

MAR 6 2006
Place On Calendar

HOUSE FILE 2655
BY COMMITTEE ON LOCAL
GOVERNMENT

(SUCCESSOR TO HSB 728)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the duties of county recorders and county
2 auditors concerning instruments affecting real estate and
3 certain other filings recorded by the county recorder.

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

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HF 2655

TLSB 5829HV 81

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1 Section 1. Section 331.602, subsection 5, Code Supplement
2 2005, is amended by striking the subsection.

3 Sec. 2. Section 331.603, subsection 3, Code 2005, is
4 amended to read as follows:

5 3. The recorder may reproduce in miniature on a durable
6 medium any instrument to be recorded. When a recorded
7 instrument involves a release, ~~or~~ assignment, or other
8 subsequent reference to an original document, the separate
9 instrument filed acknowledging the release, ~~or~~ assignment, or
10 other subsequent reference shall be reproduced. In lieu of
11 marginal entries, the recorder shall ~~make notations on both~~
12 ~~the index and the record of the original instrument~~ cross-
13 reference the release, assignment, or other subsequent
14 reference with the record of the original document. When an
15 official record is produced in miniature, a security copy
16 shall be reproduced at the same time and kept outside of the
17 courthouse.

18 Sec. 3. Section 331.606B, subsection 2, unnumbered
19 paragraph 1, Code 2005, is amended to read as follows:

20 Each document or instrument, other than a plat or survey or
21 a drawing related to a plat or survey, that is presented for
22 recording ~~and that contains any of~~ shall contain the following
23 information ~~shall have that information~~ on the first page
24 below the three-inch margin:

25 Sec. 4. Section 331.607, subsection 1, Code 2005, is
26 amended to read as follows:

27 1. ~~A record for military discharges~~ Military personnel
28 records as provided in section 331.608.

29 Sec. 5. Section 331.608, subsections 3 and 9, Code
30 Supplement 2005, are amended to read as follows:

31 3. The recorder shall record without charge the
32 commissions and warrants of veteran officers and
33 noncommissioned officers; ~~orders citing a veteran for bravery~~
34 ~~and meritorious action~~ and citations and bestowals of medals
35 from the state, federal, or foreign governments; and any other

1 documents needed to perfect a claim.

2 9. As used in this section, "veteran" means a veteran as
3 defined in section 35.1, who enlisted or was inducted from the
4 county, resided at any time in the county, or is buried in the
5 county. For purposes of records maintained for claims filed
6 under chapter 426A, "veteran" also means a veteran as defined
7 in section 426A.11, subsection 4.

8 Sec. 6. Section 458A.22, Code 2005, is amended to read as
9 follows:

10 458A.22 DUTY TO HAVE FORFEITED LEASE RELEASED -- AFFIDAVIT
11 OF NONCOMPLIANCE -- NOTICE TO LANDOWNER -- REMEDIES.

12 1. When any oil, gas, or metallic mineral lease given on
13 land situated in Iowa and recorded, becomes forfeited by
14 failure of the lessee to comply with its provisions or the
15 Iowa law, the lessee shall, within sixty days after date of
16 forfeiture of the lease, have the lease surrendered in
17 writing, duly acknowledged, and placed on record in the county
18 where the leased land is situated, ~~or the lease may be~~
19 ~~released by a marginal release on margin of the record without~~
20 ~~cost to the owner of land described in the lease.~~ If the
21 lessee fails to execute and record a release of the recorded
22 lease within the time provided for, the owner of the land may
23 execute ~~and file with the recorder of the counties in which~~
24 ~~the forfeited lease has been recorded~~ an affidavit of
25 noncompliance in substantially the following form:

26 AFFIDAVIT OF NONCOMPLIANCE

27 State of Iowa)
28 County of) ss.

29, being first duly sworn, upon oath deposes and says
30 that the deponent is as referred to in an (oil and gas)
31 (metallic mineral) mining lease dated the ... day of
32 (month), (year), which lease is recorded in Volume ...,
33 Page ..., or as Instrument # ... of the County Records of
34 County, ..., and which lease covers the following
35 described lands:

1
2 And further, deponent says that on the ... day of
3 (month), (year), under the terms of said lease, there
4 should have been paid to the deponent or deposited to the
5 deponent's credit in the Bank of the sum of
6 Dollars (\$....), the payment of which was necessary in
7 order to keep the above described lease in force and effect.
8 Deponent hereby swears the above payment has never been made
9 to the deponent or the deponent's representatives, in money or
10 otherwise, nor has same been deposited to the deponent's
11 credit in the above bank.

