

CHAPTER 44

PUBLIC RECORDS AND DOCUMENTS

S.F. 372

AN ACT relating to the powers and duties of the county recorder relating to the recording and keeping of documents.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 6B.35, subsection 5, Code 2001, is amended to read as follows:

5. A written statement by the sheriff of all money received in payment of damages, from whom received, to whom paid, and the amount paid to each claimant and reference to the application for condemnation by ~~book and page~~ document reference or instrument number and the date the application was filed with the county recorder.

Sec. 2. Section 22.3, Code 2001, is amended to read as follows:

22.3 SUPERVISION.

Such examination and copying shall be done under the supervision of the lawful custodian of the records or the custodian's authorized ~~deputy designee~~. The lawful custodian may adopt and enforce reasonable rules regarding ~~such the~~ work and the protection of the records against damage or disorganization. The lawful custodian shall provide a suitable place for ~~such the~~ work, but if it is impracticable to do ~~such the~~ work in the office of the lawful custodian, the person desiring to examine or copy shall pay any necessary expenses of providing a place for ~~such the~~ work. All expenses of ~~such the~~ work shall be paid by the person desiring to examine or copy. The lawful custodian may charge a reasonable fee for the services of the lawful custodian or the custodian's authorized ~~deputy designee~~ in supervising the records during ~~such the~~ work. If copy equipment is available at the office of the lawful custodian of any public records, the lawful custodian shall provide any person a reasonable number of copies of any public record in the custody of the office upon the payment of a fee. The fee for the copying service as determined by the lawful custodian shall not exceed the cost of providing the service.

Sec. 3. Section 96.14, subsection 3, unnumbered paragraphs 3 and 4, Code 2001, are amended to read as follows:

The county recorder of each county shall prepare and keep in the recorder's office ~~a book to be known as "index of unemployment contribution liens", so ruled as an index~~ to show ~~in appropriate columns~~ the following data, under the names of employers, arranged alphabetically:

The recorder shall endorse on each notice of lien the day, hour, and minute when received and shall ~~forthwith~~ index ~~said the~~ notice in ~~said the~~ index ~~book~~ and shall ~~forthwith~~ record ~~said the~~ lien in the manner provided for recording real estate mortgages, and the ~~said~~ lien shall be effective from the time of the indexing ~~thereof of the lien~~.

Sec. 4. Section 331.602, subsection 1, paragraph d, Code 2001, is amended to read as follows:

d. An instrument conveying an interest in real property, other than a mortgage, a mortgage release, or an assignment, shall contain the statement "Address tax statement:" which shall be filled out with ~~a the~~ the name of the taxpayer and a complete mailing address. Each instrument conveying an interest in real property shall contain this statement unless otherwise authorized by the county recorder.

Sec. 5. Section 331.602, subsections 2 and 23, Code 2001, are amended to read as follows:

2. Rerecord an instrument without fee upon presentation of the original instrument by the owner if an error is made in recording the instrument. The recorder shall also note ~~in the~~

~~margin of~~ on the new record a reference to the original record and ~~in the margin of~~ on the original record a reference to the ~~book and page of~~ the new record.

23. Forward to the director of revenue and finance a ~~certified~~ copy of any deed, bill of sale or other transfer which shows that it is made or intended to take effect at or after the death of the person executing the instrument as provided in section 450.81.

Sec. 6. Section 331.603, subsection 3, Code 2001, is amended to read as follows:

3. The recorder may reproduce in miniature on a durable medium any instrument to be recorded. When a recorded instrument involves a release or assignment, the separate instrument filed acknowledging the release or assignment shall be reproduced ~~in miniature~~. In lieu of marginal entries, the recorder shall make ~~endorsements in red ink~~ notations on both the index and the ~~cross index to the miniature instruments where the instruments were originally indexed~~ record of the original instrument. When an official record is produced in miniature, a security copy shall be reproduced at the same time and kept outside of the courthouse.

Sec. 7. Section 331.605A, unnumbered paragraph 1, Code 2001, is amended to read as follows:

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

Sec. 8. Section 331.606, subsection 2, Code 2001, is amended to read as follows:

2. The recorder shall also note in the index ~~book~~ the exact time of the filing of each instrument.

Sec. 9. Section 331.607, subsections 1, 7, 8, 9, and 11, Code 2001, are amended to read as follows:

1. A record ~~book~~ for military discharges as provided in section 331.608.

7. Index and ~~record books~~ records for instruments affecting real estate as provided under chapter 558.

8. ~~Homestead and index books~~ An index and record of homesteads as provided in section 561.4.

