

Senate Study Bill 1091

Bill Text

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1 1 Section 1. Section [6B.35](#), subsection 5, Code 2001, is
1 2 amended to read as follows:
1 3 5. A written statement by the sheriff of all money
1 4 received in payment of damages, from whom received, to whom
1 5 paid, and the amount paid to each claimant and reference to
1 6 the application for condemnation by

~~book and page~~
~~document~~

1 7 [reference](#) or instrument number and the date the application
1 8 was filed with the county recorder.

1 9 Sec. 2. Section [22.3](#), Code 2001, is amended to read as
1 10 follows:

1 11 22.3 SUPERVISION.

1 12 Such examination and copying shall be done under the
1 13 supervision of the lawful custodian of the records or the
1 14 custodian's authorized

~~deputy~~

~~designee~~. The lawful custodian
1 15 may adopt and enforce reasonable rules regarding

~~such~~

~~the work~~

1 16 and the protection of the records against damage or
1 17 disorganization. The lawful custodian shall provide a
1 18 suitable place for

~~such~~

~~the work~~, but if it is impracticable
1 19 to do

~~such~~

~~the work~~ in the office of the lawful custodian, the
1 20 person desiring to examine or copy shall pay any necessary
1 21 expenses of providing a place for

~~such~~

~~the work~~. All expenses
1 22 of

~~such~~

~~the work~~ shall be paid by the person desiring to
1 23 examine or copy. The lawful custodian may charge a reasonable
1 24 fee for the services of the lawful custodian or the
1 25 custodian's authorized

~~deputy~~

~~designee~~ in supervising the
1 26 records during

~~such~~

~~the work~~. If copy equipment is available
1 27 at the office of the lawful custodian of any public records,
1 28 the lawful custodian shall provide any person a reasonable
1 29 number of copies of any public record in the custody of the

1 30 office upon the payment of a fee. The fee for the copying
1 31 service as determined by the lawful custodian shall not exceed
1 32 the cost of providing the service.
1 33 Sec. 3. Section [96.14](#), subsection 3, unnumbered paragraphs
1 34 3 and 4, Code 2001, are amended to read as follows:
1 35 The county recorder of each county shall prepare and keep
2 1 in the recorder's office

~~a book to be known as "index of~~

~~2 2~~

~~unemployment contribution liens", so ruled as~~

~~- an index to show~~

~~2 3~~

~~in appropriate columns~~

~~- the following data, under the names of~~

~~2 4 employers, arranged alphabetically:~~

~~2 5 The recorder shall endorse on each notice of lien the day,~~

~~2 6 hour, and minute when received and shall~~

~~forthwith~~

~~- index~~

~~said~~

~~2 7 the notice in~~

~~said~~

~~- the index~~

~~book~~

~~- and shall~~

~~forthwith~~

~~- record~~

~~2 8~~

~~said~~

~~- the lien in the manner provided for recording real estate~~

~~2 9 mortgages, and the~~

~~said~~

~~- the lien shall be effective from the~~

~~2 10 time of the indexing~~

~~thereof~~

~~- of the lien.~~

~~2 11 Sec. 4. Section [331.602](#), subsection 1, paragraph d, Code~~

~~2 12 2001, is amended to read as follows:~~

~~2 13 d. An instrument conveying an interest in real property,~~

~~2 14 other than a mortgage, a mortgage release, or an assignment,~~

~~2 15 shall contain the statement "Address tax statement:" which~~

~~2 16 shall be filled out with~~

~~a~~

~~- the name of the taxpayer and a~~

~~2 17 complete mailing address. Each instrument conveying an~~

~~2 18 interest in real property shall contain this statement unless~~

~~2 19 otherwise authorized by the county recorder.~~

~~2 20 Sec. 5. Section [331.602](#), subsections 2 and 23, Code 2001,~~

~~2 21 are amended to read as follows:~~

~~2 22 2. Rerecord an instrument without fee upon presentation of~~

~~2 23 the original instrument by the owner if an error is made in~~

~~2 24 recording the instrument. The recorder shall also note~~

~~in the~~

-
2 25

~~margin of~~

- on the new record a reference to the original record
2 26 and

~~in the margin of~~

- on the original record a reference to the
2 27

~~book and page of the~~

- new record.

