

Ketting, Chair
Broers
Krenn

HSB 655

JUDICIARY

Succeeded by
SF (HF) 2565

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON LARSON)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act requiring contract disclosure statements for certain
2 residential real estate installment contracts, providing for a
3 penalty, and providing an applicability date.

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

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1 Section 1. NEW SECTION. 558.70 CONTRACT DISCLOSURE
2 STATEMENT REQUIRED FOR CERTAIN RESIDENTIAL REAL ESTATE
3 INSTALLMENT SALES.

4 1. Prior to executing a residential real estate
5 installment sales contract, the contract seller shall deliver
6 a written contract disclosure statement to the contract
7 purchaser which shall clearly set forth the following
8 information:

9 a. If the real estate subject to the contract has been
10 separately assessed for property tax purposes, the current
11 assessed value of the real estate.

12 b. (1) A complete description of any property taxes due
13 and payable on the real estate and a complete description of
14 any special assessment on the real estate and the term of the
15 assessment.

16 (2) Information on whether any property taxes or special
17 assessments are delinquent and whether any tax sale
18 certificates have been issued for delinquent property taxes or
19 special assessment on the real estate.

20 c. A complete description of any mortgages or other liens
21 encumbering or secured by the real estate, including the
22 identity and address of the current owner of record with
23 respect to each such mortgage or lien, as well as a
24 description of the total outstanding balance and due date
25 under any such mortgage or lien.

26 d. A complete amortization schedule for all payments to be
27 made pursuant to the contract, which amortization schedule
28 shall include information on the portion of each payment to be
29 applied to principal and the portion to be applied to
30 interest.

31 e. If the contract requires a balloon payment, a complete
32 description of the balloon payment, including the date the
33 payment is due, the amount of the balloon payment, and other
34 terms related to the balloon payment. For purposes of this
35 paragraph, a "balloon payment" is any scheduled payment that

1 is more than twice as large as the average of earlier
2 scheduled payments.

3 f. The annual rate of interest to be charged under the
4 contract.

5 g. A statement that the purchaser has a right to seek
6 independent legal counsel concerning the contract and any
7 matters pertaining to the contract.

8 h. A statement that the purchaser has a right to receive a
9 true and complete copy of the contract after it has been
10 executed by all parties to the contract.

11 i. The mailing address of each party to the contract.

12 j. If the contract is subject to forfeiture, a statement
13 that if the purchaser does not comply with the terms of the
14 contract, the purchaser may lose all rights in the real estate
15 and all sums paid under the contract.

16 2. The contract disclosure statement shall be dated and
17 signed by each party to the contract.

18 3. Within five days after a residential real estate
19 installment sales contract has been executed by all parties to
20 the contract, the contract seller shall mail a true and
21 correct copy of the contract by regular first class mail to
22 the last known address of each contract purchaser. However,
23 this requirement is satisfied as to any purchaser who
24 acknowledges in writing that the purchaser has received a true
25 and correct copy of the fully executed contract.

26 4. This section applies to a contract seller who entered
27 into four or more residential real estate contracts in the
28 previous calendar year. For purposes of this subsection, two
29 or more entities sharing a common owner or manager are
30 considered a single contract seller.

31 5. A violation of this section affects title to property
32 only as provided in section 558.72.

33 6. For purposes of this section, "residential real estate"
34 means a residential dwelling containing no more than two
35 single-family dwelling units, which is not located on a tract

1 of land used for agricultural purposes as defined in section
2 535.13.

3 7. The attorney general may adopt rules necessary to
4 administer this section.

5 8. This section and any rules adopted to administer this
6 section shall not limit or abridge any duty, requirement,
7 obligation, or liability for disclosure created by any other
8 provision of law, or under a contract between the parties.

9 Sec. 2. NEW SECTION. 558.71 PENALTY.

10 A contract seller who intentionally provides inaccurate
11 information with regard to any matter required to be disclosed
12 under section 558.70, subsection 1, or who fails to exercise
13 reasonable care in determining the accuracy of such
14 information is guilty of a fraudulent practice in the fifth
15 degree regardless of the value of the real estate subject to
16 the contract.

