

MAR 4 2004
Place On Calendar

HOUSE FILE 2450
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 252)

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

A BILL FOR

1 An Act relating to real property, including acknowledgments of
2 real property conveyances and limitations on causes of action
3 concerning real property.

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

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HOUSE FILE 2450

H-8268

1 Amend House File 2450 as follows:

2 1. Page 1, line 3, by striking the words "WITHIN
3 STATE" and inserting the following: "~~WITHIN STATE~~".

H-8268 FILED MARCH 17, 2004 **By J. R. VAN FOSSEN** of Scott

HF 2450

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1 Section 1. Section 558.20, Code 2003, is amended to read
2 as follows:

3 558.20 ACKNOWLEDGMENTS WITHIN STATE.

4 The acknowledgment of any deed, conveyance, or other
5 instrument in writing by which real estate in this state is
6 conveyed or encumbered, if whether made within this state,
7 ~~must-be-before-some-court-having-a-seal,-or-some-judge-or~~
8 ~~clerk-thereof,-or-some-county-auditor,-or-judicial-magistrate~~
9 ~~or-district-associate-judge-within-the-county,-or-notary~~
10 ~~public-within-the-state.--Each-of-the-officers-above-named-is~~
11 ~~authorized-to-take-and-certify-acknowledgments-of-all-written~~
12 ~~instruments,-authorized-or-required-by-law-to-be-acknowledged~~
13 outside this state, outside the United States, or under
14 federal authority, shall comply with the provisions of chapter
15 9E.

16 Sec. 2. Section 558.40, Code 2003, is amended to read as
17 follows:

18 558.40 LIABILITY OF OFFICER.

19 Any officer, who knowingly misstates a material fact in
20 either any of the certificates mentioned in this chapter or
21 chapter 9E, shall be liable for all damages caused thereby,
22 and shall be guilty of a serious misdemeanor.

23 Sec. 3. Section 558.42, Code 2003, is amended to read as
24 follows:

25 558.42 ACKNOWLEDGMENT AS CONDITION PRECEDENT.

26 ~~It~~ A document shall not be deemed lawfully recorded, unless
27 it has been previously acknowledged or proved in the manner
28 prescribed in ~~this-chapter-or~~ chapter 9E, except that
29 affidavits, and certified copies of petitions in bankruptcy
30 with or without the schedules appended, of decrees of
31 adjudication in bankruptcy, and of orders approving trustees'
32 bonds in bankruptcy, and Uniform Commercial Code financing
33 statements and financing statement changes need not be thus
34 acknowledged.

35 Sec. 4. Section 602.8102, subsection 78, Code 2003, is

1 amended to read as follows:

2 78. Certify an acknowledgment of a written instrument
3 relating to real estate as provided in section 9E.10 or
4 558.20.

5 Sec. 5. Section 614.29, unnumbered paragraph 1, Code 2003,
6 is amended to read as follows:

7 As used in this division chapter:

8 Sec. 6. Section 614.30, Code 2003, is amended to read as
9 follows:

10 614.30 CONSTRUCTION LIBERAL.

11 This division chapter shall be liberally construed to
12 effect the legislative purpose of simplifying and facilitating
13 land title transactions by allowing persons to rely on a
14 record chain of title as described in section 614.31, subject
15 only to such limitations as appear in section 614.32.

16 Sec. 7. Section 614.36, Code 2003, is amended to read as
17 follows:

18 614.36 LESSORS, REVERSIONERS, AND EASEMENTS.

19 This division chapter shall not be applied to bar any
20 lessor or lessor's successor as a reversioner of the lessor's
21 right to possession on the expiration of any lease; or to bar
22 or extinguish any easement or interest in the nature of an
23 easement, the existence of which is apparent from or can be
24 proved by physical evidence of its use; or to bar any right,
25 title or interest of the United States, by reason of failure
26 to file the notice herein required.

27 Sec. 8. Section 614.37, Code 2003, is amended to read as
28 follows:

29 614.37 LIMITATION STATUTES NOT EXTENDED.

30 Nothing contained in this division chapter shall be
31 construed to extend the period for the bringing of an action
32 or for the doing of any other required act under any statutes
33 of limitations, nor, except as herein specifically provided,
34 to effect the operation of any statutes governing the effect
35 of the recording or the failure to record any instrument

1 affecting land. It is intended that nothing contained in this
2 division be interpreted to revive or extend the period of
3 filing a claim or bringing an action that may be limited or
4 barred by any other statute.

