

MAR 7 1995

COMMERCE - REGULATION

HOUSE FILE 263
BY LARSON

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

A BILL FOR

1 An Act relating to burial grounds by providing notice
2 requirements for ancient burial grounds and providing
3 penalties.

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

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HF 263

1 Section 1. NEW SECTION. 263B.11 DISCLOSURE OF ANCIENT
2 BURIAL SITES.

3 The state archaeologist shall provide written notice to the
4 owner of real estate, other than real estate owned by a
5 governmental entity, if the state archaeologist has cause to
6 believe that an ancient human burial site exists on the real
7 estate. In order to identify the owner of real estate, the
8 state archaeologist may rely upon documents maintained by the
9 county where the real estate is located, including documents
10 listing real estate for purposes of taxation as provided in
11 chapter 428. The state archaeologist shall adopt rules
12 pursuant to chapter 17A in order to carry out this subsection,
13 including criteria for determining the existence of an ancient
14 human burial site.

15 Sec. 2. NEW SECTION. 558A.4A DECLARATION -- GRANTING
16 INTEREST IN REAL ESTATE WHERE ANCIENT BURIAL SITES ARE
17 LOCATED.

18 1. This section applies to real property subject to sale,
19 exchange, real estate contract, or any other grant of an
20 interest in real property, including but not limited to a
21 transfer.

22 2. A person, other than a governmental entity, interested
23 in granting an interest in real property, or a broker or
24 salesperson acting on behalf of the grantor, shall deliver a
25 declaration to the person interested in being granted the
26 interest as provided in this chapter, if the grantor knows or
27 reasonably should know that an ancient burial site, as
28 classified by the state archaeologist, exists on the real
29 property. The declaration shall state that the real property
30 may be the site of an ancient burial ground, and may include
31 other information determined relevant by the grantor. The
32 declaration shall be made in the same manner and according to
33 the same procedures as provided for a disclosure statement
34 under this chapter. The declaration may be attached to the
35 disclosure statement. The commission shall adopt uniform

1 forms which may be used by a grantor, broker, or salesperson.
2 However, a county recorder shall not file or record a
3 declaration.

4 Sec. 3. Section 558A.6, Code 1995, is amended to read as
5 follows:

6 558A.6 LIABILITY UNDER THE CHAPTER.

7 1. A person who violates this chapter shall be liable to a
8 transferee for the amount of actual damages suffered by the
9 transferee regarding a disclosure statement and report or
10 opinion, but subject to the following limitations:

11 1 a. The transferor, or a broker or salesperson, shall not
12 be liable under this chapter for the error, inaccuracy, or
13 omission in information required in a disclosure statement,
14 unless that person has actual knowledge of the inaccuracy, or
15 fails to exercise ordinary care in obtaining the information.

16 2 b. The person submitting a report or opinion within the
17 scope of the person's practice, profession, or expertise, as
18 provided in section 558A.4, for purposes of satisfying the
19 disclosure statement, shall not be liable under this chapter
20 for any matter other than a matter within the person's
21 practice, profession, or expertise, and which is required by
22 the disclosure statement, unless the person failed to use care
23 ordinary in the person's profession, practice, or area of
24 expertise in preparing the information.

25 2. A person who grants an interest in violation of section
26 558A.4A is liable to the person being granted the interest for
27 the amount of actual damages suffered by the grantee.

28 Sec. 4. Section 558A.8, Code 1995, is amended to read as
29 follows:

30 558A.8 VALIDITY OF A TRANSFER.

31 A transfer under this chapter, other than section 558A.4A,
32 shall not be invalidated solely because of a failure of a
33 person to comply with a provision of this chapter. A person
34 granting an interest in real property who does not receive a
35 declaration as required in section 558A.4A may rescind the

1 transaction in which the person was granted the interest
2 within two years from the date of the execution of the
3 transaction.

4 EXPLANATION

5 This bill relates to the regulation of burial grounds,
6 including ancient burial grounds and cemeteries. The bill
7 requires the state archaeologist to provide notice to the
8 owner of real estate, if the state archaeologist has cause to
9 believe that an ancient human burial site exists on the real
10 estate. The bill also provides that if the owner of real
11 estate is transferring an interest in real estate, the owner
12 must disclose to the person being transferred the interest,
13 the existence of an ancient human burial site which the owner
14 has cause to believe is located on the real property. An
15 owner who fails to make such a disclosure is liable for
16 damages.

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