

DEED TRANSFER TAX
Clarifying the Definition of Consideration

April 17, 2001

	Yes	No
Separate Official Fiscal Note Requested		X
Fiscal Impact		
DOR Administrative Costs/Savings		X

Department of Revenue
 Analysis of H.F. 2375 (Erhardt)/S.F. 2239 (Rest)

	Revenue Gain or (Loss)			
	<u>F.Y. 2002</u>	<u>F.Y. 2003</u>	<u>F.Y. 2004</u>	<u>FY2005</u>
	(000's)			
General Fund	Negligible	Negligible	Negligible	Negligible

Effective for deeds recorded on or after July 1, 2001.

EXPLANATION OF THE BILL

Current Law: The deed transfer tax is equal to \$1.65 for a consideration of \$500 or less plus \$1.65 for each additional \$500 or portion thereof. Generally, consideration means the total monetary value that is given in return for a conveyance of real property. If the property is transferred using a contract for deed, the consideration is the price that is reflected in the contract with the following exceptions:

- When the conveyance is made
- by a person engaged in the business of
 - land sales or
 - construction of buildings and other improvements, or
 - by an affiliated person,
- then the consideration is the
- amount paid for the land (real property) plus
 - the improvements.

The Commissioner of Revenue was to have adopted rules by January 1, 2001, to define the phrases “engaged in the business of land sales or construction of buildings and other improvements” and “affiliated person”.

Proposed Law: While the tax rate of \$1.65 remains the same as does the general definition of consideration, the bill clarifies the definition of consideration when property is transferred using a contract for deed and eliminates the requirement for the Commissioner of Revenue to adopt rules. If property is transferred using a contract for deed, consideration is the price that is reflected in the contract with the following exceptions:

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Proposed Law (Continued):

If the contract for deed or other agreement

- requires the property to be improved during the term of the contract, and
- the contract price does *not* include the consideration for the required improvements,

then the consideration is the

- contract price for the real property, plus
- the consideration for the required improvements added during the term of the contract.

REVENUE ANALYSIS DETAIL

- The language of the bill is intended to clarify the definition of consideration in certain cases. It is not intended to change tax revenue.
- It is assumed that the types of transactions affected by the new language of the bill are about the same as the transactions affected by the language of the current law. That is, those people who would write a contract for deed with a requirement that the property be improved during the term of the contract without the cost of the improvements being included in the contract price would essentially be the same people who are engaged in the business of land sales or construction of buildings and other improvements, or an affiliated person.
- The definition of consideration in these certain cases is essentially the same. The proposed language is more specific.

Number of Taxpayers Affected: The number of taxpayers affected is not known.

ADMINISTRATIVE/OPERATIONAL IMPACT

There will be no significant administrative or operational costs or savings to DOR in administration of this bill.

Source: Minnesota Department of Revenue
Tax Research Division
<http://www.taxes.state.mn.us/polic.html#analyses>

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