providing for marketable title  
3 establish a statute of limitations equaling a number of years  
4 from a date certain. For example current law now provides  
5 that certain instruments executed prior to July 1, 1970, are  
6 marketable regardless of recording defects. This bill amends  
7 a number of these sections to provide a rolling statute of  
8 limitations. The bill provides that title is marketable  
9 regardless of recording defects if the defects occurred ten  
10 years earlier.

11 The bill also provides for the repeal of a section  
12 correcting deeds, mortgages, and conveyances acknowledged  
13 according to the laws of another state, if recorded prior to  
14 January 1, 1884.

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H-3401

1 Amend House File 618 as follows:

2 1. Page 1, by inserting before line 1 the  
3 following:

4 Section 1. NEW SECTION. 557C.1 LAPSE OF MINERAL  
5 INTEREST -- PREVENTION.

6 An interest in coal, oil and gas, or other  
7 minerals, shall be extinguished twenty years after its  
8 creation, transfer, or preservation, unless a  
9 statement of claim is filed in accordance with section  
10 557C.3, and the ownership shall revert to the person  
11 who was then the owner of the interest from which the  
12 mineral interest was created, transferred, or  
13 preserved. Upon the filing of a statement of claim  
14 within the specified period, the mineral interest  
15 shall be deemed to have been preserved for an  
16 additional period of twenty years, or a shorter period  
17 as may be specified in the instrument creating the  
18 interest.

19 Sec. 2. NEW SECTION. 557C.2 MINERAL INTEREST --  
20 DEFINITION.

21 A mineral interest means an interest created by an  
22 instrument which creates or transfers either by grant,  
23 assignment, reservation, or otherwise, an interest of  
24 any kind in coal, as described in chapter 83, oil and  
25 gas, as described in chapter 84, or other minerals, as  
26 described in chapter 83A without limitation on the  
27 manner of mining the minerals.

28 Sec. 3. NEW SECTION. 557C.3 STATEMENT OF CLAIM -  
29 - FILING -- REQUIREMENTS.

30 The statement of claim provided in section 1 shall  
31 be filed by the owner of the mineral interest prior to  
32 the end of the twenty year period set forth in section  
x33 557C.1 or within three years after July 1, 1986,  
34 whichever is later, and shall contain the name and  
35 address of the owner of the interest, and a  
36 description of the real estate on, or under, which the  
37 mineral interest is located. The statement of claim  
38 shall be filed in the office of the recorder in the  
39 county in which the real estate is located.

40 Sec. 4. NEW SECTION. 557C.4 STATEMENT OF CLAIM -  
41 - FILING -- RECORDER'S DUTY.

42 Upon the filing of the statement of claim provided  
43 for in section 557C.3 in the recorder's office for the  
44 county where the real estate on, or under, which the  
45 mineral interest exists, is located, the recorder  
46 shall record the statement of claim and index it in  
47 the claimant's book.

>48 Sec. 5. NEW SECTION. 557C.5 WAIVER PROHIBITED.

49 The provisions of this chapter shall not be waived  
50 by an agreement of the parties."

Page 2

1 2. Page 1, line 1, by striking the words "Section  
2 1" and inserting the following: "Sec. 6".

3 3. Title page, line 1, by inserting after the  
4 word "estate" the following: "and the lapse of stale  
5 mineral interests".

6 4. By renumbering as necessary.

By JAY of Appanoose  
MILLAGE of Scott  
McNEAL of Hardin

TYRRELL of Iowa  
PETERSON of Carroll

H-3401 FILED MARCH 28, 1991

*Adopted as amended by 3556 4/8 (p. 1156)*

HOUSE FILE 618

H-3536

1 Amend the amendment, H-3401, to House File 618 as  
2 follows:

3 1. Page 1, line 33, by striking the figure "1986"  
4 and inserting the following: "1991".

5 2. Page 1, by inserting after line 47 the  
6 following:

7 "Sec. \_\_\_\_ . NEW SECTION. 557C.5 RESERVATION IN  
8 OTHER CONVEYANCE.

9 A reservation of a mineral interest or an exception  
10 of a mineral interest, contained in a conveyance of  
11 the interest out of which it is carved, by a nonowner  
12 of the mineral interest shall not be deemed to satisfy  
13 the requirements of this chapter or as a revival of a  
14 mineral interest otherwise extinguished under this  
15 chapter.

16 Sec. \_\_\_\_ . NEW SECTION. 557C.6 EXEMPTION.

17 The filing of the claim required under section  
18 557C.3 to preserve the mineral interest shall not be  
19 required of an owner if the mineral interest was  
20 separately taxed for real estate tax purposes at any  
21 time after July 1, 1971."

22 3. By renumbering and correcting internal  
23 references as necessary.

By JAY of Appanoose

H-3536 FILED APRIL 8, 1991

ADOPTED (p. 1156)

HOUSE FILE 618  
BY COMMITTEE ON JUDICIARY  
AND LAW ENFORCEMENT

(SUCCESSOR TO HSB 160)

(COMPANION TO SF 370)

(As Amended and Passed by the House April 8, 1991)

Passed House, Date 4/29/91 (p. 1334) Passed Senate, Date 4/17/91 (p. 1332)  
Vote: Ayes 96 Nays 2 Vote: Ayes 53 Nays 0  
Approved May 17, 1991

*Passed Senate as further  
amended by House  
5/3/91 (p. 16.45)  
43-1*

A BILL FOR

34531 An Act relating to the marketable title of real estate and the  
2 lapse of state mineral interests.

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

4

5

House Amendments \_\_\_\_\_

HOUSE FILE 618

S-3453

- 1 Amend House File 618, as amended, passed, and
  - 2 reprinted as follows:
  - 3 1. By striking page 1, line 1 through page 2,
  - 4 line 20.
  - 5 2. Title page, lines 1 and 2, by striking the
  - 6 words "and the lapse of state mineral interests".
- By MICHAEL GRONSTAL

S-3453 FILED APRIL 17, 1991

ADOPTED (p. 1331)

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HF 618

da/pk/25



3458 *Section 1711*

1 Section 1. NEW SECTION. 557C.1 LAPSE OF MINERAL INTEREST  
2 -- PREVENTION.

3 An interest in coal, oil and gas, or other minerals, shall  
4 be extinguished twenty years after its creation, transfer, or  
5 preservation, unless a statement of claim is filed in  
6 accordance with section 557C.3, and the ownership shall revert  
7 to the person who was then the owner of the interest from  
8 which the mineral interest was created, transferred, or  
9 preserved. Upon the filing of a statement of claim within the  
10 specified period, the mineral interest shall be deemed to have  
11 been preserved for an additional period of twenty years, or a  
12 shorter period as may be specified in the instrument creating  
13 the interest.

14 Sec. 2. NEW SECTION. 557C.2 MINERAL INTEREST --  
15 DEFINITION.

16 A mineral interest means an interest created by an  
17 instrument which creates or transfers either by grant,  
18 assignment, reservation, or otherwise, an interest of any kind  
19 in coal, as described in chapter 83, oil and gas, as described  
20 in chapter 84, or other minerals, as described in chapter 83A  
21 without limitation on the manner of mining the minerals.

22 Sec. 3. NEW SECTION. 557C.3 STATEMENT OF CLAIM -- FILING  
23 -- REQUIREMENTS.

24 The statement of claim provided in section 1 shall be filed  
25 by the owner of the mineral interest prior to the end of the  
26 twenty year period set forth in section 557C.1 or within three  
27 years after July 1, 1991, whichever is later, and shall  
28 contain the name and address of the owner of the interest, and  
29 a description of the real estate on, or under, which the  
30 mineral interest is located. The statement of claim shall be  
31 filed in the office of the recorder in the county in which the  
32 real estate is located.

33 Sec. 4. NEW SECTION. 557C.4 STATEMENT OF CLAIM -- FILING  
34 -- RECORDER'S DUTY.

35 Upon the filing of the statement of claim provided for in

1 section 557C.3 in the recorder's office for the county where  
2 the real estate on, or under, which the mineral interest  
3 exists, is located, the recorder shall record the statement of  
4 claim and index it in the claimant's book.

5 Sec. 5. NEW SECTION. 557C.5 RESERVATION IN OTHER  
6 CONVEYANCE.

7 A reservation of a mineral interest or an exception of a  
8 mineral interest, contained in a conveyance of the interest  
9 out of which it is carved, by a nonowner of the mineral  
10 interest shall not be deemed to satisfy the requirements of  
11 this chapter or as a revival of a mineral interest otherwise  
12 extinguished under this chapter.

13 Sec. 6. NEW SECTION. 557C.6 EXEMPTION.

14 The filing of the claim required under section 557C.3 to  
15 preserve the mineral interest shall not be required of an  
16 owner if the mineral interest was separately taxed for real  
17 estate tax purposes at any time after July 1, 1971.

18 Sec. 7. NEW SECTION. 557C.7 WAIVER PROHIBITED.

19 The provisions of this chapter shall not be waived by an  
20 agreement of the parties.

21 Sec. 8. Section 558.5, Code 1991, is amended to read as  
22 follows:

23 558.5 CONTRACT FOR DEED -- PRESUMPTION OF ABANDONMENT.

24 When the record shows that a contract or bond for a deed  
25 has been given-prior-to-January-17-1970 executed more than ten  
26 years earlier, and the record discloses no performance of the  
27 same and that more than ten years have elapsed since the  
28 contract by its terms was to be performed, the contract shall  
29 be deemed abandoned and of no effect and the land shall be  
30 freed from any lien or defect on account of the contract.

31 On and after July 1, 1992, this section shall apply to a  
32 contract or bond described in this section, if the contract or  
33 bond is not filed of record but referred to in another  
34 instrument which is filed of record. The contract or bond  
35 shall be deemed abandoned ten years from the date that the

1 contract or bond is to be performed according to the recorded  
2 instrument. However, if the recorded instrument does not  
3 refer to a performance date for the contract or bond, the  
4 contract or bond shall be deemed abandoned ten years after the  
5 date that the instrument containing the reference is recorded.

6 Sec. 9. Section 558.14, Code 1991, is amended to read as  
7 follows:

8 558.14 GRANTOR DESCRIBED AS "SPOUSE" OR "HEIR" --  
9 PRESUMPTION.

10 All conveyances or the record title thereof of real estate  
11 executed prior-to-January-17-1950 more than ten years earlier,  
12 wherein the grantor or grantors described themselves as the  
13 surviving spouse, heir at law, heirs at law, surviving spouse  
14 and heir at law, or surviving spouse and heirs at law, of some  
15 person deceased in whom the record title or ownership of said  
16 real estate previously vested, shall be conclusive evidence of  
17 the facts so recited as far as they relate to the right of the  
18 grantor or grantors to convey, as fully as if the record title  
19 of said grantor or grantors had been established by due  
20 probate proceedings in the county wherein the real estate is  
21 situated.

22 Sec. 10. Section 587.10, Code 1991, is amended to read as  
23 follows:

24 587.10 AFFIDAVIT OF PUBLICATION OF NOTICE BY ASSISTANT  
25 PUBLISHER.

26 All affidavits of proof of publication of any notice or  
27 original notice made by the assistant publisher of any  
28 newspaper of general circulation, which were executed and  
29 filed prior-to-January-17-1970 more than ten years earlier,  
30 are hereby legalized, declared valid, binding, and of full  
31 force and effect.

32 Sec. 11. Section 589.1, Code 1991, is amended to read as  
33 follows:

34 589.1 ACKNOWLEDGMENTS -- SEAL NOT AFFIXED.

35 All deeds, mortgages, or other instruments in writing for

1 the conveyance of lands which have been made and executed  
2 ~~before-July-17-1970~~ more than ten years earlier, and the  
3 officer taking the acknowledgment has not affixed the  
4 officer's seal to the acknowledgment; the acknowledgment is,  
5 nevertheless, good and valid in law and equity, ~~anything-in~~  
6 ~~any-law-passed-before-July-17-1970~~, any other provision of law  
7 to the contrary notwithstanding.

8 Sec. 12. Section 589.2, Code 1991, is amended to read as  
9 follows:

10 589.2 CONVEYANCES BY COUNTY.

11 All deeds executed ~~before-July-17-1970~~ more than ten years  
12 earlier, by a court or the chairperson of the board of  
13 supervisors of a county, and to which the officer executing  
14 the deed has failed or omitted to affix the county seal, and  
15 all deeds where the clerk has failed or omitted to countersign  
16 when required so to do, are legalized and valid as though the  
17 law had in all respects been fully complied with.

18 Sec. 13. Section 589.3, Code 1991, is amended to read as  
19 follows:

20 589.3 ABSENCE OF OR DEFECTIVE ACKNOWLEDGMENTS.

21 Any instrument in writing affecting the title to real  
22 estate within the state of Iowa, to which is attached no  
23 certificate of acknowledgment, or to which is attached a  
24 defective certificate of acknowledgment, which was, ~~prior-to~~  
25 ~~January-17-1970~~ more than ten years earlier, recorded or  
26 spread upon the records in the office of the recorder of the  
27 county in which the real estate described in the instrument is  
28 located, is, together with the recording and the record of the  
29 recording, valid, legal, and binding as if the instrument had  
30 been properly acknowledged and legally recorded.

31 Sec. 14. Section 589.4, Code 1991, is amended to read as  
32 follows:

33 589.4 ACKNOWLEDGMENTS BY CORPORATION OFFICERS.

34 The acknowledgments of all deeds, mortgages, or other  
35 instruments in writing taken or certified ~~before-July-17-1970~~

1 more than ten years earlier, which instruments have been  
2 recorded in the recorder's office of any county of this state,  
3 including acknowledgments of instruments made by a  
4 corporation, or to which the corporation was a party, or under  
5 which the corporation was a beneficiary, and which have been  
6 acknowledged before or certified by a notary public who was at  
7 the time of the acknowledgment or certifying a stockholder or  
8 officer in the corporation, are legal and valid official acts  
9 of the notaries public, and entitle the instruments to be  
10 recorded, anything in the laws of the state of Iowa in regard  
11 to acknowledgments to the contrary notwithstanding. This  
12 section does not affect pending litigation.

13 Sec. 15. Section 589.5, Code 1991, is amended to read as  
14 follows:

15 589.5 ACKNOWLEDGMENTS BY STOCKHOLDERS.

16 All deeds and conveyances of lands within this state  
17 executed ~~before July 1, 1970~~ more than ten years earlier, but  
18 which have been acknowledged or proved according to and in  
19 compliance with the laws of this state before a notary public  
20 or other official authorized by law to take acknowledgments  
21 who was, at the time of the acknowledgment, an officer or  
22 stockholder of a corporation interested in the deed or  
23 conveyance, or otherwise interested in the deeds or  
24 conveyances, are, if otherwise valid, valid in law as though  
25 acknowledged or proved before an officer not interested in the  
26 deeds or conveyances; and if recorded ~~before July 1, 1970~~ more  
27 than ten years earlier, in the respective counties in which  
28 the lands are, the records are valid in law as though the  
29 deeds and conveyances, so acknowledged or proved and recorded,  
30 had, prior to being recorded, been acknowledged or proved  
31 before an officer having no interest in the deeds or  
32 conveyances.

