

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 348**

Introduced by Janssen, 15.

Read first time January 15, 2009

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to tax statements; to amend sections 84-712  
2 and 84-712.01, Reissue Revised Statutes of Nebraska, and  
3 section 76-214, Revised Statutes Cumulative Supplement,  
4 2008; to change access and fee provisions relating to tax  
5 statements; and to repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 76-214, Revised Statutes Cumulative  
2 Supplement, 2008, is amended to read:

3           76-214 (1) Every grantee who has a deed to real estate  
4 recorded and every purchaser of real estate who has a memorandum  
5 of contract or land contract recorded shall, at the time such  
6 deed, memorandum of contract, or land contract is presented for  
7 recording, file with the register of deeds a completed statement as  
8 prescribed by the Tax Commissioner. For all deeds and all memoranda  
9 of contract and land contracts recorded on and after January 1,  
10 2001, the statement shall not require the social security number  
11 of the grantee or purchaser or the federal employer identification  
12 number of the grantee or purchaser. This statement may require the  
13 recitation of any information contained in the deed, memorandum  
14 of contract, or land contract, the total consideration paid, the  
15 amount of the total consideration attributable to factors other  
16 than the purchase of the real estate itself, and other factors  
17 which may influence the transaction. This statement shall be  
18 signed and filed by the grantee, the purchaser, or his or her  
19 authorized agent. The register of deeds shall forward the statement  
20 to the county assessor. If the grantee or purchaser fails to  
21 furnish the prescribed statement, the register of deeds shall  
22 not record the deed, memorandum of contract, or land contract.  
23 The register of deeds shall indicate on the statement the book  
24 and page or computer system reference where the deed, memorandum  
25 of contract, or land contract is recorded and shall immediately

1 forward the statement to the county assessor. The county assessor  
2 shall process the statement according to the instructions of the  
3 Property Tax Administrator and shall, pursuant to the rules and  
4 regulations of the Tax Commissioner, forward the statement to the  
5 Tax Commissioner.

6 (2) Any person shall have access to the statements at the  
7 office of the Tax Commissioner, ~~or~~ county assessor, or register of  
8 deeds if the statements are available and have not been disposed  
9 of pursuant to the records retention and disposition schedule as  
10 approved by the State Records Administrator.

11 Sec. 2. Section 84-712, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 84-712 (1) Except as otherwise expressly provided by  
14 statute, all citizens of this state, and all other persons  
15 interested in the examination of the public records, as defined  
16 in section 84-712.01, are hereby fully empowered and authorized  
17 to (a) examine the same, and make memoranda, copies using their  
18 own copying or photocopying equipment in accordance with subsection  
19 (2) of this section, and abstracts therefrom, all free of charge,  
20 during the hours the respective offices may be kept open for  
21 the ordinary transaction of business and (b) except if federal  
22 copyright law otherwise provides, obtain copies of public records  
23 in accordance with subsection (3) of this section during the  
24 hours the respective offices may be kept open for the ordinary  
25 transaction of business.

1           (2) Copies made by citizens or other persons using their  
2 own copying or photocopying equipment pursuant to subdivision  
3 (1)(a) of this section shall be made on the premises of the  
4 custodian of the public record or at a location mutually agreed to  
5 by the requester and the custodian.

6           (3)(a) Copies may be obtained pursuant to subdivision  
7 (1)(b) of this section only if the custodian has copying equipment  
8 reasonably available. Such copies may be obtained in any form  
9 designated by the requester in which the public record is  
10 maintained or produced, including, but not limited to, printouts,  
11 electronic data, discs, tapes, and photocopies.

