

# REPRINTED

FEB 16 1998  
LOCAL GOVERNMENT

HOUSE FILE 2281  
BY JACOBS

Passed House, <sup>(p. 796)</sup> Date 3/18/98 Passed Senate, <sup>(p. 1040)</sup> Date 4/2/98  
Vote: Ayes 96 Nays 0 Vote: Ayes 48 Nays 0  
Approved April 17, 1998

## A BILL FOR

1 An Act providing for the recording of certain residential real  
2 estate contracts, providing a penalty, and providing for the  
3 Act's applicability.

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

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### HOUSE FILE 2281

H-8122

- 1 Amend House File 2281 as follows:
- 2 1. Page 1, by striking line 2 and inserting the
- 3 following: "CERTAIN RESIDENTIAL REAL ESTATE
- 4 INSTALLMENT SALES CONTRACTS."
- 5 2. Page 1, by striking lines 3 and 4 and
- 6 inserting the following:
- 7 "1. Every real estate installment sales contract
- 8 transferring an interest".
- 9 3. Title page, line 1, by inserting after the
- 10 words "for the" the following: "mandatory".
- 11 4. Title page, line 2, by inserting after the
- 12 word "estate" the following: "installment sales".

By COMMITTEE ON LOCAL GOVERNMENT  
VANDE HOEF of Osceola, Chairperson

H-8122 FILED FEBRUARY 25, 1998  
*adopted 3/18/98 (p. 795)*

HF 2281

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1 Section 1. NEW SECTION. 558.46 MANDATORY RECORDING OF  
2 CERTAIN REAL ESTATE CONTRACTS.

3 1. For counties with a population of thirty thousand or  
4 greater, every real estate contract transferring an interest  
5 in residential property shall be recorded by the contract  
6 seller with the county recorder in the county in which the  
7 real estate is situated not later than one hundred eighty days  
8 from the date the contract was signed by the contract seller  
9 and contract purchaser.

10 2. Failure to record a real estate contract required to be  
11 recorded by this section by the contract seller within the  
12 specified time limit is punishable by a fine not to exceed one  
13 hundred dollars per day for each day of violation. The county  
14 recorder shall record a real estate contract presented for  
15 recording even though not presented within one hundred eighty  
16 days of the signing of the contract. The county recorder  
17 shall forward to the county attorney a copy of each real  
18 estate contract recorded more than one hundred eighty days  
19 from the date the contract was signed by the contract seller  
20 and contract purchaser. The county attorney shall initiate  
21 action in the district court to enforce the provisions of this  
22 section.

23 3. Failure to timely record shall not invalidate an  
24 otherwise valid real estate contract. However, a contract  
25 seller is prohibited from claiming any rights under the  
26 contract, including the right to initiate forfeiture  
27 proceedings on the basis of a failure to comply with the terms  
28 of a real estate contract, if the contract has not been  
29 recorded.

30 4. If a real estate contract is required to be recorded  
31 under this section, the requirement is satisfied by recording  
32 either the entire real estate contract or a memorandum of the  
33 contract containing at least the names and addresses of all  
34 parties named in the contract, a description of all real  
35 property and interests in the real property subject to the

1 contract, the length of the contract, and a statement as to  
2 whether the seller is entitled to the remedy of forfeiture and  
3 as to the dates upon which payments are due.

4 5. For the purposes of this section, "residential  
5 property" includes commercial property consisting of three or  
6 more separate living quarters with at least seventy-five  
7 percent of the space used for residential purposes.

8 Sec. 2. APPLICABILITY. This Act applies to real estate  
9 contracts entered into on or after July 1, 1998.

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#### EXPLANATION

11 This bill requires that in counties with populations of  
12 30,000 or more contracts for the sale of residential real  
13 estate must be recorded in the office of county recorder by  
14 the seller within 180 days of the date the contract was signed  
15 by the seller and buyer. Failure of the seller to record the  
16 contract prohibits the seller from claiming any rights under  
17 the contract, including the right to forfeit the contract for  
18 failure of the buyer to comply with the terms of the contract.  
19 The contract seller is also subject to a fine not to exceed  
20 \$100 per day for each day over 180 that the contract is not  
21 recorded.

