

FILED FEB 23 2006

SENATE FILE 2264  
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO SSB 3133)

Passed Senate, Date 3-15-06 Passed House, Date \_\_\_\_\_  
Vote: Ayes 48 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved April 10, 2006

**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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SENATE FILE 2264

S-5029

- 1 Amend Senate File 2264 as follows:
- 2 1. Page 6, lines 22 and 23, by striking the words
- 3 "city, block," and inserting the following: "block".
- 4 2. Page 6, by striking lines 28 and 29.
- 5 3. Page 7, by striking lines 12 through 23.
- 6 4. By renumbering and correcting internal
- 7 references as necessary.

By KEITH A. KREIMAN

S-5029 FILED MARCH 7, 2006

CF 2264

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:~~ 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 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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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.

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19 paragraph 1, Code 2005, is amended to read as follows:

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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:

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30 Supplement 2005, are amended to read as follows:

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33 noncommissioned officers~~;~~ orders citing a veteran for bravery  
34 and meritorious action~~;~~ 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:

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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.

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.....  
Recorder.

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

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

558.60 TRANSFER AND INDEX BOOKS.

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

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

1. Each grantor.
2. Each grantee.
3. The date of the instrument.
4. The nature of the instrument.
5. The document reference number where the record of the instrument may be found.
6. The description of the real estate conveyed.

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

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.

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Kreiman co-chair  
Lundby co-chair  
Stewart  
Houser

SSB# 3133

Local Government

Succeeded By  
SF/HF 2264

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON LOCAL  
GOVERNMENT BILL BY  
CO-CHAIRPERSON QUIRMBACH)

Passed Senate, Date \_\_\_\_\_ Passed House, 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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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

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

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 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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SENATE FILE 2264

AN ACT

RELATING TO THE DUTIES OF COUNTY RECORDERS AND COUNTY AUDITORS  
CONCERNING INSTRUMENTS AFFECTING REAL ESTATE AND CERTAIN  
OTHER FILINGS RECORDED BY THE COUNTY RECORDER.

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

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

Sec. 2. Section 331.603, subsection 3, Code 2005, 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, or other subsequent reference to an original document, the separate instrument filed acknowledging the release, or assignment, or other subsequent reference shall be reproduced. In lieu of marginal entries, the recorder shall make notations on both the index and the record of the original instrument cross-reference the release, assignment, or other subsequent reference with the record of the original document. 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. 3. Section 331.606B, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

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

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

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

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

3. The recorder shall record without charge the commissions and warrants of veteran officers and noncommissioned officers; orders citing a veteran for bravery and meritorious action; and citations and bestowals of medals from the state, federal, or foreign governments; and any other documents needed to perfect a claim.

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

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

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

1. When any oil, gas, or metallic mineral lease given on land situated in Iowa and recorded, becomes forfeited by failure of the lessee to comply with its provisions or the Iowa law, the lessee shall, within sixty days after date of forfeiture of the lease, have the lease surrendered in

writing, duly acknowledged, and placed on record in the county where the leased land is situated, ~~or the lease may be released by a marginal release on margin of the record without cost to the owner of land described in the lease.~~ If the lessee fails to execute and record a release of the recorded lease within the time provided for, the owner of the land may execute ~~and file with the recorder of the counties in which the forfeited lease has been recorded~~ an affidavit of noncompliance in substantially the following form:

AFFIDAVIT OF NONCOMPLIANCE

State of Iowa )  
County of ..... ) ss.

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

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

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

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

.....  
Notary Public

My commission expires .....

AFFIDAVIT OF THE BANKER

State of ..... )  
County of ..... ) ss.

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

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

.....  
(Cashier) (President) of ..... Bank

Subscribed and sworn to before me, a Notary Public for the State of Iowa on the .... day of ..... (month), ... (year)

.....  
Notary Public

My commission expires .....

2. The owner of the land shall retain the original affidavit and shall mail a copy of the affidavit by restricted certified mail, as defined in section 618.15, to the lessee. If the lessee shall, within thirty days after receipt of the filing-of-such affidavit, give gives notice in writing, by restricted certified mail, to the county-recorder-of-the county-where-said owner of the land is-located that said the lease has not been forfeited and that said the lessee still

claims that said the lease is in full force and effect, then the ~~said affidavit shall not be recorded but the county recorder shall notify the owner of the land of the action of the lessee, and the~~ owner of the land shall be entitled to the remedies provided by this chapter for the cancellation of such disputed lease.

