

Senate Study Bill 2181

Bill Text

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1 1 Section 1. NEW SECTION. 626C.1 DEFINITION.
1 2 As used in this chapter, unless the context otherwise
1 3 requires, "bankruptcy transcript" means a document or
1 4 documents certified by the clerk or deputy clerk of any United
1 5 States bankruptcy court as being true and correct copies of
1 6 documents on file with the United States bankruptcy court of
1 7 any district in the United States which is entitled to full
1 8 faith and credit in this state. "Bankruptcy transcript"
1 9 includes a bankruptcy court clerk's certificate of the
1 10 proceedings that have transpired in a bankruptcy as is
1 11 necessary to satisfy all applicable title standards of this
1 12 state.
1 13 Sec. 2. NEW SECTION. 626C.2 FILING AND STATUS OF
1 14 BANKRUPTCY TRANSCRIPTS.
1 15 A bankruptcy transcript authenticated in accordance with an
1 16 Act of Congress or the statutes of the state may be filed in
1 17 the office of the clerk of the district court of a county in
1 18 which real estate affected by the bankruptcy is located.
1 19 Sec. 3. NEW SECTION. 626C.3 NOTICE OF FILING.
1 20 1. At the time of the filing of the bankruptcy transcript,
1 21 the person filing the transcript shall make and file with the
1 22 clerk of the district court an affidavit setting forth the
1 23 name and last known post office address of the owner of the
1 24 affected real estate and of the person filing the bankruptcy
1 25 transcript.
1 26 2. Promptly upon the filing of the bankruptcy transcript
1 27 and the affidavit as provided in subsection 1, the clerk shall
1 28 mail notice of the filing of the bankruptcy transcript to the
1 29 owner of the affected real estate at the address given and
1 30 shall make a note of the mailing in the docket. The notice
1 31 shall include the name and post office address of the person
1 32 filing the bankruptcy transcript and the attorney for that
1 33 person, if any, in this state.
1 34 Sec. 4. NEW SECTION. 626C.4 STAY.
1 35 If the real estate owner shows the district court in which
2 1 the bankruptcy transcript is filed that an appeal from any
2 2 portion of the bankruptcy transcript is pending or will be
2 3 taken, or that a stay of execution has been granted, the court
2 4 shall stay the effect of the bankruptcy transcript until the
2 5 appeal is concluded, the time for appeal expires, or the stay
2 6 of execution expires or is vacated.
2 7 Sec. 5. NEW SECTION. 626C.5 AMENDMENT.
2 8 A bankruptcy transcript may be amended as necessary to
2 9 clear title to all real estate located in the county of filing
2 10 which is affected by any bankruptcy without payment of any
2 11 additional fee.
2 12 Sec. 6. NEW SECTION. 626C.6 FEE.
2 13 For filing a bankruptcy transcript, the clerk shall collect
2 14 a fee in the amount collected for filing and docketing a
2 15 petition under section 602.8105, subsection 1, paragraph "a".
2 16 Sec. 7. NEW SECTION. 626C.7 OPTIONAL PROCEDURE.
2 17 The right of a party in interest or the owner of real
2 18 estate to record all documents necessary to clear title to
2 19 real estate involved in a bankruptcy case, instead of
2 20 proceeding under this chapter, remains unimpaired.
2 21

EXPLANATION

2 22 This bill provides an alternative method for getting the
2 23 record of bankruptcies into the records of the counties in
2 24 which real estate of bankrupt debtors is located. At the
2 25 current time, the only uniform way of getting the information
2 26 into the county records is recording each page at a set fee
2 27 per page. The bill allows for a bankruptcy transcript, which
2 28 has been authenticated in accordance with federal or Iowa law,
2 29 to be filed in the office of the clerk of the district court
2 30 of the county in which real estate affected by the bankruptcy
2 31 is located. A "bankruptcy transcript" is any documents
2 32 certified by the clerk of any United States bankruptcy court
2 33 as being true and correct copies of documents on file with the
2 34 bankruptcy court which is entitled to full faith and credit by
2 35 this state. Once a bankruptcy transcript is filed, notice
3 1 will be provided to the owner of the real estate affected by
3 2 the transcript.

3 3 The owner of the real property may receive a stay of the
3 4 effect of the bankruptcy transcript if the owner shows the
3 5 district court that an appeal is pending or will be taken or
3 6 that a stay of execution has been granted. The stay of the
3 7 effect of the bankruptcy transcript will remain in effect
3 8 until the appeal is concluded, the time of appeal expires, or
3 9 the stay of execution expires or is vacated, whichever is
3 10 applicable.

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