

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: 1907 c 328 s 1; 1965 c 51 s 51; 1976 c 181 s 2; 1983 c 233 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 sections 287.01 to 287.12, a mortgage of the land for the unpaid balance of the purchase price.

History: 1907 c 328 s 1; 1965 c 51 s 52 (2322)

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

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

287.05 TAX ON RECORDATION OR REGISTRATION; SUPPLEMENTAL MORTGAGES.

Subdivision 1. A tax of 15 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, as the value is determined by the commissioner of revenue upon application of the mortgagee. The tax imposed by this section shall not apply to a contract for the conveyance of real estate or any interest in real estate recorded or registered on or after January 1, 1984.

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.

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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: 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 (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 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: 1907 c 328 s 3; 1965 c 51 s 54 (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.

History: 1907 c 328 s 4 (2325)

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 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 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 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. When the amount of the tax is \$100 or more, the tax shall be divided and

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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 him the market valuation of any tract of land in any such mortgage.

History: 1907 c 328 s 5; 1965 c 51 s 55; 1976 c 181 s 2; 1983 c 222 s 21 (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 10, 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 commissioner of revenue for deposit in the state treasury and credited to the general fund. The receipt thereof shall be endorsed upon the mortgage by the commissioner of revenue 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 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 commissioner of revenue 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 commissioner of revenue upon application of the mortgagee. The amount of the tax payable to the commissioner of revenue 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. Real estate taxed under sections 298.23 to 298.28, relating to taconite and taconite operations or under sections 294.21 to 294.28, relating to railroads transporting taconite or taconite concentrates other than as a common carrier, shall not be considered to be real estate not taxed by direct tax upon the assessed valuation thereof within the meaning of this section.

History: 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 (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.

History: 1907 c 328 s 7; 1913 c 163 s 2; 1929 c 222 s 1 (2328)

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

287.12 TAXES, HOW APPORTIONED.

All taxes paid to the county treasurers under the provisions of sections 287.01 to 287.12 shall be apportioned, 95 percent to the general fund of the state, and five percent to the county revenue fund.

On or before the tenth day of each month the county treasurer shall determine and pay to the commissioner of revenue the state's portion of the receipts from the mortgage registration tax during the preceding month. The commissioner shall deposit the receipts in the state treasury to the credit of the general fund.

History: 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 (2330)

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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 \$1,000 or less, the tax shall be \$2.20. When the consideration, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds \$1,000 the tax shall be \$2.20 plus \$1.10 for each \$500 or fractional part of \$500 in excess of \$1,000.

Subd. 2. The proceeds of the taxes levied and collected under sections 287.21 to 287.36 shall be credited to the general fund.

Subd. 3. [Expired]

History: 1961 c 647 s 1; Ex1967 c 32 art 11 s 1; 1969 c 399 s 24; 1973 c 118 s 1

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.

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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 or the state of Minnesota or any agency, instrumentality, or governmental or political subdivision thereof is the grantor, assignor, transferor, or conveyor; and any deed, instrument or writing in which any of such unit of government is the grantee or assignee.

G. Deeds for cemetery lots.

H. Deeds of distribution by personal representatives.

I. Deeds to or from co-owners 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

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 as determined by the commissioner of revenue upon application of any party to the deed, instrument, or writing.

History: 1961 c 647 s 3; 1973 c 582 s 3

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 him in connection with his official duties.

History: 1961 c 647 s 4

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.

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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 his 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

287.25 PAYMENT OF TAX; STAMPS.

The tax imposed by section 287.21 shall 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 commissioner of revenue may, in exceptional cases, permit the payment of the tax without the affixing of the documentary stamps and in such cases shall, upon receipt of the tax, endorse his receipt for such tax upon the face of the document or instrument. In such case the commissioner of revenue shall deposit the amount received in payment of the tax with the state treasurer to the credit of the general fund.

History: 1961 c 647 s 5; 1969 c 399 s 1; 1973 c 582 s 3

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 his initials and the date on which such affixing occurs.

History: 1961 c 647 s 6

287.27 STAMPS; PRINTING AND SALE-METERS.

Subdivision 1. The commissioner of revenue shall cause documentary stamps to be printed and shall furnish such stamps as may be necessary to the county treasurers of the state without charge. Documentary stamps may be purchased from any county treasurer and may be used in payment of a tax imposed by section 287.21 or may be resold by the owner at any time.

Subd. 2. The commissioner may authorize any county treasurer to utilize a tax meter machine approved by the commissioner which shall be provided by the county.

The commissioner may authorize any person to utilize such 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 commissioner.

The commissioner 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

287.28 REFUNDMENTS OR REDEMPTION.

The commissioner of revenue 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

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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 shall, if the refundment exceeds \$500, be valid only if approved by the attorney general. Refunds therefor shall be paid out of the general fund of the state and moneys therefor are hereby annually appropriated from the general fund for such purpose.

History: 1961 c 647 s 8; 1969 c 97 s 3; 1969 c 399 s 1; 1973 c 582 s 3

287.29 PAYMENT OF RECEIPTS TO STATE; REPORT; RECORD.

Subdivision 1. On or before the tenth day of each month the county treasurer shall determine and pay to the commissioner of revenue the receipts from the sale of documentary stamps during the preceding month. The commissioner shall deposit such receipts in the state treasury to the credit of the general fund.

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

Subd. 3. The county treasurer shall keep such records and make such reports with respect to the documentary stamps entrusted to his custody and with respect to the sale of such stamps as the commissioner of revenue shall prescribe.

History: 1961 c 647 s 9; 1969 c 399 s 1; 1973 c 582 s 3; 1981 c 164 s 2

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 his office.

History: 1961 c 647 s 10

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 wilfully 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 COMMISSIONER OF REVENUE; DUTIES.

When any deed, instrument, or writing has been recorded or registered without the payment of the tax due thereon the tax, together with any penalty imposed under section 287.31, shall be assessed by the commissioner of revenue and collected in the manner provided for the collection of taxes due under the provisions of chapter 290. The commissioner of revenue shall enforce the provisions of sections 287.21 to 287.34 and shall have all of the powers prescribed in chapters 270 and 290. He may prescribe rules and regulations not inconsistent with sections 287.21 to 287.34 for their detailed and efficient administration and may call upon any county attorney or the attorney general for assistance and may employ such additional employees as may be required in the administration of sections 287.21 to 287.34.

History: 1961 c 647 s 12; 1973 c 582 s 3

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287.33 EXPENSES OF ADMINISTRATION.

Expenses of administration of sections 287.21 to 287.34 to be paid out of appropriations to the commissioner of revenue shall include fees and expenses incurred by the attorney general and any 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

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

287.35 DOCUMENTARY STAMPS DEFINED.

The term "documentary stamps" means all stamps issued by the commissioner of revenue 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

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