
TAXATION

CHAPTER 264 (S. B. No. 148—Tofsrud)

ABATEMENT TAX CERTIFICATES ON STATE LAND

An Act to Amend and Re-enact Section 2193a of the Supplement to the 1913 Compiled Laws Relating to Abatements to Purchasers of Tax Sale Certificates on State Land.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2193a of the Supplement to the 1913 Compiled Laws is hereby amended and re-enacted to read as follows:

§ 2193a. Whenever any land sold under contract by the State of North Dakota has been sold for taxes and a tax certificate has been issued and the said contract for sale has thereafter been cancelled by the State of North Dakota, the holder of said unpaid tax certificate upon due and proper application in the manner now provided by law, shall be entitled to an abatement and refund thereof as well as for any subsequent taxes paid on said land by such certificate holder, together with interest thereon at the rate of six per cent (6%) per annum; and if such land has been bid in by the county at tax sale, all taxes against such land shall be abated. Provided, however, that the provisions hereof shall not apply to hail indemnity taxes.

§ 2. The provisions of this act shall apply to the holder of any such tax certificate issued both prior and subsequent to the taking effect of this act.

§ 3. If any portion of this act shall be declared to be unconstitutional, it shall not affect the other part or portion thereof.

§ 4. This act is hereby declared to be an emergency measure and shall be in force and effect on its passage and approval.

Approved March 7, 1927.

CHAPTER 265 (H. B. No. 251—Twichell, Miller and Gudmestad)

COLLECTION TAX CERTIFICATES ON LANDS ACQUIRED BY STATE

An Act Providing that the Right of Any County Holding a Tax Certificate, or Other Tax Lien on Lands Acquired by the State Treasurer as Trustee of the State of North Dakota Under the Provisions of Chapter 154 of the Session Laws of North Dakota for 1919 and Chapter 292 of the Session Laws of North Dakota for 1923 and Acts Amendatory Thereof, to Enforce the Collection of the Same Shall Be Suspended Until July 1st, 1929; Providing the Rate of Interest Such

Tax Certificates and Tax Liens Shall Bear; and Prohibiting the Assignment or Transfer of All Tax Certificates or Tax Liens Held by the County on Any Lands that Have Been Foreclosed Under Said Acts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. In all cases where the State Treasurer as Trustee of the State of North Dakota has heretofore, or hereafter acquires the title to any lands within the State of North Dakota under the provisions of Chapter 154 of the Session Laws of North Dakota for 1919 and Chapter 292 of the Session Laws of North Dakota for 1923 and Acts Amendatory thereof, and there are outstanding against such lands tax certificates held by the County, the right of the County to acquire a tax deed thereto, or to otherwise enforce the collection of its tax certificates or other tax liens against said lands shall be wholly suspended until July 1st, 1929, and any proceedings taken to acquire title by tax deed, or to otherwise enforce such tax liens shall be null and void; provided, that upon the re-sale of any such lands, either by deed or contract, the right of the County to enforce its tax certificates or tax liens in the manner provided by law shall thereupon be restored and shall thereafter remain in full force and effect.

§ 2. From and after the date of acquiring title by the State Treasurer as Trustee of the State of North Dakota to any lands as provided in Section 1, hereof, all tax certificates or other tax liens held by the county thereon shall bear interest at the rate of seven per cent (7%) per annum until redeemed or paid.

§ 3. From and after the date of the foreclosure sale of any lands under mortgages held by the State Treasurer as Trustee of the State of North Dakota under the provisions of Chapter 154 of the Session Laws of North Dakota for 1919 and Chapter 292 of the Session Laws of North Dakota for 1923 and acts amendatory thereof, no tax certificate or tax lien held by the County on any of said lands shall be assigned, or in any manner transferred to any person, firm or corporation for any purpose whatever during the time such foreclosure sale remains unredeemed, and any purported assignment or transfer of any such tax certificate or other tax liens made in violation hereof, shall be null and void.

§ 4. This Act shall expire and become inoperative for any purpose on the first day of July, A. D. 1929.

§ 5. This Act is hereby declared to be an emergency measure and shall take effect and be in force after its passage and approval.

Approved March 5, 1927.

Note: The foregoing measure carried the following vote on final passage:

House—61—49—3

Senate—40—7—2

CHAPTER 266
(S. B. No. 1—Rusch)

NOTICE EXPIRATION PERIOD REDEMPTION; TAX DEEDS TO
COUNTY AND SALE OF PROPERTY SO ACQUIRED

An Act to Amend and Re-enact Section 2202 of Supplement to the Compiled Laws of 1913, Relating to Giving Notice of Expiration of Period of Redemption on Property Forfeited to the County at Tax Sale, Issuance of Tax Deeds to County and Sale by County of Property Acquired by Tax Deed.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ I. AMENDMENT.] That Section 2202 of the Supplement to the Compiled Laws of 1913, be amended and re-enacted to read as follows:

§ 2202. NOTICE OF EXPIRATION OF PERIOD OF REDEMPTION UPON LANDS FORFEITED TO THE COUNTY AT TAX SALES. ISSUANCE OF TAX DEED TO COUNTY. SALE OF PROPERTY ACQUIRED BY THE COUNTY THROUGH TAX DEED.] All pieces or parcels of real property bid in for the county under the provisions of this Chapter and not redeemed or assigned within three (3) years from the date of the certificate of sale or subsequent tax sale certificate, shall upon the giving of the required notice of expiration of period of redemption become the absolute property in fee of the county and the county auditor shall issue a tax deed therefor to the county in the same manner as to individual purchasers.

(2) Upon issuance of tax deed to the county, such county acquires title to the property included in the tax deed free from all incumbrances. Upon obtaining tax deed to any real estate, the Board of County Commissioners shall, by general resolution, provide for the cancellation of all general taxes and all special assessment taxes of record which are then due or delinquent except such as were included in the notice of expiration of period of redemption. The assessment made on any real estate acquired by the county through tax deed in the year in which the county takes title, shall be abated and cancelled. So long as the county retains title to any real estate acquired by tax deed, such real estate shall be exempt from all general property taxes and all special assessment taxes.

