

SENATE BILL NO. 238—COMMITTEE ON TAXATION

FEBRUARY 23, 2001

Referred to Committee on Taxation

SUMMARY—Makes various changes relating to tax on transfer of real property.
(BDR 32-138)

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

CONTAINS UNFUNDED MANDATE (§§ 4, 5)
(REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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; providing certain rights for taxpayers of the tax on the transfer of real property; establishing provisions relating to the collection and enforcement of the tax on the transfer of real property; eliminating certain exemptions from the tax on the transfer of real property; 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.** Chapter 375 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 38, inclusive, of this act.
3 **Sec. 2.** *Section 3 of this act may be cited as the Taxpayers' Bill of*
4 *Rights for Taxes on the Transfer of Real Property.*
5 **Sec. 3.** *1. The legislature hereby declares that each taxpayer has*
6 *the right:*
7 *(a) To be treated by officers and employees of the county recorder*
8 *with courtesy, fairness, uniformity, consistency and common sense.*
9 *(b) To a prompt response from the county recorder to each*
10 *communication from the taxpayer.*
11 *(c) To provide the minimum documentation and other information as*
12 *may reasonably be required by the county recorder to carry out his*
13 *duties.*
14 *(d) To written explanations of common errors, oversights and*
15 *violations that taxpayers experience and instructions on how to avoid*
16 *such problems.*
17 *(e) To be notified, in writing, by the county recorder whenever an*
18 *officer, employee or agent of the county recorder determines that the*



- 1 taxpayer is entitled to an exemption or has been taxed or assessed more
2 than is required pursuant to this chapter.
- 3 (f) To written instructions indicating how the taxpayer may petition
4 for a refund for overpayment of taxes, interest or penalties imposed
5 pursuant to this chapter.
- 6 (g) To recover an overpayment of taxes paid pursuant to this chapter
7 promptly upon the final determination of such an overpayment.
- 8 (h) To obtain specific advice from the county concerning taxes
9 imposed by the county pursuant to this chapter.
- 10 (i) In any meeting with the county, including an audit, conference,
11 interview or hearing:
- 12 (1) To an explanation by an officer, agent or employee of the
13 county that describes the procedures to be followed and the rights of the
14 taxpayer thereunder;
- 15 (2) To be represented by himself or anyone who is otherwise
16 authorized by law to represent him before the county;
- 17 (3) To make an audio recording using the taxpayer's equipment
18 and at the taxpayer's expense; and
- 19 (4) To receive a copy of any document or audio recording made by
20 or in the possession of the county relating to the determination or
21 collection of any tax for which the taxpayer is assessed pursuant to this
22 chapter, upon payment of the actual cost to the county of making the
23 copy.
- 24 (j) To a full explanation of the authority of the county to assess a tax
25 or to collect delinquent taxes pursuant to this chapter, including, without
26 limitation, the procedures and notices for review and appeal that are
27 required for the protection of the taxpayer. An explanation which meets
28 the requirements of this section must also be included with each notice to
29 a taxpayer that an audit will be conducted by the county.
- 30 (k) To the immediate release of any lien which the county has placed
31 on real or personal property for the nonpayment of any tax pursuant to
32 this chapter when:
- 33 (1) The tax is paid;
- 34 (2) The period of limitation for collecting the tax expires;
- 35 (3) The lien is the result of an error by the county;
- 36 (4) The county determines that the taxes, interest and penalties are
37 secured sufficiently by a lien on other property;
- 38 (5) The release or subordination of the lien will not jeopardize the
39 collection of the taxes, interest and penalties;
- 40 (6) The release of the lien will facilitate the collection of the taxes,
41 interest and penalties; or
- 42 (7) The county determines that the lien is creating an economic
43 hardship.
- 44 (l) To be free from harassment and intimidation by an officer, agent
45 or employee of the county for any reason.
- 46 2. The provisions of this chapter governing the administration and
47 collection of taxes by the county must not be construed in such a manner
48 as to interfere or conflict with the provisions of this section or any
49 applicable regulations.



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1 3. The provisions of this section apply to the administration and
2 collection of taxes pursuant to this chapter.

3 Sec. 4. The county recorder shall cause:

4 1. To be prepared in simple nontechnical terms a pamphlet setting
5 forth the Taxpayers' Bill of Rights for Taxes on the Transfer of Real
6 Property.

7 2. A copy of the pamphlet to be distributed:

8 (a) To each taxpayer upon request; and

9 (b) With each notice to a taxpayer that an audit will be conducted by
10 the county recorder.

11 Sec. 5. The county shall provide each taxpayer who it determines
12 may be liable for taxes pursuant to this chapter with:

13 1. Simplified written instructions concerning the rights and
14 responsibilities of the taxpayer, including the:

15 (a) Keeping of records sufficient for audit purposes;

16 (b) Procedures for paying taxes pursuant to this chapter; and

17 (c) Procedures for challenging any liability for taxes, penalties or
18 interest and for requesting refunds of erroneously assessed taxes,
19 including the steps for appealing a denial thereof.

20 2. Information concerning the most common errors made by
21 taxpayers in similar situations with regard to the collection, reporting
22 and payment of taxes pursuant to this chapter.

23 Sec. 6. The county shall provide a taxpayer with a response to any
24 written request submitted by the taxpayer that relates a tax imposed
25 pursuant to this chapter within 30 days after it receives the request.

26 Sec. 7. A taxpayer is entitled to receive on any overpayment of taxes
27 imposed pursuant to this chapter a refund together with interest at a rate
28 determined pursuant to NRS 17.130. No interest is allowed on a refund
29 of any penalties or interest paid by a taxpayer.

