

SENATE BILL NO. 318—COMMITTEE ON TAXATION

MARCH 5, 1999

Referred to Committee on Taxation

SUMMARY—Revises provisions governing collection of taxes on transfer of real property and clarifies responsibility for payment. (BDR 32-1434)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to taxation; revising the provisions governing the collection of the taxes on the transfer of real property; clarifying the responsibility for payment of the taxes; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 375.010 is hereby amended to read as follows:
2 375.010 The following terms, wherever used or referred to in this
3 chapter, have the following meaning unless a different meaning clearly
4 appears in the context:
- 5 1. ***“Buyer” means a person or other legal entity acquiring title to any***
6 ***estate or present interest in real property in this state by deed, including,***
7 ***without limitation, a grantee or other transferee of real property.***
- 8 2. “Deed” means every instrument in writing, except a last will and
9 testament, whatever its form, and by whatever name it is known in law, by
10 which title to any estate or present interest in real property, including a
11 water right, permit, certificate or application, is conveyed or transferred to,
12 and vested in, another person, but does not include a lease for any term of
13 years or an easement.
- 14 ~~[2.]~~ 3. ***“Escrow” means the delivery of a deed by the seller into the***
15 ***hands of a third person, including an attorney, title company, real estate***
16 ***broker or other person engaged in the business of administering escrows***
17 ***for compensation, to be held by the third person until the happening of a***
18 ***contingency or performance of a condition, and then to be delivered by***
19 ***the third person to the buyer.***

1 **4. “Seller” means a person or other legal entity transferring title to**
2 **any estate or present interest in real property in this state by deed,**
3 **including, without limitation, a grantor or other transferor of real**
4 **property.**

5 **5. “Value” means:**

6 (a) In the case of any deed not a gift, the amount of the full, actual
7 consideration paid or to be paid for the real property, excluding the amount
8 of any lien or liens assumed.

9 (b) In the case of a gift, or any deed with nominal consideration or
10 without stated consideration, the estimated price the real property would
11 bring in an open market and under the then prevailing market conditions in
12 a sale between a willing seller and a willing buyer, both conversant with the
13 property and with prevailing general price levels.

14 **Sec. 2.** NRS 375.030 is hereby amended to read as follows:

15 375.030 **1.** If any deed evidencing a transfer of title subject to the tax
16 imposed by NRS 375.020 **and, if applicable, NRS 375.025,** is offered for
17 recordation, the county recorder shall compute the amount of the tax due
18 and shall collect that amount before acceptance of the deed for recordation.

19 **2. The buyer and seller are jointly and severally liable for the**
20 **payment of the taxes imposed by NRS 375.020 and 375.025 and any**
21 **penalties and interest imposed pursuant to subsection 3. The escrow**
22 **holder is not liable for the payment of the taxes imposed by NRS 375.020**
23 **and 375.025 or any penalties or interest imposed pursuant to subsection**
24 **3.**

25 **3. If after recordation of the deed, the county recorder disallows an**
26 **exemption that was claimed at the time the deed was recorded or through**
27 **audit or otherwise determines that an additional amount of tax is due, the**
28 **county recorder shall promptly notify the buyer or seller, or both, of the**
29 **additional amount of tax due. In addition to the additional amount**
30 **determined to be due, the county recorder shall impose a penalty of 10**
31 **percent of the additional amount due in addition to interest at the rate of**
32 **1 1/2 percent per month, or portion thereof, of the additional amount due**
33 **calculated from the date of the original recordation of the deed on which**
34 **the additional amount is due through the date on which the additional**
35 **amount due, penalty and interest are paid to the county recorder.**

36 **4. This section does not prohibit a buyer and seller from agreeing by**
37 **contract or otherwise that one party or the other will be responsible for**
38 **the payment of the tax due pursuant to this chapter, but such an**
39 **agreement does not affect the ability of the county recorder to collect the**
40 **tax and any penalties and interest from either the buyer or the seller.**

1 **Sec. 3.** This act becomes effective upon passage and approval for the
2 purpose of adopting regulations by the department of taxation that are
3 necessary to carry out the provisions of this act and on October 1, 1999, for
4 all other purposes.

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