After the county has disposed of any such real estate acquired through tax deed, such property shall cease to be tax exempt and shall be subject to all general taxes and to all installments of special assessment taxes coming due after such date. After notice of expiration of period of redemption is given, a partial redemption of real estate taxes may be made at any time up to ninety days after

the date of the notice of expiration of period of redemption; provided, the redemptioner shall pay the cost of service of the notice of expiration of period of redemption.

(3) NOTICE OF EXPIRATION OF PERIOD OF REDEMPTION AND MANNER OF SERVICE.] It shall be the duty of the county auditor on or before the first day of February of each year to give notice of the expiration of the period of redemption as to all tracts of real estate on which the period of redemption has expired. Such notice shall be given:

First: To the record title owner.

Second: To the person in possession thereof.

Third: Such notice shall also be given to mortgagees, lien holders and other persons interested therein.

Notice of expiration of period of redemption shall be served either personally or by mail as hereinafter specified and in the manner hereinafter prescribed. Such notice may contain any number of parcels of real estate which stand in the name of the same record title owner, shall contain the information indicated in the following form and may be substantially in the following form:

NOTICE OF EXPIRATION OF PERIOD OF REDEMPTION

To, the record title owner of the real estate hereinafter described, and to all mortgagees, lien holders, or other persons interested in said real estate, and to the person in possession thereof:

I, County Auditor of County, North Dakota, hereby give notice that the real estate hereinafter described was at the tax sale held in this county on the day of December 19....., offered for sale for delinquent taxes against it and was sold to said county, and that redemption has not been made therefrom and that the same is still the property of such county, and unless redemption is made from such tax sale within ninety (90) days from the date of this notice appearing above my signature, tax deed will be issued to the county granting to it and vesting in it absolute title in fee to said property and foreclosing all rights of redemption, and any and all other rights of the owner and of all mortgagees and lien holders and other persons interested therein. There is given herewith the description of such parcels of real estate, and set opposite each description is the amount which will be required upon the date of the expiration of the period of redemption to redeem such real estate from such tax sale exclusive of the cost of serving this notice personally upon the owner and the person in possession thereof. (Description of real estate and amounts required for redemption to be inserted.)

Given under my hand and the seal of the county auditor of
 County, North Dakota, this day of
, 19.....

.....
 County Auditor of County,
 North Dakota.

(a) SERVICE UPON OWNER. (1) Such notice shall be served personally upon the owner if he resides in the county.

(2) If the owner is known to be a resident of some other county in the state, such notice shall be served upon him by registered mail.

(3) If the owner does not reside in the state, service shall be made upon him by registered mail addressed to him at his post-office address if known to the County Auditor and if not known to him, then to the Postoffice address nearest the real estate.

(b) SERVICE ON PERSON IN POSSESSION. Such notice shall be served personally upon the person, if any, in possession of said real estate.

(c) If the assessed valuation of the property included in the notice is less than One Hundred Dollars (\$100.00) in any of the above cases, notice may be served upon the owner and person in possession thereof by registered mail, addressed to them at their last known postoffice address if known to the County Auditor and if not known, then to them at the Post Office address nearest the real estate.

(d) SERVICE UPON MORTGAGEES AND OTHER LIEN HOLDERS. Notice shall be sent by registered mail to each mortgagee, lien holder or other person interested therein as may appear from the records of the office of Register of Deeds and Clerk of Court. It shall be the duty of the register of deeds and clerk of court within ten days after request by the County Auditor to furnish him with a certified list giving the names, and so far as they appear on the records in the office of the register of deeds and clerk of court, the addresses of all persons who appear to be interested as owners, mortgagees, lien holders or otherwise in such real estate which has been sold to the county for taxes as may be specified by the County Auditor in making such request.

(e) SERVICE, BY WHOM MADE. Personal service shall be made in the same manner as is required for the service of a summons in a civil action in district court. The service shall be made by the sheriff and he shall be entitled to the same fees and mileage as for serving a summons in a civil action in district court; provided, that he shall be required as far as possible to serve all

such notices in any given portion of the county in a single trip and shall be entitled to but one charge for mileage unless, by reason of inability to make service, a subsequent trip is made necessary. The expense of such service shall be added to the amount required to redeem and be paid by the person making such redemption in addition to the amount stated in the notice. Service by registered mail shall be made by the County Auditor.

(4) NOTICE, BY PUBLICATION. WHEN MADE. The County Auditor shall also on or before February first of each year, give notice of the expiration of the period of redemption by publication as to all tracts of real estate on which the period of redemption has expired.

(5) NOTICE BY PUBLICATION, FORM AND MANNER OF PUBLICATION. The County Auditor shall prepare under his hand and official seal a notice containing the information indicated in the following form and which may be in substantially the following form:

NOTICE OF EXPIRATION OF THE PERIOD OF REDEMPTION ON LAND SOLD TO THE COUNTY AT TAX SALE

I,, County Auditor of County, do hereby give notice that the parcels of real estate hereinafter described were sold for taxes at the annual tax sale of this county on December, 19....., and that at said sale said parcels of real estate were sold to this county, and that such sales have not been redeemed from and they are still the property of this county, and that unless redemption shall be made from said tax sale within ninety (90) days from the date of this notice, the same will become the absolute property in fee of this county and the former owners thereof and all lien holders and other persons interested therein will be forever foreclosed and debarred of any and all rights of redemption or other rights in or to such real estate. Following is a list of the real estate sold at such tax sale on which the period of redemption has expired. Opposite each description of real estate appears the name of the record title owner thereof as it appears by the records in the office of the Register of Deeds of such county and also opposite each tract appears the amount which will be required to redeem from the effects of such tax sale at the expiration of the period of redemption, including the amount for which the said land was sold, interest and penalty thereon, subsequent delinquent taxes prior to those of the year 19....., and penalties and interest thereon.

(Here insert description of real estate, names of owners and amounts due.)

Given under my hand and the seal of the county auditor
 County, thisday of 19.....

 County Auditor of County,
 North Dakota.