17 Sec. 3. NEW SECTION. 558.72 CIVIL LIABILITIES.

18 1. A contract purchaser injured by a violation of section
19 558.70 may within one year of the execution of the contract
20 bring an equitable action in the district court of record
21 where the real estate is located to obtain relief as follows:

22 a. The court may rescind a contract that remains in
23 existence at the time the action is commenced, and award
24 restitution to the contract purchaser determined in accordance
25 with the standards for damages specified in paragraph "b".

26 b. If the contract has been terminated by any means prior
27 to commencement of the action, the contract purchaser may
28 recover a money judgment against the original contract seller
29 for a sum equal to all amounts the contract purchaser paid to
30 the contract seller, plus the reasonable value of any
31 improvements to the real estate made by the contract
32 purchaser, plus any other proximately caused or incidental
33 damages, less the fair rental value of the real estate for the
34 period of time the contract purchaser was in possession of the
35 real estate.

1 2. A contract purchaser alleging a violation of section
2 558.70 bears the burden of establishing such violation by a
3 preponderance of the evidence.

4 3. An order of rescision or a money judgment awarded shall
5 not affect any rights or responsibilities arising from any
6 conveyance or encumbrance made by either the contract
7 purchaser or the contract seller prior to the filing of a lis
8 pendens in the action in which such relief is sought, unless
9 it is established by clear and convincing evidence that the
10 recipient of such conveyance or encumbrance had prior
11 knowledge that the contract was executed in violation of the
12 requirements of section 558.70.

13 4. In an action in which a contract purchaser obtains
14 relief under this section, the court shall also award to such
15 contract purchaser reasonable attorney fees incurred in
16 bringing the action.

17 Sec. 4. Section 558.46, Code 2001, is amended by adding
18 the following new subsection:

19 NEW SUBSECTION. 7. If a contract seller is subject to the
20 requirements of section 558.70, the contract must be recorded
21 within forty-five days rather than one hundred eighty days and
22 the recording requirement is only satisfied by recording the
23 real estate contract rather than a memorandum of the contract.

24 Sec. 5. Section 558A.4, Code 2001, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 3. A transferor subject to the
27 requirements of section 558.70 shall provide a report or
28 opinion under subsection 2, if the transferor does not have
29 sufficient knowledge to provide full and complete information
30 about any matter or circumstance required to be disclosed by
31 this chapter.

32 Sec. 6. APPLICABILITY DATE. This Act applies to
33 residential real estate installment sales contracts entered
34 into on or after the effective date of this Act.

35

EXPLANATION

1 This bill requires that a person selling real estate
2 pursuant to an installment sales contract prepare and deliver
3 to the contract purchaser a written contract disclosure
4 statement. The contract disclosure statement is required if
5 the contract seller entered into more than four real estate
6 installment sales contracts in the previous calendar year.

7 The bill requires that the contract disclosure statement
8 contain specified information, including the property tax
9 assessment on the real estate, information on delinquent
10 property taxes or special assessments, information on
11 mortgages or liens on the real estate, an amortization
12 schedule, balloon payment information, the annual rate of
13 interest to be charged under the contract, statements as to
14 the purchaser's rights, mailing addresses of the parties to
15 the contract, and information on forfeiture of the contract.

16 The bill defines residential real estate as a residential
17 dwelling containing no more than two single-family dwelling
18 units which is not located on agricultural land.

19 The bill provides that the attorney general may adopt rules
20 pertaining to the contract disclosure statement requirement.

21 The bill provides that a contract seller who intentionally
22 provides inaccurate information on the disclosure statement or
23 who fails to use reasonable care in determining the accuracy
24 of information required on the disclosure statement is guilty
25 of a fraudulent practice in the fifth degree regardless of the
26 value of the real estate. A fraudulent practice in the fifth
27 degree is a simple misdemeanor.

