

CHAPTER 287

MORTGAGE REGISTRY TAX; DEED TAX

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MORTGAGE REGISTRY TAX

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 sections 287.01 to 287.12, shall be given the meanings subjoined to them.

Subd. 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 county recorder under existing law.

Subd. 3. **Mortgage.** "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.

History: (2322) 1907 c 328 s 1; 1965 c 51 s 51; 1976 c 181 s 2; 1983 c 233 s 1

287.02 [Repealed, 1987 c 268 art 14 s 25]

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 amount of the debt are expressed in it.

History: (2322) 1907 c 328 s 1; 1983 c 233 s 2

287.04 MORTGAGES EXEMPTED.

A decree of marriage dissolution or an instrument made pursuant to it or a mortgage given to correct a misdescription of the mortgaged property, or to include additional security for the same indebtedness on which a mortgage registration tax has been paid, shall not be subject to the tax imposed by this chapter except as provided in section 287.05, subdivision 2(b).

History: (2322) 1907 c 328 s 1; 1965 c 51 s 53; 1967 c 340 s 1; 1983 c 233 s 3

287.05 TAX ON RECORDATION OR REGISTRATION; SUPPLEMENTAL MORTGAGES.

Subdivision 1. 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 proportion 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.

Subd. 2. Any supplemental mortgage securing a portion or all of the same indebtedness, whether or not additional security is included, 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.

(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. When a 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 be paid on the maximum amount of the line of credit which 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. No tax under subdivision 1 shall be paid on the indeterminate amount which may be advanced by the mortgagee in protection of the mortgaged premises or the mortgage, including taxes, assessments, charges, claims, fines, impositions, insurance premiums, amounts due upon prior or superior mortgages and other prior or superior liens, encumbrances and interests, and legal expenses and attorneys' fees.

Subd. 5. When a mortgage secures an indeterminate amount other than those described in subdivision 3 or 4, 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 stating the amount and time of the actual advance.

History: (2323) 1907 c 328 s 2; 1913 c 163 s 1; 1917 c 73 s 1; 1921 c 445 s 1; 1945 c 288 s 1; 1951 c 591 s 1; 1957 c 167 s 1; 1961 c 499 s 1; 1967 c 340 s 2; 1973 c 582 s 3; 1983 c 342 art 2 s 24; 1984 c 502 art 14 s 7-9; 1Sp1985 c 14 art 11 s 1; 1987 c 268 art 14 s 13; 1987 c 403 art 2 s 147

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 gifts and inheritances, or those governing the taxation of banks, savings banks, or trust companies; provided, that sections 287.01 to 287.12 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 computation in lieu of all other taxes.

History: (2324) 1907 c 328 s 3; 1965 c 51 s 54

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.

History: (2325) 1907 c 328 s 4

287.08 TAX, HOW PAYABLE; RECEIPTS.

The tax imposed by sections 287.01 to 287.12 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 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 county recorder 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 court administrator 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. The 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 market value of the real property covered by the mortgage in each county bears to the market 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 market 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 the former the market valuation of any tract of land in any such mortgage.

History: (2326) 1907 c 328 s 5; 1965 c 51 s 55; 1976 c 181 s 2; 1983 c 222 s 21; 1Sp1985 c 14 art 11 s 2; 1986 c 444; 1Sp1986 c 3 art 1 s 82

287.09 MORTGAGE ON EXEMPT PROPERTY; PROPERTY NOT DIRECTLY TAXED; RECEIPT; APPORTIONMENT OF TAX.

When real estate described in a mortgage is exempt from taxation under the Constitution of the state of Minnesota, article X, section 1, the mortgage registry tax shall be paid to the treasurer of the county in which the real estate is located in the same manner as if the real estate were not exempt from taxation. When any real estate described in a mortgage is not exempt from taxation under that section, but is not taxed by direct tax upon the gross tax capacity thereof, the mortgage registry tax shall be paid to the county; this sentence does not apply to real estate taxed under sections 298.23 to 298.26.

History: (2327) 1907 c 328 s 6; 1929 c 30; 1957 c 167 s 2; 1957 c 364 s 1; 1969 c 399 s 1; 1973 c 582 s 3; 1976 c 2 s 172; 1Sp1985 c 14 art 11 s 3; 1987 c 268 art 9 s 10; 1987 c 384 art 2 s 1; 1988 c 719 art 5 s 84

NOTE: The amendments to this section by Laws 1987, chapter 268, article 9, section 10 are effective for taxable years beginning after December 31, 1989. See Laws 1987, chapter 268, article 9, section 44.

287.10 PREPAYMENT OF TAX; EVIDENCE; NOTICE.

A mortgage or papers relating to its foreclosure, assignment, or satisfaction, must not be recorded or registered unless the tax has been paid. 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 under section 287.04 or 287.05, subdivision 1.

