

NEW ORLEANS CODE OF ORDINANCES
CHAPTER 150 – ARTICLE V
DOCUMENTARY TRANSACTION TAX

DIVISION 1. - GENERALLY

Sec. 150-366. Levy, when due, collection.

(a)

A tax is hereby levied on the execution by the parties to any instrument, act, writing or document creating, transferring, alienating, leasing, or otherwise affecting any right in or to immovable property located in the parish.

(b)

The tax shall not be due and collectible unless and until the instrument, act, writing, or document shall have been recorded in the public records of the recorder of conveyances and/or the recorder of mortgages. The tax shall be paid by the seller or transferor of immovable property or the use thereof in the case of an act of cash sale, donation or other transfer of immovable property which transfer contains no vendors lien or mortgage; by the mortgagor in a credit transaction affecting immovable property which transaction does not involve the transfer of title to immovable property; by the seller or transferor in a sale or resale through a savings and loan association or sale and concurrent mortgage; and by the person recording the instrument, act, writing or document in the case of a lease affecting immovable property; and shall be collected and remitted to the department of finance by each such person or his designee. Such seller, transferor, mortgagor or person recording a lease instrument, act, writing or document shall be designated the taxpayer.

(Code 1956, § 17A-1(1))

Sec. 150-367. Penalties for delinquency, filing false returns.

If any tax due under this article is not remitted within the time prescribed herein, it shall be delinquent; and the taxpayer, in addition to being liable for the tax due plus interest, shall be subject to a penalty of 20 percent of the amount of the tax plus interest at the rate of ten percent per annum, or \$500.00, whichever is greater, and ten percent of the attorney's fee on the tax, interest, and penalty due in all cases wherein an attorney is required to assist in the collection; provided, however, that the penalties and interest imposed herein shall be waived if payment of the tax is received within 45 days of the date of the first notice of delinquency from the department of finance. As a further penalty, any taxpayer signing and

filing a return subsequently found to be grossly incorrect, false or fraudulent or violating any of the other provisions of this article shall be guilty of a misdemeanor.

(Code 1956, § 17A-6; M.C.S., Ord. No. 17,064, § 1, 6-1-95)

Sec. 150-368. Limitations.

The levy, payment or failure to pay the tax required by this article shall not affect, nor be construed as impairing or affecting any rights or obligations created or governed by the civil laws of persons, property and obligations, and in no instance shall any immovable property involved in any transaction be construed to be subject to any lien or encumbrance by virtue of the failure to pay the tax, nor shall this article affect or alter or be construed by any person as affecting or altering the duties and powers of any constitutional parochial official.

(Code 1956, § 17A-2)

Sec. 150-369. Exemptions.

The following instruments, acts, writings or documents shall be exempt from the provisions of this article and the tax imposed thereby:

- (1) Leases of an immovable property for single residential purposes;
- (2) Acts of correction;
- (3) Declarations of homestead;
- (4) Declarations of paraphernality;
- (5) Tax liens;
- (6) Minor's mortgages;
- (7) Materialmen's and laborers' liens;
- (8) Transfer of cemetery plots;
- (9) Sheriff's process verbal in foreclosures;
- (10) Sheriff's deed in foreclosures;
- (11)

- (12) Dation en paiements;
- (13) Judgments of possession or affidavits for small succession, in accordance with the provisions of article 3431 of the Louisiana Code of Civil Procedure;
- (14) Money judgments;
- (15) Notices of lis pendens;
- (16) Assignments of mortgages notes;
All sales and/or mortgages by nonprofit housing corporations domiciled in the city which are exempt from income tax pursuant to Internal Revenue Service rules, including the Finance Authority of New Orleans, provided that the purchaser or mortgagor is certified as being of low or moderate income and the mortgage note is payable to the nonprofit housing corporation;
- (17) Cancellations of all inscriptions;
- (18) Quitclaims;
- (19) Exchange of property for public purposes to which the city is a party;
- (20) Partition or settlement of community property between spouses or former spouses;
- (21) All documents recorded in foreclosure proceedings;
- (22) Tax sales and redemptions;
- (23) Amendment to a mortgage wherein the interest rate and/or term of payment is readjusted;
- (24) Assignment of a lease;
- (25) Judgments nullifying sales of property;
- (26) Judgments confirming tax titles;
- (27)