12 And further, deponent says that there has been no drilling
13 or development of any nature or kind whatsoever done on the
14 land covered by the lease referred to herein, as called for
15 under the terms of said lease.

16
17

18 Subscribed and sworn to before me, a Notary Public for the
19 State of Iowa, this day of (month), ... (year)
20
21 Notary Public

22 My commission expires

23 AFFIDAVIT OF THE BANKER

24 State of)
25 County of) ss.

26 I,, (Cashier) (President) of the Bank of
27, being first duly sworn, upon my oath declare that
28 there has not been deposited to the credit of in the
29 Bank of, by or any other party, any sum
30 of money whatsoever, in payment of rental under the terms of
31 the (oil and gas) (metallic mineral) mining lease referred to
32 in this affidavit.

33 Witness my hand this day of (month), ...
34 (year)
35

1 (Cashier) (President) of Bank
2 Subscribed and sworn to before me, a Notary Public for the
3 State of Iowa on the day of (month), ... (year)
4
5 Notary Public

6 My commission expires

7 2. The owner of the land shall retain the original
8 affidavit and shall mail a copy of the affidavit by restricted
9 certified mail, as defined in section 618.15, to the lessee.

10 If the lessee ~~shall~~, within thirty days after receipt of the
11 filing-of-such affidavit, ~~give~~ gives notice in writing, by
12 restricted certified mail, to the ~~county-recorder-of-the~~
13 ~~county-where-said~~ owner of the land is-located that said the
14 lease has not been forfeited and that ~~said the~~ lessee still
15 claims that ~~said the~~ lease is in full force and effect, then
16 the ~~said-affidavit-shall-not-be-recorded-but-the-county~~
17 ~~recorder-shall-notify-the-owner-of-the-land-of-the-action-of~~
18 ~~the-lessee,-and-the~~ owner of the land shall be entitled to the
19 remedies provided by this chapter for the cancellation of such
20 disputed lease.

21 3. If the lessee shall does not notify the county-recorder
22 owner of the land as above provided in subsection 2, then the
23 county-recorder owner shall record-said file the original
24 affidavit for recording with the county recorder, and
25 thereafter the record of the ~~said~~ lease shall not be notice to
26 the public of the existence of ~~said the~~ lease or of any
27 interest therein or rights thereunder, and ~~said the~~ record
28 shall not be received in evidence in any court of the state on
29 behalf of the lessee against the lessor, and ~~said the~~ lease
30 shall stand forfeited.

31 Sec. 7. Section 558.41, subsection 4, Code 2005, is
32 amended to read as follows:

33 4. TERMINATION OF LIFE ESTATE. Upon the termination of a
34 life estate interest through the death of the holder of the
35 life estate, any surviving holder or successor in interest

1 shall prepare a change of title or affidavit for tax purposes
2 ~~and delivery-of-the-deed-or-change-of-title~~ shall deliver such
3 instrument to the county recorder of the county in which each
4 parcel of real estate is located.

5 Sec. 8. Section 558.49, subsection 3, Code 2005, is
6 amended to read as follows:

7 3. The date and time when the instrument was filed with
8 the recorder.

9 Sec. 9. Section 558.57, Code 2005, is amended to read as
10 follows:

11 558.57 ENTRY ON AUDITOR'S TRANSFER BOOKS.

12 ~~The~~ After the recorder ~~shall-not-record~~ has accepted for
13 recording and indexed any deed, real estate installment
14 contract, or other instrument unconditionally conveying real
15 estate or altering a real estate contract by assigning the
16 buyer's or seller's interest, changing the name of the buyer
17 or seller, changing the legal description of the property,
18 forfeiting or canceling the contract, or making other
19 significant changes, ~~until~~ the auditor shall make the proper
20 ~~entries have-been-made~~ upon the transfer books in the
21 auditor's office, ~~and-endorsement-made-upon-the-deed,-real~~
22 ~~estate-installment-contract,-or-other-instrument-properly~~
23 ~~dated-and-officially-signed,-in-substantially-the-following~~
24 ~~form:-~~