28 The bill provides that the civil remedies for violation of
29 the contract disclosure requirements is rescision of the
30 installment sales contract or recovery of a money judgment
31 against the contract seller. The contract purchaser has the
32 burden of proof by a preponderance of the evidence. If a
33 contract purchaser prevails in an action for rescision or for a
34 money judgment, the court may also award to the contract
35 purchaser reasonable attorney fees incurred in bringing the

1 action.

2 The bill requires a transferor who is required to provide a
3 contract disclosure statement to provide a written report or
4 opinion on any information required to be disclosed on a
5 property disclosure statement under Code chapter 558A if the
6 transferor does not have sufficient knowledge to provide the
7 full and complete information.

8 The bill applies to residential real estate installment
9 sales contracts entered into on or after the effective date of
10 the bill.

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SEP 27 2002
9:00 AM Calendar

REPRINTED

HOUSE FILE 2565
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 655)

Passed House, ^(p. 719) Date 3-12-02 Passed Senate, ^(p. 1150) Date 4/12/02
Vote: Ayes 95 Nays 0 Vote: Ayes 47 Nays 0
Approved 4/26/02

A BILL FOR

1 An Act requiring contract disclosure statements for certain
2 residential real estate installment contracts, providing for a
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4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2565

1 Section 1. NEW SECTION. 558.70 CONTRACT DISCLOSURE
2 STATEMENT REQUIRED FOR CERTAIN RESIDENTIAL REAL ESTATE
3 INSTALLMENT SALES.

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9 a. If the real estate subject to the contract has been
10 separately assessed for property tax purposes, the current
11 assessed value of the real estate.

12 b. (1) A complete description of any property taxes due
13 and payable on the real estate and a complete description of
14 any special assessment on the real estate and the term of the
15 assessment.

16 (2) Information on whether any property taxes or special
17 assessments are delinquent and whether any tax sale
18 certificates have been issued for delinquent property taxes or
19 special assessments on the real estate.

20 c. A complete description of any mortgages or other liens
21 encumbering or secured by the real estate, including the
22 identity and address of the current owner of record with
23 respect to each such mortgage or lien, as well as a
24 description of the total outstanding balance and due date
25 under any such mortgage or lien.

26 d. A complete amortization schedule for all payments to be
27 made pursuant to the contract, which amortization schedule
28 shall include information on the portion of each payment to be
29 applied to principal and the portion to be applied to
30 interest.

31 e. If the contract requires a balloon payment, a complete
32 description of the balloon payment, including the date the
33 payment is due, the amount of the balloon payment, and other
34 terms related to the balloon payment. For purposes of this
35 paragraph, a "balloon payment" is any scheduled payment that

1 is more than twice as large as the average of earlier
2 scheduled payments.

3 f. The annual rate of interest to be charged under the
4 contract.

5 g. A statement that the purchaser has a right to seek
6 independent legal counsel concerning the contract and any
7 matters pertaining to the contract.

8 h. A statement that the purchaser has a right to receive a
9 true and complete copy of the contract after it has been
10 executed by all parties to the contract.

11 i. The mailing address of each party to the contract.

12 j. If the contract is subject to forfeiture, a statement
13 that if the purchaser does not comply with the terms of the
14 contract, the purchaser may lose all rights in the real estate
15 and all sums paid under the contract.

16 2. The contract disclosure statement shall be dated and
17 signed by each party to the contract, and the contract
18 purchaser shall be provided a complete copy of the contract at
19 the time the disclosure statement is delivered to the contract
20 purchaser pursuant to subsection 1.

21 3. Within five days after a residential real estate
22 installment sales contract has been executed by all parties to
23 the contract, the contract seller shall mail a true and
24 correct copy of the contract by regular first class mail to
25 the last known address of each contract purchaser. However,
26 this requirement is satisfied as to any purchaser who
27 acknowledges in writing that the purchaser has received a true
28 and correct copy of the fully executed contract.

