

ENROLLED SENATE
BILL NO. 213

BY: WEEDN of the SENATE

and

BATES, CROCKER and GLOVER
of the HOUSE

AN ACT RELATING TO REVENUE AND TAXATION; AMENDING SECTION 21, CHAPTER 162, O.S.L. 1988, AS AMENDED BY SECTION 9, CHAPTER 321, O.S.L. 1989 AND 68 O.S. 1981, SECTIONS 5101, AS LAST AMENDED BY SECTION 7, CHAPTER 195, O.S.L. 1984 AND AS RENUMBERED BY SECTION 160, CHAPTER 162, O.S.L. 1988, 5102, AS AMENDED BY SECTION 1, CHAPTER 24, O.S.L. 1988 AND AS RENUMBERED BY SECTION 160, CHAPTER 162, O.S.L. 1988 AND 5103, 5105 AND 5106, AS RENUMBERED BY SECTION 160, CHAPTER 162, O.S.L. 1988 (68 O.S. SUPP. 1990, SECTIONS 2821, 3201, 3202, 3203, 3205 AND 3206), WHICH RELATE TO THE AD VALOREM TAX CODE AND DOCUMENTARY STAMP TAXES; DELETING REQUIREMENT THAT COUNTY ASSESSOR VERIFY SALES PRICE DATA IN CERTAIN REAL PROPERTY TRANSACTIONS; MODIFYING DEFINITION; CLARIFYING REFERENCE; DELETING CERTAIN PROVISION AND PROCEDURES RELATED THERETO; REQUIRING NAME AND ADDRESS OF BUYER TO BE SHOWN ON FACE OF CONVEYANCE DOCUMENT; CREATING DOCUMENTARY STAMP TAX UNIT OF OKLAHOMA TAX COMMISSION; MODIFYING PERSONS TO WHICH CERTAIN PENALTY APPLIES; REPEALING SECTION 147, CHAPTER 162, O.S.L. 1988 (68 O.S. SUPP. 1990, SECTION 3301), WHICH RELATES TO DECLARATIONS OF CONVEYANCE DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 21, Chapter 162, O.S.L. 1988, as amended by Section 9, Chapter 321, O.S.L. 1989 (68 O.S. Supp. 1990, Section 2821), is amended to read as follows:

Section 2821. A. Each county assessor shall cause real property to be physically inspected as part of the visual inspection cycle and shall require such examination as will provide adequate data from which to make accurate valuations.

B. The information gathered from the physical inspection shall be relevant to the type of property involved, its use category, the valuation methodology to be used for the property, whether the methodology consists of the cost approach, an income and expense approach or sales comparison approach, and shall be complete enough in order to establish the fair cash value of the property in accordance with accepted standards for mass appraisal practice.

C. Information gathered during the physical inspection shall be recorded using a standard method as prescribed by the Oklahoma Tax Commission in computerized or noncomputerized form. The information may include property ownership, location, size, use, use category, a

physical description of the land and improvements or such other information as may be required.

D. In order to conduct the visual inspections of real property during the four-year cycle, each county assessor shall acquire and maintain cadastral maps and a parcel identification system. The standards for the cadastral maps and the parcel identification system shall be uniform for each county of the state and shall be in such form as developed by the Ad Valorem Task Force.

E. The county assessor shall maintain a comprehensive sales file for each parcel of real property within the county containing relevant property characteristics, sales price information, adjustments to sales price for purposes of cash equivalency, transaction terms and such other information as may be required in order to establish the fair cash value of taxable real property. ~~County assessors shall verify sales price data directly by contacting either the buyer or the seller in the transaction.~~

Each county assessor shall ensure that the office is equipped with adequate drafting facilities, tools, equipment and supplies in order to produce or update maps, sketches or drawings necessary to support the proper administration of the ad valorem tax and such other tools or equipment as may be required to perform duties imposed by law for the discovery and valuation of taxable property.

