

House Study Bill 205

HOUSE FILE \_\_\_\_\_
BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL BY
CHAIRPERSON GASKILL)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to information required to be indexed in the
2 records of the county recorder.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TL5B 1777HC 82
5 sc/je/5

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1 1 Section 1. Section 448.15, subsection 1, Code 2007, is
1 2 amended to read as follows:
1 3 1. After taking possession of the parcel, after the
1 4 issuance and recording of a tax deed or an instrument
1 5 purporting to be a tax deed issued by a county treasurer of
1 6 this state, the then owner or holder of the title or purported
1 7 title may file with the county recorder of the county in which
1 8 the parcel is located an affidavit substantially in the
1 9 following form:
1 10 State of Iowa, )
1 11 ..... County. ) ss.
1 12 I, ....., being first duly sworn, on oath depose and
1 13 say that on ..... (date) the county treasurer issued a tax
1 14 deed to ..... (grantee) for the following described parcel:
1 15 .....;
1 16 that the tax deed was filed for record in the office of the
1 17 county recorder of ..... county, Iowa, on ..... (date), and
1 18 appears in the records of the that office in ..... county as
1 19 recorded in Book .... Page .... of the ..... Records document
1 20 reference number .....; and that ..... claims title to an
1 21 undivided .... percent interest in the parcel by virtue of the
1 22 tax deed, or purported tax title.

1 23 Any person claiming any right, title, or interest in or to
1 24 the parcel adverse to the title or purported title by virtue
1 25 of the tax deed referred to shall file a claim with the
1 26 recorder of the county where the parcel is located, within one
1 27 hundred twenty days after the filing of this affidavit, the
1 28 claim to set forth the nature of the interest, also the time
1 29 and manner in which the interest claimed was acquired. A
1 30 person who files such a claim shall commence an action to
1 31 enforce the claim within sixty days after the filing of the
1 32 claim. If a claimant fails to file a claim within one hundred
1 33 twenty days after the filing of this affidavit, or files a
1 34 claim but fails to commence an action to enforce the claim
1 35 within sixty days after the filing of the claim, the claim
2 1 thereafter shall be forfeited and canceled without any further
2 2 notice or action, and the claimant thereafter shall be forever
2 3 barred and estopped from having or claiming any right, title,
2 4 or interest in the parcel adverse to the tax title or
2 5 purported tax title.

2 6
2 7 Subscribed and sworn to before me this ... day of .....
2 8 (month), ... (year).

2 9
2 10 Notary Public in and for
2 11 ..... County, Iowa.

2 12 Sec. 2. Section 448.17, Code 2007, is amended to read as
2 13 follows:

2 14 448.17 INDEXING AND RECORDING OF AFFIDAVITS AND CLAIMS.

2 15 All affidavits and claims as provided for in sections
2 16 448.15 and 448.16, filed with the county recorder, shall be
2 17 recorded as other instruments affecting parcels, and the
2 18 entries required in those sections and any applicable entries

~~2 19 specified in sections 558.49 and 558.52 shall be indexed in  
2 20 the claimant's book under the description of the parcel  
2 21 involved, and shall be recorded as other instruments affecting  
2 22 parcels by the recorder.~~

2 23 Sec. 3. Section 557C.4, Code 2007, is amended to read as  
2 24 follows:

2 25 557C.4 STATEMENT OF CLAIM == RECORDER'S DUTY.  
2 26 Upon the filing of the statement of claim provided for in  
2 27 section 557C.3 in the recorder's office for the county where  
2 28 the real estate on, or under, which the mineral interest in  
2 29 coal exists, is located, the recorder shall record the  
2 30 statement of claim and index ~~it in the claimant's book the~~  
~~2 31 entries required to be made pursuant to section 557C.3 and any~~  
~~2 32 applicable entries specified in sections 558.49 and 558.52.~~

2 33 Sec. 4. Section 558.55, Code 2007, is amended to read as  
2 34 follows:

2 35 558.55 FILING AND INDEXING == CONSTRUCTIVE NOTICE.  
3 1 The recorder must endorse upon every instrument properly  
3 2 filed for record in the recorder's office, the day, hour, and  
3 3 minute of the filing, and enter in the index the entries  
3 4 required to be entered pursuant to sections 558.49 and 558.52,  
3 5 ~~except the document reference number where the complete record~~  
~~3 6 will appear,~~ and the filing and indexing shall constitute  
3 7 constructive notice to all persons of the rights of the  
3 8 grantees conferred by the instruments.