25 ~~Entered-upon-transfer-books-and-for-taxation-this--day-of~~
26 ~~-----(month),---(year).--My-fee-\$----collected-by-recorder-~~

27
28 Auditor-

29 Sec. 10. Section 558.58, subsection 1, Code 2005, is
30 amended to read as follows:

31 1. At the time of filing a deed, real estate installment
32 contract, or other instrument mentioned in section 558.57, the
33 recorder shall collect ~~from-the-person-filing-the-deed,-real~~
34 ~~estate-installment-contract,-or-instrument,~~ and note payment
35 of, the recording fee ~~provided-by-law~~ and the auditor's

1 transfer fee, as provided by law, except as provided in
2 subsection 2. ~~The recorder shall deliver the deed, real~~
3 ~~estate installment contract, or instrument to the county~~
4 ~~auditor, after endorsing upon the instrument the following:~~
5 ~~Filed for record, indexed, and delivered to the county~~
6 ~~auditor this -- day of ---- (month), -- (year), at ----~~
7 ~~o'clock -- m.~~
8 ~~Recorder's and auditor's fee \$---- paid.~~

.....

Recorder.

11 After the recorder has accepted the instrument for
12 recording, the instrument shall be indexed and then delivered
13 to the auditor to be placed on the auditor's transfer books.

14 Sec. 11. Section 558.60, Code 2005, is amended to read as
15 follows:

16 558.60 TRANSFER AND INDEX BOOKS.

17 The county auditor shall keep in the county auditor's
18 office books for the transfer of real estate, which shall
19 consist of a transfer book, index book, and plat book. As
20 used in this context, "book" means the method of data storage
21 and retrieval utilized by the county auditor.

22 The auditor shall index the real estate transfers by block
23 and lot or by township, range, section, section quarter, and
24 subdivision, as occasion may require. The transfer books
25 shall show all of the following:

- 26 1. Each grantor.
- 27 2. Each grantee.
- 28 3. The date of the instrument.
- 29 4. The nature of the instrument.
- 30 5. The document reference number where the record of the
31 instrument may be found.
- 32 6. The description of the real estate conveyed.

33 Sec. 12. Section 558.63, Code 2005, is amended to read as
34 follows:

35 558.63 BOOK OF PLATS -- HOW KEPT.

1 The auditor shall keep the book of plats ~~so-as-to-show~~
2 showing the number of lot and block, or township and range,
3 divided into sections and subdivisions as occasion may
4 require, and shall designate thereon each piece of real
5 estate, and ~~mark-in-pencil~~ the name of the owner ~~thereon, in a~~
6 ~~legible-manner, which.~~ The plats shall be lettered or
7 numbered so that they may be conveniently referred to ~~by the~~
8 ~~memoranda of~~ in the transfer book, ~~and shall be drawn on the~~
9 ~~scale of not less than four inches to the mile.~~

10 Sec. 13. Section 561.4, Code 2005, is amended to read as
11 follows:

12 561.4 SELECTING -- PLATTING.

13 The owner, husband or wife, or a single person, may select
14 the homestead and cause it to be platted, but a failure to do
15 so shall not render the same liable when it otherwise would
16 not be, and a selection by the owner shall control. When
17 selected, it shall be designated by a legal description, or if
18 impossible it shall be marked off by permanent, visible
19 monuments, and the description shall give the direction and
20 distance of the starting point from some corner of the
21 dwelling, which description, with the plat, shall be filed and
22 recorded by the recorder of the proper county ~~in the homestead~~
23 ~~book, which shall be, as nearly as may be, in the form of the~~
24 ~~record-books-for-deeds, with an index kept in the same manner~~
25 provided in sections 558.49 and 558.52.

