

State of Arkansas
77th General Assembly
Regular Session, 1989
By: Senator Wilson

SENATE BILL 590

"AN ACT TO AMEND SECTIONS 26-60-107, 26-60-108 AND 26-60-110(b) OF THE ARKANSAS CODE OF 1987 ANNOTATED, TO PROVIDE MORE UNIFORM AND UNDERSTANDABLE REQUIREMENTS FOR THE REAL PROPERTY TRANSFER TAX AFFIDAVIT OF COMPLIANCE; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 26-60-107 of the Arkansas Code of 1987 Annotated is hereby amended to read as follows:

"26-60-107. Real Property Transfer Tax Affidavit of Compliance Form.

(a) (1) The Director of the Department of Finance and Administration shall design a 'Real Property Transfer Tax Affidavit of Compliance Form' which shall be in triplicate.

(2) (A) The form shall contain essentially the information prescribed in this section.

(B) The affidavit portion shall provide space for:

- (i) The name and address of the grantor or seller;
- (ii) The name and address of the grantee or buyer;
- (iii) The date of the real property transfer as reflected on the real property transfer instrument;
- (iv) The name of the county in which the property is located;
- (v) The amount of the full consideration for the transaction or a statement giving the reason the real property transfer tax does not apply to the transaction;
- (vi) The value of the documentary stamps attached to the face of the real property transfer instrument;
- (vii) A statement signed by the grantee or his agent, under

penalty of false swearing, that at least the legally correct amount of documentary stamps have been placed on the real property transfer instrument.

(b) (1) If the real property transfer instrument is for a transfer upon which no tax is due, the same affidavit shall provide for stating this fact and shall be signed by the grantee, or his agent, whose address shall be included in a space provided on the affidavit and be presented with the transfer instrument to the recorder.

(2) The director shall furnish a supply of the 'Real Property Transfer Tax Affidavit of Compliance' forms to each revenue office in each county of this state and may make these forms available to the recorder or any other interested person in each county upon request to the director."

SECTION 2. Section 26-60-108 of the Arkansas Code of 1987 Annotated is hereby amended to read as follows:

"26-60-108. Real Property Transfer Tax Affidavit of Compliance Form - Completion, storage, audit, etc.

(a) The Director of the Department of Finance and Administration or his agent shall accept payment of the real property transfer tax.

(b) (1) The grantee or his agent shall complete the 'Real Property Transfer Tax Affidavit of Compliance,' including a statement of the full consideration for the real property transfer transaction and the amount of tax to be reflected by documentary stamps on the face of the real property transfer instrument.

(2) The grantee or his agent shall attach the proper number of documentary stamps to the face of the real property transfer instrument as directed by the county recorder of deeds in such manner that all such stamps will be fully visible in the records of the recorder where the recorder maintains records by reproducing the document by photographic, photocopy, or other reproductive method.

(c) (1) The affidavit shall be presented to the county recorder of deeds, who shall review it and determine that the same is in compliance with this chapter before the instrument of real property transfer may be accepted for recordation.

(2) Upon receipt of the real property transfer instrument, the county recorder shall cancel the documentary stamps. In the case of an instrument exempt from the real property transfer tax, the county recorder

shall record a notation to that effect on the face of the instrument.

(3) The county recorder shall place on the face of the affidavit a file stamp and the book and page numbers or instrument number.

(4) The original, or top copy, of the affidavit shall be retained by the county recorder. One copy of the affidavit shall be delivered to the tax assessor for the county in which the real property transfer is made, and the remaining copy of the affidavit shall be retained by the grantee or his agent.

(5) The original affidavit retained by the county recorder shall be kept for audit for compliance with this chapter."

SECTION 3. Subsection (b) of Section 26-60-110 of the Arkansas Code of 1987 Annotated is hereby amended to read as follows:

"(b) The county recorder of deeds shall not record any instrument evidencing a transfer of title subject to this chapter unless the instrument shall, at the time it is presented for recording have attached thereto or be accompanied by an affidavit in the form provided in this chapter, containing the information required in this chapter and have documentary stamps, if required, attached to the face of the instrument evidencing full payment of the real property transfer tax on the transaction."

SECTION 4. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 5. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.