

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

CHAPTER 398

S.P. 95 - L.D. 249

An Act to Exempt Certain Real Estate Transfers from the Real Estate Transfer Tax

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

Sec. 1. 36 MRSA §4641, sub-§§1 and 3, as enacted by PL 1975, c. 572, §1, are amended to read:

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~~ includes the amount of any mortgages, liens or encumbrances thereon, regardless of whether the underlying indebtedness is assumed by the grantee.

3. Value. "Value" means the amount of the actual consideration therefor, except that in the case of a gift, or a contract or deed with nominal consideration or without stated consideration, "value" is to be based on 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.

Sec. 2. 36 MRSA §4641-A, as amended by PL 1985, c. 381, §1, is repealed and the following enacted in its place:

§4641-A. Rate of tax; liability for tax

There is imposed on each deed by which any real property in this State is transferred a tax at the rate of \$2.20 for each \$500 or fractional part thereof of the value of the property transferred, the tax to be imposed 1/2 on the grantor and 1/2 on the grantee.

Sec. 3. 36 MRSA §4641-B, 3rd ¶, as enacted by PL 1975, c. 572, §1, is amended to read:

The amount of tax ~~shall~~ must be computed on the ~~consideration for the deed~~ value of the property as set forth in the ~~"declaration of value"~~ declaration of value prescribed by section 4641-D.

Sec. 4. 36 MRSA §4641-C, as amended by PL 1985, c. 691, §32, is further amended to read:

§4641-C. Exemptions

The following deeds ~~shall be~~ are exempt from the tax imposed by this chapter:

1. Deeds to government property. Deeds to property transferred to or by the United States, the State of

Maine or any of their instrumentalities, agencies or subdivisions;

2. Mortgage deeds. Mortgage deeds, discharges of mortgage deeds and partial releases of mortgage deeds, deeds from a mortgagor to a mortgagee in lieu of foreclosure and deeds from a mortgagee to itself at a public sale held pursuant to Title 14, section 6323. In the event of a deed to a 3rd party at such a public sale, the tax imposed upon the grantor by section 4641-A applies only to that portion of the proceeds of sale that exceeds the sums required to satisfy in full the claims of the mortgagee and all junior claimants originally made parties in interest in the proceedings or having subsequently intervened in the proceedings as established by the judgment of foreclosure and sale. The tax must be deducted from the excess proceeds;

3. Deeds affecting a previous deed. Deeds which that, without additional consideration, confirm, correct, modify or supplement a deed previously recorded;

4. Deeds between family members. Deeds between husband and wife, or parent and child, without actual consideration ~~therefor~~ for the deed, and deeds between spouses in divorce proceedings;

5. Tax deeds. Tax deeds;

6. Deeds of partition. Deeds of partition when the interest conveyed is without consideration. However, if any of the parties take shares greater in value than their undivided interest, a tax is due on the difference between their proportional undivided interest and the greater value, computed at the rate set forth in section 4641-A;

7. Deeds pursuant to mergers. Deeds made pursuant to mergers of corporations from which no gain or loss is recognized under the Internal Revenue Code;

8. Deeds by subsidiary corporation. Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;

9. Deeds prior to October 1, 1975. Deeds dated or acknowledged prior to October 1, 1975, and offered for recording subsequent to that date; ;

10. Deeds by parent corporation. Deeds made by a parent corporation to its subsidiary corporation for no consideration other than shares of stock of the subsidiary corporation; and

11. Deeds of distribution. Deeds of distribution made pursuant to Title 18-A; ;

12. Deeds executed by public officials. Deeds executed by public officials in the performance of their official duties;

13. Deeds of foreclosure and in lieu of foreclosure. A deed conveying real property back to a lender holding a bona fide mortgage that is genuinely in default, either by a sheriff conducting a foreclosure sale or by the mortgagor in lieu of foreclosure;

14. Deeds given pursuant to the United States Bankruptcy Code. Deeds given pursuant to the United States Bankruptcy Code;

15. Deeds to a trustee, nominee or straw. Any deeds:

A. To a trustee, nominee or straw party for the grantor as beneficial owner;

B. For the beneficial ownership of a person other than the grantor when, if that person were the grantee, no tax would be imposed upon the conveyance pursuant to this chapter; or

C. From a trustee, nominee or straw party to the beneficial owner; and

16. Certain corporate and partnership deeds. Deeds between a family corporation, partnership or limited partnership and its stockholders or partners for the purpose of transferring real property in the organization, dissolution or liquidation of the corporation, partnership or limited partnership under the laws of this State, provided that the deeds are given for no actual consideration other than shares, interests or debt securities of the corporation, partnership or limited partnership. For purposes of this subsection a family corporation, partnership or limited partnership is a corporation, partnership or limited partnership in which the majority of the voting stock of the corporation, or of the interests in the partnership or limited partnership is held by and the majority of the stockholders or partners are persons related to each other, including by adoption, as descendants or as spouses of descendants of a common ancestor who was also a transferor of the real property involved, or persons acting in a fiduciary capacity for persons so related.

Sec. 5. 36 MRSA §4641-D, first ¶, as amended by PL 1991, c. 591, Pt. Y, §1 and affected by §3, is further amended to read:

Any deed, except as provided in this section, must, when offered for recording, 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 value of the property transferred and indicating the taxpayer identification numbers of the grantor and grantee. The statement or declaration must include evidence of compliance with section 5250-A and reference to the appropriate tax map and parcel number unless no tax map exists that includes that property, in

which event the declaration must indicate that no appropriate tax map exists. The exceptions to the foregoing are the following:

Sec. 6. 36 MRSA §4641-E, as amended by PL 1977, c. 679, §32, is further amended to read:

§4641-E. Powers and duties of State Tax Assessor

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

Within ~~2~~ 3 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 the grantor or grantee bearing upon the amount of tax payable, and may enforce that right of examination by subpoena ~~his right to such examination~~. If he shall determine the assessor determines that there is a deficiency of taxes due under this chapter, he shall assess such deficiency must be assessed, together with interest and penalties, giving with notice to the persons liable, but no such assessment can may be made more than 2 3 years after the date of recording.

Sec. 7. 36 MRSA §4641-K, as repealed and replaced by PL 1977, c. 696, §294, is amended to read:

§4641-K. Falsifying declaration of value

Any person who knowingly falsifies the ~~consideration or declaration of value~~ prescribed by section 4641-D or refuses to permit the State Tax Assessor, or any of ~~his~~ the State Tax Assessor's agents or representatives to inspect ~~that property; in question or any relevant~~ books, papers, records or memoranda within ~~2~~ 3 years after recording, or knowingly alters, cancels or obliterates any part thereof, or knowingly makes any false entry therein ~~shall be~~ is guilty of a Class E crime.

See title page for effective date.

CHAPTER 399

S.P. 346 - L.D. 1041

An Act to Expedite Maintenance of Utility Facilities

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

Sec. 1. 35-A MRSA §2522 is enacted to read:

§2522. Maintenance of utility facilities

Notwithstanding any other provision of law, an electric utility or telephone utility may trim, cut or re-