

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective the day after its final enactment.

Presented to the governor March 30, 1999

Signed by the governor April 1, 1999, 1:35 p.m.

CHAPTER 31—H.F.No. 379

An act relating to mortgage registry and deed taxes; making technical and clarifying changes; defining terms; amending Minnesota Statutes 1998, sections 287.01; 287.03; 287.04; 287.05; 287.08; 287.10; 287.11; 287.12; 287.13, subdivision 1; 287.21, subdivision 1; 287.22; 287.23; 287.24; 287.241; 287.29, subdivision 1; 287.30; 287.31; and 287.33; proposing coding for new law in Minnesota Statutes, chapter 287; repealing Minnesota Statutes 1998, sections 287.06; 287.07; 287.09; 287.21, subdivisions 2 and 4; 287.34; 287.35; and 287.36.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1998, section 287.01, is amended to read:

287.01 DEFINITIONS; MORTGAGE REGISTRY TAX.

Subdivision 1. **WORDS, TERMS, AND PHRASES.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of sections 287.01 to ~~287.12~~ 287.13, shall be given have the meanings subjoined to given them in this section.

Subd. 2. **REAL PROPERTY, REAL ESTATE, AND LAND AMENDMENT.** “Real property,” “real estate,” and “land,” in addition to the meaning thereof contained in chapter 500, include all property a conveyance whereof may be recorded or registered by a county recorder under existing law. “Amendment” means generally a document that alters an existing mortgage without securing a new debt, or increasing the amount of an existing debt; and, that does not, in the case of a multistate mortgage described in section 287.05, subdivision 1, paragraph (b), result in an increased percentage of the real property encumbered by the mortgage being located in this state. Specifically, a document is considered an amendment to the extent it merely does any one or any combination of the following:

- (i) extends the time for payment of the unpaid portion of the original debt;
- (ii) changes the rate of interest applicable to the unpaid portion of the original debt;
- (iii) adds additional real property as security for the unpaid portion of the original debt;
- (iv) releases some but not all of the real property serving as security for the unpaid portion of the debt;
- (v) replaces all the real property serving as security for the unpaid portion of the debt with other real property regardless of value;

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(vi) replaces a party previously bound by the mortgage with a new party who becomes bound by the same amended mortgage; or

(vii) reduces the amount of the debt secured by real property located in this state, or in the case of a multistate mortgage described in section 287.05, subdivision 1, paragraph (b), reduces the percentage of real property encumbered by the mortgage that is located in this state.

Subd. 3. **MORTGAGE DEBT.** "Mortgage" means any instrument, including a decree of marriage dissolution or an instrument made pursuant to it, creating or evidencing a lien of any kind on property, given or taken as security for a debt, notwithstanding such debt may also be secured in part by a lien upon personalty. "Debt" means the principal amount of an obligation to pay money or to perform or refrain from performing an act that is secured in whole or in part by a mortgage of an interest in real property.

Subd. 4. **DECREE OF MARRIAGE DISSOLUTION.** "Decree of marriage dissolution" includes a summary real estate disposition judgment or an instrument made pursuant to under it.

Subd. 5. **EXTENSION.** "Extension" means any document that alters an existing mortgage by extending the time for repayment without increasing the amount of debt secured by real property that is located in this state.

Subd. 6. **MORTGAGE.** "Mortgage" means any instrument, including a decree of marriage dissolution or an instrument made under it, creating or evidencing a lien of any kind on real property, given by an owner of real property as security for a debt, notwithstanding that the debt may also be secured in part by a lien upon personalty.

Subd. 7. **MULTISTATE MORTGAGE.** "Multistate mortgage" means a mortgage that encumbers real property located both in and outside of this state.

Subd. 8. **PERSON.** "Person" includes any individual, partner, officer, director, firm, partnership, joint venture, limited liability company, association, cooperative, social club, fraternal organization, municipal or private corporation, whether organized for profit or not, estate, trusts, business trusts, receiver, trustee, syndicate, the United States, a state, any political subdivision of a state, or any group or combination acting as a unit, and the plural as well as the singular. The term includes any agent of any individual or organization enumerated in this subdivision.

Subd. 9. **REAL PROPERTY, REAL ESTATE, AND LAND.** "Real property," "real estate," and "land," have the meaning contained in chapter 500, and include all interests in real property that can be conveyed by a document which may be recorded.

Subd. 10. **RECORD, RECORDED, AND RECORDING.** "Record," "recorded," and "recording" each mean that a document has been delivered to and filed in the office of the county recorder or registrar of titles, whichever office maintains the records for the real property described in the document.

Sec. 2. Minnesota Statutes 1998, section 287.03, is amended to read:

287.03 INSTRUMENTS VALID SECURITY FOR DEBT.

No instrument, other than a decree of marriage dissolution or an instrument made pursuant to it, relating to real estate shall be valid as security for any debt, unless the fact that it is intended and the initial known amount of the debt are expressed in it.

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Sec. 3. [287.035] IMPOSITION OF TAX.

A tax of 23 cents is imposed upon each \$100, or fraction thereof, of the debt or portion of a debt that is secured by any recorded mortgage of real property located in this state. The person liable for the tax is the mortgagee. The tax is not imposed on the lawful interest amounts that may accrue with respect to a debt.