33 Sec. 16. Section 589.6, Code 1991, is amended to read as  
34 follows:

35 589.6 INSTRUMENTS AFFECTING REAL ESTATE.

1 All instruments in writing executed by a corporation ~~prior~~  
2 ~~to-July-17-1970~~ more than ten years earlier, conveying,  
3 encumbering, or affecting real estate, including releases,  
4 satisfactions of mortgages, judgments, or any other liens by  
5 entry of the release or satisfaction upon the page where the  
6 lien appears recorded or entered, where the corporate seal of  
7 the corporation has not been affixed or attached, and which  
8 are otherwise legally and properly executed, are legal, valid,  
9 and binding as though the corporate seal had been attached or  
10 affixed.

11 Sec. 17. Section 589.8, Code 1991, is amended to read as  
12 follows:

13 589.8 MORTGAGES, TRUST DEEDS AND REALTY LIENS -- RELEASES  
14 ~~BEFORE-JULY-17-1970~~ EXECUTED, FILED, AND RECORDED FOR MORE  
15 THAN TEN YEARS.

16 A release or satisfaction of a mortgage or trust deed, or  
17 of an instrument in writing creating a lien upon real estate  
18 where the release or satisfaction has been recorded in the  
19 recorder's office of the county in this state, or upon the  
20 margin of the record, where the original instrument was  
21 recorded and which release or satisfaction was made by an  
22 individual, association, copartnership, assignee, corporation,  
23 attorney in fact, or by a resident or foreign executor,  
24 administrator, referee, receiver, trustee, guardian, or  
25 commissioner, and which release or satisfaction was executed,  
26 filed, and recorded ~~prior-to-July-17-1970~~ more than ten years  
27 earlier, is valid, legal and binding, any defects in the  
28 execution, acknowledgment, recording, filing, or otherwise of  
29 the releases or satisfactions to the contrary notwithstanding.

30 Sec. 18. Section 589.9, Code 1991, is amended to read as  
31 follows:

32 589.9 MARGINAL RELEASES OF SCHOOL-FUND MORTGAGES.

33 The release or satisfaction of a school-fund mortgage  
34 entered on the margin of the record of the mortgage by the  
35 auditor of the county ~~prior-to-July-17-1970~~ more than ten

1 years earlier, is legalized as though the auditor had, at the  
2 time of entering the release or satisfaction, the same power  
3 thereafter conferred upon the auditor by chapter 53 of the  
4 Acts of the Twenty-fifth General Assembly.

5 Sec. 19. Section 589.10, Code 1991, is amended to read as  
6 follows:

7 589.10 MARGINAL ASSIGNMENT OF MORTGAGE OR LIEN.

8 If an assignment of a mortgage or other recorded lien on  
9 real estate has been ~~made-before-July-17-1970~~ executed more  
10 than ten years earlier, by written assignment on the margin of  
11 the record where the mortgage or other lien is recorded or  
12 entered, the assignment passed all the right, title, and  
13 interest in the real estate, which the assignor at the time  
14 had, with like force and effect as if the assignment had been  
15 made by separate instrument duly acknowledged ~~and recorded;~~  
16 and an assignment or a duly authenticated copy of an  
17 assignment when accompanied by a duly authenticated copy of  
18 the record of the instrument or lien it purports to assign, is  
19 admissible in evidence as provided by law for the admission of  
20 the records of deeds and mortgages.

21 Sec. 20. Section 589.11, Code 1991, is amended to read as  
22 follows:

23 589.11 CONVEYANCES BY FIDUCIARIES.

24 ~~If, prior to the year 1970,~~ an executor, administrator,  
25 trustee, guardian, assignee, receiver, referee, or  
26 commissioner, acting in that capacity in this or any state,  
27 has conveyed in the trust capacity real estate lying in this  
28 state and the conveyance has been of record ~~since prior to~~  
29 ~~January 17, 1970~~ for more than ten years, in the county where  
30 the real estate so conveyed is located and which conveyance  
31 purports to sustain the title in the present record owner, the  
32 conveyance is not void or insufficient because due and legal  
33 notice of all proceedings with reference to the making of the  
34 conveyance was not served upon all interested or necessary  
35 parties, or that the executor, administrator, trustee,

1 guardian, assignee, receiver, referee, or commissioner is not  
2 shown to have been duly authorized by an order of court to  
3 make and execute the conveyance, that a bond was not given, or  
4 that a report of the sale was not made; or the sale or deed of  
5 conveyance was not approved by order of court, or a foreign  
6 executor, administrator, trustee, guardian, assignee,  
7 receiver, referee, or commissioner was not appointed or  
8 qualified in the state of Iowa prior to the making of the  
9 conveyance, or the record fails to disclose compliance with  
10 any law, and all such conveyances are valid, legal, and  
11 binding. Allotments by referees in partition are conveyances  
12 within the meaning of this section.

13 Sec. 21. Section 589.12, Code 1991, is amended to read as  
14 follows:

15 589.12 SHERIFFS' DEEDS.

16 ~~A foreclosure-proceeding-or-sale-of-real-estate-on~~  
17 ~~execution-prior-to-January-17-1970,-if-a~~ sheriff's deed was  
18 executed more than ten years earlier which purports to sustain  
19 the record title is not ineffectual on account of the failure  
20 of the record to show that any of the steps in obtaining the  
21 judgment or in the sale of the property were complied with.  
22 The proceedings are legalized as if the record showed that the  
23 law has been complied with.

24 Sec. 22. Section 589.13, Code 1991, is amended to read as  
25 follows:

26 589.13 SHERIFF'S DEED EXECUTED BY DEPUTY.

27 All conveyances of land in this state, executed in this  
28 state by a deputy sheriff, and properly recorded in the office  
29 of the county recorder of the county where the land is  
30 located, ~~prior-to-January-17-1970~~ more than ten years earlier,  
31 have the same force and effect as though the conveyance had  
32 been executed by the sheriff.

33 Sec. 23. Section 589.14, Code 1991, is amended to read as  
34 follows:

35 589.14 DEFECTIVE TAX DEEDS.



1 A ~~sale of real property for taxes made prior to January 17~~  
2 ~~1970, in which the tax deed was executed and the deed more~~  
3 than ten years earlier which purports to sustain the record  
4 title, is not ineffectual because of the failure of the record  
5 to show that any of the steps in the sale and deeding of the  
6 property were complied with and these proceedings are  
7 legalized and valid as if the record showed that the law had  
8 been complied with.

9 Sec. 24. Section 589.17, Code 1991, is amended to read as  
10 follows:

11 589.17 CONVEYANCES BY SPOUSE UNDER POWER.

12 A conveyance of real estate ~~made before July 17, 1970~~  
13 executed more than ten years earlier, in which the husband or  
14 wife conveyed or contracted to convey the inchoate right of  
15 dower through the other spouse, acting as the attorney in  
16 fact, by virtue of a power of attorney executed by the spouse,  
17 the power of attorney not having been executed as a part of a  
18 contract of separation, are not invalid ~~as contravening~~  
19 ~~section 3154 of the Code of 1897, or section 10447 of~~  
20 ~~subsequent Codes to and including the Code of 1939, but all~~  
21 ~~such conveyances are legalized and effective.~~

22 Sec. 25. Section 589.18, Code 1991, is amended to read as  
23 follows:

24 589.18 CONVEYANCES BY FOREIGN EXECUTORS.

25 All conveyances of real property ~~made prior to January 17~~  
26 ~~1970~~ executed more than ten years earlier, by executors or  
27 trustees under foreign wills and prior to the date upon which  
28 the will was admitted to probate in Iowa or prior to the  
29 expiration of three months after the recording of a duly  
30 authenticated copy of the will, original record of  
31 appointment, qualification, and bond ~~as required by section~~  
32 ~~3295 of the Code of 1897 or sections 11878 to 11881,~~  
33 ~~inclusive, of subsequent Codes to and including the Code of~~  
34 ~~1939, and in which the will was, subsequent to the conveyance,~~  
35 ~~probated in Iowa, and in which a duly authenticated copy of~~

1 the will, original record of appointment, qualification, and  
2 bond ~~as-required-by-these-sections~~ was, subsequent to the  
3 conveyance, made a matter of record as provided in those  
4 sections, are legalized and valid in law and in equity as  
5 though the will had been probated in Iowa prior to the  
6 conveyance ~~and-as-though-the-sections-had-been-strictly~~  
7 ~~complied-with~~. However, this section does not affect pending  
8 litigation.

9 Sec. 26. Section 589.19, Code 1991, is amended to read as  
10 follows:

11 589.19 CONVEYANCES UNDER SCHOOL-FUND FORECLOSURES.

12 If the title to real estate has been conveyed ~~prior-to~~  
13 January-17-1970 more than ten years earlier, by the sheriff of  
14 a county pursuant to sheriff's sale under the foreclosure of  
15 permanent school-fund mortgages to the state, or to the state  
16 for the use of the school fund, or to the county for the  
17 school fund; and the land has been sold under authority of the  
18 board of supervisors of the county and conveyed under its  
19 authority, ~~prior-to-January-17-1970~~ more than ten years  
20 earlier, and the full purchase price paid and credited to, and  
21 used by, the county for the permanent school fund of the  
22 county, all right, title, or interest of the state in and to  
23 the real estate is relinquished and quitclaimed to the  
24 purchaser or the purchaser's grantees forever, and the title  
25 confirmed in the purchaser, or the purchaser's grantees  
26 insofar as the erroneous conveyance is concerned.

27 Sec. 27. Section 589.21, Code 1991, is amended to read as  
28 follows:

29 589.21 RELEASES AND DISCHARGES.

30 All releases and discharges of judgments, mortgages, or  
31 deeds of trust affecting property in this state ~~made-prior-to~~  
32 January-17-1970 executed more than ten years earlier, by  
33 administrators, executors, or guardians appointed by the court  
34 of any other state or country ~~without-complying-with-section~~  
35 ~~3308-of-the-Code-of-1897-and-sections-11897-to-11899,~~

1 ~~inclusive of subsequent Codes to and including the Code of~~  
2 ~~1931~~ are legalized, valid and effective in law and in equity  
3 ~~as though the sections had been strictly followed.~~ However,  
4 this section does not affect pending litigation.

5 Sec. 28. Section 589.23, Code 1991, is amended to read as  
6 follows:

7 589.23 DESCRIPTIONS REFERRING TO DEFECTIVE PLATS.

8 The description of land in all instruments, conveyances,  
9 and encumbrances describing lots in or referring to plats of  
10 survey or to plats made by the a county auditors-of-Iowa  
11 auditor, or by the a county surveyor for the owner, and placed  
12 of record by the a county recorders-of-Iowa-prior-to-January  
13 17-1970 recorder more than ten years earlier, are legalized,  
14 valid and binding ~~as though the plats had been signed and~~  
15 ~~acknowledged and filed and recorded in strict compliance with~~  
16 ~~law.~~

17 Sec. 29. Section 589.24, Code 1991, is amended to read as  
18 follows:

19 589.24 DEFECTIVE INSTRUMENTS.

20 A deed of conveyance, or other instrument purporting to  
21 convey real estate within the state, where the deed or  
22 instrument has been recorded in the office of the recorder of  
23 any county in which the real estate is situated, and the deed  
24 or instrument was executed by a county treasurer under a tax  
25 sale, a sheriff under execution sale, or by a resident or  
26 foreign executor, administrator, referee, receiver, trustee,  
27 guardian, commissioner, individual, copartnership,  
28 association, or corporation, and was executed and recorded  
29 prior-to-January-17-1970 more than ten years earlier, and if  
30 the grantee named in the deed or conveyance, or other  
31 instrument, or the grantee's heirs or devisees, by direct line  
32 of title or conveyance have been in the actual, open, adverse  
33 possession of the premises since that date, is legalized,  
34 valid, and binding, notwithstanding defects in the execution  
35 of the deed or instrument.

1     Sec. 30. Section 589.25, Code 1991, is amended to read as  
2 follows:

3     589.25 SALES OF REAL ESTATE BY SCHOOL DISTRICT.

4     All deeds and conveyances of land ~~made~~ executed by or  
5 purporting to be ~~made~~ executed by a school district or by the  
6 board of directors of a school district ~~prior-to-July-17-1970,~~  
7 and placed of record ~~prior-to-July-17-1970~~ more than ten years  
8 earlier, which deeds or conveyances purport to sustain the  
9 record title, are legalized and valid, even though the record  
10 fails to show that all necessary steps in the sale and deeding  
11 of the property were complied with. The deeds and  
12 conveyances are legalized and valid as if the record showed  
13 that the law had been complied with, and that the sales had  
14 been duly authorized by the electors of the school district.

15     Sec. 31. Section 589.26, Code 1991, is amended to read as  
16 follows:

17     589.26 SOCIAL-WELFARE-DEPARTMENT LAND TRANSFERS BY THE  
18 DEPARTMENT OF HUMAN SERVICES LEGALIZED.

19     Every deed, release or other instrument in writing  
20 purporting to transfer any interest in land held or claimed by  
21 ~~either the state department of social-welfare-or-the-state~~  
22 ~~board-of-social-welfare-of-the-state-of-Iowa~~ human services or  
23 a predecessor agency, which is signed ~~for-either-or-both-said~~  
24 ~~bodies by the-secretary-of-either~~ a departmental official, and  
25 ~~which are-now~~ was filed or of record ~~as-of-February-17-1961~~  
26 more than ten years earlier, in the office of the auditor or  
27 recorder or clerk of the district court of any county ~~in-Iowa,~~  
28 ~~and-any-writing-thus-signed,-filed-or-recorded-which-purports~~  
29 ~~to-release-any-old-age-assistance-lien-on-any-real-estate-in~~  
30 Iowa is hereby legalized and shall be good and valid in law  
31 and in equity as fully as if the record expressly showed that  
32 same it in all respects complied with and was fully authorized  
33 as provided in any statute pertaining to such instrument,  
34 ~~anything-in-the-laws-of-Iowa~~ any other provision of law to the  
35 contrary notwithstanding.

1 Sec. 32. Section 592.3, Code 1991, is amended to read as  
2 follows:

3 592.3 CITY AND TOWN PLATS.

4 1. In all cases where, prior to January 1, ~~1970~~ 1980, any  
5 person has laid out any parcel of land into town or city lots  
6 and the plat of the lots has been recorded and the plat  
7 appears to be insufficient because of failure to show  
8 certificates of the county clerk of the district court, county  
9 treasurer, or county recorder, or the affidavit and bond, if  
10 any, and the certificate of approval of the local governing  
11 body or because the certificates are defective, or because of  
12 a failure to fully comply with all of the provisions of  
13 chapter ~~409~~ 409A of the Code ~~of-1966-as-amended-to-December~~  
14 ~~31-1969~~ in effect at the time of the recording of the plat,  
15 or corresponding statutes of earlier Codes, or because the  
16 plat failed to show signatures or acknowledgment of  
17 proprietors as provided by law, or because the acknowledgment  
18 was defective, and subsequent to the platting, lots or  
19 subdivisions of the lots have been sold and conveyed, all such  
20 said plats which have not been vacated, are legalized as of  
21 the date of the recording of the plat, the same as though all  
22 certificates have been attached and all the other necessary  
23 steps taken as provided by law, and the record of the plat  
24 shall be conclusive evidence that the person was the  
25 proprietor of the tract of land and the owner of the tract at  
26 the time of the platting, and that the tract of land was free  
27 and clear of all encumbrances unless an affidavit to the  
28 contrary was filed at the time of recording the plat.

