

HOUSE BILL NO. HB0128

County option real estate transfer tax.

Sponsored by: Representative(s) Schwartz, Roscoe and Yin and Senator(s) Gierau

A BILL

for

1 AN ACT relating to taxation and revenue; providing for an
2 excise tax on the sale of real property as specified;
3 providing for distribution of the tax; requiring
4 rulemaking; imposing penalties; and providing for effective
5 dates.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 39-24-101 through 39-24-111 are
10 created to read:

11

CHAPTER 24

12

REAL ESTATE TRANSFER TAX

13

14

15 **39-24-101. Definitions.**

1

2 (a) As used in this chapter:

3

4 (i) "Agricultural land" means land which meets
5 the requirements of W.S. 39-13-103(b)(x) for the purpose of
6 tax assessment;

7

8 (ii) "Consideration" means any property or thing
9 of legal value whether delivered in the past, present or to
10 be delivered in the future and includes like kind exchanges
11 of property;

12

13 (iii) "Conveyance" means as defined by W.S.
14 34-1-102;

15

16 (iv) "Deed" means a conveyance of real property,
17 in writing signed by the grantor, whereby the interest held
18 by the grantor to real property is transferred from one to
19 another;

20

21 (v) "Real property" means as defined by W.S.
22 39-11-101(a)(xv) and includes easements on real property.

23

1 **39-24-102. Administration.**

2

3 The department shall enforce the provisions of this
4 chapter. The department shall promulgate rules necessary
5 for the implementation and enforcement of this chapter.

6

7 **39-24-103. Imposition.**

8

9 (a) Taxable event. A county may impose an excise tax
10 on the sale of real property under W.S. 39-24-104(a),
11 provided that:

12

13 (i) The revenue from the tax shall be used by
14 the county in specific percentages for specific purposes as
15 provided in the proposition submitted to the qualified
16 electors;

17

18 (ii) No tax shall be imposed under W.S.
19 39-24-104(a) until the proposition to impose the tax in
20 specific percentages for specific purposes is submitted to
21 the vote of the qualified electors of the county, and a
22 majority of those casting their ballots vote in favor of
23 imposing the tax;

1

2 (iii) The proposition to impose the tax shall be
3 at the expense of the county and be submitted to the
4 electors of the county upon the receipt by the board of
5 county commissioners of a petition requesting the election
6 signed by at least five percent (5%) of the electors of the
7 county or of a resolution approving the proposition from
8 the governing body of the county and the governing bodies
9 of at least fifty percent (50%) of the incorporated
10 municipalities within the county. If proposed by petition
11 by electors, the number of electors required shall be
12 determined by the number of votes cast at the last general
13 election. The election shall be at the direction and under
14 the supervision of the board of county commissioners;

15

16 (iv) The proposition to impose the tax may be
17 submitted at an election held on a date authorized under
18 W.S. 22-21-103. A notice of election shall be given in at
19 least one (1) newspaper of general circulation published in
20 the county in which the election is to be held, and the
21 notice shall specify the object of the election. The
22 notice shall be published at least once each week for a
23 thirty (30) day period preceding the election. At the

1 election the ballots shall contain the words "for the
2 county real estate transfer tax" and "against the county
3 real estate transfer tax". The ballot in an election under
4 this section shall specify the amount of sale that is
5 excluded from the tax as provided in W.S. 39-24-104(a)(i)
6 and shall specify how funds from the tax will be used in a
7 clear and appropriate manner;

8

9 (v) If the proposition to impose the tax under
10 W.S. 39-24-104(a) is approved, the same proposition shall
11 be submitted, until defeated, at the second general
12 election following the election at which the proposition
13 was initially approved and at the general election held
14 every four (4) years thereafter;

15

16 (vi) If the proposition to impose or continue
17 the tax is defeated the proposition shall not again be
18 submitted to the electors of the county for at least eleven
19 (11) months. If the proposition is defeated at any general
20 election following initial adoption of the proposition the
21 tax is repealed and shall not be collected on any
22 subsequent sale of real property;

23

1 (vii) If the proposition is approved by the
2 qualified electors the board of county commissioners shall
3 by resolution impose the tax upon the sale of real
4 property.

5
6 (b) Basis of tax. The tax shall be collected based
7 on the full actual consideration paid for the legal title
8 or beneficial interest conveyed including any lien assumed.
9 For a gift or any deed transferred with nominal
10 consideration or without stated consideration, the tax
11 shall be collected based on the most recent assessed value
12 of the real property or interest that is transferred.

