ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE BILL NO. 2111

By: Cotner and Sullivan (Leonard) of the House

and

Dickerson of the Senate

An Act relating to revenue and taxation; amending 68 O.S. 1991, Sections 1904, as amended by Section 1, Chapter 208, O.S.L. 1992 and 1905 (68 O.S. Supp. 1995, Section 1904), which relate to real estate mortgage tax; providing that certain recorded instruments not subject to certain fee; providing an effective date; and declaring an emergency.

AUTHOR: Remove Dickerson as principal Senate Author, substitute Herbert as principal Senate Author

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and entire bill and insert

"An Act relating to revenue and taxation; amending 68 O.S. 1991, Sections 1905 and 1907, which relate to mortgage taxes; providing that certain instruments or assignments of mortgages not be subject to certain tax or fee; deleting provision that assignment of mortgage not be recorded except under certain circumstances; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 1905, is amended to read as follows:

Section 1905. If subsequent to the recording of a mortgage on which all taxes, if any, accrued under this article have been paid,

a supplemental instrument or mortgage is recorded for the purpose of correcting or perfecting any recorded mortgage, or pursuant to some provision or covenant therein, or an additional mortgage is recorded imposing the lien thereof upon property not originally covered by or not described in such recorded primary mortgage for the purpose of securing the principal indebtedness which is, or under any contingency may be, secured by such recorded primary mortgage, or an assignment of mortgage is recorded, such ~~additional~~ supplemental instrument or assignment of mortgage or mortgage shall not be subject to ~~taxation under this article,~~ the tax or fee levied and imposed by Section 1904 of this title unless it creates or secures a new or further indebtedness or obligation other than the principal indebtedness or obligation secured by or which under any contingency may be secured by the recorded primary mortgage, in which case a tax is levied on such new or further indebtedness or obligation as heretofore provided in Section 1904 of this ~~Code~~ title, and shall be paid to the county treasurer before the time such instrument or additional mortgage is recorded. If, at the time of recording such instrument, or additional mortgage, any exemption is claimed under this section, there shall be filed with the county treasurer and preserved in ~~his~~ the office of the county treasurer a statement under oath of the facts on which such claim for exemption is based. The determination of the county treasurer upon the question of exemption shall be reviewable on appeal to the district court under the same procedure as appeals from the county commissioners to the district court.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 1907, is amended to read as follows:

Section 1907. No mortgage of real property shall be recorded by any county clerk unless there shall be paid the tax imposed by and as in this article provided. No mortgage of real property which is subject to the taxes levied by this article shall be released,

discharged of record or received in evidence in any action or proceeding, nor shall any ~~assignment of or~~ agreement extending any such mortgage be recorded unless the taxes levied thereon by this article shall have been paid as provided in this article. No judgment or final order in any action or proceeding shall be made for the foreclosure or enforcement of any mortgage which is subject to the taxes levied by this article or of any debt or obligation secured by or which secures any such mortgage unless the taxes levied by this article shall have been paid as provided in this article.

SECTION 3. This act shall become effective July 1, 1996.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the Senate the 1st day of April, 1996.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1996.

Speaker of the House of Representatives