Such notice shall be published three times, once each week for three consecutive weeks in the official paper of the county in which such real estate is situated, the date of the last publication to be more than sixty (60) days prior to the expiration of the period of redemption. The amounts stated in such notice shall include a charge of fifty cents for each parcel of real estate described therein to reimburse the county in part for the expense of such publication and for the mailing of such notice hereinbefore provided for. There may be included in a single published notice any number of parcels of real estate. The caption of said notice shall be in bold faced type, but only one heading shall be necessary for the entire list.

(6) SALE OF PROPERTY ACQUIRED BY COUNTY THROUGH TAX DEED. Property so acquired by tax deed shall, under the direction of the board of county commissioners, be sold at public or private sale, notice of which shall be given by posting at the front door of the court house thirty (30) days prior to the sale, a description of the parcels to be sold and by publishing a notice of such sale in the official newspaper of the county, giving a description of the parcels to be sold, such notice to be published at least once in each week for two consecutive weeks prior to the date of the sale. The description of all parcels of real estate to be sold at such sale shall be included in a single notice.

Before holding such sale, the board of county commissioners shall fix the minimum sales price on each lot or parcel which is offered for sale. Such minimum sales price shall not be fixed at an amount less than the amount required to redeem as stated in the notice of expiration of period of redemption unless the cash value fairly determined by the board of county commissioners shall be less than such aggregate in which case the value so fixed and approved by the board of county commissioners shall be the minimum price for which such property may be sold; provided if the cash value so determined by the Board of County Commissioners shall be less than such aggregate and in the opinion of the governing body of the subdivision having special assessments involved is less than the actual value, said determination of the county commissioners shall be subject to review and redetermination in an action brought within ten days from the date of the first publication of

said valuations; notice of such appeal being served on the county commissioners of the county in question within the ten day period aforementioned. Such action may be brought by the governing board of any incorporated city or village to which is payable any assessment taxes included in such aggregate. All such determinations of value that in the opinion of the governing board of the city or village are too low shall be combined in one appeal and shall be determined de novo by the District Court.

The Board of County Commissioners may fix the minimum sales price at an amount sufficient to cover all general taxes, special assessment taxes, penalties, interest and costs which were a charge against the property and which were delinquent at the time notice of expiration of period of redemption was issued plus cost of service of said notice; provided, such amount shall not exceed the fair cash value of the property. The foregoing provision is intended to cover those cases where general taxes were struck off to the county and special assessment taxes were struck off to the city and were not included in the tax forfeiture proceedings of the county.

None of the foregoing provisions is intended to limit the minimum price which the board of county commissioners is required to fix to less than their determination of the fair cash value of the tax title which the county is empowered to give.

Such sale shall be conducted by the county auditor in such manner as shall be directed by the board of county commissioners. The auditor and treasurer of the county shall attend such sale, the former to make a record of all sales thereat, and the latter to receive all moneys paid on account thereof.

Such sale shall take place at the county seat on the second Tuesday of June in each year and shall continue from day to day until completed. Each parcel shall be sold to the highest cash bidder therefor but not for a less sum than the minimum sales price theretofore fixed by the board of county commissioners. The purchaser shall forthwith pay the amount so bid to the county treasurer. Upon complying with such requirement, the purchaser shall be given a deed executed in the name of the county by the chairman of the board of county commissioners and the county auditor, conveying all rights, title and interest in and to such property acquired by the county through the tax proceedings, which deed may be substantially in the following form:

TAX DEED

THIS INDENTURE, made this day of, 192....., between the county of, North Dakota, party of the first part, acting by and through the Chairman of its Board

of County Commissioners and its County Auditor, and
....., party of the second part, witnesseth:

That, whereas, the real property hereinafter described did revert to and become the property of said county on account of the non-payment of taxes assessed and levied against the same for the years and, and the said taxes, interest and penalties aggregating in the sum of Dollars, and

Whereas, in conformity with law the said property was duly offered for sale pursuant to law on the day of, 192....., and at said sale said second party became the purchaser of the whole thereof for the sum of Dollars,

Now, therefore, the said County as party of the first part, in consideration of the premises and in pursuance of the statutes in such case made and provided, does hereby grant, bargain, sell and convey to the said second party, his heirs and assigns, that certain real property situated in the said county of, North Dakota, more particularly described as follows, to-wit:

To Have and to Hold, Said mentioned tract..... or parcel..... of land, with the appurtenances thereunto belonging to the said party of the second part heirs, and assigns, forever, in as full and ample manner as the said County is empowered by law to sell the same.

In Witness Whereof, and as Chairman of the Board of County Commissioners and Auditor respectively of the said County, do hereby set their hands the day and year first above written, and do cause the seal of said county to be affixed hereto.

..... County,
North Dakota.

By
Chairman of the Board of County
Commissioners.
.....
County Auditor.

State of North Dakota }
County of } ss.

On this day of, 192....., personally appeared before me, a Notary Public within the aforesaid county and state, and to

me personally known to be the Chairman of the Board of County Commissioners and the Auditor, respectively, of the said County, and each acknowledged to me that he executed the foregoing deed on behalf of the said county.

.....
 Notary Public for County, N. D.

My commission expires

Whenever in any action at law or in equity, the validity of any such tax deed is questioned, upon the pleadings or otherwise, such action shall not proceed until the party assailing such deed shall within such time as the Court shall deem reasonable deposit in Court for the benefit of the party claiming thereunder, an amount equal to the sum paid by said party to the county for the purchase of the property covered by the tax deed together with costs and disbursements of the action then incurred by the party claiming under such deed.

(7) The proceeds of such sale shall be paid into the county treasury, and the amount due the state or any city, township, incorporated village, school district or other taxing district, from the taxes for which the same was sold, or a just proportion thereof which may be determined by the levy for the year's taxes for which the certificate was issued, be apportioned and placed to the credit of the state, city, township, incorporated village, school district, or other taxing district entitled thereto. After general property taxes and hail insurance taxes, including penalty and interest thereon have been satisfied, the balance or a sufficient portion thereof to satisfy special assessments shall be placed to the credit of the proper taxing district. If the balance is insufficient to satisfy all installments of special assessment taxes delinquent at time of issuance of notice of expiration of period of redemption, there shall be apportioned to each such fund such proportion of the balance as such item is of the total of all such delinquent installments of special assessments. If there is any remainder it shall go into the general fund of the county.