History: (2328) 1907 c 328 s 7; 1913 c 163 s 2; 1929 c 222 s 1; 1Sp1985 c 18 s 3; 1987 c 268 art 14 s 14

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

All mortgages of real estate recorded or registered prior to the passage of sections 287.01 to 287.12 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 county recorder 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.

History: (2329) 1907 c 328 s 8; 1913 c 163 s 3; 1965 c 51 s 56; 1976 c 181 s 2

287.12 TAXES, HOW APPORTIONED.

All taxes paid to the county treasurer under the provisions of sections 287.01 to 287.12 shall be credited to the county revenue fund.

On or before the tenth day of each month the county treasurer shall determine the receipts from the mortgage registration tax during the preceding month. The treasurer shall report to the county welfare agency on or before the tenth day of each month 97 percent of the receipts attributable to the statutory rate in section 287.05. That amount, in addition to 97 percent of the amount determined under section 287.29, must be shown as a deduction from the report filed with the department of human services as required by section 256.82. The net receipts from the preceding month must be credited to the county welfare fund by the tenth day of each month.

History: (2330) 1907 c 328 s 9; 1913 c 352 s 1; 1963 c 713 s 1; 1965 c 51 s 57; 1969 c 399 s 49; 1973 c 650 art 5 s 1; 1981 c 164 s 1; 1Sp1985 c 14 art 11 s 4; 1Sp1986 c 1 art 4 s 36; 1987 c 403 art 2 s 148

DEED TAX**287.21 IMPOSITION OF TAX; DETERMINATION OF TAX.**

Subdivision 1. There is hereby imposed on each deed, instrument, or writing by which any lands, tenements, or other realty in this state shall be granted, assigned, transferred or otherwise conveyed, a tax determined in the following manner. When transfers are made by instruments pursuant to mergers, consolidations, sales or transfers of substantially all of the assets of corporations pursuant to plans of reorganization or 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 \$1.65. 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 \$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.

Subd. 2. The proceeds of the taxes levied and collected under sections 287.21 to 287.36 on or after July 1, 1985, shall be credited to the county revenue fund.

Subd. 3. [Expired]

Subd. 4. **Tax-forfeited land.** Before a state deed for tax-forfeited land may be issued, the deed tax must be paid by purchasers of tax-forfeited land, persons who redeem tax-forfeited land, or local units of government that apply for use or purchase of tax-forfeited land.

History: 1961 c 647 s 1; Ex1967 c 32 art 11 s 1; 1969 c 399 s 24; 1973 c 118 s 1; 1Sp1985 c 14 art 11 s 5; 1987 c 268 art 14 s 15; 1987 c 403 art 2 s 149; 1988 c 719 art 19 s 13

287.22 EXCEPTIONS.

The tax imposed by section 287.21 shall not apply to:

A. Any executory contract for the sale of land under which the vendee is entitled to or does take possession thereof, or any assignment or cancellation thereof.

B. Any mortgage or any assignment, extension, partial release, or satisfaction thereof.

C. Any will.

D. Any plat.

E. Any lease.

F. Any 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 for cemetery lots.

H. Deeds of distribution by personal representatives.

I. Deeds to or from coowners partitioning undivided interests in the same piece of property.

History: 1961 c 647 s 2; 1963 c 249 s 1; 1971 c 835 s 1; 1975 c 347 s 1; 1984 c 590 s 1; 1987 c 268 art 14 s 16

287.23 REAL ESTATE OUTSIDE STATE.

If any deed, instrument, or writing shall describe any real estate situate outside of this state, the tax imposed by section 287.21 shall 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 described situate in this state bears to the value of the whole of the real estate described therein.

History: 1961 c 647 s 3; 1973 c 582 s 3; 1Sp1985 c 14 art 11 s 6

287.24 PERSONS LIABLE.

Any person who grants, assigns, transfers, or conveys any land, tenement, or realty by a deed, writing, or instrument subject 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.

History: 1961 c 647 s 4; 1986 c 444

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

Subdivision 1. No deed, 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 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 when the statement sets forth that the transfer is tax exempt, and shall refuse to record or register any such document on which documentary stamps in the amount stated thereon have not been affixed. The validity or effectiveness of an instrument as between the parties thereto, and as to any person who would otherwise be bound thereby, shall not be affected by the failure to comply herewith; nor if an instrument is accepted for recording or filing contrary to the provisions hereof, shall the failure to comply herewith destroy or impair the record thereof as notice.

Subd. 2. No deed or instrument providing for the transfer of title to real estate as 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.

Subd. 3. [Repealed, 1977 c 423 art 4 s 11]

Subd. 4. [Repealed, 1977 c 423 art 4 s 11]

History: 1963 c 831 s 1; 1971 c 838 s 1; 1973 c 582 s 3; 1974 c 253 s 1,2; 1976 c 181 s 2; 1977 c 423 art 4 s 10; 1986 c 444

287.25 PAYMENT OF TAX; STAMPS.

The county board shall determine the method for collection of the tax imposed by section 287.21:

(1) The tax imposed by section 287.21 may be paid by the affixing of a documentary stamp or stamps in the amount of the tax to the document or instrument with respect to which the tax is paid, provided that the county board may permit the payment of the tax without the affixing of the documentary stamps and in such cases shall direct the treasurer to endorse a receipt for such tax upon the face of the document or instrument.