Sec. 4. Minnesota Statutes 1998, section 287.04, is amended to read:

287.04 **EXEMPTIONS.**

Subdivision 1. **GENERALLY.** The tax imposed by section 287.035 does not apply to:

- (a) A decree of marriage dissolution or an instrument made pursuant to it or a
- (b) A mortgage given to correct a misdescription of the mortgaged property, or to include,
- (c) A mortgage or other instrument that adds additional security for the same indebtedness on debt for which a mortgage registration registry tax has been paid, are not subject to the tax imposed by this chapter except as provided in section 287.05, subdivision 2, paragraph (b).
- (d) A contract for the conveyance of any interest in real property, including a contract for deed.

(e) A mortgage secured by real property subject to the minerals production tax of sections 298.24 to 298.28.

Subd. 2. **MORTGAGES ON PUBLIC PROPERTY.** No tax is imposed upon (f) The principal amount of bonds or other obligations issued by the St. Paul port authority under its common revenue bond fund if each of the following conditions are met.

(a) (1) The bonds or other obligations are secured by a mortgage on property, title to which is held by the political subdivision.

(b) (2) The mortgage is recorded or registered after the date of enactment May 19, 1993.

(c) (3) The bonds or other obligations are either (i) outstanding on the date of enactment May 19, 1993, or (ii) issued in exchange for or to otherwise refund bonds or other obligations the original series of which were issued before the date of enactment May 19, 1993.

(g) Mortgages taken in good faith by persons or corporations whose property is expressly exempted from taxation by section 272.02, subdivision 1, clauses (1) to (7), or mortgages that are fraternal benefit societies subject to section 64B.24.

(h) A mortgage amendment or extension, as defined in section 287.01.

Sec. 5. Minnesota Statutes 1998, section 287.05, is amended to read:

287.05 **DETERMINATION OF TAX ON RECORDATION OR REGISTRATION; SUPPLEMENTAL MORTGAGES; REVERSE MORTGAGES IN SPECIAL SITUATIONS.**

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Subdivision 1. TAX IMPOSED REAL PROPERTY OUTSIDE MINNESOTA.

A tax of 23 cents is imposed upon each \$100, or fraction thereof, of the principal debt or obligation which is or may be secured by any mortgage of real property situated within the state executed, delivered, and recorded or registered; provided, however, that the tax shall be imposed but once upon any mortgage and extension thereof. If the mortgage describes real estate situated outside of this state, the tax shall be imposed upon that portion of the whole debt secured thereby as the value of the real estate therein described situated in this state bears to the value of the whole of the real estate described therein. The tax imposed by this section shall not apply to a contract for the conveyance of any interest in real estate (a) When a multistate mortgage is intended to secure only a portion of a debt amount recited or referred to in the mortgage, the mortgage may contain the following statement, or its equivalent, on the first page: "Notwithstanding anything to the contrary herein, enforcement of this mortgage in Minnesota is limited to a debt amount of \$..... under chapter 287 of Minnesota Statutes." In such case, the tax shall be imposed based only on the amount of debt so stated to be secured by real property located in this state; and, the effect of the mortgage, or any amendment or extension, as evidence in any court in this state, or as notice for any purpose in this state, shall be limited to the amount contained in the statement and for which the tax has been paid.

(b) All multistate mortgages not taxed under paragraph (a) shall be taxed under sections 287.01 to 287.13 as if the real property identified in the mortgage secures payment of that portion of the maximum debt amount referred to, or incorporated by reference, in the mortgage that is equal to a fraction the numerator of which is the value of the real property described in the mortgage that is located in this state and the denominator of which is the value of all the real property described in the mortgage.

Subd. 1a. REAL PROPERTY IN THIS STATE SECURES PORTION OF DEBT.

(a) When the real property identified in a mortgage is located entirely in this state and is intended to secure only a portion of a debt amount recited or referred to in the mortgage, the mortgage may contain the following statement, or its equivalent, on the first page: "Notwithstanding anything to the contrary herein, enforcement of this mortgage is limited to a debt amount of \$..... under chapter 287 of Minnesota Statutes." In such case, the tax shall be imposed based only on the amount of debt so stated to be secured by real property; and, the effect of the mortgage, or any amendment or extension, as evidence in any court in this state, or as notice for any purpose in this state, shall be limited to the amount contained in the statement and for which the tax has been paid.

(b) All mortgages that are not multistate mortgages and that are not taxed under paragraph (a) shall be taxed under sections 287.01 to 287.13 as if the real property identified in the mortgage secures payment of the maximum debt amount referred to, or incorporated by reference, in the mortgage.

Subd. 2. SUPPLEMENTAL MORTGAGES. Except for an amendment or a revision to a reverse mortgage as described under subdivision 6, any supplemental document that alters an existing mortgage, not including revisions to a reverse mortgage as described under subdivision 6, securing a portion or all of the same indebtedness, whether or not additional security is included, by providing for an increase in the amount of debt secured by real property located in this state, or, in the case of a multistate mortgage described in subdivision 1, paragraph (b), an increase in the percentage of Minnesota real

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estate as compared to the total real estate that is encumbered by the mortgage shall be taxed in the following manner:

(a) Any additional indebtedness shall be taxed on the ratio that the value of the real estate therein described in this state bears to the value of the whole of the real estate described therein, based upon the increase in the amount of the debt determined to be secured by real property located in this state under either subdivision 1 or 1a.