13
14 (c) Taxpayer. The grantee shall pay the tax under
15 this chapter.

16
17 **39-24-104. Taxation rate.**

18
19 (a) The tax shall be based on the total amount of the
20 real property sale as follows:

21

1 (i) For any amount of a sale up to one million
2 dollars (\$1,000,000.00) as specified in the ballot pursuant
3 to W.S. 39-24-103(a)(iv): zero percent (0%);

4

5 (ii) For any amount of a sale in excess of the
6 amount specified in paragraph (i) of this subsection: one
7 percent (1%).

8

9 **39-24-105. Exemptions.**

10

11 (a) The tax under this chapter shall not be imposed
12 upon any deed of legal title to or beneficial interest in
13 real property that is recorded:

14

15 (i) Prior to July 1, 2021, including any deed
16 recorded as the result of any transfer of real property
17 that is completed pursuant to a contract that was executed
18 prior to July 1, 2021;

19

20 (ii) To confirm, correct, modify or supplement a
21 previously recorded instrument without added consideration;

22

1 (iii) For any transfer without consideration
2 from one (1) joint tenant or tenant in common to one (1) or
3 more remaining joint tenants or tenants in common;

4

5 (iv) For any transfer without consideration when
6 held in the name of one (1) spouse to both spouses as joint
7 tenants, tenants in common, tenants by the entirety or as
8 community property;

9

10 (v) For any transfer between spouses, including
11 any gift between spouses;

12

13 (vi) For any transfer pursuant to a court order
14 or decree including any transfer of legal title to or
15 beneficial interest in real property between spouses to
16 effect a property settlement agreement or between former
17 spouses in compliance with a decree of divorce;

18

19 (vii) For any transfer without consideration to
20 or from a trust;

21

22 (viii) For any transfer between a parent and
23 child, including a gift;

1

2 (ix) For any transfer to make effective any plan
3 of reorganization or adjustment under which a mere change
4 in identity, form or place of organization is effected,
5 including a transfer between a corporation and its parent
6 corporation or a subsidiary corporation;

7

8 (x) For any transfer due to the sale of the
9 property for delinquent taxes or assessments or due to a
10 sale or transfer pursuant to foreclosure;

11

12 (xi) For any transfer conducted through a county
13 certificate of purchase or a sheriff's deed;

14

15 (xii) For any transfer of agricultural land;

16

17 (xiii) For any exchange of real property, the
18 tax shall not apply to the portion of the properties
19 combined value equal to the value of the lowest valued
20 property being exchanged, as determined by the county
21 assessor for the previous calendar year;

22

1 (xiv) For any transfer of real property exempted
2 from property taxation under W.S. 39-11-105(a)(i) through
3 (viii) and any property protected from taxation under the
4 Wyoming constitution;

5

6 (xv) For any transfer of real property interests
7 in a mineral estate;

8

9 (xvi) For any transfer of real property used for
10 industrial purposes as defined by W.S.
11 39-11-101(a)(xiv)(B);

12

13 (xvii) For a lease;

14

15 (xviii) For an easement;

16

17 (xix) For any transfer of real property located
18 within the boundaries of the Wind River Indian reservation
19 if the grantor or grantee is a member of the Eastern
20 Shoshone or Northern Arapahoe Indian Tribes;

21

22 (xx) For any transfer of real property without
23 consideration to a nonprofit organization that is exempt

1 from federal income tax under section 501(c)(3) of the
2 Internal Revenue Code and that is not a private foundation
3 as defined in 509(a) of the Internal Revenue Code;

4

5 (xxi) Any other transfer which the department
6 exempts by rule upon a finding that the transfer does not
7 represent a taxable conveyance of property due to the
8 relationship of the parties or the nature of the real
9 property.

10

11 **39-24-106. Licensing; permits.**

12

13 There are no specific applicable provisions for licenses
14 and permits for this chapter.

15

16 **39-24-107. Compliance; collection procedures.**

17

18 (a) Returns and reports. Taxes imposed by this
19 chapter are due and payable at the office of the county
20 treasurer of the county in which the real property is
21 located on the date of recordation of the deed or other
22 instrument. The tax shall only be collected on the price
23 paid for real property or if transferred with nominal

1 consideration or without stated consideration, the tax
2 shall be collected based on the most recent assessed value
3 of the real property that is transferred. The county clerk
4 shall not record a document transferring legal title to or
5 beneficial interest in real property until all taxes due
6 under this chapter have been paid to the county treasurer.
7 The grantor and grantee shall sign before a notarial
8 officer on a form prescribed by the department, a statement
9 eliciting the information necessary for the assessment of
10 the tax. The statement is not a public record and shall be
11 held confidential by the county clerk, county assessor,
12 county treasurer, county board of equalization, state board
13 of equalization and by the department.

