

PROPERTY

2009 LEGISLATIVE UPDATE

2009 Title Guaranty Regional Academy

April 22, 2009
Hotel Vetro
Iowa City, Iowa

May 12, 2009
Convention Center
Sioux City, Iowa

May 14, 2009
Sheraton
West Des Moines, Iowa

Mark A. Otto
Newton, Iowa

Mark A. Otto - Partner, Brierly Law Office, Newton, Iowa; University of Southern California, BA 1979; Drake University Law School, JD, 1981; Iowa State Bar Association (Board of Governors 1998-2004; Ways and Means Committee 2006; Real Estate and Title Law Section Chair 2008-2009; Member Probate and Trust Law, Real Estate and Title Land & Taxation Sections); Jasper County Bar Association, President 1996; Iowa State Bar Foundation; Jasper County Estate Planning Council, President 1986-1987; Grievance Commission of the Supreme Court of Iowa, 2006-2009

The Greening of Iowa

NATURAL RESOURCES

- SF261 Section 455B.172 Code of Iowa; New Subsection 11a; Effective Date 07.01.09
- Private septic systems in the state will have to be inspected prior to any transfer of ownership of the land. Deed or transfer will not be recorded without compliance. Certain transfers exempt.
- SF499 Amends and creates new subsections in Sections 455B and 455G Code of Iowa; Effective: Various
- Revises certain sections dealing with underground storage tanks and regulating and certifying groundwater and underground tank professionals.
- SF517 Sections 8; 12; 103A; 216A; 266; 388; 455E, 473; 476 Code of Iowa; Effective Date 04.29.08
- Modifies and creates several sections and subsections relating to the development, management and efficient use of energy resources and making energy-related modifications to the state building code.
- SF2108 New Section 1C.15, Code of Iowa; Effective 07.01.08
- The first Monday in April is now “Gift to Iowa’s Future Recognition Day” to recognize and honor those who have donated land or easements to benefit Iowa’s recreational and other areas.
- SF2276 Section 455B, Code of Iowa; Effective 07.01.08
- Modifies and creates several subsections of 455B relating to sanitary landfills and disposal of solid waste.
- SF2380 New Section 464A.11, Code of Iowa; Effective 07.01.08
- Establishes a statewide water trails and low head dam public hazard program
- HF2400 New Section 466B, Code of Iowa; Effective 07.01.08
- Establishes a water resources coordinating council whose purpose is to preserve, protect and manage Iowa’s water resources; includes a marketing campaign to educate Iowan’s about taking personal responsibility for the quality of water in their local watersheds, and a directive to assist communities assess and improve wastewater and storm water infrastructures.

- HF2570 New Section 455J, Code of Iowa; Effective 07.01.08
- The purpose of this section is to encourage responsible environmental management and solid waste disposal and to enhance efforts to promote environmental stewardship.
- HF2612 Amends and creates various sections of 455A, 321I, 461A, 462A, 481A, 483A, and 716.8, Code of Iowa; Effective 07.01.08 except the water safety provisions are effective 05.10.08
- Various provisions affect Natural Resources and Public Lands, waters and outdoor recreation, deals with creating any structures which would affect state owned or managed waters.
- HF2662 / SF551 Appropriations Bills; Effective 07.01.08
- Funds numerous programs from Deer disease control, bird flu, gypsy moths, senior farmer's markets, grape and wine development, snowmobiles, watersheds, and conservation programs.
- HF2685 New Section 455B.198; Code of Iowa; Effective 07.01.08
- Creates rules for discharging wastewater from water well drilling sites.
- HF2688 Adds new subsections 266.40-49 and 459.303.3.d.; Effective 07.01.08
- ISU is directed to establish and administer livestock odor mitigation efforts to include swine, beef, dairy cattle, chickens and turkeys.
- HF735 New Sections added to 459.102 Code of Iowa; Effective 04.02.09
- Sets forth new rules for stockpiling dry manure from confinement operations including distance requirements for various types of property use.
- HF314 Amends several sections of Chapter 135; Effective 07.01.09
- Adds certification program for lead-safe renovators of property and special focus on notices required in buildings occupied by children.
- SF268 Section 466A.3(4)(a) Code of Iowa; Effective 07.01.09
- Extends time periods under local watershed improvement grants.