(b) If there is no additional indebtedness but the percentage of the Minnesota real estate as compared to the total real estate secured by the previous mortgage is increased, the tax shall be recomputed and paid on the remaining indebtedness multiplied by the difference between that percentage of Minnesota real estate included in the supplemental mortgage and that percentage included in any previous mortgage.

(c) In the event of both an increase in the indebtedness and a change in the Minnesota percentage of real estate given as security, the tax shall be recomputed on the portion representing new indebtedness in the manner provided in (a) and in the event of an increase in the percentage of Minnesota property included as security, the tax shall be computed on the remaining portion of the indebtedness as provided in (b).

Subd. 3. **REVOLVING LINES OF CREDIT.** When a mortgage, including a reverse mortgage, secures a revolving line of credit under which advances, payments, and readvances may be made from time to time, the tax imposed under subdivision 1 shall section 287.035 must be paid on the maximum amount of the line of credit which that may be secured at any one time, as expressed in the mortgage, regardless of the time or amount of advances, payments, or readvances.

Subd. 4. **ADVANCES BY MORTGAGEE.** No tax under subdivision 1 section 287.035 shall be paid on the indeterminate amount which that may be advanced by the mortgagee in protection of the mortgaged premises or the mortgage, including taxes, assessments, charges, claims, fines, impositions, and insurance premiums; the amounts due upon prior or superior mortgages and other prior or superior liens, encumbrances, and interests; and legal expenses and attorneys' fees.

Subd. 5. **INDETERMINATE AMOUNTS.** When a mortgage secures an indeterminate amount other than those described in subdivision 3, 4, or 6, no tax shall be paid at the time the mortgage is recorded or registered, but the tax must be paid at the time of recording or filing an affidavit or other document stating the amount and time of the actual advance.

Subd. 6. **REVERSE MORTGAGES.** If real property secures a reverse mortgage, the principal debt or obligation to which mortgage registry tax applies is the expected total disbursements or cash equivalent to be made under the terms of the loan. Interest accruing on the disbursements made is not subject to mortgage registry tax. In the case of periodic payments made for an indefinite length of time, the expected total disbursements must equal the product of the periodic payment amounts and the number of payments and, if applicable, the amount of cash distribution or its equivalent. The number of payments must be based upon the life expectancy assumption used in determining the payment amount. In the case of reverse mortgages made as part of the Housing and Community Development Act of 1987, section 255 of the National Housing Act, and administered by the Department of Housing and Urban Development (HUD), mortgage registry tax must not be assessed on Federal Housing Administration mortgage insurance pre-

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miums, monthly lender service fees, or payments to be distributed to the borrower by HUD.

Subd. 7. MORTGAGES TO SECURE OBLIGATIONS TO BE ISSUED. If a mortgage is made to a mortgagee in trust to secure the payment of bonds or other obligations yet to be issued, a statement may be incorporated in the mortgage stating the amount of the obligations already issued or yet to be issued, and the tax to be paid on filing the mortgage for recording must be computed upon the amount so stated. The statement must be binding and conclusive upon all persons claiming through or under the mortgage, and no such obligation issued in excess of the aggregate so fixed is valid for any purpose unless the additional tax is paid and receipted by the proper county treasurer.

Subd. 8. AMENDMENTS. An amendment may contain the following statement, or its equivalent, on its first page: "This is a mortgage amendment, as defined in Minnesota Statutes, section 287.01, subdivision 2, and as such it does not secure a new or an increased amount of debt." In such cases, the document will be treated as a mortgage amendment, as defined in section 287.01, subdivision 2, for all purposes and does not serve to secure a new or an increased amount of debt.

Sec. 6. Minnesota Statutes 1998, section 287.08, is amended to read:

287.08 TAX, HOW PAYABLE; RECEIPTS.

(a) The tax imposed by sections 287.01 to 287.12 shall must be paid to the treasurer of the any county in this state in which the mortgaged ~~land~~ real property or some part thereof is situated located at or before the time of filing the mortgage for record ~~or registration~~. The treasurer shall endorse receipt on the mortgage, ~~countersigned by the county auditor, who shall charge the amount to the treasurer and such the receipt shall be recorded with the mortgage, and such receipt of the record thereof shall be~~ is conclusive proof that the tax has been paid ~~to~~ in the amount ~~therein~~ stated and ~~authorize~~ authorizes any county recorder or registrar of titles to record the mortgage. Its form, in substance, shall be "registration tax hereon of dollars paid." If the mortgage ~~is~~ is exempt from taxation the endorsement shall, in substance, be "exempt from registration tax;" ~~to~~ In either case the receipt must be signed in either case by the treasurer as such, and in case of payment to be countersigned by the auditor. In case the treasurer shall ~~be~~ is unable to determine whether a claim of exemption should be allowed, the tax ~~shall~~ must be paid as in the case of a taxable mortgage.

(b) Upon written application of the taxpayer, the county treasurer may refund in whole or in part any tax ~~which~~ that has been erroneously paid, or a person having paid a mortgage registry tax amount may seek a refund of ~~such~~ the tax, or other appropriate relief, by bringing an action in tax court in the county in which the tax was paid, within 60 days of the payment. The action is commenced by the serving of a petition for relief on the county treasurer, and by filing a copy with the court. The county attorney shall defend the action. The county treasurer shall notify the treasurer of each county that has or would receive a portion of the tax as paid.