SECTION 2. AMENDATORY 68 O.S. 1981, Section 5101, as last amended by Section 7, Chapter 195, O.S.L. 1984 and as renumbered by Section 160, Chapter 162, O.S.L. 1988 (68 O.S. Supp. 1990, Section 3201), is amended to read as follows:

Section 3201. A. A tax is hereby imposed on each deed, instrument, or writing by which any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds One Hundred Dollars (\$100.00). The tax shall be prorated at the rate of seventy-five cents (\$0.75) for each Five Hundred Dollars (\$500.00) of the consideration or any fractional part thereof.

B. The tax is limited to conveyances of realty sold and does not apply to other conveyances. The tax attaches at the time the deed or other instrument of conveyance is executed and delivered to the buyer, irrespective of the time when the sale is made.

C. As used in this section:

1. "Sold" means a transfer of an interest for a valuable consideration, which may involve money or anything of value; and

2. "Deed" means any instrument or writing whereby realty is assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or, at his direction, any other person.

3. "Consideration" means the actual pecuniary value exchanged or paid or to be exchanged or paid in the future, exclusive of interest, whether in money or otherwise, for the transfer or conveyance of an interest of realty, including any assumed indebtedness.

SECTION 3. AMENDATORY 68 O.S. 1981, Section 5102, as amended by Section 1, Chapter 24, O.S.L. 1988 and as renumbered by Section 160, Chapter 162, O.S.L. 1988 (68 O.S. Supp. 1990, Section 3202), is amended to read as follows:

Section 3202. The tax imposed by Section ~~5101~~ 3201 of this title shall not apply to:

1. Deeds recorded prior to the effective date of ~~the enactment of this act~~ Sections 3201 through 3206 of this title;

2. Deeds which secure a debt or other obligation;
3. Deeds which, without additional consideration, confirm, correct, modify or supplement a deed previously recorded;
4. Deeds between husband and wife, or parent and child, or any persons related within the second degree of consanguinity, without actual consideration therefor;
5. Tax deeds;
6. Deeds of release of property which is security for a debt or other obligation;
7. Deeds executed by Indians in approval proceedings of the district courts or by the Secretary of the Interior;
8. Deeds of partition, unless, for consideration, some of the parties take shares greater in value than their undivided interests, in which event a tax attaches to each deed conveying such greater share computed upon the consideration for the excess;
9. Deeds made pursuant to mergers of corporations;
10. Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;
11. Deeds or instruments to which the State of Oklahoma or any of its instrumentalities, agencies or subdivisions is a party, whether as grantee or as grantor or in any other capacity;
12. Deeds or instruments to which the United States or any of its agencies or departments is a party, whether as grantor or as grantee or in any other capacity, provided that this shall not exempt transfers to or from national banks or federal savings and loan associations; or
13. Any deed executed pursuant to a foreclosure proceeding in which the grantee is the holder of a mortgage on the property being foreclosed, or any deed executed pursuant to a power of sale in which the grantee is the party exercising such power of sale or any deed executed in favor of the holder of a mortgage on the property in consideration for the release of the borrower from liability on the indebtedness secured by such mortgage except as to cash consideration paid; provided, however, the tax shall apply to deeds in other foreclosure actions, unless otherwise hereinabove exempted, and shall be paid by the purchaser in such foreclosure actions.

SECTION 4. AMENDATORY 68 O.S. 1981, Section 5103, as renumbered by Section 160, Chapter 162, O.S.L. 1988 (68 O.S. Supp. 1990, Section 3203), is amended to read as follows:

Section 3203. A. The taxes imposed by Section ~~5101~~ 3201 of this title shall be paid by any person who makes, signs, issues, or sells any of the documents and instruments subject to the taxes imposed by Section ~~5101~~ 3201 of this title, or for whose use or benefit the same are made, signed, issued or sold.