26 Sec. 14. Section 614.21, unnumbered paragraph 1, Code
27 2005, is amended to read as follows:

28 No action shall be maintained to foreclose or enforce any
29 real estate mortgage, bond for deed, trust deed, or contract
30 for the sale or conveyance of real estate, after twenty years
31 from the date thereof, as shown by the record of such
32 instrument, unless the record of such instrument shows that
33 less than ten years have elapsed since the date of maturity of
34 the indebtedness or part thereof, secured thereby, or since
35 the right of action has accrued thereon, or unless the record

1 shows an extension of the maturity of the instrument or of the
2 debt or a part thereof, and that ten years from the expiration
3 of the time of such extension have not yet expired. The date
4 of maturity, when different than as appears by the record of
5 the instrument, and the date of maturity of any extension of
6 said indebtedness or part thereof, may be shown at any time
7 prior to the expiration of the above periods of limitation by
8 the holder of the debt or the owner or assignee of the
9 instrument filing an extension agreement, duly acknowledged as
10 the original instrument was required to be acknowledged, in
11 the office of the recorder where the instrument is recorded,
12 ~~or-by-noting-on-the-margin-of-the-record-of-such-instrument-in~~
13 ~~the-recorder's-office-an-extension-of-the-maturity-of-the~~
14 ~~instrument-or-of-the-debt-secured,-or-any-part-thereof,-each~~
15 ~~notation-to-be-witnessed-by-the-recorder-and-entered-upon-the~~
16 ~~index-of-mortgages-in-the-name-of-the-mortgagor-and-mortgagee.~~

17 Sec. 15. Section 614.35, Code 2005, is amended to read as
18 follows:

19 614.35 RECORDING INTEREST.

20 To be effective and to be entitled to record, the notice
21 above referred to shall contain an accurate and full
22 description of all land affected by such notice which
23 description shall be set forth in particular terms and not by
24 general inclusions; but if ~~said~~ the claim is founded upon a
25 recorded instrument, then the description in such notice may
26 be the same as that contained in such recorded instrument.
27 Such notice shall be filed for record in the office of the
28 county recorder of the county or counties where the land
29 described ~~therein~~ in the notice is situated. The recorder of
30 each county shall accept all such notices presented to the
31 recorder which describe land located in the county in which
32 the recorder serves and shall enter and record full copies
33 ~~thereof-in-the-same-way-that-deeds-and-other-instruments-are~~
34 recorded of the notices in the manner provided in sections
35 558.49 and 558.52, and each recorder shall be entitled to

1 charge the same fees for the recording thereof of the notices
2 as are charged for recording deeds. In indexing such notices
3 in the recorder's office each recorder shall enter such
4 notices under the grantee indexes of deeds in the names of the
5 claimants appearing in such notices. ~~Such notices shall also~~
6 ~~be indexed under the description of the real estate involved~~
7 ~~in a book set apart for that purpose to be known as the~~
8 ~~"claimant's book."~~

9 Sec. 16. Sections 558.61, 558.62, and 558.64, Code 2005,
10 are repealed.

11 EXPLANATION

12 This bill makes changes to the Code relating to the duties
13 of county recorders and county auditors concerning instruments
14 affecting real estate and other filings required to be
15 recorded by the county recorder.

16 The bill strikes a requirement that the county recorder
17 compile and forward to the inheritance tax division of the
18 department of revenue a list of deeds which are dated or
19 acknowledged more than six months before the date of
20 recording.

21 The bill requires the recorder to cross-reference to the
22 original document an instrument that makes subsequent
23 reference to the original document.

24 The bill specifies that the recorder is to accept for
25 recording all the military personnel documents listed for
26 recording in section 331.608, not just military discharges.
27 Pertaining to recording of documents filed by veterans, the
28 bill provides that "veteran" also means as that term is
29 defined in Code chapter 426A, "Military Service Tax Credits
30 and Exemptions".

31 The bill changes the process by which an oil, gas, or
32 metallic mineral lease is forfeited by the lessor or released
33 by the lessee. The bill requires that if a lessee fails to
34 record with the county recorder a release of a lease, the
35 owner of the land shall send to the lessee, by restricted

1 certified mail, an affidavit of noncompliance. If the lessee
2 disputes the forfeiture of the lease, the lessee must notify
3 the owner of the land, by restricted certified mail, within 30
4 days of receiving the affidavit of noncompliance. The bill
5 further provides that if the lessee does not so notify the
6 owner of the land, the owner shall record the affidavit of
7 noncompliance with the county recorder.

8 The bill makes changes relating to the county recorder's
9 duty to record instruments affecting real estate and the
10 county auditor's duty to note transfers of real estate. The
11 bill repeals those sections which illustrate the endorsements
12 to be made on instruments and the form of real estate transfer
13 books and instead lists the information required to be noted
14 on the instruments and in the transfer books. The bill
15 defines "book", in the context of the county auditor's
16 transfer book, index book, and plat book, to mean the method
17 of data storage and retrieval utilized by the auditor.