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

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

4. TERMINATION OF LIFE ESTATE. Upon the termination of a life estate interest through the death of the holder of the life estate, any surviving holder or successor in interest shall prepare a change of title or affidavit for tax purposes and ~~delivery of the deed or change of title shall deliver such instrument~~ to the county recorder of the county in which each parcel of real estate is located.

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

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

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

558.57 ENTRY ON AUDITOR'S TRANSFER BOOKS.

The After the recorder shall not record has accepted for recording and indexed any deed, real estate installment

contract, or other instrument unconditionally conveying real estate or altering a real estate contract by assigning the buyer's or seller's interest, changing the name of the buyer or seller, changing the legal description of the property, forfeiting or canceling the contract, or making other significant changes, ~~until the auditor shall make the proper entries have been made upon the transfer books in the auditor's office, and endorsement made upon the deed, real estate installment contract, or other instrument properly dated and officially signed, in substantially the following form.~~

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

-----  
Auditor:

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

1. At the time of filing a deed, real estate installment contract, or other instrument mentioned in section 558.57, the recorder shall collect ~~from the person filing the deed, real estate installment contract, or instrument, and note payment of,~~ the recording fee provided by law and the auditor's transfer fee, as provided by law, except as provided in subsection 2. ~~The recorder shall deliver the deed, real estate installment contract, or instrument to the county auditor, after endorsing upon the instrument the following:~~

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

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

-----  
Recorder:

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

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

558.60 TRANSFER AND INDEX BOOKS.

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

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

1. Each grantor.
2. Each grantee.
3. The date of the instrument.
4. The nature of the instrument.
5. The document reference number where the record of the instrument may be found.
6. The description of the real estate conveyed.

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

558.63 BOOK OF PLATS -- HOW KEPT.

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

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

561.4 SELECTING -- PLATTING.

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

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

No action shall be maintained to foreclose or enforce any real estate mortgage, bond for deed, trust deed, or contract for the sale or conveyance of real estate, after twenty years from the date thereof, as shown by the record of such instrument, unless the record of such instrument shows that less than ten years have elapsed since the date of maturity of the indebtedness or part thereof, secured thereby, or since the right of action has accrued thereon, or unless the record shows an extension of the maturity of the instrument or of the debt or a part thereof, and that ten years from the expiration of the time of such extension have not yet expired. The date of maturity, when different than as appears by the record of the instrument, and the date of maturity of any extension of said indebtedness or part thereof, may be shown at any time prior to the expiration of the above periods of limitation by the holder of the debt or the owner or assignee of the instrument filing an extension agreement, duly acknowledged as the original instrument was required to be acknowledged, in

~~the office of the recorder where the instrument is recorded, or by noting on the margin of the record of such instrument in the recorder's office an extension of the maturity of the instrument or of the debt secured, or any part thereof; each notation to be witnessed by the recorder and entered upon the index of mortgages in the name of the mortgagor and mortgagee.~~

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

614.35 RECORDING INTEREST.

To be effective and to be entitled to record, the notice above referred to shall contain an accurate and full description of all land affected by such notice which description shall be set forth in particular terms and not by general inclusions; but if ~~said the~~ claim is founded upon a recorded instrument, then the description in such notice may be the same as that contained in such recorded instrument. Such notice shall be filed for record in the office of the county recorder of the county or counties where the land described therein in the notice is situated. The recorder of each county shall accept all such notices presented to the recorder which describe land located in the county in which the recorder serves and shall enter and record full copies thereof ~~in the same way that deeds and other instruments are recorded of the notices in the manner provided in sections 558.49 and 558.52~~, and each recorder shall be entitled to charge the same fees for the recording thereof of the notices as are charged for recording deeds. In indexing such notices in the recorder's office each recorder shall enter such notices under the grantee indexes of deeds in the names of the claimants appearing in such notices. ~~Such notices shall also be indexed under the description of the real estate involved in a book set apart for that purpose to be known as the "claimant's book."~~

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

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JEFFREY M. LAMBERTI  
President of the Senate

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CHRISTOPHER C. RANTS  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2264, Eighty-first General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved \_\_\_\_\_, 2006

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THOMAS J. VILSACK  
Governor