29 PARAGRAPH DIVIDED. After July 1, ~~1981~~ 1992, no action  
30 shall be brought on any cause arising ~~after-December-31-1949~~  
31 ~~and-before-January-1-1970~~ more than ten years earlier or  
32 which has been in existence for more than ten years, to  
33 establish, enforce, or recover any right, title, interest,  
34 lien, or condition existing at the time of the platting ~~after~~  
35 ~~December-31-1949-and-before-January-1-1970~~, and adverse to

1 a clear and unqualified title in fee simple in the owner  
2 unless on or before July 1, ~~1981~~ 1992, there is filed in the  
3 office of county recorder of the county where the real estate  
4 involved is located a written statement, acknowledged by the  
5 claimant, definitely describing the real estate involved,  
6 stating the nature and extent of the right or interest  
7 claimed, and stating the facts upon which the claim is based.

8 2. After July 1, 1992, in all cases where more than ten  
9 years earlier, a plat of lots from a parcel of land which has  
10 been laid into town or city lots has been recorded and the  
11 plat appears to be insufficient, the plat is legalized as of  
12 the date of the recording of the plat to the same extent as if  
13 the plat did not appear insufficient, if subsequent to the  
14 platting, the lots or a subdivision of the lots have been sold  
15 and conveyed, and the plats have not been vacated. A plat  
16 shall appear insufficient because of one of the following:

17 a. A failure to show or a deficiency in a certificate of  
18 the county clerk of the district court, county treasurer, or  
19 county recorder, or an affidavit and bond, or a certificate of  
20 approval of a local governing body.

21 b. A failure to fully comply with Code provisions in  
22 effect at the time of the recording of the plat.

23 c. A failure to show or a deficiency in a signature or  
24 acknowledgment of a proprietor as provided by law.

25 The record of the plat shall be conclusive evidence that  
26 the person was the proprietor of the tract of land and the  
27 owner of the tract at the time of the platting, and that the  
28 tract of land was free and clear of all encumbrances unless an  
29 affidavit to the contrary was filed at the time of recording  
30 the plat.

31 Sec. 33. Section 614.14, Code 1991, is amended to read as  
32 follows:

33 614.14 RECOVERY BY BENEFICIARY OF TRUST.

34 i. In all cases where a deed of trust or declaration of  
35 trust has been executed and the real estate affected by the

1 deed or declaration has been conveyed by the trustee or the  
2 surviving spouse or heirs of the trustee and the conveyance  
3 was recorded in the proper county prior to ~~January~~ March 1,  
4 ~~1970~~ 1982, and the interest of the beneficiary of the trust in  
5 the real estate has not been conveyed or established by proper  
6 proceedings in court, by the beneficiary, an action, suit or  
7 proceeding shall not be commenced or maintained to foreclose  
8 the same, or to establish or recover the interest of the  
9 beneficiary in the real estate, or of the surviving spouse or  
10 heirs of the beneficiary, unless the action, suit, or  
11 proceeding is commenced by filing petition and service of  
12 notice not later than March 1, ~~1981~~ 1992.

13 2. In all cases where a deed of trust or declaration of  
14 trust has been executed, no legal action shall be commenced or  
15 maintained to foreclose real estate or establish or recover  
16 the interest of a beneficiary or of the surviving spouse or an  
17 heir of the beneficiary in the real estate, if all the  
18 following conditions are satisfied:

19 a. The real estate affected by the deed or declaration of  
20 trust has been conveyed by the trustee or the surviving spouse  
21 or heir of the trustee.

22 b. The conveyance was recorded in the proper county for  
23 more than ten years.

24 c. The interest of the beneficiary of the trust and the  
25 real estate has not been conveyed or established by the proper  
26 proceedings in court.

27 However, this section shall not apply if the legal action  
28 is commenced by filing a petition of service of notice within  
29 ten years of the recording of the conveyance.

30 Sec. 34. Section 614.15, Code 1991, is amended to read as  
31 follows:

32 614.15 SPOUSE FAILING TO JOIN IN CONVEYANCE.

33 1. In all cases where the holder of the legal or equitable  
34 title or estate to real estate situated within this state,  
35 prior to ~~January~~ July 1, 1970 1981, conveyed the real estate

1 or any interest in the real estate by deed, mortgage, or other  
2 instrument, and the spouse failed to join in the conveyance,  
3 the spouse or the heirs at law, personal representatives,  
4 devisees, grantees, or assignees of the spouse are barred from  
5 recovery unless suit is brought for recovery within one year  
6 after July 1, ~~1980~~ 1991. But in case the right to the  
7 distributive share has not accrued by the death of the spouse  
8 ~~making~~ executing the instrument, then the one not joining is  
9 authorized to file in the recorder's office of the county  
10 where the land is situated, a notice with affidavit setting  
11 forth affiant's claim, together with the facts upon which the  
12 claim rests, and the residence of the claimants. If the  
13 notice is not filed within two years from July 1, ~~1980~~ 1991,  
14 the claim is barred forever. Any action contemplated in this  
15 section may include land situated in different counties, by  
16 giving notice as provided by section 617.13.

17 2. In all cases where the holder of the legal or equitable  
18 title or estate to real estate situated within this state,  
19 after July 1, 1991, conveyed the real estate or any interest  
20 in the real estate by deed, mortgage, or other instrument, and  
21 spouse failed to join in the conveyance, the spouse or the  
22 heirs at law, personal representative, devisees, grantees, or  
23 assignees of the spouse are barred from recovery unless suit  
24 is brought for recovery within ten years from the date of the  
25 conveyance. However, in the case where the right to the  
26 distributive share has not accrued by the death of the spouse  
27 executing the instrument, then the party not joining is  
28 authorized to file in the recorder's office in the county  
29 where the land is situated, a notice with affidavit setting  
30 forth the affiant's claim, together with the facts upon which  
31 the claim is based, and the residence of the claimants. If  
32 the notice is not filed within ten years from the date of the  
33 execution of the instrument the claim is barred forever. Any  
34 action contemplated in this section may include land situated  
35 in different counties by giving notice as provided in section



1 617.13. The effect of filing the notice with affidavit shall  
2 extend for a further period of ten years the time within which  
3 the action may be brought. Successive notices may be filed  
4 extending this period.

5 Sec. 35. Section 614.16, Code 1991, is amended to read as  
6 follows:

7 614.16 INTERPRETATIVE CLAUSE.

8 Sections 614.14 and 614.15 do not affect litigation pending  
9 on July 1, ~~1980~~ 1991, nor do they operate to revive rights or  
10 claims barred previous to that date, nor permit an action to  
11 be brought or maintained upon any claim or cause of action  
12 which is barred by a statute in force prior to July 1, ~~1980~~  
13 1991.

14 Sec. 36. Section 614.17, Code 1991, is amended to read as  
15 follows:

16 614.17 CLAIMS TO REAL ESTATE ANTEDATING ~~1970~~ 1980.

17 An action based upon a claim arising or existing prior to  
18 January 1, ~~1970~~ 1980, shall not be maintained, either at law  
19 or in equity, in any court to recover real estate in this  
20 state or to recover or establish any interest in or claim to  
21 real estate, legal or equitable, against the holder of the  
22 record title to the real estate in possession, when the holder  
23 of the record title and the holder's immediate or remote  
24 grantors are shown by the record to have held chain of title  
25 to the real estate, since January 1, ~~1970~~ 1980, unless the  
26 claimant in person, or by the claimant's attorney or agent, or  
27 if the claimant is a minor or under legal disability, by the  
28 claimant's guardian, trustee, or either parent, within one  
29 year from and after July 1, ~~1980~~ 1991, files in the office of  
30 the recorder of deeds of the county in which the real estate  
31 is situated, a statement in writing, which is duly  
32 acknowledged, definitely describing the real estate involved,  
33 the nature and extent of the right or interest claimed, and  
34 stating the facts upon which the claim is based.

35 For the purposes of this section, section 614.17A, and

1 sections 614.18 to 614.20, a person who holds title to real  
2 estate by will or descent from a person who held the title of  
3 record to the real estate at the date of that person's death  
4 or who holds title by decree or order of a court, or under a  
5 tax deed, trustee's, referee's, guardian's, executor's,  
6 administrator's, receiver's, assignee's, master's in chancery,  
7 or sheriff's deed, holds chain of title the same as though  
8 holding by direct conveyance.

9 For the purposes of this section and section 614.17A, such  
10 possession of real estate may be shown of record by affidavits  
11 showing the possession, and when the affidavits have been  
12 filed and recorded, it is the duty of the recorder to enter  
13 upon the margin of the record, a certificate to the effect  
14 that the affidavits were filed by the owner in possession, as  
15 named in the affidavits, or by the owner's attorney in fact,  
16 as shown by the records and in like manner, the affidavits may  
17 be filed and recorded where any action was barred on any claim  
18 by this section as in force prior to July 1, ~~1980~~ 1991.

19 Sec. 37. NEW SECTION. 614.17A CLAIMS TO REAL ESTATE  
20 AFTER 1992.

21 1. After July 1, 1992, an action shall not be maintained  
22 in a court, either at law or in equity, in order to recover or  
23 establish an interest in or claim to real estate if all the  
24 following conditions are satisfied:

25 a. The action is based upon a claim arising more than ten  
26 years earlier or existing for more than ten years.

27 b. The action is against the holder of the record title to  
28 the real estate in possession.

29 c. The holder of the record title to the real estate in  
30 possession and the holder's immediate or remote grantors are  
31 shown by the record to have held chain of title to the real  
32 estate for more than ten years.

33 2. The claimant within ten years of the date on which the  
34 claim arose or first existed must file with the county  
35 recorder in the county where the real estate is located a

1 written statement which is duly acknowledged and definitely  
2 describes the real estate involved, the nature and extent of  
3 the right of interest claimed, and the facts upon which the  
4 claim is based. The claimant must file the statement in  
5 person or by the claimant's attorney or agent. If the  
6 claimant is a minor or under a legal disability, the statement  
7 must be filed by the claimant's guardian, trustee, or by  
8 either parent.

9 The filing of a claim shall extend for a further period of  
10 ten years the time within which such action may be brought by  
11 any person entitled to bring the claim. The person may file  
12 extensions for successive claims.

13 3. Nothing in this section shall be construed to revive  
14 any cause of action barred by section 614.17.

15 Sec. 38. Section 614.20, Code 1991, is amended to read as  
16 follows:

17 614.20 LIMITATION ON ACT.

18 Sections 614.17 to 614.19 do not limit or extend the time  
19 within which actions by a spouse to recover dower or  
20 distributive share in real estate within this state may be  
21 brought or maintained under the provisions of section 614.15,  
22 nor do they limit or extend the time within which actions may  
23 be brought or maintained to foreclose or enforce any real  
24 estate mortgage, bond for deed, trust deed, or contract for  
25 the sale or conveyance of real estate under the provisions of  
26 section 614.21, nor do they revive or permit an action to be  
27 brought or maintained upon any claim or cause of action which  
28 is barred by a statute which is in force prior to July 1, 1980  
29 1991; nor do they affect litigation pending on July 1, 1980  
30 1991.

31 Sec. 39. Section 614.22, Code 1991, is amended to read as  
32 follows:

33 614.22 ACTION AFFECTING ANCIENT DEEDS.

34 1. An action shall not be maintained to set aside, cancel,  
35 annul, declare void or invalid, or to redeem from a tax deed,

1 guardian's deed, executor's deed, administrator's deed,  
2 receiver's deed, referee's deed, assignee's deed or sheriff's  
3 deed which has been recorded in the office of the recorder of  
4 the county or counties in this state in which the land  
5 described in the deed is situated prior to January 1, ~~1970~~  
6 1980, unless the action is commenced prior to January 1, ~~1981~~  
7 1992, and if an action to set aside, cancel, annul, declare  
8 void or invalid, or to redeem from the deed is not commenced  
9 prior to January 1, ~~1981~~ 1992, then the deed and all the  
10 proceedings upon which the deed is based are valid and  
11 unimpeachable and effective to convey title as stated in the  
12 deed, without exception for infancy, mental illness, absence  
13 from the state, or other disability or cause; provided that  
14 this section and section 614.23 do not apply to real property  
15 described in a deed which is not on July 1, ~~1980~~ 1991, in the  
16 possession of those claiming title under the deed.

17 2. On and after January 1, 1992, an action shall not be  
18 maintained to set aside, cancel, annul, or void a deed, and an  
19 action shall not be maintained to redeem from such deed, if  
20 the deed has been recorded in the office of the recorder for  
21 more than ten years. The deed must be recorded in the office  
22 of the recorder of the county or counties in which the land  
23 described in the deed is situated. If an action under this  
24 subsection is not commenced within ten years of the recording  
25 of the deed, then the deed and all proceedings upon which the  
26 deed is based are valid and unimpeachable and effective to  
27 convey title as stated in the deed, without exception for  
28 infancy, mental illness, absence from the state, or other  
29 disability or cause. As used in this subsection "deed" means  
30 a tax deed, guardian's deed, executor's deed, administrator's  
31 deed, receiver's deed, referee's deed, assignee's deed, or  
32 sheriff's deed.

33 However, this subsection and section 614.23 do not apply to  
34 real property described in any deed which is for more than ten  
35 years in the possession of a person claiming title under the

1 deed.

2 Sec. 40. Section 589.20, Code 1991, is repealed.

3

4

SENATE AMENDMENT TO HOUSE FILE 618

5

H-3753

6

1 Amend House File 618, as amended, passed, and  
2 reprinted as follows:

7

3 1. By striking page 1, line 1 through page 2,  
4 line 20.

8

5 2. Title page, lines 1 and 2, by striking the  
6 words "and the lapse of state mineral interests".

9

RECEIVED FROM THE SENATE

10

H-3753 FILED APRIL 19, 1991

11

*House amended (3963) + Concurrence 4/20/91 (H. 1174)*

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## HOUSE FILE 618

H-3963

1 Amend the Senate amendment, H-3753, to House File  
2 618, as amended, passed, and reprinted by the House,  
3 as follows:

4 1. Page 1, line 4, by striking the figure "20."  
5 and inserting the following: "20 and inserting the  
6 following:

7 "Section 1. Section 331.602, Code 1991, is amended  
8 by adding the following new subsection:

9 NEW SUBSECTION. 35A. Record a statement of claim  
10 provided in chapter 557C relating to mineral interests  
11 in coal.