30 Sec. 8. In the adoption of regulations, policies of enforcement and
31 policies for auditing of taxpayers, with respect to all taxes and fees
32 administered pursuant to this chapter, the Nevada tax commission shall
33 apply the following principles:

34 1. Forms, instructions and regulations governing the computation of
35 the amount of tax due must be brief and easily understood.

36 2. In cases where another authority, such as the United States or this
37 state, also imposes a tax upon the same property or revenue, the
38 mechanism for collecting the tax imposed by the county must be as
39 nearly compatible with the collection of the other taxes as is feasible.

40 3. Unless a change is made necessary by statute or to preserve
41 compatibility with a tax imposed by another authority, the forms,
42 instructions and regulations must remain the same from year to year, to
43 make the taxpayer's liability as predictable as is feasible.

44 4. Exemptions or waivers, where permitted by statute, must be
45 granted:

46 (a) Equitably among eligible taxpayers; and

47 (b) As sparingly as is consistent with the legislative intent, to retain
48 the broadest feasible base for the tax affected.



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1 5. Audits and other procedures for enforcement must be applied as
2 uniformly as is feasible, not only as among persons subject to a
3 particular tax but also as among different taxes.

4 6. Collection of taxes due must be pursued in an equitable manner,
5 so that every taxpayer pays the full amount imposed by law.

6 **Sec. 9.** 1. The county recorder may audit all records related to the
7 collection and calculation of a tax imposed pursuant to this chapter. If
8 the county recorder deems it necessary to conduct an audit, the audit
9 must be completed within 3 years after the date the tax was originally
10 recorded.

11 2. The county recorder may issue subpoenas to require the
12 production of documents necessary for him to determine the amount of
13 tax due pursuant to this chapter or to determine whether a person
14 qualifies for an exemption from taxes pursuant to this chapter. The
15 county recorder may have the subpoenas served, and upon application of
16 the district attorney, to any court of competent jurisdiction, enforced in
17 the manner provided by law for the service and enforcement of
18 subpoenas in a civil action.

19 **Sec. 10.** 1. If an audit is conducted by the county recorder
20 pursuant to the provisions of this chapter, the date on which the audit
21 will be completed must be included in the notice to the taxpayer that the
22 audit will be conducted.

23 2. The date on which the audit will be completed may be extended by
24 the county recorder if the county recorder gives prior written notice of
25 the extension to the taxpayer. The notice must include an explanation of
26 the reason or reasons that the extension is required.

27 3. If, after the audit, the county recorder determines that delinquent
28 taxes are due, interest and penalties may not be imposed for the period of
29 the extension if the taxpayer did not request the extension or was not
30 otherwise the cause of the extension.

31 **Sec. 11.** If an officer, employee or agent of the county recorder
32 determines that a taxpayer is entitled to an exemption or has been taxed
33 or assessed more than is required by law, he shall give written notice of
34 that determination to the taxpayer. The notice must:

35 1. Be given within 30 days after the officer, employee or agent makes
36 his determination or, if the determination is made as a result of an audit,
37 within 30 days after the completion of the audit; and

38 2. If appropriate, include instructions indicating the manner in
39 which the taxpayer may petition for a refund of any overpayment.

40 **Sec. 12.** Any amount determined to be refundable by the county
41 recorder after an audit must be refunded to the taxpayer. If it is not
42 possible to determine who paid the tax, the refund must be split equally
43 between the seller and buyer.

44 **Sec. 13.** The county recorder may charge a person a fee established
45 by ordinance for each check returned to the county recorder because the
46 person had insufficient money or credit with the drawee to pay the check
47 or because the person stopped payment on the check.

48 **Sec. 14.** 1. Except as otherwise provided in subsection 2, if a
49 taxpayer proves to the satisfaction of the county that he has relied to his



1 *detriment on written advice provided to him by an officer, agent or*
2 *employee of the county recorder or on an opinion of the district attorney*
3 *or attorney general:*

4 *(a) The county may waive any tax, penalty and interest owed by the*
5 *taxpayer if the taxpayer meets the criteria adopted by regulation; and*

6 *(b) If a waiver is granted pursuant to paragraph (a), the county shall*
7 *prepare and maintain on file a statement which contains:*

8 *(1) The reason for the waiver;*

9 *(2) The amount of the tax, penalty and interest owed by the*
10 *taxpayer;*

11 *(3) The amount of the tax, penalty and interest waived by the*
12 *county; and*

13 *(4) The facts and circumstances which led to the waiver.*

14 2. *If a person proves to the satisfaction of the county that he has in*
15 *good faith remitted taxes imposed pursuant to this chapter in reliance*
16 *upon written advice provided by an officer, agent or employee of the*
17 *county recorder, an opinion of the district attorney or attorney general,*
18 *or the written results of an audit of his records conducted by the county*
19 *recorder, the county may not require the taxpayer to pay delinquent*
20 *taxes, penalties or interest if the county determines after the completion*
21 *of a subsequent audit that the taxes the taxpayer remitted were deficient.*

22 **Sec. 15.** 1. *If a hearing officer designated by the county finds that*
23 *the failure of a person to make a payment of a tax imposed pursuant to*
24 *this chapter is the result of circumstances beyond his control and*
25 *occurred despite the exercise of ordinary care and without intent to evade*
26 *payment, the county may waive all or part of any interest or penalty, or*
27 *both, that would otherwise be charged to the person pursuant to this*
28 *chapter for such failure to pay.*

29 2. *A person seeking relief from payment of interest or penalty*
30 *pursuant to this section must file a statement signed under oath setting*
31 *forth the facts upon which he bases his claim.*