2 28 23. Forward to the director of revenue and finance a
2 29

~~certified~~

- copy of any deed, bill of sale or other transfer

2 30 which shows that it is made or intended to take effect at or
2 31 after the death of the person executing the instrument as
2 32 provided in section 450.81.

2 33 Sec. 6. Section [331.603](#), subsection 3, Code 2001, is
2 34 amended to read as follows:

2 35 3. The recorder may reproduce in miniature on a durable
3 1 medium any instrument to be recorded. When a recorded
3 2 instrument involves a release or assignment, the separate
3 3 instrument filed acknowledging the release or assignment shall
3 4 be reproduced

~~in miniature~~

- In lieu of marginal entries, the
3 5 recorder shall make

~~endorsements in red ink~~

- notations on both

3 6 the index and the

~~cross index to the miniature instruments~~

-
3 7

~~where the instruments were originally indexed~~

- record of the

3 8 original instrument. When an official record is produced in
3 9 miniature, a security copy shall be reproduced at the same
3 10 time and kept outside of the courthouse.

3 11 Sec. 7. Section [331.605A](#), unnumbered paragraph 1, Code
3 12 2001, is amended to read as follows:

3 13 The recorder shall also collect a fee of one dollar for
3 14 each recorded transaction for which a fee is paid pursuant to
3 15 section 331.604 to be used exclusively for the purpose of
3 16 preserving and maintaining public records. The treasurer, on
3 17 behalf of the recorder, shall establish and maintain an
3 18 interest-bearing account into which all moneys collected
3 19 pursuant to this section shall be deposited. The recorder
3 20 shall use the moneys deposited in the account to produce and
3 21 maintain public records that meet archival standards, and to
3 22 enhance the technological storage, retrieval, and transmission
3 23 capabilities related to archival quality records. The
3 24 recorder may cooperate with other entities, boards, and
3 25 agencies to establish methods of records management, and
3 26 participate in other joint ventures which further the purposes
3 27 of this paragraph.

3 28 Sec. 8. Section [331.606](#), subsection 2, Code 2001, is
3 29 amended to read as follows:

3 30 2. The recorder shall also note in the index

~~book~~

- the

3 31 exact time of the filing of each instrument.

3 32 Sec. 9. Section [331.607](#), subsections 1, 7, 8, 9, and 11,

3 33 Code 2001, are amended to read as follows:

3 34 1. A record

~~book~~

- for military discharges as provided in

3 35 section 331.608.

4 1 7. Index and

~~record books~~

- records for instruments

4 2 affecting real estate as provided under chapter 558.

4 3 8.

~~Homestead and index books~~

- An index and record of

4 4 homesteads as provided in section 561.4.

4 5 9. A claimant's

~~book in which~~

- index and record for the

4 6 notices of title interests in land

~~are indexed~~

- as provided in

4 7 section 614.35.

4 8 11. Other

~~books~~

- indexes and records as provided by law.

4 9 Sec. 10. Section [331.608](#), subsection 1, Code 2001, is

4 10 amended to read as follows:

4 11 1. The recorder shall maintain a

~~special book~~

- record in

4 12 which, upon request, the discharge of a veteran shall be

4 13 recorded without charge.

~~The discharge book shall be a~~

-

4 14

~~uniform type, kind, and form approved by the commission of~~

-

4 15

~~veterans affairs.~~

-

4 16 Sec. 11. Section [331.609](#), subsection 3, paragraph c, Code

4 17 2001, is amended to read as follows:

4 18 c. If a refiled notice of federal lien referred to in

4 19 paragraph "a" or any of the certificates or notices referred

4 20 to in paragraph "b" is presented for recording with a

4 21 recorder, the recorder shall

~~permanently attach the refiled~~

-

4 22

~~notice or the certificate to the original notice of lien and~~

-

4 23

~~shall~~

- enter the refiled notice or the certificate with the
4 24 date of recording in an alphabetical index and make a notation
4 25 on the original record of a reference to the refiled notice or
4 26 certificate.