22 The bill applies to contracts entered into on or after July  
23 1, 1998.

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HOUSE FILE 2281

H-8396

- 1 Amend House File 2281 as follows:  
2 1. Page 1, line 22, by inserting after the word  
3 "section." the following: "Fines collected pursuant  
4 to this subsection shall be deposited in the general  
5 fund of the county."  
6 2. Page 1, by striking lines 25 and 26 and  
7 inserting the following: "seller is prohibited from  
8 initiating forfeiture".  
9 3. Page 2, by inserting before line 8 the  
10 following:  
11 "Sec. \_\_\_\_ . Section 558.41, Code 1997, is amended  
12 by adding the following new unnumbered paragraph:  
13 NEW UNNUMBERED PARAGRAPH. A provision contained in  
14 a residential real estate installment sales contract  
15 which prohibits the recording of the contract, or the  
16 recording of a memorandum of the contract, is  
17 unenforceable by any party to the contract."  
18 4. By renumbering as necessary.

By CARROLL of Poweshiek  
HUSER of Polk  
JACOBS of Polk

*Adopted 3/18/98 (p. 795)*

H-8396 FILED MARCH 12, 1998

HOUSE FILE 2281

H-8395

- 1 Amend House File 2281 as follows:  
2 1. Page 2, by inserting after line 7 the  
3 following:  
4 "6. This section applies to residential real  
5 estate installment sales contracts entered into  
6 before, on, or after July 1, 1998. However, such  
7 contracts entered into before July 1, 1998, shall not  
8 be subject to the fine in subsection 2."  
9 2. Page 2, by striking lines 8 and 9.

By JACOBS of Polk  
HUSER of Polk

H-8395 FILED MARCH 12, 1998

*Adopted 3/18/98  
(p. 796)*

5-3/19/98 Do Pan  
5-3/26/98 UNFINISHED BUSINESS CALENDAR

HOUSE FILE 2281  
BY JACOBS

(As Amended and Passed by the House, March 18, 1998)

Passed House, Date \_\_\_\_\_ Passed Senate, Date <sup>(P. 1040)</sup> 4/2/98  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes 48 Nays 0  
Approved April 17, 1998

**A BILL FOR**

1 An Act providing for the mandatory recording of certain  
2 residential real estate installment sales contracts, providing  
3 a penalty, and providing for the Act's applicability.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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New Language \_\_\_\_\_

Deleted Language\*

1 Section 1. NEW SECTION. 558.46 MANDATORY RECORDING OF  
2 CERTAIN RESIDENTIAL REAL ESTATE INSTALLMENT SALES CONTRACTS.

3 1. Every real estate installment sales contract  
4 transferring an interest in residential property shall be  
5 recorded by the contract seller with the county recorder in  
6 the county in which the real estate is situated not later than  
7 one hundred eighty days from the date the contract was signed  
8 by the contract seller and contract purchaser.

9 2. Failure to record a real estate contract required to be  
10 recorded by this section by the contract seller within the  
11 specified time limit is punishable by a fine not to exceed one  
12 hundred dollars per day for each day of violation. The county  
13 recorder shall record a real estate contract presented for  
14 recording even though not presented within one hundred eighty  
15 days of the signing of the contract. The county recorder  
16 shall forward to the county attorney a copy of each real  
17 estate contract recorded more than one hundred eighty days  
18 from the date the contract was signed by the contract seller  
19 and contract purchaser. The county attorney shall initiate  
20 action in the district court to enforce the provisions of this  
21 section. Fines collected pursuant to this subsection shall be  
22 deposited in the general fund of the county.

23 3. Failure to timely record shall not invalidate an  
24 otherwise valid real estate contract. However, a contract  
25 seller is prohibited from initiating forfeiture proceedings on  
26 the basis of a failure to comply with the terms of a real  
27 estate contract, if the contract has not been recorded.