12 Sec. 2. NEW SECTION. 557C.1 LAPSE OF MINERAL  
13 INTERESTS IN COAL -- PREVENTION.

14 A mineral interest in coal shall be extinguished  
15 twenty years after its creation, transfer, or  
16 preservation, unless a statement of claim is filed in  
17 accordance with section 557C.3, and the ownership  
18 shall revert to the person who was then the owner of  
19 the interest from which the mineral interest in coal  
20 was created, transferred, or preserved. Upon the  
21 filing of a statement of claim within the specified  
22 period, the mineral interest shall be deemed to have  
23 been preserved for an additional period of twenty  
24 years, or a shorter period as may be specified in the  
25 instrument creating the interest.

26 Sec. 3. NEW SECTION. 557C.2 MINERAL INTEREST --  
27 DEFINITION.

28 A mineral interest in coal means an interest  
29 created by an instrument which creates or transfers  
30 either by grant, assignment, reservation, or  
31 otherwise, an interest of any kind in coal, as  
32 described in chapter 33, without limitation on the  
33 manner of mining the coal.

34 Sec. 4. NEW SECTION. 557C.3 STATEMENT OF CLAIM -  
35 - FILING -- REQUIREMENTS.

36 The statement of claim provided in section 557C.1  
37 shall be filed by the owner of the mineral interest in  
38 coal prior to the end of the twenty-year period set  
39 forth in section 557C.1 or by July 1, 1994, whichever  
40 is later. The statement of claim shall contain the  
41 name and address of the owner of the mineral interest  
42 in coal, and a description of the real estate on, or  
43 under, which the mineral interest in coal is located.  
44 The statement of claim shall be filed in the office of  
45 the recorder in the county in which the real estate is  
46 located.

47 Sec. 5. NEW SECTION. 557C.4 STATEMENT OF CLAIM -  
48 - FILING -- RECORDER'S DUTY.

49 Upon the filing of the statement of claim provided  
50 for in section 557C.3 in the recorder's office for the

H-3963

Page 2

1 county where the real estate on, or under, which the  
2 mineral interest in coal exists, is located. the  
3 recorder shall record the statement of claim and index  
4 it in the claimant's book.

5 Sec. 6. NEW SECTION. 557C.5 RESERVATION IN OTHER  
6 CONVEYANCE.

7 A reservation of a mineral interest in coal or an  
8 exception of a mineral interest in coal, contained in  
9 a conveyance of the interest out of which it is  
10 carved, by a nonowner of the mineral interest in coal  
11 shall not be deemed to satisfy the requirements of  
12 this chapter or as a revival of a mineral interest in  
13 coal otherwise extinguished under this chapter.

14 Sec. 7. NEW SECTION. 557C.6 EXEMPTION.

15 The filing of the statement of claim required under  
16 section 557C.3 to preserve the mineral interest in  
17 coal shall not be required of an owner if the mineral  
18 interest was separately taxed for real estate tax  
19 purposes at any time after July 1, 1971."

20 2. Page 1, by striking lines 5 and 6, and  
21 inserting the following:

22 "\_\_\_\_. Title page, line 1, by inserting after the  
23 word "to" the following: "real estate, by providing  
24 for".

25 \_\_\_\_\_. Title page, line 2, by inserting after the  
26 word "interests" the following: "in coal".

27 3. By renumbering as necessary.

By JAY of Appanoose

H-3963 FILED APRIL 29, 1991

ADOPTED (p 1795)

HOUSE AMENDMENT TO SENATE AMENDMENT TO  
HOUSE FILE 618

S-3662

1 Amend the Senate amendment, H-3753, to House File  
2 618, as amended, passed, and reprinted by the House,  
3 as follows:  
4 1. Page 1, line 4, by striking the figure "20."  
5 and inserting the following: "20 and inserting the  
6 following:  
7 "Section 1. Section 331.602, Code 1991, is amended  
8 by adding the following new subsection:  
9 NEW SUBSECTION. 35A. Record a statement of claim  
10 provided in chapter 557C relating to mineral interests  
11 in coal.  
12 Sec. 2. NEW SECTION. 557C.1 LAPSE OF MINERAL  
13 INTERESTS IN COAL -- PREVENTION.  
14 A mineral interest in coal shall be extinguished  
15 twenty years after its creation, transfer, or  
16 preservation, unless a statement of claim is filed in  
17 accordance with section 557C.3, and the ownership  
18 shall revert to the person who was then the owner of  
19 the interest from which the mineral interest in coal  
20 was created, transferred, or preserved. Upon the  
21 filing of a statement of claim within the specified  
22 period, the mineral interest shall be deemed to have  
23 been preserved for an additional period of twenty  
24 years, or a shorter period as may be specified in the  
25 instrument creating the interest.  
26 Sec. 3. NEW SECTION. 557C.2 MINERAL INTEREST --  
27 DEFINITION.  
28 A mineral interest in coal means an interest  
29 created by an instrument which creates or transfers  
30 either by grant, assignment, reservation, or  
31 otherwise, an interest of any kind in coal, as  
32 described in chapter 83, without limitation on the  
33 manner of mining the coal.  
34 Sec. 4. NEW SECTION. 557C.3 STATEMENT OF CLAIM -  
35 -FILING -- REQUIREMENTS.  
36 The statement of claim provided in section 557C.1  
37 shall be filed by the owner of the mineral interest in  
38 coal prior to the end of the twenty-year period set  
39 forth in section 557C.1 or by July 1, 1994, whichever  
40 is later. The statement of claim shall contain the  
41 name and address of the owner of the mineral interest  
42 in coal, and a description of the real estate on, or  
43 under, which the mineral interest in coal is located.  
44 The statement of claim shall be filed in the office of  
45 the recorder in the county in which the real estate is  
46 located.  
47 Sec. 5. NEW SECTION. 557C.4 STATEMENT OF CLAIM -  
48 -FILING -- RECORDER'S DUTY.  
49 Upon the filing of the statement of claim provided  
50 for in section 557C.3 in the recorder's office for the



1 county where the real estate on, or under, which the  
2 mineral interest in coal exists, is located, the  
3 recorder shall record the statement of claim and index  
4 it in the claimant's book.

5 Sec. 6. NEW SECTION. 557C.5 RESERVATION IN OTHER  
6 CONVEYANCE.

7 A reservation of a mineral interest in coal or an  
8 exception of a mineral interest in coal, contained in  
9 a conveyance of the interest out of which it is  
10 carved, by a nonowner of the mineral interest in coal  
11 shall not be deemed to satisfy the requirements of  
12 this chapter or as a revival of a mineral interest in  
13 coal otherwise extinguished under this chapter.

14 Sec. 7. NEW SECTION. 557C.6 EXEMPTION.

15 The filing of the statement of claim required under  
16 section 557C.3 to preserve the mineral interest in  
17 coal shall not be required of an owner if the mineral  
18 interest was separately taxed for real estate tax  
19 purposes at any time after July 1, 1971."

20 2. Page 1, by striking lines 5 and 6, and  
21 inserting the following:

22 "\_\_\_\_. Title page, line 1, by inserting after the  
23 word "to" the following: "real estate, by providing  
24 for".

25 \_\_\_\_\_. Title page, line 2, by inserting after the  
26 word "interests" the following: "in coal".

27 3. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-3662 FILED MAY 1, 1991  
*Senate concurred 5/3/91 (p. 1645)*

Poney-Chair  
HANSEN  
Halvorson of Clayton

HSB 160

Judiciary & Law Enforcement

HOUSE FILE 618  
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 the marketable title of real estate.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 558.5, Code 1991, is amended to read as  
2 follows:

3 558.5 CONTRACT FOR DEED -- PRESUMPTION OF ABANDONMENT.

4 When the record shows that a contract or bond for a deed  
5 has been ~~given prior to January 17, 1970~~ executed more than ten  
6 years earlier, and the record discloses no performance of the  
7 same and that more than ten years have elapsed since the  
8 contract by its terms was to be performed, the contract shall  
9 be deemed abandoned and of no effect and the land shall be  
10 freed from any lien or defect on account of the contract.

11 On and after July 1, 1992, this section shall apply to a  
12 contract or bond described in this section, if the contract or  
13 bond is not filed of record but referred to in another  
14 instrument which is filed of record. The contract or bond  
15 shall be deemed abandoned ten years from the date that the  
16 contract or bond is to be performed according to the recorded  
17 instrument. However, if the recorded instrument does not  
18 refer to a performance date for the contract or bond, the  
19 contract or bond shall be deemed abandoned ten years after the  
20 date that the instrument containing the reference is recorded.

21 Sec. 2. Section 558.14, Code 1991, is amended to read as  
22 follows:

23 558.14 GRANTOR DESCRIBED AS "SPOUSE" OR "HEIR" --  
24 PRESUMPTION.

25 All conveyances or the record title thereof of real estate  
26 executed ~~prior to January 17, 1950~~ more than ten years earlier,  
27 wherein the grantor or grantors described themselves as the  
28 surviving spouse, heir at law, heirs at law, surviving spouse  
29 and heir at law, or surviving spouse and heirs at law, of some  
30 person deceased in whom the record title or ownership of said  
31 real estate previously vested, shall be conclusive evidence of  
32 the facts so recited as far as they relate to the right of the  
33 grantor or grantors to convey, as fully as if the record title  
34 of said grantor or grantors had been established by due  
35 probate proceedings in the county wherein the real estate is

1 situated.

2 Sec. 3. Section 587.10, Code 1991, is amended to read as  
3 follows:

4 587.10 AFFIDAVIT OF PUBLICATION OF NOTICE BY ASSISTANT  
5 PUBLISHER.

6 All affidavits of proof of publication of any notice or  
7 original notice made by the assistant publisher of any  
8 newspaper of general circulation, which were executed and  
9 filed ~~prior to January 17, 1970~~ more than ten years earlier,  
10 are hereby legalized, declared valid, binding, and of full  
11 force and effect.

12 Sec. 4. Section 589.1, Code 1991, is amended to read as  
13 follows:

14 589.1 ACKNOWLEDGMENTS -- SEAL NOT AFFIXED.

15 All deeds, mortgages, or other instruments in writing for  
16 the conveyance of lands which have been made and executed  
17 ~~before July 17, 1970~~ more than ten years earlier, and the  
18 officer taking the acknowledgment has not affixed the  
19 officer's seal to the acknowledgment; the acknowledgment is,  
20 nevertheless, good and valid in law and equity, ~~anything in~~  
21 ~~any law passed before July 17, 1970,~~ any other provision of law  
22 to the contrary notwithstanding.

23 Sec. 5. Section 589.2, Code 1991, is amended to read as  
24 follows:

25 589.2 CONVEYANCES BY COUNTY.

26 All deeds executed ~~before July 17, 1970~~ more than ten years  
27 earlier, by a court or the chairperson of the board of  
28 supervisors of a county, and to which the officer executing  
29 the deed has failed or omitted to affix the county seal, and  
30 all deeds where the clerk has failed or omitted to countersign  
31 when required so to do, are legalized, and valid as though the  
32 law had in all respects been fully complied with.

33 Sec. 6. Section 589.3, Code 1991, is amended to read as  
34 follows:

35 589.3 ABSENCE OF OR DEFECTIVE ACKNOWLEDGMENTS.

1 Any instrument in writing affecting the title to real  
2 estate within the state of Iowa, to which is attached no  
3 certificate of acknowledgment, or to which is attached a  
4 defective certificate of acknowledgment, which was, prior to  
5 ~~January 17, 1970~~ more than ten years earlier, recorded or  
6 spread upon the records in the office of the recorder of the  
7 county in which the real estate described in the instrument is  
8 located, is, together with the recording and the record of the  
9 recording, valid, legal, and binding as if the instrument had  
10 been properly acknowledged and legally recorded.

11 Sec. 7. Section 589.4, Code 1991, is amended to read as  
12 follows:

13 589.4 ACKNOWLEDGMENTS BY CORPORATION OFFICERS.

14 The acknowledgments of all deeds, mortgages, or other  
15 instruments in writing taken or certified ~~before July 17, 1970~~  
16 more than ten years earlier, which instruments have been  
17 recorded in the recorder's office of any county of this state,  
18 including acknowledgments of instruments made by a  
19 corporation, or to which the corporation was a party, or under  
20 which the corporation was a beneficiary, and which have been  
21 acknowledged before or certified by a notary public who was at  
22 the time of the acknowledgment or certifying a stockholder or  
23 officer in the corporation, are legal and valid official acts  
24 of the notaries public, and entitle the instruments to be  
25 recorded, anything in the laws of the state of Iowa in regard  
26 to acknowledgments to the contrary notwithstanding. This  
27 section does not affect pending litigation.

28 Sec. 8. Section 589.5, Code 1991, is amended to read as  
29 follows:

30 589.5 ACKNOWLEDGMENTS BY STOCKHOLDERS.

31 All deeds and conveyances of lands within this state  
32 executed ~~before July 17, 1970~~ more than ten years earlier, but  
33 which have been acknowledged or proved according to and in  
34 compliance with the laws of this state before a notary public  
35 or other official authorized by law to take acknowledgments

1 who was, at the time of the acknowledgment, an officer or  
2 stockholder of a corporation interested in the deed or  
3 conveyance, or otherwise interested in the deeds or  
4 conveyances, are, if otherwise valid, valid in law as though  
5 acknowledged or proved before an officer not interested in the  
6 deeds or conveyances; and if recorded ~~before July-17-1970~~ more  
7 than ten years earlier, in the respective counties in which  
8 the lands are, the records are valid in law as though the  
9 deeds and conveyances, so acknowledged or proved and recorded,  
10 had, prior to being recorded, been acknowledged or proved  
11 before an officer having no interest in the deeds or  
12 conveyances.

13 Sec. 9. Section 589.6, Code 1991, is amended to read as  
14 follows:

15 589.6 INSTRUMENTS AFFECTING REAL ESTATE.

16 All instruments in writing executed by a corporation ~~prior~~  
17 ~~to July-17-1970~~ more than ten years earlier, conveying,  
18 encumbering, or affecting real estate, including releases,  
19 satisfactions of mortgages, judgments, or any other liens by  
20 entry of the release or satisfaction upon the page where the  
21 lien appears recorded or entered, where the corporate seal of  
22 the corporation has not been affixed or attached, and which  
23 are otherwise legally and properly executed, are legal, valid,  
24 and binding as though the corporate seal had been attached or  
25 affixed.

26 Sec. 10. Section 589.8, Code 1991, is amended to read as  
27 follows:

28 589.8 MORTGAGES, TRUST DEEDS AND REALTY LIENS -- RELEASES  
29 ~~BEFORE-JULY-17-1970~~ EXECUTED, FILED, AND RECORDED FOR MORE  
30 THAN TEN YEARS.

31 A release or satisfaction of a mortgage or trust deed, or  
32 of an instrument in writing creating a lien upon real estate  
33 where the release or satisfaction has been recorded in the  
34 recorder's office of the county in this state, or upon the  
35 margin of the record, where the original instrument was

1 recorded and which release or satisfaction was made by an  
2 individual, association, copartnership, assignee, corporation,  
3 attorney in fact, or by a resident or foreign executor,  
4 administrator, referee, receiver, trustee, guardian, or  
5 commissioner, and which release or satisfaction was executed,  
6 filed, and recorded ~~prior-to-July-17-1970~~ more than ten years  
7 earlier, is valid, legal and binding, any defects in the  
8 execution, acknowledgment, recording, filing, or otherwise of  
9 the releases or satisfactions to the contrary notwithstanding.