4 27 Sec. 12. Section [354.1](#), subsection 3, Code 2001, is
4 28 amended to read as follows:

4 29 3. To provide for statewide, uniform procedures and
4 30 standards for the platting of land while allowing the widest
4 31 possible latitude for cities and counties to establish and
4 32 enforce ordinances regulating the division and use of land,
4 33 within the scope of, but not limited to, chapters 331, 335,
4 34 364, 414, and this chapter. All documents presented for
4 35 recording pursuant to this chapter shall comply with section
5 1 331.602, subsection 1.

5 2 Sec. 13. Section [354.5](#), subsection 1, paragraph b, Code
5 3 2001, is amended to read as follows:

5 4 b. The

~~book and page~~

- document reference number of the
5 5 recorded plat of survey.

5 6 Sec. 14. Section [354.5](#), subsection 2, paragraph b, Code
5 7 2001, is amended to read as follows:

5 8 b. The

~~book and page~~

- document reference number of the
5 9 recorded acquisition plat.

5 10 Sec. 15. Section [354.24](#), Code 2001, is amended to read as
5 11 follows:

5 12 354.24 ERRORS ON RECORDED PLATS.

5 13 If an error or omission in the data shown on a recorded
5 14 plat is detected by subsequent examinations or revealed by
5 15 retracing the lines shown on the plat, the original surveyor
5 16 or two surveyors confirming the error through independent
5 17 surveys shall record an affidavit confirming that the error or
5 18 omission was made. The affidavit shall describe the nature
5 19 and extent of the error or omission and also describe the
5 20 corrections or additions to be made to the plat and note

~~the~~

-
5 21

~~book and page~~

- a document reference number of the recorded
5 22 plat. The recorder shall

~~write across that part~~

- note on the
5 23 record of the plat

~~so corrected~~

- the word "corrected", and note
5 24 the

~~book and page~~

- document reference number of the recorded
5 25 affidavit. A copy of the recorded affidavit shall be filed
5 26 with the auditor and assessor. The affidavit shall raise a
5 27 presumption from the date of recording that the purported
5 28 facts stated in the affidavit are true, and after the lapse of
5 29 three years from the date of recording the presumption shall
5 30 be conclusive.

5 31 Sec. 16. Section [354.26](#), Code 2001, is amended to read as

5 32 follows:

5 33 354.26 CORRECTIONS OR CHANGES TO PLATS.

5 34 A vacation, correction, or replatting as provided for in
5 35 this chapter, shall be recorded and an exact copy shall be
6 1 filed with the auditor and assessor. If a governing body
6 2 changes the addresses or street names shown on an official
6 3 plat, notice of the change shall note the name or other
6 4 designation of each official plat affected and shall be filed
6 5 with the recorder, auditor, and assessor. The recorder shall
6 6 note the vacation, correction, or replatting on the

~~margin~~

6 7 index and record of the official plat or upon an attachment to
6 8 the official plat for that purpose. The auditor shall make
6 9 the proper changes on the plats required to be kept by the
6 10 auditor.

6 11 Sec. 17. Section [380.11](#), Code 2001, is amended to read as
6 12 follows:

6 13 380.11 CERTAIN MEASURES RECORDED.

6 14 Immediately after the effective date of a measure
6 15 establishing any zoning district, building lines or fire
6 16 limits, the city clerk shall certify the measure and a plat
6 17 showing the district, lines or limits, to the recorder of any
6 18 county which contains part of the city. The county recorder
6 19 shall index and record the measure and plat

~~in the~~

6 20

~~miscellaneous record or other book provided for special~~

6 21

~~records, and shall index the record~~

- The city shall pay the

6 22 recording fee.

6 23 Sec. 18. Section [422.26](#), unnumbered paragraphs 4 and 5,
6 24 Code 2001, are amended to read as follows:

6 25 The county recorder of each county shall

~~prepare and~~

~~keep~~

6 26 in the recorder's office

~~a book to be known as "index of~~

6 27

~~income tax liens", so ruled as~~

~~an index and record~~ to show

~~in~~

6 28

~~appropriate columns~~

- the following data, under the names of

6 29 taxpayers, arranged alphabetically:

6 30 The recorder shall endorse on each notice of lien the day,
6 31 hour, and minute when received and preserve the same, and
6 32 shall

~~forthwith~~

- index

~~—said~~

- the notice in

~~—said~~

- the index

~~—book~~

- 6 33 and shall

~~—forthwith~~

- record

~~—said~~

- the lien in the manner

6 34 provided for recording real estate mortgages, and the

~~—said~~

- 6 35 lien shall be effective from the time of the indexing

~~—thereof~~

- 7 1 of the lien.

