

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2691

By: Webb

AS INTRODUCED

An Act relating to revenue and taxation; amending Section 3, Chapter 304, O.S.L. 1997 (68 O.S. Supp. 1997, Section 2802.1), which relates to implementation of Oklahoma Constitution Article X, Section 8B; adding exception to definition of transfers, change or conveyance of title; amending 68 O.S. 1991, Section 3202, as amended by Section 48, Chapter 366, O.S.L. 1993 (68 O.S. Supp. 1997, Section 3202), which relates to exemptions from documentary stamp tax; adding exemption to documentary stamp tax; and providing an effective date.

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

SECTION 1. AMENDATORY Section 3, Chapter 304, O.S.L. 1997 (68 O.S. Supp. 1997, Section 2802.1), is amended to read as follows:

Section 2802.1 A. For purposes of implementing Section 8B of Article X of the Oklahoma Constitution:

1. "Any person" means any person or entity, whether real or artificial, other than the present owner;

2. "Any year when title to the property is transferred, changed, or conveyed to another person or when improvements have been made to the property" means the year next preceding the January 1 assessment date;

3. "Improvement" means a valuable addition made to property amounting to more than normal repairs, replacement, maintenance or upkeep; and

4. "Transfers, change or conveyance of title" means all types of transfers, changes or conveyances of any interest, whether legal or equitable. However, "transfers, change or conveyance of title" shall not include the following:

- a. deeds recorded prior to January 1, 1996,
  - b. deeds which secure a debt or other obligation,
  - c. deeds which, without additional consideration, confirm, correct, modify or supplement a deed previously recorded,
  - d. deeds between husband and wife, or parent and child, or any persons related within the second degree of consanguinity, without actual consideration therefor, or deeds between any person and an express revocable trust created by such person or such person's spouse,
  - e. deeds of release of property which is security for a debt or other obligation,
  - f. deeds of partition, unless, for consideration, some of the parties take shares greater in value than their undivided interests,
  - g. deeds made pursuant to mergers of partnerships, limited liability companies or corporations,
  - h. deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock,
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- i. 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, or
- j. deeds made by a corporation, subsidiary corporation, or partnership to a limited liability company for no consideration other than the cancellation or surrender of the stock of the corporation or subsidiary corporation.

B. This section shall be applied effective from the date of the passage of Section 8B of Article X of the Oklahoma Constitution.

C. The Oklahoma Tax Commission shall promulgate rules necessary to implement Section 8B of Article X of the Oklahoma Constitution and this section.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 3202, as amended by Section 48, Chapter 366, O.S.L. 1993 (68 O.S. Supp. 1997, Section 3202), is amended to read as follows:

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

- 1. Deeds recorded prior to the effective date of 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 partnerships, limited liability companies or 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; or

14. Deeds made by a corporation, subsidiary corporation, or partnership to a limited liability company for no consideration other than the cancellation or surrender of the stock of the corporation, or subsidiary corporation.

SECTION 3. This act shall become effective November 1, 1998.

46-2-8440

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