29 4. This section applies to a contract seller who entered
30 into four or more residential real estate contracts in the
31 three hundred sixty-five days previous to the contract seller
32 signing the contract disclosure statement. For purposes of
33 this subsection, two or more entities sharing a common owner
34 or manager are considered a single contract seller. This
35 section does not apply to an organization listed in section

1 535B.2, subsections 1 through 12.

2 5. A violation of this section affects title to property
3 only as provided in section 558.71.

4 6. For purposes of this section, "residential real estate"
5 means a residential dwelling containing no more than two
6 single-family dwelling units, which is not located on a tract
7 of land used for agricultural purposes as defined in section
8 535.13.

9 7. This section and any rules adopted to administer this
10 section shall not limit or abridge any duty, requirement,
11 obligation, or liability for disclosure created by any other
12 provision of law, or under a contract between the parties.

13 Sec. 2. NEW SECTION. 558.71 CIVIL LIABILITIES.

14 1. A contract purchaser injured by a violation of section
15 558.70 may within one year of the execution of the contract
16 bring an equitable action in the district court of record
17 where the real estate is located to obtain relief as follows:

18 a. The court may rescind a contract that remains in
19 existence at the time the action is commenced, and award
20 restitution to the contract purchaser determined in accordance
21 with the standards for damages specified in paragraph "b".

22 b. If the contract has been terminated by any means prior
23 to commencement of the action, the contract purchaser may
24 recover a money judgment against the original contract seller
25 for a sum equal to all amounts the contract purchaser paid to
26 the contract seller, plus the reasonable value of any
27 improvements to the real estate made by the contract
28 purchaser, plus any other proximately caused or incidental
29 damages, less the fair rental value of the real estate for the
30 period of time the contract purchaser was in possession of the
31 real estate. For the purposes of this paragraph, the fair
32 rental value of the real estate shall be based on the fair
33 rental value of the real estate as of the date the real estate
34 installment sales contract was executed by all parties to the
35 contract.

1 2. A contract purchaser alleging a violation of section
2 558.70 bears the burden of establishing such violation by a
3 preponderance of the evidence.

4 3. An order of rescission or a money judgment awarded shall
5 not affect any rights or responsibilities arising from any
6 conveyance or encumbrance made by either the contract
7 purchaser or the contract seller prior to the filing of a lis
8 pendens in the action in which such relief is sought, unless
9 it is established by clear and convincing evidence that the
10 recipient of such conveyance or encumbrance had prior
11 knowledge that the contract was executed in violation of the
12 requirements of section 558.70.

13 4. In an action in which a contract purchaser obtains
14 relief under this section, the court shall also award to such
15 contract purchaser reasonable attorney fees incurred in
16 bringing the action.

17 Sec. 3. Section 558.46, Code 2001, is amended by adding
18 the following new subsection:

19 NEW SUBSECTION. 7. If a contract seller is subject to the
20 requirements of section 558.70, the contract must be recorded
21 within forty-five days rather than one hundred eighty days and
22 the recording requirement is only satisfied by recording the
23 real estate contract rather than a memorandum of the contract.

24 Sec. 4. Section 558A.4, Code 2001, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 3. A transferor subject to the
27 requirements of section 558.70 shall recommend in writing that
28 the transferee obtain an independent home inspection report to
29 provide full and complete information as required to be
30 disclosed under this section and under rules adopted by the
31 real estate commission pursuant to section 543B.9.

32 A transferor subject to section 558.70 shall provide the
33 real estate disclosure statement required by this chapter at
34 least seven days before the real estate installment sales
35 contract is executed by all parties to the contract.

1 Sec. 5. Section 714.8, Code 2001, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 20. A contract seller who intentionally
4 provides inaccurate information with regard to any matter
5 required to be disclosed under section 558.70, subsection 1,
6 or section 558A.4.

7 Sec. 6. APPLICABILITY DATE. This Act applies to
8 residential real estate installment sales contracts entered
9 into on or after the effective date of this Act.

