

creating heat, power, or steam for processing including grain drying, or for providing heat or cooling for livestock buildings or for greenhouses or buildings or parts of buildings dedicated to the production of flowering, ornamental, or vegetable plants intended for sale in the ordinary course of business, or for generating electric current, or in implements of husbandry engaged in agricultural production; or the property is a chemical, solvent, sorbent, or reagent, which is directly used and is consumed, dissipated, or depleted, in processing personal property which is intended to be sold ultimately at retail or consumed in the maintenance or repair of fabric or clothing, and which may not become a component or integral part of the finished product. The distribution to the public of free newspapers or shoppers guides is a retail sale for purposes of the processing exemption.

Sec. 3. Section 422.45, subsection 39, paragraphs a and c, Code 1995, are amended to read as follows:

a. The implement, machinery, or equipment is directly and primarily used in livestock or dairy production or in the production of flowering, ornamental, or vegetable plants.

c. The replacement part is essential to any repair or reconstruction necessary to the farm machinery's or equipment's exempt use in livestock or dairy production or in the production of flowering, ornamental, or vegetable plants.

Sec. 4. Section 422.47, subsection 4, paragraph f, Code 1995, is amended to read as follows:

f. In this section, "fuel" includes gas, electricity, water, heat, steam, and any other tangible personal property consumed in creating heat, power, or steam. In this section, "fuel consumed in processing" means fuel used or disposed of for processing including grain drying, for providing heat or cooling for livestock buildings or for greenhouses or buildings or parts of buildings dedicated to the production of flowering, ornamental, or vegetable plants intended for sale in the ordinary course of business, or for generating electric current, or in implements of husbandry engaged in agricultural production. In this subsection, "fuel exemption certificate" means an exemption certificate given by the purchaser under penalty of perjury to assist retailers in properly accounting for nontaxable sales of fuel consumed in processing. In this subsection, "substantial change" means a change in the use or disposition of tangible personal property and services by the purchaser such that the purchaser pays less than ninety percent of the purchaser's actual sales tax liability. A change includes a misstatement of facts in an application made pursuant to paragraph "c" or in a fuel exemption certificate.

Approved May 5, 1995

CHAPTER 175

REAL ESTATE TRANSFER TAX EXEMPTIONS – PURCHASE MONEY MORTGAGE LIENS

S.F. 189

AN ACT relating to the transfer of real estate by exempting certain transfers of real estate from the real estate transfer tax and providing that a lien for a purchase money mortgage has priority over other interests in the property.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 428A.2, subsection 15, Code 1995, is amended to read as follows:

15. Deeds between a family corporation, partnership, ~~or~~ limited partnership, limited

liability partnership, or limited liability company and its stockholders, ~~or partners, or members~~ for the purpose of transferring real property in an incorporation or corporate dissolution or the organization or dissolution of a partnership, ~~or limited partnership, limited liability partnership, or limited liability company~~ under the laws of this state, where the deeds are given for no actual consideration other than for shares or for debt securities of the corporation, partnership, ~~or limited partnership, limited liability partnership, or limited liability company~~. For purposes of this subsection, a family corporation, partnership, ~~or limited partnership, limited liability partnership, or limited liability company~~ is a corporation, partnership, ~~or limited partnership, limited liability partnership, or limited liability company~~ where the majority of the voting stock of the corporation, or of the ownership shares of the partnership, ~~or limited partnership, limited liability partnership, or limited liability company~~ is held by and the majority of the stockholders, ~~or partners, or members~~ are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related and where all of its stockholders, ~~or partners, or members~~ are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons.

Sec. 2. NEW SECTION. 654.12B PRIORITY OF PURCHASE MONEY MORTGAGE LIEN.

The lien created by a purchase money mortgage shall have priority over and is senior to preexisting judgments against the purchaser and any other right, title, interest, or lien arising either directly or indirectly by, through, or under the purchaser. A mortgage is a purchase money mortgage if it is either of the following:

1. Taken or retained by the seller of the real estate to secure all or part of its price.
2. Taken by a lender who, by making an advance or incurring an obligation, provides funds to enable the purchaser to acquire rights in the real estate, including all costs in connection with the purchase, if the funds are in fact so used. The mortgage shall contain a recital that it is a purchase money mortgage in order to provide notice to third parties of its priority. If there is more than one purchase money mortgage, a prior recorded mortgage has priority unless "the prior recorded mortgage" or "a mortgage recorded earlier" provides otherwise.

Approved May 16, 1995

CHAPTER 176

GAMBLING

H.F. 571

AN ACT relating to the frequency of referendums held on excursion gambling boat proposals or gambling games proposals for licensed pari-mutuel racetracks and the qualifications of a qualifying organization which are necessary to conduct pari-mutuel wagering at racetracks or gambling games on excursion gambling boats and providing effective and applicability dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 99D.8, unnumbered paragraphs 1 and 2, Code 1995, are amended to read as follows:

A qualifying organization, as defined in section 513(d)(2)(C) of the Internal Revenue Code, as defined in section 422.3, exempt from federal income taxation under sections