

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 116

Short Title: Eliminate Stamps for Deed Tax.

(Public)

Sponsors: Senators Dalton, Cochrane, Hartsell, Hoyle, Kerr, Webster; Garwood and Lucas.

Referred to: Finance.

February 17, 1999

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE USE OF STAMPS TO INDICATE WHETHER THE
EXCISE TAX ON CONVEYANCES HAS BEEN PAID AND TO MAKE THE
PENALTIES THAT APPLY TO THIS TAX THE SAME AS FOR OTHER TAXES.

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.~~ This Article applies to every person conveying an interest in real estate located in North Carolina other than a governmental unit and instrumentalities thereof, or an instrumentality of a governmental unit.

"§ 105-228.29. ~~Conveyances excluded.~~ Exemptions.

~~The provisions of this Article shall 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 no consideration in property or money is due or~~

1 ~~paid by the transferee to transferor.~~ This Article does not apply to any of the following
2 transfers of an interest in real property:

3 (1) By operation of law.

4 (2) By lease for a term of years.

5 (3) By or pursuant to the provisions of a will.

6 (4) By intestacy.

7 (5) By gift.

8 (6) If no consideration in property or money is due or paid by the transferee
9 to the transferor.

10 (7) By merger or consolidation.

11 (8) By an instrument securing indebtedness.

12 **"§ 105-228.30. Imposition of excise stamp tax; distribution of proceeds.**

13 (a) ~~There is levied an~~ An excise tax is levied on each deed, instrument, or writing
14 instrument by which any interest in real property is conveyed to another person. The tax
15 ~~shall be at the rate of~~ rate is one dollar (\$1.00) on each five hundred dollars (\$500.00) or
16 fractional part thereof of the consideration or value of the interest ~~or property~~ conveyed.
17 ~~The tax shall be paid by the transferor~~ must pay the tax to the register of deeds of the
18 county in which the real estate is ~~situated prior to~~ located before recording the instrument
19 of conveyance; ~~provided that, if conveyance.~~ If the instrument transfers any a parcel of real
20 estate lying in two or more counties, ~~the tax shall however,~~ the tax must be paid to the
21 register of deeds of the county wherein in which the greater part of the real estate with
22 respect to value lies.

23 (b) The register of deeds of each county ~~shall~~ must remit the proceeds of the tax
24 levied by this section to the county finance officer. The finance officer of each county
25 ~~shall~~ must credit one-half of the proceeds to the county's general fund and ~~shall~~ remit the
26 remaining one-half of the proceeds, less the county's allowance for administrative
27 expenses, to the Department of Revenue on a quarterly basis. A county may retain two
28 percent (2%) of the amount of tax proceeds allocated for remittance to the Department of
29 Revenue as compensation for the county's cost in collecting and remitting the State's
30 share of the tax. Of the funds remitted to it pursuant to this section, the Department of
31 Revenue ~~shall~~ must credit seventy-five percent (75%) to the Parks and Recreation Trust
32 Fund established under G.S. 113-44.15 and twenty-five percent (25%) to the Natural
33 Heritage Trust Fund established under G.S. 113-77.7.

34 ~~"§ 105r The Secretary of Revenue shall furnish to the register of deeds of each~~
35 ~~county tax stamps to be issued upon payment of the tax herein imposed.~~
36 ~~Counties shall pay to the Secretary a reasonable charge therefor to cover~~
37 ~~the cost of printing and handling same. Such tax stamps shall be uniform~~
38 ~~as to size and design and shall be in such form as determined by the~~
39 ~~Secretary of Revenue and shall be valid until cancelled as hereinafter~~
40 ~~provided for.~~

41 ~~The register of deeds of any county is authorized to affix stamps by meter or other~~
42 ~~similar device in accordance with procedures established by the Secretary of Revenue.~~
43 ~~Stamps affixed by such devices shall be uniform as to size and design and shall be in~~

1 such form as determined by the Secretary and cancellation as provided by this Article is
2 not required.

