

## HOUSE BILL NO. HB0098

Real estate transfer tax.

Sponsored by: Representative(s) Schwartz and Madden

A BILL

for

1 AN ACT relating to taxation and revenue; providing for an  
2 excise tax on the sale of real property as specified;  
3 providing for distribution of the tax; requiring  
4 rulemaking; imposing penalties; and providing for an  
5 effective date.

6

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

8

9       **Section 1.** W.S. 39-23-101 through 39-23-111 are  
10 created to read:

11

12

CHAPTER 23

13

REAL ESTATE TRANSFER TAX

14

15       **39-23-101. Definitions.**

16

1 (a) As used in this chapter:

2

3 (i) "Agricultural land" means as defined by W.S.  
4 39-13-101(a)(iii);

5

6 (ii) "Department" means the department of  
7 revenue or its authorized agent;

8

9 (iii) "Real property" means as defined by W.S.  
10 39-11-101(a)(xv) and includes easements on real property.

11

12 **39-23-102. Administration.**

13

14 The department shall enforce the provisions of this  
15 chapter. The department shall promulgate rules and  
16 regulations necessary for the implementation and  
17 enforcement of this chapter.

18

19 **39-23-103. Imposition.**

20

21 (a) A county may impose an excise tax on the sale of  
22 real property under W.S. 39-23-104(a), provided that:

23

1           (i) No tax shall be imposed under W.S.  
2 39-23-104(a) except in counties where the total real estate  
3 sales volume exceeded six hundred fifty million dollars  
4 (\$650,000,000.00) in calendar year 2017;

5

6           (ii) No tax shall be imposed under W.S.  
7 39-23-104(a) until the proposition to impose the tax is  
8 submitted to the vote of the qualified electors of the  
9 county, and a majority of those casting their ballots vote  
10 in favor of imposing the tax;

11

12           (iii) The proposition to impose the tax shall be  
13 at the expense of the county and be submitted to the  
14 electors of the county upon the receipt by the board of  
15 county commissioners of a petition requesting the election  
16 signed by at least five percent (5%) of the electors of the  
17 county or of a resolution approving the proposition from  
18 the governing body of the county and the governing bodies  
19 of at least two-thirds (2/3) of the incorporated  
20 municipalities within the county. If proposed by petition  
21 by electors, the number of electors required shall be  
22 determined by the number of votes cast at the last general

1 election. The election shall be at the direction and under  
2 the supervision of the board of county commissioners;

3

4 (iv) The proposition to impose the tax may be  
5 submitted at an election held on a date authorized under  
6 W.S. 22-21-103. A notice of election shall be given in at  
7 least one (1) newspaper of general circulation published in  
8 the county in which the election is to be held, and the  
9 notice shall specify the object of the election. The  
10 notice shall be published at least once each week for a  
11 thirty (30) day period preceding the election. At the  
12 election the ballots shall contain the words "for the  
13 county real estate transfer tax" and "against the county  
14 real estate transfer tax". The ballot in an election under  
15 this section shall specify how funds from the tax will be  
16 used in a clear and appropriate manner;

17

18 (v) If the proposition to impose the tax under  
19 W.S. 39-23-104(a) is approved, the same proposition shall  
20 be submitted, until defeated, at the second general  
21 election following the election at which the proposition  
22 was initially approved and at the general election held  
23 every four (4) years thereafter;

1

2 (vi) If the proposition to impose or continue  
3 the tax is defeated the proposition shall not again be  
4 submitted to the electors of the county for at least eleven  
5 (11) months. If the proposition is defeated at any general  
6 election following initial adoption of the proposition the  
7 tax is repealed and shall not be collected on any  
8 subsequent sale of real property;

9

10 (vii) If the proposition is approved by the  
11 qualified electors the board of county commissioners shall  
12 by resolution impose the tax upon the sale of real  
13 property.

14

15 **39-23-104. Taxation rate.**

16

17 (a) The tax shall be based on the total amount of the  
18 real property sale as follows:

19

20 (i) One million dollars (\$1,000,000.00) or less:  
21 one one-hundredth of one percent (.01%);

22

1           (ii) For any amount of a sale in excess of one  
2 million dollars (\$1,000,000.00) but less than or equal to  
3 two million dollars (\$2,000,000.00): one percent (1%);  
4

5           (iii) For any amount of a sale in excess of two  
6 million dollars (\$2,000,000.00) but less than or equal to  
7 five million dollars (\$5,000,000.00): one and one-half  
8 percent (1.5%);  
9

10           (iv) For any amount of a sale in excess of five  
11 million dollars (\$5,000,000.00): two percent (2%).  
12

13           **39-23-105. Exemptions.**  
14

15           (a) The tax shall not be imposed upon any of the  
16 following:  
17

18           (i) Any transfer described in an instrument that  
19 confirms, corrects, modifies or supplements a previously  
20 recorded instrument without added consideration;  
21

1           (ii) Any transfer of title without consideration  
2 from one (1) joint tenant or tenant in common to one (1) or  
3 more remaining joint tenants or tenants in common;

4

5           (iii) Any transfer of title to property without  
6 consideration when held in the name of one (1) spouse to  
7 both spouses as joint tenants or tenants in common, or as  
8 community property;