B. Only documentary stamps shall be used in payment of the tax imposed by Section ~~5101~~ 3201 of this title. The requisite stamps shall be affixed to the deed, instrument, or other writing by which the realty is conveyed. Said tax is not to be considered paid until the requisite stamps are affixed to the deed, instrument, or other writing by which the realty is conveyed, which stamps must be affixed before the deed is accepted for recording, ~~provided that a deed or other instrument of conveyance may be filed for recording without having any required documentary tax stamps affixed thereon provided that a request for such filing is first made to the county clerk where same is to be recorded and the stamps required by such conveyance are purchased, and that, before accepting such deed or instrument for recording, the county clerk shall cancel such stamps as prescribed in Section 5103C and write on the face of such document that "Documentary stamps have been purchased and canceled"~~

~~and date and initial same. When the provisions of this section are used, the amount of stamps involved shall be privileged information and shall not be made known to anyone except officials of the Oklahoma Tax Commission for the sole purpose of determining that the proper amount of tax has been paid.~~

~~C. At the time of recording of a conveyance instrument that has documentary stamps affixed, the recording county clerk shall cancel said stamps by placing thereon his initials and the day, month, and year when the affixing occurs, except as provided for herein. The affixing of stamps shall be by securely gluing same to the instrument requiring such stamps.~~

The name and address of the buyer shall be shown on the face of the deed, instrument or other writing by which the realty is conveyed prior to the recording of such deed, instrument or other writing.

SECTION 5. AMENDATORY 68 O.S. 1981, Section 5105, as renumbered by Section 160, Chapter 162, O.S.L. 1988 (68 O.S. Supp. 1990, Section 3205), is amended to read as follows:

Section 3205. The Oklahoma Tax Commission shall prescribe such rules and regulations as it may deem necessary to carry out the purpose of ~~this act~~ Sections 3201 through 3206 of this title. There is hereby created the Documentary Stamp Tax Unit of the Oklahoma Tax Commission. The Oklahoma Tax Commission through the Documentary Stamp Tax Unit shall be responsible for the administration and enforcement of the taxes as imposed by Section ~~5101 of Title 68 of the Oklahoma Statutes~~ 3201 of this title. The provisions of Section 240 of Title 68 of the Oklahoma Statutes apply to the provisions of the documentary stamp tax act.

SECTION 6. AMENDATORY 68 O.S. 1981, Section 5106, as renumbered by Section 160, Chapter 162, O.S.L. 1988 (68 O.S. Supp. 1990, Section 3206), is amended to read as follows:

Section 3206. A. Any person who shall willfully fail to purchase and affix ~~a sufficient~~ the exact amount of stamps on any deed, instrument, or writing as required under Section ~~5101~~ 3201 of this title shall, upon conviction, be subject to a fine of not more than One Thousand Dollars (\$1,000.00) or to imprisonment of not more than one (1) year, or to both such fine and imprisonment for such offense.

B. The willful removal or alteration of the cancellation or defacing marks with intent to use or cause the same to be used after a documentary stamp has already been used shall, upon conviction, subject the guilty person to a fine of not more than One Thousand Dollars (\$1,000.00) or to imprisonment of not more than one (1) year, or to both such fine and imprisonment for such offense.

C. Proof of payment of the documentary stamp tax shall be the exhibiting of the conveyance instrument showing the required stamps have been affixed. The failure or refusal of any taxpayer to furnish proof of payment of the documentary stamp tax, upon being so requested to do so by the Oklahoma Tax Commission, within ninety (90) days after being notified by registered or certified mail with return receipt requested shall be prima facie evidence of intent of the taxpayer to defraud the state and evade the payment of such tax. Any taxpayer who intends to defraud the state or evade the payment of the documentary stamp tax, fee, penalty or interest thereon pursuant to the provisions of ~~Title 68 of the Oklahoma Statutes,~~ Section 217 of this title, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) for each offense.

D. Should the county clerk become aware that the provisions of the documentary stamp law have or might have been violated, he or

she shall immediately report the facts to the Oklahoma Tax Commission.

SECTION 7. REPEALER Section 147, Chapter 162, O.S.L. 1988 (68 O.S. Supp. 1990, Section 3301), is hereby repealed.

SECTION 8. This act shall become effective January 1, 1992.
Passed the Senate the 28th day of May, 1991.

President of the Senate

Passed the House of Representatives the 29th day of May, 1991.

Speaker of the House of Representatives