(c) If the county treasurer determines a refund should be paid, or if a refund is ordered by the court, the county treasurer of each county that actually received a portion of the tax shall immediately pay a proportionate share of three percent of the refund using any available county funds. The county treasurer of each county ~~which~~ that received, or would have received, a portion of the tax shall also pay their county's proportionate share

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of the remaining 97 percent of the court-ordered refund on or before the tenth 20th day of the following month using solely the mortgage registry tax funds that would be paid to the commissioner of revenue on that date under section 287.12. If the funds on hand under this procedure are insufficient to fully fund 97 percent of the court-ordered refund, the county treasurer of the county in which the action was brought shall file a claim with the commissioner of revenue under section 16A.48 for the remaining portion of 97 percent of the refund, and shall pay over the remaining portion upon receipt of a warrant from the state issued pursuant to the claim.

(d) When any such mortgage covers real property situate located in more than one county in this state the whole of such total tax shall must be paid to the treasurer of the county where the mortgage is first presented for record or registration recording, and the payment shall must be receipted and countersigned as above provided in paragraph (a). If the principal debt or obligation secured by such a multiple county mortgage exceeds \$1,000,000, the nonstate portion of the tax shall must be divided and paid over by the county treasurer receiving the same it, on or before the tenth 20th day of each month after receipt thereof, to the county or counties entitled thereto in the ratio which that the market value of the real property covered by the mortgage in each county bears to the market value of all the real property in this state described in the mortgage. In making such the division and payment the county treasurer shall send therewith a statement giving the description of the real property described in the mortgage and the market value of the part thereof situate located in each county. For the this purpose aforesaid, the treasurer of any county may require the treasurer of any other county to certify to the former the market valuation of any tract of land real property in any such mortgage.

Sec. 7. Minnesota Statutes 1998, section 287.10, is amended to read:

287.10 PREPAYMENT OF TAX; EVIDENCE; NOTICE.

A mortgage or papers documents relating to its foreclosure, assignment, or satisfaction, must not be recorded or registered unless the tax has been paid. A Except as provided in section 582.25, a document or any record of the mortgage may not be received in evidence in any court, and is not valid notice, unless the tax has been paid. If the tax is paid, an error in computation or ascertainment of the amount does not affect the validity of the mortgage or the record or foreclosure. This section does not apply to a mortgage that is exempt from taxation the tax imposed under section 287.04 or 287.05, subdivision 1 287.035.

Sec. 8. Minnesota Statutes 1998, section 287.11, is amended to read:

287.11 MORTGAGES RECORDED OR REGISTERED PRIOR TO PASSAGE OF SECTIONS 287.01 TO 287.12.

All mortgages of real estate property recorded or registered prior to the passage of sections 287.01 to 287.12 shall be are taxable as provided by law under the provisions of law relating thereto existing prior to the enactment hereof of sections 287.01 to 287.12; provided, that the holder of any such mortgage may pay to the treasurer of the proper county, or the state treasurer, or both, the tax therein prescribed based upon the amount of the debt secured by such the mortgage at the time of such the payment as stated by the affidavit of the owner of such the mortgage, to. The affidavit may be filed with the county treasurer, and have in which case the treasurer's receipt, countersigned by the auditor, must be endorsed thereon on it. The county recorder or secretary of state, as the case may

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be, or registrar of titles on presentation of such the receipt, shall note on the margin of the mortgage make a record of the date and amount of such the payment. Thereafter such the mortgage debt lien shall not be otherwise taxable.

Sec. 9. Minnesota Statutes 1998, section 287.12, is amended to read:

287.12 TAXES, HOW APPORTIONED.

(a) All taxes paid to the county treasurer under the provisions of sections 287.01 to 287.12 ~~shall~~ must be apportioned, 97 percent to the general fund of the state, and three percent to the county revenue fund.

(b) On or before the ~~tenth~~ 20th day of each month the county treasurer shall determine and pay to the commissioner of revenue for deposit in the state treasury and credit to the general fund the state's portion of the receipts from the mortgage registration registry tax during the preceding month subject to the electronic funds transfer requirements of section 270.771. The county treasurer shall provide any related reports requested by the commissioner of revenue.

Sec. 10. Minnesota Statutes 1998, section 287.13, subdivision 1, is amended to read:

Subdivision 1. **FAILURE TO PAY FULL AMOUNT.** Any person liable for the tax imposed by section ~~287.05~~ 287.035 who fails to pay the full amount of mortgage registry tax imposed under sections ~~287.01 to 287.12~~ this chapter, unless ~~such the failure is shown to be due to reasonable cause, is liable for a civil penalty of \$250 or 100 percent of the tax for each such failure, whichever is less.~~

Sec. 11. [287.20] DEFINITIONS; DEED TAX.

Subdivision 1. **WORDS, TERMS, AND PHRASES.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of sections 287.21 to 287.31, have the meanings given to them in this section.