18 The bill provides that notice of any surviving holder or
19 successor in interest of a life estate that has been
20 terminated through the death of the holder of the life estate
21 may be made by affidavit filed for recording with the county
22 recorder in lieu of a deed or change of title.

23 The bill strikes the requirement that records of homestead
24 plats be indexed and recorded in a separate book and instead
25 shall be indexed and recorded in the general system where all
26 deeds and other instruments affecting real estate are
27 recorded. The bill makes this same change to Code section
28 614.35 regarding indexing and recording of notices filed to
29 preserve an interest in property that has a marketable chain
30 of title.

31 The bill strikes the option of making a notation, witnessed
32 by the county recorder, on the margin of an instrument
33 indicating an extension of the debt maturity date relating to
34 the real estate described in the instrument and requires that
35 such an extension agreement be filed with the county recorder

S.F. _____ H.F. 2655

- 1 for recording.
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Chair Schickel
Arnold
Zaskill

HSB 728
LOCAL GOVERNMENT

HOUSE FILE SF 02655
BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL BY
CHAIRPERSON VAN ENGELENHOVEN)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

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17 writing, duly acknowledged, and placed on record in the county
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24 ~~the forfeited lease has been recorded~~ an affidavit of
25 noncompliance in substantially the following form:

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33 Page ..., or as Instrument # ... of the County Records of
34 County, ..., and which lease covers the following
35 described lands:

S.F. _____ H.F. _____

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3 (month), (year), under the terms of said lease, there
4 should have been paid to the deponent or deposited to the
5 deponent's credit in the Bank of the sum of
6 Dollars (\$....), the payment of which was necessary in
7 order to keep the above described lease in force and effect.
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9 to the deponent or the deponent's representatives, in money or
10 otherwise, nor has same been deposited to the deponent's
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13 or development of any nature or kind whatsoever done on the
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31 the (oil and gas) (metallic mineral) mining lease referred to
32 in this affidavit.

33 Witness my hand this day of (month), ...
34 (year)

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26 the public of the existence of said the lease or of any
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23 ~~dated-and-officially-signed, in-substantially-the-following~~
24 form.

25 ~~Entered-upon-transfer-books-and-for-taxation-this--day-of~~
26 ~~---(month)--(year)--My-fee-\$---collected-by-recorder-~~

27
28 Auditor.

29 Sec. 10. Section 558.58, subsection 1, Code 2005, is
30 amended to read as follows:

31 1. At the time of filing a deed, real estate installment
32 contract, or other instrument mentioned in section 558.57, the
33 recorder shall collect ~~from-the-person-filing-the-deed, real~~
34 estate-installment-contract, or instrument, and note payment
35 of, the recording fee provided-by-law and the auditor's

1 transfer fee, as provided by law, except as provided in
2 subsection 2. ~~The recorder shall deliver the deed, real~~
3 ~~estate installment contract, or instrument to the county~~
4 ~~auditor, after endorsing upon the instrument the following:~~

5 ~~Filed for record, indexed, and delivered to the county~~
6 ~~auditor this -- day of ---- (month), -- (year), at ----~~
7 ~~o'clock -- m.~~

8 ~~Recorder's and auditor's fee \$---- paid.~~

9

.....

10

Recorder.

11 After the recorder has accepted the instrument for
12 recording, the instrument shall be indexed and then delivered
13 to the auditor to be placed on the auditor's transfer books.

14 Sec. 11. Section 558.60, Code 2005, is amended to read as
15 follows:

16 558.60 TRANSFER AND INDEX BOOKS.

17 The county auditor shall keep in the county auditor's
18 office books for the transfer of real estate, which shall
19 consist of a transfer book, index book, and plat book. As
20 used in this context, "book" means the method of data storage
21 and retrieval utilized by the county auditor.

22 The auditor shall index the real estate transfers by city,
23 block, and lot or by township, range, section, section
24 quarter, and subdivision, as occasion may require. The
25 transfer books shall show all of the following:

- 26 1. Each grantor.
- 27 2. Each grantee.
- 28 3. The date and time when the instrument was filed with
29 the county recorder.
- 30 4. The date of the instrument.
- 31 5. The nature of the instrument.
- 32 6. The document reference number where the record of the
33 instrument may be found.
- 34 7. The description of the real estate conveyed.

