

# REPRINTED

MAR 3 1999

LOCAL GOVERNMENT

HOUSE FILE  
BY BRAUNS

472

Passed House, Date 3/24/99 <sup>(p. 826)</sup> Passed Senate, Date 4/15/99 <sup>(p. 1150)</sup>  
 Vote: Ayes 93 Nays 0 Vote: Ayes 47 Nays 0  
 Approved 5/18/99

## A BILL FOR

- 1 An Act relating to burial sites on private property.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3

### HOUSE FILE 472

H-1069

- 1 Amend House File 472 as follows:
- 2 1. Page 1, line 21, by inserting after the word
- 3 "site" the following: "if placement of such a fence
- 4 or enclosure does not unreasonably interfere with the
- 5 owner's use and enjoyment of the property".

By CARROLL of Poweshiek  
FALLON of Polk

H-1069 FILED MARCH 10, 1999

*withdrawn 3/24/99 (p. 826)*

### HOUSE FILE 472

H-1210

- 1 Amend House File 472 as follows:
- 2 1. Page 1, by striking lines 14 through 26 and
- 3 inserting the following: "the owner of the property
- 4 shall permit the person reasonable ingress and egress
- 5 for the purposes of visiting the burial site, and the
- 6 governmental subdivision or agency shall notify the
- 7 owner of this obligation."
- 8 2. By renumbering as necessary.

By BRAUNS of Muscatine  
CARROLL of Poweshiek  
FALLON of Polk

H-1210 FILED MARCH 24, 1999

ADOPTED *(p. 826)*

HF 472

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1 Section 1. Section 558A.4, Code 1999, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 3. The disclosure statement shall include  
4 information regarding the existence of any private burial site  
5 located on the property described in section 566.35 and  
6 included at any time on the abstract of title.

7 Sec. 2. NEW SECTION. 566.35 BURIAL SITES LOCATED ON  
8 PRIVATE PROPERTY.

9 1. If a person notifies a governmental subdivision or  
10 agency of the existence within the jurisdiction of the  
11 governmental subdivision or agency of a burial site of the  
12 person's ancestor on property owned by another person, and the  
13 burial site was included on the abstract of title at any time,  
14 the governmental subdivision or agency shall notify the owner  
15 of the property of the following obligations of the owner:

16 a. That the owner shall permit the person reasonable  
17 ingress and egress for the purposes of visiting the burial  
18 site.

19 b. That the owner shall permit the person, at the person's  
20 own expense, to place a fence or enclosure around the burial  
21 site.

22 2. The county sheriff or other law enforcement officer  
23 shall enforce subsection 1, if the owner of the property  
24 denies the person access to the burial site or refuses to  
25 allow the person to place a fence or enclosure around the  
26 burial site.

27 3. The real estate disclosure information required  
28 pursuant to section 558A.4 shall include the existence of any  
29 private burial site located on the property.

30 EXPLANATION

31 This bill provides that if a person notifies a governmental  
32 subdivision or agency that a burial site of the person's  
33 ancestor is located on property owned by another person, the  
34 governmental subdivision or agency shall notify the owner that  
35 the person shall be permitted reasonable ingress and egress to

1 visit the burial site and, at the person's own expense, to  
2 place a fence or other enclosure around the burial site. The  
3 county sheriff or other law enforcement officer is authorized  
4 to enforce the provisions of the bill. The bill also requires  
5 that the real estate disclosure form is to include information  
6 about the existence of any private burial site located on the  
7 property.

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3-24-99 Local Gov  
S. 4/1/99 Amend/Do Pass  
W/S-3219

HOUSE FILE 472  
BY BRAUNS

(As Amended and Passed by the House, March 24, 1999)

Passed House, <sup>(P.1457)</sup> Date 4/20/99 Passed Senate, Date 4/15/99 <sup>(P.1150)</sup>  
Vote: Ayes 94 Nays 0 Vote: Ayes 47 Nays 0  
Approved 5/18/99

**A BILL FOR**

- 1 An Act relating to burial sites on private property.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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House Amendments \_\_\_\_\_

**HOUSE FILE 472**

S-3219

- 1 Amend House File 472 as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 1, lines 5 and 6, by striking the words
- 4 "and included at any time on the abstract of title".
- 5 2. Page 1, by striking lines 12 and 13, and
- 6 inserting the following: "person's ancestor on
- 7 property owned by another person,".

