

FEB 27 1997

COMMERCE AND REGULATION

HOUSE FILE 381
BY VAN FOSSEN

(COMPANION TO LSB 1855SS
BY LUNDBY)

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

A BILL FOR

1 An Act relating to transfers of real property by providing that
2 certain disclosures regarding psychologically impacted
3 property are not required and by amending the definition of
4 transfer.

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

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1 Section 1. Section 558A.1, subsection 4, Code 1997, is
2 amended to read as follows:

3 4. "Transfer" means the transfer or conveyance by sale,
4 exchange, real estate contract, or any other method by which
5 real estate and improvements are purchased, if the property
6 includes at least one but not more than four dwelling units.
7 However, a transfer does not include any of the following:

8 a. A transfer made pursuant to a court order, including
9 but not limited to a transfer under chapter 633, the execution
10 of a judgment, the foreclosure of a real estate mortgage
11 pursuant to chapter 654, the forfeiture of a real estate
12 contract under chapter 656, a transfer by a trustee in
13 bankruptcy, a transfer by eminent domain, ~~or~~ a transfer
14 resulting from a decree for specific performance, or a
15 transfer pursuant to writ of execution.

16 b. A transfer to a mortgagee by a mortgagor or successor
17 in interest who is in default, or a transfer by a mortgagee
18 who has acquired real property at a sale conducted pursuant to
19 chapter 654, a transfer back to a mortgagor exercising a right
20 of first refusal pursuant to section 654.16A, a nonjudicial
21 voluntary foreclosure procedure under section 654.18 or
22 chapter 655A, or a deed in lieu of foreclosure under section
23 654.19.

24 c. A transfer by a fiduciary in the course of the
25 administration of a decedent's estate, guardianship,
26 conservatorship, ~~or~~ trust, or power of attorney.

27 d. A transfer between joint tenants or tenants in common.

28 e. A transfer made to a spouse, or to a person in the
29 lineal line of consanguinity of a person making the transfer.

30 f. A transfer between spouses resulting from a decree of
31 dissolution of marriage, a decree of legal separation, or a
32 property settlement agreement which is incidental to the
33 decree, including a decree ordered pursuant to chapter 598.

34 g. A transfer to or from the state, a political
35 subdivision of the state, another state, or the United States.

1 h. A transfer by quitclaim deed.

2 i. A transfer of newly constructed residential real
3 property which has never been occupied.

4 Sec. 2. NEW SECTION. 558A.4A PSYCHOLOGICALLY IMPACTED
5 REAL ESTATE -- DISCLOSURE NOT MANDATED.

6 1. The fact that real estate, or any building or structure
7 on such real estate, may be, or is suspected to be,
8 psychologically impacted real estate, or may be in close
9 proximity to psychologically impacted real estate, is not a
10 material adverse fact that is required to be disclosed in a
11 sale, exchange, rental, or other transfer of such real estate.

12 2. a. For purposes of this section, "psychologically
13 impacted real estate" means real estate where an event has
14 occurred including, but not limited to, any of the following:

15 (1) The death of an individual.

16 (2) A forcible felony as defined in section 702.11, or any
17 other felony.

18 (3) A suicide.

19 (4) A newsworthy event which impacts the property as a
20 result of the notoriety of the event.

21 (5) An occupant of the real estate was infected with the
22 human immunodeficiency virus, or diagnosed with acquired
23 immune deficiency syndrome, or with some other disease which,
24 as determined by medical evidence, would be highly unlikely to
25 be transmitted as a result of occupying such real estate.

26 b. "Psychologically impacted real estate" also includes
27 real estate which is allegedly haunted.

28 3. A cause of action shall not arise against a real estate
29 broker or salesperson for the failure to disclose to a buyer
30 or other transferee of real estate that the transferred real
31 estate is or might be psychologically impacted real estate.
32 This section shall not be construed to authorize or permit
33 such broker or salesperson to make any misrepresentation of
34 fact or false statement, or to fail to disclose a material
35 adverse fact.

EXPLANATION

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2 This bill creates new Code section 558A.4A, which
3 establishes a definition for psychologically impacted real
4 estate. The bill provides that the fact that real estate, or
5 any building or structure on such real estate, may be, or is
6 suspected to be psychologically impacted real estate, or may
7 be sited close to psychologically impacted real estate, is not
8 a material adverse fact that is required to be disclosed in a
9 sale, exchange, rental, or other transfer of such real estate.

10 Psychologically impacted real estate is defined as real
11 estate where an event has occurred or is alleged to have
12 occurred including, but not limited to, the following: an
13 individual has died; a forcible felony as defined in Code
14 section 702.11, or any other felony, has occurred; a suicide
15 has occurred; a newsworthy event has occurred which impacts
16 the property as a result of the notoriety of the event; or an
17 occupant of the real estate was infected with the human
18 immunodeficiency virus, or diagnosed with acquired immune
19 deficiency syndrome, or with some other disease which, as
20 determined by medical evidence, would be highly unlikely to be
21 transmitted as a result of occupying such real estate. The
22 bill provides that psychologically impacted real estate also
23 includes real estate which is allegedly haunted or rumored to
24 be haunted.

25 The bill also provides that a cause of action does not
26 arise against a real estate broker or salesperson for the
27 failure to disclose to a buyer or other transferee of real
28 estate that the transferred real estate is or might be
29 psychologically impacted real estate.

30 The bill also amends the definition of "transfer" for
31 purposes of disclosure requirements under Code chapter 558A,
32 to exclude a transfer pursuant to a writ of execution, a
33 transfer by a fiduciary in administering a decedent's power of
34 attorney, and a transfer of newly constructed residential real
35 property which has never been occupied.