5 Sec. 9. Section 614.38, Code 2003, is amended to read as
6 follows:

7 614.38 PERIOD EXTENSION IN CERTAIN CASES.

8 If the forty-year period specified in this division chapter
9 shall have expired prior to one year after July 1, 1969, such
10 period shall be extended one year after July 1, 1969.

11 Sec. 10. Sections 558.21 through 558.30 and 558.37 through
12 558.39, Code 2003, are repealed.

13 EXPLANATION

14 This bill repeals the acknowledgment provisions in Code
15 chapter 558 relating to real property conveyances and, by
16 operation of law, makes similar acknowledgment provisions
17 contained in Code chapter 9E, relating to notarial acts, the
18 sole acknowledgment requirements.

19 The bill also amends Code chapter 614 relating to
20 limitations of actions to make provisions relating to the Code
21 chapter division on marketable record title applicable to the
22 entire Code chapter. The provisions made applicable to the
23 entire chapter are those relating to definitions, liberal
24 construction, rights upon expiration of a lease, extension of
25 limitation statutes, and 40-year period extension in certain
26 cases.

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HOUSE FILE 2450
BY COMMITTEE ON JUDICIARY
(SUCCESSOR TO HSB 252)

(As Amended and Passed by the House March 18, 2004)

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

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House Amendments _____

1 Section 1. Section 558.20, Code 2003, is amended to read
2 as follows:

3 558.20 ACKNOWLEDGMENTS WITHIN-STATE.

4 The acknowledgment of any deed, conveyance, or other
5 instrument in writing by which real estate in this state is
6 conveyed or encumbered, if whether made within this state,
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8 clerk-thereof,-or-some-county-auditor,-or-judicial-magistrate
9 or-district-associate-judge-within-the-county,-or-notary
10 public-within-the-state.--Each-of-the-officers-above-named-is
11 authorized-to-take-and-certify-acknowledgments-of-all-written
12 instruments,-authorized-or-required-by-law-to-be-acknowledged
13 outside this state, outside the United States, or under
14 federal authority, shall comply with the provisions of chapter
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Van Fossen, J.R., Ch
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HSB 252

JUDICIARY

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON MADDOX)

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

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HOUSE FILE 2450

AN ACT

RELATING TO REAL PROPERTY, INCLUDING ACKNOWLEDGMENTS OF REAL PROPERTY CONVEYANCES AND LIMITATIONS ON CAUSES OF ACTION CONCERNING REAL PROPERTY.

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

Section 1. Section 558.20, Code 2003, is amended to read as follows:

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The acknowledgment of any deed, conveyance, or other instrument in writing by which real estate in this state is conveyed or encumbered, if whether made within this state, ~~must-be-before-some-court-having-a-seal,-or-some-judge-or-clerk-thereof,-or-some-county-auditor,-or-judicial-magistrate-or-district-associate-judge-within-the-county,-or-notary-public-within-the-state,-~~ Each-of-the-officers-above-named-is

~~authorized-to-take-and-certify-acknowledgments-of-all-written-instruments,-authorized-or-required-by-law-to-be-acknowledged-outside-this-state,-outside-the-United-States,-or-under-federal-authority,-shall-comply-with-the-provisions-of-chapter-9E.~~

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Nothing contained in this division chapter shall be construed to extend the period for the bringing of an action or for the doing of any other required act under any statutes of limitations, nor, except as herein specifically provided, to effect the operation of any statutes governing the effect of the recording or the failure to record any instrument affecting land. It is intended that nothing contained in this division be interpreted to revive or extend the period of filing a claim or bringing an action that may be limited or barred by any other statute.

Sec. 9. Section 614.38, Code 2003, is amended to read as follows:

614.38 PERIOD EXTENSION IN CERTAIN CASES.

If the forty-year period specified in this division chapter shall have expired prior to one year after July 1, 1969, such period shall be extended one year after July 1, 1969.

Sec. 10. Sections 558.21 through 558.30 and 558.37 through 558.39, Code 2003, are repealed.

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2450, Eightieth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2004

THOMAS J. VILSACK
Governor