Subd. 2. **CONSIDERATION.** (a) "Consideration" means generally the total monetary value that is given in return for a conveyance of real property in this state and includes all lump-sum payments, all prior or future installment payments that are required under the agreement between the parties, and the fair market value of any property taken, or to be taken, in exchange.

(b) Consideration does not include the reasonable and lawful amounts of interest paid for the privilege of paying the purchase price in installments and the fair market value of any items of intangible personal property that are conveyed by the taxable instrument.

(c) Consideration does not include the amount paid for the personal property located on the real property being conveyed and transferred as a part of the total consideration, except that the amount paid for the personal property located on the real property being conveyed must be included if the real property being conveyed is a one-, two-, or three-unit residential structure.

(d) When a conveyance of real property is made pursuant to a contract for deed, the consideration is the price for the real property reflected in the contract; except that, subject to the limitations under section 287.221, when the conveyance is made by a person

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engaged in the business of land sales or construction of buildings and other improvements, or by an affiliated person, then the consideration is the amount paid for the land and the improvements. By January 1, 2001, the commissioner shall adopt rules that define the phrases "engaged in the business of land sales or construction of buildings and other improvements" and "affiliated person" as those phrases are used in this paragraph.

(e) "Total consideration" has the same meaning as consideration.

(f) "Consideration, exclusive of the value of any lien or encumbrance remaining at the time of sale" or "net consideration" means the amount of consideration as reduced by the amount outstanding under any lien that attached to the real property prior to the time of sale and that is not released or satisfied as a result of the sale.

Subd. 3. CONSOLIDATION OR MERGER. "Consolidation" or "merger" means the combination of all of the assets of two or more corporations, limited liability companies, or partnerships, or any combination of these entities, whether or not title to the assets is taken by a newly created entity or by a preexisting entity that survives the consolidation or merger in an altered form.

Subd. 4. DOCUMENTARY STAMPS. "Documentary stamps" means all stamps issued by the county for use in payment of the taxes imposed by sections 287.21 to 287.37.

Subd. 5. LIEN. "Lien" means any legal claim, other than an easement, created by contract, statute, or law on the real property of another as security for a debt or obligation. For purposes of the deed tax, the term "encumbrance" is synonymous with the term "lien" and an easement is not a lien.

Subd. 6. PERSON. "Person" includes any individual, partner, officer, director, firm, partnership, joint venture, limited liability company, association, cooperative, social club, fraternal organization, municipal or private corporation, whether organized for profit or not, estate, trusts, business trusts, receiver, trustee, syndicate, the United States, a state, any political subdivision of a state, or any group or combination acting as a unit, and the plural as well as the singular. The term includes directors and officers of corporations, governors and managers of a limited liability company, or members of partnerships who, either individually or jointly with others, have control, supervision, or responsibility of making or authorizing payment of the tax imposed by section 287.21. The term includes any agent of any individual or organization enumerated in this subdivision.

Subd. 7. REAL PROPERTY, REAL ESTATE, AND LAND. "Real property," "real estate," and "land" mean any fee simple estate, and any estate for life, as defined in chapter 500, and the purchaser's interest under a contract for the conveyance of such an estate.

Subd. 8. RECORD, RECORDED, AND RECORDING. "Record," "recorded," and "recording" each mean that a document has been delivered to and filed in the office of the county recorder or registrar of titles, whichever office maintains the records for the real property described in the document.

Subd. 9. REORGANIZATION. "Reorganization" means the transfer of substantially all of the assets of a corporation, a limited liability company, or a partnership not in the usual or regular course of business.

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Sec. 12. Minnesota Statutes 1998, section 287.21, subdivision 1, is amended to read:

Subdivision 1. **DETERMINATION OF TAX.** ~~There~~ (a) A tax is hereby imposed on each deed, or instrument, or writing by which any lands, tenements, or other realty real property in this state shall be is granted, assigned, transferred, or otherwise conveyed, a tax determined in the following manner. The tax applies against the net consideration.

(b) The tax is determined in the following manner: (1) when transfers are made by instruments pursuant to mergers, consolidations, sales, or transfers of substantially all of the assets of corporations the entities as defined in section 287.20, subdivision 9, pursuant to plans of reorganization or, the tax is \$1.65; (2) when there is no consideration or when the consideration, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, is \$500 or less, the tax shall be is \$1.65; or (3) when the consideration, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds \$500, the tax shall be is \$1.65 plus \$1.65 for each additional \$500 or fraction of that amount.

The tax applies against the total consideration, including the fair market value consideration for any personal property located on the real property conveyed by the deed and transferred as part of the total consideration, but excluding the value of any lien or encumbrance remaining on the property at the time of sale.

(c) The tax is due at the time a taxable deed or instrument is presented for recording.

