

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Real estate transfer tax.

Sponsored by: Joint Revenue Interim Committee

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 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

12

CHAPTER 24

13

REAL ESTATE TRANSFER TAX

1

2 **39-24-101. Definitions.**

3

4 (a) As used in this chapter:

5

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

9

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

14

15 (iii) "Conveyance" means as defined by W.S.
16 34-1-102;

17

18 (iv) "Deed" means as defined by W.S.
19 39-13-101(a)(iv).

20

21 **39-24-102. Administration.**

22

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

4

5 **39-24-103. Imposition.**

6

7 (a) Taxable event. There is levied a tax for the
8 privilege of registering a deed upon the transfer of a
9 beneficial interest or legal title to real property in
10 Wyoming. All deeds or conveyances purporting to transfer
11 legal title or beneficial interest in real property shall
12 be presumed taxable unless it clearly appears on the face
13 of the deed or conveyance that the instrument is exempt
14 under W.S. 39-24-105.

15

16 (b) Basis of tax. The tax shall be collected based
17 on the full actual consideration paid for the beneficial
18 interest or legal title conveyed including any lien
19 assumed. For a gift or any deed or conveyance transferred
20 with nominal consideration or without stated consideration,
21 the tax shall be collected based on the current market
22 value of the property or interest that is transferred.

23

1 (c) Taxpayer. As between the grantor and grantee of
2 any real property where there is no express agreement in
3 writing as to which party shall pay the tax, the grantor
4 shall pay the tax under this chapter.

5

6 **39-24-104. Taxation rate.**

7

8 Except as provided by W.S. 39-24-105 there is levied and
9 shall be paid by the grantor for the privilege of
10 registering a deed a real estate transfer tax of fifty
11 cents (\$0.50) for every five hundred dollars (\$500.00) of
12 value or fraction thereof of the real property that is
13 deeded or conveyed as provided by W.S. 39-15-103.

14

15 *****

16 *****

17 **STAFF COMMENT**

18

19 This rate is included as a placeholder for committee
20 discussion. The rate is equivalent to a .1% rate and was
21 taken from South Dakota. Nationwide the rate for states
22 with a RETT varies from 0.01% up to 2% with most states
23 being in the range of 0.1% to 0.5%. Several states have
24 variable rates of tax depending on the value of the
25 property.

26

27 *****

28 *****

29

30 **39-24-105. Exemptions.**

1

2 (a) The tax under this chapter shall not be imposed
3 upon any deed or conveyance of title or beneficial interest
4 in real property that is recorded:

5

6 (i) Prior to July 1, 2021, including any
7 conveyance or deed recorded as the result of any transfer
8 of real property that is completed pursuant to a contract
9 that was executed prior to July 1, 2021;

10

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

13

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

17

18 (iv) For any transfer without consideration when
19 held in the name of one (1) spouse to both spouses as joint
20 tenants or tenants in common, or as community property;

21

22 (v) For any transfer between spouses, including
23 any gift between spouses;

1

2 (vi) For any transfer pursuant to a court order
3 or decree including any transfer of title or beneficial
4 interest in real property between spouses to effect a
5 property settlement agreement or between former spouses in
6 compliance with a decree of divorce;

7

8 (vii) For any transfer without consideration to
9 or from a trust;

10

11 (viii) For any transfer between a parent and
12 child, including a gift;

13

14 (ix) For any transfer to make effective any plan
15 of reorganization or adjustment under which a mere change
16 in identity, form or place of organization is effected,
17 including a transfer between a corporation and its parent
18 corporation or a subsidiary corporation;

19

20 (x) For any transfer due to the sale of the
21 property for delinquent taxes or assessments or due to a
22 sale or transfer pursuant to foreclosure;

23

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

3

4 (xii) For that portion of the value of any
5 transfer of agricultural land up to one and one-half (1
6 1/2) times the agricultural value of the land as determined
7 by the county assessor for the previous calendar year;

8

9 (xiii) For any exchange of real property, the
10 tax shall not apply to the portion of the value equal to
11 the lowest value of the properties being exchanged, as
12 determined by the county assessor;