10 EXPLANATION

11 This bill requires that a person selling real estate
12 pursuant to an installment sales contract prepare and deliver
13 to the contract purchaser a written contract disclosure
14 statement and a copy of the installment sales contract. The
15 contract disclosure statement is required if the contract
16 seller entered into more than four real estate installment
17 sales contracts in the 365 days previous to the seller signing
18 the contract disclosure statement.

19 The bill requires that the contract disclosure statement
20 contain specified information, including the property tax
21 assessment on the real estate, information on delinquent
22 property taxes or special assessments, information on
23 mortgages or liens on the real estate, an amortization
24 schedule, balloon payment information, the annual rate of
25 interest to be charged under the contract, statements as to
26 the purchaser's rights, mailing addresses of the parties to
27 the contract, and information on forfeiture of the contract.

28 The bill provides that certain lending institutions do not
29 have to provide a contract disclosure statement.

30 The bill defines residential real estate as a residential
31 dwelling containing no more than two single-family dwelling
32 units which is not located on agricultural land.

33 The bill provides that the civil remedies for violation of
34 the contract disclosure requirements is rescission of the
35 installment sales contract or recovery of a money judgment

1 against the contract seller. The contract purchaser has the
2 burden of proof by a preponderance of the evidence. If a
3 contract purchaser prevails in an action for rescission or for a
4 money judgment, the court may also award to the contract
5 purchaser reasonable attorney fees incurred in bringing the
6 action.

7 The bill provides that a contract seller required to
8 provide a contract disclosure statement shall, in the property
9 disclosure statement, recommend that the buyer obtain an
10 independent home inspection. The bill also requires such a
11 contract seller to provide the property disclosure statement
12 at least seven days before the contract is executed by all
13 parties to the contract.

14 The bill provides that a contract seller who intentionally
15 provides inaccurate information on a contract disclosure
16 statement or on a property disclosure statement is guilty of a
17 fraudulent practice.

18 The bill applies to residential real estate installment
19 sales contracts entered into on or after the effective date of
20 the bill.

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HOUSE FILE 2565

H-8235

1 Amend House File 2565 as follows:
2 1. Page 5, line 9, by inserting after the word
3 "Act" the following: "by contract sellers who entered
4 into four or more residential real estate installment
5 sales contracts in the three hundred sixty-five days
6 previous to a contract entered into on or after the
7 effective date of this Act".

By KETTERING of Sac

H-8235 FILED MARCH 11, 2002

adopted 3/12/02 (A 719)

S. 2/12/02 Judiciary
S. 3/14/02 DoB

HOUSE FILE 2565
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 655)

(As Amended and Passed by the House March 12, 2002)

Passed House, Date _____ Passed Senate, Date (P. 1150) 4/12/02
Vote: Ayes _____ Nays _____ Vote: Ayes 47 Nays 0
Approved 4/26/02

A BILL FOR

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House Amendments _____

1 Section 1. NEW SECTION. 558.70 CONTRACT DISCLOSURE
2 STATEMENT REQUIRED FOR CERTAIN RESIDENTIAL REAL ESTATE
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9 a. If the real estate subject to the contract has been
10 separately assessed for property tax purposes, the current
11 assessed value of the real estate.

12 b. (1) A complete description of any property taxes due
13 and payable on the real estate and a complete description of
14 any special assessment on the real estate and the term of the
15 assessment.

16 (2) Information on whether any property taxes or special
17 assessments are delinquent and whether any tax sale
18 certificates have been issued for delinquent property taxes or
19 special assessments on the real estate.

20 c. A complete description of any mortgages or other liens
21 encumbering or secured by the real estate, including the
22 identity and address of the current owner of record with
23 respect to each such mortgage or lien, as well as a
24 description of the total outstanding balance and due date
25 under any such mortgage or lien.

26 d. A complete amortization schedule for all payments to be
27 made pursuant to the contract, which amortization schedule
28 shall include information on the portion of each payment to be
29 applied to principal and the portion to be applied to
30 interest.