Sec. 13. Minnesota Statutes 1998, section 287.22, is amended to read:

287.22 **EXCEPTIONS EXEMPTIONS.**

The tax imposed by section 287.21 ~~shall~~ does not apply to:

A. ~~Any (1) An executory contract for the sale of land real property under which the vendee purchaser is entitled to or does take possession thereof of the real property, or any assignment or cancellation thereof. of the contract;~~

B. ~~Any (2) A mortgage or any an amendment, assignment, extension, partial release, or satisfaction thereof. of a mortgage;~~

C. ~~Any (3) A will;~~

D. ~~Any (4) A plat;~~

E. ~~Any (5) A lease, amendment of lease, assignment of lease, or memorandum of lease;~~

F. ~~Any (6) A deed, instrument, or writing in which the United States or any agency or instrumentality thereof is the grantor, assignor, transferor, conveyor, grantee, or assignee;~~

G. ~~Deeds (7) A deed for a cemetery lot or lots;~~

H. ~~Deeds (8) A deed of distribution by a personal representatives. representative;~~

I. ~~Deeds (9) A deed to or from coowners a co-owner partitioning their undivided interests interest in the same piece of real property;~~

J. ~~Any (10) A deed or other instrument of conveyance issued pursuant to a permanent school fund land exchange under section 92.121 and related laws;~~

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~~K.~~ (11) A referee's or sheriff's certificate of sale in a mortgage or lien foreclosure sale;

~~L.~~ (12) A referee's or sheriff's, or certificate holder's certificate of redemption from a mortgage or lien foreclosure sale issued to the redeeming mortgagor or lienee;

M. Any (13) A deed, instrument, or writing which grants, creates, modifies, or ~~ends~~ terminates an easement; and

~~N.~~ (14) A decree of marriage dissolution, as defined in section 287.01, subdivision 4, or any a deed or other instrument between the parties to the dissolution made pursuant to the terms of the decree.

Sec. 14. [287.2205] TAX-FORFEITED LAND.

Before a state deed for tax-forfeited land may be issued, the deed tax must be paid by the purchaser of tax-forfeited land whether the purchase is the result of a public auction or private sale or a repurchase of tax-forfeited land. State agencies and local units of government that acquire tax-forfeited land by purchase or any other means are subject to this section.

Sec. 15. Minnesota Statutes 1998, section 287.23, is amended to read:

287.23 REAL PROPERTY OUTSIDE COUNTY OR STATE.

Subdivision 1. REAL PROPERTY OUTSIDE COUNTY. If any taxable deed or instrument describes any real property located in more than one county in this state, the total tax must be paid to the treasurer of the county where the document is first presented for recording, and the payment must be received as provided in section 287.08. If the net consideration exceeds \$700,000, the nonstate portion of the tax must be divided and paid over by the county treasurer receiving it, on or before the 20th day of each month after receipt, to the county or counties entitled in the ratio which the market value of the real property covered by the document in each county bears to the market value of all the real property in this state described in the document. In making the division and payment the county treasurer shall send a statement to the other involved counties giving the description of the real property described in the document and the market value of the part located in each county. The treasurer of any county may require the treasurer of any other county to certify to the former the market valuation of any parcel of real property for this purpose.

Subd. 2. REAL PROPERTY OUTSIDE STATE. If any deed, or instrument, or writing shall describe describes any real estate situate property located outside of this state, the tax imposed by section 287.21 shall must be measured upon such proportion of the consideration, (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale), as the value of the real estate therein property described situate in this state bears to the value of the whole of the real estate property described therein in the deed or instrument.

Sec. 16. Minnesota Statutes 1998, section 287.24, is amended to read:

287.24 PERSONS LIABLE.

Subdivision 1. GENERAL RULE. Any person who grants, assigns, transfers, or conveys any land, tenement, or realty real property by a deed, writing, or instrument sub-

New language is indicated by underline, deletions by ~~strikeout~~.

ject to the tax imposed by section 287.21 shall be liable for such tax but no public official shall be liable for a tax with respect to any instrument executed by the official in connection with official duties.

Subd. 2. OTHER RESPONSIBLE PERSONS. If an underpayment is assessable by the commissioner of revenue against a grantor pursuant to section 287.37, and the grantor is a business entity no longer in existence, any person who, either individually or jointly with others, had control over, supervision of, or responsibility for making the statement of tax due or exemption from tax that was submitted to the county treasurer under section 287.241, subdivision 1, can be assessed and held liable by the commissioner for the underpayment.

Sec. 17. Minnesota Statutes 1998, section 287.241, is amended to read:

287.241 STATEMENT OF TAX DUE OR EXEMPTION; RECORDING OR REGISTERING OF DOCUMENTS.

Subdivision 1. STATEMENT OF TAX DUE OR EXEMPTION. No deed, or instrument, or writing, taxable under the provisions of section 287.21, shall be recorded or registered by the county recorder or the registrar of titles unless it shall contain contains the statement of the grantor or grantee, or any successor in interest, setting forth the amount of tax due under this chapter or that it is exempt from tax. The county recorder or registrar of titles shall record or register any such document deed or instrument when the statement sets forth that the transfer is tax exempt, and shall refuse to record or register any such document on which or when documentary stamps in the amount stated thereon have not been affixed or the treasurer's receipt appear for the amount of deed tax recited in the statement. The validity or effectiveness of an a deed or instrument as between the parties thereto, and as to any person who would otherwise be bound thereby, shall is not be affected by the failure to comply herewith; nor with this section. If an a deed or instrument is accepted for recording or filing contrary to the provisions hereof this section, shall the failure to comply herewith does not destroy or impair the record thereof of the deed or instrument as notice.

Subd. 2. NOTICE OF CERTIFICATE OF VALUE. No deed or instrument providing for the transfer of title to real estate as property that is subject to the tax as provided in section 287.21, and no executory contract for the sale of land, shall be recorded in the office of the county recorder or the registrar of titles unless such deed or instrument shall be accompanied by a notice from the county auditor that a certificate of value was filed in the auditor's office as provided in section 272.115.

