

January 28, 1953.

Senate File 123

Passed on File.

By DAILEY, ZASTROW, LARSON and BOOTHBY.

Passed Senate, Date.....

Vote: Ayes..... Nays.....

Passed House, Date.....

Vote: Ayes..... Nays.....

Approved

A BILL FOR

An Act to amend section four hundred twenty-five point eleven (425.11) of the Code relating to the definition of the word "owner" of a homestead.

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

1 Section 1. Section four hundred twenty-five point
2 eleven (425.11) is hereby amended by striking therefrom
3 paragraph number two (2) and inserting in lieu thereof
4 the following: "2. The word 'owner' shall mean a person
5 who is actually occupying the real estate under a title
6 interest therein as the holder of an estate in fee, or
7 for life including a surviving spouse who has elected to
8 occupy the homestead. Provided that if the complete title
9 interest in the property is held by persons all of whom
10 are actually living in the dwelling house, or, the claimant
11 is actually occupying the real estate under a title interest
12 therein as the holder of a life estate or a fractional
13 interest in fee or for life and all other fractional interests
14 or remainder or reversionary interests are held by persons
15 to whom the claimant or the claimant's spouse (whether

16 living or dead) is or was related by blood, affinity or
17 legal adoption, the claimant shall be deemed to be
18 'owner'. Provided further that where the claimant is
19 occupying the premises under a contract of purchase,
20 such contract must be in writing and recorded on or
21 before July 1 of the year for which credit is claimed,
22 with the recorder of the county in which the property
23 is located and it must be shown that not less than one-
24 tenth (1/10) of the purchase price named in said written
25 instrument actually has been paid. No credit shall be
26 allowed where the claimant is not an owner as herein
27 provided.

1 Sec. 2. This Act being deemed of immediate
2 importance shall be in full force and effect upon its
3 publication in the Charles City Daily Press, a
4 newspaper published at Charles City, and in the Bedford
5 Times Press, a newspaper published at Bedford, Iowa

EXPLANATION OF S. F. 123

The wording of the present statute defining 'owner' is ambiguous and conflicting and a literal interpretation would permit a contract purchaser of a fractional interest where other interests were not owned by blood relatives to obtain a credit, whereas after he had acquired a deed no credit would be allowable. The present statute, for example, requires denial of a credit where title is shared between a father and son, if the son's wife is named in the deed. This is a hardship upon those who did not receive sound advice in drafting their title instruments. The amendment would do away with this distinction and would not substantially increase the claims upon the fund for the reason that where such claims are denied, the families have their title corrected. The present statute distinguishes between persons who hold identical title interests because of the way in which they acquired their interest. The proposed amendment conforms to the present administration of the statute except that claims would be allowable where title is shared by a family in situations where because of marriage, the owners were not all related by blood.