

House File 2437 - Reprinted

HOUSE FILE 2437
BY COMMITTEE ON ENVIRONMENTAL
PROTECTION

(SUCCESSOR TO HSB 663)

(As Amended and Passed by the House February 23, 2010)

A BILL FOR

1 An Act relating to private sewage disposal system inspections
2 and groundwater hazard statements as part of certain
3 property transfers.

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

1 Section 1. Section 455B.172, subsection 11, paragraph a,
2 subparagraph (2), Code Supplement 2009, is amended to read as
3 follows:

4 (2) A transfer to a mortgagee by a mortgagor or successor
5 in interest who is in default, ~~or~~ a transfer by a mortgagee
6 who has acquired real property ~~at a sale conducted pursuant~~
7 ~~to chapter 654 as a result of a deed in lieu of foreclosure~~
8 or has acquired real property under chapter 654 or 655A, or a
9 transfer back to a mortgagor exercising a right of first
10 refusal pursuant to section 654.16A, ~~a nonjudicial voluntary~~
11 ~~foreclosure procedure under section 654.18 or chapter 655A, or~~
12 ~~a deed in lieu of foreclosure under section 654.19.~~

13 Sec. 2. Section 455B.172, subsection 11, paragraph a,
14 Code Supplement 2009, is amended by adding the following new
15 subparagraphs:

16 NEW SUBPARAGRAPH. (7) A transfer in which the transferee
17 intends to demolish or raze the building. The department shall
18 adopt rules pertaining to such transfers.

19 NEW SUBPARAGRAPH. (8) A transfer of property with a system
20 that was installed not more than two years prior to the date of
21 the transfer.

22 NEW SUBPARAGRAPH. (9) A deed arising from a partition
23 proceeding.

24 NEW SUBPARAGRAPH. (10) A tax sale deed issued by the county
25 treasurer.

26 Sec. 3. Section 455B.172, subsection 11, paragraph b, Code
27 Supplement 2009, is amended by striking the paragraph.

28 Sec. 4. Section 455B.172, subsection 11, paragraphs d, h,
29 and i, Code Supplement 2009, are amended to read as follows:

30 *d.* If a private sewage disposal system is failing to ensure
31 effective wastewater treatment or is otherwise improperly
32 functioning, the private sewage disposal system shall be
33 renovated to meet current construction standards, as adopted
34 by the department, either by the seller or, by agreement,
35 and within a reasonable time period as determined by the

1 county board of health or the department, by the buyer. If
2 the private sewage disposal system is properly treating the
3 wastewater and not creating an unsanitary condition in the
4 environment at the time of inspection, the system is not
5 required to meet current construction standards.

6 *h.* Following an inspection, the inspection form and any
7 ~~related reports attachments~~ shall be provided to the county
8 board of health and the department for enforcement of any
9 follow-up mandatory system improvement and to the department
10 for record.

11 *i.* An inspection is valid for a period of two years for
12 any ownership transfers during that period. ~~Title abstracts~~
13 ~~to property with private sewage disposal systems shall include~~
14 ~~documentation of the requirements in this subsection.~~

15 Sec. 5. Section 455B.172, subsection 11, Code Supplement
16 2009, is amended by adding the following new paragraph:

17 NEW PARAGRAPH. *j.* This subsection preempts any city or
18 county ordinance related to the inspection of private sewage
19 disposal systems in association with the transfer of ownership
20 of a building.