7 2 Sec. 19. Section [428A.5](#), Code 2001, is amended to read as

7 3 follows:

7 4 428A.5 EVIDENCE OF PAYMENT.

7 5 The amount of tax imposed by this chapter shall be paid to

7 6 the county recorder in the county where the real property is

7 7 located and the amount received and the initials of the county

7 8 recorder shall appear on the face of the document or

7 9 instrument.

~~—The department of revenue and finance shall~~

- 7 10

~~—provide each county recorder with a device to be used by the~~

- 7 11

~~—recorder to evidence this information on the document or~~

- 7 12

~~—instrument.~~

- The method of documentation of a transfer tax

7 13 shall be approved by the department of revenue and finance.

7 14 Sec. 20. Section [437A.11](#), unnumbered paragraph 2, Code

7 15 2001, is amended to read as follows:

7 16 The county recorder of each county shall prepare and keep

7 17 in the recorder's office

~~—a book to be known as the index of~~

- 7 18

~~—statewide property tax liens, so ruled as~~

- an index and record

7 19 to show

~~—in appropriate columns~~

- under the names of taxpayers

7 20 arranged alphabetically, all of the following:

7 21 Sec. 21. Section [437A.22](#), unnumbered paragraph 3, Code

7 22 2001, is amended to read as follows:

7 23 The county recorder of each county shall prepare and keep

7 24 in the recorder's office

~~a book to be known as the index of~~

7 25

~~replacement tax liens, so ruled as~~
~~an index and record to show~~

7 26

~~in appropriate columns~~

~~under the names of taxpayers arranged~~

7 27 alphabetically, all of the following:

7 28 Sec. 22. Section [558.45](#), Code 2001, is amended to read as

7 29 follows:

7 30 558.45 NOTATION OF ASSIGNMENT OR RELEASE ON INDEX.

7 31 Where any mortgage, contract, or other instrument

7 32 constituting an encumbrance upon real estate shall be assigned

7 33 or released by a separate instrument it shall be the duty of

7 34 the recorder to make a notation

~~in red ink on the index and~~

7 35

~~cross index~~

~~where~~

~~such~~

~~the instrument was originally indexed,~~

8 1 indicating the nature of such assignment or release and

~~the~~

8 2

~~book and page~~

~~a document reference number of the record where~~

8 3 the same is recorded.

8 4 Sec. 23. Section [558.49](#), unnumbered paragraph 1, Code

8 5 2001, is amended to read as follows:

8 6 The recorder must keep index

~~books, the pages of which are~~

8 7

~~so divided as~~

~~records to show~~

~~in parallel columns~~

~~the~~

8 8 following:

8 9 Sec. 24. Section [558.49](#), subsection 6, Code 2001, is

8 10 amended to read as follows:

8 11 6. The

~~book and page~~

~~document reference number where the~~

8 12 record

~~thereof~~

~~of the instrument may be found.~~

8 13 Sec. 25. Section [558.52](#), Code 2001, is amended to read as

8 14 follows:

8 15 558.52 ALPHABETICAL ARRANGEMENT.

8 16 The entries

~~in such book~~

- shall show the names of the
8 17 respective grantors and grantees, arranged in alphabetical
8 18 order. When

~~such~~

- the instrument is executed by a personal
8 19 representative, guardian, referee, commissioner, receiver,
8 20 sheriff, or other person acting in a representative capacity,
8 21 the recorder shall enter upon the index

~~book~~

- the name and
8 22 representative capacity of each person executing the
8 23 instrument and the owner of the property if disclosed

~~therein~~

- 8 24 in the instrument.
8 25 Sec. 26. Section [558.55](#), Code 2001, is amended to read as
8 26 follows:
8 27 558.55 FILING AND INDEXING CONSTRUCTIVE NOTICE.
8 28 The recorder must endorse upon every instrument properly
8 29 filed for record in the recorder's office, the day, hour, and
8 30 minute of