32 3. *The county shall disclose, upon the request of any person:*

33 *(a) The name of the person to whom relief was granted pursuant to*
34 *this section; and*

35 *(b) The amount of the relief.*

36 **Sec. 16.** 1. *Except as otherwise provided in this chapter:*

37 *(a) All decisions of the county made pursuant to this chapter are final*
38 *unless appealed to the Nevada tax commission.*

39 *(b) Any person who is aggrieved by a decision of the county made*
40 *pursuant to this chapter may appeal the decision by filing a notice of*
41 *appeal with the county within 30 days after service of the decision upon*
42 *that person.*

43 2. *Service of a decision made by the county pursuant to this chapter*
44 *must be made personally or by certified mail. If service is made by*
45 *certified mail:*

46 *(a) The decision must be enclosed in an envelope which is addressed*
47 *to the taxpayer at his address as it appears in the records of the county.*



* S B 2 3 8 *

1 (b) *It is deemed to be complete at the time the appropriately addressed*
2 *envelope containing the decision is deposited with the United States*
3 *Postal Service.*

4 3. *The Nevada tax commission may review all decisions made by the*
5 *county that are not otherwise appealed to the commission pursuant to*
6 *this section.*

7 4. *The Nevada tax commission may reverse, affirm or modify any*
8 *decision of the county that is:*

9 (a) *Appealed to the commission by a taxpayer pursuant to this section;*
10 *or*

11 (b) *Reviewed by the commission pursuant to this section.*

12 5. *A decision of the Nevada tax commission is a final decision for the*
13 *purposes of judicial review. The county recorder or any other employee*
14 *or representative of the county recorder shall not seek judicial review of*
15 *such a decision.*

16 6. *The Nevada tax commission shall provide by regulation for:*

17 (a) *Notice to be given to each county of any decision upon an appeal*
18 *to the commission that the commission determines is likely to affect the*
19 *revenue of the county or other local government. The regulations must*
20 *specify the form and contents of the notice and requirements for the*
21 *number of days before a meeting of the commission that the notice must*
22 *be transmitted. If the parties to the appeal enter into a stipulation as to*
23 *the issues that will be heard on appeal, the commission shall transmit a*
24 *copy of the notice to the district attorney of each county which the*
25 *commission determines is likely to be affected by the decision. Upon*
26 *receipt of such a notice, the district attorney shall transmit a copy of the*
27 *notice to each local government within the county which the commission*
28 *determines is likely to be affected by the decision. If there is no such*
29 *stipulation, the commission shall transmit a copy of the notice,*
30 *accompanied by the names of the parties and the amount on appeal, if*
31 *any, to the governing bodies of the counties and other local governments*
32 *which the commission determines are likely to be affected by the*
33 *decision.*

34 (b) *The manner in which a county or other local government which is*
35 *not a party to such an appeal may become a party, and the procedure for*
36 *its participation in the appeal.*

37 7. *A county or other local government that is a party and is aggrieved*
38 *by the decision of the Nevada tax commission may seek judicial review of*
39 *the decision.*

40 **Sec. 17.** *Except as otherwise provided in this section, any appeal to*
41 *the Nevada tax commission which is taken by a taxpayer concerning his*
42 *liability for a tax imposed pursuant to this chapter must be heard during*
43 *a session of the commission which is open to the public. A hearing on*
44 *such an appeal may be closed to the public if the taxpayer requests that it*
45 *be closed.*

46 **Sec. 18.** 1. *If a person is delinquent in the payment of any tax*
47 *imposed pursuant to this chapter or has not paid the amount of a*
48 *deficiency determination, the county may bring an action in a court of*
49 *this state, a court of any other state or a court of the United States to*



* S B 2 3 8 *

1 collect the delinquent or deficient amount, penalties and interest. The
2 action:

3 (a) May not be brought if the decision that the payment is delinquent
4 or that there is a deficiency determination is on appeal to the Nevada tax
5 commission pursuant to section 16 of this act.

6 (b) Must be brought not later than 3 years after the payment became
7 delinquent or the determination became final or within 5 years after the
8 last recording of an abstract of judgment or of a certificate constituting a
9 lien for tax owed.

10 2. The district attorney shall prosecute the action. The provisions of
11 NRS and the Nevada Rules of Civil Procedure and Nevada Rules of
12 Appellate Procedure relating to service of summons, pleadings, proofs,
13 trials and appeals are applicable to the proceedings. In the action, a writ
14 of attachment may issue. A bond or affidavit is not required before an
15 attachment may be issued.

16 3. In the action, a certificate by the county recorder showing the
17 delinquency is prima facie evidence of:

18 (a) The determination of the tax or fee or the amount of the tax or fee;

19 (b) The delinquency of the amounts; and

20 (c) The compliance by the county recorder with all the procedures
21 required by law related to the computation and determination of the
22 amounts.

23 **Sec. 19.** In an action relating to a tax imposed pursuant to this
24 chapter, process must be served:

25 1. In accordance with the requirements for service of process in the
26 Nevada Rules of Civil Procedure; or

27 2. By serving both the buyer and seller at their place of residence in
28 this state.

29 **Sec. 20.** 1. If, with respect to a tax administered pursuant to this
30 chapter, a person:

31 (a) Fails to pay the tax when due according to the declaration of value
32 filed with the county recorder at the time he records his deed;

33 (b) Fails to pay a deficiency determination when due; or

34 (c) Defaults on a payment pursuant to a written agreement with the
35 county recorder,

36 the county recorder may, within 3 years after the amount is due, file in
37 the office of the clerk of any court of competent jurisdiction an
38 application for the entry of a summary judgment for the amount due.

