

MAINE STATE LEGISLATURE

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(EMERGENCY)
SECOND SPECIAL SESSION

ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1771

H. P. 1265

House of Representatives, January 9, 1968

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Quinn of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-EIGHT

AN ACT Relating to Tax on Real Estate Transfers.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after the adjournment of the Legislature unless enacted as emergencies; and

Whereas, the 103rd Legislature in regular session by chapter 154 of the private and special laws of 1967 provided for a tax on real estate transfers; and

Whereas, members of the bar of this State differ as to the application and interpretation of this law and its effect upon the certification of good and marketable title by them; and

Whereas, the provisions of this law are not clear in their effect upon the validity of the recordation of deeds filed without compliance with its provisions; and

Whereas, uniform provisions and interpretations are vitally necessary to the uninterrupted transfer of property in this State and to the integrity of title to real property conveyed in this State; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. P. & S. L., c. 154, Sec. H, repealed. Section H of chapter 154 of the private and special laws of 1967 is repealed.

Sec. 2. R. S., T. 36, c. 712, additional. Title 36 of the Revised Statutes is amended by adding a new chapter 712, to read as follows:

CHAPTER 712
REAL ESTATE TRANSFERS

§ 4641. Definitions

1. Consideration. "Consideration" means the total price or amount paid, or required to be paid, for real property valued in money, whether received in money or otherwise; and shall include the amount of any mortgages, liens or encumbrances thereon.

2. Deed. "Deed" means a written instrument whereby the grantor conveys to the grantee title in whole or in part to real property.

3. Value. "Value" means the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

§ 4642. Rate of tax

There is imposed a tax upon the privilege of transferring title to real property, at the rate of \$1 for consideration between \$251 and \$500 and 55c for each \$500 or fraction thereof above \$500. The grantor shall be liable for payment of such tax.

§ 4643. Collection

The State Tax Assessor shall provide for the collection of the tax by each register of deeds, and for that purpose may provide for the installation of a meter machine in each registry office.

When any deed is offered for recordation, the register of deeds shall ascertain and compute the amount of tax due thereon and shall collect such amount.

The amount of tax shall be computed on the consideration for the deed, as set forth in the "declaration of value" prescribed by section 4645.

Payment of tax shall be evidenced by affixing such indicia of payment as shall be prescribed by the State Tax Assessor to the declaration of value provided for in section 4645.

Each register of deeds shall, on or before the 10th day of each month, pay over to the State Tax Assessor 90% of tax collected during the previous month. The remaining 10% shall be retained for the county by the register of deeds and accounted for to the county treasurer as reimbursement for services rendered by the county in collecting the tax.

The State Tax Assessor shall pay over all receipts to the Treasurer of State daily and such receipts shall be credited to the General Fund.

§ 4644. Exemptions

1. Exemptions. The following deeds shall be exempt from the tax imposed by this chapter:

- A. Deeds to property acquired by the United States of America, the State of Maine or any of their instrumentalities, agencies or subdivisions;
- B. Mortgage deeds and discharges of mortgage deeds;
- C. Deeds which, without additional consideration, confirm, correct, modify or supplement a deed previously recorded;
- D. Deeds between husband and wife, or parent and child, without actual consideration therefor;
- E. Tax deeds;
- F. Deeds of partition;
- G. Deeds made pursuant to mergers of corporations;
- H. Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock.

§ 4645. Declaration of value

Each deed, except conveyances to the United States of America, the State of Maine or any of their instrumentalities, agencies or subdivisions, mortgages or mortgage discharges, when offered for recording shall be accompanied by a statement or declaration prepared in duplicate and signed, subject to the penalties of perjury, by the parties to the transaction or their authorized representatives declaring the consideration for and the value of the property thereby transferred. If the transfer is declared not subject to the tax, the reason therefor shall be stated.

The declaration shall be in form prescribed by the State Tax Assessor, who shall provide an adequate supply of such forms to each register of deeds in the State.