By COMMITTEE ON LOCAL GOVERNMENT  
JEFF ANGELO, Chairperson

*Adopted 4/15/99 (P.1146) - Motion to R/C by McKeon 4/15/99*  
S-3219 FILED APRIL 1, 1999 *Motion Prevalent*  
*S-3219 Withdrawn*

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1 Section 1. Section 558A.4, Code 1999, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 3. The disclosure statement shall include  
4 information regarding the existence of any private burial site  
5 located on the property described in section 566.35 and  
6 included at any time on the abstract of title.

7 Sec. 2. NEW SECTION. 566.35 BURIAL SITES LOCATED ON  
8 PRIVATE PROPERTY.

9 1. If a person notifies a governmental subdivision or  
10 agency of the existence within the jurisdiction of the  
11 governmental subdivision or agency of a burial site of the  
12 person's ancestor on property owned by another person, and the  
13 burial site was included on the abstract of title at any time,  
14 the owner of the property shall permit the person reasonable  
15 ingress and egress for the purposes of visiting the burial  
16 site, and the governmental subdivision or agency shall notify  
17 the owner of this obligation.

18 2. The real estate disclosure information required  
19 pursuant to section 558A.4 shall include the existence of any  
20 private burial site located on the property.

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## HOUSE FILE 472

S-3368

1 Amend House File 472, as amended, passed and  
2 reprinted by the House, as follows:

3 1. Page 1, by striking lines 1 through 6, and  
4 inserting the following:

5 "Section 1. Section 558.69, Code 1999, is amended  
6 to read as follows:

7 558.69 REPORTING OF PRIVATE BURIAL SITES, WELLS,  
8 DISPOSAL SITES, UNDERGROUND STORAGE TANKS, AND  
9 HAZARDOUS WASTE -- LIABILITY.

10 With each declaration of value submitted to the  
11 county recorder under chapter 428A, there shall also  
12 be submitted a statement regarding whether any known  
13 private burial site is situated on the property, and  
14 if a known private burial site is situated on the  
15 property, the statement shall state the approximate  
16 location of the site. The statement shall also state  
17 that no known wells are situated on the property, or  
18 if known wells are situated on the property, the  
19 statement must state the approximate location of each  
20 known well and its status with respect to section  
21 159.29 or 455B.190. The statement shall also state  
22 that no known disposal site for solid waste, as  
23 defined in section 455B.301, which has been deemed to  
24 be potentially hazardous by the department of natural  
25 resources, exists on the property, or if such a known  
26 disposal site does exist, the location of the site on  
27 the property. The statement shall additionally state  
28 that no known underground storage tank, as defined in  
29 section 455B.471, subsection 11, exists on the  
30 property, or if a known underground storage tank does  
31 exist, the type and size of the tank, and any known  
32 substance in the tank. The statement shall also state  
33 that no known hazardous waste as defined in section  
34 455B.411, subsection 3, or listed by the department  
35 pursuant to section 455B.412, subsection 2, or section  
36 455B.464, exists on the property, or if known  
37 hazardous waste does exist, that the waste is being  
38 managed in accordance with rules adopted by the  
39 department of natural resources. The statement shall  
40 be signed by at least one of the sellers or their  
41 agents. The county recorder shall refuse to record  
42 any deed, instrument, or writing for which a  
43 declaration of value is required under chapter 428A  
44 unless the statement required by this section has been  
45 submitted to the county recorder. A buyer of property  
46 shall be provided with a copy of the statement  
47 submitted, and, following the fulfillment of this  
48 provision, if the statement submitted reveals no  
49 private burial site, well, disposal site, underground  
50 storage tank, or hazardous waste on the property, the

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1 county recorder may destroy the statement. The land  
2 application of sludges or soils resulting from the  
3 remediation of underground storage tank releases  
4 accomplished in compliance with department of natural  
5 resources rules without a permit is not required to be  
6 reported as the disposal of solid waste or hazardous  
7 waste.

