

**Senate Study Bill 1040 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON FRAISE)

**A BILL FOR**

1 An Act relating to instruments used to update the county  
2 transfer books and index maintained by the county auditor.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 558.66, Code 2011, is amended by striking  
2 the section and inserting in lieu thereof the following:

3 **558.66 Updating county administrative records.**

4 1. Upon the receipt of an instrument that satisfies the  
5 requirements of this section and the payment of the applicable  
6 fees authorized in section 331.507, subsection 2, the auditor  
7 shall enter the updated or corrected real estate ownership  
8 information in the transfer books and index required by section  
9 558.60.

10 2. In the case of an instrument filed with the recorder that  
11 satisfies the requirements of this section, the recorder shall  
12 collect the applicable fees authorized under section 331.507,  
13 subsection 2, and section 331.604 and pay such fees to the  
14 treasurer as provided in section 331.902, subsection 3.

15 3. Each of the following instruments shall be accepted by  
16 the auditor for the purpose of updating the county transfer  
17 books and index if a conveyance has not occurred:

18 a. A certificate issued by the clerk of the district court  
19 or clerk of the supreme court indicating that the title to real  
20 estate has been finally established in any named person by  
21 judgment or decree or by will.

22 b. An affidavit of or on behalf of a surviving joint tenant  
23 or a person who owns the remainder interest. The affidavit  
24 shall include substantially the following:

25 (1) The name of the affiant.

26 (2) The name of the surviving joint tenant or owner of  
27 the remainder interest, as applicable, whose name the county  
28 records should reflect ownership of title.

29 (3) The name of the deceased joint tenant or life tenant and  
30 such person's date of death.

31 (4) The legal description of the real estate located in the  
32 county.

33 (5) The description and date of filing and recording of the  
34 conveyance instrument by which the surviving joint tenant or  
35 owner of the remainder interest acquired title.

1 (6) The document reference number of the instrument  
2 establishing title, if applicable.

3 (7) A request that the auditor enter the information on the  
4 transfer books and index pursuant to subsection 1.

5 c. An affidavit by or for a person, other than an  
6 individual, following a merger, consolidation, name change, or  
7 change of fiduciary. The affidavit shall include substantially  
8 the following, as applicable:

9 (1) The former name of the person.

10 (2) The new name of the person.

11 (3) The legal description of the real estate located in the  
12 county.

13 (4) A description of the merger, consolidation, name  
14 change, or change of fiduciary.

15 (5) A request that the auditor enter the information on the  
16 transfer books and index pursuant to subsection 1.

17 d. Articles of merger, consolidation, or name change as  
18 required by another provision of law if the legal description  
19 of the real estate is attached thereto.

20 4. An instrument accepted by the auditor and used to update  
21 the transfer books and index under this section, but which is  
22 not recorded with the recorder, is not a muniment of title.

23 EXPLANATION

24 This bill strikes and rewrites current Code section 558.66  
25 relating to updating of the county transfer books and index by  
26 the county auditor upon receipt of certain certificates issued  
27 by the clerk of the district court or clerk of the supreme  
28 court indicating that the title to real estate has been finally  
29 established and other specified affidavits filed relating to  
30 real estate held in joint tenancy by married individuals.

31 The bill provides that upon the receipt of certain  
32 instruments containing specified information relating to the  
33 ownership of real estate and the payment of all required fees,  
34 the auditor shall enter the updated or corrected real estate  
35 ownership information in the transfer books and index. The

1 types of instruments authorized in the bill for use by the  
2 auditor include a certificate issued by the clerk of the  
3 district court or clerk of the supreme court indicating that  
4 the title to real estate has been finally established in any  
5 named person by judgment or decree or by will, an affidavit of  
6 or on behalf of a surviving joint tenant (not only those joint  
7 tenants who are a surviving spouse) or a person who owns a  
8 remainder interest, an affidavit by or for a person, other than  
9 an individual, following a merger, consolidation, name change,  
10 or change of fiduciary, and articles of merger, consolidation,  
11 or name change if the legal description of the real estate is  
12 attached. The bill provides that an instrument accepted by the  
13 auditor and used to update the transfer books and index under  
14 the bill, but which is not recorded with the county recorder,  
15 is not a muniment of title.