9

10           (iv) Any transfer of title between spouses,  
11 including any gift between spouses;

12

13           (v) Any transfer of title between spouses to  
14 effect a property settlement agreement or between former  
15 spouses in compliance with a decree of divorce;

16

17           (vi) Any transfer of title without consideration  
18 to or from a trust;

19

20           (vii) Any transfer or other conveyance of real  
21 property to or from a corporation or other business entity  
22 by one (1) or more persons if the transfer or conveyance

1 does not alter the percentage of ownership interest in the  
2 real property of any person;

3

4 (viii) Any transfer or other conveyance of real  
5 property if the owner of the property is related, within  
6 the first degree of consanguinity of blood or marriage, to  
7 the person to whom it is conveyed;

8

9 (ix) Any transfer or other conveyance of real  
10 property to make effective any plan of reorganization or  
11 adjustment under which a mere change in identity, form or  
12 place of organization is effected, such as a transfer  
13 between a corporation and its parent corporation or a  
14 subsidiary corporation;

15

16 (x) Any transfer of real property due to the  
17 sale of the property for delinquent taxes or assessments or  
18 a sale or transfer pursuant to foreclosure;

19

20 (xi) Any transfer of real property by a county  
21 certificate of purchase or a sheriff's deed;

22



1           (xii) That portion of the value of any transfer  
2 of agricultural land up to one and one-half (1 1/2) times  
3 the agricultural value of the land as determined by the  
4 county assessor for the previous calendar year;

5

6           (xiii) Any exchange of real property up to the  
7 lesser value of the properties being exchanged as  
8 determined by the county assessor;

9

10           (xiv) Any transfer of real property exempted  
11 from property taxation under W.S. 39-11-105(a)(i) through  
12 (viii) and any property protected from taxation under the  
13 Wyoming constitution;

14

15           (xv) Any transfer of property pursuant to a  
16 contract executed prior to July 1, 2018;

17

18           (xvi) Any transfer of real property interests in  
19 a mineral estate;

20

21           (xvii) Any transfer of real property used for  
22 industrial purposes as defined by W.S.  
23 39-11-101(a)(xiv)(B);

1

2           (xviii) Any transfer of real property used for  
3 commercial purposes;

4

5           (xix) Any transfer of real property that is  
6 subject to an affordable housing deed restriction;

7

8           (xx) Any other transfer or other conveyance  
9 which the department exempts upon a finding that the  
10 transfer does not represent a true conveyance of property.

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12           **39-23-106. Licensing; permits.**

13

14 There are no specific applicable provisions for licenses  
15 and permits for this chapter.

16

17           **39-23-107. Compliance; collection procedures.**

18

19           (a) Returns and reports. Taxes imposed by this  
20 chapter are due and payable at the office of the county  
21 treasurer of the county in which the real property is  
22 located on the date of recordation of the deed or other  
23 instrument making the sale a matter of public record. The

1 tax shall only be collected on the price paid for real  
2 property. The county clerk shall not record a document  
3 transferring legal or equitable title to real property  
4 until all taxes due under this chapter have been paid to  
5 the county treasurer. The buyer and seller shall sign  
6 before a notarial officer on a form prescribed by the  
7 department, a statement eliciting the information necessary  
8 for the assessment of the tax. The statement is not a  
9 public record and shall be held confidential by the county  
10 clerk, county assessor, county treasurer, county board of  
11 equalization, state board of equalization and by the  
12 department.

13

14 (b) It is a misdemeanor for a person to willfully  
15 falsify or publicly disclose, except as specifically  
16 authorized by law, any information on the statement  
17 required by subsection (a) of this section. Upon  
18 conviction, the offender is subject to a fine of not more  
19 than seven hundred fifty dollars (\$750.00), imprisonment  
20 for not more than six (6) months, or both.

21

22 (c) Payment. Payment of the tax may be negotiated  
23 between the purchaser and seller of the real property and

1 shall be collected from the party recording the deed or  
2 other instrument making the sale a matter of public record  
3 by the county treasurer in the form prescribed by the  
4 department.

5

6 (d) Timelines. There are no specific applicable  
7 provisions for timelines for this chapter.

8

9 (e) If the property being transferred is located in  
10 more than one (1) county and the value has not been  
11 determined by the buyer and seller as to each county, the  
12 value shall be established by applying the ratio of the  
13 assessed valuation in each county to the assessed valuation  
14 of all property being transferred.

15

16 **39-23-108. Enforcement.**

17

18 There are no specific applicable provisions for enforcement  
19 for this chapter.

20

21 **39-23-109. Taxpayer remedies.**

22

1 There are no specific applicable provisions for taxpayer  
2 remedies for this chapter.

3

4 **39-23-110. Statute of limitations.**

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6 There are no specific applicable provisions for a statute  
7 of limitations for this chapter.

8

9 **39-23-111. Distribution.**

10

11 (a) Taxes collected by the county treasurer shall be  
12 distributed as follows:

13

14 (i) To the county in the proportion that the  
15 population of the county situated outside the corporate  
16 limits of its cities and towns bears to the total  
17 population of the county including cities and towns;

18

19 (ii) To each city and town within the county in  
20 the proportion the population of the city or town bears to  
21 the population of the county.

22

1       **Section 2.** This act is effective July 1, 2018.

2

3

(END)