(8) In case no bids are received on any parcel of real property or in case all bids are rejected and such property is retained by the county, the county shall not be liable to any city or subdivision for any special assessment taxes levied on such property. Any parcels of real estate not disposed of at the June sale hereinbefore provided for may be sold at any subsequent time by the County Auditor provided that no such sale shall be made at a price less than the minimum sales price theretofore fixed by the

Board of County Commissioners prior to the June sale. Any parcels of real estate not disposed of at the June sale or not disposed of subsequently thereto, shall be revalued and shall again be offered for sale at the regular June sale in the following year.

§ 2. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

Approved March 5, 1927.

CHAPTER 267

(H. B. No. 341—Committee on Judiciary)

ESTATE TAX ON GIFTS, LEGACIES, INHERITANCES, BEQUESTS, ETC.

An Act to Be Known as the Estate Tax Act, to Establish a Tax on Gifts, Legacies, Inheritances, Bequests, Successions and Transfers, to Provide for its Collection and to Direct the Disposition of its Proceeds, to Provide for the Enforcement of Liens Created by This Act, and by Any Act Hereby Repealed; and to Repeal Sections 2346b1, 2346b2, 2346b3, 2346b4, 2346b5, 2346b6, 2346b7, 2346b8, 2346b9, 2346b10, 2346b11, 2346b12, 2346b13, 2346b14, 2346b15, 2346b16, 2346b17, 2346b18, 2346b19, 2346b20, 2346b21, 2346b22, 2346b23, 2346b24, 2346b25, 2346b26, 2346b27, 2346b28, 2346b29, 2346b30, 2346b31, 2346b32, 2346b33, 2346b34, 2346b35, 2346b36, 2346b37, 2346b38, 2346b39, 2346b40, 2346b41, 2346b42, 2346b43, 2346b44, 2346b45, 2346b46, 2346b47, 2346b48, 2346b49, 2346b50, 2346b51, 2346b52, 2346b53, 2346b54, 2346b55, 2346b56, 2346b57, of the Supplement to the Compiled Laws of 1913, and All Acts or Parts of Acts in Conflict with This Act Are Hereby Repealed.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. This act shall be known as the Estate Tax Act.

§ 2. (1) TAX ON TRANSFERS OF ESTATES.] A tax shall be and is hereby imposed upon the transfer of the net estate of every decedent, whether in trust or otherwise, under the conditions and subject to the exemptions and limitations hereinafter prescribed.

(2) GROSS ESTATE. The value of the gross estate of the decedent shall be determined by including the following property:

(a) When a resident of the State.

1. All real property within the State.
2. All tangible personal property except that which has an actual situs without the state.
3. All intangible personal property wherever located.

(b) When a non-resident of this State.

1. All real property located within the State.
2. All tangible personal property having an actual situs within the state.

3. The full value of shares of stock in domestic corporations.

4. Sheriff's certificate's of sale of real estate and Sheriff's deeds.

(c) All property transferred prior to and in contemplation of death.

Any transfer of any part of the estate made by the decedent within two years prior to death without an equivalent monetary consideration shall unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this section.

(d) Any property transferred by the decedent prior to death by grant or gift without an equivalent monetary consideration and intended to take effect at or after the death of the decedent.

(3) **CONTRACTS IN CONTEMPLATION OF DEATH.** The gross value of the estate shall not be diminished by reason of any transfers due to the claim of any creditor against the estate arising from a contract made after the passage of this act if payable by the terms of such contract at or after death of the decedent, except insofar as it may be affirmatively shown by competent evidence that such claim was legally due and payable in the lifetime of the decedent or was supported by a consideration of equivalent monetary value. This shall not, however, bring within the meaning of the statute any antenuptial agreements which shall for the purpose of this act be considered as contract creating a debt against the estate.

(4) **JOINT INTEREST.** The gross estate of the decedent shall include the value of interest in property held as joint tenant or deposited in banks or other institutions in the joint name of the decedent and any other person and payable to either or the survivor. In all such cases the value of the decedent's interest shall be determined by dividing the value of the entire property by the number of joint tenants, joint depositors, or persons interested therein.

(5) **POWER OF APPOINTMENT.** Transfers of property subject to the power of appointment, whether the power be exercised or not exercised, shall be taxable under this act to the estate of the donor and shall not be taxable to the estate of the donee.

(6) **REVOCABLE AND IRREVOCABLE TRUSTS.** Whenever a decedent has reserved unrestricted power of revocation of any trust created during his lifetime, such trust shall be considered as a part of his estate and taxed accordingly. Where, however, the trust

provided that only a portion of such property could be revested, only that portion shall be taxable as a part of the estate and the irrevocable portion of such trust shall only be taxable when the transfer was made in contemplation of death or the possession or enjoyment thereof was intended to take effect at or after death. Wherever a donor of such a trust reserved a life income therefrom it shall be considered as a part of the estate and taxed accordingly.

(7) **PROPERTY PREVIOUSLY TAXED.** A transfer of property which has paid a transfer tax to this State within five years shall be subject to a tax as though it had not been transferred, but wherever the property can be identified as having been received by the decedent by gift, bequest, devise or inheritance within five years or can be identified as having been acquired in exchange for property so received a credit for the transfer taxes paid within five years upon his property shall be allowed upon the transfer tax; provided, however, that this credit shall not exceed the tax due under the present appraisal of such property for transfer tax purposes.

(8) **PROCEEDS FROM LIFE INSURANCE POLICIES.** All proceeds from life insurance policies shall be exempt from taxation.

§ 3. **RATE OF TAX.]** The tax upon the net estate shall be the following rates:

1 per centum of the amount of the net estate not in excess of \$25,000;

1½ per centum of the amount by which the net estate exceeds \$25,000 and does not exceed \$50,000;

2 per centum of the amount by which the net estate exceeds \$50,000 and does not exceed \$100,000;

2½ per centum of the amount by which the net estate exceeds \$100,000 and does not exceed \$200,000;

3 per centum of the amount by which the net estate exceeds \$200,000 and does not exceed \$400,000;

3½ per centum of the amount by which the net estate exceeds \$400,000 and does not exceed \$600,000;

4 per centum of the amount by which the net estate exceeds \$600,000 and does not exceed \$800,000;

5 per centum of the amount by which the net estate exceeds \$800,000, and does not exceed \$1,000,000;

6 per centum of the amount by which the net estate exceeds \$1,000,000 and does not exceed \$1,500,000;

7 per centum of the amount by which the net estate exceeds \$1,500,000.

