

Ways and Means: Carpenter, Chair; Copenhaver and Holveck.

Do Pass 5/4/83

to Finance 5/6

4 1983

Senate File 354

SENATE FILE **354**

BY COMMITTEE ON WAYS AND MEANS

Approved 3/4 (p. 6.37)

(FORMERLY SSB 69)

Finance: Doderer, Chair; Branstad and Halvorson of Webster.

Passed Senate, Date 4-5-83 (1091) Passed House, Date 5-6-83 (p. 1874)

Vote: Ayes 47 Nays 0 Vote: Ayes 95 Nays 0

Approved May 24, 1983

A BILL FOR

1 An Act to eliminate the use of documentary stamps as evidence
 2 that the real estate transfer tax has been paid.
 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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S.F. 354

1 Section 1. Section 428A.4, unnumbered paragraph 1, Code
2 1983, is amended to read as follows:

3 The county recorder shall refuse to record any deed,
4 instrument, or writing, taxable under ~~the provisions of~~ section
5 428A.1 ~~on~~ for ~~which documentary stamps in the amount evidencing~~
6 payment of the tax determined on the full amount of the
7 consideration in the transaction ~~have~~ has not been affixed
8 paid. However, if the deed, instrument, or writing, is subject
9 ~~to an exception provided for in~~ exempt under section 428A.2,
10 the county recorder shall not refuse to record the document
11 if there is filed with or endorsed on it a statement signed
12 by either the grantor or grantee or ~~his~~ an authorized agent,
13 that the instrument or writing is excepted from the tax under
14 section 428A.2. The validity ~~of the effectiveness~~ of an
15 instrument as between the parties ~~thereto~~, and as to any
16 person who would otherwise be bound ~~thereby~~ by the instrument,
17 ~~shall~~ is not be affected by the failure to comply ~~herewith,~~
18 ~~nor if~~ with this section. If an instrument is accepted for
19 recording or filing contrary to ~~the provision hereof,~~ ~~shall~~
20 this section the failure to comply ~~herewith~~ does not destroy
21 or impair the record ~~thereof~~ as notice.

22 Sec. 2. Section 428A.5, Code 1983, is amended to read
23 as follows:

24 428A.5 STAMPS-AFFIXED EVIDENCE OF PAYMENT. The amount
25 of tax imposed by this chapter shall be paid ~~by the affixing~~
26 ~~of a documentary stamp or stamps in the amount of the tax~~
27 to the county recorder and the amount received and the initials
28 of the county recorder shall appear on the face of the document
29 or instrument ~~with respect to which the tax is paid and stamps~~
30 ~~in excess of the amount of the tax shall not be affixed to~~
31 ~~the document or instrument~~. The department of revenue shall
32 provide each county recorder with a device to be used by the
33 recorder to evidence this information on the document or
34 instrument.

35 Sec. 3. Section 428A.7, Code 1983, is amended to read

1 as follows:

2 428A.7 STAMPS-FURNISHED FORMS PROVIDED BY DIRECTOR OF
 3 REVENUE. The director of revenue shall cause documentary
 4 stamps to be printed and shall furnish such stamps as may
 5 be necessary to the county recorders of the state without
 6 charge. Documentaries stamps may be purchased from any county
 7 recorder and may be used in payment of the tax imposed by
 8 this chapter or may be resold by the owner at any time.

9 The director of revenue shall prescribe the form of the
 10 declaration of value and shall include an appropriate place
 11 for the inclusion of special facts and circumstances relating
 12 to the actual sales price in real estate transfers. The
 13 director shall provide an adequate number of the declaration
 14 of value forms to each county recorder in the state.

15 Sec. 4. Section 428A.8, Code 1983, is amended to read
 16 as follows:

17 428A.8 REMITTANCE TO STATE TREASURER--PORTION RETAINED
 18 IN COUNTY. On or before the tenth day of each month the
 19 county recorder shall determine and pay to the treasurer of
 20 state seventy-five percent of the receipts from the sale of
 21 documentary stamps real estate transfer tax collected during
 22 the preceding month and the treasurer of state shall deposit
 23 such the receipts in the state treasury to the credit of the
 24 general fund of the state.

25 The county recorder shall deposit the remaining twenty-
 26 five percent of the receipts ~~to the credit of~~ in the county
 27 general fund.

28 The county recorder shall keep ~~such~~ records and make ~~such~~
 29 reports with respect to the ~~documentary stamps entrusted to~~
 30 ~~his custody and with respect to the sale of such stamps~~ real
 31 estate transfer tax as the director of revenue shall prescribe
 32 prescribes.