8 If a declaration of value is not required, the  
9 above information shall be submitted on a separate  
10 form. The director of the department of natural  
11 resources shall prescribe the form of the statement  
12 and the separate form to be supplied by each county  
13 recorder in the state. The county recorder shall  
14 transmit the statements to the department of natural  
15 resources at times directed by the director of the  
16 department.

17 The owner of the property is responsible for the  
18 accuracy of the information submitted on the form.  
19 The owner's agent shall not be liable for the accuracy  
20 of information provided by the owner of the property.  
21 The provisions of this paragraph do not limit  
22 liability which may be imposed under a contract or  
23 under any other law."

24 2. Page 1, by striking lines 12 and 13, and  
25 inserting the following: "person's ancestor on  
26 property owned by another person,".

27 3. Page 1, by striking lines 18 through 20, and  
28 inserting the following:

29 "2. Pursuant to section 558.69, the declaration of  
30 value submitted to the county recorder under chapter  
31 428A shall also include the existence of any known  
32 private burial site situated on the property."

By ANDY MCKEAN  
MARK SHEARER

S-3368 FILED APRIL 14, 1999

SENATE AMENDMENT TO HOUSE FILE 472

H-1633

1 Amend House File 472, as amended, passed and  
2 reprinted by the House, as follows:

3 1. Page 1, by striking lines 1 through 6, and  
4 inserting the following:

5 "Section 1. Section 558.69, Code 1999, is amended  
6 to read as follows:

7 558.69 REPORTING OF PRIVATE BURIAL SITES, WELLS,  
8 DISPOSAL SITES, UNDERGROUND STORAGE TANKS, AND  
9 HAZARDOUS WASTE -- LIABILITY.

10 With each declaration of value submitted to the  
11 county recorder under chapter 428A, there shall also  
12 be submitted a statement regarding whether any known  
13 private burial site is situated on the property, and  
14 if a known private burial site is situated on the  
15 property, the statement shall state the approximate  
16 location of the site. The statement shall also state  
17 that no known wells are situated on the property, or  
18 if known wells are situated on the property, the  
19 statement must state the approximate location of each  
20 known well and its status with respect to section  
21 159.29 or 455B.190. The statement shall also state  
22 that no known disposal site for solid waste, as  
23 defined in section 455B.301, which has been deemed to  
24 be potentially hazardous by the department of natural  
25 resources, exists on the property, or if such a known  
26 disposal site does exist, the location of the site on  
27 the property. The statement shall additionally state  
28 that no known underground storage tank, as defined in  
29 section 455B.471, subsection 11, exists on the  
30 property, or if a known underground storage tank does  
31 exist, the type and size of the tank, and any known  
32 substance in the tank. The statement shall also state  
33 that no known hazardous waste as defined in section  
34 455B.411, subsection 3, or listed by the department  
35 pursuant to section 455B.412, subsection 2, or section  
36 455B.464, exists on the property, or if known  
37 hazardous waste does exist, that the waste is being  
38 managed in accordance with rules adopted by the  
39 department of natural resources. The statement shall  
40 be signed by at least one of the sellers or their  
41 agents. The county recorder shall refuse to record  
42 any deed, instrument, or writing for which a  
43 declaration of value is required under chapter 428A  
44 unless the statement required by this section has been  
45 submitted to the county recorder. A buyer of property  
46 shall be provided with a copy of the statement  
47 submitted, and, following the fulfillment of this  
48 provision, if the statement submitted reveals no  
49 private burial site, well, disposal site, underground  
50 storage tank, or hazardous waste on the property, the

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Page 2

1 county recorder may destroy the statement. The land  
2 application of sludges or soils resulting from the  
3 remediation of underground storage tank releases  
4 accomplished in compliance with department of natural  
5 resources rules without a permit is not required to be  
6 reported as the disposal of solid waste or hazardous  
7 waste.

8 If a declaration of value is not required, the  
9 above information shall be submitted on a separate  
10 form. The director of the department of natural  
11 resources shall prescribe the form of the statement  
12 and the separate form to be supplied by each county  
13 recorder in the state. The county recorder shall  
14 transmit the statements to the department of natural  
15 resources at times directed by the director of the  
16 department.

