

CHAPTER 287

REGISTRY TAX ON MORTGAGES ON REAL ESTATE

Sec.		Sec.	
287.01	Definitions	287.08	Tax, how payable; receipts
287.02	Executory contract for sale of land, when a mortgage	287.09	Mortgage on exempt property; property not directly taxed; receipt; apportionment of tax
287.03	What instruments valid security for debt	287.10	Prepayment of tax; evidence; notice
287.04	Mortgages exempted	287.11	Mortgages recorded or registered prior to passage of this chapter
287.05	Tax on record or registration	287.12	Taxes, how apportioned
287.06	Exemption from other taxes		
287.07	Mortgages to secure obligations to be issued		

287.01 DEFINITIONS. 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 this chapter, shall be given the meanings subjoined to them.

Subdivision 2. **Real property, real estate, and land.** "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 register of deeds under existing law.

Subdivision 3. **Mortgage.** The word "mortgage" means any instrument creating or evidencing a lien of any kind on such property, given or taken as security for a debt, notwithstanding such debt may also be secured in part by a lien upon personalty.

[1907 c. 328 s. 1] (2322)

287.02 EXECUTORY CONTRACT FOR SALE OF LAND, WHEN A MORTGAGE. An executory contract for the sale of land, under which the vendee is entitled to or does take possession thereof, shall be deemed, for the purposes of this chapter, a mortgage of the land for the unpaid balance of the purchase price.

[1907 c. 328 s. 1] (2322)

287.03 WHAT INSTRUMENTS VALID SECURITY FOR DEBT. No instrument relating to real estate shall be valid as security for any debt, unless the fact that it is so intended and the amount of such debt are expressed therein.

[1907 c. 328 s. 1] (2322)

287.04 MORTGAGES EXEMPTED. A mortgage given to correct a misdescription of the mortgaged property, or to include additional security for the same indebtedness, shall not be subject to the tax imposed by this chapter; nor shall a mortgage securing the same and other indebtedness, additional to that upon which such tax has been paid, be taxable under the provisions of this chapter, except for such added sum.

[1907 c. 328 s. 1] (2322)

287.05 TAX ON RECORD OR REGISTRATION. A tax of 15 cents is hereby imposed upon each \$100, or fraction thereof, of the principal debt or obligation which is, or in any contingency may be, secured by any mortgage of real property situate within the state executed, delivered, and recorded or registered; provided, that if any such mortgage shall describe any real estate situate outside of this state, such tax shall be imposed upon such proportion of the whole debt secured thereby as the value of the real estate therein described situate in this state bears to the value of the whole of the real estate described therein, as such value shall be determined by the state auditor upon application of the mortgagee.

[1907 c. 328 s. 2; 1913 c. 163 s. 1; 1917 c. 73; 1921 c. 445; 1945 c. 288 s. 1] (2323)

287.06 EXEMPTION FROM OTHER TAXES. All mortgages upon which such tax has been paid, with the debts or obligations secured thereby and the papers evidencing the same, shall be exempt from all other taxes; but nothing herein shall exempt such property from the operation of the laws relating to the taxation of

MINNESOTA STATUTES 1945

2245

REGISTRY TAX ON MORTGAGES ON REAL ESTATE 287.09

gifts and inheritances, or those governing the taxation of banks, savings banks, or trust companies; provided, that this chapter shall not apply to mortgages taken in good faith by persons or corporations whose personal property is expressly exempted from taxation by law, or is taxed upon the basis of gross earnings or other methods of commutation in lieu of all other taxes.

[1907 c. 328 s. 3] (2324)

287.07 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 to be issued thereafter, a statement may be incorporated therein of the amount of such obligations already issued or to be issued forthwith, and the tax to be paid on filing such mortgage for record or registration shall be computed upon the amount so stated. Such statement shall 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 shall be valid for any purpose unless the additional tax thereon be paid and the receipt of the proper county treasurer therefor be endorsed thereon.