- Transactions involving the parish school board;
- (28) Acts of donation of vacant and abandoned immovable property to an organization which is exempt from income tax pursuant to Internal Revenue Service rules, or to a church which has been established in the community for a minimum period of five years, provided that the director of health has certified that the donation meets requirements established by the city;
- (29) Acts of donation or sale of immovable residential property by an organization which is exempt from income tax pursuant to Internal Revenue Service rules or by a church to a person or family who will live in the property for a minimum period of five years, provided that the property being transferred was received by the organization under the terms of M.C.S., Ordinance Number 15,286 and that the director of health has certified that the requirements of that section have been satisfied;
- (30) Sales or donations of residential properties which meet the following criteria:
- a. The seller/donor has caused the property to be renovated in compliance with requirements of this Code; and
 - b. Prior to renovation by the seller/donor, the property had been designated by an agency of the city as vacant, abandoned, uninhabitable, or blighted;
- (31) Acts of mortgage in favor of the state entered into for the purpose of posting a property bond, in connection with criminal proceedings, by persons over 65 years of age who fit within the federal definitions of low and/or moderate income;
- (32) Transfer between spouses to declare formerly separate property as community property, pursuant to LSA-C.C. art. 2343.1, but does not exempt immovable property which is not the family home or primary residence of the spousal community.
- (33) Disaster relief loans to small businesses from the United States Small Business Administration related to the flood which occurred on May 8, 1995.
- (34)

Disaster relief loans to small businesses from the United States Small Business Administration related to destruction caused by Hurricane Georges during the period September 25—29, 1998.

(35)

Disaster relief loans for residences and small businesses from the United States Small Business Administration (SBA), the Louisiana Road Home Program and related bank loans, or other state or federal programs related to destruction caused by Hurricanes Katrina and Rita and subsequent flooding.

(Code 1956, § 17A-7; M.C.S., Ord. No. 16,714, 10-20-94; M.C.S., Ord. No. 16,792, 12-8-94; M.C.S., Ord. No. 17,360, § 1, 12-28-95; M.C.S., Ord. No. 19,386, § 1, 9-16-99; M.C.S., Ord. No. 21770, § 1, 11-18-04; M.C.S., Ord. No. 23060, § 1, 4-3-08; M.C.S., Ord. No. 23939, § 1, 4-8-10)

Sec. 150-370. Administration and enforcement.

(a)

The department of finance shall from time to time inspect the registry of public records to ensure compliance with this article. The department of finance shall promulgate rules and regulations for the enforcement and administration of this article within 30 days from the effective date of the ordinance from which this article was derived and may require persons to appear and testify and to produce documents for its inspection under oath.

(b)

The director of finance is hereby authorized to engage the services of another public official to effect the collection of the tax levied by this chapter in whole or in part, provided that the commission or other compensation to be paid to such other public official does not exceed three percent of the total collections effected by such other public official.

(Code 1956, § 17A-4; M.C.S., Ord. No. 18,736, § 1, 6-4-98; Ord. No. 20,724, § 1, 5-16-02; M.C.S., Ord. No. 22208, § 1, 5-3-06)

Secs. 150-371—150-390. Reserved.

DIVISION 2. - IMPOSITION AND COLLECTION

Sec. 150-391. Taxable transactions.

Except as provided in [section 150-392](#), the tax shall be due and collected upon each transaction involving the recordation of an instrument, act, writing or document covered by this article as follows:

(1)

For all sales, mortgages, sales and resales through a financial institution or sales and mortgages deemed to be a single transaction pursuant to [section 150-392](#) and involving only one "single family residence or residential double" the sum of \$300.00, it being understood that the term single family residence includes a single unit in residential condominiums and single residential townhouses but does not include timeshare condominiums or townhouses; provided, however, that:

a.

For refinancing of an existing mortgage involving only one "single-family" residence [or] residential double on which there is an existing second mortgage funded by the city using urban development action grant or HOME funding, the tax shall be \$100.00; and

b.

For mortgages involving only one "single family" residence or residential double in which the amount of the mortgage, exclusive of amounts borrowed and used for the purpose of payment of the documentary transaction tax, is \$9,000.00 or less, the tax shall be as follows:

i.

For mortgages of less than \$3,000.00\$50.00

ii.

For mortgages of \$3,000.00 to \$6,000.00100.00

iii.

For mortgages of \$6,001.00 to \$9,000.00150.00

c.

If a sale or mortgage of a single family residence or residential double exceeds 25 pages, a notarized statement stating that the property is a single family residence or residential double shall be required.

