

1 *Senate* BILL NO. *192*
 2 INTRODUCED BY *Norman Dinkler Ashender*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE
 5 'REALTY TRANSFER ACT'; AND PROVIDING PENALTIES."

6
 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 Section 1. Short title. This act may be cited as the
 9 "Realty Transfer Act".

10 Section 2. Purpose. The purpose of this act is to
 11 obtain sales price data necessary to the determination of
 12 statewide levels and uniformity of real estate assessments
 13 by the most efficient, economical and reliable method.

14 Section 3. Definitions. As used in this act:

15 (1) "Transfer" means an act of the parties, or of the law,
 16 by which the title to real property is conveyed from one
 17 person to another.

18 (2) "Real estate" includes:
 19 (a) land,
 20 (b) growing timber,
 21 (c) buildings, structures, fixtures, fences, and
 22 improvements affixed to land.

23 (3) "Value" means the amount of the full actual
 24 consideration therefor, paid or to be paid, including the
 25 amount of any lien or liens thereon.

1 (4) "Partial interest" means a percentage interest in
 2 property when less than one hundred percent (100%).

3 (5) "Person" means and includes an individual,
 4 corporation, partnership or other business organization,
 5 trust, fiduciary or agent or any other party presenting a
 6 document for recordation.

7 Section 4. Report of transfers -- change of ownership
 8 records. (1) All transfers of real property, which are not
 9 evidenced by a recorded document, except those transfers
 10 otherwise provided for in this act, shall be reported to the
 11 department of revenue or its agent on the form prescribed.

12 (2) No agent of the department of revenue may change
 13 or be required to change any ownership records used for the
 14 assessment or taxation of real property, unless he has
 15 received a transfer certificate from the clerk and recorder
 16 or a transfer has been reported to him.

17 Section 5. Certificate of county clerk and recorder.

18 (1) The county clerk and recorder shall cause to be
 19 executed by the parties to the transaction or their agents
 20 or representatives a certificate declaring the consideration
 21 paid or to be paid for the real estate transferred.

22 (2) No instrument or deed evidencing a transfer of
 23 real estate may be accepted for recordation until the
 24 certificate provided in this act has been received by the
 25 county clerk and recorder. The validity or effectiveness of

1 an instrument or deed as between the parties to it shall not
2 be affected by the failure to comply with the provisions in
3 this act.

4 (3) The form of certificate shall be prescribed by the
5 state department of revenue and the department shall provide
6 an adequate supply of such forms to each county clerk and
7 recorder in the state.

8 (4) The county clerk and recorder shall prepare a like
9 certificate for each contract for deed filed for recording.

10 (5) The county clerk and recorder shall transmit each
11 executed certificate to the state department of revenue.

12 Section 6. Rules. The state department of revenue may
13 prescribe such rules as are reasonably necessary to
14 facilitate and expedite the provisions and administration of
15 this act.

16 Section 7. Certificate -- exceptions. The certificate
17 imposed by this act shall not apply: (1) to an instrument
18 recorded prior to the effective date of this act;

19 (2) to the sale of agricultural land when the land is
20 used for agricultural purposes;

21 (3) to the United States of America, this state, or
22 any instrumentality, agency, or subdivision thereof;

23 (4) to an instrument which (without added
24 consideration) confirms, corrects, modifies or supplements a
25 previously recorded instrument;

1 (5) to a transfer pursuant to court decree;

2 (6) to a transfer pursuant to mergers, consolidations
3 or reorganizations of corporations, partnerships, or other
4 business entities;

5 (7) to a transfer by a subsidiary corporation to its
6 parent corporation without actual consideration or in sole
7 consideration of the cancellation or surrender of subsidiary
8 stock;

9 (8) to a transfer of decedents' estates;

10 (9) to a transfer of a gift;

11 (10) to a transfer between husband and wife, or parent
12 and child with only nominal actual consideration therefor;

13 (11) to an instrument which inserts a right of
14 survivorship clause in a deed;

15 (12) to a sale for delinquent taxes or assessments,
16 sheriff sale, bankruptcy action or mortgage foreclosure;

17 (13) to a transfer made in contemplation of death.

18 Section 8. Disclosure of information. The certificate
19 required by this act and the information therein shall not
20 be a public record and shall be held confidential by the
21 county clerk and recorder, county assessor, and department
22 of revenue. The foregoing provisions shall not apply to
23 compilations from such certificates, or to summaries,
24 analyses, and evaluations based upon such compilations.

25 Section 9. Classification or assessment methods.

1 (1) This act shall not change or modify the methods of
2 classification or assessment of real estate as provided for
3 in Title 84, R.C.M. 1947, or in any law of this state.