Sec. 18. Minnesota Statutes 1998, section 287.29, subdivision 1, is amended to read:

Subdivision 1. APPOINTMENT AND PAYMENT OF TAX PROCEEDS. (a) The proceeds of the taxes levied and collected under sections 287.21 to 287.36 must be apportioned, 97 percent to the general fund of the state, and three percent to the county revenue fund.

(b) On or before the tenth 20th day of each month, the county treasurer shall determine and pay to the commissioner of revenue for deposit in the state treasury and credit to the general fund the state's portion of the receipts for deed tax from the sale of documentary stamps during the preceding month subject to the electronic transfer requirements of section 270.771. The county treasurer shall provide any related reports requested by the commissioner of revenue.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 19. Minnesota Statutes 1998, section 287.30, is amended to read:

287.30 COUNTY TREASURER; DUTIES.

The care of documentary stamps entrusted to county treasurers and the duties imposed upon county treasurers by ~~sections 287.21 to 287.33~~ shall be this chapter are within the duties of such office and shall be are within the coverage of any official bond delivered to the state, conditioned that any such officer shall faithfully execute the duties of office. The county board may by resolution require the county auditor to perform any duty imposed on the county treasurer under this chapter.

Sec. 20. Minnesota Statutes 1998, section 287.31, is amended to read:

287.31 VIOLATIONS; CIVIL PENALTIES.

Subdivision 1. **FAILURE TO COMPLY PAY FULL AMOUNT.** Any person liable for the tax imposed by section 287.21 ~~who fails to comply with the provisions of section 287.25 pay the full amount of deed tax imposed under this chapter,~~ unless such the failure is shown to be due to reasonable cause, ~~shall be is~~ liable to a civil penalty of \$250, or 100 percent of the tax, for each such failure, whichever is less.

Subd. 2. **WILLFUL EVASION.** Any person who willfully attempts in any manner to evade or defeat any such tax or the payment thereof, ~~shall is,~~ in addition to other penalties provided by law, be liable to a penalty of 50 percent of the total amount of the underpayment of the tax.

Sec. 21. [287.325] VIOLATIONS; CRIMINAL PENALTIES.

Any person who in any manner intentionally attempts to evade a tax imposed by this chapter, or who intentionally aids or abets in the evasion or attempted evasion of such tax is guilty of a gross misdemeanor.

Sec. 22. Minnesota Statutes 1998, section 287.33, is amended to read:

287.33 EXPENSES OF ADMINISTRATION.

Expenses of administration of ~~sections 287.21 to 287.34~~ this chapter to be paid out of county funds include fees and expenses incurred by the county attorney in connection with ~~sections 287.21 to 287.34~~ this chapter and all other costs and expenses.

Sec. 23. [287.38] LIMITATIONS ON TIME FOR ASSESSMENT OF TAX.

Subdivision 1. **GENERAL RULE.** Except as otherwise provided in this section, the amount of taxes assessable under this chapter must be assessed within 3-1/2 years after the date the document is recorded.

Subd. 2. **OMISSION IN EXCESS OF 25 PERCENT.** Additional taxes may be assessed within 6-1/2 years after the document was recorded, if the taxpayer underpays the tax due on the filing of that document by more than 25 percent or the document was erroneously treated as exempt.

Subd. 3. **FRAUD.** Notwithstanding the limitations under subdivision 1, additional taxes may be assessed at any time if a document is presented for recording with a fraudulent intent to underpay the taxes imposed by this chapter.

New language is indicated by underline, deletions by strikeout.

Sec. 24. [287.385] INTEREST.

Subdivision 1. INTEREST RATE. If an interest assessment is required under this section, interest is computed at the rate specified in section 270.75.

Subd. 2. LATE PAYMENT. If a tax is not paid within the time specified by law for payment, the unpaid tax bears interest from the date the tax should have been paid until the date the tax is paid.

Subd. 3. EXTENSIONS. If an extension of time for payment has been granted, interest must be paid from the date the payment should have been made if no extension had been granted, until the date the tax is paid.

Subd. 4. ADDITIONAL ASSESSMENTS. If a taxpayer is liable for additional taxes because of a redetermination by the commissioner of revenue, or for any other reason, the additional taxes bear interest from the time the tax should have been paid, without regard to any extension allowed, until the date the tax is paid.

Subd. 5. REFUNDS. (a) Interest must be paid at the rate specified in section 270.75 on an overpayment that is refunded or credited to a taxpayer more than 30 days after a refund request is made. Interest does not apply to the 30-day period.

(b) In the case of an erroneous refund, interest accrues from the date the refund was paid unless the erroneous refund results from a mistake of the department of revenue or the county, then no interest or penalty is imposed unless the deficiency assessment is not satisfied within 60 days of the order.

Subd. 6. INTEREST ON JUDGMENTS. Notwithstanding section 549.09, if judgment is entered in favor of the commissioner of revenue or a county with regard to any tax under this chapter, the judgment bears interest at the rate specified in section 270.75 from the date the judgment is entered until the date of payment.