39 2. An application for the entry of summary judgment must be
40 accompanied by a certificate specifying:

41 (a) The amount required to be paid, including any interest and
42 penalties due;

43 (b) The name and address of the person liable for the payment, as they
44 appear on the records of the county recorder;

45 (c) The basis for the determination of the county recorder of the
46 amount due; and

47 (d) That the county recorder has complied with the applicable
48 provisions of law in relation to the determination of the amount required
49 to be paid.



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1 3. *The application must include a request that judgment be entered*
2 *against the person in the amount required to be paid as set forth in the*
3 *certificate.*

4 **Sec. 21.** *The county clerk, immediately upon the filing of the*
5 *application and certificate pursuant to section 20 of this act, shall enter a*
6 *judgment for the county against the person liable for the payment in the*
7 *amount required to be paid, together with any penalties and interest due*
8 *as set forth in the certificate. The county shall serve a copy of the*
9 *judgment, together with the application and the certificate, upon the*
10 *person against whom the judgment is entered, either by personal service*
11 *or by mailing a copy to his last known address as it appears in the*
12 *records of the county recorder.*

13 **Sec. 22.** *Upon request of the county, execution must issue upon the*
14 *judgment in the same manner as execution may issue upon other*
15 *judgments, and sales must be held under the execution, as provided in*
16 *chapter 21 of NRS.*

17 **Sec. 23.** 1. *An abstract of the judgment, or a copy thereof, may be*
18 *recorded in the office of the county recorder of any county.*

19 2. *From the time it is recorded, the abstract of judgment or copy*
20 *thereof becomes a lien upon all real and personal property in that county*
21 *owned by the judgment debtor at the time, or which he may afterward*
22 *acquire, until the lien expires. The lien has the force, effect and priority*
23 *of a judgment lien and continues for 5 years after the date of the*
24 *judgment so entered by the county clerk unless sooner released or*
25 *otherwise discharged.*

26 **Sec. 24.** *The lien may, within 5 years after the date of the judgment*
27 *or within 5 years after the last extension of the lien in a manner provided*
28 *in this chapter, be extended by recording in the office of the county*
29 *recorder an abstract or copy of the judgment, and from the time of that*
30 *recording, the lien must be extended upon the property in that county for*
31 *5 years unless sooner released or otherwise discharged.*

32 **Sec. 25.** 1. *If any tax or fee imposed pursuant to this chapter is not*
33 *paid when due, the county may, within 3 years after the date that the tax*
34 *or fee was due, record a certificate in the office of any county recorder*
35 *which states:*

- 36 (a) *The amount of the tax or fee and any interest or penalties due;*
37 (b) *The name and address of the person who is liable for the amount*
38 *due as they appear on the records of the county; and*
39 (c) *That the county has complied with all procedures required by law*
40 *for determining the amount due.*

41 2. *From the time of the recording of the certificate, the amount due,*
42 *including interest and penalties, constitutes a lien upon all real and*
43 *personal property in the county owned by the person or acquired by him*
44 *afterwards and before the lien expires. The lien has the effect and*
45 *priority of a judgment lien and continues for 5 years after the time of the*
46 *recording of the certificate unless sooner released or otherwise*
47 *discharged.*

48 3. *Within 5 years after the date of the recording of the certificate or*
49 *within 5 years after the date of the last extension of the lien pursuant to*



1 *this subsection, the lien may be extended by recording a new certificate*
2 *in the office of the county recorder of any county. From the time of*
3 *recording, the lien is extended to all real and personal property in the*
4 *county owned by the person or acquired by him afterwards for 5 years,*
5 *unless sooner released or otherwise discharged.*

6 **Sec. 26.** 1. *The county may release all or any portion of the*
7 *property subject to a lien imposed by the county or subordinate the lien to*
8 *other liens and encumbrances if it determines that the amount, interest*
9 *and penalties are secured sufficiently by a lien on other property or that*
10 *the release or subordination of the lien will not jeopardize the collection*
11 *of the amount, interest and penalties.*

12 2. *A certificate by the county stating that any property has been*
13 *released from the lien, or that the lien has been subordinated to other*
14 *liens and encumbrances, is conclusive evidence that the property has*
15 *been released or that the lien has been subordinated.*

16 **Sec. 27.** 1. *The amounts, including interest and penalties, required*
17 *to be paid by any person pursuant to this chapter must be satisfied first*
18 *if:*

- 19 (a) *The person is insolvent;*
20 (b) *The person makes a voluntary assignment of his assets;*
21 (c) *The estate of the person in the hands of executors, administrators*
22 *or heirs, before distribution, is insufficient to pay all the debts due from*
23 *the deceased; or*
24 (d) *The estate and effects of an absconding, concealed or absent*
25 *person required to pay any amount by force of such a revenue act are*
26 *levied upon by process of law.*

27 2. *This section does not give the county a preference over:*

- 28 (a) *Any recorded lien that attached before the date when the amounts*
29 *required to be paid became a lien; or*
30 (b) *Any costs of administration, funeral expenses, expenses of*
31 *personal illness, family allowances or debts preferred pursuant to federal*
32 *law or wages as provided in NRS 150.220.*

33 **Sec. 28.** 1. *The county or its authorized representative may issue a*
34 *warrant for the enforcement of a lien and for the collection of any*
35 *delinquent tax or fee which is administered pursuant to this chapter:*

- 36 (a) *Within 3 years after the person is delinquent in the payment of the*
37 *tax or fee; or*
38 (b) *Within 5 years after the last recording of an abstract of judgment*
39 *or of a certificate constituting a lien for the tax or fee.*

40 2. *The warrant must be directed to a sheriff or constable and has the*
41 *same effect as a writ of execution.*

42 3. *The warrant must be levied and sale made pursuant to the warrant*
43 *in the same manner and with the same effect as a levy of and a sale*
44 *pursuant to a writ of execution.*

45 **Sec. 29.** 1. *The county may pay or advance to the sheriff or*
46 *constable the same fees, commissions and expenses for acting upon the*
47 *warrant as are provided by law for acting upon a writ of execution. The*
48 *county must approve the fees for publication in a newspaper. Approval*
49 *from a court is not required for the publication.*



1 2. The fees, commissions and expenses are the obligation of the
2 person against whom the warrant is issued.