31 e. If the contract requires a balloon payment, a complete
32 description of the balloon payment, including the date the
33 payment is due, the amount of the balloon payment, and other
34 terms related to the balloon payment. For purposes of this
35 paragraph, a "balloon payment" is any scheduled payment that

1 is more than twice as large as the average of earlier
2 scheduled payments.

3 f. The annual rate of interest to be charged under the
4 contract.

5 g. A statement that the purchaser has a right to seek
6 independent legal counsel concerning the contract and any
7 matters pertaining to the contract.

8 h. A statement that the purchaser has a right to receive a
9 true and complete copy of the contract after it has been
10 executed by all parties to the contract.

11 i. The mailing address of each party to the contract.

12 j. If the contract is subject to forfeiture, a statement
13 that if the purchaser does not comply with the terms of the
14 contract, the purchaser may lose all rights in the real estate
15 and all sums paid under the contract.

16 2. The contract disclosure statement shall be dated and
17 signed by each party to the contract, and the contract
18 purchaser shall be provided a complete copy of the contract at
19 the time the disclosure statement is delivered to the contract
20 purchaser pursuant to subsection 1.

21 3. Within five days after a residential real estate
22 installment sales contract has been executed by all parties to
23 the contract, the contract seller shall mail a true and
24 correct copy of the contract by regular first class mail to
25 the last known address of each contract purchaser. However,
26 this requirement is satisfied as to any purchaser who
27 acknowledges in writing that the purchaser has received a true
28 and correct copy of the fully executed contract.

29 4. This section applies to a contract seller who entered
30 into four or more residential real estate contracts in the
31 three hundred sixty-five days previous to the contract seller
32 signing the contract disclosure statement. For purposes of
33 this subsection, two or more entities sharing a common owner
34 or manager are considered a single contract seller. This
35 section does not apply to an organization listed in section

1 535B.2, subsections 1 through 12.

2 5. A violation of this section affects title to property
3 only as provided in section 558.71.

4 6. For purposes of this section, "residential real estate"
5 means a residential dwelling containing no more than two
6 single-family dwelling units, which is not located on a tract
7 of land used for agricultural purposes as defined in section
8 535.13.

9 7. This section and any rules adopted to administer this
10 section shall not limit or abridge any duty, requirement,
11 obligation, or liability for disclosure created by any other
12 provision of law, or under a contract between the parties.

13 Sec. 2. NEW SECTION. 558.71 CIVIL LIABILITIES.

14 1. A contract purchaser injured by a violation of section
15 558.70 may within one year of the execution of the contract
16 bring an equitable action in the district court of record
17 where the real estate is located to obtain relief as follows:

18 a. The court may rescind a contract that remains in
19 existence at the time the action is commenced, and award
20 restitution to the contract purchaser determined in accordance
21 with the standards for damages specified in paragraph "b".

22 b. If the contract has been terminated by any means prior
23 to commencement of the action, the contract purchaser may
24 recover a money judgment against the original contract seller
25 for a sum equal to all amounts the contract purchaser paid to
26 the contract seller, plus the reasonable value of any
27 improvements to the real estate made by the contract
28 purchaser, plus any other proximately caused or incidental
29 damages, less the fair rental value of the real estate for the
30 period of time the contract purchaser was in possession of the
31 real estate. For the purposes of this paragraph, the fair
32 rental value of the real estate shall be based on the fair
33 rental value of the real estate as of the date the real estate
34 installment sales contract was executed by all parties to the
35 contract.

1 2. A contract purchaser alleging a violation of section
2 558.70 bears the burden of establishing such violation by a
3 preponderance of the evidence.

4 3. An order of rescision or a money judgment awarded shall
5 not affect any rights or responsibilities arising from any
6 conveyance or encumbrance made by either the contract
7 purchaser or the contract seller prior to the filing of a lis
8 pendens in the action in which such relief is sought, unless
9 it is established by clear and convincing evidence that the
10 recipient of such conveyance or encumbrance had prior
11 knowledge that the contract was executed in violation of the
12 requirements of section 558.70.