14

15 (b) It is a misdemeanor for a person to willfully
16 disclose, except as specifically authorized by law, any
17 information on the statement required by subsection (a) of
18 this section. Upon conviction, the offender is subject to a
19 fine of not more than seven hundred fifty dollars
20 (\$750.00), imprisonment for not more than six (6) months,
21 or both.

22

1 (c) Payment. The grantee shall pay the tax under this
2 chapter. Payment shall be collected from the grantee at
3 the time of recording the deed or other instrument in the
4 form prescribed by the department. The grantee shall sign
5 under penalty of perjury on a form prescribed by the
6 department that the tax required under this chapter has
7 been paid.

8

9 (d) Timelines. There are no specific applicable
10 provisions for timelines for this chapter.

11

12 (e) If the property being transferred is located in
13 more than one (1) county and the value has not been
14 determined by the grantor and grantee as to each county,
15 the value and resulting taxes due under this chapter shall
16 be established by applying the ratio of the assessed
17 valuation in each county to the assessed valuation of all
18 property being transferred.

19

20 **39-24-108. Enforcement.**

21

22 There are no specific applicable provisions for enforcement
23 for this chapter.

1

2 **39-24-109. Taxpayer remedies.**

3

4 There are no specific applicable provisions for taxpayer
5 remedies for this chapter.

6

7 **39-24-110. Statute of limitations.**

8

9 There are no specific applicable provisions for a statute
10 of limitations for this chapter.

11

12 **39-24-111. Distribution.**

13

14 (a) Taxes collected by the county treasurer shall be
15 distributed as follows:

16

17 (i) To the county in the proportion that the
18 population of the county situated outside the corporate
19 limits of its cities and towns bears to the total
20 population of the county including cities and towns;

21

1 (ii) To each city and town within the county in
2 the proportion the population of the city or town bears to
3 the population of the county.

4

5 (b) The revenue from the tax shall be used in
6 specific percentages for specific purposes as provided in
7 the proposition submitted to the qualified electors under
8 W.S. 39-24-103(a).

9

10 **Section 2.** W.S. 34-1-119(a) and 39-11-101(a)(xviii)
11 are amended to read:

12

13 **34-1-119. Duties of county clerk generally.**

14

15 (a) The county clerk of each county within this state
16 shall receive and record at length all deeds, mortgages,
17 conveyances, patents, certificates and instruments left
18 with him for that purpose, and he shall endorse on every
19 such instrument the day and hour on which it was filed for
20 record. The county clerk shall not record any document
21 until the clerk receives documentation that the tax
22 required by W.S. 39-24-103, if any, has been paid to the
23 county treasurer. In addition, the county clerk shall not

1 record any document until the address of the grantee,
2 mortgagee or assignee of the mortgagee is furnished to the
3 county clerk, but this requirement shall not affect the
4 validity of the recording of any instrument except to the
5 extent provided in W.S. 34-1-142(b). Only instruments which
6 are the originally signed documents, including electronic
7 documents recorded pursuant to the Uniform Real Property
8 Electronic Recording Act, W.S. 34-1-401 through 34-1-407,
9 or properly certified or authenticated copies thereof may
10 be properly recorded. A document is properly certified if
11 in compliance with Rule 902 of the Wyoming Rules of
12 Evidence or other applicable rule or statute.

13

14 **39-11-101. Definitions.**

15

16 (a) As used in this act unless otherwise specifically
17 provided:

18

19 (xviii) "This act" means W.S. 39-11-101 through
20 ~~39-22-111~~ 39-24-111.

21

1 **Section 3.** The department of revenue shall adopt
 2 rules necessary to implement the county option real estate
 3 transfer tax not later than July 1, 2021.

4

5 **Section 4.**

6

7 (a) Except as provided in subsection (b) of this
 8 section, this act is effective immediately upon completion
 9 of all acts necessary for a bill to become law as provided
 10 by Article 4, Section 8 of the Wyoming Constitution.

11

12 (b) Sections 1 and 2 of this act are effective July
 13 1, 2021.

14

15

(END)