3 Sec. 30. The order of a county to lock and seal a place of business
4 must be delivered to the sheriff of the county in which the business is
5 located who shall assist in the enforcement of the order.

6 Sec. 31. 1. If any person is delinquent in the payment of any tax or
7 fee administered pursuant to this chapter or if a determination has been
8 made against him which remains unpaid, the county may:

9 (a) Not later than 3 years after the payment became delinquent or the
10 determination became final; or

11 (b) Not later than 5 years after the last recording of an abstract of
12 judgment or of a certificate constituting a lien for tax owed,
13 give a notice of the delinquency and a demand to transmit personally or
14 by registered or certified mail to any person, including, without
15 limitation, any officer or department of this state or any political
16 subdivision or agency of this state, who has in his possession or under
17 his control any credits or other personal property belonging to the
18 delinquent taxpayer, or owing any debts to the delinquent taxpayer or
19 person against whom a determination has been made which remains
20 unpaid, or owing any debts to the delinquent taxpayer or that person. In
21 the case of any state officer, department or agency, the notice must be
22 given to the officer, department or agency before the county presents the
23 claim of the delinquent taxpayer to the state controller.

24 2. A state officer, department or agency which receives such a notice
25 may satisfy any debt owed to it by that person before it honors the
26 county's notice.

27 3. After receiving the demand to transmit, the person notified by the
28 demand may not transfer or otherwise dispose of the credits, other
29 personal property, or debts in his possession or under his control at the
30 time he received the notice until the county consents to a transfer or
31 other disposition.

32 4. Every person notified by a demand to transmit shall, within 10
33 days after receipt of the demand to transmit, inform the county of, and
34 transmit to the county all such credits, other personal property, or debts
35 in his possession, under his control or owing by him within the time and
36 in the manner requested by the county. Except as otherwise provided in
37 subsection 5, no further notice is required to be served upon that person.

38 5. If the property of the delinquent taxpayer consists of a series of
39 payments owed to him, the person who owes or controls the payments
40 shall transmit the payments to the county until otherwise notified by the
41 county. If the debt of the delinquent taxpayer is not paid within 1 year
42 after the county issued the original demand to transmit, the county shall
43 issue another demand to transmit to the person responsible for making
44 the payments informing him to continue to transmit payments to the
45 county or that his duty to transmit the payments to the county has ceased.

46 6. If the notice of the delinquency seeks to prevent the transfer or
47 other disposition of a deposit in a bank or credit union or other credits or
48 personal property in the possession or under the control of a bank, credit
49 union or other depository institution, the notice must be delivered or



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1 mailed to the branch or office of the bank, credit union or other
2 depository institution at which the deposit is carried or at which the
3 credits or personal property is held.

4 7. If any person notified by the notice of delinquency makes any
5 transfer or other disposition of the property or debts required to be
6 withheld or transmitted, to the extent of the value of the property or the
7 amount of the debts thus transferred or paid, he is liable to the county for
8 any indebtedness due pursuant to this chapter from the person with
9 respect to whose obligation the notice was given if solely by reason of the
10 transfer or other disposition the county is unable to recover the
11 indebtedness of the person with respect to whose obligation the notice
12 was given.

13 Sec. 32. In administering the provisions of section 31 of this act, the
14 county shall determine as early as possible whether there have been
15 withheld or transmitted sufficient liquid assets to satisfy the claim of the
16 county. As soon as the county determines that the assets have been
17 withheld or transmitted, the county shall consent to a transfer or other
18 disposition of all assets in excess of that amount.

19 Sec. 33. 1. If a person who is liable for any tax or fee administered
20 by the county sells any portion of his business or stock of goods not in the
21 ordinary course of business or quits the business, his successors or
22 assignees shall:

23 (a) If the business or stock of goods was purchased for money,
24 withhold from the purchase price the amount due; or

25 (b) If the business or stock of goods was not purchased for money,
26 withhold a sufficient portion of the assets of the business or stock of
27 goods which, if sold, would equal the amount due,
28 until the former owner provides the successors or assignees with a receipt
29 or certificate from the county showing that he paid the amount due.

30 2. A successor or assignee who fails to withhold the amount required
31 pursuant to subsection 1 becomes personally liable for the payment of the
32 amount required to be withheld by him to the extent of the consideration
33 paid for the business or stock of goods, valued in money.

34 3. The county shall issue a certificate of the amount due to the
35 successor or assignee:

36 (a) Not later than 60 days after receiving a written request from the
37 successor or assignee for such a certificate; or

38 (b) Not later than 60 days after the date the records of the former
39 owner are made available for audit,
40 whichever period expires later, but not later than 90 days after receiving
41 the request.

42 4. If the county fails to mail the certificate, the successor or assignee
43 is released from any further obligation to withhold any portion of the
44 purchase price, business or stock of goods.

