

## LEGISLATIVE BILL 194

Approved by the Governor April 22, 1983

Introduced by Revenue Committee, Carsten, 2, Chairperson;  
Hefner, 19; Hannibal, 4; Pappas, 42;  
V. Johnson, 8; Lundy, 36; Landis, 46;  
Sieck, 24

AN ACT to amend sections 76-901, 76-902, and 76-903, Reissue Revised Statutes of Nebraska, 1943, relating to the Documentary Stamp Act; to change provisions relating to the taxation of certain deeds; to clarify exemptions; to clarify duties of the register of deeds; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 76-901, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-901. There is hereby imposed a tax on the grantor executing the deed as defined in section 76-203 upon the privilege of transferring beneficial interest in or legal title to real estate at the rate of fifty-five cents for each five hundred dollars value or fraction thereof. For purposes of sections 76-901 to 76-907 ~~76-908~~, value shall mean (1) in the case of any deed, not a gift, the amount of the full actual consideration thereof, paid or to be paid, including the amount of any lien or liens assumed, and (2) in the case of a gift, or any deed with nominal consideration or without stated consideration, the current market value of the property transferred. Such tax shall be evidenced by stamps to be attached to the deed. All deeds purporting to transfer legal title or beneficial interest shall be presumed taxable unless it clearly appears on the face of the deed or sufficient documentary proof is presented to the register of deeds that the instrument is exempt under section 76-902.

Sec. 2. That section 76-902, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-902. The tax imposed by section 76-901 shall not apply to:  
(1) Deeds recorded prior to November 18, 1965;

(2) Deeds to property transferred by or to the United States of America, the State of Nebraska, or any of their instrumentalities, agencies, or subdivisions;

(3) Deeds which secure or release a debt or other obligation. Deeds given as consideration for the satisfaction of a debt or other obligation are not entitled to this exemption;

(4) Deeds which, without additional consideration, confirm, correct, modify, or supplement a deed previously recorded but which do not extend or limit existing title or interest;

(5) Deeds between husband and wife, or parent and child, without actual consideration therefor, and deeds to or from a family corporation or partnership where all the shares of stock of the corporation or interest in the partnership are owned by the husband and wife, their descendants, or any combination of such family members, members of a family, or a trust created for the benefit of a member of that family, related to one another within the fourth degree of kindred according to the rules of civil law, and their spouses, for no consideration other than the issuance of stock of the corporation or interest in the partnership to such family members or the return of the stock to the corporation in partial or complete liquidation of the corporation or deeds in dissolution of the interest in the partnership. In order to qualify for the exemption for family corporations or partnerships, the property must be transferred in the name of the corporation or partnership and not in the name of the individual shareholders or partners;

(6) Tax deeds;

~~(7)~~ Deeds of release of property which is security for a debt or other obligation;

~~(7)~~ ~~(8)~~ Deeds of partition;

~~(8)~~ ~~(9)~~ Deeds made pursuant to mergers, consolidations, sales or transfers of the assets of corporations pursuant to plans of reorganization merger or consolidation filed with the office of Secretary of State. A copy of such plan filed with the Secretary of State shall be presented to the register of deeds before such exemption shall be granted;

~~(9)~~ ~~(10)~~ Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;

~~(10)~~ ~~(11)~~ Cemetery deeds; or

~~(11)~~ ~~(12)~~ Mineral deeds; =

~~(12)~~ Deeds executed pursuant to court decrees;

~~(13)~~ Land contracts;

~~(14)~~ Deeds which release a reversionary interest, a condition subsequent or precedent, a restriction, or any other contingent interest;

(15) Deeds of distribution executed by a personal representative conveying to devisees or heirs property passing by testate or intestate succession;

(16) Deeds transferring property located within the boundaries of an Indian reservation where the grantor or grantee is a reservation Indian;

(17) Deeds transferring property into a trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the register of deeds is presented with a copy of the trust instrument that clearly indicates the grantor and all possible beneficiaries;

(18) Deeds transferring property from a trustee to a beneficiary of a trust; or

(19) Leases.

Sec. 3. That section 76-903, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-903. The Tax Commissioner shall design such stamps in such denominations as in his or her judgment will be the most advantageous to all persons concerned. When any deed subject to the tax imposed by section 76-901 is offered for recordation, the register of deeds shall ascertain and compute the amount of the tax due thereon and shall collect such amount as a prerequisite to acceptance of the deed for recordation. If a dispute shall arise concerning the taxability of the transfer, the register of deeds shall not record the deed until the disputed tax is paid. If a disputed tax has been paid, the taxpayer may file for a refund pursuant to section 76-908. The taxpayer may also seek a declaratory ruling pursuant to rules and regulations adopted and promulgated by the Department of Revenue. The register of deeds shall retain twenty-five per cent of the proceeds of the sale of stamps to be placed in the county general fund. The remainder of the proceeds shall be remitted to the State Treasurer for deposit in the state General Fund.

Sec. 4. That original sections 76-901, 76-902, and 76-903, Reissue Revised Statutes of Nebraska, 1943, are repealed.