4 (2) The sale price of real estate shall not be the
5 sole determinate of assessed value. The department shall
6 consider, wherein the consideration is to be paid in
7 deferred installments over a period of ten (10) years or
8 more, the terms of the contract, amount of down payment,
9 amount of each installment, rate of interest, and other
10 covenants or exceptional circumstances which may affect the
11 consideration paid for real estate.

12 Section 10. Notwithstanding section 43-517, the
13 duties, obligations, or responsibilities imposed on local
14 government entities by this act are such that related costs
15 are incurred as a part of their normal operating procedures.

16 Section 11. Severability. If a part of this act is
17 invalid, all valid parts that are severable from the invalid
18 part remain in effect. If a part of this act is invalid in
19 one or more of its applications, the part remains in effect
20 in all valid applications that are severable from the
21 invalid applications.

22 Section 12. Penalty. A person convicted of violating
23 any provision of this act shall be fined not to exceed five
24 hundred dollars (\$500) or be imprisoned in the county jail
25 for any term not to exceed six (6) months or both.

-End-

Approved by Committee
on Taxation

SENATE BILL NO. 192

INTRODUCED BY NORMAN, HIMSL, FASBENDER

A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE
'REALTY TRANSFER ACT'; AND PROVIDING PENALTIES."

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obtain sales price data necessary to the determination of
statewide levels and uniformity of real estate assessments
by the most efficient, economical and reliable method.

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by which the title to real property is conveyed from one
person to another.

(2) "Real estate" includes:

(a) land,

(b) growing timber,

(c) buildings, structures, fixtures, fences, and
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consideration therefor, paid or to be paid, including the
amount of any lien or liens thereon.

(4) "Partial interest" means a percentage interest in
property when less than one hundred percent (100%).

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records. (1) All transfers of real property, which are not
evidenced by a recorded document, except those transfers
otherwise provided for in this act, shall be reported to the
department of revenue or its agent on the form prescribed.

(2) No agent of the department of revenue may change
or be required to change any ownership records used for the
assessment or taxation of real property, unless he has
received a transfer certificate from the clerk and recorder
or a transfer has been reported to him.

Section 5. Certificate of county clerk and recorder.

(1) The county clerk and recorder shall cause to be
executed by the parties to the transaction or their agents
or representatives a certificate declaring the consideration
paid or to be paid for the real estate transferred.

(2) No instrument or deed evidencing a transfer of
real estate may be accepted for recordation until the
certificate provided in this act has been received by the
county clerk and recorder. The validity or effectiveness of

1 an instrument or deed as between the parties to it shall not
2 be affected by the failure to comply with the provisions in
3 this act.

4 (3) The form of certificate shall be prescribed by the
5 state department of revenue and the department shall provide
6 an adequate supply of such forms to each county clerk and
7 recorder in the state.

8 (4) The county clerk and recorder shall prepare a like
9 certificate for each contract for deed filed for recording.

10 (5) The county clerk and recorder shall transmit each
11 executed certificate to the state department of revenue.

12 Section 6. Rules. The state department of revenue may
13 prescribe such rules as are reasonably necessary to
14 facilitate and expedite the provisions and administration of
15 this act.

16 Section 7. Certificate -- exceptions. The certificate
17 imposed by this act shall not apply: (1) to an instrument
18 recorded prior to the effective date of this act;

19 (2) to the sale of agricultural land when the land is
20 used for agricultural purposes;

21 (3) to the United States of America, this state, or
22 any instrumentality, agency, or subdivision thereof;

23 (4) to an instrument which (without added
24 consideration) confirms, corrects, modifies or supplements a
25 previously recorded instrument;

1 (5) to a transfer pursuant to court decree;

2 (6) to a transfer pursuant to mergers, consolidations
3 or reorganizations of corporations, partnerships, or other
4 business entities;

5 (7) to a transfer by a subsidiary corporation to its
6 parent corporation without actual consideration or in sole
7 consideration of the cancellation or surrender of subsidiary
8 stock;

9 (8) to a transfer of decedents' estates;

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11 (10) to a transfer between husband and wife, or parent
12 and child with only nominal actual consideration therefor;

13 (11) to an instrument THE EFFECT OF which ~~inserts--a~~
14 ~~right--of~~ IS TO TRANSFER THE PROPERTY TO THE SAME PARTY OR
15 PARTIES survivorship-clause-in-a-deed;

16 (12) to a sale for delinquent taxes or assessments,
17 sheriff sale, bankruptcy action or mortgage foreclosure;

18 (13) to a transfer made in contemplation of death.