45 5. The time within which the obligation of the successor or assignee
46 may be enforced begins when the person who is liable for the tax or fee
47 sells or assigns all or any portion of his business or stock of goods or
48 when the determination against the person becomes final, whichever
49 event occurs later.



* S B 2 3 8 *

1 **Sec. 34.** 1. *At any time within 3 years after any person has become*
2 *delinquent in the payment of any tax imposed pursuant to this chapter,*
3 *the county may seize any property, real or personal, of the person and*
4 *sell the property, or a sufficient part of it, at public auction to pay the*
5 *amount due, together with any interest or penalties imposed for the*
6 *delinquency and any costs incurred on account of the seizure and sale.*

7 2. *Any seizure made to collect a tax due may be only of the property*
8 *of the person not exempt from execution under the provisions of law.*

9 **Sec. 35.** *The county may adopt ordinances which set forth the*
10 *manner in which a person who does not owe any tax to the county may*
11 *claim an ownership interest in property transmitted to or seized by the*
12 *county. The ordinances must set forth:*

- 13 1. *The procedures the person must follow to assert such a claim; and*
14 2. *The circumstances under which the county will honor the claim.*

15 **Sec. 36.** 1. *Notice of the sale and the time and place of the sale*
16 *must be given to the person who is delinquent in the payment of taxes*
17 *pursuant to this chapter in writing at least 10 days before the date set for*
18 *the sale in the following manner:*

19 (a) *The notice must be enclosed in an envelope addressed to the*
20 *person at his last known address or place of business in this state. It must*
21 *be deposited in the United States mail, postage prepaid.*

22 (b) *The notice must also be published for at least 10 days before the*
23 *date set for the sale in a newspaper of general circulation published in*
24 *the county in which the property seized is to be sold. If there is no*
25 *newspaper of general circulation in the county, notice must be posted in*
26 *three public places in the county 10 days before the date set for the sale.*

27 2. *The notice must contain:*

28 (a) *A description of the property to be sold;*

29 (b) *A statement of the amount due, including interest, penalties and*
30 *costs;*

31 (c) *The name of the person who is delinquent in the payment; and*

32 (d) *A statement that unless the amount due, interest, penalties and*
33 *costs are paid on or before the time fixed in the notice for the sale, the*
34 *property, or so much of it as is necessary, will be sold in accordance with*
35 *law and the notice.*

36 **Sec. 37.** 1. *At the sale, the county shall sell the property in*
37 *accordance with law and the notice and deliver to the purchaser a bill of*
38 *sale for the personal property and a deed for any real property sold. The*
39 *bill of sale or deed vests the interest or title of the person liable for the*
40 *amount in the purchaser.*

41 2. *The unsold portion of any property seized may be left at the place*
42 *of sale at the risk of the person liable for the amount.*

43 **Sec. 38.** 1. *If, upon the sale, the money received exceeds the total*
44 *of all amounts, including interest, penalties and costs due the county, the*
45 *county shall return the excess to the person liable for the amounts and*
46 *obtain his receipt.*

47 2. *If any person having an interest in or lien upon real property*
48 *being transferred files with the county, before the sale, a notice of his*
49 *interest or lien, the county shall withhold any excess pending a*



1 *determination of the rights of the respective parties to it by a court of*
2 *competent jurisdiction.*

3 *3. If the receipt of the person liable for the amount is not available,*
4 *the county shall deposit the excess money with the county treasurer, as*
5 *trustee for the owner, subject to the order of the person liable for the*
6 *amount, his heirs, successors or assigns.*

7 **Sec. 39.** NRS 375.010 is hereby amended to read as follows:

8 375.010 The following terms, wherever used or referred to in this
9 chapter, have the following meaning unless a different meaning clearly
10 appears in the context:

11 1. "Buyer" means a person or other legal entity acquiring title to any
12 estate or present interest in real property in this state by deed, including,
13 without limitation, a grantee or other transferee of real property.

14 2. "Deed" means every instrument in writing, except a last will and
15 testament, whatever its form, and by whatever name it is known in law, by
16 which title to any estate or present interest in real property, including a
17 water right, permit, certificate or application, is conveyed or transferred to,
18 and vested in, another person, but does not include a lease for any term of
19 years, ~~for~~ an easement ~~or~~, *a mortgage instrument which encumbers real*
20 *property and does not convey title, an affidavit of surviving tenant or a*
21 *conveyance of a right of way.*

22 3. "Escrow" means the delivery of a deed by the seller into the hands
23 of a third person, including an attorney, title company, real estate broker or
24 other person engaged in the business of administering escrows for
25 compensation, to be held by the third person until the happening of a
26 contingency or performance of a condition, and then to be delivered by the
27 third person to the buyer.

28 4. "Seller" means a person or other legal entity transferring title to any
29 estate or present interest in real property in this state by deed, including,
30 without limitation, a grantor or other transferor of real property.