The register of deeds shall transmit both copies of the declaration of value to the State Tax Assessor no later than 40 days from the date of recordation of the deed subject to the tax.

§ 4646. Powers and duties of State Tax Assessor

The State Tax Assessor is authorized to prescribe such rules and regulations as he may deem necessary to carry out the purposes of this chapter.

Within 2 years of the recording of a deed subject to the tax imposed by this chapter, the State Tax Assessor may examine any books, papers, records or memoranda of this grantor or grantee bearing upon the amount of tax payable, and may enforce by subpoena his right to such examination. If therefrom he shall determine there is a deficiency of taxes due under this chapter, he shall assess such deficiency, together with interest at the rate of 6% per year from the

date of recording, giving notice to the persons liable, but no such assessment can be made more than 2 years after date of recording.

§ 4647. Petition for reconsideration of assessment

Any person against whom an assessment shall be made by the State Tax Assessor under section 4646 may petition for a reconsideration of assessment within 15 days after notice shall have been given such person. If a petition for a reconsideration of assessment is not filed within said 15-day period, the amount of the assessment becomes final at the expiration thereof as to law and fact. If a petition for reconsideration is filed within said 15-day period, the State Tax Assessor shall reconsider the assessment and, if the petitioner has so requested in his petition, shall grant said petitioner an oral hearing and shall give the petitioner 10 days' notice of the time and place thereof. For cause shown the State Tax Assessor may extend the time for filing such petition. If appeal is not taken as provided in section 4648, the amount of the assessment upon reconsideration becomes final as to law and fact at the expiration of the 30-day period therein allowed for the taking of appeals.

§ 4648. Appeals

Any taxpayer aggrieved by the decision upon such petition may, within 30 days after notice thereof from the State Tax Assessor, appeal therefrom to the Superior Court in the county wherein the deed has been recorded. The appellant shall, when such appeal is taken, file an affidavit stating his reasons of appeal and serve a copy thereof on the State Tax Assessor, and in the hearing of the appeal shall be confined to the reasons of the appeal set forth in such affidavit. Jurisdiction is granted to the Superior Court to hear and determine such appeals and to enter such order and decrees as the nature of the case may require. The decision upon all questions of fact shall be final. An appeal may be taken to the law courts as in other actions. Decisions shall be certified forthwith by the clerk of courts to the State Tax Assessor.

§ 4649. Notices

Any notice required to be given by the State Tax Assessor pursuant to this chapter to any person may be served personally, or by sending the same by registered or certified mail to the person for whom it is intended, addressed to such person at the address given in the declaration of value or his last known abode.

§ 4650. Enforcement; priority of tax

The tax and interest imposed by this chapter shall be recoverable by a civil action in the name of the State of Maine, and shall have preference in any distribution of the assets of the taxpayer.

§ 4651. Penalty for recording without tax

Any register of deeds who shall record any deed upon which a tax is imposed by this chapter without collecting tax or obtaining the declaration of value required by this chapter shall, upon conviction, be punished by a fine of not over \$200.

§ 4652. Penalty for falsifying declaration of value

Any person who willfully falsifies the consideration or value prescribed by section 4645 or refuses to permit the State Tax Assessor, or any of his agents or representatives to inspect such property, books, papers, records or memoranda within 2 years after recording, or alters, cancels or obliterates any part thereof, or makes any false entry therein shall be punished by a fine of not more than \$1,000, or by imprisonment for less than one year, or by both.

Sec. 3. Appropriation. There is appropriated to the Bureau of Taxation to carry out the purposes of this Act the sum of \$20,295 for the fiscal year ending June 30, 1968 and the sum of \$11,041 for the fiscal year ending June 30, 1969. The breakdown shall be as follows :

TAXATION, BUREAU OF	1967-68	1968-69
Personal Services	(1) \$ 1,750	(1) \$ 3,666
All Other	4,650	7,300
Capital Expenditures	13,895	75
	\$20,295	\$11,041

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.