TRUSTS AND ESTATES

- SF2350 Amends and adds new subsection 614.14 Code of Iowa; Effective 07.01.08
- Clarifies that real estate conveyed to a revocable trust and subsequently sold or mortgaged by the Trustee does not require an additional deed from the individual grantor and spouse.
- Legislates that real estate titled in the name of a trust is equivalent to ownership by the Trustee.
- SF365 Sections 614.14, 633.40, 633.237(4), 633.238(1), 633.246, 633.350, 633.639, 633.376, 635.8, 633A.2203, 637.421, 637.505 Code of Iowa; Effective generally 07.01.09 except 07.01.99 retroactive for 614.14 and 01.01.09 for 637.421 and 637.505.
- 614.14 is further modified from prior year amendment to make it clear that title held by a trust at anytime shall be considered held by the Trustee. Among other changes to probate administration and trust provisions, 633.50 is given comparable language to the 614.14 changes to validate that title by an estate is equivalent to title by the personal representative of the estate.

CONVEYANCES

- SF2117 Amends Section 16.93 Code of Iowa; Effective 04.11.08
- Adds “closer” to the list of participants whose acts may be covered by a closing protection letter from the Title Guaranty Division in real estate transactions.
- SF2246 Amends Section 558A.4 Code of Iowa; Effective 07.01.08
- Repeals that portion of the required real estate disclosure statement whether the property is located in a real estate improvement district and the amount of any special assessment against the property.
- SF2642 Adds additional provisions to Section 448.3; Code of Iowa; Effective 04.08.08
- Provides that a tax deed is not subject to invalidation if notice was not served on a person entitled to service, except for owners of record and persons in whose name the property is taxed. An interest of a person not served survives the issuance of tax deed.

- SF2653 Adds new sections 714.E and 714.F Code of Iowa; Effective 04.25.08
- Provides for the regulation of mortgage foreclosure consultant contracts and mortgage foreclosure reconveyance transactions for the protection of owners.
- HF2700 Amends Sections 16.92.5.C and 535.8 Code of Iowa; Effective 07.01.08
- Modifies the standard of care of imposing liability on the Title Guaranty Division for an incorrect certificate of mortgage release from “erroneous” to “negligence”.
- Modifies the types of fees and charges which can be charged in real estate loans and defines “lenders”. Attorneys are excluded.
- SF288 Amendments to Sections 10A.108, 96.14(3)c-e, 124c.4(3), 331.602(8) and (37), 331.603(4), 331.604, 331.605B(1), 331.606B(2) and (6), 331.607, 331.609(4), 359A.10, 359A.12, 422.26(4) and (5), 424.11, 428A.4, 428A.5, 437A.11, 437A.22, 468.623, 468.626, 428.628, 499A.1, 499B.3, 499B.5(1), 501.105(6), 547.3, 557.24, 557.26, 558.55, 558.66, 598.21(2), 633.481, 674.14, 331.605A, 331.605C, 468.624, 468.625; Effective 07.01.09
- Known as the County Recorder’s Bill, the primary changes deal with fees to be charged in various transactions, information to be endorsed on recorded documents and standards for indexes. Additional \$1.00 fee for each transaction to be used for preserving public records. Additional \$1.00 fee for each transaction to assist with electronic transactions. The fees apply to transactions not previously subject. Recorder can reject documents which are not formatted correctly.
- SF364 Sections 614.18A, 615.1(1), 626.81, 654.1A, 654.4A, 654.4B, 654.5, 654.15B, 654.17, 654.17B, 655A.3(1), 655A.4, 655A.6, 655A.8, 655A.9; Effective 05.01.09 as to Section 654.4B, otherwise 07.01.09.
- Amends and adds several sections relative to relative rights, options and responsibilities on property foreclosures.
- SF295 Amends Section 8A.321(9) Code of Iowa; Effective 07.01.09
- Deals with property acquired by the State which may be subject to existing leases.
- HF256 New Subsection 4 is added to 446.16; Effective 06.01.09
- For tax sales after the effective date, bidders other than individuals must have a federal tax identification number and either a registered agent on file with the Secretary of State or a Trade Name filing under Chapter 547 on file.