(2) DETERMINATION OF NET ESTATE. For the purpose of this act the value of the net estate shall be determined by deducting from the value of the gross estate;

(a) An exemption, not exceeding the amount specified in each case, of the value of property passing to each of the following beneficiaries:

1. Wife, not exceeding \$20,000.
2. Husband, not exceeding \$20,000.
3. Lineal ancestor or descendant, adopted child, stepchild, or lineal descendant of an adopted child or stepchild, not exceeding \$3,000, and if a minor, not exceeding \$5,000.00.

(b) The amount of all bequests, legacies, devises, or transfers, except bona fide sales for an equivalent monetary consideration in contemplation of or intended to take effect in possession or enjoyment at or after the decedent's death, to or for the use of the United States, District of Columbia, or any public institution, for exclusively public purposes, or for any charitable, educational or religious purposes, or to or for the use of any corporation, institution, society or association, whose sole object and purpose is to carry on charitable, educational or religious work, but no deduction shall be made if any officer, member, shareholder or employee of such corporation, institution, society or association shall receive or may be lawfully entitled to receive, any pecuniary profit from the operations thereof, except reasonable compensation for services in effecting one or more of such purposes or as proper beneficiaries of a strictly charitable purpose; or it (if) the organization thereof, for any such avowed purpose, be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation, institution, society or association, or for any of its members or employees, or if it be not in good faith organized or conducted exclusively for one or more of such purposes.

(c) All debts of the decedent.

(d) Taxes

1. On real property within this State which were a lien at the date of decedent's death.
2. On the decedent's personal property which was the personal obligation of the decedent during his lifetime, or a lien upon such personal property at the date of death.
3. State and Federal income taxes on the income of the decedent to the date of his death.

(e) Death duties paid to foreign countries on intangible personal property.

(f) Inheritance taxes paid or payable to other states on intangible personal property.

(g) Federal Estate taxes paid and not refunded.

(h) Special assessments which are due and which are a lien on taxable property located within the state.

(i) Funeral and burial expenses; and all amounts actually expended not exceeding the sum of five hundred (\$500) dollars for monuments.

(j) Commissions of executors and administrators actually allowed and paid.

(k) Cost of administration including reasonable attorney's fees. When a portion of the decedent's estate is not taxable within this state the deductions shall be allowed under items (a), (d), (f), (g), (i) for only that portion of the total deduction which the property located within the state bears to the total taxable property of the estate.

§ 4. DUTIES OF THE COUNTY COURT.] (1) Each judge of the County Court shall have full authority, and it shall be his duty to assess the taxes hereby imposed at the time of probate, and he shall furnish such report of the probate proceedings in each estate as the Tax Commissioner shall require, a copy of the Inventory and Appraisal, a statement of all taxable transfers made by the decedent that have come to his knowledge and such other information contained in the records and files of his office, which the Tax Commissioner may require.

(2) NOTICE OF ASSESSMENT. It shall be the duty of the County Court having jurisdiction over any Estate to assess the tax payable thereon before final decree of distribution of said estate has been made and to mail a copy of his Order assessing the tax, together with such other information as shall be required, to the State Tax Commissioner promptly upon issuance of his order assessing the tax. He shall, at the same time, notify the executor, administrator, or trustee of the Estate of the amount of such assessment, but failure to receive such notice from the County Court shall not excuse the non-payment of the taxes nor invalidate the tax in any way.

(3) APPRAISALS MADE AND TAXES PAYABLE AS OF DATE OF DEATH. The taxes imposed by this act shall be due and payable at the death of the Decedent. The transfer shall be considered to take place at time of death, and all appraisals shall be as of that date, except as in this act otherwise provided. Wherever there has been a taxable transfer prior to death, on which the tax has

not been paid, the property so transferred shall be considered a part of the Estate, and shall be appraised as of the date of death of the decedent, and taxed under the laws then in force.

(4) **PRELIMINARY APPRAISAL.** In all cases wherein the County Court has reason to believe that a decedent's estate may be subject to assessment under the provisions of this act, and no probate proceeding has been instituted within sixty (60) days following the death of the decedent, he shall cite one or more of the probable beneficiaries to appear and show cause why estate taxes be not imposed under the provisions of this act and may in his discretion appoint one or more appraisers who shall immediately appraise the property of any resident decedent within his county. Such appraisal shall be preliminary and may be amended by adding thereto any property found to be the property of the decedent during the administration of decedent's estate, or by deducting therefrom, any property listed in such preliminary inventory, which is found not to be the property of the decedent. Such appraisal may in the discretion of the Court be made final and may serve all purposes for the administration of the Estate. The said appraisers so appointed shall be paid out of the funds of the Estate. In no case shall the expense of appraisal exceed one-tenth of one per cent of the net taxable value of the estate.

Provided, however, there shall be a minimum allowance of \$5.00 for each Estate examined or appraised, together with the actual and necessary traveling expenses.

(5) In all estates which under the provisions of this act are exempt from the payment of any tax, the County Court shall issue its Order exempting such Estate from the payment of any estate tax. Such order shall contain the total appraised valuation of said estate, together with the names and relationship of the beneficiaries thereunder. A copy of said Order shall be sent to the State Tax Commissioner.

§ 5. **SUPERVISION BY STATE TAX COMMISSIONER.]** (1) The State Tax Commissioner shall have full supervision of the enforcement and collection of all taxes due under this act, and shall make such rules and regulations as may be necessary for the interpretation and enforcement thereof.

(2) **OTHER DEPARTMENTS TO ASSIST TAX COMMISSIONER; SPECIAL AGENTS.** The State Tax Commissioner shall be entitled to call upon other proper departments of the State Government for cooperation in the enforcement and collection of these taxes, and may employ such attorneys, examiners and special agents as may be necessary for carrying out the full intent and purposes of this act.