35 Sec. 12. Section 558.63, Code 2005, is amended to read as

1 follows:

2 558.63 BOOK OF PLATS -- HOW KEPT.

3 The auditor shall keep the book of plats ~~so-as-to-show~~
4 showing the number of lot and block, or township and range,
5 divided into sections and subdivisions as occasion may
6 require, and shall designate thereon each piece of real
7 estate, ~~and mark-in-pencil~~ the name of the owner ~~thereon-in-a~~
8 ~~legible-manner,-which.~~ The plats shall be lettered or
9 numbered so that they may be conveniently referred to by-the
10 memoranda-of in the transfer book,-and-shall-be-drawn-on-the
11 scale-of-not-less-than-four-inches-to-the-mile.

12 Sec. 13. Section 558.67, Code 2005, is amended to read as
13 follows:

14 558.67 CORRECTION OF BOOKS AND INSTRUMENTS.

15 The auditor ~~from-time-to-time-shall-correct-any-error~~
16 ~~appearing-in-the-transfer-books,-and-shall-notify-the-grantee~~
17 ~~of-any-error-in-description-discovered-in-any-instrument-filed~~
18 ~~for-transfer,-and-permit-the-same-to-be-corrected-by-the~~
19 ~~parties-before-completing-such-transfer~~ shall notify the
20 submitter or preparer of an instrument and the grantee named
21 in the instrument of any error discovered in an instrument
22 filed for transfer and shall further notify such persons of
23 the procedure necessary to correct such error.

24 Sec. 14. Section 561.4, Code 2005, is amended to read as
25 follows:

26 561.4 SELECTING -- PLATTING.

27 The owner, husband or wife, or a single person, may select
28 the homestead and cause it to be platted, but a failure to do
29 so shall not render the same liable when it otherwise would
30 not be, and a selection by the owner shall control. When
31 selected, it shall be designated by a legal description, or if
32 impossible it shall be marked off by permanent, visible
33 monuments, and the description shall give the direction and
34 distance of the starting point from some corner of the
35 dwelling, which description, with the plat, shall be filed and

1 recorded by the recorder of the proper county ~~in-the-homestead~~
2 ~~book, which shall be, as nearly as may be, in the form of the~~
3 ~~record books for deeds, with an index kept~~ in the same manner
4 provided in sections 558.49 and 558.52.

5 Sec. 15. Section 614.21, unnumbered paragraph 1, Code
6 2005, is amended to read as follows:

7 No action shall be maintained to foreclose or enforce any
8 real estate mortgage, bond for deed, trust deed, or contract
9 for the sale or conveyance of real estate, after twenty years
10 from the date thereof, as shown by the record of such
11 instrument, unless the record of such instrument shows that
12 less than ten years have elapsed since the date of maturity of
13 the indebtedness or part thereof, secured thereby, or since
14 the right of action has accrued thereon, or unless the record
15 shows an extension of the maturity of the instrument or of the
16 debt or a part thereof, and that ten years from the expiration
17 of the time of such extension have not yet expired. The date
18 of maturity, when different than as appears by the record of
19 the instrument, and the date of maturity of any extension of
20 said indebtedness or part thereof, may be shown at any time
21 prior to the expiration of the above periods of limitation by
22 the holder of the debt or the owner or assignee of the
23 instrument filing an extension agreement, duly acknowledged as
24 the original instrument was required to be acknowledged, in
25 the office of the recorder where the instrument is recorded,
26 ~~or by noting on the margin of the record of such instrument in~~
27 ~~the recorder's office an extension of the maturity of the~~
28 ~~instrument or of the debt secured, or any part thereof, each~~
29 ~~notation to be witnessed by the recorder and entered upon the~~
30 ~~index of mortgages in the name of the mortgagor and mortgagee.~~

31 Sec. 16. Section 614.35, Code 2005, is amended to read as
32 follows:

33 614.35 RECORDING INTEREST.

