

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2111

By: Cotner

AS INTRODUCED

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.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 1904, as amended by Section 1, Chapter 208, O.S.L. 1992 (68 O.S. Supp. 1995, Section 1904), is amended to read as follows:

Section 1904. ~~(a)~~ A. The following taxes are hereby levied on real estate mortgages:

A tax of ten cents (\$0.10) for each One Hundred Dollars (\$100.00) and each remaining fraction thereof where such mortgage is for five (5) years or more; eight cents (\$0.08) for each One Hundred Dollars (\$100.00) for each mortgage where such mortgage is for four (4) years and less than five (5) years; a tax of six cents (\$0.06) for each One Hundred Dollars (\$100.00) where such mortgage is for three (3) years and less than four (4) years; a tax of four cents

(\$0.04) for each One Hundred Dollars (\$100.00) where such mortgage is for two (2) years and less than three (3) years; and a tax of two cents (\$0.02) for each One Hundred Dollars (\$100.00) where such mortgage is for less than two (2) years. If the principal debt or obligation secured by said mortgage is less than One Hundred Dollars (\$100.00), a tax of ten cents (\$0.10) is levied on such mortgage and shall be collected and paid as provided for in this article.

~~(b)~~ B. In addition to the taxes levied pursuant to the provisions of subsection ~~(a)~~ A of this section, the county treasurer shall collect a fee of Five Dollars (\$5.00) on each mortgage presented to the county treasurer for certification. The fees collected pursuant to the provisions of this subsection shall not apply to a supplemental instrument or mortgage recorded pursuant to the provisions of Section 1905 of this title unless otherwise provided in Section 1905 of this title. The fees collected pursuant to the provisions of this subsection shall be deposited into a cash account to be known as the "County Treasurer's Mortgage Certification Fee Account". Monies from ~~said~~ the account shall be expended by the county treasurer in the lawful operation of ~~his~~ the office of the county treasurer.

~~(c)~~ C. Except as otherwise provided for in this subsection, the tax provided for in subsection ~~(a)~~ A of this section shall be paid by the mortgagee. With respect to mortgages of public trusts created pursuant to Section 176 et seq. of Title 60 of the Oklahoma Statutes or mortgages of rural water, sewer, gas or solid waste management districts created pursuant to Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes, such tax may be paid by the mortgagor, the mortgagee or any other interested party. Any mortgagee, agent, representative, or person who shall through any scheme, arrangement, agreement, inducement, or device by an increase of the rate of interest, commission, brokerage, or otherwise, charge

to or exact from the mortgagor the payment of such tax, upon conviction, shall be deemed guilty of a misdemeanor.

SECTION 2. 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 instrument 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 office 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 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.

45-2-8077

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