

Private Sewage Disposal Systems Inspections

Code of Iowa: 455B.172 (11) requires certain private sewage disposal system related inspections to be conducted when certain property is sold or transferred. The code authorizes the Department to oversee this new provision and is compatible with the goal to prevent, abate, or control water pollution including the regulation of private sewage disposal systems for the protection of the environment and the public health and safety of the citizens of the state

Administrative Code of Iowa: The Department of Natural Resources developed rule **567-69.2(455B)** pertaining to inspection requirements of private sewage disposal systems prior to the transfer of ownership.

Requirements of the rule:

- At the time of transfer private sewage disposal system will be inspected to determine if they are functioning properly.
- The systems will be inspected by a **certified inspector** licensed by the Department of Natural Resources.
- The inspector will fill out the **Time of Transfer Report** (DNR form 542-0191).
- The report will be submitted to the County Recorder by the inspector.
- The report will be submitted to the DNR, County Recorders Office, and the County Sanitarian.
- If the inspection can not be performed due to weather or other temporary condition, then a **binding acknowledgment** between the buyer and the County will be signed to have one completed at the earliest practical time and that they will be responsible for any required modifications identified by the inspector.
- The county recorder **can not** record the property transfer or conveyance document unless a **Time of Transfer Report or a binding acknowledgment** has been received.
- **Transfer means:** the transfer or conveyance by sale, exchange, real estate contract, or any other method by which real estate and improvements are purchased, if the property includes at least one but not more than four dwelling units.
- **Transfer does NOT mean:**
 1. A transfer made pursuant to a **court order**, including but not limited to a transfer under chapter 633 or 633A, the execution of a judgment, the **foreclosure** of a real estate mortgage pursuant to chapter 654, the forfeiture of a real estate contract under chapter 656, a transfer by a **trustee in bankruptcy**, a transfer by **eminent domain**, or a transfer resulting from a **decree for specific performance**.
 2. A transfer to a **mortgagee by a mortgagor or successor in interest who is in default**, or a transfer by a mortgagee who has acquired real property at a sale conducted pursuant to chapter 654, a transfer back to a mortgagor exercising a right of first refusal pursuant to section 654.16A, a **non-judicial voluntary foreclosure** procedure under section 654.18 or 9 chapter 655A, or a deed in lieu of foreclosure under section 654.19.
 3. A transfer by a fiduciary in the course of the **administration of a decedent's estate**, guardianship, Conservatorship or trust.
 4. A transfer between **joint tenants** or tenants in common.
 5. A transfer made to a **spouse, or to a person in the lineal line of consanguinity** of a person making the transfer.
 6. A transfer between **spouses resulting from a decree of dissolution of marriage**, a decree of legal separation, or a property settlement agreement which is incidental to the decree, including a decree ordered pursuant to chapter 598.
 7. A transfer for which consideration is **five hundred dollars or less**.
 8. A deed between a **family corporation, partnership, limited partnership, limited liability partnership, or limited liability company** as defined in section 428A.2, subsection 15, and its stockholders, partners, or members for the purpose of transferring real property in an incorporation or corporate dissolution or in the organization or dissolution of a partnership, limited partnership, limited liability partnership, or limited liability company under the laws of this state, where the deed is given for no actual consideration other than for shares or for debt securities of the family corporation, partnership, limited partnership, limited liability partnership, or limited liability company.

Certified Inspectors:

- A list of certified private sewage disposal system inspectors can be found at www.wastewatertraining.com and www.iowadnr.gov/tot.html .

How does this impact County Recorders: The Department, working with the County Recorder's Association determined that including a check box on the **Ground Water Hazard Statement** to indicate if a private sewage disposal system existed would be the best way to alert the county recorders to look for:

- The **Time of Transfer Report**
OR
- The **binding acknowledgement** that it will be completed at the earliest practical time
OR
- The **binding acknowledgement** that the building will be demolished

Please note: The recorder's responsibility before recording the deed is to verify that the Time of Transfer report or a binding acknowledgment is present, NOT if the report found the system acceptable or unacceptable.

Timelines:

- The new requirements will take place July 1, 2009

Websites:

- Code of Iowa: <http://coolice.legis.state.ia.us/Cool-ICE/default.asp?category=billinfo&service=IowaCode>
- Iowa Administrative Code: <http://nxtsearch.legis.state.ia.us/NXT/gateway.dll/IAC?f=templates&fn=default.htm>

Contacts:

- Code or administrative rules: Jon Tack, legal Services, 515-281-8889 or jon.tack@dnr.iowa.gov
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