12           (b) Except as otherwise provided by statute, the  
13 custodian of a public record may charge a fee for providing copies  
14 of such public record pursuant to subdivision (1)(b) of this  
15 section, which fee shall not exceed the actual cost of making  
16 the copies available. For purposes of this subdivision, (i) for  
17 photocopies, the actual cost of making the copies available shall  
18 not exceed the amount of the reasonably calculated actual cost of  
19 the photocopies, (ii) for printouts of computerized data on paper,  
20 the actual cost of making the copies available shall include the  
21 reasonably calculated actual cost of computer run time and the  
22 cost of materials for making the copy, and (iii) for electronic  
23 data, the actual cost of making the copies available shall include  
24 the reasonably calculated actual cost of the computer run time,  
25 any necessary analysis and programming, and the production of the

1 report in the form furnished to the requester. State agencies  
2 which provide electronic access to public records through a gateway  
3 service shall obtain approval of their proposed reasonable fees for  
4 such records pursuant to sections 84-1205.02 and 84-1205.03, if  
5 applicable, and the actual cost of making the copies available may  
6 include the approved fee for the gateway service.

7 (c) This section shall not be construed to require a  
8 public body or custodian of a public record to produce or generate  
9 any public record in a new or different form or format modified  
10 from that of the original public record.

11 (d) If copies requested in accordance with subdivision  
12 (1)(b) of this section are estimated by the custodian of such  
13 public records to cost more than fifty dollars, the custodian may  
14 require the requester to furnish a deposit prior to fulfilling such  
15 request.

16 (e) A fee shall not be charged for copies of tax  
17 statements under section 76-214 requested by a legal newspaper as  
18 defined in section 25-523.

19 (4) Upon receipt of a written request for access to or  
20 copies of a public record, the custodian of such record shall  
21 provide to the requester as soon as is practicable and without  
22 delay, but not more than four business days after actual receipt  
23 of the request, either (a) access to or, if copying equipment is  
24 reasonably available, copies of the public record, (b) if there  
25 is a legal basis for denial of access or copies, a written denial

1 of the request together with the information specified in section  
2 84-712.04, or (c) if the entire request cannot with reasonable good  
3 faith efforts be fulfilled within four business days after actual  
4 receipt of the request due to the significant difficulty or the  
5 extensiveness of the request, a written explanation, including the  
6 earliest practicable date for fulfilling the request, an estimate  
7 of the expected cost of any copies, and an opportunity for the  
8 requester to modify or prioritize the items within the request.

9           Sec. 3. Section 84-712.01, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           84-712.01 (1) Except when any other statute expressly  
12 provides that particular information or records shall not be made  
13 public, public records shall include all records and documents,  
14 regardless of physical form, of or belonging to this state, any  
15 county, city, village, political subdivision, or tax-supported  
16 district in this state, or any agency, branch, department, board,  
17 bureau, commission, council, subunit, or committee of any of the  
18 foregoing. Data which is a public record in its original form shall  
19 remain a public record when maintained in computer files.

20           (2) When a custodian of a public record of a county  
21 provides to a member of the public, upon request, a copy of the  
22 public record by transmitting it from a modem to an outside modem,  
23 a reasonable fee may be charged for such specialized service. Such  
24 fee may include a reasonable amount representing a portion of the  
25 amortization of the cost of computer equipment, including software,

1 necessarily added in order to provide such specialized service.  
2 This subsection shall not be construed to require a governmental  
3 entity to acquire computer capability to generate public records  
4 in a new or different form when that new form would require  
5 additional computer equipment or software not already possessed by  
6 the governmental entity. A fee shall not be charged for copies of  
7 tax statements under section 76-214 requested by a legal newspaper  
8 as defined in section 25-523.

9 (3) Sections 84-712 to 84-712.03 shall be liberally  
10 construed whenever any state, county, or political subdivision  
11 fiscal records, audit, warrant, voucher, invoice, purchase order,  
12 requisition, payroll, check, receipt, or other record of receipt,  
13 cash, or expenditure involving public funds is involved in order  
14 that the citizens of this state shall have the full right to know  
15 of and have full access to information on the public finances of  
16 the government and the public bodies and entities created to serve  
17 them.

18 Sec. 4. Original sections 84-712 and 84-712.01, Reissue  
19 Revised Statutes of Nebraska, and section 76-214, Revised Statutes  
20 Cumulative Supplement, 2008, are repealed.