17 The owner of the property is responsible for the  
18 accuracy of the information submitted on the form.  
19 The owner's agent shall not be liable for the accuracy  
20 of information provided by the owner of the property.  
21 The provisions of this paragraph do not limit  
22 liability which may be imposed under a contract or  
23 under any other law."

24 2. Page 1, by striking lines 12 and 13, and  
25 inserting the following: "person's ancestor on  
26 property owned by another person,".

27 3. Page 1, by striking lines 18 through 20, and  
28 inserting the following:

29 "2. Pursuant to section 558.69, the declaration of  
30 value submitted to the county recorder under chapter  
31 428A shall also include the existence of any known  
32 private burial site situated on the property."

RECEIVED FROM THE SENATE

H-1633 FILED APRIL 15, 1999

*House Concurred*  
*4/20/99*  
*(P. 1457)*

AN ACT  
RELATING TO BURIAL SITES ON PRIVATE PROPERTY.

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

Section 1. Section 558.69, Code 1999, is amended to read as follows:

558.69 REPORTING OF PRIVATE BURIAL SITES, WELLS, DISPOSAL SITES, UNDERGROUND STORAGE TANKS, AND HAZARDOUS WASTE -- LIABILITY.

With each declaration of value submitted to the county recorder under chapter 428A, there shall also be submitted a statement regarding whether any known private burial site is situated on the property, and if a known private burial site is situated on the property, the statement shall state the approximate location of the site. The statement shall also state that no known wells are situated on the property, or if known wells are situated on the property, the statement must state the approximate location of each known well and its status with respect to section 159.29 or 455B.190. The statement shall also state that no known disposal site for solid waste, as defined in section 455B.301, which has been deemed to be potentially hazardous by the department of natural resources, exists on the property, or if such a known disposal site does exist, the location of the site on the property. The statement shall additionally state that no known underground storage tank, as defined in section 455B.471, subsection 11, exists on the property, or if a known underground storage tank does exist, the type and size of the tank, and any known substance in the tank. The statement shall also state that no known hazardous waste as defined in section 455B.411, subsection 3, or listed by the department pursuant to section 455B.412, subsection 2, or section

455B.464, exists on the property, or if known hazardous waste does exist, that the waste is being managed in accordance with rules adopted by the department of natural resources. The statement shall be signed by at least one of the sellers or their agents. The county recorder shall refuse to record any deed, instrument, or writing for which a declaration of value is required under chapter 428A unless the statement required by this section has been submitted to the county recorder. A buyer of property shall be provided with a copy of the statement submitted, and, following the fulfillment of this provision, if the statement submitted reveals no private burial site, well, disposal site, underground storage tank, or hazardous waste on the property, the county recorder may destroy the statement. The land application of sludges or soils resulting from the remediation of underground storage tank releases accomplished in compliance with department of natural resources rules without a permit is not required to be reported as the disposal of solid waste or hazardous waste.

If a declaration of value is not required, the above information shall be submitted on a separate form. The director of the department of natural resources shall prescribe the form of the statement and the separate form to be supplied by each county recorder in the state. The county recorder shall transmit the statements to the department of natural resources at times directed by the director of the department.

The owner of the property is responsible for the accuracy of the information submitted on the form. The owner's agent shall not be liable for the accuracy of information provided by the owner of the property. The provisions of this paragraph do not limit liability which may be imposed under a contract or under any other law.

Sec. 2. NEW SECTION. 566.35 BURIAL SITES LOCATED ON PRIVATE PROPERTY.

1. If a person notifies a governmental subdivision or agency of the existence within the jurisdiction of the governmental subdivision or agency of a burial site of the

person's ancestor on property owned by another person, the owner of the property shall permit the person reasonable ingress and egress for the purposes of visiting the burial site, and the governmental subdivision or agency shall notify the owner of this obligation.

2. Pursuant to section 558.69, the declaration of value submitted to the county recorder under chapter 428A shall also include the existence of any known private burial site situated on the property.

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BRENT SIEGRIST  
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 472, Seventy-eighth General Assembly.

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ELIZABETH ISAACSON  
Chief Clerk of the House

Approved 5/18, 1999

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THOMAS J. VILSACK  
Governor