34 To be effective and to be entitled to record, the notice
35 above referred to shall contain an accurate and full

1 description of all land affected by such notice which
2 description shall be set forth in particular terms and not by
3 general inclusions; but if ~~said~~ the claim is founded upon a
4 recorded instrument, then the description in such notice may
5 be the same as that contained in such recorded instrument.
6 Such notice shall be filed for record in the office of the
7 county recorder of the county or counties where the land
8 described ~~therein~~ in the notice is situated. The recorder of
9 each county shall accept all such notices presented to the
10 recorder which describe land located in the county in which
11 the recorder serves and shall enter and record full copies
12 ~~thereof-in-the-same-way-that-deeds-and-other-instruments-are~~
13 recorded of the notices in the manner provided in sections
14 558.49 and 558.52, and each recorder shall be entitled to
15 charge the same fees for the recording ~~thereof~~ of the notices
16 as are charged for recording deeds. In indexing such notices
17 in the recorder's office each recorder shall enter such
18 notices under the grantee indexes of deeds in the names of the
19 claimants appearing in such notices. ~~Such-notices-shall-also~~
20 ~~be-indexed-under-the-description-of-the-real-estate-involved~~
21 ~~in-a-book-set-apart-for-that-purpose-to-be-known-as-the~~
22 ~~"claimant's-book."~~

23 Sec. 17. Sections 558.61, 558.62, and 558.64, Code 2005,
24 are repealed.

25 EXPLANATION

26 This bill makes changes to the Code relating to the duties
27 of county recorders and county auditors concerning instruments
28 affecting real estate and other filings required to be
29 recorded by the county recorder.

30 The bill strikes a requirement that the county recorder
31 compile and forward to the inheritance tax division of the
32 department of revenue a list of deeds which are dated or
33 acknowledged more than six months before the date of
34 recording.

35 The bill requires the recorder to cross-reference to the

1 original document an instrument that makes subsequent
2 reference to the original document.

3 The bill specifies that the recorder is to accept for
4 recording all the military personnel documents listed for
5 recording in section 331.608, not just military discharges.
6 Pertaining to recording of documents filed by veterans, the
7 bill provides that "veteran" also means as that term is
8 defined in Code chapter 426A, "Military Service Tax Credits
9 and Exemptions".

10 The bill changes the process by which an oil, gas, or
11 metallic mineral lease is forfeited by the lessor or released
12 by the lessee. The bill requires that if a lessee fails to
13 record with the county recorder a release of a lease, the
14 owner of the land shall send to the lessee, by restricted
15 certified mail, an affidavit of noncompliance. If the lessee
16 disputes the forfeiture of the lease, the lessee must notify
17 the owner of the land, by restricted certified mail, within 30
18 days of receiving the affidavit of noncompliance. The bill
19 further provides that if the lessee does not so notify the
20 owner of the land, the owner shall record the affidavit of
21 noncompliance with the county recorder.

22 The bill makes changes relating to the county recorder's
23 duty to record instruments affecting real estate and the
24 county auditor's duty to note transfers of real estate. The
25 bill repeals those sections which illustrate the endorsements
26 to be made on instruments and the form of real estate transfer
27 books and instead lists the information required to be noted
28 on the instruments and in the transfer books. The bill
29 defines "book", in the context of the county auditor's
30 transfer book, index book, and plat book, to mean the method
31 of data storage and retrieval utilized by the auditor.

32 The bill provides that notice of any surviving holder or
33 successor in interest of a life estate that has been
34 terminated through the death of the holder of the life estate
35 may be made by affidavit filed for recording with the county

1 recorder in lieu of a deed or change of title.

2 The bill requires the county auditor to notify the
3 submitter or preparer, and the grantee, of an instrument filed
4 for transfer of any error discovered in the instrument.

5 The bill strikes the requirement that records of homestead
6 plats be indexed and recorded in a separate book and instead
7 shall be indexed and recorded in the general system where all
8 deeds and other instruments affecting real estate are
9 recorded. The bill makes this same change to Code section
10 614.35 regarding indexing and recording of notices filed to
11 preserve an interest in property that has a marketable chain
12 of title.

13 The bill strikes the option of making a notation, witnessed
14 by the county recorder, on the margin of an instrument
15 indicating an extension of the debt maturity date relating to
16 the real estate described in the instrument and requires that
17 such an extension agreement be filed with the county recorder
18 for recording.

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