13

14 (xiv) For any transfer of real property exempted
15 from property taxation under W.S. 39-11-105(a)(i) through
16 (viii) and any property protected from taxation under the
17 Wyoming constitution;

18

19 (xv) For any transfer of real property interests
20 in a mineral estate;

21

1 (xvi) For any transfer of real property used for
2 industrial purposes as defined by W.S.
3 39-11-101(a)(xiv)(B);

4

5 (xvii) For a lease;

6

7 (xviii) For an easement;

8

9 (xix) For any transfer of real property located
10 within the boundaries of the Wind River Indian reservation
11 if the grantor or grantee is a member of the Eastern
12 Shoshone or Northern Arapahoe Indian Tribes;

13

14 (xx) For any transfer of real property without
15 consideration to a nonprofit organization that is exempt
16 from federal income tax under section 501(c)(3) of the
17 Internal Revenue Code and that is not a private foundation
18 as defined in 509(a) of the Internal Revenue Code;

19

20 (xxiii) Any other transfer which the department
21 exempts by rule upon a finding that the transfer does not
22 represent a taxable conveyance of property due to the

1 relationship of the parties or the nature of the real
2 property.

3

4 **39-24-106. Licensing; permits.**

5

6 There are no specific applicable provisions for licenses
7 and permits for this chapter.

8

9 **39-24-107. Compliance; collection procedures.**

10

11 (a) Returns and reports. Taxes imposed by this
12 chapter are due and payable at the office of the county
13 treasurer of the county in which the real property is
14 located on the date of recordation of the deed, conveyance
15 or other instrument. The tax shall only be collected on the
16 price paid for the title to or beneficial interest in real
17 property. The county clerk shall not record a conveyance
18 or deed transferring legal or equitable title to real
19 property until all taxes due under this chapter have been
20 paid to the county treasurer. The grantor and grantee of
21 the deed or conveyance shall sign before a notarial officer
22 on a form prescribed by the department, a statement
23 eliciting the information necessary for the assessment of

1 the tax. The statement is not a public record and shall be
2 held confidential by the county clerk, county assessor,
3 county treasurer, county board of equalization, state board
4 of equalization and by the department.

5

6 (b) It is a misdemeanor for a person to willfully
7 falsify or publicly disclose, except as specifically
8 authorized by law, any information on the statement
9 required by subsection (a) of this section. Upon
10 conviction, the offender is subject to a fine of not more
11 than seven hundred fifty dollars (\$750.00), imprisonment
12 for not more than six (6) months, or both.

13

14 (c) Payment. Subject to W.S. 39-24-103(c), payment of
15 the tax may be negotiated between the grantor and grantee
16 of the real property. Payment shall be collected from the
17 grantor or other applicable party at the time of recording
18 the deed, conveyance or other instrument in the form
19 prescribed by the department.

20

21 (d) Timelines. There are no specific applicable
22 provisions for timelines for this chapter.

23

1 (e) If the property being transferred is located in
2 more than one (1) county and the value has not been
3 determined by the grantor and grantee as to each county,
4 the value and resulting taxes due under this chapter shall
5 be established by applying the ratio of the assessed
6 valuation in each county to the assessed valuation of all
7 property being transferred.

8

9 **39-24-108. Enforcement.**

10

11 There are no specific applicable provisions for enforcement
12 for this chapter.

13

14 **39-24-109. Taxpayer remedies.**

15

16 There are no specific applicable provisions for taxpayer
17 remedies for this chapter.

18

19 **39-24-110. Statute of limitations.**

20

21 There are no specific applicable provisions for a statute
22 of limitations for this chapter.

23

1 **39-24-111. Distribution.**

2

3 (a) Taxes collected by the county treasurer pursuant
4 to this chapter shall be distributed as follows:

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7

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STAFF COMMENT

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**The distribution of the tax is left open for committee
10 discussion.**

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12

13

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

16

17 **34-1-119. Duties of county clerk generally.**

18

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

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

14

15 **39-11-101. Definitions.**

16

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

19

20 (xviii) "This act" means W.S. 39-11-101 through
21 ~~39-22-111~~ 39-24-111.

22