(2)

For all other transactions, the sum of \$325.00 for each instrument, act, writing or document up to a maximum of 25 pages, plus an additional tax of \$100.00 for each additional page, provided that the total amount of tax for each instrument, act, writing or document shall not exceed the sum of \$2,500.00.

(3)

For the purposes of this section, a page shall consist of a single sheet of paper measuring no larger than eight and one-half inches by 14 inches printed or written on one side only. If such single sheet of paper is printed on both sides, such shall constitute two pages. If such sheet of paper is larger by more than two percent, the number of pages shall be doubled.

(4)

For the further purposes of this section, certificates and researches issued by a state, parish, municipal or federal office and attached to a recorded instrument, act, writing or document shall not be included as a page for the purpose of determining the amount of the tax.

(5)

The taxpayer may delegate the function of remitting and paying the tax to the notary public or the attorney handling the transaction; however, the taxpayer shall remain liable for the tax to the city through the department of finance as hereinafter set forth.

(6)

Any group of instruments deemed to be a single transaction pursuant to [section 150-392](#), other than as provided in subsection (1), shall be taxed as a single instrument, act, writing or document.

(7)

If in a single transaction there is one party who is a seller or transferor and another party who is a borrower, the tax shall be prorated in accordance with subsection [150-392\(d\)](#).

(8)

For all sales of time-share condominium units, whether characterized as sales of an interest in fee simple or right-of-use, by the developer of the time-share condominium the sum of \$30.00 for the sale or transfer of each one-fifty-second share of each time-share condominium unit, which sum shall be due upon the sale or transfer of each fractional share of each time-share condominium unit; provided, however, any group of instruments involving sales of time-share condominium units deemed to be a single transaction pursuant to [section 150-392](#) shall be taxed as a single instrument, act, writing or document. For any subsequent sales or transfers of fractional time-shares or interval of a condominium unit by a seller other than the time-share developer, the sum of \$300.00 for each such sale or transfer.

(Code 1956, § 17A-1(2); M.C.S., Ord. No. 17,062, § 1, 6-1-95; M.C.S., Ord. No. 18,736, §§ 2, 3, 6-4-98; Ord. No. 20,487, § 1, 12-20-01; Ord. No. 20,527, § 1, 2-7-02; M.C.S., Ord. No. 22208, § 2, 5-3-06)

Sec. 150-392. Determination of transactions subject to tax.

(a)

For the purposes of this article, a collection or group of instruments, acts, writings, or document, affecting the same property, executed each by at least one of the parties executing the others, executed on the same day, shall be deemed to be a single transaction.

(b)

For the further purposes of this article, a collection or group of instruments, acts, writings or documents affecting the same property, which property is purchased by a land developer or home builder for the specific purposes of a single-family residence for resale to a person for use as a personal residence and to be occupied by such purchaser or for specific purpose of a single-family residence to be occupied by such developer, all documents involved in the development of such property, including, without limitation, sale, credit sale, mortgage, collateral mortgage, construction contract, acceptance of completion or substantial completion and release or cancellation of mortgage, whether or not the documents are executed on the same date, shall be deemed a single transaction and only the sale or credit sale to the person who uses and occupies the single-family residence shall be subject to the tax imposed by this article; provided that all documents related to this initial development of such property shall occur within a period of three years from the original acquisition of the property by the land developer or home builder to the acquisition and taking of possession and occupancy of the single-family residence by purchaser; and provided further that the property not be sold and then resold by the purchaser prior to the acquisition and taking possession and occupancy of the single-family residence.

(c)

For the further purposes of this article, a collection or group of instruments, acts, writings or documents affecting the same residential property, including all documents involved in the interim and permanent financing for the property, shall be considered a single transaction provided that the tax has been paid upon the filing of the documents in connection with the interim financing.

(d)

In the case of the execution of an instrument, act, writing, or document, evidencing or embodying a transaction under the terms of which more than one person is obligated to pay the tax provided for in this article, each and every one of such persons shall be obligated, jointly, severally and solidarily with the others, to pay the full tax due.

(e)

The taxpayer shall remit the full tax due to the department of finance.

(Code 1956, § 17A-5)

Sec. 150-393. Remittance.

The taxpayer shall, immediately upon filing for record of the instrument, act, writing, or document, in either of the public records offices, remit and pay the tax directly or through the notary public or attorney handling the transaction to the director of the department of finance or to the custodian of notarial records in and for the parish.

(Code 1956, § 17A-3)

Secs. 150-394—150-440. Reserved.