31 5. "Value" means:

32 (a) In the case of any deed not a gift, the amount of the full ~~actual~~
33 ~~consideration~~ *purchase price* paid or to be paid for the real property. ~~for~~
34 ~~excluding the amount of any lien or liens assumed.~~

35 (b) In the case of a gift, or any deed with nominal consideration or
36 without stated consideration, the estimated ~~price the real property would~~
37 ~~bring in an open market and under the then prevailing market conditions in~~
38 ~~a sale between a willing seller and a willing buyer, both conversant with~~
39 ~~the property and with prevailing general price levels.~~ *fair market value of*
40 *the property.*

41 *As used in this section, "estimated fair market value" means the*
42 *estimated price the real property would bring on the open market in a*
43 *sale between a willing buyer and a willing seller. Such price may be*
44 *derived from the assessor's appraised value, the purchase price, the*
45 *amount able to be borrowed against the property without reserve for*
46 *construction or improvements, or an independent appraiser, whichever is*
47 *highest.*



* S B 2 3 8 *

1 **Sec. 40.** NRS 375.030 is hereby amended to read as follows:

2 375.030 1. If any deed evidencing a transfer of title subject to the tax
3 imposed by NRS 375.020 and, if applicable, NRS 375.025, is offered for
4 recordation, the county recorder shall compute the amount of the tax due
5 and shall collect that amount before acceptance of the deed for recordation.

6 2. The buyer and seller are jointly and severally liable for the payment
7 of the taxes imposed by NRS 375.020 and 375.025 and any penalties and
8 interest imposed pursuant to subsection 3. The escrow holder is not liable
9 for the payment of the taxes imposed by NRS 375.020 and 375.025 or any
10 penalties or interest imposed pursuant to subsection 3.

11 3. If after recordation of the deed, the county recorder disallows an
12 exemption that was claimed at the time the deed was recorded or through
13 audit or otherwise determines that an additional amount of tax is due, the
14 county recorder shall promptly notify the *person who requested the*
15 *recording of the deed, and the* buyer or seller, or both, of the additional
16 amount of tax due. ~~In addition to the additional amount determined to be~~
17 ~~due, If the additional amount of tax is not paid within 30 days after the~~
18 *date the buyer is notified,* the county recorder shall impose a penalty of 10
19 percent of the additional amount due in addition to interest at the rate of 1
20 1/2 percent per month, or portion thereof, of the additional amount due
21 calculated from the date of the original recordation of the deed on which
22 the additional amount is due through the date on which the additional
23 amount due, penalty and interest are paid to the county recorder.

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

29 **Sec. 41.** NRS 375.070 is hereby amended to read as follows:

30 375.070 1. ~~At the end of each quarter, the~~ county recorder
31 shall *retain an amount equal to 5 percent of the proceeds of the total*
32 *amount collected from the real property transfer tax imposed pursuant to*
33 *this chapter and credit that amount to the office of the county recorder to*
34 *be used only to administer taxes pursuant to this chapter. The county*
35 *recorder shall* transmit the *remaining* proceeds of the real property
36 transfer tax ~~at the end of each quarter~~ in the following manner:

37 (a) An amount equal to that portion of the proceeds which is equivalent
38 to 10 cents for each \$500 of value or fraction thereof must be transmitted to
39 the state treasurer who shall deposit that amount in the account for low-
40 income housing created pursuant to NRS 319.500.

41 (b) In a county whose population is more than 400,000, an amount
42 equal to that portion of the proceeds which is equivalent to 60 cents for
43 each \$500 of value or fraction thereof must be transmitted to the county
44 treasurer for deposit in the county school district's fund for capital projects
45 established pursuant to NRS 387.328, to be held and expended in the same
46 manner as other money deposited in that fund.

47 (c) The remaining proceeds must be transmitted to the state treasurer for
48 deposit in the local government tax distribution account created by NRS



1 360.660 for credit to the respective accounts of Carson City and each
2 county.

3 2. In addition to any other authorized use of the proceeds it receives
4 pursuant to subsection 1, a county or city may use the proceeds to pay
5 expenses related to or incurred for the development of affordable housing
6 for families whose income does not exceed 80 percent of the median
7 income for families residing in the same county, as that percentage is
8 defined by the United States Department of Housing and Urban
9 Development. A county or city that uses the proceeds in that manner must
10 give priority to the development of affordable housing for persons who are
11 disabled or elderly.

12 3. The expenses authorized by subsection 2 include, but are not limited
13 to:

- 14 (a) The costs to acquire land and developmental rights;
- 15 (b) Related predevelopment expenses;
- 16 (c) The costs to develop the land, including the payment of related
17 rebates;
- 18 (d) Contributions toward down payments made for the purchase of
19 affordable housing; and
- 20 (e) The creation of related trust funds.

21 **Sec. 42.** NRS 375.090 is hereby amended to read as follows:

22 375.090 The tax imposed by NRS 375.020 and 375.025 does not apply
23 to:

24 1. ~~Any transaction wherein an interest in real property is encumbered~~
25 ~~for the purposes of securing a debt.~~

26 ~~2.~~ A transfer of title to or from the United States, any territory or state
27 or any agency, department, instrumentality or political subdivision thereof.

28 ~~3.~~ 2. A transfer of title recognizing the true status of ownership of
29 the real property.

30 ~~4.~~ 3. A transfer of title without consideration from one joint tenant
31 or tenant in common to one or more remaining joint tenants or tenants in
32 common.

33 ~~5.~~ 4. A transfer of title to community property without consideration
34 when held in the name of one spouse to both spouses as joint tenants or
35 tenants in common, or as community property.

36 ~~6.~~ 5. A transfer of title between spouses, including gifts.

37 ~~7.~~ 6. A transfer of title between spouses to effect a property
38 settlement agreement or between former spouses in compliance with a
39 decree of divorce.

40 ~~8.~~ 7. A transfer of title to ~~for from~~ a trust, if the transfer is made
41 without consideration ~~for~~.

42 ~~9. Transfers, assignments or conveyances of unpatented mines or~~
43 ~~mining claims.~~

44 ~~10.~~ *and is made to or from a person related to the trustor in the first*
45 *degree of consanguinity or to or from trustors.*

46 8. A transfer, assignment or other conveyance of real property to a
47 corporation or other business organization if the person conveying the
48 property owns 100 percent of the corporation or organization to which the
49 conveyance is made.