3 9 Sec. 5. Section 614.17, unnumbered paragraph 3, Code 2007,  
3 10 is amended to read as follows:

3 11 For the purposes of this section and section 614.17A, such  
3 12 possession of real estate may be shown of record by affidavits  
3 13 showing the possession, and when the affidavits have been  
3 14 filed and recorded, it is the duty of the recorder to ~~enter~~  
~~3 15 upon the margin of the record, a certificate to the effect~~  
~~3 16 that the affidavits were filed by index the applicable entries~~  
~~3 17 specified in sections 558.49 and 558.52 and to index the name~~  
~~3 18 of the owner in possession, as named in the affidavits, or by~~  
~~3 19 the owner's attorney in fact, as shown by the records and in~~  
3 20 like manner, the affidavits may be filed and recorded where  
3 21 any action was barred on any claim by this section as in force  
3 22 prior to July 1, 1991.

3 23 Sec. 6. Section 614.18, Code 2007, is amended to read as  
3 24 follows:

3 25 614.18 CLAIM INDEXED.  
3 26 Any such claim so filed, shall be recorded, and the entries  
~~3 27 required in section 614.17A and any applicable entries~~  
~~3 28 specified in sections 558.49 and 558.52 indexed, under the~~  
~~3 29 description of the real estate involved in a book set apart~~  
~~3 30 and specially designed for that purpose to be known as the~~  
~~3 31 "claimant's book" and kept in the office of the recorder of~~  
~~3 32 the county where such real estate is situated, and said~~  
~~3 33 statement, when so indexed, shall be recorded as other~~  
~~3 34 instruments affecting real estate.~~

3 35 Sec. 7. Section 614.35, Code 2007, is amended to read as  
4 1 follows:

4 2 614.35 RECORDING INTEREST.  
4 3 To be effective and to be entitled to record, the notice  
4 4 above referred to shall contain an accurate and full  
4 5 description of all land affected by such notice which  
4 6 description shall be set forth in particular terms and not by  
4 7 general inclusions; but if the claim is founded upon a  
4 8 recorded instrument, then the description in such notice may  
4 9 be the same as that contained in such recorded instrument.  
4 10 Such notice shall be filed for record in the office of the  
4 11 county recorder of the county or counties where the land  
4 12 described in the notice is situated. The recorder of each  
4 13 county shall accept all such notices presented to the recorder  
4 14 which describe land located in the county in which the  
4 15 recorder serves and shall enter and record full copies of the  
4 16 notices in the manner provided and shall index the applicable  
~~4 17 entries specified in sections 558.49 and 558.52, and each~~  
4 18 recorder shall be entitled to charge the same fees for the  
4 19 recording of the notices as are charged for recording deeds.  
4 20 In indexing such notices in the recorder's office each  
4 21 recorder shall enter such notices under the grantee indexes of  
4 22 deeds in the names of the claimants appearing in such notices.

#### EXPLANATION

4 24 This bill makes changes relating to documents filed with  
4 25 the county recorder.

4 26 The bill provides that the affidavit filed by an owner who  
4 27 gained possession of a parcel by tax deed shall contain the  
4 28 document reference number of the tax deed. The bill also  
4 29 provides that the information to be indexed for affidavits and

4 30 claims relating to issuance of a tax deed shall be the  
4 31 applicable entries required to be made for conveyances of  
4 32 property and any entries specific to the affidavit or claim  
4 33 and required by law to be indexed.

4 34 The bill also provides that a statement of claim asserting  
4 35 a mineral interest in coal, when filed with the county  
5 1 recorder, shall be indexed with entries required by law for  
5 2 such a statement and with the applicable entries required to  
5 3 be made for conveyances of property.

5 4 The bill specifies that instruments of conveyance of real  
5 5 property shall be indexed with all the information required by  
5 6 law to be indexed for conveyances, including the document  
5 7 reference number where the record of the instrument can be  
5 8 found.

5 9 The bill further provides that affidavits of possession of  
5 10 real estate relating to claims prior to 1980 and statements  
5 11 claiming real estate or an interest in real estate made after  
5 12 1992, if filed with the recorder, shall be indexed with the  
5 13 applicable entries required to be made for conveyances of  
5 14 property and with any entries specific to the affidavit or  
5 15 claim and required by law to be indexed.

5 16 Finally, the bill provides that notices relating to  
5 17 marketable title shall be indexed with the applicable entries  
5 18 required to be made for conveyances of property.

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