33 Sec. 5. Section 428A.10, Code 1983, is amended to read
 34 as follows:

35 428A.10 PENALTY. Any person, firm or corporation liable

1 for the tax imposed by this chapter who knowingly fails to
2 comply with ~~the provisions of sections 428A.5 and 428A.6~~ this
3 chapter relating to the attachment or cancellation of
4 documentary stamps, shall be payment of the real estate
5 transfer tax is guilty of a simple misdemeanor.

6 Sec. 6. Sections 428A.6, 428A.9, and 428A.12, Code 1983,
7 are repealed.

8 EXPLANATION

9 The bill repeals the requirement that documentary stamps
10 be sold and affixed to instruments of conveyance as evidence
11 of payment of the real estate transfer tax. The bill takes
12 effect July 1 following enactment.

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SENATE FILE 354

AN ACT

TO ELIMINATE THE USE OF DOCUMENTARY STAMPS AS EVIDENCE THAT THE REAL ESTATE TRANSFER TAX HAS BEEN PAID.

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

Section 1. Section 428A.4, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The county recorder shall refuse to record any deed, instrument, or writing, taxable under ~~the provisions of~~ section 428A.1 ~~on for~~ which ~~documentary stamps in the amount evidencing~~ payment of the tax determined on the full amount of the consideration in the transaction ~~have~~ has not been affixed paid. However, if the deed, instrument, or writing, is ~~subject to an exception provided for in~~ exempt under section 428A.2, the county recorder shall not refuse to record the document if there is filed with or endorsed on it a statement signed by either the grantor or grantee or ~~his~~ an authorized agent, that the instrument or writing is excepted from the tax under section 428A.2. The validity ~~of the effectiveness~~ of an instrument as between the parties ~~thereto~~, and as to any person who would otherwise be bound ~~thereby by the instrument~~, ~~shall~~ is not be affected by the failure to comply ~~herewith; nor if with this section~~. If an instrument is accepted for recording or filing contrary to ~~the provision hereof; shall this section~~ the failure to comply ~~herewith~~ does not destroy or impair the record ~~thereof~~ as notice.

Sec. 2. Section 428A.5, Code 1983, is amended to read as follows:

428A.5 ~~STAMPS AFFIXED~~ EVIDENCE OF PAYMENT. The amount of tax imposed by this chapter shall be paid ~~by the affixing of a documentary stamp or stamps in the amount of the tax~~ to the county recorder and the amount received and the initials of the county recorder shall appear on the face of the document or instrument ~~with respect to which the tax is paid and stamps~~

~~in excess of the amount of the tax shall not be affixed to the document or instrument. The department of revenue shall provide each county recorder with a device to be used by the recorder to evidence this information on the document or instrument.~~

Sec. 3. Section 428A.7, Code 1983, is amended to read as follows:

428A.7 ~~STAMPS FURNISHED~~ FORMS PROVIDED BY DIRECTOR OF REVENUE. ~~The director of revenue shall cause documentary stamps to be printed and shall furnish such stamps as may be necessary to the county recorders of the state without charge. Documentary stamps may be purchased from any county recorder and may be used in payment of the tax imposed by this chapter or may be received by the owner at any time.~~

The director of revenue shall prescribe the form of the declaration of value and shall include an appropriate place for the inclusion of special facts and circumstances relating to the actual sales price in real estate transfers. The director shall provide an adequate number of the declaration of value forms to each county recorder in the state.

Sec. 4. Section 428A.8, Code 1983, is amended to read as follows:

428A.8 ~~REMITTANCE TO STATE TREASURER--PORTION RETAINED IN COUNTY~~. On or before the tenth day of each month the county recorder shall determine and pay to the treasurer of state seventy-five percent of the receipts from the ~~sale of~~ documentary stamps real estate transfer tax collected during the preceding month and the treasurer of state shall deposit ~~such the~~ receipts in the ~~state treasury to the credit of the~~ general fund of the state.

The county recorder shall deposit the remaining twenty-five percent of the receipts ~~to the credit of~~ in the county general fund.

The county recorder shall keep ~~such~~ records and make ~~such~~ reports with respect to the ~~documentary stamps entrusted to his custody and with respect to the sale of such stamps~~ real estate transfer tax as the director of revenue ~~shall prescribe~~ prescribes.

Sec. 5. Section 428A.10, Code 1983, is amended to read as follows:

428A.10 PENALTY. Any person, firm or corporation liable for the tax imposed by this chapter who knowingly fails to comply with ~~the provisions of sections 428A-5 and 428A-6~~ this chapter relating to the ~~attachment or cancellation of documentary stamps, shall be~~ payment of the real estate transfer tax is guilty of a simple misdemeanor.

Sec. 6. Sections 428A.6, 428A.9, and 428A.12, Code 1983, are repealed.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 354, Seventieth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved May 24, 1983

TERRY E. BRANSTAD
Governor