

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1235

Short Title: Deed Stamp Tax Changes.

(Public)

Sponsors: Representative Redwine.

Referred to: Finance.

May 10, 1991

A BILL TO BE ENTITLED

AN ACT TO AMEND THE EXCISE STAMP TAX ON CONVEYANCES.

The General Assembly of North Carolina enacts:

Section 1. Article 8E of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 8E.

"EXCISE STAMP TAX ON CONVEYANCES.

"§ 105-228.28. ~~To whom this Article shall apply.~~ Scope.

The provisions of this Article shall apply to every person, firm, corporation, association, society or organization conveying an interest in real estate located in North Carolina other than a governmental unit and instrumentalities thereof.

"§ 105-228.29. **Conveyances excluded.**

The provisions of this Article shall do not apply to transfers of an interest in real estate by operation of law, by lease for a term of years, by or pursuant to the provisions of a will, by intestacy, by gift, by merger or consolidation, or by instruments securing indebtedness, ~~or any other transfer where~~ or to transfers in which no consideration in property or money is due or paid by the transferee to transferor.

"§ 105-228.30. **Imposition of excise stamp tax.**

There is hereby levied an excise tax on each deed, instrument or writing by which ~~any lands, tenements or other realty shall be~~ an interest in real property is granted, assigned or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, another person. The tax ~~imposed hereby~~ shall be at the rate of ~~fifty cents (50¢)~~ one dollar (\$1.00) on each five hundred dollars (\$500.00) or fractional part thereof of the consideration or value of the interest or property ~~conveyed (exclusive of the value of~~

1 ~~any lien or encumbrance remaining thereon at the time of sale).~~ conveyed, less the value of
2 any lien or encumbrance that existed before the transfer and is assumed by the
3 transferee. ~~The tax hereby imposed and levied shall be paid by the transferor or~~
4 ~~transferors to the county wherein-in which~~ the real estate is situated prior to recording
5 the instrument of conveyance; provided that, if the instrument transfers any parcel of
6 real estate lying in two or more counties, the tax shall be paid to the county wherein the
7 greater part of the real estate with respect to value lies. Except as otherwise hereinafter
8 provided, the proceeds of the tax herein levied shall be retained by the county and
9 placed in its general funds.

10 **"§ 105-228.31. Issuance of tax stamp.**

11 The Secretary of Revenue shall furnish to the register of deeds of each county tax
12 stamps to be issued upon payment of the tax herein imposed. Counties shall pay to the
13 Secretary a reasonable charge ~~therefor~~ for the stamps to cover the cost of printing and
14 ~~handling same.~~ handling. ~~Such~~ The tax stamps shall be uniform as to size and design and
15 shall be in such form as determined by the Secretary of Revenue and shall be valid until
16 ~~cancelled as hereinafter provided for.~~ cancelled.

17 The register of deeds of any county is authorized to affix stamps by meter or other
18 similar device in accordance with procedures established by the Secretary of Revenue.
19 Stamps affixed by such devices shall be uniform as to size and design and shall be in
20 such form as determined by the Secretary and cancellation as provided by this Article is
21 not required.

22 **"§ 105-228.32. Duties of register of deeds; duty of party presenting instrument for**
23 **registration.**

24 The register of deeds of each county shall obtain from the Secretary of Revenue and
25 keep on hand an adequate supply of excise tax stamps. The register of deeds shall keep
26 ~~such records and otherwise account for said~~ the stamps in accordance with procedures
27 established by the Secretary of Revenue for the control, distribution and sale of ~~said~~ the
28 stamps and for the accounting for proceeds of their sale consistent with this Article. It is
29 the duty of the party presenting the instrument for registration to see that the correct
30 amount of stamps is affixed to the face ~~thereof~~ of the instrument prior to recording the
31 ~~same~~ instrument in the office of the register of deeds. The register of deeds may not
32 accept for recordation an instrument securing indebtedness unless the instrument bears
33 the correct amount of stamps based on the amount of the debt, as stated in the
34 instrument. The register of deeds shall cancel ~~said stamp or~~ the stamps prior to recording
35 by writing the date of filing on the face of ~~said stamp or~~ the stamps.

36 **"§ 105-228.33. Taxes recoverable by action.**

37 Upon the failure to pay the taxes imposed by this Article, they may be recovered in
38 an action brought by the county attorney in the name of the county ~~brought~~ in the
39 superior court of ~~said~~ that county when the ~~same~~ taxes remain unpaid for a period of 30
40 days after demand has been made by the register of deeds on behalf of the ~~county~~
41 ~~therefor~~ county. In such actions, costs of court shall include a fee to the county of
42 ~~twenty five dollars (\$25.00)~~ one hundred dollars (\$100.00) for expense of collection.

43 **"§ 105-228.34. Willful failure to pay tax.**

1 Any transferor or agent of transferor of real estate willfully and knowingly failing to
2 pay the correct amount of the tax imposed by this Article or any person aiding, abetting,
3 or directing any other person to willfully and knowingly fail to pay the correct amount
4 of such tax shall be guilty of a misdemeanor and fined not less than one hundred dollars
5 (\$100.00) nor more than one thousand dollars (\$1,000) for each offense. When the
6 register of deeds relies on the statement of the party presenting the instrument for
7 registration as to the correct amount of stamps to be affixed, ~~he shall not be the register~~
8 of deeds is not subject to prosecution as an aider or abettor under this section.

9 **"§ 105-228.35. Administrative provisions.**

10 The provisions of Subchapter III, Article 30 of Chapter 105 of the General Statutes
11 of North Carolina to the extent applicable shall apply to the tax imposed herein.

12 **"§ 105-228.36. Reproduction of tax stamps.**

13 No person, firm, or corporation shall print, engrave, or otherwise reproduce excise
14 tax stamps except with the express permission of the Secretary of Revenue. The
15 unauthorized reproduction of ~~said~~ these stamps shall be punishable as a forgery under
16 G.S. 14-119."

17 Sec. 2. This act becomes effective October 1, 1991, and applies to transfers
18 made on or after that date.