13 4. In an action in which a contract purchaser obtains
14 relief under this section, the court shall also award to such
15 contract purchaser reasonable attorney fees incurred in
16 bringing the action.

17 Sec. 3. Section 558.46, Code 2001, is amended by adding
18 the following new subsection:

19 NEW SUBSECTION. 7. If a contract seller is subject to the
20 requirements of section 558.70, the contract must be recorded
21 within forty-five days rather than one hundred eighty days and
22 the recording requirement is only satisfied by recording the
23 real estate contract rather than a memorandum of the contract.

24 Sec. 4. Section 558A.4, Code 2001, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 3. A transferor subject to the
27 requirements of section 558.70 shall recommend in writing that
28 the transferee obtain an independent home inspection report to
29 provide full and complete information as required to be
30 disclosed under this section and under rules adopted by the
31 real estate commission pursuant to section 543B.9.

32 A transferor subject to section 558.70 shall provide the
33 real estate disclosure statement required by this chapter at
34 least seven days before the real estate installment sales
35 contract is executed by all parties to the contract.

1 Sec. 5. Section 714.8, Code 2001, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 20. A contract seller who intentionally
4 provides inaccurate information with regard to any matter
5 required to be disclosed under section 558.70, subsection 1,
6 or section 558A.4.

7 Sec. 6. APPLICABILITY DATE. This Act applies to
8 residential real estate installment sales contracts entered
9 into on or after the effective date of this Act by contract
10 sellors who entered into four or more residential real estate
11 installment sales contracts in the three hundred sixty-five
12 days previous to a contract entered into on or after the
13 effective date of this Act.

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HOUSE FILE 2565

AN ACT
REQUIRING CONTRACT DISCLOSURE STATEMENTS FOR CERTAIN
RESIDENTIAL REAL ESTATE INSTALLMENT CONTRACTS, PROVIDING
FOR A PENALTY, AND PROVIDING AN APPLICABILITY DATE.

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

Section 1. NEW SECTION. 558.70 CONTRACT DISCLOSURE
STATEMENT REQUIRED FOR CERTAIN RESIDENTIAL REAL ESTATE
INSTALLMENT SALES.

1. Prior to executing a residential real estate
installment sales contract, the contract seller shall deliver
a written contract disclosure statement to the contract
purchaser which shall clearly set forth the following
information:

a. If the real estate subject to the contract has been
separately assessed for property tax purposes, the current
assessed value of the real estate.

b. (1) A complete description of any property taxes due
and payable on the real estate and a complete description of
any special assessment on the real estate and the term of the
assessment.

(2) Information on whether any property taxes or special
assessments are delinquent and whether any tax sale
certificates have been issued for delinquent property taxes or
special assessments on the real estate.

c. A complete description of any mortgages or other liens
encumbering or secured by the real estate, including the
identity and address of the current owner of record with
respect to each such mortgage or lien, as well as a
description of the total outstanding balance and due date
under any such mortgage or lien.

d. A complete amortization schedule for all payments to be
made pursuant to the contract, which amortization schedule
shall include information on the portion of each payment to be

applied to principal and the portion to be applied to
interest.

e. If the contract requires a balloon payment, a complete
description of the balloon payment, including the date the
payment is due, the amount of the balloon payment, and other
terms related to the balloon payment. For purposes of this
paragraph, a "balloon payment" is any scheduled payment that
is more than twice as large as the average of earlier
scheduled payments.

f. The annual rate of interest to be charged under the
contract.

g. A statement that the purchaser has a right to seek
independent legal counsel concerning the contract and any
matters pertaining to the contract.

h. A statement that the purchaser has a right to receive a
true and complete copy of the contract after it has been
executed by all parties to the contract.

i. The mailing address of each party to the contract.

j. If the contract is subject to forfeiture, a statement
that if the purchaser does not comply with the terms of the
contract, the purchaser may lose all rights in the real estate
and all sums paid under the contract.