(3) APPRAISAL BY THE TAX COMMISSIONER. The appraisals made by the County Court shall be subject to the approval of the State Tax Commissioner. He may accept the valuation in the Inventory as reported by the appraisers appointed by the County Court, or he may petition the Judge of the County Court to appoint a time and place for hearing, of the said Inventory and Appraisalment, at which time and place all issue of law and fact pertaining to the assessment of the tax hereby imposed, shall be heard. The County court shall cite all parties interested to appear at such hearing, and may issue subpoenas to compel the attendance of witnesses. The State Tax Commissioner shall upon demand of the Executor, Administrator, trustee, or beneficiary of the Estate, or may of his own volition, refuse to accept the appraisal of an estate made by the County Court. In such case, the State Tax Commissioner shall, on demand of the Executor, administrator, trustee or beneficiary of the Estate, employ specially qualified appraisers, to be paid out of the funds of the estate. If no such demand is made, the State Tax Commissioner may on his own motion either in person or by representative, make such re-valuations as shall be just and equitable. Any executor, administrator, trustee or beneficiary of the estate if not satisfied with such additional appraisal, may appeal to the State Tax Commissioner, which appeal shall be heard and determined as in other cases; provided said appeal shall be made within thirty (30) days from the date on which the notice of the decision of the State Tax Commissioner is filed with the county court of the county in which the estate is being probated. The executor, administrator, trustee or beneficiary, if not satisfied with the final decision of the State Tax Commissioner, may within thirty (30) days from such decision exercise such right of appeal to any Court of competent jurisdiction as is provided from other decisions of the State Tax Commissioners.

§ 6. BASIS OF APPRAISALS.] All assessments shall be made upon appraisals of the full and fair cash value of the property to be transferred as of the date of the death of the decedent. Where the estate is to be appraised contains stocks or bonds which are listed upon stock exchanges the assessed value shall be determined by ascertaining the range of the market and the average of prices for a period not exceeding six months before and six months after the date of death of the decedent. In determining the value of all other property the appraisers shall take into consideration the range and values of this and similar property with the fluctuations therein for a period of time not exceeding six months before and six months after the death of the decedent.

§ 7. REPORTS BY EXECUTORS, ADMINISTRATORS AND TRUSTEES. It shall be the duty of the executor, administrator or trustee before the final settlement of an estate to furnish a supplemental inventory listing all property and taxable transfers that have come to his knowledge since the first inventory. He shall also furnish copies of any documents or records and any other information pertaining to the estate, or the value thereof, upon request of the County Court.

§ 8. LIEN FOR TAXES.] All taxes imposed by this act shall be and remain a lien upon the property transferred, and upon all property acquired by the executor, administrator, or trustee in substitution therefor until the taxes are paid or a bond given, but said lien shall not effect any tangible or intangible personal property after it has passed to a bona fide purchaser for value; provided however, that nothing herein contained shall give the owner of any securities the right to have the same transferred to him by the corporation, association, company or trust issuing the same, until a permit required by this act shall have been filed as herein provided. The lien charged as aforesaid upon any real estate or separate parcel thereof may be discharged by the payment of all taxes due and to become due on said real estate or separate parcel, or by the filing and acceptance of a bond as provided in this act, or by an order of the County Court transferring such lien to other real estate owned by the person to whom said real estate or separate parcel thereof passes. The beneficiary shall be personally liable for the tax on such real estate, as well as the executor, administrator, or trustee; and if the executor, administrator, or trustee pays such tax, he shall, unless the same is made an expense of administration by the will or other instrument, have the right to recover such tax or any other tax from the beneficiary acquiring such real estate.

§ 9. COLLECTION OF TAXES; REFUNDS.] The County Treasurer in the county wherein the probate is held, shall collect the tax levied under this act and shall certify them to the County Auditor at the end of each calendar month. He shall pay over to the State Treasurer, 35% of such tax, retaining 65% thereof, which 65% shall be deposited to the credit of the general fund of the county. Provided, that in all cases wherein no County Court has jurisdiction, the amount of tax shall be determined by the State Tax Commissioner, and the State Treasurer shall collect the same and deposit to the credit of the general fund of the state. No executor, administrator, or trustee shall be entitled to a final discharge in an estate in settlement of which a tax is due under the provisions of this act, unless he shall produce a receipt showing the payment of such tax. In case an overpayment of such tax has

been made, such overpayment shall be repaid out of any estate tax funds in the hands of the county treasurer upon an Order of the Court approved by the State Tax Commissioner. A certified copy of such order shall be filed with the State Treasurer and he shall credit the account with the amount of the state's proportionate liability on such refund. In any case where the State Treasurer has collected the entire inheritance tax, refunds may be made upon approval of the State Tax Commissioner in the same manner as other claims against the state are paid.

§ 10. ACTIONS FOR QUIETING TITLE TO PROPERTY.] Actions may be brought against the state by any interested person for the purpose of quieting title to any property against the lien or claim of lien of any tax or taxes under this act, or the purpose of having it determined that any property is not subject to any lien nor chargeable with any tax under this act. No such action shall be maintained where any proceedings are pending in any court in this state wherein the liability of such property for taxes under this act may be determined. All parties interested in said property and in the taxability thereof shall be made parties thereto and any interested person who refuses to hoin (join) as plaintiff therein may be made a defendant. Summons for the state in said action shall be served upon the State's Attorney and the State Tax Commissioner.

§ 11. FORMS AND RECORDS.] The State Tax Commissioner shall have power to prescribe such forms, application blanks and printed matter as may be necessary for the carrying out and enforcement of this act. He shall also keep such records as are indicated by good accounting practice in such manner as to furnish to the state legislature intelligent information upon which to base further legislation in regard to these taxes.

§ 12. INTEREST ON POSTPONED PAYMENTS.] Taxes due under this act if not paid within one year after the date of death of the decedent shall bear interest at the rate of six (6) per cent per annum to be computed from the expiration of one year after the death of such decedent until the amount is paid.

