

SENATE FILE 1101

BY COMMITTEE ON WAYS AND MEANS

FILED FEB 4 1972

*See Ways & Means 2/16/72, Pass 3/1/72*

Passed Senate, Date 2-10-72

Passed House, Date 3-20-72

Vote: Ayes 41 Nays 2

Vote: Ayes 59 Nays 38

Approved \_\_\_\_\_

*Repassed Senate 3/22/72  
Ayes 43 Nays 1*

## A BILL FOR

1 An Act relating to the taxation of real estate transfers and  
2 the penalty for failure to comply.

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

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1 Section 1. Section four hundred twenty-eight A point one  
2 (428A.1), Code 1971, is amended as follows:

3 428A.1 AMOUNT OF TAX ON TRANSFERS. There is hereby imposed  
4 on each deed, instrument, or writing by which any lands,  
5 tenements, or other realty in this state shall be granted,  
6 assigned, transferred, or otherwise conveyed, a tax determined  
7 in the following manner. When there is no consideration ~~or~~  
8 ~~when the consideration, exclusive of the value of any lien~~  
9 ~~or encumbrance remaining thereon at the time of sale, is one~~  
10 ~~thousand dollars or less, or when the deed instrument or~~  
11 writing is executed and tendered for recording as an instrument  
12 corrective of title, and so states, there shall be no tax.  
13 ~~When the consideration, exclusive of the value of any lien~~  
14 ~~or encumbrance remaining thereon at the time of sale, exceeds~~  
15 ~~one thousand dollars, there is consideration and the actual~~  
16 market value of the property transferred is in excess of five  
17 hundred dollars the tax shall be one dollar ten cents plus  
18 fifty-five cents for each five hundred dollars or fractional  
19 part of five hundred dollars in excess of one thousand dollars  
20 five hundred dollars. The term "consideration", as used in  
21 this chapter, means the full amount of the actual sale price  
22 involved, paid or to be paid, including the amount of an  
23 encumbrance or lien on the property. In the case of a gift  
24 of realty, or any deed with nominal consideration or without  
25 stated consideration, the consideration shall be the current  
26 market value of the property transferred.

27 Sec. 2. Section four hundred twenty-eight A point two  
28 (428A.2), Code 1971, is amended as follows:

29 428A.2. EXCEPTIONS. The tax imposed by this chapter shall  
30 not apply to:

31 1. Any executory contract for the sale of land under which  
32 the vendee is entitled to or does take possession thereof,  
33 or any assignment or cancellation thereof.

34 2. Any instrument of mortgage, or any assignment,  
35 extension, partial release, or satisfaction thereof.

- 1        3. Any will.
- 2        4. Any plat.
- 3        5. Any lease.
- 4        6. Any deed, instrument, or writing in which the United  
5 States or any agency or instrumentality thereof or the state  
6 of Iowa or any agency, instrumentality, or governmental or  
7 political subdivision thereof is the grantor, assignor,  
8 transferor, or conveyor; and any deed, instrument or writing  
9 in which any of such unit of government is the grantee or  
10 assignee where there is no consideration ~~ex-where-the~~  
11 ~~consideration-does-not-exceed-one-thousand-dollars.~~
- 12        7. Deeds for cemetery lots.
- 13        8. Deeds which secure a debt or other obligation, except  
14 those included in the sale of real property.
- 15        9. Deeds for the release of a security interest in property  
16 excepting those pertaining to the sale of real estate.
- 17        10. Deeds which, without additional consideration, confirm,  
18 correct, modify, or supplement a deed previously recorded.
- 19        11. Deeds between husband and wife, or parent and child,  
20 without actual consideration.
- 21        12. Tax deeds.
- 22        13. Deeds of partition where the interest conveyed is  
23 without consideration. However, if any of the parties take  
24 shares greater in value than their undivided interest a tax  
25 is due on the greater values, computed at the rate set out  
26 in section 428A.1.
- 27        14. The making or delivering of instruments of transfer  
28 resulting from a corporate merger, consolidation, or reorgani-  
29 zation under the laws of the United States or any state  
30 thereof, where such instrument states such fact on the face  
31 thereof.
- 32        Sec. 3. Section four hundred twenty-eight A point three  
33 (428A.3), Code 1971, is amended as follows:
- 34        428A.3 WHO LIABLE FOR TAX. Any person, firm or corpo-  
35 ration who grants, assigns, transfers, or conveys any land,

1 tenement, or realty by a deed, writing, or instrument subject  
2 to the tax imposed by this chapter shall be liable for such  
3 tax but no public official shall be liable for a tax with  
4 respect to any instrument executed by him in connection with  
5 his official duties.

6 Sec. 4. Section four hundred twenty-eight A point four  
7 (428A.4), Code 1971, is amended as follows:

8 428A.4 RECORDING REFUSED. The county recorder shall  
9 refuse to record any deed, instrument, or writing, taxable  
10 under the provisions of section 428A.1 on which documentary  
11 stamps in the amount ~~stated thereon~~ evidencing payment of  
12 the tax determined on the full amount of the consideration  
13 in the transaction have not been affixed ~~or without a statement~~  
14 ~~on said deed, instrument, or writing that the same is exempt.~~  
15 However, if the deed, instrument, or writing, is subject to  
16 an exception provided for in section 428A.2, the county  
17 recorder shall not refuse to record the document if there  
18 is filed with or endorsed on it a statement signed by either  
19 the grantor or grantee or his authorized agent, that the  
20 instrument or writing is excepted from the tax under section  
21 428A.2. The validity of the effectiveness of an instrument  
22 as between the parties thereto, and as to any person who would  
23 otherwise be bound thereby, shall not be affected by the  
24 failure to comply herewith; nor if an instrument is accepted  
25 for recording or filing contrary to the provision hereof,  
26 shall the failure to comply herewith destroy or impair the  
27 record thereof as notice.