10 Sec. 11. Section 589.9, Code 1991, is amended to read as  
11 follows:

12 589.9 MARGINAL RELEASES OF SCHOOL-FUND MORTGAGES.

13 The release or satisfaction of a school-fund mortgage  
14 entered on the margin of the record of the mortgage by the  
15 auditor of the county ~~prior-to-July-17-1970~~ more than ten  
16 years earlier, is legalized as though the auditor had, at the  
17 time of entering the release or satisfaction, the same power  
18 thereafter conferred upon the auditor by chapter 53 of the  
19 Acts of the Twenty-fifth General Assembly.

20 Sec. 12. Section 589.10, Code 1991, is amended to read as  
21 follows:

22 589.10 MARGINAL ASSIGNMENT OF MORTGAGE OR LIEN.

23 If an assignment of a mortgage or other recorded lien on  
24 real estate has been ~~made-before-July-17-1970~~ executed more  
25 than ten years earlier, by written assignment on the margin of  
26 the record where the mortgage or other lien is recorded or  
27 entered, the assignment passed all the right, title, and  
28 interest in the real estate, which the assignor at the time  
29 had, with like force and effect as if the assignment had been  
30 made by separate instrument duly acknowledged and recorded;  
31 and an assignment or a duly authenticated copy of an  
32 assignment when accompanied by a duly authenticated copy of  
33 the record of the instrument or lien it purports to assign, is  
34 admissible in evidence as provided by law for the admission of  
35 the records of deeds and mortgages.

1 Sec. 13. Section 589.11, Code 1991, is amended to read as  
2 follows:

3 589.11 CONVEYANCES BY FIDUCIARIES.

4 ~~If, prior to the year 1970,~~ an executor, administrator,  
5 trustee, guardian, assignee, receiver, referee, or  
6 commissioner, acting in that capacity in this or any state,  
7 has conveyed in the trust capacity real estate lying in this  
8 state and the conveyance has been of record ~~since prior to~~  
9 January 17, 1970 for more than ten years, in the county where  
10 the real estate so conveyed is located and which conveyance  
11 purports to sustain the title in the present record owner, the  
12 conveyance is not void or insufficient because due and legal  
13 notice of all proceedings with reference to the making of the  
14 conveyance was not served upon all interested or necessary  
15 parties, or that the executor, administrator, trustee,  
16 guardian, assignee, receiver, referee, or commissioner is not  
17 shown to have been duly authorized by an order of court to  
18 make and execute the conveyance, that a bond was not given, or  
19 that a report of the sale was not made; or the sale or deed of  
20 conveyance was not approved by order of court, or a foreign  
21 executor, administrator, trustee, guardian, assignee,  
22 receiver, referee, or commissioner was not appointed or  
23 qualified in the state of Iowa prior to the making of the  
24 conveyance, or the record fails to disclose compliance with  
25 any law, and all such conveyances are valid, legal, and  
26 binding. Allotments by referees in partition are conveyances  
27 within the meaning of this section.

28 Sec. 14. Section 589.12, Code 1991, is amended to read as  
29 follows:

30 589.12 SHERIFFS' DEEDS.

31 A ~~foreclosure proceeding or sale of real estate on~~  
32 ~~execution prior to January 17, 1970, if a~~ sheriff's deed was  
33 executed more than ten years earlier which purports to sustain  
34 the record title is not ineffectual on account of the failure  
35 of the record to show that any of the steps in obtaining the



1 judgment or in the sale of the property were complied with.  
2 The proceedings are legalized as if the record showed that the  
3 law has been complied with.

4 Sec. 15. Section 589.13, Code 1991, is amended to read as  
5 follows:

6 589.13 SHERIFF'S DEED EXECUTED BY DEPUTY.

7 All conveyances of land in this state, executed in this  
8 state by a deputy sheriff, and properly recorded in the office  
9 of the county recorder of the county where the land is  
10 located, ~~prior-to-January-17-1970~~ more than ten years earlier,  
11 have the same force and effect as though the conveyance had  
12 been executed by the sheriff.

13 Sec. 16. Section 589.14, Code 1991, is amended to read as  
14 follows:

15 589.14 DEFECTIVE TAX DEEDS.

16 A ~~sale-of-real-property-for-taxes-made-prior-to-January-17-~~  
17 ~~1970,-in-which-the~~ tax deed was executed and-the-deed more  
18 than ten years earlier which purports to sustain the record  
19 title, is not ineffectual because of the failure of the record  
20 to show that any of the steps in the sale and deeding of the  
21 property were complied with and these proceedings are  
22 legalized and valid as if the record showed that the law had  
23 been complied with.

24 Sec. 17. Section 589.17, Code 1991, is amended to read as  
25 follows:

26 589.17 CONVEYANCES BY SPOUSE UNDER POWER.

27 A conveyance of real estate ~~made-before-July-17-1970~~  
28 executed more than ten years earlier, in which the husband or  
29 wife conveyed or contracted to convey the inchoate right of  
30 dower through the other spouse, acting as the attorney in  
31 fact, by virtue of a power of attorney executed by the spouse,  
32 the power of attorney not having been executed as a part of a  
33 contract of separation, are not invalid ~~as-contravening~~  
34 ~~section-3154-of-the-Code-of-1897,-or-section-10447-of~~  
35 ~~subsequent-Codes-to-and-including-the-Code-of-1939,-but-all~~

1 such-conveyances-are-legalized-and-effective.

2 Sec. 18. Section 589.18, Code 1991, is amended to read as  
3 follows:

4 589.18 CONVEYANCES BY FOREIGN EXECUTORS.

5 All conveyances of real property made-prior-to-January-17,  
6 1970 executed more than ten years earlier, by executors or  
7 trustees under foreign wills and prior to the date upon which  
8 the will was admitted to probate in Iowa or prior to the  
9 expiration of three months after the recording of a duly  
10 authenticated copy of the will, original record of  
11 appointment, qualification, and bond as-required-by-section  
12 ~~3295-of-the-Code-of-1897-or-sections-11878-to-11881,~~  
13 ~~inclusive-of-subsequent-Codes-to-and-including-the-Code-of~~  
14 ~~1939,~~ and in which the will was, subsequent to the conveyance,  
15 probated in Iowa, and in which a duly authenticated copy of  
16 the will, original record of appointment, qualification, and  
17 bond as-required-by-those-sections was, subsequent to the  
18 conveyance, made a matter of record as provided in those  
19 sections, are legalized and valid in law and in equity as  
20 though the will had been probated in Iowa prior to the  
21 conveyance and-as-though-the-sections-had-been-strictly  
22 complied-with. However, this section does not affect pending  
23 litigation.

24 Sec. 19. Section 589.19, Code 1991, is amended to read as  
25 follows:

26 589.19 CONVEYANCES UNDER SCHOOL-FUND FORECLOSURES.

27 If the title to real estate has been conveyed prior-to  
28 ~~January-17-1970~~ more than ten years earlier, by the sheriff of  
29 a county pursuant to sheriff's sale under the foreclosure of  
30 permanent school-fund mortgages to the state, or to the state  
31 for the use of the school fund, or to the county for the  
32 school fund; and the land has been sold under authority of the  
33 board of supervisors of the county and conveyed under its  
34 authority, prior-to-January-17-1970 more than ten years  
35 earlier, and the full purchase price paid and credited to, and

1 used by, the county for the permanent school fund of the  
2 county, all right, title, or interest of the state in and to  
3 the real estate is relinquished and quitclaimed to the  
4 purchaser or the purchaser's grantees forever, and the title  
5 confirmed in the purchaser, or the purchaser's grantees  
6 insofar as the erroneous conveyance is concerned.

7 Sec. 20. Section 589.21, Code 1991, is amended to read as  
8 follows:

9 589.21 RELEASES AND DISCHARGES.

10 All releases and discharges of judgments, mortgages, or  
11 deeds of trust affecting property in this state ~~made prior to~~  
12 ~~January 17, 1970~~ executed more than ten years earlier, by  
13 administrators, executors, or guardians appointed by the court  
14 of any other state or country ~~without complying with section~~  
15 ~~3308 of the Code of 1897 and sections 11897 to 11899,~~  
16 ~~inclusive, of subsequent Codes to and including the Code of~~  
17 ~~1931~~ are legalized, valid and effective in law and in equity  
18 ~~as though the sections had been strictly followed.~~ However,  
19 this section does not affect pending litigation.

20 Sec. 21. Section 589.23, Code 1991, is amended to read as  
21 follows:

22 589.23 DESCRIPTIONS REFERRING TO DEFECTIVE PLATS.

23 The description of land in all instruments, conveyances,  
24 and encumbrances describing lots in or referring to plats of  
25 survey or to plats made by the a county auditors of Iowa  
26 auditor, or by the a county surveyor for the owner, and placed  
27 of record by the a county recorders of Iowa prior to January  
28 17, 1970 recorder more than ten years earlier, are legalized,  
29 valid and binding ~~as though the plats had been signed and~~  
30 ~~acknowledged and filed and recorded in strict compliance with~~  
31 ~~law.~~

32 Sec. 22. Section 589.24, Code 1991, is amended to read as  
33 follows:

34 589.24 DEFECTIVE INSTRUMENTS.

35 A deed of conveyance, or other instrument purporting to

1 convey real estate within the state, where the deed or  
2 instrument has been recorded in the office of the recorder of  
3 any county in which the real estate is situated, and the deed  
4 or instrument was executed by a county treasurer under a tax  
5 sale, a sheriff under execution sale, or by a resident or  
6 foreign executor, administrator, referee, receiver, trustee,  
7 guardian, commissioner, individual, copartnership,  
8 association, or corporation, and was executed and recorded  
9 ~~prior-to-January-17-1970~~ more than ten years earlier, and if  
10 the grantee named in the deed or conveyance, or other  
11 instrument, or the grantee's heirs or devisees, by direct line  
12 of title or conveyance have been in the actual, open, adverse  
13 possession of the premises since that date, is legalized,  
14 valid, and binding, notwithstanding defects in the execution  
15 of the deed or instrument.

16 Sec. 23. Section 589.25, Code 1991, is amended to read as  
17 follows:

18 589.25 SALES OF REAL ESTATE BY SCHOOL DISTRICT.

19 All deeds and conveyances of land ~~made~~ executed by or  
20 purporting to be ~~made~~ executed by a school district or by the  
21 board of directors of a school district ~~prior-to-July-17-1970~~,  
22 and placed of record ~~prior-to-July-17-1970~~ more than ten years  
23 earlier, which deeds or conveyances purport to sustain the  
24 record title, are legalized and valid, even though the record  
25 fails to show that all necessary steps in the sale and deeding  
26 of the property were complied with. The deeds and  
27 conveyances are legalized and valid as if the record showed  
28 that the law had been complied with, and that the sales had  
29 been duly authorized by the electors of the school district.

30 Sec. 24. Section 589.26, Code 1991, is amended to read as  
31 follows:

32 589.26 ~~SOCIAL-WELFARE-DEPARTMENT~~ LAND TRANSFERS BY THE  
33 DEPARTMENT OF HUMAN SERVICES LEGALIZED.

34 Every deed, release or other instrument in writing  
35 purporting to transfer any interest in land held or claimed by

1 either the state department of social-welfare-or-the-state  
2 board-of-social-welfare-of-the-state-of-Iowa human services or  
3 a predecessor agency, which is signed for-either-or-both-said  
4 bodies by the-secretary-of-either a departmental official, and  
5 which are-now was filed or of record as-of-February-17-1961  
6 more than ten years earlier, in the office of the auditor or  
7 recorder or clerk of the district court of any county in-Iowa,  
8 and-any-writing-thus-signed, filed-or-recorded-which-purports  
9 to-release-any-old-age-assistance-lien-on-any-real-estate-in  
10 Iowa is hereby legalized and shall be good and valid in law  
11 and in equity as fully as if the record expressly showed that  
12 same it in all respects complied with and was fully authorized  
13 as provided in any statute pertaining to such instrument,  
14 anything-in-the-laws-of-Iowa any other provision of law to the  
15 contrary notwithstanding.

16 Sec. 25. Section 592.3, Code 1991, is amended to read as  
17 follows:

18 592.3 CITY AND TOWN PLATS.

19 1. In all cases where, prior to January 1, 1970 1980, any  
20 person has laid out any parcel of land into town or city lots  
21 and the plat of the lots has been recorded and the plat  
22 appears to be insufficient because of failure to show  
23 certificates of the county clerk of the district court, county  
24 treasurer, or county recorder, or the affidavit and bond, if  
25 any, and the certificate of approval of the local governing  
26 body or because the certificates are defective, or because of  
27 a failure to fully comply with all of the provisions of  
28 chapter ~~489~~ 409A of the Code of-1966-as-amended-to-December  
29 ~~317-1969~~ in effect at the time of the recording of the plat,  
30 or corresponding statutes of earlier Codes, or because the  
31 plat failed to show signatures or acknowledgment of  
32 proprietors as provided by law, or because the acknowledgment  
33 was defective, and subsequent to the platting, lots or  
34 subdivisions of the lots have been sold and conveyed, all such  
35 said plats which have not been vacated, are legalized as of

1 the date of the recording of the plat, the same as though all  
2 certificates have been attached and all the other necessary  
3 steps taken as provided by law, and the record of the plat  
4 shall be conclusive evidence that the person was the  
5 proprietor of the tract of land and the owner of the tract at  
6 the time of the platting, and that the tract of land was free  
7 and clear of all encumbrances unless an affidavit to the  
8 contrary was filed at the time of recording the plat.

9 PARAGRAPH DIVIDED. After July 1, ~~1981~~ 1992, no action  
10 shall be brought on any cause arising ~~after-December-31-1949-~~  
11 ~~and-before-January-1-1970~~ more than ten years earlier or  
12 which has been in existence for more than ten years, to  
13 establish, enforce, or recover any right, title, interest,  
14 lien, or condition existing at the time of the platting ~~after~~  
15 ~~December-31-1949,-and-before-January-1-1970~~, and adverse to  
16 a clear and unqualified title in fee simple in the owner  
17 unless on or before July 1, ~~1981~~ 1992, there is filed in the  
18 office of county recorder of the county where the real estate  
19 involved is located a written statement, acknowledged by the  
20 claimant, definitely describing the real estate involved,  
21 stating the nature and extent of the right or interest  
22 claimed, and stating the facts upon which the claim is based.

23 2. After July 1, 1992, in all cases where more than ten  
24 years earlier, a plat of lots from a parcel of land which has  
25 been laid into town or city lots has been recorded and the  
26 plat appears to be insufficient, the plat is legalized as of  
27 the date of the recording of the plat to the same extent as if  
28 the plat did not appear insufficient, if subsequent to the  
29 platting, the lots or a subdivision of the lots have been sold  
30 and conveyed, and the plats have not been vacated. A plat  
31 shall appear insufficient because of one of the following:

32 a. A failure to show or a deficiency in a certificate of  
33 the county clerk of the district court, county treasurer, or  
34 county recorder, or an affidavit and bond, or a certificate of  
35 approval of a local governing body.