21 Sec. 6. Section 558.69, Code 2009, is amended to read as
22 follows:

23 **558.69 Reporting of private burial sites, wells, disposal**
24 **sites, underground storage tanks, and hazardous waste, and**
25 **private sewage disposal systems — liability.**

26 1. With each declaration of value submitted to the county
27 recorder under chapter 428A, there shall also be submitted a
28 groundwater hazard statement ~~regarding whether~~ stating all of
29 the following:

30 a. Whether any known private burial site is situated on the
31 property, and if a known private burial site is situated on the
32 property, the statement shall state the approximate location of
33 the site. ~~The statement shall also state that~~

34 b. That no known wells are situated on the property, or
35 if known wells are situated on the property, the statement

1 must state the approximate location of each known well and
2 its status with respect to section 455B.190 or 460.302. ~~The~~
3 ~~statement shall also state that~~

4 c. That no known disposal site for solid waste, as defined
5 in section 455B.301, which has been deemed to be potentially
6 hazardous by the department of natural resources, exists on
7 the property, or if such a known disposal site does exist, the
8 location of the site on the property. ~~The statement shall~~
9 ~~additionally state that~~

10 d. That no known underground storage tank, as defined in
11 section 455B.471, subsection 11, exists on the property, or
12 if a known underground storage tank does exist, the type and
13 size of the tank, and any known substance in the tank. ~~The~~
14 ~~statement shall also state that~~

15 e. That no known hazardous waste as defined in section
16 455B.411, subsection 3, or listed by the department pursuant
17 to section 455B.412, subsection 1, exists on the property, or
18 if known hazardous waste does exist, that the waste is being
19 managed in accordance with rules adopted by the department of
20 natural resources.

21 f. That no known private sewage disposal system exists
22 on the property or, if such private sewage disposal system
23 exists, that the system has been inspected pursuant to section
24 455B.172, subsection 11, or that the property is not subject
25 to inspection due to its exclusion from a regulated transfer
26 pursuant to section 455B.172, subsection 11, paragraph "a".

27 2. The groundwater hazard statement shall be signed by at
28 least one of the sellers or their agents.

29 3. The county recorder shall refuse to record any deed,
30 instrument, or writing for which a declaration of value
31 is required under chapter 428A unless the groundwater
32 hazard statement required by this section has been submitted
33 to the county recorder.

34 4. A buyer of property shall be provided with a copy of the
35 submitted groundwater hazard statement by the seller submitted,

1 ~~and, following the fulfillment of this provision, if the~~
2 ~~statement submitted reveals no private burial site, well,~~
3 ~~disposal site, underground storage tank, or hazardous waste on~~
4 ~~the property, the county recorder may destroy the statement.~~

5 5. The land application of sludges or soils resulting
6 from the remediation of underground storage tank releases
7 accomplished in compliance with department of natural resources
8 rules without a permit is not required to be reported as the
9 disposal of solid waste or hazardous waste.

10 ~~If a declaration of value is not required, the above~~
11 ~~information shall be submitted on a separate form.~~

12 6. The director of the department of natural resources shall
13 prescribe the form of the groundwater hazard statement ~~and the~~
14 ~~separate form to be supplied by each county recorder in the~~
15 ~~state.~~

16 7. The county recorder shall transmit the groundwater
17 hazard statements to the department of natural resources
18 at times and in a manner directed by the director of the
19 department.

20 8. The owner of the property is responsible for the accuracy
21 of the information submitted on the ~~form~~ groundwater hazard
22 statement. The owner's agent shall not be liable for the
23 accuracy of information provided by the owner of the property.
24 The provisions of this ~~paragraph~~ subsection do not limit
25 liability which may be imposed under a contract or under any
26 other law.

27 Sec. 7. Section 558A.1, subsection 4, paragraph b, Code
28 2009, is amended to read as follows:

29 b. A transfer to a mortgagee by a mortgagor or successor
30 in interest who is in default, ~~or~~ a transfer by a mortgagee
31 who has acquired real property ~~at a sale conducted pursuant~~
32 ~~to chapter 654~~ as a result of a deed in lieu of foreclosure
33 or has acquired real property under chapter 654 or 655A, or a
34 transfer back to a mortgagor exercising a right of first
35 refusal pursuant to section 654.16A, ~~a nonjudicial voluntary~~

- 1 ~~foreclosure procedure under section 654.18 or chapter 655A, or~~
- 2 ~~a deed in lieu of foreclosure under section 654.19.~~