9. A claimant's ~~book in which index and record~~ for the notices of title interests in land ~~are indexed~~ as provided in section 614.35.

11. Other ~~books~~ indexes and records as provided by law.

Sec. 10. Section 331.608, subsection 1, Code 2001, is amended to read as follows:

1. The recorder shall maintain a ~~special book~~ record in which, upon request, the discharge of a veteran shall be recorded without charge. ~~The discharge book shall be a uniform type, kind, and form approved by the commission of veterans affairs.~~

Sec. 11. Section 331.609, subsection 3, paragraph c, Code 2001, is amended to read as follows:

c. If a refiled notice of federal lien referred to in paragraph "a" or any of the certificates or notices referred to in paragraph "b" is presented for recording with a recorder, the recorder shall ~~permanently attach the refiled notice or the certificate to the original notice of lien and shall~~ enter the refiled notice or the certificate with the date of recording in an alphabetical index and make a notation on the original record of a reference to the refiled notice or certificate.

Sec. 12. Section 354.1, subsection 3, Code 2001, is amended to read as follows:

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

Sec. 13. Section 354.5, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. The ~~book and page~~ document reference number of the recorded plat of survey.

Sec. 14. Section 354.5, subsection 2, paragraph b, Code 2001, is amended to read as follows:

b. The ~~book and page~~ document reference number of the recorded acquisition plat.

Sec. 15. Section 354.24, Code 2001, is amended to read as follows:

354.24 ERRORS ON RECORDED PLATS.

If an error or omission in the data shown on a recorded plat is detected by subsequent examinations or revealed by retracing the lines shown on the plat, the original surveyor or two surveyors confirming the error through independent surveys shall record an affidavit confirming that the error or omission was made. The affidavit shall describe the nature and extent of the error or omission and also describe the corrections or additions to be made to the plat and note ~~the book and page~~ a document reference number of the recorded plat. The recorder shall ~~write across that part~~ note on the record of the plat ~~so corrected~~ the word "corrected", and note the ~~book and page~~ document reference number of the recorded affidavit. A copy of the recorded affidavit shall be filed with the auditor and assessor. The affidavit shall raise a presumption from the date of recording that the purported facts stated in the affidavit are true, and after the lapse of three years from the date of recording the presumption shall be conclusive.

Sec. 16. Section 354.26, Code 2001, is amended to read as follows:

354.26 CORRECTIONS OR CHANGES TO PLATS.

A vacation, correction, or replatting as provided for in this chapter, shall be recorded and an exact copy shall be filed with the auditor and assessor. If a governing body changes the addresses or street names shown on an official plat, notice of the change shall note the name or other designation of each official plat affected and shall be filed with the recorder, auditor, and assessor. The recorder shall note the vacation, correction, or replatting on the ~~margin~~ index and record of the official plat or upon an attachment to the official plat for that purpose. The auditor shall make the proper changes on the plats required to be kept by the auditor.

Sec. 17. Section 380.11, Code 2001, is amended to read as follows:

380.11 CERTAIN MEASURES RECORDED.

Immediately after the effective date of a measure establishing any zoning district, building lines or fire limits, the city clerk shall certify the measure and a plat showing the district, lines or limits, to the recorder of any county which contains part of the city. The county recorder shall index and record the measure and plat ~~in the miscellaneous record or other book provided for special records, and shall index the record.~~ The city shall pay the recording fee.

Sec. 18. Section 422.26, unnumbered paragraphs 4 and 5, Code 2001, are amended to read as follows:

The county recorder of each county shall ~~prepare and keep in the recorder's office a book to be known as "index of income tax liens", so ruled as~~ an index and record to show in

~~appropriate columns~~ the following data, under the names of taxpayers, arranged alphabetically:

The recorder shall endorse on each notice of lien the day, hour, and minute when received and preserve the same, and shall ~~forthwith~~ index ~~said the~~ notice in ~~said the~~ index book and shall ~~forthwith~~ record ~~said the~~ lien in the manner provided for recording real estate mortgages, and the ~~said~~ lien shall be effective from the time of the indexing ~~thereof of the lien~~.

