

3/10/99 Amend Do Pass w/H 1067

REPRINTED

MAR 2 1999

COMMERCE AND REGULATION

HOUSE FILE 461

BY MILLAGE

(p. 723)
 Passed House, Date 3-17-99 Passed Senate, Date _____
 Vote: Ayes 93 Nays 0 Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to filing of a notice of an assignment of a
 2 mortgage.
 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 461

H-1067

- 1 Amend House File 461 as follows:
- 2 1. Page 1, by striking line 13 and inserting the
- 3 following:
- 4 "a. A person who sells or otherwise transfers the
- 5 servicing of a mortgage".
- 6 2. Page 1, by inserting after line 33 the
- 7 following:
- 8 "Sec. ____ . EFFECTIVE DATE AND APPLICABILITY. This
- 9 Act takes effect on October 1, 1999, and applies to a
- 10 sale or transfer of a mortgage, or a satisfaction of a
- 11 mortgage which occurs on or after October 1, 1999."
- 12 3. Title page, line 2, by inserting after the
- 13 word "mortgage" the following: "and providing an
- 14 effective and applicability date".
- 15 4. By renumbering as necessary.

By COMMITTEE ON COMMERCE AND
 REGULATION
 METCALF of Polk, Chairperson

H-1067 FILED MARCH 10, 1999

Adopted 3-17-99

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H-1067

1 Section 1. Section 331.602, Code 1999, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 31A. Record assignments and releases of
4 mortgages as provided in section 558.45.

5 Sec. 2. Section 558.45, Code 1999, is amended to read as
6 follows:

7 558.45 FILING NOTICE OF ASSIGNMENT -- NOTATION OF
8 ASSIGNMENT OR RELEASE ON INDEX.

9 1. Where any mortgage, contract, or other instrument
10 constituting an encumbrance upon real estate shall-be is
11 assigned or released by-a-separate-instrument-it-shall-be-the
12 duty-of-the-recorder-to, the following filings shall be made:

13 a. A person who purchases or otherwise receives a mortgage
14 shall, within thirty days of the transfer of such mortgage,
15 file notice of the assignment of the mortgage with the county
16 recorder of the county in which the underlying real estate is
17 located.

18 b. Satisfaction of a mortgage shall be recorded pursuant
19 to section 655.1.

20 2. Filings under subsection 1 shall be made pursuant to
21 the provisions of chapter 331.

22 3. The recorder shall make a notation of filings made
23 pursuant to subsection 1 in red ink on the index and cross-
24 index where such instrument was originally indexed, indicating
25 the nature of such assignment or release and the book and page
26 where the same is recorded, or make such other record as
27 authorized by chapter 331.

28 4. Failure to file notice of an assignment pursuant to
29 subsection 1, paragraph "a", shall result in liquidated
30 damages of one thousand dollars. The liquidated damages,
31 unless waived by the mortgagor, shall be paid to the mortgagor
32 via civil suit filed by the mortgagor. The mortgagor may also
33 recover the costs of suit, including attorney fees.

34 EXPLANATION

35 This bill amends Code section 558.45 to require the filing

1 of a notice of an assignment of a mortgage within 30 days of
2 the transfer of the mortgage by the person who purchases or
3 otherwise receives the mortgage. Failure to comply with this
4 requirement shall result in \$1,000 in liquidated damages to be
5 paid to the mortgagor via civil suit filed by the mortgagor,
6 although the damages may be waived by the mortgagor. The
7 mortgagor may also recover the costs of suit.

8 The Code section continues to require the county recorder
9 to note the assignment or release in county records.

10 A reference is added to satisfaction of mortgages under
11 Code section 655.1, in order to coordinate the two sections.
12 A coordinating reference is also made to section 331.602,
13 regarding duties of the county recorder.

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S-3/17/99 Commerce
S-3/25/99 Do Pass

HOUSE FILE 461
BY MILLAGE

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

A BILL FOR

1 An Act relating to filing of a notice of an assignment of a
2 mortgage and providing an effective and applicability date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

HOUSE FILE 461

S-3297

- 1 Amend House File 461, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, line 15 by inserting after the words
4 "the mortgage" the following: "and a copy of a
5 certified letter to the mortgagor postmarked at least
6 thirty days prior to the transfer of the mortgage
7 notifying the mortgagor of the impending transfer of
8 such mortgage and the identity of the transferee".
9 2. Page 1, line 28, by inserting after the word
10 "assignment" the following: "or a copy of the
11 certified letter notifying the mortgagor of the
12 transfer".
13 3. By renumbering or relettering as necessary.

By MATT McCOY
STEVEN D. HANSEN

S-3297 FILED APRIL 6, 1999

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HF 461
mj/jg/25

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4 mortgages as provided in section 558.45.

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6 follows:

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8 ASSIGNMENT OR RELEASE ON INDEX.

9 1. Where any mortgage, contract, or other instrument
10 constituting an encumbrance upon real estate shall-be is
11 assigned or released by-a-separate-instrument-it-shall-be-the
12 duty-of-the-recorder-to, the following filings shall be made:

13 a. A person who sells or otherwise transfers the servicing
14 of a mortgage shall, within thirty days of the transfer of
15 such mortgage, file notice of the assignment of the mortgage
16 with the county recorder of the county in which the underlying
17 real estate is located.

18 b. Satisfaction of a mortgage shall be recorded pursuant
19 to section 655.1.

20 2. Filings under subsection 1 shall be made pursuant to
21 the provisions of chapter 331.

22 3. The recorder shall make a notation of filings made
23 pursuant to subsection 1 in red ink on the index and cross-
24 index where such instrument was originally indexed, indicating
25 the nature of such assignment or release and the book and page
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27 authorized by chapter 331.

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30 damages of one thousand dollars. The liquidated damages,
31 unless waived by the mortgagor, shall be paid to the mortgagor
32 via civil suit filed by the mortgagor. The mortgagor may also
33 recover the costs of suit, including attorney fees.

34 Sec. 3. EFFECTIVE DATE AND APPLICABILITY. This Act takes
35 effect on October 1, 1999, and applies to a sale or transfer

1 of a mortgage, or a satisfaction of a mortgage which occurs on
2 or after October 1, 1999.

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