

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 2-88) IN THE MATTER OF AMENDING CHAPTER
) 4 OF LANE CODE TO ENACT THE LANE
) COUNTY REAL PROPERTY TRANSFER TAX,
) ADOPT A SEVERABILITY CLAUSE, ADDING
) A SECTION REPEALING THE ORDINANCE IN
) THE EVENT OF A TAX BASE INCREASE ON
) MAY 17, 1988, OTHERWISE SETTING
) AN EFFECTIVE DATE OF JULY 1, 1988

The Board of County Commissioners of Lane County ordains as follows:

Chapter 4 of Lane Code is hereby amended by adding the following pages:

REMOVE THESE PAGES

INSERT THESE PAGES

4.300 - 4.300 to
4.355(1) - 4.355(2),
i.e. 4-22a to 4-22f
(a total of six new pages)

Said pages are attached hereto and incorporated herein by reference. The purpose of these additions is to enact the Lane County Real Property Transfer Tax.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by the court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

In the event the voters approve a property tax base increase for Lane County in the amount of \$2,200,000 or greater on May 17, 1988, this Ordinance is repealed and shall not become effective. Otherwise it shall become effective on July 1, 1988.

Enacted this 16th day of March, 1988.

APPROVED AS TO FORM

Date: 3/2/88 lane county

[Signature]
OFFICE OF LEGAL COUNSEL

[Signature: Alice Humdi]
Chair, Lane County Board of Commissioners

[Signature: Judy Waldeman]
Recording Secretary for this Meeting of the Board

- 1 - IN THE MATTER OF AMENDING CHAPTER 4 OF LANE CODE TO ENACT THE LANE COUNTY REAL PROPERTY TRANSFER TAX, ADOPT A SEVERABILITY CLAUSE, ADDING A SECTION REPEALING THE ORDINANCE IN THE EVENT OF A TAX BASE INCREASE ON MAY 17, 1988, OTHERWISE SETTING AN EFFECTIVE DATE OF JULY 1, 1988

FILED AT 12:00 O'CLOCK MAR 22 1988

County Clerk
For Lane County, Oregon
[Signature: Dan McCall]
DEPUTY

4.300

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4.300

LANE COUNTY REAL PROPERTY TRANSFER TAX

- 4.300 Definitions. As used in this subchapter, unless the context requires otherwise, the following definitions apply:
- Buyer or Purchaser. Any person who is the recipient of a transfer of real property.
- Date of Tender. The date of delivering to the Division of Deeds and Records for recording the document transferring, or contracting to transfer, real property.
- Director. The Director of the Department of Finance and Management Services or his or her designee.
- Division of Deeds and Records. The division of Lane County government currently known by that name within the Department of Finance and Management Services, or any successor to said division.
- Documents of Transfer. All deeds, instruments or writings whereby any ownership or title to real property is transferred to or vested in a purchaser or other person at the direction of the purchaser, or contracts to transfer or vest such ownership and/or title in real property.
- Person. Individuals, domestic and foreign corporations, societies, joint ventures, associations, firms, partnerships, joint stock companies, clubs or any other legal entity.
- Real Property. Any estate or interest in real property or contract right thereto, including standing timber (as opposed to contracts for the severance of such timber) and mobile homes affixed to land by permanent plumbing and electrical connections when sold in conjunction with the land upon which it is situated, but excluding leases.
- Seller. Any person who is the transferor of a transfer of real property.
- Selling Price. The consideration, in money or any other thing of value which is paid, delivered or contracted to be paid or delivered in return for the transfer of real property. "Selling price" shall include the amount of cash and the amount of any lien (including tax liens), mortgage, contract, indebtedness or any encumbrance existing against the property, to which the property remains subject and which the purchaser agrees to pay or assume, as stated pursuant to ORS 93.030 [1987 Ed.] on the face of any instrument conveying or contracting to convey fee title to real property. "Selling price" also includes other property or value given or promised for the transfer of real property if such other property or value were either part or whole of the consideration.

Transfer of Real Property. Every grant, sale, exchange, assignment, quitclaim or other conveyance of ownership in or title to real property, including any contract for such sale, exchange, grant, assignment, quitclaim or other conveyance of ownership in or title to real property, excluding leases.

Notwithstanding this, "transfer of real property" does not include instruments clearly showing on their face to be the following.