~~such~~

- the filing, and

~~forthwith~~

- enter in the index
8 31

~~book~~

- the entries required to be

~~made therein~~

- entered, except
8 32 the

~~book and page~~

- document reference number where the complete
8 33 record will appear, and

~~such~~

- the filing and indexing shall
8 34 constitute constructive notice to all persons of the rights of
8 35 the grantees conferred by

~~such~~

- the instruments.
9 1 Sec. 27. Section [558.59](#), Code 2001, is amended to read as
9 2 follows:
9 3 558.59 FINAL RECORD.
9 4 Every

~~such~~

- instrument shall be recorded

~~,~~

- as soon as
9 5 practicable,

~~in a suitable book to be kept by the recorder for~~

~~that purpose.~~

- after which the recorder shall complete the
9 7 entries

~~aforsaid so as~~

- to show the

~~book and page~~

- document

9 8 reference number where the record is to be found.

9 9 Sec. 28. Section [566.35](#), subsection 2, Code 2001, is
9 10 amended by striking the subsection.

9 11 Sec. 29. Section [639.53](#), Code 2001, is amended to read as
9 12 follows:

9 13 639.53 DESCRIPTION OF REAL ESTATE.

9 14 Where real property is attached, the sheriff shall describe
9 15 it with certainty to identify it, and, where the sheriff can
9 16 do so, by a reference to the

~~book and page~~

- document reference

9 17 number where the deed under which the defendant holds is
9 18 recorded.

9 19 Sec. 30. Section [655A.3](#), subsection 1, paragraph a, Code
9 20 2001, is amended to read as follows:

9 21 a. Reasonably identify by a document reference number the
9 22 mortgage and accurately describe the real estate covered.

9 23 Sec. 31. Section [655A.6](#), Code 2001, is amended to read as
9 24 follows:

9 25 655A.6 REJECTION OF NOTICE.

9 26 If either the mortgagor, or successor in interest of record
9 27 including a contract purchaser, within thirty days of service
9 28 of the notice pursuant to section 655A.3, files with the
9 29 recorder of the county where the mortgaged property is
9 30 located, a rejection of the notice reasonably identifying by a
9 31 document reference number the notice which is rejected
9 32 together with proofs of service required under section 655A.4
9 33 that the rejection has been served on the mortgagee, the
9 34 notice served upon the mortgagor pursuant to section 655A.3 is
9 35 of no force or effect.

10 1 Sec. 32. Section [656.2](#), subsection 1, paragraph a, Code
10 2 2001, is amended to read as follows:

10 3 a. Reasonably identify the contract by a document
10 4 reference number and accurately describe the real estate
10 5 covered.

10 6 Sec. 33. Sections 558.50, 558.51, 558.53, and 558.54, Code
10 7 2001, are repealed.

10 8 EXPLANATION

10 9 This bill amends a number of Code sections relating to the
10 10 recording of mortgage documents, liens, military veteran
10 11 discharges, and other instruments with the county recorder.
10 12 The amendments are proposed to remove impediments to the
10 13 electronic recording of various legal instruments and improve
10 14 recording procedures.

10 15 Code section 6B.35 is amended to substitute "document
10 16 reference" for references to "book and page".

10 17 Code section 22.3 is amended to allow an authorized
10 18 designee of a lawful custodian of public record to supervise
10 19 the examination and copying of public records. Currently, the
10 20 records are to be examined or copied under the supervision of
10 21 an authorized deputy of the legal custodian.

10 22 Code section 96.14 is amended to provide that the index of
10 23 unemployment contribution liens in a county recorder's office
10 24 does not have to be kept in a book form.

10 25 Code section 331.602 is amended to strike a required
10 26 notation in the margin of a corrective instrument referencing

10 27 the original instrument and a corresponding notation in the
10 28 margin of the original document referring to the new record.
10 29 A requirement that an instrument be recorded in a book is also
10 30 stricken. The amendment also strikes a requirement that a
10 31 copy of a deed, bill of sale, or other transfer document which
10 32 is forwarded to the director of revenue and finance must be a
10 33 certified copy.

10 34 Code section 331.603 is amended to strike a requirement
10 35 that a recorded instrument which involves a release or
11 1 assignment of a property previously recorded and reproduced in
11 2 miniature shall also be reproduced in miniature. Also, in
11 3 lieu of marginal entries, the recorder shall make notations on
11 4 the index and the record of the original instrument.

