

# A BILL

FOR AN ACT RELIEVING REAL ESTATE FROM DOUBLE TAXATION IN CERTAIN  
CASES AND TAXING MORTGAGES TO A CERTAIN EXTENT AS REAL ESTATE.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. When any person has an interest in real estate as holder of a mortgage, here-  
2 after made or hereafter extended, or not yet due and now subsisting, given to secure the  
3 payment of money, the amount of which is fixed and certain, and which has been duly re-  
4 corded, the amount of said person's interest as mortgagee, shall be assessed to said mort-  
5 gagee, as real estate, and shall be real estate for the purpose of this act in the city, town or  
6 township where the land lies, and the mortgagor shall be assessed only for the value of said  
7 real estate after deducting the mortgagee's interest therein which have been taxed as  
8 herein provided, and the assessment to carry out the provisions of this act shall be made in  
9 each year during the legal time for assessing property each year. When such property is  
10 situated in two or more places, the amount of the mortgagee's interest to be assessed in each  
11 place, shall be proportioned to the assessed value in the respective places of the mortgaged  
12 real estate, deducting therefrom the taxable amount of prior mortgages, if any thereon.

SEC. 2. If any such mortgagee or holder of such mortgage shall fail to give to the assessor  
2 as required by law, a statement under oath of all his estate liable to taxation hereunder, in-  
3 cluding a statement of the full amount remaining unpaid upon said mortgage and his inter-  
4 est therein, the amount stated in said mortgage deed shall be conclusive as to the extent of  
5 his interest therein; *provided, however,* that nothing herein shall be construed to allow the  
6 taxing of said mortgagee's interest in real estate to a greater extent than the actual value  
7 of the land and structures thereon or affixed thereto; and, *provided,* it shall be the duty of  
8 the mortgagee to explain to the assessor how much said mortgagee's interest is in the mort-  
9 gagor's real estate, in order that the assessor may compare the mortgagor's explanation with  
10 the statement of the mortgagee or holder of the mortgagee's interest. And it is hereby  
11 made the duty of the assessor to ascertain the sum actually unpaid on each mortgage in the  
12 order of their priority, if there shall be more than one mortgage interest, in any particular  
13 real estate under consideration for assessment, and as soon as he may find a second, third or  
14 any junior mortgage having in it no intrinsic value on such real estate by virtue of a prior  
15 or prior mortgages, he shall make no assessment against that particular mortgagee junior  
16 interest as a mortgagee real estate interest.

SEC. 3. Mortgagors and mortgagees, hereinbefore referred to, shall for the purpose of taxation, be deemed joint owners until the mortgagee takes possession, and until such possession is taken by a first mortgagee, the assessor or the county treasurer upon application to either of them, shall give to any such mortgagee or mortgagor a tax bill, showing the whole tax on the mortgaged estate, and the amount included in the valuation thereof as the interest of each mortgagee and mortgagor respectively. If the first mortgagee is in possession he shall be deemed sole owner, and any other mortgagee in possession shall be deemed joint owner with prior mortgagees.

SEC. 4. All taxes assessed as herein provided shall constitute a lien upon the land and structures thereon or affixed thereto, and the provisions of law relating to the collection of taxes on real estate and redemption from taxes shall apply to taxes so assessed. Every sale or taking of real estate for unpaid taxes shall be deemed to be in the name of the owner or owners thereof, if the proceedings of the assessment, sale or taking, shall be made in the name of one or more of the persons who appear as record owners of such estate at the date of assessment; *provided*, that any taking of real estate for unpaid taxes shall be for the whole of that real estate, and no sale or taking shall be for the undivided interest of any one or more of the joint owners thereof.

SEC. 5. If any part of the taxes duly assessed upon real estate under the provisions of this act shall remain unpaid on the first days of April and October, respectively, after the same has been assessed in all respects as now provided by law with regard to delinquent taxes, either party may pay the same, and if paid by any mortgagee the mortgagee so paying may take from the treasurer the ordinary tax receipts by law required to be given to tax-payers, with a note of reference on the receipt, and on the tax record to the mortgage deed; and such sums so paid for taxes other than those assessed to himself with costs, penalty, and interest shall be added to and constitute a part of the principal sum of the mortgage, and in such cases the payment of such taxes with the said note of reference on the said tax records, shall be notice to persons of the sums so paid other than those assessed to himself, and of the lien thus created upon him. When taxes so assessed to any mortgagee have been paid by the mortgagor, or those claiming under him, to either the treasurer or mortgagee paying the same, as herein provided, such mortgagor shall have the right to deduct the sum so paid, with the cost, penalty and interest thereon, from the amount of the mortgage due the mortgagee to whom said taxes was assessed.

SEC. 6. Loans on mortgage of real estate within the State of Iowa assessed as hereinbefore provided, shall be exempt from taxation as personal property; *provided*, that this provision shall not apply to the excess of any such loan or loans above the assessed value of the mortgaged real estate.

SEC. 7. No mortgagor in contemplation of this act shall have the right to deduct the amount of any mortgage debt or part thereof, which shall have been executed by him from

3 the amount of his moneys and credits which he is required to list or have listed and  
4 assessed.

SEC. 8. The State board of equalization shall have nothing to do with adding to or de-  
2 ducting from any mortgagee's real estate interest contemplated in this act, in performing  
3 its duties under sub-divisions one and two of section 834 of the Code of Iowa.

SEC. 9. It shall be the duty of the assessor to carefully inquire and learn from each tax-  
2 payer whether or not he has a mortgagee's real estate interest or is a mortgagor as in this  
3 act contemplated, and such assessor shall make the assessment as herein provided; and if  
4 any assessor shall fail or neglect to perform any of the duties required of him by this act at  
5 the time and in the manner specified, he shall be liable to a fine, the same as provided by  
6 section 827 of the Code.

SEC. 10. This act shall not be construed to change the law now in force providing for as-  
2 sessing and taxing the property of railroad corporations, real or personal, or other corpora-  
3 tions, for the taxing the property of which full and adequate provision has heretofore been  
4 made; but all such corporations in their property rights, real and personal, shall be assessed  
5 and taxed as heretofore by law provided.

SEC. 11. Any person appearing of record as a mortgagee, whose mortgage interest may  
2 have no intrinsic value on account of prior mortgages, judgments or liens, shall not be as-  
3 sessed for any sum on account of such mortgage; but it is hereby made the duty of the as-  
4 sessor to ascertain this fact from the records, and by personal inspection of the encumbered  
5 real estate; and the person so appearing of record as a mortgagee may hand to the assessor  
6 at any time between January 1st and 31st of each year, his affidavit, or that of his duly con-  
7 stituted agent, made before a notary public, showing the reasons why there is no intrinsic  
8 value in such apparent mortgage interest; and the assessor shall consider the affidavit, with  
9 his own investigation, in determining whether there is an assessable value in such apparent  
10 mortgage interest.

SEC. 12. Any contract hereafter made, by which a debtor is obliged to pay any tax or as-  
2 sessment of money loaned, and which is to be assessed and taxed as real estate, as in this act  
3 contemplated, shall, as to any interest specified therein, and as to such tax or assessment, be  
4 null and void.