

DIVISION V  
EFFECTIVE DATES — APPLICABILITY

Sec. 202. EFFECTIVE DATES — APPLICABILITY.

1. The section of this Act, amending 2007 Iowa Acts, chapter 182, section 3, being deemed of immediate importance, takes effect upon enactment and applies retroactively to May 24, 2007.

2. The sections of this Act, amending 2007 Iowa Acts, chapter 197, sections 33, 34, 35, 36, 38, 41, 42, and 43, being deemed of immediate importance, take effect upon enactment and apply effective January 1, 2009.

3. The section of this Act, amending section 104C.2, subsection 8, as enacted by 2007 Iowa Acts, chapter 198, section 2, takes effect July 1, 2008.

4. The sections of this Act, amending 2007 Iowa Acts, chapter 198, sections 10, 11, and 18, take effect July 1, 2008.

Approved April 2, 2008

---

**CHAPTER 1033**

REAL PROPERTY TRANSFERS —  
PRIVATE SEWAGE DISPOSAL SYSTEMS INSPECTIONS

S.F. 261

**AN ACT** requiring certain private sewage disposal system-related inspections to be conducted when certain property is sold or transferred and including an effective date provision.

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

Section 1. Section 455B.172, Code 2007, is amended by adding the following new subsection:

**NEW SUBSECTION.** 11. a. A building where a person resides, congregates, or is employed that is served by a private sewage disposal system shall have the sewage disposal system serving the building inspected prior to any transfer of ownership of the building. The requirements of this subsection shall be applied to all types of ownership transfer including at the time a seller financed real estate contract is signed. The county recorder shall not record a deed or any other property transfer or conveyance document until either a certified inspector's report is provided which documents the condition of the private sewage disposal system and whether any modifications are required to conform to standards adopted by the department or, in the event that weather or other temporary physical conditions prevent the certified inspection from being conducted, the buyer has executed and submitted a binding acknowledgment with the county board of health to conduct a certified inspection of the private sewage disposal system at the earliest practicable time and to be responsible for any required modifications to the private sewage disposal system as identified by the certified inspection. Any type of on-site treatment unit or private sewage disposal system must be inspected according to rules developed by the department. For the purposes of this subsection, "transfer" means the transfer or conveyance by sale, exchange, real estate contract, or any other method by which real estate and improvements are purchased, if the property includes at least one but not more than four dwelling units. However, "transfer" does not include any of the following:

(1) A transfer made pursuant to a court order, including but not limited to a transfer under chapter 633 or 633A, the execution of a judgment, the foreclosure of a real estate mortgage pursuant to chapter 654, the forfeiture of a real estate contract under chapter 656, a transfer by a trustee in bankruptcy, a transfer by eminent domain, or a transfer resulting from a decree for specific performance.

(2) A transfer to a mortgagee by a mortgagor or successor in interest who is in default, or a transfer by a mortgagee who has acquired real property at a sale conducted pursuant to chapter 654, a transfer back to a mortgagor exercising a right of first refusal pursuant to section 654.16A, a nonjudicial voluntary foreclosure procedure under section 654.18 or chapter 655A, or a deed in lieu of foreclosure under section 654.19.

(3) A transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

(4) A transfer between joint tenants or tenants in common.

(5) A transfer made to a spouse, or to a person in the lineal line of consanguinity of a person making the transfer.

(6) A transfer between spouses resulting from a decree of dissolution of marriage, a decree of legal separation, or a property settlement agreement which is incidental to the decree, including a decree ordered pursuant to chapter 598.

b. The inspection requirement of paragraph "a" does not apply to a transfer in which the transferee intends to demolish or raze the building. The department shall adopt rules pertaining to such transfers.

c. At the time of inspection, any septic tank existing as part of the sewage disposal system shall be opened and have the contents pumped out and disposed of as provided for by rule. In the alternative, the owner may provide evidence of the septic tank being properly pumped out within three years prior to the inspection by a commercial septic tank cleaner licensed by the department which shall include documentation of the size and condition of the tank and its components at the time of such occurrence.

d. If a private sewage disposal system is failing to ensure effective wastewater treatment or is otherwise improperly functioning, the private sewage disposal system shall be renovated to meet current construction standards, as adopted by the department, either by the seller or, by agreement, within a reasonable time period as determined by the county or the department, by the buyer. If the private sewage disposal system is properly treating the wastewater and not creating an unsanitary condition in the environment at the time of inspection, the system is not required to meet current construction standards.

e. Inspections shall be conducted by an inspector certified by the department.

f. Pursuant to chapter 17A, the department shall adopt certification requirements for inspectors including training, testing, and fees, and shall establish uniform statewide inspection criteria and an inspection form. The inspector certification training shall include use of the criteria and form. The department shall maintain a list of certified inspectors.

g. County personnel are eligible to become certified inspectors. A county may set an inspection fee for inspections conducted by certified county personnel. A county shall allow any department certified inspector to provide inspection services under this subsection within the county's jurisdiction.

h. Following an inspection, the inspection form and any related reports shall be provided to the county for enforcement of any follow-up mandatory system improvement and to the department for record.

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

Sec. 2. EFFECTIVE DATE. This Act takes effect July 1, 2009.

Approved April 3, 2008