28 Sec. 5. Section four hundred twenty-eight A point ten  
29 (428A.10), Code 1971, is amended as follows:

30 428A.10 PENALTY. Any person, firm or corporation liable  
31 for the tax imposed by this chapter who knowingly fails to  
32 comply with the provisions of ~~section~~ sections 428A.5 and  
33 428A.6 relating to the attachment or cancellation of  
34 documentary stamps, ~~unless such failure is shown to be due~~  
35 ~~to reasonable cause shall be liable to a civil penalty of~~

1 ~~twenty-five-dollars-for-each-such-failure~~ shall be subject  
2 ~~to a fine of not less than one hundred dollars nor more than~~  
3 ~~five hundred dollars.~~

4 ~~Any-person-who-willfully-attempts-in-any-manner-to-evade~~  
5 ~~or-defeat-any-such-tax-or-the-payment-thereof, shall, in-addi-~~  
6 ~~tion-to-other-penalties-provided-by-law, be-liable-to-a-penalty~~  
7 ~~of-fifty-percent-of-the-total-amount-of-the-underpayment-of~~  
8 ~~the-tax.~~

9 EXPLANATION

10 This bill provides that the full sale price or full consid-  
11 eration involved in each real estate transaction shall be  
12 subject to the real estate transfer tax unless the document  
13 or instrument comes within certain exceptions contained in  
14 the bill. The present law excludes from the tax the amount  
15 of a mortgage remaining on the real estate being transferred,  
16 and this has the effect of holding down considerably the  
17 amount of revenue from such tax. States which tax mortgages  
18 or include the mortgage value in the taxation of real estate  
19 transfers include Arkansas, Colorado, Kansas, Nebraska, Okla-  
20 homa, South Dakota, Tennessee, Washington, and some others.  
21 It would also improve the data and information considerably  
22 for use in conducting the assessment/sales ratio study under  
23 Section 421.17, subsection 6, of the Code.

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SENATE FILE 1101

1 Amend Senate File 1101 as follows:

2 1. Page 2, line 16, after the word "the" insert the word  
"real".

3 2. Page 2, line 20, by striking all after the period and  
by  
4 striking lines 21 through 26, inclusive. Insert thereof  
5 the following:

6 "The term 'consideration' as used in this chapter,  
means the  
7 full amount of the actual sale price of the real property  
involved,  
8 paid or to be paid, including the amount of an incumbrance  
or lien  
9 on the property, whether assumed or not by the grantee. It  
shall  
10 be presumed that the sale price so stated shall include  
the value  
11 of all personal property transferred as part of the sale  
unless  
12 the dollar value of said personal property is stated on the  
instru-  
13 ment of conveyance. When the dollar value of the personal  
property  
14 included in the sale is so stated, it shall be deducted  
from the  
15 consideration shown on the instrument for the purpose of  
determining  
16 the tax. In the case of a gift of realty, or any deed with  
nominal  
17 consideration ow without stated consideration, the  
consideration  
18 shall be the current market value of the property trans-  
ferred."

Filed - Adopted 2/10/72 (35-1)  
February 9, 1972

By POTTER AND KEITH

1 Amend Senate File 1101, Page 4, after line 27, by adding  
2 the following new section:

3 1. "Sec \_\_\_\_\_. Section four hundred twenty-eight A point  
4 eight (428A.8), Code 1971, is amended by striking the  
5 section and inserting in lieu thereof:

6 428A.8 DISTRIBUTION OF PROCEEDS. On or before the  
7 tenth day of each month the county recorder shall determine  
8 and pay to the treasurer of state seventy-five percent  
9 of the receipts from the sale of documentary stamps during  
10 the preceding month and the treasurer of state shall  
11 deposit such receipts in the state treasury to the credit  
12 of the general fund.

13 The county recorder shall deposit the remaining twenty-  
14 five percent of the receipts to the credit of the county  
15 general fund.

16 The county recorder shall keep such records and make  
17 such reports with respect to the documentary stamps  
18 entrusted to his custody and with respect to the sale of  
19 such stamps as the director of revenue shall prescribe."

20 2. Renumber the remaining sections accordingly.

Filed and adopted  
February 10, 1972

By BRILES

HOUSE AMENDMENT TO SENATE FILE 1101

1 Amend Senate File 1101, as amended and passed by the  
2 Senate, as follows:

3 Page 2, by striking from lines 31 through 34 the following:  
4 "In the case of a gift of realty, or any deed with nominal  
5 consideration or without stated consideration, the  
6 consideration shall be the current market value of the  
7 property transferred."

Received from the House  
March 21, 1972

*House*

1 Amend Senate File 1101, as amended and passed by  
2 the Senate, as follows:  
3 1. Page 4, line 33, by striking the word "seventy-  
4 five" and inserting in lieu thereof the word "fifty".  
5 2. Page 4, by striking from lines 38 and 39 the  
6 word "twenty-five" and inserting in lieu thereof the  
7 word "fifty".

Filed - *3/5/72*  
March 7, 1972

By SCHWARTZ of Wapello

1 Amend Senate File 1101, as amended and passed by  
2 the Senate, page 2, by striking from lines 31 through  
3 34 the following: "In the case of a gift of realty,  
4 or any deed with nominal consideration or without  
5 stated consideration, the consideration shall be the  
6 current market value of the property transferred."

Filed - *3/5/72*  
March 8, 1972

By PRIEBE of Kossuth  
FISHER of Greene