§ 13. DETERMINATION OF TAX ON ESTATE OF NON-RESIDENT WHEN THERE IS NO PROBATE PROCEEDING WITHIN THE STATE.] In the absence of administration in this state upon the estate of a non-resident, the State Tax Commissioner may, at the request of an executor or administrator duly appointed and qualified in the state of the decedent's domicile, or of a grantee under a conveyance made during the grantor's lifetime, and upon satisfactory evidence furnished by such executor, administrator, or grantee, or otherwise,

determine whether or not any property of said decedent within this state is subject to tax under the provisions of this act, and if so, may determine the amount of such tax and adjust the same with such executor, administrator, or grantee, and for that purpose may appoint an appraiser to appraise said property and the expense of such appraisal shall be charged upon said property in addition to the tax. The State Tax Commissioner's certificate as to the amount of such tax and the State Treasurer's receipt for the amount therein certified may be filed in the probate office in the county where the property is located, and when so filed shall be conclusive evidence of the payment of the tax upon the said property. Whenever in such case the tax is not adjusted within four months after the death of the decedent, the proper county court, upon application of the State Tax Commissioner, shall appoint an administrator in this state.

§ 14. DUTIES OF SAFE DEPOSIT COMPANIES, TRUST COMPANIES, BANKS, AND CORPORATIONS.] No safe deposit company, trust company, corporation, bank or other institution, person or persons engaged in the business or renting safe deposit boxes or other receptacles of similar character shall rent any such box or receptacle without first requiring all persons given access thereto to agree in writing to notify such safe depository, bailee, or lessor, from whom such box or receptacle is rented, of the death of any person having the right of access thereto, before seeking access to such box or receptacle must notify such safe depository, bailee, or lessor, from whom such box or receptacle is rented of the death of such person; and it shall be unlawful for any safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control, custody or partial custody any safe deposit box or similar receptacle to permit access thereto by any one after the death of any person who at the time of his death had the right or privilege of access thereto either as principal, deputy, agent or cotenant, without the consent of the judge of the county court of the county. No safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control or custody or under partial control or partial custody, securities, deposits, assets or property belonging to or standing in the name of a decedent who was a resident or non-resident, or belonging to, or standing in the joint names of such decedent and one or more persons, including the shares of the capital stock of or other interest in, the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer herein provided, shall deliver or transfer the same to the executors, administrators or legal representatives, agents, deputies, attorneys, trustees, legatees, heirs, successors in the interest of said decedent or to any other person or persons, or to the

survivor or survivors when held in the joint names of decedent and one or more persons, or under their order or request, without retaining a sufficient portion or amount thereof to pay any tax and interest which may thereafter be assessed thereon under this act and unless notice of the time and place of such delivery or transfer be served upon the County Court at least thirty days prior to said delivery or transfer: provided, that the County Court may issue an order directing said delivery or transfer, and such order shall relieve said safe deposit company, trust company, corporation, bank or other institution, person or persons from the obligation hereunder to give such notice or to retain any portion of said securities, deposits or other assets in their possession or control. Provided, however, that the County Court may appoint appraisers as provided for in section three (3), subdivision four (4), of this act to examine and appraise said securities, deposits or assets at the time of said delivery or otherwise.

§ 15. PENALTIES.] Failure to comply with the provisions of this section shall render such safe deposit company, trust company, corporation, bank or other institution, person or persons, liable to a penalty of not more than one thousand dollars (\$1,000.00), and in addition thereto said safe deposit company, trust company, corporation, bank or other institution, person or persons shall be liable for the amount of taxes, interest and penalties due under this act on said securities, deposits, or other assets above mentioned, and said penalties and liabilities of said safe deposit company, corporation, bank or other institution, person or persons for the violation of this section may be enforced in an action brought by the State's Attorney or the State Tax Commissioner in any court of competent jurisdiction.

§ 16. LIABILITY OF EXECUTORS.] Administrators and executors shall be liable for all taxes payable on the estate with interest as hereinbefore provided until the same have been paid. Provided, however, that in no case shall such administrator or executor be liable for a greater sum than is actually received by him.

§ 17. PENALTY FOR FALSE STATEMENTS OR REPORTS.] Every person who wilfully and knowingly subscribes or makes any false statement of facts, or knowingly subscribes or exhibits any false paper or false report with intent to deceive, any appraiser appointed pursuant to the provisions of this act, shall be subject to a penalty not exceeding five thousand dollars (\$5,000.00) or imprisonment for not exceeding one (1) year or both. Said penalties may be enforced in any court of competent jurisdiction.

§ 18. REPEAL.] Section 2346b1, 2346b2, 2346b3, 2346b4, 2346b5, 2346b6, 2346b7, 2346b8, 2346b9, 2346b10, 2346b11, 2346b12, 2346b13, 2346b14, 2346b15, 2346b16, 2346b17, 2346b18, 2346b19, 2346b20, 2346b21, 2346b22, 2346b23, 2346b24, 2346b25, 2346b26, 2346b27, 2346b28, 2346b29, 2346b30, 2346b31, 2346b32, 2346b33, 2346b34, 2346b35, 2346b36, 2346b37, 2346b38, 2346b39, 2346b40, 2346b41, 2346b42, 2346b43, 2346b44, 2346b45, 2346b46, 2346b47, 2346b48, 2346b49, 2346b50, 2346b51, 2346b52, 2346b53, 2346b54, 2346b55, 2346b56, 2346b57, of the Supplement to the Compiled Laws of 1913, and all acts or parts of acts in conflict with this act are hereby repealed.

§ 19. This act is hereby declared to be an emergency, and shall be in full force and effect from and after its passage and approval.

Approved March 5, 1927.

CHAPTER 268
(S. B. No. 181—Schlosser)

TAX LEVY OF VILLAGES

An Act to Amend and Re-enact Sections 3874 and 3875 of the Compiled Laws of North Dakota for 1913, Relating to Tax Levy of Villages and Duties of County Auditors With Reference Thereto.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 3874 of the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 3874. TAX LEVY. HOW AND WHEN MADE.] The Board of Trustees shall at its budget meeting on the fourth Wednesday of July or within ten days thereafter levy a tax sufficient to meet the expenses of the current fiscal year as determined at such budget meeting and not exceeding in the aggregate such amount as may be raised under the limitations prescribed by Sections 2163a1 to 2163a10 inclusive of the Supplement to the Compiled Laws of 1913 or acts amendatory thereof. The clerk of said village shall forthwith certify such levy to the county auditor of the county in which such village is situated. Such levy shall be made in a specific amount.

