

701—109.5(428A) Form completion and filing requirements.

109.5(1) *Real estate transfer—declaration of value form.* A real estate transfer—declaration of value form must be completed for any deed, contract, instrument or writing that grants, assigns, transfers or otherwise conveys real property, except those specifically exempted by law, if the document presented for recording clearly states on its face that it is a document exempt from the reporting requirements as enumerated in Iowa Code section 428A.2, subsections 2 through 5, 7 through 13, and 16 through 21, or subsection 6, except in the case of a federal agency or instrumentality, or if a transfer is the result of acquisition of property for public purposes through eminent domain, or is a deed given in fulfillment of a previously recorded real estate contract. A real estate transfer—declaration of value form is not required for any transaction that does not grant, assign, transfer or convey real property.

109.5(2) *Real estate transfer—declaration of value: Real estate transfer tax.* Requirements for completing real estate transfer-declaration of value forms or exceptions from filing the forms shall not be construed to alter the liability for the real estate transfer tax or the amount of such tax as provided in Iowa Code chapter 428A.

109.5(3) *Agent defined.* As used in Iowa Code section 428A.1, an agent is defined as any person designated or approved by the buyer or seller to act on behalf of the buyer or seller in the real estate transfer transaction.

109.5(4) *Government agency filing requirements.* The real estate transfer-declaration of value form does not have to be completed for any real estate transfer document in which the state of Iowa or any agency, instrumentality or political subdivision thereof is the grantor, assignor, transferor or conveyor or for any transfer in which the state of Iowa or any agency, instrumentality or political subdivision thereof is the grantee or assignee where there is no consideration. However, any transfer in which any unit of government is the grantee or assignee where there is consideration is subject to the real estate transfer-declaration of value filing requirements (1980 O.A.G. 92) and any transfer to which the United States or any agency or instrumentality thereof is a party to the transfer is subject to the real estate transfer-declaration of value filing requirements. An exception to this subrule is conveyances for public purposes occurring through the exercise of the power of eminent domain.

109.5(5) *Recording refused.* The county recorder shall refuse to record any document for which a real estate transfer-declaration of value is required if the form is not completed accurately and completely by the buyer or seller or the agent of either. The declaration of value shall include the social security number or federal identification number of the buyer and seller and all other information required by the director of revenue (*Iowa Association of Realtors et al. v. Iowa Department of Revenue*, CE 18-10479, Polk County District Court, February 4, 1983). However, if having made good-faith effort, the person or person's agent completing the declaration of value is unable to obtain the social security or federal identification number of the other party to the transaction due to factors beyond the control of the person or person's agent, a signed affidavit stating that the effort was made and the reasons why the number could not be obtained shall be submitted with the incomplete declaration of value. The declaration of value with attached affidavit shall be considered sufficient compliance with Iowa Code section 428A.1 and the affidavit shall be considered a part of the declaration of value subject to the provisions of Iowa Code section 428A.15.

109.5(6) *Multiple parcels.* Separate declarations of value are to be submitted to each county recorder if the real estate conveyed consists of parcels located in more than one county. The consideration paid for each property must be separately stated on the declaration of value or the recorder shall refuse to record the instrument of conveyance.

This rule is intended to implement Iowa Code sections 428A.1 and 428A.2, and section 428A.4 as amended by 2009 Iowa Acts, Senate File 288, section 16.

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