

H. 3/3/95 Judiciary
H. 4/10/95 Do Pass

FILED FEB 22 1995

SENATE FILE 189
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 133)

Passed Senate, Date 3/2/95 (P.503)
Vote: Ayes 50 Nays 0
Approved May 16, 1995
Passed House, Date 4/13/95 (P.1565)
Vote: Ayes 95 Nays 0
Repassed 5-3-95
rate 83-13

A BILL FOR

1 An Act relating to the transfer of real estate by exempting
2 certain transfers of real estate from the real estate transfer
3 tax and providing that a lien for a purchase money mortgage
4 has priority over other interests in the property.

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

S.F. 189

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

3 15. Deeds between a family corporation, partnership, or
4 limited partnership, limited liability partnership, or limited
5 liability company and its stockholders, or partners, or
6 members for the purpose of transferring real property in an
7 incorporation or corporate dissolution or the organization or
8 dissolution of a partnership, or limited partnership, limited
9 liability partnership, or limited liability company under the
10 laws of this state, where the deeds are given for no actual
11 consideration other than for shares or for debt securities of
12 the corporation, partnership, or limited partnership, limited
13 liability partnership, or limited liability company. For
14 purposes of this subsection, a family corporation,
15 partnership, or limited partnership, limited liability
16 partnership, or limited liability company is a corporation,
17 partnership, or limited partnership, limited liability
18 partnership, or limited liability company where the majority
19 of the voting stock of the corporation, or of the ownership
20 shares of the partnership, or limited partnership, limited
21 liability partnership, or limited liability company is held by
22 and the majority of the stockholders, or partners, or members
23 are persons related to each other as spouse, parent,
24 grandparent, lineal ascendants of grandparents or their
25 spouses and other lineal descendants of the grandparents or
26 their spouses, or persons acting in a fiduciary capacity for
27 persons so related and where all of its stockholders, or
28 partners, or members are natural persons or persons acting in
29 a fiduciary capacity for the benefit of natural persons.

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

32 The lien created by a purchase money mortgage shall have
33 priority over and is senior to preexisting judgments against
34 the purchaser and any other right, title, interest, or lien
35 arising either directly or indirectly by, through, or under

1 the purchaser. A mortgage is a purchase money mortgage if it
2 is either of the following:

3 1. Taken or retained by the seller of the real estate to
4 secure all or part of its price.

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

15 EXPLANATION

16 This bill provides that the exemption from the real estate
17 transfer tax for transfers between a family corporation,
18 partnership, or limited partnership and its shareholders or
19 partners also applies to transfers between a family limited
20 liability partnership or limited liability company and its
21 partners or members. The bill also provides that a purchase
22 money mortgage lien has priority over preexisting judgments
23 against the purchaser or any other right, title, interest, or
24 lien against the property which arises through the purchaser.

25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 189

H-3908

1 Amend Senate File 189, as passed by the Senate, as
2 follows:

3 1. By striking page 1, line 30, through page 2,
4 line 14.

5 2. Title page, by striking lines 3 and 4 and
6 inserting the following: "tax."

By MORELAND of Wapello

H-3908 FILED APRIL 12, 1995

Adopted 4-13-95 (p. 1564)

HOUSE AMENDMENT TO
SENATE FILE 189

S-3428

1 Amend Senate File 189, as passed by the Senate, as
2 follows:

3 1. By striking page 1, line 30, through page 2,
4 line 14.

5 2. Title page, by striking lines 3 and 4 and
6 inserting the following: "tax."

RECEIVED FROM THE HOUSE

S-3428 FILED APRIL 13, 1995

Refused to concur 5/2/95 (p. 1572)

*House Received
5/3/95 R 2213*

Rodgers, Chair
Giannetto
Vilback
Fraise
Maddox

SSB-133
Judiciary

Succeeded By
SF / HF
SENATE FILE 189

BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY CHAIR-
PERSON GIANNETTO)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the transfer of real estate by exempting
2 certain transfers of real estate from the real estate transfer
3 tax and providing that a lien for a purchase money mortgage
4 has priority over other interests in the property.

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

yBL 2
12

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

3 15. Deeds between a family corporation, partnership, or
4 limited partnership, limited liability partnership, or limited
5 liability company and its stockholders, or partners, or
6 members for the purpose of transferring real property in an
7 incorporation or corporate dissolution or the organization or
8 dissolution of a partnership, or limited partnership, limited
9 liability partnership, or limited liability company under the
10 laws of this state, where the deeds are given for no actual
11 consideration other than for shares or for debt securities of
12 the corporation, partnership, or limited partnership, limited
13 liability partnership, or limited liability company. For
14 purposes of this subsection, a family corporation,
15 partnership, or limited partnership, limited liability
16 partnership, or limited liability company is a corporation,
17 partnership, or limited partnership, limited liability
18 partnership, or limited liability company where the majority
19 of the voting stock of the corporation, or of the ownership
20 shares of the partnership, or limited partnership, limited
21 liability partnership, or limited liability company is held by
22 and the majority of the stockholders, or partners, or members
23 are persons related to each other as spouse, parent,
24 grandparent, lineal ascendants of grandparents or their
25 spouses and other lineal descendants of the grandparents or
26 their spouses, or persons acting in a fiduciary capacity for
27 persons so related and where all of its stockholders, or
28 partners, or members are natural persons or persons acting in
29 a fiduciary capacity for the benefit of natural persons.

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

32 The lien created by a purchase money mortgage shall have
33 priority over and is senior to preexisting judgments against
34 the purchaser and any other right, title, interest, or lien
35 arising either directly or indirectly by, through, or under

1 the purchaser. A mortgage is a purchase money mortgage if it
2 is either of the following:

3 1. Taken or retained by the seller of the real estate to
4 secure all or part of its price.

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

15

EXPLANATION

16 This bill provides that the exemption from the real estate
17 transfer tax for transfers between a family corporation,
18 partnership, or limited partnership and its shareholders or
19 partners also applies to transfers between a family limited
20 liability partnership or limited liability company and its
21 partners or members. The bill also provides that a purchase
22 money mortgage lien has priority over preexisting judgments
23 against the purchaser or any other right, title, interest, or
24 lien against the property which arises through the purchaser.

25

26

27

28

29

30

31

32

33

34

35

SENATE FILE 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.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 189, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 16, 1995

TERRY E. BRANSTAD
Governor