- (a) estoppel deeds;
- (b) deeds in lieu of foreclosure and all transfers of real property effected by order of any court of competent jurisdiction in a mortgage or lien foreclosure proceeding, proceeding for execution of a judgment, bankruptcy proceeding or receivership proceeding;
- (c) vendor's assignments and all transfers or assignments of a seller's interest in a contract for the sale of real property, even though accompanied by a conveyance of the seller's interest in the real property;
- (d) earnest money agreements;
- (e) sheriff's deeds;
- (f) options;
- (g) trustee's deed as a result of foreclosure;
- (h) re-recording of documents;
- (i) fulfillment deeds;
- (j) documents recorded solely for security purposes;
- (k) transfers of real property to effect a mere change in identity, form or place or organization;
- (l) transfers of real property effected by a deed in lieu of foreclosure to satisfy a mortgage or conveyance to the Federal Housing Administration or Veterans Administration, or their successor agencies, by an authorized mortgagee made pursuant to a contract of insurance or guarantee with the Federal Housing Authority or Veterans Administration, or their successor agencies;
- (m) a mortgage, trust deed or other transfer of real property merely to secure a debt or an assignment thereof, or in fulfillment of a previously recorded contract for purchase (upon which the transfer tax has already been paid);
- (n) transfers of real property from one spouse to the other in accordance with the terms of a decree of dissolution of marriage or in fulfillment of a property settlement agreement incident thereto.

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(o) transfers of property to merely effectuate a change in identity, form or place of organization where no consideration is contemplated or received from the transfer.

4.305 Tax Imposed.

(1) A tax is hereby imposed on each transfer of real property located within Lane County unless such transfer is specifically exempted by LC 4.310 below. The tax shall be at the rate of \$4.34 per every \$1,000 or fraction thereof of the selling price and shall become due and payable upon the date of tender.

(2) It shall be unlawful for any person to fail to pay all or any portion of the tax imposed by this ordinance.

(3) It shall be unlawful for any person to fail to state or to misstate the full selling price for any transfer of real property or to make a materially false statement to the employees of the Department of Finance and Management Services.

4.310 Exemptions. The following transactions shall be exempted from the provisions of this subchapter upon satisfactory proof of their applicability having been submitted to the Division of Deeds and Records:

(1) Transfers of property made by or to the United States, the State of Oregon or arising from the foreclosure of real property by Lane County pursuant to ORS Chapter 312.

(2) Transfers of real property effected by any condemnation proceedings. For purposes of this ordinance, a copy of the resolution declaring the necessity for acquiring the property shall be presented to the Director at the time of tender before the exemption may be granted.

(3) Transfers of real property by gift, devise or inheritance.

(4) Transfers of a grave or cemetery plot.

(5) Transfers dated prior to the effective date of this subchapter, or deeds given in fulfillment of contracts made prior to the effective date of this subchapter.

(6) Transfers of real property lying partly within and partly without the jurisdictional boundaries of Lane County shall be partially exempt as to the selling price attributable to that portion of real property lying outside the jurisdictional boundaries of Lane County. The purchaser and seller shall be responsible for calculating the portion of the real property subject to tax on forms provided by the Division of Deeds and Records.

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(7) Transfer of real property for which the selling price is \$500 or less.

A document that does not clearly show on its face that it is one listed above may be deemed to be exempt if an affidavit is filed demonstrating that the instrument in fact is one so listed.

The Director shall have authority to grant or deny, or grant in part, any exemption allowed by this section, and may require an application or other certification for proof of the applicability of any exemption. Any party aggrieved by such a decision may appeal to the County Hearings Official designated to hear such appeals by filing a written Notice of appeal with such official not later than 10 days following the decision. The Hearings Official shall, within 20 days of receipt of an appeal, set a date for hearing the same pursuant to procedures set forth in the Lane Manual. Further review shall be to the Circuit Court upon Writ of Review.

4.315 Responsibility for Tax. This tax shall be the responsibility of every purchaser and seller of real property located within Lane County which is transferred, and to any person who, as a party thereto, makes, signs or issues any document transferring real property or for whose benefit or use such document is made, issued or transferred, provided however that only one tax shall be imposed upon each transfer of real property. Upon presentation for recording any document of transfer, the person presenting the same shall state the selling price, as defined herein, in terms of a dollar value (including the dollar value of "other valuable consideration," "property of equal value" and similar general statements) in order that the tax due under this subchapter may be computed. Failure to state the complete consideration in terms of a dollar value or to tender complete payment of the same, shall be grounds for rejecting partial payment of the tax due, and shall cause the Division of Deeds and Records to stamp a notation of tax lien upon the document offered for recordation.