1 b. A failure to fully comply with Code provisions in  
2 effect at the time of the recording of the plat.

3 c. A failure to show or a deficiency in a signature or  
4 acknowledgment of a proprietor as provided by law.

5 The record of the plat shall be conclusive evidence that  
6 the person was the proprietor of the tract of land and the  
7 owner of the tract at the time of the platting, and that the  
8 tract of land was free and clear of all encumbrances unless an  
9 affidavit to the contrary was filed at the time of recording  
10 the plat.

11 Sec. 26. Section 614.14, Code 1991, is amended to read as  
12 follows:

13 614.14 RECOVERY BY BENEFICIARY OF TRUST.

14 1. In all cases where a deed of trust or declaration of  
15 trust has been executed and the real estate affected by the  
16 deed or declaration has been conveyed by the trustee or the  
17 surviving spouse or heirs of the trustee and the conveyance  
18 was recorded in the proper county prior to ~~January~~ March 1,  
19 ~~1970~~ 1982, and the interest of the beneficiary of the trust in  
20 the real estate has not been conveyed or established by proper  
21 proceedings in court, by the beneficiary, an action, suit or  
22 proceeding shall not be commenced or maintained to foreclose  
23 the same, or to establish or recover the interest of the  
24 beneficiary in the real estate, or of the surviving spouse or  
25 heirs of the beneficiary, unless the action, suit, or  
26 proceeding is commenced by filing petition and service of  
27 notice not later than March 1, ~~1981~~ 1992.

28 2. In all cases where a deed of trust or declaration of  
29 trust has been executed, no legal action shall be commenced or  
30 maintained to foreclose real estate or establish or recover  
31 the interest of a beneficiary or of the surviving spouse or an  
32 heir of the beneficiary in the real estate, if all the  
33 following conditions are satisfied:

34 a. The real estate affected by the deed or declaration of  
35 trust has been conveyed by the trustee or the surviving spouse

1 or heir of the trustee.

2 b. The conveyance was recorded in the proper county for  
3 more than ten years.

4 c. The interest of the beneficiary of the trust and the  
5 real estate has not been conveyed or established by the proper  
6 proceedings in court.

7 However, this section shall not apply if the legal action  
8 is commenced by filing a petition of service of notice within  
9 ten years of the recording of the conveyance.

10 Sec. 27. Section 614.15, Code 1991, is amended to read as  
11 follows:

12 614.15 SPOUSE FAILING TO JOIN IN CONVEYANCE.

13 1. In all cases where the holder of the legal or equitable  
14 title or estate to real estate situated within this state,  
15 prior to ~~January~~ July 1, 1970 1981, conveyed the real estate  
16 or any interest in the real estate by deed, mortgage, or other  
17 instrument, and the spouse failed to join in the conveyance,  
18 the spouse or the heirs at law, personal representatives,  
19  devisees, grantees, or assignees of the spouse are barred from  
20 recovery unless suit is brought for recovery within one year  
21 after July 1, ~~1980~~ 1991. But in case the right to the  
22 distributive share has not accrued by the death of the spouse  
23 making ~~executing~~ the instrument, then the one not joining is  
24 authorized to file in the recorder's office of the county  
25 where the land is situated, a notice with affidavit setting  
26 forth affiant's claim, together with the facts upon which the  
27 claim rests, and the residence of the claimants. If the  
28 notice is not filed within two years from July 1, ~~1980~~ 1991,  
29 the claim is barred forever. Any action contemplated in this  
30 section may include land situated in different counties, by  
31 giving notice as provided by section 617.13.

32 2. In all cases where the holder of the legal or equitable  
33 title or estate to real estate situated within this state,  
34 after July 1, 1991, conveyed the real estate or any interest  
35 in the real estate by deed, mortgage, or other instrument, and



1 spouse failed to join in the conveyance, the spouse or the  
2 heirs at law, personal representative, devisees, grantees, or  
3 assignees of the spouse are barred from recovery unless suit  
4 is brought for recovery within ten years from the date of the  
5 conveyance. However, in the case where the right to the  
6 distributive share has not accrued by the death of the spouse  
7 executing the instrument, then the party not joining is  
8 authorized to file in the recorder's office in the county  
9 where the land is situated, a notice with affidavit setting  
10 forth the affiant's claim, together with the facts upon which  
11 the claim is based, and the residence of the claimants. If  
12 the notice is not filed within ten years from the date of the  
13 execution of the instrument the claim is barred forever. Any  
14 action contemplated in this section may include land situated  
15 in different counties by giving notice as provided in section  
16 617.13. The effect of filing the notice with affidavit shall  
17 extend for a further period of ten years the time within which  
18 the action may be brought. Successive notices may be filed  
19 extending this period.

20 Sec. 28. Section 614.16, Code 1991, is amended to read as  
21 follows:

22 614.16 INTERPRETATIVE CLAUSE.

23 Sections 614.14 and 614.15 do not affect litigation pending  
24 on July 1, ~~1980~~ 1991, nor do they operate to revive rights or  
25 claims barred previous to that date, nor permit an action to  
26 be brought or maintained upon any claim or cause of action  
27 which is barred by a statute in force prior to July 1, ~~1980~~  
28 1991.

29 Sec. 29. Section 614.17, Code 1991, is amended to read as  
30 follows:

31 614.17 CLAIMS TO REAL ESTATE ANTEDATING ~~1970~~ 1980.

32 An action based upon a claim arising or existing prior to  
33 January 1, ~~1970~~ 1980, shall not be maintained, either at law  
34 or in equity, in any court to recover real estate in this  
35 state or to recover or establish any interest in or claim to

1 real estate, legal or equitable, against the holder of the  
2 record title to the real estate in possession, when the holder  
3 of the record title and the holder's immediate or remote  
4 grantors are shown by the record to have held chain of title  
5 to the real estate, since January 1, ~~1970~~ 1980, unless the  
6 claimant in person, or by the claimant's attorney or agent, or  
7 if the claimant is a minor or under legal disability, by the  
8 claimant's guardian, trustee, or either parent, within one  
9 year from and after July 1, ~~1980~~ 1991, files in the office of  
10 the recorder of deeds of the county in which the real estate  
11 is situated, a statement in writing, which is duly  
12 acknowledged, definitely describing the real estate involved,  
13 the nature and extent of the right or interest claimed, and  
14 stating the facts upon which the claim is based.

15 For the purposes of this section, section 614.17A, and  
16 sections 614.18 to 614.20, a person who holds title to real  
17 estate by will or descent from a person who held the title of  
18 record to the real estate at the date of that person's death  
19 or who holds title by decree or order of a court, or under a  
20 tax deed, trustee's, referee's, guardian's, executor's,  
21 administrator's, receiver's, assignee's, master's in chancery,  
22 or sheriff's deed, holds chain of title the same as though  
23 holding by direct conveyance.

24 For the purposes of this section and section 614.17A, such  
25 possession of real estate may be shown of record by affidavits  
26 showing the possession, and when the affidavits have been  
27 filed and recorded, it is the duty of the recorder to enter  
28 upon the margin of the record, a certificate to the effect  
29 that the affidavits were filed by the owner in possession, as  
30 named in the affidavits, or by the owner's attorney in fact,  
31 as shown by the records and in like manner, the affidavits may  
32 be filed and recorded where any action was barred on any claim  
33 by this section as in force prior to July 1, ~~1980~~ 1991.

34 Sec. 30. NEW SECTION. 614.17A CLAIMS TO REAL ESTATE  
35 AFTER 1992.

1 1. After July 1, 1992, an action shall not be maintained  
2 in a court, either at law or in equity, in order to recover or  
3 establish an interest in or claim to real estate if all the  
4 following conditions are satisfied:

5 a. The action is based upon a claim arising more than ten  
6 years earlier or existing for more than ten years.

7 b. The action is against the holder of the record title to  
8 the real estate in possession.

9 c. The holder of the record title to the real estate in  
10 possession and the holder's immediate or remote grantors are  
11 shown by the record to have held chain of title to the real  
12 estate for more than ten years.

13 2. The claimant within ten years of the date on which the  
14 claim arose or first existed must file with the county  
15 recorder in the county where the real estate is located a  
16 written statement which is duly acknowledged and definitely  
17 describes the real estate involved, the nature and extent of  
18 the right of interest claimed, and the facts upon which the  
19 claim is based. The claimant must file the statement in  
20 person or by the claimant's attorney or agent. If the  
21 claimant is a minor or under a legal disability, the statement  
22 must be filed by the claimant's guardian, trustee, or by  
23 either parent.

24 The filing of a claim shall extend for a further period of  
25 ten years the time within which such action may be brought by  
26 any person entitled to bring the claim. The person may file  
27 extensions for successive claims.

28 3. Nothing in this section shall be construed to revive  
29 any cause of action barred by section 614.17.

30 Sec. 31. Section 614.20, Code 1991, is amended to read as  
31 follows:

32 614.20 LIMITATION ON ACT.

33 Sections 614.17 to 614.19 do not limit or extend the time  
34 within which actions by a spouse to recover dower or  
35 distributive share in real estate within this state may be

1 brought or maintained under the provisions of section 614.15,  
2 nor do they limit or extend the time within which actions may  
3 be brought or maintained to foreclose or enforce any real  
4 estate mortgage, bond for deed, trust deed, or contract for  
5 the sale or conveyance of real estate under the provisions of  
6 section 614.21, nor do they revive or permit an action to be  
7 brought or maintained upon any claim or cause of action which  
8 is barred by a statute which is in force prior to July 1, ~~1980~~  
9 1991; nor do they affect litigation pending on July 1, ~~1980~~  
10 1991.

11 Sec. 32. Section 614.22, Code 1991, is amended to read as  
12 follows:

13 614.22 ACTION AFFECTING ANCIENT DEEDS.

14 1. An action shall not be maintained to set aside, cancel,  
15 annul, declare void or invalid, or to redeem from a tax deed,  
16 guardian's deed, executor's deed, administrator's deed,  
17 receiver's deed, referee's deed, assignee's deed or sheriff's  
18 deed which has been recorded in the office of the recorder of  
19 the county or counties in this state in which the land  
20 described in the deed is situated prior to January 1, ~~1970~~  
21 1980, unless the action is commenced prior to January 1, ~~1981~~  
22 1992, and if an action to set aside, cancel, annul, declare  
23 void or invalid, or to redeem from the deed is not commenced  
24 prior to January 1, ~~1981~~ 1992, then the deed and all the  
25 proceedings upon which the deed is based are valid and  
26 unimpeachable and effective to convey title as stated in the  
27 deed, without exception for infancy, mental illness, absence  
28 from the state, or other disability or cause; provided that  
29 this section and section 614.23 do not apply to real property  
30 described in a deed which is not on July 1, ~~1980~~ 1991, in the  
31 possession of those claiming title under the deed.

32 2. On and after January 1, 1992, an action shall not be  
33 maintained to set aside, cancel, annul, or void a deed, and an  
34 action shall not be maintained to redeem from such deed, if  
35 the deed has been recorded in the office of the recorder for

1 more than ten years. The deed must be recorded in the office  
2 of the recorder of the county or counties in which the land  
3 described in the deed is situated. If an action under this  
4 subsection is not commenced within ten years of the recording  
5 of the deed, then the deed and all proceedings upon which the  
6 deed is based are valid and unimpeachable and effective to  
7 convey title as stated in the deed, without exception for  
8 infancy, mental illness, absence from the state, or other  
9 disability or cause. As used in this subsection "deed" means  
10 a tax deed, guardian's deed, executor's deed, administrator's  
11 deed, receiver's deed, referee's deed, assignee's deed, or  
12 sheriff's deed.

13 However, this subsection and section 614.23 do not apply to  
14 real property described in any deed which is for more than ten  
15 years in the possession of a person claiming title under the  
16 deed.

17 Sec. 33. Section 589.20, Code 1991, is repealed.

18 EXPLANATION

19 This bill amends various sections of the Code relating to  
20 marketable title, by changing periods of time when title to  
21 real estate may be considered marketable regardless of errors  
22 of record. Sections affected by the bill relate to contracts  
23 or bonds for deeds, affidavits evidencing notice,  
24 acknowledgments, deeds executed by a court or a county board  
25 of supervisors, instruments executed by corporations, releases  
26 of certain mortgages or liens, assignments of mortgages or  
27 liens, conveyances by fiduciaries, sheriff's deeds, tax deeds,  
28 conveyances by spouses through a power of attorney,  
29 conveyances by foreign executors, conveyances under schoolfund  
30 foreclosures, releases and discharges of judgments, mortgages,  
31 or deeds of trust, instruments referring to plats, instruments  
32 of conveyance, conveyances of real estate by school districts,  
33 transfers by the department of human services, city plats,  
34 conveyances by a trustee, conveyances executed without  
35 spouses, claims to an interest in real estate, and deeds

1 generally.

2 Traditionally sections providing for marketable title  
3 establish a statute of limitations equaling a number of years  
4 from a date certain. For example current law now provides  
5 that certain instruments executed prior to July 1, 1970, are  
6 marketable regardless of recording defects. This bill amends  
7 a number of these sections to provide a rolling statute of  
8 limitations. The bill provides that title is marketable  
9 regardless of recording defects if the defects occurred ten  
10 years earlier.

11 The bill also provides for the repeal of a section  
12 correcting deeds, mortgages, and conveyances acknowledged  
13 according to the laws of another state, if recorded prior to  
14 January 1, 1884.

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HOUSE FILE 618

AN ACT

RELATING TO REAL ESTATE, BY PROVIDING FOR THE MARKETABLE  
TITLE OF REAL ESTATE AND THE LAPSE OF STALE MINERAL  
INTERESTS IN COAL.

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

Section 1. Section 331.602, Code 1991, is amended by  
adding the following new subsection:

NEW SUBSECTION. 35A. Record a statement of claim provided  
in chapter 557C relating to mineral interests in coal.

Sec. 2. NEW SECTION. 557C.1 LAPSE OF MINERAL INTERESTS  
IN COAL -- PREVENTION.

A mineral interest in coal shall be extinguished twenty  
years after its creation, transfer, or preservation, unless a  
statement of claim is filed in accordance with section 557C.3,  
and the ownership shall revert to the person who was then the  
owner of the interest from which the mineral interest in coal  
was created, transferred, or preserved. Upon the filing of a  
statement of claim within the specified period, the mineral  
interest shall be deemed to have been preserved for an  
additional period of twenty years, or a shorter period as may  
be specified in the instrument creating the interest.

Sec. 3. NEW SECTION. 557C.2 MINERAL INTEREST --  
DEFINITION.

A mineral interest in coal means an interest created by an  
instrument which creates or transfers either by grant,  
assignment, reservation, or otherwise, an interest of any kind  
in coal, as described in chapter 33, without limitation on the  
manner of mining the coal.

Sec. 4. NEW SECTION. 557C.3 STATEMENT OF CLAIM -- FILING --  
REQUIREMENTS.

