



TERRY E. BRANSTAD
GOVERNOR

OFFICE OF THE GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

March 30, 2011

The Honorable Matthew Schultz
Secretary of State of Iowa
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 400, an Act relating to the conveyance or encumbrance of a homestead by a spouse.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, reading "Terry E. Branstad".

Terry E. Branstad
Governor

cc: Secretary of the Senate
Clerk of the House



Senate File 400

AN ACT

RELATING TO THE CONVEYANCE OR ENCUMBRANCE OF A HOMESTEAD BY A SPOUSE.

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

Section 1. Section 561.13, Code 2011, is amended to read as follows:

561.13 Conveyance or encumbrance.

1. A conveyance or encumbrance of, or contract to convey or encumber the homestead, if the owner is married, is not valid, unless and until the spouse of the owner executes the same or a like instrument, or a power of attorney for the execution of the same or a like instrument, except as provided in subsection 3. However, when the homestead is conveyed or encumbered along with or in addition to other real estate, it is not necessary to particularly describe or set aside the tract of land constituting the homestead, whether the homestead is exclusively the subject of the contract or not, but the contract may be enforced as to real estate other than the homestead at the option of the purchaser or encumbrancer.

2. If a spouse who holds only homestead rights and surviving spouse's statutory share in the homestead specifically relinquishes homestead rights in an instrument, including a power of attorney constituting the other spouse as the husband's or wife's attorney in fact, as provided in section 597.5, it is not necessary for the spouse to join in the granting clause of the same or a like instrument.

3. A conveyance or encumbrance or a contract to convey or encumber the homestead is not invalid under subsection 1 if any of the following apply:

a. The nonsigning spouse's interest is terminated by a decree of dissolution of marriage or other order of the court.

b. The nonsigning spouse's right of recovery is barred by section 614.15.

c. The encumbrance is a purchase money mortgage as defined in section 654.12B.

d. A court sitting in equity enters a decree holding that invalidating the conveyance or encumbrance or a contract to convey or encumber the homestead would, directly or indirectly, unjustly enrich the nonsigning spouse.

4. For the purposes of this section, "nonsigning spouse" means a spouse who has not executed a conveyance or encumbrance or a contract to convey or encumber the homestead, the same or a like instrument, or a power of attorney for the execution of the same or a like instrument.



JOHN P. KIBBIE

President of the Senate



KRAIG PAULSEN

Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 400, Eighty-fourth General Assembly.



MICHAEL E. MARSHALL

Secretary of the Senate

Approved March 30, 2011



TERRY E. BRANSTAD

Governor