

In Judiciary 4/5/91 to Pass 4/11/91 (p. 1174)

MAR 25 1991

HOUSE FILE 627
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

Place On Calendar

(SUCCESSOR TO HSB 120)

Passed House, Date 4/4/91 (p. 1094) Passed Senate, Date 4/17/91 (p. 1299)
Vote: Ayes 91 Nays 0 Vote: Ayes 48 Nays 0
Approved April 30, 1991 (p. 1929)

A BILL FOR

1 An Act relating to transfer of title by affidavit of the
2 surviving spouse.

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

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HF 627

1 Section 1. Section 558.66, Code 1991, is amended to read
2 as follows:

3 558.66 TITLE DECREE -- ENTRY ON TRANSFER BOOKS.

4 Upon receipt of a certificate from the clerk of the
5 district court or an appellate court that the title to real
6 estate has been finally established in any named person by
7 judgment or decree or by will or by affidavit of the or on
8 behalf of a surviving spouse that has been recorded by the
9 recorder, the auditor shall enter the information in the
10 certificate upon the transfer books, upon payment of a fee in
11 the amount specified in section 331.507, subsection 2,
12 paragraph "a"; which. In the case of a certificate from the
13 clerk of the district court or an appellate court, the fee
14 shall be taxed as court costs, collected by the clerk, and
15 paid to the treasurer by the recorder as provided in section
16 331.902, subsection 3. In the case of the affidavit filed
17 with the recorder, the fee set forth in section 331.507,
18 subsection 2, paragraph "a", and the fee set forth in section
19 331.604, shall be collected by the recorder and paid to the
20 treasurer as provided in section 331.902, subsection 3.

21 An affidavit of the or on behalf of a surviving spouse
22 shall may be filed with the clerk auditor only when real
23 estate owned by a decedent, who died on or after January 1,
24 1988, was held in joint tenancy with right of survivorship
25 solely with the surviving spouse and shall be in the following
26 form:

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

28 STATE OF IOWA)
29) ss:
30 COUNTY OF)

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

33 1. I am [..... is] the surviving spouse of, who
34 died on the .. day of, 19...

35 2. The following described real estate was owned only by

1 and this Affiant, [or] as joint tenants with full
2 rights of survivorship at the time of my-spouse's [.....]'s
3 death:

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7 3. I hereby request that the ~~Clerk of Court certify the~~
8 ~~change of title to the above described real estate to the~~
9 ~~County Auditor pursuant to section 602.8102(10)~~ auditor enter
10 this information on the transfer books pursuant to section
11 558.66 of the Iowa Code.

12
13 Subscribed and sworn to before me this day of,
14 19...

15
16 Notary Public in and for the State of Iowa

17 Sec. 2. Section 602.8102, subsection 10, Code 1991, is
18 amended to read as follows:

19 10. When title to real estate is finally established in a
20 person by a judgment or decree of the district court or by
21 decision of an appellate court or when the title to real
22 estate is changed by judgment, decree, will, proceeding,
23 ~~filing of an affidavit of the surviving spouse pursuant to~~
24 ~~section 558.667~~ or order in probate, certify the final decree,
25 judgment, ~~affidavit of the surviving spouse~~, or decision under
26 seal of the court to the auditor of the county in which the
27 real estate is located.

28 EXPLANATION

29 This bill amends the procedures for processing a transfer
30 of title by affidavit of a surviving spouse and provides that
31 transfers of title may be made on behalf of a surviving
32 spouse. In addition, the bill provides that the county
33 recorder shall collect the fees and pay them to the treasurer
34 in the case of a transfer of title by affidavit.

35

Poncy-chair
Hansen
Halvorson of Clayton

HSB 120
Judiciary & Law Enforcement

SENATE/HOUSE FILE 627
BY (PROPOSED JUDICIAL DEPARTMENT
BILL)

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

A BILL FOR

1 An Act relating to transfer of title by affidavit of the
2 surviving spouse.

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

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1 Section 1. Section 450.22, Code 1991, is amended to read
2 as follows:

3 450.22 ADMINISTRATION AVOIDED -- INHERITANCE TAX DUTIES
4 REQUIRED.

5 When the heirs or persons entitled to inherit the property
6 of an estate subject to tax under this chapter desire to avoid
7 the appointment of a personal representative as provided in
8 section 450.21, and in all instances where real estate is
9 involved and there are no regular probate proceedings, they or
10 one of them shall file under oath the inventories required by
11 section 633.361 and the required reports, perform all the
12 duties required by this chapter of the personal
13 representative, and file the inheritance tax return. However,
14 this section does not apply and a return is not required even
15 though real estate is part of the assets subject to tax under
16 this chapter, if all of the assets are held in joint tenancy
17 with right of survivorship between husband and wife alone.
18 When this section applies, proceedings for the collection of
19 the tax when a personal representative is not appointed, shall
20 conform as nearly as possible to proceedings under this
21 chapter in other cases.

22 An affidavit of the surviving spouse to change title to
23 real property shall be recorded according to section 558.66.