19 Section 8. Disclosure of information. The certificate
20 required by this act and the information therein shall not
21 be a public record and shall be held confidential by the
22 county clerk and recorder, county assessor, and department
23 of revenue. THIS IS BECAUSE THE LEGISLATURE FINDS THAT THE
24 DEMANDS OF INDIVIDUAL PRIVACY OUTWEIGH THE MERITS OF PUBLIC
25 DISCLOSURE. The foregoing provisions shall not apply to

1 compilations from such certificates, or to summaries,
2 analyses, and evaluations based upon such compilations.

3 Section 9. Classification or assessment methods.

4 (1) This act shall not change or modify the methods of
5 classification or assessment of real estate as provided for
6 in Title 84, R.C.M. 1947, or in any law of this state.

7 (2) The sale price of real estate shall not be the
8 sole determinate of assessed value. The department shall
9 consider, wherein the consideration is to be paid in
10 deferred installments over a period of ten (10) years or
11 more, the terms of the contract, amount of down payment,
12 amount of each installment, rate of interest, and other
13 covenants or exceptional circumstances which may affect the
14 consideration paid for real estate.

15 Section 10. Notwithstanding section 43-517, the
16 duties, obligations, or responsibilities imposed on local
17 government entities by this act are such that related costs
18 are incurred as a part of their normal operating procedures.

19 Section 11. Severability. If a part of this act is
20 invalid, all valid parts that are severable from the invalid
21 part remain in effect. If a part of this act is invalid in
22 one or more of its applications, the part remains in effect
23 in all valid applications that are severable from the
24 invalid applications.

25 Section 12. Penalty. A person convicted of violating

1 any provision of this act shall be fined not to exceed five
2 hundred dollars (\$500) or be imprisoned in the county jail
3 for any term not to exceed six (6) months or both.

-End-

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(1) "Transfer" means an act of the parties, or of the law, by which the title to real property is conveyed from one person to another.

(2) "Real estate" includes:

(a) land,

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(3) "Value" means the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon.

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Section 4. Report of transfers -- change of ownership records. (1) All transfers of real property, which are not evidenced by a recorded document, except those transfers otherwise provided for in this act, shall be reported to the department of revenue or its agent on the form prescribed.

(2) No agent of the department of revenue may change or be required to change any ownership records used for the assessment or taxation of real property, unless he has received a transfer certificate from the clerk and recorder or a transfer has been reported to him.

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(1) The county clerk and recorder shall cause to be executed by the parties to the transaction or their agents or representatives a certificate declaring the consideration paid or to be paid for the real estate transferred.

(2) No instrument or deed evidencing a transfer of real estate may be accepted for recordation until the certificate provided in this act has been received by the county clerk and recorder. The validity or effectiveness of

1 an instrument or deed as between the parties to it shall not
2 be affected by the failure to comply with the provisions in
3 this act.

4 (3) The form of certificate shall be prescribed by the
5 state department of revenue and the department shall provide
6 an adequate supply of such forms to each county clerk and
7 recorder in the state.

8 (4) The county clerk and recorder shall prepare a like
9 certificate for each contract for deed filed for recording.

10 (5) The county clerk and recorder shall transmit each
11 executed certificate to the state department of revenue.

12 Section 6. Rules. The state department of revenue may
13 prescribe such rules as are reasonably necessary to
14 facilitate and expedite the provisions and administration of
15 this act.

16 Section 7. Certificate -- exceptions. The certificate
17 imposed by this act shall not apply: (1) to an instrument
18 recorded prior to the effective date of this act;

19 (2) to the sale of agricultural land when the land is
20 used for agricultural purposes;

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22 any instrumentality, agency, or subdivision thereof;

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24 consideration) confirms, corrects, modifies or supplements a
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3 or reorganizations of corporations, partnerships, or other
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6 parent corporation without actual consideration or in sole
7 consideration of the cancellation or surrender of subsidiary
8 stock;

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8 sole determinate of assessed value. The department shall
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-End-

March 25, 1975

HOUSE OF REPRESENTATIVES

Committee of the Whole Amendment to SENATE BILL NO. 192

third reading copy, as follows:

1. Amend page 3, Section 5 (3), line 5

Following: "revenue and"

Insert: "shall not include any terms of the sale other
than sales price."

Strike: "t" in the word "the"

Insert: "T" in the word "the"

2. Amend page 5, Section 9 (2), line 8

Following: "value."

Strike: the rest of subsection (2) in its entirety

AND AS SO AMENDED

BE CONCURRED IN

1 SENATE BILL NO. 192

2 INTRODUCED BY NORMAN, HIMSL, FASBENDER

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