

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1075

Introduced by Friesen, 34.

Read first time January 17, 2018

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to impose a fee on
- 2 transfers of real estate; to exempt certain instruments from the
- 3 fee; to provide powers and duties; to authorize refunds; and to
- 4 provide an operative date.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) There is hereby imposed a fee on the grantor
2 executing a deed as defined in section 76-203 upon the transfer of a
3 beneficial interest in or legal title to real estate. The fee shall be
4 equal to one percent of the value of the real estate. For purposes of
5 sections 1 to 6 of this act, value means:

6 (a) In the case of any deed, not a gift, the amount of the full
7 actual consideration thereof, paid or to be paid, including the amount of
8 any lien or liens assumed; or

9 (b) In the case of a gift or any deed with nominal consideration or
10 without stated consideration, the current market value of the property
11 transferred.

12 (2) All deeds purporting to transfer legal title or beneficial
13 interest shall be presumed to be subject to the fee unless it clearly
14 appears on the face of the deed or sufficient documentary proof is
15 presented to the register of deeds that the instrument is exempt under
16 section 2 of this act.

17 Sec. 2. The fee imposed by section 1 of this act shall not apply to
18 any instrument that is exempt from the documentary stamp tax pursuant to
19 section 76-902.

20 Sec. 3. When any deed subject to the fee imposed by section 1 of
21 this act is offered for recordation, the register of deeds shall
22 ascertain and compute the amount of the fee due thereon and shall collect
23 such amount as a prerequisite to acceptance of the deed for recordation.
24 If a dispute arises regarding whether the transfer is subject to the fee,
25 the register of deeds shall not record the deed until the disputed fee is
26 paid. If a disputed fee has been paid, the person paying the fee may file
27 for a refund pursuant to section 5 of this act. From each fee collected,
28 the register of deeds shall retain fifty cents to be placed in the county
29 general fund and shall remit the balance to the State Treasurer for
30 credit to the Property Tax Credit Cash Fund.

31 Sec. 4. If a register of deeds records any deed that is subject to

1 the fee imposed in section 1 of this act without collecting the proper
2 amount of the fee, such register of deeds shall, upon conviction thereof,
3 be fined the sum of fifty dollars.

4 Sec. 5. (1) Any person paying the fee imposed by section 1 of this
5 act may claim a refund if the payment of such fee was:

6 (a) The result of a misunderstanding or honest mistake of the person
7 paying the fee;

8 (b) The result of a clerical error on the part of the register of
9 deeds or the person paying the fee; or

10 (c) Invalid for any reason.

11 (2) Within two years after payment of such fee, the person paying
12 the fee shall file in the office of the register of deeds of the county
13 in which the fee was paid a written claim on a form prescribed by the Tax
14 Commissioner and evidence in support thereof, stating the reason for the
15 claim. The register of deeds shall, within thirty days after such filing,
16 make a recommendation of approval or denial and forward the
17 recommendation together with a copy of the claim and evidence filed to
18 the Tax Commissioner. Within thirty days after the forwarding of such
19 recommendation, the Tax Commissioner shall, upon consideration of the
20 recommendation of the register of deeds and the claim and evidence filed
21 by the person paying the fee, render his or her decision approving or
22 rejecting the claim for a refund in whole or in part. A copy of the
23 decision of the Tax Commissioner shall be mailed to the register of deeds
24 and to the last-known address of the person paying the fee within ten
25 days after the decision is rendered. Upon approval by the Tax
26 Commissioner of a refund for all or a portion of the fee paid, the
27 register of deeds may make such refund from the currently collected fees
28 presently in the office of the register of deeds. If the person paying
29 the fee is denied a refund under this section, in whole or in part, he or
30 she may appeal the decision of the Tax Commissioner and the appeal shall
31 be in accordance with the Administrative Procedure Act.

1 Sec. 6. The Tax Commissioner may adopt and promulgate rules and
2 regulations to carry out sections 1 to 6 of this act.

3 Sec. 7. This act becomes operative on January 1, 2019.