28 4. If a real estate contract is required to be recorded  
29 under this section, the requirement is satisfied by recording  
30 either the entire real estate contract or a memorandum of the  
31 contract containing at least the names and addresses of all  
32 parties named in the contract, a description of all real  
33 property and interests in the real property subject to the  
34 contract, the length of the contract, and a statement as to  
35 whether the seller is entitled to the remedy of forfeiture and

1 as to the dates upon which payments are due.

2 5. For the purposes of this section, "residential  
3 property" includes commercial property consisting of three or  
4 more separate living quarters with at least seventy-five  
5 percent of the space used for residential purposes.

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6 6. This section applies to residential real estate  
7 installment sales contracts entered into before, on, or after  
8 July 1, 1998. However, such contracts entered into before  
9 July 1, 1998, shall not be subject to the fine in subsection  
10 2.

11 Sec. 2. Section 558.41, Code 1997, is amended by adding  
12 the following new unnumbered paragraph:

13 NEW UNNUMBERED PARAGRAPH. A provision contained in a  
14 residential real estate installment sales contract which  
15 prohibits the recording of the contract, or the recording of a  
16 memorandum of the contract, is unenforceable by any party to  
17 the contract.

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HOUSE FILE 2281

AN ACT

PROVIDING FOR THE MANDATORY RECORDING OF CERTAIN  
RESIDENTIAL REAL ESTATE INSTALLMENT SALES CONTRACTS,  
PROVIDING A PENALTY, AND PROVIDING FOR THE ACT'S  
APPLICABILITY.

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

Section 1. NEW SECTION. 558.46 MANDATORY RECORDING OF  
CERTAIN RESIDENTIAL REAL ESTATE INSTALLMENT SALES CONTRACTS.

1. Every real estate installment sales contract transferring an interest in residential property shall be recorded by the contract seller with the county recorder in the county in which the real estate is situated not later than one hundred eighty days from the date the contract was signed by the contract seller and contract purchaser.

2. Failure to record a real estate contract required to be recorded by this section by the contract seller within the specified time limit is punishable by a fine not to exceed one hundred dollars per day for each day of violation. The county recorder shall record a real estate contract presented for recording even though not presented within one hundred eighty

days of the signing of the contract. The county recorder shall forward to the county attorney a copy of each real estate contract recorded more than one hundred eighty days from the date the contract was signed by the contract seller and contract purchaser. The county attorney shall initiate action in the district court to enforce the provisions of this section. Fines collected pursuant to this subsection shall be deposited in the general fund of the county.

3. Failure to timely record shall not invalidate an otherwise valid real estate contract. However, a contract seller is prohibited from initiating forfeiture proceedings on the basis of a failure to comply with the terms of a real estate contract, if the contract has not been recorded.

4. If a real estate contract is required to be recorded under this section, the requirement is satisfied by recording either the entire real estate contract or a memorandum of the contract containing at least the names and addresses of all parties named in the contract, a description of all real property and interests in the real property subject to the contract, the length of the contract, and a statement as to whether the seller is entitled to the remedy of forfeiture and as to the dates upon which payments are due.

5. For the purposes of this section, "residential property" includes commercial property consisting of three or more separate living quarters with at least seventy-five percent of the space used for residential purposes.

6. This section applies to residential real estate installment sales contracts entered into before, on, or after July 1, 1998. However, such contracts entered into before July 1, 1998, shall not be subject to the fine in subsection 2.

Sec. 2. Section 558.41, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A provision contained in a residential real estate installment sales contract which



prohibits the recording of the contract, or the recording of a memorandum of the contract, is unenforceable by any party to the contract.

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RON J. CORBETT  
Speaker of the House

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MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2281, Seventy-seventh General Assembly.

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ELIZABETH ISAACSON  
Chief Clerk of the House

Approved April 17, 1998

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TERRY E. BRANSTAD  
Governor