§ 2. AMENDMENT.] Section 3875 of the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 3875. DUTY OF COUNTY AUDITOR.] It shall be the duty of the county auditor to extend such tax upon the tax lists of the county for the current year in the same manner and with the same effect as other taxes are extended.

Approved March 3, 1927.

CHAPTER 269
(S. B. No. 50—Rusch)

TAX LEVY LIMITATIONS

An Act to Amend and Re-enact Section 2163a7 of Supplement to Compiled Laws of the State of North Dakota 1913, Being Section Seven of Chapter 318 Laws of 1923.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2163a7 of the Supplement to the Compiled Laws of the State of North Dakota 1913, being Section 7 of Chapter 318, Laws 1923, be and the same is hereby amended and re-enacted to read as follows:

§ 2163a7. The foregoing limitations shall not apply to irrigation districts nor drainage districts nor to special assessments in cities and villages assessed by special assessment commissions against benefited property; nor to levies for the purpose of paying bonded indebtedness or interest upon the bonded indebtedness in any class of taxing district; nor to the county tuition levy, provided for by Section 1224 of the Compiled Laws of 1913 as amended by Chapter 66 of the Special Session Laws of 1919; nor to taxes levied pursuant to the provisions of Chapter 139, Session Laws of 1919 (Section 2868a1, post), for the purpose of combating the grasshopper pest; nor to taxes levied pursuant to the provisions of Section 3716 of the Supplement to the Compiled Laws of the State of North Dakota 1913, being Chapter 174, Laws of 1923; provided that in levying taxes pursuant to said law, the City Council or City Commission, as the case may be, shall have power to provide for the payment of such deficiency in equal installments over a period of not to exceed five years and to issue general warrants of said city covering such deficiency bearing interest at the legal rate of interest; nor to taxes levied pursuant to the provisions of chapter 106 of the Session Laws of 1915 (Section 2261, 2262, post) for the purpose of combating gophers and similar pests. In case revenue raised for the purpose of combating such pests is transferred to the road and bridge fund, the amount of the maximum legal limit of the levy for roads and bridges made next after such transfer shall be diminished from the maximum amounts permitted by the provisions of Section 5 of this act by the amount of such transfer or transfers.

Approved February 19, 1927.

CHAPTER 270
(S. B. No. 22—Murphy)

TAX LEVY FOR MUNICIPAL BAND

An Act to Authorize a Tax Levy in Cities and Villages for the Purpose of Providing a Fund for the Maintenance or Employment of a Band for Municipal Purposes, and Providing for Submission of the Question of Levying a Tax for Such Purpose to the Voters of Such Cities and Towns.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Cities and villages howsoever organized and irrespective of their form of government, may when authorized as hereinafter provided, levy each year a tax for the purpose of providing a fund for the maintenance or employment of a band for municipal purposes.

§ 2. Said authority shall be initiated by a petition signed by ten per cent of the legal voters of the city or town, as shown by the last regular municipal election. Said petition shall be filed with the council or commission and shall request that the following question be submitted to the voters, to-wit: "Shall a tax of not exceeding mills (specifying the rate) be levied each year for the purpose of furnishing a band fund?"

§ 3. When such petition is filed, the council or commission shall cause said question to be submitted to the voters at the first following general or municipal election.

§ 4. Said levy shall be deemed authorized if two-thirds of the votes cast at said election be in favor of the proposition. The governing body of said city or village may thereupon include in their budget an appropriation for the maintenance or employment of a band for municipal purposes and may levy to cover such appropriation in this annual tax levy. The amount of levy to cover such appropriation together with the aggregate amount for general purposes shall be within the limitation prescribed by Section 2163a1 and 2163a6 of the Supplement to the Compiled Laws of 1913, or acts amendatory thereof. The amount appropriated for the maintenance or employment of a band for municipal purposes shall in no case exceed four thousand dollars and shall further be subject to the following limitations:

(a) In cities or villages having a net assessed valuation not in excess of five million dollars, the amount appropriated shall not exceed one mill on the net assessed valuation of the property of the city or village.

(b) In cities or villages having a net assessed valuation of over five million dollars and not in excess of fifteen million dollars,

the amount appropriated shall not exceed one-half of one mill on the net assessed valuation of the taxable property of the city or village.

(c) In cities or villages having a net assessed valuation in excess of fifteen million dollars, the amount appropriated shall not exceed one-fourth of one mill on the net assessed valuation of the taxable property of the city or village.

§ 5. A like petition may at any time be presented to the council or commission asking that the following proposition be submitted, to-wit: "Shall the power to levy a tax for the maintenance or employment of a band be cancelled?" Said submission shall be made at any general or municipal election as heretofore provided, and if a majority of the votes be in favor of said question, no further levy for said purpose shall be made until such time as the said question may be again voted upon favorably as heretofore provided.

§ 6. All funds derived from said levy shall be expended as set out in Section One hereof by the council or commission.

Approved March 3, 1927.

TRANSFERS

CHAPTER 271

(H. B. No. 65—Rulon)

TRANSFER REAL PROPERTY, DUTY OF COUNTY AUDITOR

An Act to Amend and Re-enact Section 2212 of the Supplement to the Compiled Laws of 1913 of the State of North Dakota, Relating to the Duty of the County Auditor and Requirements of the Transfer of Real Property as to Taxes, Deeds and Other Instruments of Conveyance and Declaring an Emergency Exists.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2212 of the Supplement to the Compiled Laws of 1913 of the State of North Dakota be amended and re-enacted to read as follows:

§ 2212. Whenever any deed or patent is presented to the County Auditor for transfer, he shall ascertain from the books and records in the offices of the County Treasurer and County Auditor if there be delinquent taxes or special assessments on the land described therein, or if it has been sold for taxes and if there are delinquent taxes or delinquent special assessments or installments of special assessments due thereon, he shall certify to the same, and when the receipt of the County Treasurer shall be produced for the said delinquent taxes or special assessments or installments of special assessments that may be in the hands of the County Treasurer or County Auditor for collection, the County Auditor shall enter on every deed, or patent so transferred, over his official signature,