11 5 Code section 331.605A is amended to provide that the county
11 6 treasurer, on behalf of the county recorder, shall establish
11 7 and maintain an interest-bearing account for the fees
11 8 collected by the county recorder for the purpose of collecting
11 9 and maintaining public records.

11 10 Code section 331.606 is amended to strike reference to the
11 11 need for a book to maintain an index.

11 12 Code section 331.607 is amended to strike several
11 13 references to books which a county recorder is required to
11 14 keep. The term "record" or "records" is substituted.

11 15 Code section 331.608 is amended to substitute the word
11 16 "record" for "special book" and to strike a requirement that a
11 17 discharge book be approved by the commission of veterans
11 18 affairs.

11 19 Code section 331.609 is amended to strike the requirement
11 20 that a county recorder permanently attach a refiled notice to
11 21 the original notice of federal lien. In lieu of the
11 22 attachment, a county recorder shall make a notation on the
11 23 original record referring to the refiled notice.

11 24 Code section 354.1 is amended to provide that all documents
11 25 presented for recording with regard to the platting and
11 26 subdivision of land shall comply with the recording
11 27 requirements specified for all instruments.

11 28 Code section 354.5 is amended to substitute "document
11 29 reference" for references to "book and page".

11 30 Code section 354.24 is amended to substitute the wording "a
11 31 document reference" for references to "the book and page". If
11 32 a correction to a plat is recorded, the recorder shall note
11 33 the correction on the record in lieu of writing the word
11 34 "corrected" across the affected part of the plat.

11 35 Code section 354.26 is amended to provide that the recorder
12 1 shall note the vacation, correction, or replatting on the
12 2 index and record of the official plat rather than on the
12 3 margin of the plat.

12 4 Code section 380.11 is amended to provide that zoning
12 5 districts, building lines, or fire limits which are platted,
12 6 shall be indexed and recorded without the use of books.

12 7 Code sections 422.26, 437A.11, and 437A.22 are amended to
12 8 strike the term "books" in reference to records or indexes for
12 9 income tax liens. Also stricken is the word "forthwith" in
12 10 reference to the recording and indexing of the liens.

12 11 Code section 428A.5 is amended to strike the use of a
12 12 device by the county recorder to evidence the payment of the
12 13 real estate transfer tax on a transfer document. The device
12 14 is replaced by a method of documentation as approved by the
12 15 department of revenue and finance.

12 16 Code section 558.45 is amended to strike the use of red ink
12 17 for notation on indexes and reference to the book and page for
12 18 a recorded instrument.

12 19 Code sections 558.49, 558.52, 558.55, and 558.59 are
12 20 amended to strike the reference to index books and the book
12 21 and page of a recorded instrument. The terms are replaced by
12 22 reference to a document reference number.

12 23 Code section 566.35 is amended by striking subsection 2,

12 24 which requires that the declaration of value of a real estate
12 25 transfer submitted to the county recorder include the
12 26 existence of any known private burial site located on the real
12 27 estate.

12 28 Code section 639.53 is amended to substitute "document
12 29 reference number" for the words "book and page".

12 30 Code sections 655A.3, 655A.6, and 656.2 are amended to add
12 31 a document reference number as a means of identifying a
12 32 mortgage, contract, or real estate document.

12 33 The bill also repeals Code sections 558.50, 558.51, 558.53,
12 34 and 558.54. Code section 558.50 specifies the ruled columns
12 35 and form of the index for affidavits. Code section 558.51

13 1 provides that separate index books are required for mortgages

13 2 and satisfactions or releases of mortgages, descriptions of

13 3 lots, land, conveyances of real estate, powers of attorney,

13 4 affidavits, copies of petitions in bankruptcy, decrees of

13 5 adjudication in bankruptcy, and orders approving trustee's

13 6 bonds. Code section 558.53 provides for an index and record

13 7 of all deeds, mortgages, and related instruments affecting

13 8 lots in cities and the affected plats. Code section 558.54

13 9 provides that an instrument containing descriptions of land or

13 10 lots in cities, the affected plats, and other land shall be

13 11 recorded in one record and charged one fee, but the record

13 12 shall be indexed in the land and city lot indexes.

13 13 LSB 1555SC 79

13 14 tj/gg/8