The statement of claim provided in section 557C.1 shall be  
filed by the owner of the mineral interest in coal prior to  
the end of the twenty-year period set forth in section 557C.1  
or by July 1, 1994, whichever is later. The statement of  
claim shall contain the name and address of the owner of the  
mineral interest in coal, and a description of the real estate  
on, or under, which the mineral interest in coal is located.  
The statement of claim shall be filed in the office of the  
recorder in the county in which the real estate is located.

Sec. 5. NEW SECTION. 557C.4 STATEMENT OF CLAIM -- FILING --  
RECORDER'S DUTY.

Upon the filing of the statement of claim provided for in  
section 557C.3 in the recorder's office for the county where  
the real estate on, or under, which the mineral interest in  
coal exists, is located, the recorder shall record the  
statement of claim and index it in the claimant's book.

Sec. 6. NEW SECTION. 557C.5 RESERVATION IN OTHER  
CONVEYANCE.

A reservation of a mineral interest in coal or an exception  
of a mineral interest in coal, contained in a conveyance of  
the interest out of which it is carved, by a nonowner of the  
mineral interest in coal shall not be deemed to satisfy the  
requirements of this chapter or as a revival of a mineral  
interest in coal otherwise extinguished under this chapter.

Sec. 7. NEW SECTION. 557C.6 EXEMPTION.

The filing of the statement of claim required under section  
557C.3 to preserve the mineral interest in coal shall not be  
required of an owner if the mineral interest was separately  
taxed for real estate tax purposes at any time after July 1,  
1971.

Sec. 8. Section 558.5, Code 1991, is amended to read as  
follows:

558.5 CONTRACT FOR DEED -- PRESUMPTION OF ABANDONMENT.

When the record shows that a contract or bond for a deed  
has been given prior to January 1, 1970, executed more than ten

years earlier, and the record discloses no performance of the same and that more than ten years have elapsed since the contract by its terms was to be performed, the contract shall be deemed abandoned and of no effect and the land shall be freed from any lien or defect on account of the contract.

On and after July 1, 1992, this section shall apply to a contract or bond described in this section, if the contract or bond is not filed of record but referred to in another instrument which is filed of record. The contract or bond shall be deemed abandoned ten years from the date that the contract or bond is to be performed according to the recorded instrument. However, if the recorded instrument does not refer to a performance date for the contract or bond, the contract or bond shall be deemed abandoned ten years after the date that the instrument containing the reference is recorded.

Sec. 9. Section 558.14, Code 1991, is amended to read as follows:

558.14 GRANTOR DESCRIBED AS "SPOUSE" OR "HEIR" -- PRESUMPTION.

All conveyances or the record title thereof of real estate executed prior to January 17, 1950 more than ten years earlier, wherein the grantor or grantors described themselves as the surviving spouse, heir at law, heirs at law, surviving spouse and heir at law, or surviving spouse and heirs at law, of some person deceased in whom the record title or ownership of said real estate previously vested, shall be conclusive evidence of the facts so recited as far as they relate to the right of the grantor or grantors to convey, as fully as if the record title of said grantor or grantors had been established by due probate proceedings in the county wherein the real estate is situated.

Sec. 10. Section 587.10, Code 1991, is amended to read as follows:

587.10 AFFIDAVIT OF PUBLICATION OF NOTICE BY ASSISTANT PUBLISHER.

All affidavits of proof of publication of any notice or original notice made by the assistant publisher of any newspaper of general circulation, which were executed and filed prior to January 17, 1978 more than ten years earlier, are hereby legalized, declared valid, binding, and of full force and effect.

Sec. 11. Section 589.1, Code 1991, is amended to read as follows:

589.1 ACKNOWLEDGMENTS -- SEAL NOT AFFIXED.

All deeds, mortgages, or other instruments in writing for the conveyance of lands which have been made and executed before July 17, 1978 more than ten years earlier, and the officer taking the acknowledgment has not affixed the officer's seal to the acknowledgment; the acknowledgment is, nevertheless, good and valid in law and equity, anything in any law passed before July 17, 1978; any other provision of law to the contrary notwithstanding.

Sec. 12. Section 589.2, Code 1991, is amended to read as follows:

589.2 CONVEYANCES BY COUNTY.

All deeds executed before July 17, 1978 more than ten years earlier, by a court or the chairperson of the board of supervisors of a county, and to which the officer executing the deed has failed or omitted to affix the county seal, and all deeds where the clerk has failed or omitted to countersign when required so to do, are legalized and valid as though the law had in all respects been fully complied with.

Sec. 13. Section 589.3, Code 1991, is amended to read as follows:

589.3 ABSENCE OF OR DEFECTIVE ACKNOWLEDGMENTS.

Any instrument in writing affecting the title to real estate within the state of Iowa, to which is attached no certificate of acknowledgment, or to which is attached a defective certificate of acknowledgment, which was, prior to January 17, 1978 more than ten years earlier, recorded or



spread upon the records in the office of the recorder of the county in which the real estate described in the instrument is located, is, together with the recording and the record of the recording, valid, legal, and binding as if the instrument had been properly acknowledged and legally recorded.

Sec. 14. Section 589.4, Code 1991, is amended to read as follows:

**589.4 ACKNOWLEDGMENTS BY CORPORATION OFFICERS.**

The acknowledgments of all deeds, mortgages, or other instruments in writing taken or certified before July-17-1970 more than ten years earlier, which instruments have been recorded in the recorder's office of any county of this state, including acknowledgments of instruments made by a corporation, or to which the corporation was a party, or under which the corporation was a beneficiary, and which have been acknowledged before or certified by a notary public who was at the time of the acknowledgment or certifying a stockholder or officer in the corporation, are legal and valid official acts of the notaries public, and entitle the instruments to be recorded, anything in the laws of the state of Iowa in regard to acknowledgments to the contrary notwithstanding. This section does not affect pending litigation.

Sec. 15. Section 589.5, Code 1991, is amended to read as follows:

**589.5 ACKNOWLEDGMENTS BY STOCKHOLDERS.**

All deeds and conveyances of lands within this state executed before July-17-1970 more than ten years earlier, but which have been acknowledged or proved according to and in compliance with the laws of this state before a notary public or other official authorized by law to take acknowledgments who was, at the time of the acknowledgment, an officer or stockholder of a corporation interested in the deed or conveyance, or otherwise interested in the deeds or conveyances, are, if otherwise valid, valid in law as though acknowledged or proved before an officer not interested in the

deeds or conveyances; and if recorded before July-17-1970 more than ten years earlier, in the respective counties in which the lands are, the records are valid in law as though the deeds and conveyances, so acknowledged or proved and recorded, had, prior to being recorded, been acknowledged or proved before an officer having no interest in the deeds or conveyances.

Sec. 16. Section 589.6, Code 1991, is amended to read as follows:

**589.6 INSTRUMENTS AFFECTING REAL ESTATE.**

All instruments in writing executed by a corporation prior to July-17-1970 more than ten years earlier, conveying, encumbering, or affecting real estate, including releases, satisfactions of mortgages, judgments, or any other liens by entry of the release or satisfaction upon the page where the lien appears recorded or entered, where the corporate seal of the corporation has not been affixed or attached, and which are otherwise legally and properly executed, are legal, valid, and binding as though the corporate seal had been attached or affixed.

Sec. 17. Section 589.8, Code 1991, is amended to read as follows:

**589.8 MORTGAGES, TRUST DEEDS AND REALTY LIENS -- RELEASES BEFORE JULY-17-1970 EXECUTED, FILED, AND RECORDED FOR MORE THAN TEN YEARS.**

A release or satisfaction of a mortgage or trust deed, or of an instrument in writing creating a lien upon real estate where the release or satisfaction has been recorded in the recorder's office of the county in this state, or upon the margin of the record, where the original instrument was recorded and which release or satisfaction was made by an individual, association, copartnership, assignee, corporation, attorney in fact, or by a resident or foreign executor, administrator, referee, receiver, trustee, guardian, or commissioner, and which release or satisfaction was executed,

filed, and recorded prior-to-July-17-1970 more than ten years earlier, is valid, legal and binding, any defects in the execution, acknowledgment, recording, filing, or otherwise of the releases or satisfactions to the contrary notwithstanding.

Sec. 18. Section 589.9, Code 1991, is amended to read as follows:

**589.9 MARGINAL RELEASES OF SCHOOL-FUND MORTGAGES.**

The release or satisfaction of a school-fund mortgage entered on the margin of the record of the mortgage by the auditor of the county prior-to-July-17-1970 more than ten years earlier, is legalized as though the auditor had, at the time of entering the release or satisfaction, the same power thereafter conferred upon the auditor by chapter 53 of the Acts of the Twenty-fifth General Assembly.

Sec. 19. Section 589.10, Code 1991, is amended to read as follows:

**589.10 MARGINAL ASSIGNMENT OF MORTGAGE OR LIEN.**

If an assignment of a mortgage or other recorded lien on real estate has been made-before-July-17-1970 executed more than ten years earlier, by written assignment on the margin of the record where the mortgage or other lien is recorded or entered, the assignment passed all the right, title, and interest in the real estate, which the assignor at the time had, with like force and effect as if the assignment had been made by separate instrument duly acknowledged and recorded; and an assignment or a duly authenticated copy of an assignment when accompanied by a duly authenticated copy of the record of the instrument or lien it purports to assign, is admissible in evidence as provided by law for the admission of the records of deeds and mortgages.

Sec. 20. Section 589.11, Code 1991, is amended to read as follows:

**589.11 CONVEYANCES BY FIDUCIARIES.**

If-prior-to-the-year-1970, an executor, administrator, trustee, guardian, assignee, receiver, referee, or

commissioner, acting in that capacity in this or any state, has conveyed in the trust capacity real estate lying in this state and the conveyance has been of record since-prior-to January-17-1970 for more than ten years, in the county where the real estate so conveyed is located and which conveyance purports to sustain the title in the present record owner, the conveyance is not void or insufficient because due and legal notice of all proceedings with reference to the making of the conveyance was not served upon all interested or necessary parties, or that the executor, administrator, trustee, guardian, assignee, receiver, referee, or commissioner is not shown to have been duly authorized by an order of court to make and execute the conveyance, that a bond was not given, or that a report of the sale was not made; or the sale or deed of conveyance was not approved by order of court, or a foreign executor, administrator, trustee, guardian, assignee, receiver, referee, or commissioner was not appointed or qualified in the state of Iowa prior to the making of the conveyance, or the record fails to disclose compliance with any law, and all such conveyances are valid, legal, and binding. Allotments by referees in partition are conveyances within the meaning of this section.

Sec. 21. Section 589.12, Code 1991, is amended to read as follows:

**589.12 SHERIFFS' DEEDS.**

A foreclosure-proceeding-or-sale-of-real-estate-on execution-prior-to-January-17-1970, if a sheriff's deed was executed more than ten years earlier which purports to sustain the record title is not ineffectual on account of the failure of the record to show that any of the steps in obtaining the judgment or in the sale of the property were complied with. The proceedings are legalized as if the record showed that the law has been complied with.

Sec. 22. Section 589.13, Code 1991, is amended to read as follows:

**589.13 SHERIFF'S DEED EXECUTED BY DEPUTY.**

All conveyances of land in this state, executed in this state by a deputy sheriff, and properly recorded in the office of the county recorder of the county where the land is located, ~~prior to January 17, 1970~~ more than ten years earlier, have the same force and effect as though the conveyance had been executed by the sheriff.

Sec. 23. Section 589.14, Code 1991, is amended to read as follows:

589.14 DEFECTIVE TAX DEEDS.

~~A sale of real property for taxes made prior to January 17, 1970, in which the tax deed was executed and the deed more than ten years earlier~~ which purports to sustain the record title, is not ineffectual because of the failure of the record to show that any of the steps in the sale and deeding of the property were complied with and these proceedings are legalized and valid as if the record showed that the law had been complied with.

Sec. 24. Section 589.17, Code 1991, is amended to read as follows:

589.17 CONVEYANCES BY SPOUSE UNDER POWER.

A conveyance of real estate ~~made before July 17, 1970~~ executed more than ten years earlier, in which the husband or wife conveyed or contracted to convey the inchoate right of dower through the other spouse, acting as the attorney in fact, by virtue of a power of attorney executed by the spouse, the power of attorney not having been executed as a part of a contract of separation, are not invalid ~~as contravening section 3154 of the Code of 1897, or section 18447 of subsequent Codes to and including the Code of 1939, but all such conveyances are legalized and effective.~~

Sec. 25. Section 589.18, Code 1991, is amended to read as follows:

589.18 CONVEYANCES BY FOREIGN EXECUTORS.

All conveyances of real property ~~made prior to January 17, 1970~~ executed more than ten years earlier, by executors or

trustees under foreign wills and prior to the date upon which the will was admitted to probate in Iowa or prior to the expiration of three months after the recording of a duly authenticated copy of the will, original record of appointment, qualification, and bond ~~as required by section 3295 of the Code of 1897 or sections 11878 to 11881, inclusive, of subsequent Codes to and including the Code of 1939, and in which the will was, subsequent to the conveyance, probated in Iowa, and in which a duly authenticated copy of the will, original record of appointment, qualification, and bond as required by those sections was, subsequent to the conveyance, made a matter of record as provided in those sections, are legalized and valid in law and in equity as though the will had been probated in Iowa prior to the conveyance and as though the sections had been strictly complied with.~~ However, this section does not affect pending litigation.

Sec. 26. Section 589.19, Code 1991, is amended to read as follows:

589.19 CONVEYANCES UNDER SCHOOL-FUND FORECLOSURES.

If the title to real estate has been conveyed ~~prior to January 17, 1970~~ more than ten years earlier, by the sheriff of a county pursuant to sheriff's sale under the foreclosure of permanent school-fund mortgages to the state, or to the state for the use of the school fund, or to the county for the school fund; and the land has been sold under authority of the board of supervisors of the county and conveyed under its authority, ~~prior to January 17, 1970~~ more than ten years earlier, and the full purchase price paid and credited to, and used by, the county for the permanent school fund of the county, all right, title, or interest of the state in and to the real estate is relinquished and quitclaimed to the purchaser or the purchaser's grantees forever, and the title confirmed in the purchaser, or the purchaser's grantees insofar as the erroneous conveyance is concerned.

Sec. 27. Section 589.21, Code 1991, is amended to read as follows:

589.21 RELEASES AND DISCHARGES.

All releases and discharges of judgments, mortgages, or deeds of trust affecting property in this state ~~made prior to January 17, 1970~~ executed more than ten years earlier, by administrators, executors, or guardians appointed by the court of any other state or country ~~without complying with section 3308 of the Code of 1897 and sections 11897 to 11899, inclusive of subsequent codes to and including the Code of 1931~~ are legalized, valid and effective in law and in equity ~~as though the sections had been strictly followed~~. However, this section does not affect pending litigation.

Sec. 28. Section 589.23, Code 1991, is amended to read as follows:

589.23 DESCRIPTIONS REFERRING TO DEFECTIVE PLATS.

The description of land in all instruments, conveyances, and encumbrances describing lots in or referring to plats of survey or to plats made by the a county auditor of Iowa auditor, or by the a county surveyor for the owner, and placed of record by the a county recorder of Iowa prior to January 17, 1970 recorder more than ten years earlier, are legalized, valid and binding ~~as though the plats had been signed and acknowledged and filed and recorded in strict compliance with law~~.

