

HOUSE BILL NO. HB0035

County optional real estate tax.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to taxation and revenue; providing for an
2 optional excise tax on the sale of real property as
3 specified; providing for distribution of the tax; providing
4 for a reduction of local distributions based on revenue
5 collected from the tax; requiring rulemaking; imposing
6 penalties; and providing for effective dates.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 39-24-101 through 39-24-111 are
11 created to read:

12

13

CHAPTER 24

14

REAL ESTATE TRANSFER TAX

15

16 **39-24-101. Definitions.**

1

2 (a) As used in this chapter:

3

4 (i) "Agricultural land" means land which meets
5 the requirements of W.S. 39-13-103(b)(x) for the purpose of
6 tax assessment;

7

8 (ii) "Consideration" means any property or thing
9 of legal value whether delivered in the past, present or to
10 be delivered in the future and includes like kind exchanges
11 of property;

12

13 (iii) "Conveyance" means as defined by W.S.
14 34-1-102;

15

16 (iv) "Deed" means a conveyance of real property,
17 in writing signed by the grantor, whereby the interest held
18 by the grantor to real property is transferred from one to
19 another;

20

21 (v) "Real property" means as defined by W.S.
22 39-11-101(a)(xv).

23

1 **39-24-102. Administration.**

2

3 The department shall enforce the provisions of this
4 chapter. The department shall promulgate rules necessary
5 for the implementation and enforcement of this chapter.

6

7 **39-24-103. Imposition.**

8

9 (a) Taxable event. A county may impose an excise tax
10 on the sale of real property under W.S. 39-24-104(a),
11 provided that:

12

13 (i) The revenue from the tax shall be used by
14 the county in specific percentages for specific purposes as
15 provided in the proposition submitted to the qualified
16 electors;

17

18 (ii) No tax shall be imposed under W.S.
19 39-24-104(a) until the proposition to impose the tax in
20 specific percentages for specific purposes is submitted to
21 the vote of the qualified electors of the county, and a
22 majority of those casting their ballots at the election
23 vote in favor of imposing the tax;

1

2 (iii) The proposition to impose the tax shall be
3 at the expense of the county and be submitted to the
4 electors of the county upon the receipt by the board of
5 county commissioners of a petition requesting the election
6 signed by at least five percent (5%) of the electors of the
7 county or of a resolution approving the proposition from
8 the governing body of the county and the governing bodies
9 of at least fifty percent (50%) of the incorporated
10 municipalities within the county. If proposed by petition
11 by electors, the number of electors required shall be
12 determined by the total number of votes cast at the last
13 general election. The election shall be at the direction
14 and under the supervision of the board of county
15 commissioners;

16

17 (iv) The proposition to impose the tax may be
18 submitted at an election held on a date authorized under
19 W.S. 22-21-103. A notice of election shall be given in at
20 least one (1) newspaper of general circulation published in
21 the county in which the election is to be held, and the
22 notice shall specify the object of the election. The notice
23 shall be published at least once each week for a thirty

1 (30) day period preceding the election. At the election the
2 ballots shall contain the words "for the county real estate
3 transfer tax" and "against the county real estate transfer
4 tax". The ballot in an election under this section shall
5 specify the amount of sale that is excluded from the tax as
6 provided in W.S. 39-24-104(a)(i) and shall specify how
7 funds from the tax will be used in a clear and appropriate
8 manner;

9

10 (v) If the proposition to impose the tax under
11 W.S. 39-24-104(a) is approved, the same proposition shall
12 be submitted, until defeated, at the second general
13 election following the election at which the proposition
14 was initially approved and at the general election held
15 every four (4) years thereafter;

16

17 (vi) If the proposition to impose or continue
18 the tax is defeated the proposition shall not again be
19 submitted to the electors of the county for at least eleven
20 (11) months. If the proposition is defeated at any general
21 election following initial adoption of the proposition, the
22 tax is repealed;

23

1 (vii) If the proposition is approved by the
2 qualified electors the board of county commissioners shall
3 by resolution impose the tax upon the sale of real
4 property.

5

6 (b) Basis of tax. The tax shall be collected based
7 on the full actual consideration paid for the legal title
8 or beneficial interest conveyed including any lien assumed
9 using the best available information. For a gift or any
10 deed transferred with nominal consideration or without
11 stated consideration, the tax shall be collected based on
12 the most recent fair market value, as determined by the
13 county assessor, of the real property or interest that is
14 transferred.

15

16 (c) Taxpayer. The grantee shall pay the tax under
17 this chapter.