HF233 Sections 278.1, 297.22 and 297.25 Code of Iowa are amended; Effective 03.13.09

Remedies legislation enacted last session which created a one year period where a conveyance by a school could be set aside by voters. Time period is reduced to 10 days.

MISCELLANEOUS

SF2161 Creates new subsection 16.100A Code of Iowa; Effective 07.01.08

Establishes a new Council on Homelessness in Iowa with a wide variety of players whose purpose is to evaluate and alleviate homelessness.

SF2354 Creates new subsection 16.54 Code of Iowa; Effective 07.01.08

The Home Ownership Assistance Program for Military Members is created for the purpose of providing financial assistance to eligible members of the armed forces to be used for purchasing a primary residence in Iowa.

SF2419 Amends subsection 427.1 Code of Iowa; Effective 05.07.08

Provides property tax exemption for the value added by new construction of a shell building or addition to existing structures for certain groups.

HF2687 Amends and creates new subsections in 15.291, 15.293A, 15.293B, 15.294, 103A.3, 103A.8B and others Code of Iowa; Effective 07.01.08

Provides tax credits for redevelopment of underutilized properties in Iowa which are brownfields or have perceived environmental contaminations.

HF64 Effective Dates various - some retroactive.

Creates various Disaster Assistance Programs such as Jumpstart Housing Assistance, Iowa Unmet Needs Disaster Grant Program, Community Disaster Grants and Rebuild Iowa.

SF207 Section 16 Code of Iowa; Effective 07.01.09

Amends and adds new sections to the Chapter on the Iowa Finance Authority, specifically providing immunity for Board members and employees, and dealing with some programs and funding.

Federal

HEARTLAND, HABITAT, HARVEST AND HORTICULTURE ACTS OF 2008

Among other things; establishes that Conservation Reserve Payments (CRP) made after 2007 are not subject to self-employment tax if received by an individual who is getting social security retirement or disability payments; extends through 2009 favorable tax treatment of capital gain property donated for qualified conservation; and a one-year tax cut for a corporation's qualified timber gain.

HOUSING ASSISTANCE TAX ACT OF 2008

Provides for a first-time homebuyer credit; a state and local property tax deduction for non-itemizers and changes to the low-income housing tax credit.

HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF 2008

Clarifies and modifies various provisions of the tax law relevant to veterans and the active military including liberalization of home sale exclusion rules for Peace Corp volunteers.

ECONOMIC STIMULUS ACT OF 2008

Provides for stimulus payments and enhances expensing and depreciation provisions for property placed in service in 2008. Expensing increased to \$250,000.00 (except still a \$25,000.00 limit for heavy SUVs) and allows 50% 1st year bonus depreciation.

HOUSING AND ECONOMIC RECOVERY ACT OF 2008

Bill was signed 07.30.08

Provides an alternative to foreclosure for banks and homeowners and provides relief and regulations to Fannie Mae and Freddie Mae.

The law is expected to help hundreds of thousands of homeowners and also includes billions in grants to revitalize areas hardest hit by the economic crisis.

Creates a new FHA program which looks like it will be called "FHA Help Now". It will be provided with \$300 Billion to refinance homes that are about to or are in foreclosure. It is a voluntary program by banks and it writes down the loan to 90% of appraised value and refinances it over 30 years.

The new program becomes active October 1, 2008.

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

Improves the first-time homebuyer credit and provides additional Alternate Minimum Tax (AMT) relief for middle income taxpayers. Also revives and extends energy tax credit breaks.