3 **"§ 105-228.32. Duties of register of deeds; duty of ~~party~~ person presenting**
4 **instrument for registration.**

5 The register of deeds of each county shall ~~obtain from the Secretary of Revenue and~~
6 ~~keep on hand an adequate supply of excise tax stamps. The register of deeds shall keep~~
7 ~~such records and otherwise account for said stamps in accordance with procedures~~
8 ~~established by the Secretary of Revenue for the control, distribution and sale of said~~
9 ~~stamps and for the accounting for proceeds of their sale consistent with this Article. It is~~
10 ~~the duty of the party presenting the instrument for registration to see that the correct~~
11 ~~amount of stamps is affixed to the face thereof prior to recording the same in the office of~~
12 ~~the register of deeds. The register of deeds shall cancel said stamp or stamps prior to~~
13 ~~recording by writing the date of filing on the face of said stamp or stamps. must, before~~
14 ~~recording an instrument subject to tax under this Article, collect the tax and mark the~~
15 ~~instrument to indicate that the tax has been paid. The person presenting an instrument for~~
16 ~~registration must indicate the correct amount of tax due on the face of the instrument.~~

17 **"§ 105-228.33. Taxes recoverable by action.**

18 Upon the failure to pay the taxes imposed by this Article, they may be recovered. A
19 county may recover unpaid taxes under this Article in an action in the name of the county
20 brought in the superior court of said county when the same remain unpaid for a period of
21 30 days after demand has been made by the register of deeds on behalf of the county
22 therefor. the county. The action may be filed if the taxes remain unpaid more than 30
23 days after the register of deeds has demanded payment. In such actions, costs of court
24 shall include a fee to the county of twenty-five dollars (\$25.00) for expense of collection.

25 ~~"§ 105- Any transferor or agent of transferor of real estate willfully and knowingly~~
26 ~~failing to pay the correct amount of the tax imposed by this Article or any~~
27 ~~person aiding, abetting, or directing any other person to willfully and~~
28 ~~knowingly fail to pay the correct amount of such tax shall be guilty of a~~
29 ~~Class 3 misdemeanor and only fined not less than one hundred dollars~~
30 ~~(\$100.00) nor more than one thousand dollars (\$1,000) for each offense.~~
31 ~~When the register of deeds relies on the statement of the party presenting~~
32 ~~the instrument for registration as to the correct amount of stamps to be~~
33 ~~affixed, he shall not be subject to prosecution as an aider or abettor under~~
34 ~~this section.~~

35 **"§ 105-228.35. Administrative provisions.**

36 The provisions of Subchapter III, Article 30 of Chapter 105 of the General Statutes of
37 North Carolina to the extent applicable shall apply to the tax imposed herein. Article 9 of
38 this Chapter apply to this Article.

39 ~~"§ 105A- No person, firm, or corporation shall print, engrave, or otherwise~~
40 ~~reproduce excise tax stamps except with the express permission of the~~
41 ~~Secretary of Revenue. The unauthorized reproduction of said stamps shall~~
42 ~~be punishable as a forgery under G.S. 14-119."~~

1 Section 2. The Secretary of Revenue may withhold from collections under
2 Part 2 of Article 4 of Chapter 105 of the General Statutes for the 1999-2001 fiscal
3 biennium the amount necessary to reimburse eligible counties for the costs of this act as
4 required by this section. A county is eligible for reimbursement under this section if,
5 before July 1, 1999, it used only stamps issued under Article 8E of Chapter 105 of the
6 General Statutes to collect the conveyance tax imposed in that Article, and did not
7 purchase or lease meters or other equipment to provide a substitute mechanism for
8 collecting the conveyance tax before July 1, 1999. If an eligible county purchases or
9 leases meters or other equipment during the 1999-2000 fiscal year to provide a substitute
10 mechanism for collecting the conveyance tax pursuant to this act, the Department of
11 Revenue shall, upon request, reimburse the county for the costs it paid during the 1999-
12 2000 fiscal year to purchase or lease the equipment, not to exceed three thousand five
13 hundred dollars (\$3,500) per eligible county. In order to be reimbursed under this
14 section, an eligible county must request reimbursement within six months after
15 purchasing or leasing the equipment and must provide the Secretary of Revenue any
16 information and documentation the Secretary requires to substantiate the request.

17 Section 3. Prosecutions for offenses committed before the effective date of
18 this act are not abated or affected by this act, and the statutes that would be applicable but
19 for this act remain applicable to those prosecutions.

20 Section 4. Section 1 of this act becomes effective July 1, 2000. The remainder
21 of this act is effective when it becomes law.