2. The contract disclosure statement shall be dated and
signed by each party to the contract, and the contract
purchaser shall be provided a complete copy of the contract at
the time the disclosure statement is delivered to the contract
purchaser pursuant to subsection 1.

3. Within five days after a residential real estate
installment sales contract has been executed by all parties to
the contract, the contract seller shall mail a true and
correct copy of the contract by regular first class mail to
the last known address of each contract purchaser. However,
this requirement is satisfied as to any purchaser who
acknowledges in writing that the purchaser has received a true
and correct copy of the fully executed contract.

4. This section applies to a contract seller who entered
into four or more residential real estate contracts in the

three hundred sixty-five days previous to the contract seller signing the contract disclosure statement. For purposes of this subsection, two or more entities sharing a common owner or manager are considered a single contract seller. This section does not apply to an organization listed in section 535B.2, subsections 1 through 12.

5. A violation of this section affects title to property only as provided in section 558.71.

6. For purposes of this section, "residential real estate" means a residential dwelling containing no more than two single-family dwelling units, which is not located on a tract of land used for agricultural purposes as defined in section 535.13.

7. This section and any rules adopted to administer this section shall not limit or abridge any duty, requirement, obligation, or liability for disclosure created by any other provision of law, or under a contract between the parties.

Sec. 2. NEW SECTION. 558.71 CIVIL LIABILITIES.

1. A contract purchaser injured by a violation of section 558.70 may within one year of the execution of the contract bring an equitable action in the district court of record where the real estate is located to obtain relief as follows:

a. The court may rescind a contract that remains in existence at the time the action is commenced, and award restitution to the contract purchaser determined in accordance with the standards for damages specified in paragraph "b".

b. If the contract has been terminated by any means prior to commencement of the action, the contract purchaser may recover a money judgment against the original contract seller for a sum equal to all amounts the contract purchaser paid to the contract seller, plus the reasonable value of any improvements to the real estate made by the contract purchaser, plus any other proximately caused or incidental damages, less the fair rental value of the real estate for the period of time the contract purchaser was in possession of the real estate. For the purposes of this paragraph, the fair rental value of the real estate shall be based on the fair

rental value of the real estate as of the date the real estate installment sales contract was executed by all parties to the contract.

2. A contract purchaser alleging a violation of section 558.70 bears the burden of establishing such violation by a preponderance of the evidence.

3. An order of rescision or a money judgment awarded shall not affect any rights or responsibilities arising from any conveyance or encumbrance made by either the contract purchaser or the contract seller prior to the filing of a lis pendens in the action in which such relief is sought, unless it is established by clear and convincing evidence that the recipient of such conveyance or encumbrance had prior knowledge that the contract was executed in violation of the requirements of section 558.70.

4. In an action in which a contract purchaser obtains relief under this section, the court shall also award to such contract purchaser reasonable attorney fees incurred in bringing the action.

Sec. 3. Section 558.46, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If a contract seller is subject to the requirements of section 558.70, the contract must be recorded within forty-five days rather than one hundred eighty days and the recording requirement is only satisfied by recording the real estate contract rather than a memorandum of the contract.

Sec. 4. Section 558A.4, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A transferor subject to the requirements of section 558.70 shall recommend in writing that the transferee obtain an independent home inspection report to provide full and complete information as required to be disclosed under this section and under rules adopted by the real estate commission pursuant to section 543B.9.

A transferor subject to section 558.70 shall provide the real estate disclosure statement required by this chapter at least seven days before the real estate installment sales contract is executed by all parties to the contract.

Sec. 5. Section 714.8, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 20. A contract seller who intentionally provides inaccurate information with regard to any matter required to be disclosed under section 558.70, subsection 1, or section 558A.4.

Sec. 6. APPLICABILITY DATE. This Act applies to residential real estate installment sales contracts entered into on or after the effective date of this Act by contract sellers who entered into four or more residential real estate installment sales contracts in the three hundred sixty-five days previous to a contract entered into on or after the effective date of this Act.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2565, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 4/26, 2002

THOMAS J. VILSACK
Governor

H.F. 2565