Sec. 29. Section 589.24, Code 1991, is amended to read as follows:

589.24 DEFECTIVE INSTRUMENTS.

A deed of conveyance, or other instrument purporting to convey real estate within the state, where the deed or instrument has been recorded in the office of the recorder of any county in which the real estate is situated, and the deed or instrument was executed by a county treasurer under a tax sale, a sheriff under execution sale, or by a resident or foreign executor, administrator, referee, receiver, trustee,

guardian, commissioner, individual, copartnership, association, or corporation, and was executed and recorded ~~prior to January 17, 1970~~ more than ten years earlier, and if the grantee named in the deed or conveyance, or other instrument, or the grantee's heirs or devisees, by direct line of title or conveyance have been in the actual, open, adverse possession of the premises since that date, is legalized, valid, and binding, notwithstanding defects in the execution of the deed or instrument.

Sec. 30. Section 589.25, Code 1991, is amended to read as follows:

589.25 SALES OF REAL ESTATE BY SCHOOL DISTRICT.

All deeds and conveyances of land ~~made~~ executed by or purporting to be ~~made~~ executed by a school district or by the board of directors of a school district ~~prior to July 17, 1970~~, and placed of record ~~prior to July 17, 1970~~ more than ten years earlier, which deeds or conveyances purport to sustain the record title, are legalized and valid, even though the record fails to show that all necessary steps in the sale and deeding of the property were complied with. The deeds and conveyances are legalized and valid as if the record showed that the law had been complied with, and that the sales had been duly authorized by the electors of the school district.

Sec. 31. Section 589.26, Code 1991, is amended to read as follows:

589.26 ~~SOCIAL WELFARE DEPARTMENT~~ LAND TRANSFERS BY THE DEPARTMENT OF HUMAN SERVICES LEGALIZED.

Every deed, release or other instrument in writing purporting to transfer any interest in land held or claimed by either the state department of social welfare or the state board of social welfare of the state of Iowa human services or a predecessor agency, which is signed for either or both said bodies by the secretary of either a departmental official, and which are now ~~was~~ filed or of record as of February 17, 1961 more than ten years earlier, in the office of the auditor or

recorder or clerk of the district court of any county in Iowa; and any writing thus signed, filed or recorded which purports to release any old-age assistance lien on any real estate in Iowa is hereby legalized and shall be good and valid in law and in equity as fully as if the record expressly showed that same it in all respects complied with and was fully authorized as provided in any statute pertaining to such instrument, ~~anything in the laws of Iowa~~ any other provision of law to the contrary notwithstanding.

Sec. 32. Section 592.3, Code 1991, is amended to read as follows:

592.3 CITY AND TOWN PLATS.

1. In all cases where, prior to January 1, ~~1970~~ 1980, any person has laid out any parcel of land into town or city lots and the plat of the lots has been recorded and the plat appears to be insufficient because of failure to show certificates of the county clerk of the district court, county treasurer, or county recorder, or the affidavit and bond, if any, and the certificate of approval of the local governing body or because the certificates are defective, or because of a failure to fully comply with all of the provisions of chapter 499 ~~409A~~ of the Code of ~~1966 as amended to December 31, 1969~~ in effect at the time of the recording of the plat, or corresponding statutes of earlier Codes, or because the plat failed to show signatures or acknowledgment of proprietors as provided by law, or because the acknowledgment was defective, and subsequent to the platting, lots or subdivisions of the lots have been sold and conveyed, all such said plats which have not been vacated, are legalized as of the date of the recording of the plat, the same as though all certificates have been attached and all the other necessary steps taken as provided by law, and the record of the plat shall be conclusive evidence that the person was the proprietor of the tract of land and the owner of the tract at the time of the platting, and that the tract of land was free

and clear of all encumbrances unless an affidavit to the contrary was filed at the time of recording the plat.

~~PARAGRAPH DIVIDED.~~ After July 1, ~~1981~~ 1992, no action shall be brought on any cause arising after ~~December 31, 1949;~~ ~~and before January 1, 1970~~ more than ten years earlier or which has been in existence for more than ten years, to establish, enforce, or recover any right, title, interest, lien, or condition existing at the time of the platting after ~~December 31, 1949; and before January 1, 1970~~, and adverse to a clear and unqualified title in fee simple in the owner unless on or before July 1, ~~1981~~ 1992, there is filed in the office of county recorder of the county where the real estate involved is located a written statement, acknowledged by the claimant, definitely describing the real estate involved, stating the nature and extent of the right or interest claimed, and stating the facts upon which the claim is based.

2. After July 1, 1992, in all cases where more than ten years earlier, a plat of lots from a parcel of land which has been laid into town or city lots has been recorded and the plat appears to be insufficient, the plat is legalized as of the date of the recording of the plat to the same extent as if the plat did not appear insufficient, if subsequent to the platting, the lots or a subdivision of the lots have been sold and conveyed, and the plats have not been vacated. A plat shall appear insufficient because of one of the following:

a. A failure to show or a deficiency in a certificate of the county clerk of the district court, county treasurer, or county recorder, or an affidavit and bond, or a certificate of approval of a local governing body.

b. A failure to fully comply with Code provisions in effect at the time of the recording of the plat.

c. A failure to show or a deficiency in a signature or acknowledgment of a proprietor as provided by law.

The record of the plat shall be conclusive evidence that the person was the proprietor of the tract of land and the

owner of the tract at the time of the platting, and that the tract of land was free and clear of all encumbrances unless an affidavit to the contrary was filed at the time of recording the plat.

Sec. 33. Section 614.14, Code 1991, is amended to read as follows:

614.14 RECOVERY BY BENEFICIARY OF TRUST.

1. In all cases where a deed of trust or declaration of trust has been executed and the real estate affected by the deed or declaration has been conveyed by the trustee or the surviving spouse or heirs of the trustee and the conveyance was recorded in the proper county prior to ~~January~~ March 1, 1970 1982, and the interest of the beneficiary of the trust in the real estate has not been conveyed or established by proper proceedings in court, by the beneficiary, an action, suit or proceeding shall not be commenced or maintained to foreclose the same, or to establish or recover the interest of the beneficiary in the real estate, or of the surviving spouse or heirs of the beneficiary, unless the action, suit, or proceeding is commenced by filing petition and service of notice not later than ~~March 1, 1981~~ 1992.

2. In all cases where a deed of trust or declaration of trust has been executed, no legal action shall be commenced or maintained to foreclose real estate or establish or recover the interest of a beneficiary or of the surviving spouse or an heir of the beneficiary in the real estate, if all the following conditions are satisfied:

a. The real estate affected by the deed or declaration of trust has been conveyed by the trustee or the surviving spouse or heir of the trustee.

b. The conveyance was recorded in the proper county for more than ten years.

c. The interest of the beneficiary of the trust and the real estate has not been conveyed or established by the proper proceedings in court.

However, this section shall not apply if the legal action is commenced by filing a petition of service of notice within ten years of the recording of the conveyance.

Sec. 34. Section 614.15, Code 1991, is amended to read as follows:

614.15 SPOUSE FAILING TO JOIN IN CONVEYANCE.

1. In all cases where the holder of the legal or equitable title or estate to real estate situated within this state, prior to ~~January~~ July 1, 1970 1981, conveyed the real estate or any interest in the real estate by deed, mortgage, or other instrument, and the spouse failed to join in the conveyance, the spouse or the heirs at law, personal representatives, devisees, grantees, or assignees of the spouse are barred from recovery unless suit is brought for recovery within one year after ~~July 1, 1980~~ 1991. But in case the right to the distributive share has not accrued by the death of the spouse making executing the instrument, then the one not joining is authorized to file in the recorder's office of the county where the land is situated, a notice with affidavit setting forth affiant's claim, together with the facts upon which the claim rests, and the residence of the claimants. If the notice is not filed within two years from ~~July 1, 1980~~ 1991, the claim is barred forever. Any action contemplated in this section may include land situated in different counties, by giving notice as provided by section 617.13.

2. In all cases where the holder of the legal or equitable title or estate to real estate situated within this state, after July 1, 1991, conveyed the real estate or any interest in the real estate by deed, mortgage, or other instrument, and spouse failed to join in the conveyance, the spouse or the heirs at law, personal representative, devisees, grantees, or assignees of the spouse are barred from recovery unless suit is brought for recovery within ten years from the date of the conveyance. However, in the case where the right to the distributive share has not accrued by the death of the spouse

executing the instrument, then the party not joining is authorized to file in the recorder's office in the county where the land is situated, a notice with affidavit setting forth the affiant's claim, together with the facts upon which the claim is based, and the residence of the claimants. If the notice is not filed within ten years from the date of the execution of the instrument the claim is barred forever. Any action contemplated in this section may include land situated in different counties by giving notice as provided in section 617.13. The effect of filing the notice with affidavit shall extend for a further period of ten years the time within which the action may be brought. Successive notices may be filed extending this period.

Sec. 35. Section 614.16, Code 1991, is amended to read as follows:

**614.16 INTERPRETATIVE CLAUSE.**

Sections 614.14 and 614.15 do not affect litigation pending on July 1, 1980 1991, nor do they operate to revive rights or claims barred previous to that date, nor permit an action to be brought or maintained upon any claim or cause of action which is barred by a statute in force prior to July 1, 1980 1991.

Sec. 36. Section 614.17, Code 1991, is amended to read as follows:

**614.17 CLAIMS TO REAL ESTATE ANTEDATING 1970 1980.**

An action based upon a claim arising or existing prior to January 1, 1970 1980, shall not be maintained, either at law or in equity, in any court to recover real estate in this state or to recover or establish any interest in or claim to real estate, legal or equitable, against the holder of the record title to the real estate in possession, when the holder of the record title and the holder's immediate or remote grantors are shown by the record to have held chain of title to the real estate, since January 1, 1970 1980, unless the claimant in person, or by the claimant's attorney or agent, or

if the claimant is a minor or under legal disability, by the claimant's guardian, trustee, or either parent, within one year from and after July 1, 1980 1991, files in the office of the recorder of deeds of the county in which the real estate is situated, a statement in writing, which is duly acknowledged, definitely describing the real estate involved, the nature and extent of the right or interest claimed, and stating the facts upon which the claim is based.

For the purposes of this section, section 614.17A, and sections 614.18 to 614.20, a person who holds title to real estate by will or descent from a person who held the title of record to the real estate at the date of that person's death or who holds title by decree or order of a court, or under a tax deed, trustee's, referee's, guardian's, executor's, administrator's, receiver's, assignee's, master's in chancery, or sheriff's deed, holds chain of title the same as though holding by direct conveyance.

For the purposes of this section and section 614.17A, such possession of real estate may be shown of record by affidavits showing the possession, and when the affidavits have been filed and recorded, it is the duty of the recorder to enter upon the margin of the record, a certificate to the effect that the affidavits were filed by the owner in possession, as named in the affidavits, or by the owner's attorney in fact, as shown by the records and in like manner, the affidavits may be filed and recorded where any action was barred on any claim by this section as in force prior to July 1, 1980 1991.

Sec. 37. NEW SECTION. 614.17A CLAIMS TO REAL ESTATE AFTER 1992.

1. After July 1, 1992, an action shall not be maintained in a court, either at law or in equity, in order to recover or establish an interest in or claim to real estate if all the following conditions are satisfied:

a. The action is based upon a claim arising more than ten years earlier or existing for more than ten years.

b. The action is against the holder of the record title to the real estate in possession.

c. The holder of the record title to the real estate in possession and the holder's immediate or remote grantors are shown by the record to have held chain of title to the real estate for more than ten years.

2. The claimant within ten years of the date on which the claim arose or first existed must file with the county recorder in the county where the real estate is located a written statement which is duly acknowledged and definitely describes the real estate involved, the nature and extent of the right of interest claimed, and the facts upon which the claim is based. The claimant must file the statement in person or by the claimant's attorney or agent. If the claimant is a minor or under a legal disability, the statement must be filed by the claimant's guardian, trustee, or by either parent.

The filing of a claim shall extend for a further period of ten years the time within which such action may be brought by any person entitled to bring the claim. The person may file extensions for successive claims.

3. Nothing in this section shall be construed to revive any cause of action barred by section 614.17.

Sec. 38. Section 614.20, Code 1991, is amended to read as follows:

614.20 LIMITATION ON ACT.

Sections 614.17 to 614.19 do not limit or extend the time within which actions by a spouse to recover dower or distributive share in real estate within this state may be brought or maintained under the provisions of section 614.15, nor do they limit or extend the time within which actions may be brought or maintained to foreclose or enforce any real estate mortgage, bond for deed, trust deed, or contract for the sale or conveyance of real estate under the provisions of section 614.21, nor do they revive or permit an action to be

brought or maintained upon any claim or cause of action which is barred by a statute which is in force prior to July 1, 1980 1991; nor do they affect litigation pending on July 1, 1980 1991.

Sec. 39. Section 614.22, Code 1991, is amended to read as follows:

614.22 ACTION AFFECTING ANCIENT DEEDS.

1. An action shall not be maintained to set aside, cancel, annul, declare void or invalid, or to redeem from a tax deed, guardian's deed, executor's deed, administrator's deed, receiver's deed, referee's deed, assignee's deed or sheriff's deed which has been recorded in the office of the recorder of the county or counties in this state in which the land described in the deed is situated prior to January 1, 1978 1980, unless the action is commenced prior to January 1, 1981 1992, and if an action to set aside, cancel, annul, declare void or invalid, or to redeem from the deed is not commenced prior to January 1, 1981 1992, then the deed and all the proceedings upon which the deed is based are valid and unimpeachable and effective to convey title as stated in the deed, without exception for infancy, mental illness, absence from the state, or other disability or cause; provided that this section and section 614.23 do not apply to real property described in a deed which is not on July 1, 1980 1991, in the possession of those claiming title under the deed.

2. On and after January 1, 1992, an action shall not be maintained to set aside, cancel, annul, or void a deed, and an action shall not be maintained to redeem from such deed, if the deed has been recorded in the office of the recorder for more than ten years. The deed must be recorded in the office of the recorder of the county or counties in which the land described in the deed is situated. If an action under this subsection is not commenced within ten years of the recording of the deed, then the deed and all proceedings upon which the deed is based are valid and unimpeachable and effective to



convey title as stated in the deed, without exception for infancy, mental illness, absence from the state, or other disability or cause. As used in this subsection "deed" means a tax deed, guardian's deed, executor's deed, administrator's deed, receiver's deed, referee's deed, assignee's deed, or sheriff's deed.

However, this subsection and section 614.23 do not apply to real property described in any deed which is for more than ten years in the possession of a person claiming title under the deed.

Sec. 40. Section 589.20, Code 1991, is repealed.

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ROBERT C. ARNOULD  
Speaker of the House

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JOE J. WELSH  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 618, Seventy-fourth General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved 5/17/99, 1991

**HF 618**

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TERRY E. BRANSTAD  
Governor