18

19 **39-24-104. Taxation rate.**

20

21 (a) The tax shall be based on the total amount of the
22 real property sale in the following percentages as

1 specified in the proposition submitted to the qualified
2 electors:

3

4 (i) For any amount of a sale up to the amount
5 determined in the initial proposition not to exceed one
6 million five hundred thousand dollars (\$1,500,000.00): zero
7 percent (0%);

8

9 (ii) For any amount of a sale in excess of the
10 amount specified in paragraph (i) of this subsection: one
11 percent (1%).

12

13 **39-24-105. Exemptions.**

14

15 (a) The tax under this chapter shall not be imposed
16 upon any deed of legal title to or beneficial interest in
17 real property that is recorded:

18

19 (i) Prior to July 1, 2022, including any deed
20 recorded as the result of any transfer of real property
21 that is completed pursuant to a contract that was executed
22 prior to July 1, 2022;

23

1 (ii) To confirm, correct, modify or supplement a
2 previously recorded instrument without added consideration;

3

4 (iii) For any transfer without consideration
5 from one (1) joint tenant or tenant in common to one (1) or
6 more remaining joint tenants or tenants in common;

7

8 (iv) For any transfer without consideration when
9 held in the name of one (1) spouse to both spouses as joint
10 tenants, tenants in common, tenants by the entirety or as
11 community property;

12

13 (v) For any transfer between spouses, including
14 any gift between spouses;

15

16 (vi) For any transfer pursuant to a court order
17 or decree including any transfer of legal title to or
18 beneficial interest in real property between spouses to
19 effect a property settlement agreement or between former
20 spouses in compliance with a decree of divorce;

21

22 (vii) For any transfer without consideration to
23 or from a trust;

1

2 (viii) For any transfer between a parent and
3 child, including a gift;

4

5 (ix) For any transfer to make effective any plan
6 of reorganization or adjustment under which a mere change
7 in identity, form or place of organization is effected,
8 including a transfer between a corporation and its parent
9 corporation or a subsidiary corporation;

10

11 (x) For any transfer due to the sale of the
12 property for delinquent taxes or assessments or due to a
13 sale or transfer pursuant to foreclosure;

14

15 (xi) For any transfer conducted through a county
16 certificate of purchase or a sheriff's deed;

17

18 (xii) For any transfer of agricultural land;

19

20 (xiii) For any exchange of real property, the
21 tax shall not apply to the portion of the properties'
22 combined value equal to the value of the lowest valued

1 property being exchanged, as determined by the county
2 assessor for the previous calendar year;

3

4 (xiv) For any transfer of real property exempted
5 from property taxation under W.S. 39-11-105(a)(i) through
6 (viii) and any property protected from taxation under the
7 Wyoming constitution;

8

9 (xv) For any transfer of real property interests
10 in a mineral estate;

11

12 (xvi) For any transfer of real property used for
13 industrial purposes as defined by W.S.
14 39-11-101(a)(xiv)(B);

15

16 (xvii) For a lease;

17

18 (xviii) For an easement;

19

20 (xix) For any transfer of real property located
21 within the boundaries of the Wind River Indian reservation
22 if the grantor or grantee is a member of the Eastern
23 Shoshone or Northern Arapahoe Indian Tribes;

1

2 (xx) For any transfer of real property without
3 consideration to a nonprofit organization that is exempt
4 from federal income tax under section 501(c)(3) of the
5 Internal Revenue Code and that is not a private foundation
6 as defined in section 509(a) of the Internal Revenue Code;

7

8 (xxi) Any other transfer which the department
9 exempts by rule upon a finding that the transfer does not
10 represent a taxable conveyance of property due to the
11 relationship of the parties or the nature of the real
12 property.

13

14 **39-24-106. Licensing; permits.**

15

16 There are no specific applicable provisions for licenses
17 and permits for this chapter.

18

19 **39-24-107. Compliance; collection procedures.**

20

21 (a) Returns and reports. Taxes imposed by this
22 chapter are due and payable at the office of the county
23 treasurer of the county in which the real property is

1 located on the date of recordation of the deed or other
2 instrument. The tax shall be collected on the full actual
3 consideration paid for real property, provided that if the
4 property is transferred with nominal consideration or
5 without stated consideration, the tax shall be collected
6 based on the most recent fair market value, as determined
7 by the county assessor, of the real property that is
8 transferred as the best available information. The county
9 clerk shall not record a document transferring legal title
10 to or beneficial interest in real property until all taxes
11 due under this chapter have been paid to the county
12 treasurer. The grantor and grantee shall sign, on a form
13 prescribed by the department, a statement eliciting the
14 information necessary for the assessment of the tax. The
15 statement, receipt and revenues, if disclosure of the
16 revenues would identify the amount of a single sale, are
17 not public records and shall be held confidential by the
18 county clerk, county assessor, county treasurer, county
19 board of equalization, state board of equalization and by
20 the department.

