

Reported Recommending
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Passed Senate.....
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Failed to Pass House.....

Senate File 43

January 21, 1947.
Passed on File.

By BYERS and KEIR.

A BILL FOR

An Act to provide for a registry tax upon mortgages on real estate, and providing for the allocation of revenue to be derived from such tax.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. A tax of fifteen (15) cents is hereby imposed
2 upon each one hundred dollars (\$100.00), or fraction thereof,
3 of the principal debt or obligation which is, or in any con-
4 tingency which may be, secured by any mortgage on real property
5 situate within the state executed, delivered and recorded or
6 registered; provided that if any such mortgage shall describe
7 any real estate situate outside of this State, such tax shall
8 be imposed upon such proportion of the whole debt secured there-
9 by as the value of the real estate therein described situate
10 in this State bears to the value of the whole of the real
11 estate described therein, as such value shall be determined by
12 the State Tax Commission upon application of the mortgagee.

1 Sec. 2. All mortgages upon which such tax has been paid,
2 with the debts or obligations secured thereby and the papers
3 evidencing the same, shall be exempt from all other property
4 taxes but nothing herein shall exempt such property from the

5 operation of the laws relating to the taxation of gifts and in-
6 heritance or those governing the taxation of banks, savings
7 banks, trust companies, building and loan associations or cor-
8 porations or individuals engaged in the business of making loans
9 or investments or engaged in the sale of securities.

1 Sec. 3. For the purposes of this Act real-estate shall
2 include all land and all buildings and fixtures thereon and
3 appurtenant thereto. The word "mortgage" means any instrument
4 creating or evidencing a lien of any kind on such property
5 given or taken as security for a debt, notwithstanding such
6 debt may also be secured in part by a lien on personalty.

1 Sec. 4. An executory contract for the sale of land, under
2 which the vendee is entitled to or does take possession there-
3 of shall be deemed, for the purposes of this Act, a mortgage
4 of the land for the unpaid balance of the purchase price.

1 Sec. 5. No instrument relating to real-estate shall be
2 valid as security for any debt, unless the fact that it is so
3 intended and the amount of such debt is expressed therein.

1 Sec. 6. A mortgage given to correct a misdescription of
2 the mortgaged property, or to include additional security for
3 the same indebtedness, shall not be subject to the tax imposed
4 by this Act; nor shall a mortgage securing the same and other
5 indebtedness, additional to that upon which such tax has been
6 paid, be taxable under the provisions of this Act, except for
7 such added sum.

1 Sec. 7. If a mortgage is made to a mortgagee in trust to

2 secure the payment of bonds or other obligations to be issued
3 thereafter, a statement may be incorporated therein of the a-
4 mount of such obligations already issued or to be issued forth-
5 with, and the tax to be paid on filing such mortgage for record
6 or registration shall be computed upon the amount so stated.
7 Such statement shall be binding and conclusive upon all persons
8 claiming through or under the mortgage and no such obligation
9 issued in excess of the aggregate so fixed shall be valid for
10 any purpose unless the additional tax thereon be paid and the
11 receipt of the county recorded thereof be endorsed thereon.

1 Sec. 8. The tax imposed by this Act shall be paid to the recorder
2 of the county in which the mortgaged land or some part thereof in
3 situated, at or before the time of filing the mortgage for re-
4 cord or registration. The recorder shall endorse his receipt
5 on the mortgage and such receipt shall be recorded with the
6 mortgage, and such receipt of the record thereof shall be con-
7 clusive proof that the tax has been paid to the amount therein
8 stated and authorize any recorder to record the mortgage. The
9 form of the receipt in substance, shall be "registration tax
10 hereon of.....dollars paid". If the mortgage be exempt
11 from taxation the endorsement shall be "exempt from registra-
12 tion tax", to be signed in either case by the recorder as such
13 and in case the recorder shall be unable to determine whether
14 the claim for exemption should be allowed, the tax shall be paid
15 to the clerk of the district court of the county to abide the
16 order of such court made upon motion of the county attorney or

17 of the claimant upon notice as required by the court. When any
18 such mortgage covers real property situate in more than one (1)
19 county of the State the whole of such tax shall be paid to the
20 recorder of the county where the mortgage is first presented for
21 record or registration, and the payment shall be receipted and
22 countersigned as above provided, and such tax shall be divided
23 and paid over by the county recorder receiving the same, on or
24 before the tenth (10th) day of each month after receipt thereof,
25 to the county or counties entitled thereto in the ratio which
26 the assessed value of the real property covered by the mortgage
27 in each county bears to the assessed value of all the property
28 described in the mortgage. In making such division and payment
29 the county recorder shall send therewith a statement giving the
30 description of the property described in the mortgage and the
31 assessed value of the part thereof situate in such county. For
32 the purpose aforesaid, the recorder of any county may require
33 the recorder of any other county to certify to him the assessed
34 valuation of any tract of land in any such mortgage.

1 Sec. 9. There is hereby exempted from the provisions of
2 this Act mortgages the taxation of which is prohibited by the
3 laws of the United States of America. All other mortgages
4 upon real-estate or real property are subject to registration
5 as provided by this Act.

1 Sec. 10. No such mortgage nor any assignment or satisfac-
2 tion thereof, shall be recorded or registered unless the tax
3 shall have been paid.

1 Sec. 11. The recorder shall account for all taxes collected
2 under the provisions of this Act in the same manner that other
3 fees are accounted for as prescribed by sections three hundred
4 forty-two point two (342.2), and three hundred forty-two point
5 three (342.3), Code 1946, and on or before July 10 of each year
6 shall certify to the county treasurer a list of all mortgage
7 registry taxes collected during the year ending on June 30
8 preceding. Such list shall give by taxing districts the total
9 amount of taxes collected upon registration of mortgages upon
10 property in each taxing district of the county. The treasurer
11 shall, using such list as a basis, apportion the amounts collected
12 to each taxing district.

13 Taxes on mortgages based upon property in cities and towns
14 shall be apportioned twenty (20) per cent to the county general
15 fund; thirty (30) per cent to the city or town general fund and
16 fifty (50) per cent to the general fund
17 of the school district; and the amount collected upon mortgages
18 registered for each taxing district outside of cities and towns
19 shall be apportioned; twenty (20) percent to the county general
20 fund and eighty (80) percent to the general fund of the school
21 district. Such apportionment shall be made by the treasurer
22 not later than July 15 of each year, covering all collections
23 which have been made during the year ending on June 30 next
24 preceding.

25 The treasurer shall certify to the county auditor the amount
26 thus apportioned to each taxing district and the county auditor

27 shall, in computing the tax rate for any taxing district, deduct
28 from the total budget requirement certified by any such district,
29 all of the tax which has been apportioned to such taxing district
30 by the county treasurer and shall then apply such rate to the
31 adjusted taxable value of the property in the district necessary
32 to raise the amount required after deductions herein provided
33 have been made.

1 Sec. 12. The provisions of this Act shall become effective
2 as of January 1, 1948.