Failure, willful or otherwise, to pay the tax within 10 days of the presentation of the documents of transfer to the Division of Deed and Records for recordation shall result in an automatic tax increase in the amount of 50 percent of the assessed tax, and subsequent failure to pay the tax and increase within 60 days of such presentation shall thereafter also result in legal interest accruing on both the tax and increase, all of which shall constitute an immediate additional lien pursuant to LC 4.320 below. The interest rate shall accrue at the rate of one and one-half (1-1/2) percent per month. In no event shall the interest charged be less than \$25.

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4.320 Lien. The tax shall be a specific lien upon each piece of real property transferred from the time of sale until the tax has been paid. If mistake, error or fraud is discovered subsequent to the payment of or exemption from any tax due under this subchapter, the Director shall be empowered to determine the amount of deficiency in tax payment, and to file a Notice of Lien which shall constitute a lien upon the property from the date of its recordation in the proper County records. Such deficiency shall also constitute a personal debt of the purchaser and seller of the real property transaction giving rise to the transfer tax. Such liens may be foreclosed in the manner prescribed by ORS Chapter 88, ORS Chapter 312 or in any other manner prescribed by law. The County Counsel shall take such action as is appropriate to collect the tax and penalties.

4.325 Satisfaction of Liens. Upon payment of any delinquent tax under this subsection and any automatic increase thereof, the Division of Deeds and Records shall prepare, file and record a Satisfaction of Lien form in the proper County records, which Satisfaction shall serve to remove any lien established by stamped Notice of Lien or subsequent Notice of Lien filed for deficient tax payment under this subsection.

4.330 Payment. The tax shall be paid to the Division of Deeds and Records, or any successor division of County government, prior to recordation of the documents of transfer. The Division of Deeds and Records shall stamp evidence of payment of the tax and any automatic increase thereof, on the documents of transfer and a receipt evidencing payments of the tax shall be issued to the person paying the tax. Refusal to pay the tax shall not result in nonrecordation, but a notation of the lien created by the unpaid tax shall be stamped on the documents of transfer and shall remain valid until stamped by the Division as paid.

When any person fails to pay the tax or apply for an exemption as provided herein, within the time provided for payment of the tax, there shall be a conclusive presumption, for purposes of computation of the tax, that the selling price is not less than the true cash value as defined by ORS 308.205, as determined by the Lane County Department of Assessment and Taxation.

4.335 Severability. If any portion of this subchapter is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed severable and shall not affect the validity of the remaining portions of this subchapter.

4.340 Use of Tax Proceeds. The net proceeds shall be used exclusively for the Department of Assessment and Taxation, the Deeds and Records Division of the Department of Finance and Management Services and the Land Management Division of the

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Department of Public Works. It shall be lawful to carry forward from year to year any unexpended revenues, so long as their ultimate use is for the purposes specified herein.

4.345 Rules and Regulations. The Director may promulgate rules and regulations necessary for the administration and enforcement of this Ordinance.

4.355 Administration and Enforcement.

(1) The Director shall be responsible for the administration and enforcement of this Ordinance.

(2) In order to carry out the duties imposed by this Ordinance, the Director or Hearings Official shall have the authority to do the following acts, which enumeration shall not be deemed to be exhaustive, namely: administer oaths, certify to all official acts, to subpoena and require attendance of witnesses at Board meetings or other hearings to determine compliance with the Ordinance, rules and regulations, to require production of relevant documents at public hearings; to swear witnesses, and to take testimony of any person by deposition.

(3) A party may collect attorney fees if it prevails in a civil action for collection of delinquent taxes.

4.355 Penalties In addition to any other civil enforcement provided herein, intentional violation of Sections 4.305(2) and (3) of this ordinance shall be a misdemeanor and shall be punishable, upon conviction, by a fine of not more than \$500. Violations of these sections by any officer, director, partner or other person having direction or control over any person violating this ordinance shall subject each such person to such fine.