(2) The tax imposed by section 287.21 may be paid in the manner prescribed by section 287.08 relating to payment of mortgage registration tax.

History: 1961 c 647 s 5; 1969 c 399 s 1; 1973 c 582 s 3; 1985 c 300 s 18; 1Sp1985 c 14 art 11 s 7

287.26 CANCELLATION OF STAMPS.

A person using or affixing a stamp shall cancel it and so deface it as to render it unfit for reuse by marking it in ink with the person's initials and the date on which such affixing occurs.

History: 1961 c 647 s 6; 1986 c 444

287.27 STAMPS; PRINTING AND SALE-METERS.

Subdivision 1. The county board may have documentary stamps printed and furnish them to the county treasurer. Documentary stamps may be purchased only from the county treasurer and may not be sold for use in any county other than the county in which the property is located.

Subd. 2. The county board may authorize any person to utilize a tax meter machine upon the filing of a corporate surety bond, in a suitable amount to guarantee the payment of the tax, such amount to be determined by the county board.

The county board may provide rules for the use of such a machine, supervise its operation and provide for the payment of the tax on any deed or document so stamped.

History: 1961 c 647 s 7; 1965 c 454 s 1; 1973 c 582 s 3; 1Sp1985 c 14 art 11 s 13; 1Sp1986 c 1 art 4 s 49,50

287.28 REFUNDMENTS OR REDEMPTION.

The county treasurer may order the refundment in whole or in part of any tax which has been erroneously or unjustly paid and may allow for or redeem such of the stamps, issued under the authority of sections 287.21 to 287.36 as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended or for which the owner may have no use or which through mistake may have been improperly or unnecessarily used. Such order shall be made only upon written application of the taxpayer and upon approval of the county board. Refunds therefor shall be paid out of the general fund of the county.

History: 1961 c 647 s 8; 1969 c 97 s 3; 1969 c 399 s 1; 1973 c 582 s 3; 1Sp1985 c 14 art 11 s 9

287.29 PAYMENT OF RECEIPTS TO COUNTY; REPORT; RECORD.

Subdivision 1. On or before the tenth day of each month, the county treasurer shall determine and report to the county welfare agency the receipts attributable to the tax imposed during the preceding month. The report must accompany the report required in section 287.12. The receipts shall be deposited in the county treasury and credited to the county revenue fund. The net receipts from the preceding month must be credited to the county welfare fund by the tenth day of each month.

Subd. 2. [Repealed, 1981 c 164 s 12]

Subd. 3. [Repealed, 1Sp1985 c 14 art 11 s 13]

History: 1961 c 647 s 9; 1969 c 399 s 1; 1973 c 582 s 3; 1981 c 164 s 2; 1Sp1985 c 14 art 11 s 10; 1Sp1986 c 1 art 4 s 37

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 within the duties of such office and shall be within the coverage of any official bond delivered to the state, conditioned that any such officer shall faithfully execute the duties of office.

History: 1961 c 647 s 10; 1986 c 444

287.31 VIOLATIONS; PENALTIES.

Subdivision 1. Any person liable for the tax imposed by section 287.21 who fails to comply with the provisions of section 287.25 relating to the attachment or cancellation of documentary stamps, unless such failure is shown to be due to reasonable cause, shall be liable to a civil penalty of \$50 for each such failure.

Subd. 2. Any person who willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, 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.

History: 1961 c 647 s 11

287.32 [Repealed, 1Sp1985 c 14 art 11 s 13]**287.33 EXPENSES OF ADMINISTRATION.**

Expenses of administration of sections 287.21 to 287.34 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 and all other costs and expenses.

History: 1961 c 647 s 13; 1973 c 582 s 3; 1Sp1985 c 14 art 11 s 11

287.34 VIOLATIONS.

Any person who in any manner knowingly attempts to evade the tax imposed by sections 287.21 to 287.33 or who knowingly aids or abets in the evasion or attempted evasion of the tax or who knowingly violates the provisions of sections 287.21 to 287.33 shall be guilty of a misdemeanor.

History: 1961 c 647 s 14

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287.35 DOCUMENTARY STAMPS DEFINED.

The term "documentary stamps" means all stamps issued by the county for use in payment of the taxes imposed by sections 287.21 to 287.36.

History: *1961 c 647 s 15; 1973 c 582 s 3; 1Sp1985 c 14 art 11 s 12*

287.36 CONSTITUTIONAL EXEMPTIONS.

Sections 287.21 to 287.35 shall not apply with respect to any deed, instrument, or writing where such deed, instrument, or writing may not under the Constitution of this state or under the Constitution or laws of the United States be made the subject of taxation by this state.

History: *1961 c 647 s 17*