

# Senate File 261 - Enrolled

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1 1 SENATE FILE 261  
1 2  
1 3 AN ACT  
1 4 REQUIRING CERTAIN PRIVATE SEWAGE DISPOSAL SYSTEM-RELATED  
1 5 INSPECTIONS TO BE CONDUCTED WHEN CERTAIN PROPERTY IS SOLD  
1 6 OR TRANSFERRED AND INCLUDING AN EFFECTIVE DATE PROVISION.  
1 7  
1 8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
1 9  
1 10 Section 1. Section 455B.172, Code 2007, is amended by  
1 11 adding the following new subsection:  
1 12 NEW SUBSECTION. 11. a. A building where a person  
1 13 resides, congregates, or is employed that is served by a  
1 14 private sewage disposal system shall have the sewage disposal  
1 15 system serving the building inspected prior to any transfer of  
1 16 ownership of the building. The requirements of this  
1 17 subsection shall be applied to all types of ownership transfer  
1 18 including at the time a seller financed real estate contract  
1 19 is signed. The county recorder shall not record a deed or any  
1 20 other property transfer or conveyance document until either a  
1 21 certified inspector's report is provided which documents the  
1 22 condition of the private sewage disposal system and whether  
1 23 any modifications are required to conform to standards adopted  
1 24 by the department or, in the event that weather or other  
1 25 temporary physical conditions prevent the certified inspection  
1 26 from being conducted, the buyer has executed and submitted a  
1 27 binding acknowledgment with the county board of health to  
1 28 conduct a certified inspection of the private sewage disposal  
1 29 system at the earliest practicable time and to be responsible  
1 30 for any required modifications to the private sewage disposal  
1 31 system as identified by the certified inspection. Any type of  
1 32 on-site treatment unit or private sewage disposal system must  
1 33 be inspected according to rules developed by the department.  
1 34 For the purposes of this subsection, "transfer" means the  
1 35 transfer or conveyance by sale, exchange, real estate  
2 1 contract, or any other method by which real estate and  
2 2 improvements are purchased, if the property includes at least  
2 3 one but not more than four dwelling units. However,  
2 4 "transfer" does not include any of the following:  
2 5 (1) A transfer made pursuant to a court order, including  
2 6 but not limited to a transfer under chapter 633 or 633A, the  
2 7 execution of a judgment, the foreclosure of a real estate  
2 8 mortgage pursuant to chapter 654, the forfeiture of a real  
2 9 estate contract under chapter 656, a transfer by a trustee in  
2 10 bankruptcy, a transfer by eminent domain, or a transfer  
2 11 resulting from a decree for specific performance.  
2 12 (2) A transfer to a mortgagee by a mortgagor or successor  
2 13 in interest who is in default, or a transfer by a mortgagee  
2 14 who has acquired real property at a sale conducted pursuant to  
2 15 chapter 654, a transfer back to a mortgagor exercising a right

2 16 of first refusal pursuant to section 654.16A, a nonjudicial  
2 17 voluntary foreclosure procedure under section 654.18 or  
2 18 chapter 655A, or a deed in lieu of foreclosure under section  
2 19 654.19.

2 20 (3) A transfer by a fiduciary in the course of the  
2 21 administration of a decedent's estate, guardianship,  
2 22 conservatorship, or trust.

2 23 (4) A transfer between joint tenants or tenants in common.

2 24 (5) A transfer made to a spouse, or to a person in the  
2 25 lineal line of consanguinity of a person making the transfer.

2 26 (6) A transfer between spouses resulting from a decree of  
2 27 dissolution of marriage, a decree of legal separation, or a  
2 28 property settlement agreement which is incidental to the  
2 29 decree, including a decree ordered pursuant to chapter 598.

2 30 b. The inspection requirement of paragraph "a" does not  
2 31 apply to a transfer in which the transferee intends to  
2 32 demolish or raze the building. The department shall adopt  
2 33 rules pertaining to such transfers.

2 34 c. At the time of inspection, any septic tank existing as  
2 35 part of the sewage disposal system shall be opened and have  
3 1 the contents pumped out and disposed of as provided for by  
3 2 rule. In the alternative, the owner may provide evidence of  
3 3 the septic tank being properly pumped out within three years  
3 4 prior to the inspection by a commercial septic tank cleaner  
3 5 licensed by the department which shall include documentation  
3 6 of the size and condition of the tank and its components at  
3 7 the time of such occurrence.

3 8 d. If a private sewage disposal system is failing to  
3 9 ensure effective wastewater treatment or is otherwise  
3 10 improperly functioning, the private sewage disposal system  
3 11 shall be renovated to meet current construction standards, as  
3 12 adopted by the department, either by the seller or, by  
3 13 agreement, within a reasonable time period as determined by  
3 14 the county or the department, by the buyer. If the private  
3 15 sewage disposal system is properly treating the wastewater and  
3 16 not creating an unsanitary condition in the environment at the  
3 17 time of inspection, the system is not required to meet current  
3 18 construction standards.

3 19 e. Inspections shall be conducted by an inspector  
3 20 certified by the department.

3 21 f. Pursuant to chapter 17A, the department shall adopt  
3 22 certification requirements for inspectors including training,  
3 23 testing, and fees, and shall establish uniform statewide  
3 24 inspection criteria and an inspection form. The inspector  
3 25 certification training shall include use of the criteria and  
3 26 form. The department shall maintain a list of certified  
3 27 inspectors.

3 28 g. County personnel are eligible to become certified  
3 29 inspectors. A county may set an inspection fee for  
3 30 inspections conducted by certified county personnel. A county  
3 31 shall allow any department certified inspector to provide  
3 32 inspection services under this subsection within the county's  
3 33 jurisdiction.

3 34 h. Following an inspection, the inspection form and any  
3 35 related reports shall be provided to the county for  
4 1 enforcement of any follow-up mandatory system improvement and  
4 2 to the department for record.

4 3 i. An inspection is valid for a period of two years for  
4 4 any ownership transfers during that period. Title abstracts  
4 5 to property with private sewage disposal systems shall include  
4 6 documentation of the requirements in this subsection.

4 7 Sec. 2. EFFECTIVE DATE. This Act takes effect July 1,  
4 8 2009.

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JOHN P. KIBBIE

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President of the Senate

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PATRICK J. MURPHY

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Speaker of the House

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4 20 I hereby certify that this bill originated in the Senate and  
4 21 is known as Senate File 261, Eighty=second General Assembly.

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MICHAEL E. MARSHALL

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Secretary of the Senate

4 27 Approved \_\_\_\_\_, 2008

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4 31 CHESTER J. CULVER

4 32 Governor