Subd. 7. INTEREST ON PENALTIES. A penalty imposed under this chapter bears interest from the date payment was required to be paid, including any extensions, to the date of payment of the penalty.

Sec. 25. [287.39] ADMINISTRATIVE REVIEW.

Subdivision 1. TAXPAYER RIGHT TO RECONSIDERATION. Under this section, a taxpayer may obtain reconsideration by the commissioner of revenue of:

(1) an order of the commissioner assessing tax;

(2) a denial by the commissioner of a request for abatement of penalty; or

(3) a denial by the commissioner of a claim for refund of money paid to the commissioner as a result of an assessment or order issued by the commissioner under this chapter, by filing an administrative appeal as provided in subdivision 4.

A taxpayer cannot obtain reconsideration if the action taken by the commissioner of revenue is the outcome of an administrative appeal.

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Subd. 2. **APPEAL BY TAXPAYER.** A taxpayer who wishes to seek administrative review shall follow the procedure in subdivision 4.

Subd. 3. **NOTICE DATE.** For purposes of this section, "notice date" means the date of the order adjusting the tax or order denying a request for abatement or, in the case of a denied refund, the date of the notice of denial.

Subd. 4. **TIME AND CONTENT FOR ADMINISTRATIVE APPEAL.** Within 60 days after the notice date, the taxpayer shall file a written appeal with the commissioner of revenue. The appeal need not be in any particular form, but must contain the following information:

- (1) name and address of the taxpayer;
- (2) if a corporation, the state of incorporation of the taxpayer, and the principal place of business of the corporation;
- (3) the Minnesota identification number or social security number of the taxpayer;
- (4) the type of tax involved;
- (5) the date;
- (6) the tax periods involved and the amount of tax involved for each period;
- (7) the findings in the notice that the taxpayer disputes;
- (8) a summary statement that the taxpayer relies on for each exception; and
- (9) the taxpayer's signature or the signature of the taxpayer's duly authorized agent.

Subd. 5. **EXTENSIONS.** If requested in writing and within the time allowed for filing an administrative appeal, the commissioner may extend the time for filing an appeal for a period of not more than 30 days from the expiration of the 60 days from the notice date.

Subd. 6. **DETERMINATION OF APPEAL.** On the basis of applicable law and available information, the commissioner shall determine the validity, if any, in whole or part of the appeal and notify the taxpayer of the decision. This notice must be in writing and contain the basis for the determination.

Subd. 7. **AGREEMENT DETERMINING TAX LIABILITY.** If the commissioner determines that it is in the best interests of the state, the commissioner may settle taxes, penalties, or interest that the commissioner has under consideration by virtue of an appeal filed under this section. An agreement must be in writing and signed by the commissioner and the taxpayer or the taxpayer's representative authorized by the taxpayer to enter into an agreement. The agreement is final and conclusive and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, the case shall not be reopened as to the matters agreed upon.

Subd. 8. **APPEAL OF AN ADMINISTRATIVE DETERMINATION.** Following the determination of an appeal and notwithstanding any period of limitations for making assessments or other determinations to the contrary, the commissioner shall issue an order reflecting that disposition. If the statute of limitations for making assessments or other determinations would have expired before the issuance of this order, except for this

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section, the order is limited to issues or matters contained in the appealed determination. The order is appealable to the Minnesota tax court under section 271.06.

Subd. 9. APPEAL WHERE NO DETERMINATION. If the commissioner does not make a determination within six months of the filing of an administrative appeal, the taxpayer may elect to appeal to tax court.

Subd. 10. EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT. This section is not subject to chapter 14.

Sec. 26. **REPEALER.**

Minnesota Statutes 1998, sections 287.06; 287.07; 287.09; 287.21, subdivisions 2 and 4; 287.34; 287.35; and 287.36, are repealed.

Sec. 27. **EFFECTIVE DATE.**

Sections 1 to 26 are effective for documents executed, recorded, or registered after June 30, 1999.

Presented to the governor March 30, 1999

Signed by the governor April 1, 1999, 1:37 p.m.

CHAPTER 32—H.F.No. 183

An act relating to civil commitment; modifying provisions governing parental consent to chemical dependency treatment for minors; amending Minnesota Statutes 1998, section 253B.04, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1998, section 253B.04, subdivision 1, is amended to read:

Subdivision 1. **VOLUNTARY ADMISSION AND TREATMENT.** (a) Voluntary admission is preferred over involuntary commitment and treatment. Any person 16 years of age or older may request to be admitted to a treatment facility as a voluntary patient for observation, evaluation, diagnosis, care and treatment without making formal written application. Any person under the age of 16 years may be admitted as a ~~voluntary~~ patient with the consent of a parent or legal guardian if it is determined by independent examination that there is reasonable evidence that (a) (1) the proposed patient is mentally ill, mentally retarded, or chemically dependent; and ~~(b)~~ (2) the proposed patient is suitable for treatment. The head of the treatment facility shall not arbitrarily refuse any person seeking admission as a voluntary patient.

(b) In addition to the consent provisions of paragraph (a), a person who is 16 or 17 years of age who refuses to consent personally to admission may be admitted as a patient for chemical dependency treatment with the consent of a parent or legal guardian if it is determined by an independent examination that there is reasonable evidence that the proposed patient is chemically dependent and suitable for treatment. The person conducting

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