21

22 (b) It is a misdemeanor for a person to willfully
23 disclose, except as specifically authorized by law, any

1 information on the statement required by subsection (a) of
2 this section. Upon conviction, the offender is subject to a
3 fine of not more than seven hundred fifty dollars
4 (\$750.00), imprisonment for not more than six (6) months,
5 or both.

6

7 (c) Payment. The grantee shall pay the tax under this
8 chapter. Payment shall be collected from the grantee at the
9 time of recording the deed or other instrument in the form
10 prescribed by the department. The grantee shall sign under
11 penalty of perjury on a form prescribed by the department
12 that the tax required under this chapter has been paid.

13

14 (d) Timelines. There are no specific applicable
15 provisions for timelines for this chapter.

16

17 (e) If the property being transferred is located in
18 more than one (1) county and the value has not been
19 determined by the grantor and grantee as to each county,
20 the value and resulting taxes due under this chapter shall
21 be established by applying the ratio of the assessed
22 valuation in each county to the assessed valuation of all
23 property being transferred. If one (1) or more of the

1 counties where the property is located has not imposed a
2 tax under this chapter, the ratio of the property located
3 in that county shall not be subject to the tax.

4

5 **39-24-108. Enforcement.**

6

7 There are no specific applicable provisions for enforcement
8 for this chapter.

9

10 **39-24-109. Taxpayer remedies.**

11

12 There are no specific applicable provisions for taxpayer
13 remedies for this chapter.

14

15 **39-24-110. Statute of limitations.**

16

17 There are no specific applicable provisions for a statute
18 of limitations for this chapter.

19

20 **39-24-111. Distribution.**

21

22 (a) Taxes collected by the county treasurer under
23 this chapter shall be distributed as follows:

1

2 (i) To the county in the proportion that the
3 population of the county situated outside the corporate
4 limits of its cities and towns bears to the total
5 population of the county including cities and towns;

6

7 (ii) To each city and town within the county in
8 the proportion the population of the city or town bears to
9 the population of the county.

10

11 (b) The revenue from the tax under this chapter shall
12 be used in specific percentages for specific purposes as
13 provided in the proposition submitted to the qualified
14 electors under W.S. 39-24-103(a).

15

16 (c) Any fiscal year distribution to a local
17 government by the office of state lands and investments
18 under 2020 Wyoming Session Laws, Chapter 33 shall be
19 reduced by fifty percent (50%) of the tax distributed to
20 that local government under this section in the same fiscal
21 year. It is the intent of the legislature that a similar
22 reduction be included in any similar or subsequent bill
23 establishing a distribution of state funds to local

1 governments for local government funding. The amount of the
2 local government distribution that is reduced under this
3 subsection shall revert to the general fund.

4

5 **Section 2.** W.S. 34-1-119(a) and 39-11-101(a)(xviii)
6 are amended to read:

7

8 **34-1-119. Duties of county clerk generally.**

9

10 (a) The county clerk of each county within this state
11 shall receive and record at length all deeds, mortgages,
12 conveyances, patents, certificates and instruments left
13 with him for that purpose, and he shall endorse on every
14 such instrument the day and hour on which it was filed for
15 record. The county clerk shall not record any document
16 until the clerk receives documentation that the tax
17 required by W.S. 39-24-103, if any, has been paid to the
18 county treasurer. The county clerk shall not record any
19 document until the address of the grantee, mortgagee or
20 assignee of the mortgagee is furnished to the county clerk,
21 but this requirement shall not affect the validity of the
22 recording of any instrument except to the extent provided
23 in W.S. 34-1-142(b). Only instruments which are the

1 originally signed documents, including electronic documents
2 recorded pursuant to the Uniform Real Property Electronic
3 Recording Act, W.S. 34-1-401 through 34-1-407, or properly
4 certified or authenticated copies thereof may be properly
5 recorded. A document is properly certified if in compliance
6 with Rule 902 of the Wyoming Rules of Evidence or other
7 applicable rule or statute.

8

9 **39-11-101. Definitions.**

10

11 (a) As used in this act unless otherwise specifically
12 provided:

13

14 (xviii) "This act" means W.S. 39-11-101 through
15 ~~39-22-111~~ 39-24-111.

16

17 **Section 3.** The department of revenue shall adopt
18 rules necessary to implement the county option real estate
19 transfer tax not later than July 1, 2022.

20

1 **Section 4.**

2

3 (a) Except as provided in subsection (b) of this
4 section, this act is effective immediately upon completion
5 of all acts necessary for a bill to become law as provided
6 by Article 4, Section 8 of the Wyoming Constitution.

7

8 (b) Sections 1 and 2 of this act are effective July
9 1, 2022.

10

11

(END)