24 Sec. 2. Section 558.66, Code 1991, is amended to read as
25 follows:

26 558.66 TITLE DECREE -- ENTRY ON TRANSFER BOOKS.

27 Upon receipt of ~~a certificate from~~ an affidavit that is
28 certified by the clerk of the district court or an appellate
29 court that the title to real estate has been finally
30 established in any named person by judgment or decree or by
31 will or by affidavit of the surviving spouse, the recorder
32 shall record the affidavit and the auditor shall enter the
33 information in the certificate upon the transfer books, upon
34 payment of a fee in the amount specified in section 331.507,
35 subsection 2, paragraph "a", and the fee in section 331.604,

1 which fee fees shall be taxed-as-court-costs, collected by the
2 clerk recorder, and paid to the treasurer, as provided in
3 section 331.902, subsection 3.

4 An affidavit of the surviving spouse shall be certified by
5 the clerk only when real estate owned by a decedent, who died
6 on or after January 1, 1988, was held in joint tenancy with
7 right of survivorship solely with the surviving spouse and
8 shall be in the following form:

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

10 STATE OF IOWA)
11) ss:
12 COUNTY OF)

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

15 1. I am the surviving spouse of, who died on the ..
16 day of, 19...

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

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22

23 3. I hereby request that the Clerk of Court certify the
24 ~~change-of-title-to-the-above-described-real-estate-to-the~~
25 ~~County-Auditor-pursuant-to-section-602-8102(10)-of-the-Iowa~~
26 Code that according to the records of the clerk of court's
27 office, died on the day of,
28 19...

29
30 Subscribed and sworn to before me this day of,
31 19...

32
33 Notary Public in and for the State of Iowa

34 CERTIFICATE OF CLERK OF COURT

35 I hereby certify that according to the records of this office,

1 one died on the day of,
2 19...

3
4 Clerk of Court,
5 County, Iowa

6 Sec. 3. Section 602.8102, subsection 10, Code 1991, is
7 amended to read as follows:

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

17 EXPLANATION

18 This bill amends the procedures for processing a transfer
19 of title by affidavit of a surviving spouse.

20 BACKGROUND STATEMENT

21 SUBMITTED BY THE AGENCY

22 The changes made in this bill will clarify and simplify the
23 procedures for processing a transfer of title to real estate
24 by affidavit of the surviving spouse.

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HOUSE FILE 627

AN ACT
RELATING TO TRANSFER OF TITLE BY AFFIDAVIT OF THE SURVIVING
SPOUSE.

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

Section 1. Section 558.66, Code 1991, is amended to read
as follows:

558.66 TITLE DECREE -- ENTRY ON TRANSFER BOOKS.

Upon receipt of a certificate from the clerk of the
district court or an appellate court that the title to real
estate has been finally established in any named person by
judgment or decree or by will or by affidavit of the or on
behalf of a surviving spouse that has been recorded by the
recorder, the auditor shall enter the information in the
certificate upon the transfer books, upon payment of a fee in
the amount specified in section 331.507, subsection 2,
paragraph "a" ~~which~~. In the case of a certificate from the
clerk of the district court or an appellate court, the fee
shall be taxed as court costs, collected by the clerk, and
paid to the treasurer by the recorder as provided in section
331.902, subsection 3. In the case of the affidavit filed
with the recorder, the fee set forth in section 331.507,
subsection 2, paragraph "a", and the fee set forth in section
331.604, shall be collected by the recorder and paid to the
treasurer as provided in section 331.902, subsection 3.

An affidavit of the or on behalf of a surviving spouse
shall ~~may~~ be filed with the clerk auditor only when real

estate owned by a decedent, who died on or after January 1,
1988, was held in joint tenancy with right of survivorship
solely with the surviving spouse and shall be in the following
form:

AFFIDAVIT OF SURVIVING SPOUSE FOR CHANGE OF TITLE TO REAL ESTATE
STATE OF IOWA)

) ss:

COUNTY OF)

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

1. I am [.....] the surviving spouse of, who
died on the .. day of, 19...

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

.....
.....
.....

3. I hereby request that the Clerk-of-Court certify the
~~change of title to the above described real estate to the~~
~~County Auditor pursuant to section 602.8102(10) auditor enter~~
this information on the transfer books pursuant to section
558.66 of the Iowa Code.

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

.....
Notary Public in and for the State of Iowa

Sec. 2. Section 602.8102, subsection 10, Code 1991, is
amended to read as follows:

10. When title to real estate is finally established in a
person by a judgment or decree of the district court or by
decision of an appellate court or when the title to real
estate is changed by judgment, decree, will, proceeding,

filing-of-an-affidavit-of-the-surviving-spouse-pursuant-to
section-558-667 or order in probate, certify the final decree,
judgment, affidavit-of-the-surviving-spouse7 or decision under
seal of the court to the auditor of the county in which the
real estate is located.

ROBERT C. ARNOULD
Speaker of the House

JOE J. WELSH
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 627, Seventy-fourth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved April 30, 1991

TERRY E. BRANSTAD
Governor