Sec. 19. Section 428A.5, Code 2001, is amended to read as follows:

428A.5 EVIDENCE OF PAYMENT.

The amount of tax imposed by this chapter shall be paid to the county recorder in the county where the real property is located and the amount received and the initials of the county recorder shall appear on the face of the document or instrument. ~~The department of revenue and finance shall provide each county recorder with a device to be used by the recorder to evidence this information on the document or instrument. The method of documentation of a transfer tax shall be approved by the department of revenue and finance.~~

Sec. 20. Section 437A.11, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The county recorder of each county shall prepare and keep in the recorder's office ~~a book to be known as the index of replacement tax liens, so ruled as an index and record~~ to show ~~in appropriate columns~~ under the names of taxpayers arranged alphabetically, all of the following:

Sec. 21. Section 437A.22, unnumbered paragraph 3, Code 2001, is amended to read as follows:

The county recorder of each county shall prepare and keep in the recorder's office ~~a book to be known as the index of statewide property tax liens, so ruled as an index and record~~ to show ~~in appropriate columns~~ under the names of taxpayers arranged alphabetically, all of the following:

Sec. 22. Section 558.45, Code 2001, is amended to read as follows:

558.45 NOTATION OF ASSIGNMENT OR RELEASE ON INDEX.

Where any mortgage, contract, or other instrument constituting an encumbrance upon real estate shall be assigned or released by a separate instrument it shall be the duty of the recorder to make a notation ~~in red ink on the index and cross index~~ where ~~such the~~ instrument was originally indexed, indicating the nature of such assignment or release and ~~the book and page a document reference number of the record~~ where the same is recorded.

Sec. 23. Section 558.49, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The recorder must keep index ~~books, the pages of which are so divided as records~~ to show ~~in parallel columns~~ the following:

Sec. 24. Section 558.49, subsection 6, Code 2001, is amended to read as follows:

6. The ~~book and page~~ document reference number where the record ~~thereof of the instrument~~ may be found.

Sec. 25. Section 558.52, Code 2001, is amended to read as follows:

558.52 ALPHABETICAL ARRANGEMENT.

The entries ~~in such book~~ shall show the names of the respective grantors and grantees, arranged in alphabetical order. When ~~such the~~ instrument is executed by a personal representative, guardian, referee, commissioner, receiver, sheriff, or other person acting in a representative capacity, the recorder shall enter upon the index ~~book~~ the name and representative capacity of each person executing the instrument and the owner of the property if disclosed ~~therein in the instrument~~.

Sec. 26. Section 558.55, Code 2001, is amended to read as follows:

558.55 FILING AND INDEXING — CONSTRUCTIVE NOTICE.

The recorder must endorse upon every instrument properly filed for record in the recorder's office, the day, hour, and minute of ~~such the~~ filing, and ~~forthwith~~ enter in the index ~~book~~ the entries required to be ~~made therein entered~~, except the ~~book and page~~ document reference number where the complete record will appear, and ~~such the~~ filing and indexing shall constitute constructive notice to all persons of the rights of the grantees conferred by ~~such the~~ instruments.

Sec. 27. Section 558.59, Code 2001, is amended to read as follows:

558.59 FINAL RECORD.

Every ~~such~~ instrument shall be recorded, as soon as practicable, ~~in a suitable book to be kept by the recorder for that purpose~~; after which the recorder shall complete the entries ~~aforsaid so as~~ to show the ~~book and page~~ document reference number where the record is to be found.

Sec. 28. Section 566.35, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 29. Section 639.53, Code 2001, is amended to read as follows:

639.53 DESCRIPTION OF REAL ESTATE.

Where real property is attached, the sheriff shall describe it with certainty to identify it, and, where the sheriff can do so, by a reference to the ~~book and page~~ document reference number where the deed under which the defendant holds is recorded.

Sec. 30. Section 655A.3, subsection 1, paragraph a, Code 2001, is amended to read as follows:

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

Sec. 31. Section 655A.6, Code 2001, is amended to read as follows:

655A.6 REJECTION OF NOTICE.

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

Sec. 32. Section 656.2, subsection 1, paragraph a, Code 2001, is amended to read as follows:

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

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

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