[1907 c. 328 s. 4] (2325)

287.08 TAX, HOW PAYABLE; RECEIPTS. The tax imposed by this chapter shall be paid to the treasurer of the county in which the mortgaged land or some part thereof is situated at or before the time of filing the mortgage for record or registration. The treasurer shall endorse his receipt on the mortgage, countersigned by the county auditor, who shall charge the amount to the treasurer and such receipt shall be recorded with the mortgage, and such receipt of the record thereof shall be conclusive proof that the tax has been paid to the amount therein stated and authorize any register of deeds to record the mortgage. Its form, in substance, shall be "registration tax hereon of.....dollars paid." If the mortgages be exempt from taxation the endorsement shall be "exempt from registration tax," to 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 unable to determine whether a claim of exemption should be allowed, the tax shall be paid to the clerk of the district court of the county to abide the order of such court made upon motion of the county attorney, or of the claimant upon notice as required by the court. When any such mortgage covers real property situate in more than one county in this state the whole of such tax shall be paid to the treasurer of the county where the mortgage is first presented for record or registration, and the payment shall be receipted and countersigned as above provided, and such tax shall be divided and paid over by the county treasurer receiving the same, on or before the tenth day of each month after receipt thereof, to the county or counties entitled thereto in the ratio which the assessed value of the real property covered by the mortgage in each county bears to the assessed value of all the property described in the mortgage. In making such division and payment the county treasurer shall send therewith a statement giving the description of the property described in the mortgage and the assessed value of the part thereof situate in each county. For the purpose aforesaid, the treasurer of any county may require the treasurer of any other county to certify to him the assessed valuation of any tract of land in any such mortgage.

[1907 c. 328 s. 5] (2326)

287.09 MORTGAGE ON EXEMPT PROPERTY; PROPERTY NOT DIRECTLY TAXED; RECEIPT; APPORTIONMENT OF TAX. When any real estate situate in this state and described in any such mortgage is exempt from taxation under the Constitution of the State of Minnesota, Article 9, Section 1, the tax herein provided shall be paid to the treasurer of the county in which such real estate is situate in the same manner as if such real estate was not exempt from taxation. When any real estate situate in this state and described in such mortgage is not exempt from taxation under such section, but is not taxed by direct tax upon the assessed valuation thereof, then the tax herein provided shall be paid to the state treasurer and credited to the general revenue fund. The receipt thereof shall be endorsed upon the mortgage by the state treasurer and countersigned by the state auditor, who shall charge the treasurer therewith, and thereupon such mortgage shall be recorded or registered, as to such real estate, in any office in this state. When any such mortgage shall describe any real estate, part of which is not taxed by direct tax upon

MINNESOTA STATUTES 1945

287.10 REGISTRY TAX ON MORTGAGES ON REAL ESTATE

2246

the assessed valuation thereof and part of which is so taxed or is exempt from taxation, the proportionate amount of the tax to be paid to the state treasurer and to the county treasurer shall be determined in accordance with the proportionate value of the real estate included therein as such valuation shall be determined by the state auditor upon application of the mortgagee. The amount of the tax payable to the state treasurer shall thereupon be paid to him, who shall endorse upon such mortgage that the proportionate amount of the tax payable to him has been paid and the balance of such tax shall be paid to the treasurer of the county where the mortgage is first presented for record or registration and shall be divided and paid to the treasurers of the other counties entitled thereto, as provided by section 287.08.

[1907 c. 328 s. 6; 1929 c. 30] (2327)

287.10 PREPAYMENT OF TAX; EVIDENCE; NOTICE. No such mortgage, no papers relating to its foreclosure nor any assignment or satisfaction thereof, shall be recorded or registered unless the tax shall have been paid; nor shall any such document, or any record thereof, be received in evidence in any court, or have any validity as notice or otherwise; but, if the tax be paid, no error in computation or ascertainment of the amount thereof shall affect the validity of such mortgage or the record or foreclosure thereof.

[1907 c. 328 s. 7; 1913 c. 163 s. 2; 1929 c. 222 s. 1] (2328)

287.11 MORTGAGES RECORDED OR REGISTERED PRIOR TO PASSAGE OF THIS CHAPTER. All mortgages of real estate recorded or registered prior to the passage of this chapter shall be taxable as provided by law under the provisions of law relating thereto prior to the enactment hereof; 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 upon the amount of the debt secured by such mortgage at the time of such payment as stated by the affidavit of the owner of such mortgage, to be filed with the county treasurer, and have the treasurer's receipt, countersigned by the auditor, endorsed thereon. The register of deeds or secretary of state, as the case may be, on presentation of such receipt, shall note on the margin of the mortgage record the date and amount of such payment. Thereafter such mortgage debt shall not be otherwise taxable.

[1907 c. 328 s. 8; 1913 c. 163 s. 3] (2329)

287.12 TAXES, HOW APPORTIONED. All taxes paid to the county treasurers under the provisions of this chapter shall be apportioned, one-sixth to the revenue fund of the state, one-sixth to the county revenue fund, and the balance to be divided equally between the school district and the city, village, or town in which the real estate described in the mortgage is situated.

[1907 c. 328 s. 9; 1913 c. 352 s. 1] (2330)