1 ~~111~~ 9. A transfer, assignment or other conveyance of real property if
2 the owner of the property is related to the person to whom it is conveyed
3 within the first degree of consanguinity.

4 ~~112~~ 10. The making, delivery or filing of conveyances of real
5 property to make effective any plan of reorganization or adjustment:

6 (a) Confirmed under the Bankruptcy Act, as amended, ~~11 of~~
7 ~~U.S.C.; 11 U.S.C. §§ 101 et seq.;~~

8 (b) Approved in an equity receivership proceeding involving a railroad
9 as defined in the Bankruptcy Act; *or*

10 (c) Approved in an equity receivership proceeding involving a
11 corporation, as defined in the Bankruptcy Act, ~~1; or~~

12 ~~—(d) Whereby a mere change in identity, form or place of organization is~~
13 ~~effected, such as a transfer between a corporation and its parent~~
14 ~~corporation, a subsidiary or an affiliated corporation.]~~

15 if the making, delivery or filing of instruments of transfer or conveyance
16 occurs within 5 years after the date of the confirmation, approval or
17 change.

18 ~~113~~ 11. *A mere change in identity, form or place of organization,*
19 *such as a transfer between a corporation and its parent corporation, a*
20 *subsidiary or an affiliated corporation if the affiliated corporation has*
21 *identical common ownership.*

22 12. The making or delivery of conveyances of real property to make
23 effective any order of the Securities and Exchange Commission if:

24 (a) The order of the Securities and Exchange Commission in obedience
25 to which the transfer or conveyance is made recites that the transfer or
26 conveyance is necessary or appropriate to effectuate the provisions of
27 section 11 of the Public Utility Holding Company Act of 1935, 15 U.S.C. §
28 79k;

29 (b) The order specifies and itemizes the property which is ordered to be
30 transferred or conveyed; and

31 (c) The transfer or conveyance is made in obedience to the order.

32 ~~114~~ 13. A transfer to ~~for from~~ an educational foundation. As used in
33 this subsection, "educational foundation" has the meaning ascribed to it in
34 subsection 3 of NRS 388.750.

35 ~~115~~ 14. A transfer to ~~for from~~ a university foundation. As used in
36 this subsection, "university foundation" has the meaning ascribed to it in
37 subsection 3 of NRS 396.405.

38 ~~116~~ 15. A transfer, assignment or other conveyance of real property
39 to a corporation sole from another corporation sole. As used in this
40 subsection, "corporation sole" means a corporation which is organized
41 pursuant to the provisions of chapter 84 of NRS.

42 **Sec. 43.** NRS 375.100 is hereby amended to read as follows:

43 375.100 The county recorder shall refuse to record any deed or
44 conveyance upon which a tax is imposed by this chapter if the tax has not
45 been paid ~~1~~ *and is not subject to liability for refusing to record a deed or*
46 *conveyance for which a tax imposed pursuant to this chapter has not*
47 *been paid.*

48 **Sec. 44.** NRS 388.750 is hereby amended to read as follows:

49 388.750 1. An educational foundation:



1 (a) Shall comply with the provisions of chapter 241 of NRS;
2 (b) Except as otherwise provided in subsection 2, shall make its records
3 public and open to inspection pursuant to NRS 239.010; and

4 (c) Is exempt from the tax on transfers of real property ~~pursuant to~~
5 ~~subsection 14~~ *to the extent set forth in subsection 13* of NRS 375.090.

6 2. An educational foundation is not required to disclose the names of
7 the contributors to the foundation or the amount of their contributions. The
8 educational foundation shall, upon request, allow a contributor to examine,
9 during regular business hours, any record, document or other information
10 of the foundation relating to that contributor.

11 3. As used in this section, "educational foundation" means a nonprofit
12 corporation, association or institution or a charitable organization that is:

13 (a) Organized and operated exclusively for the purpose of supporting
14 one or more kindergartens, elementary schools, junior high or middle
15 schools or high schools, or any combination thereof;

16 (b) Formed pursuant to the laws of this state; and

17 (c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

18 **Sec. 45.** NRS 396.405 is hereby amended to read as follows:

19 396.405 1. A university foundation:

20 (a) Shall comply with the provisions of chapter 241 of NRS;

21 (b) Except as otherwise provided in subsection 2, shall make its records
22 public and open to inspection pursuant to NRS 239.010;

23 (c) Is exempt from the tax on transfers of real property ~~pursuant to~~
24 ~~subsection 14~~ *to the extent set forth in subsection 13* of NRS 375.090;
25 and

26 (d) May allow a president or an administrator of the university or
27 community college which it supports to serve as a member of its governing
28 body.

29 2. A university foundation is not required to disclose the name of any
30 contributor or potential contributor to the university foundation, the amount
31 of his contribution or any information which may reveal or lead to the
32 discovery of his identity. The university foundation shall, upon request,
33 allow a contributor to examine, during regular business hours, any record,
34 document or other information of the foundation relating to that
35 contributor.

36 3. As used in this section, "university foundation" means a nonprofit
37 corporation, association or institution or a charitable organization that is:

38 (a) Organized and operated exclusively for the purpose of supporting a
39 university or a community college;

40 (b) Formed pursuant to the laws of this state; and

41 (c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

42 **Sec. 46.** The provisions of subsection 1 of NRS 354.599 do not apply
43 to any additional expenses of a local government that are related to the
44 provisions of this act.

45 **Sec. 47.** This act becomes effective on July 1, 2001.

