

1 [Real Property Transfer Tax. Change of delinquency date; substitution of references to
2 current laws; conform partnership rule to state law changes; elimination of tax stamp provision
and elimination of Transfer Tax Review Board, operative January 1, 2013]

3
4 **Ordinance amending Sections 1106, 1108, 1108.4, 1113, 1115, 1115.1, 1115.2 and**
5 **1115.3, adding Section 1113.1, and repealing Section 1109 of Article 12-C of the**
6 **Business and Tax Regulations Code to: (1) change delinquency date; (2) replace**
7 **references to prior bankruptcy, income tax, and local laws with references to current**
8 **laws; (3) conform rule for partnership interest transfers to state law changes;**
9 **(4) refunds permissible without a claim; (45) eliminate obsolete provision regarding**
10 **documentary tax stamps; and (56) eliminate Transfer Tax Board of Review and**
11 **references to that Board, operative January 1, 2013.**

12 Note: Additions are *single-underline italics Times New Roman*;
13 deletions are *strikethrough italics Times New Roman*.
14 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. Article 12-C of the San Francisco Business and Tax Regulations Code is
17 hereby amended by amending Sections 1106, 1108, 1108.4, and 1113, and adding Section
18 1113.1 to read as follows:

19 SEC. 1106. EXCEPTIONS.

20 Any tax imposed pursuant to this ordinance shall not apply to the making,
21 delivering or filing of conveyances to make effective any plan of reorganization or adjustment:

22 (a) Confirmed under ~~the Federal Bankruptcy Act, as amended~~ Title 11 of the
23 United States Code;

1 ~~(b)~~ — *Approved in an equity receivership proceeding in a court involving a*
2 *railroad corporation, as defined in Subdivision (m) of Section 205 of Title 11 of the United States Code,*
3 *as amended;*

4 ~~(c)~~ — *Approved in any equity receivership proceeding in a court involving a*
5 *corporation, as defined in Subdivision (3) of Section 506 of Title 11 of the United States Code, as*
6 *amended; or*

7 ~~(d)~~(b) Whereby a mere change in identity, form or place or organization
8 is effected.

9 Subdivisions (a) ~~to (d)~~ and (b), inclusive, of this Section shall only apply if the
10 making, delivery or filing of instruments of transfer or conveyances occurs within five years
11 from the date of such confirmation approval or change.

12 SEC. 1108. APPLICATION TO PARTNERSHIPS; TITLE CHANGES NOT AFFECTING
13 OWNERSHIP.

14 (a) In the case of any realty held by a partnership or other entity treated as a
15 partnership for federal income tax purposes, no levy shall be imposed pursuant to this Article
16 ~~ordinance~~ by reason of any transfer of an interest in a partnership or other entity treated as a
17 partnership for federal income tax purposes or otherwise, if:

18 (1) Such partnership or other entity treated as a partnership (or another
19 partnership or other entity treated as a partnership) is considered a continuing partnership within
20 the meaning of Section 708 of the Internal Revenue Code of ~~1954~~ 1986, as amended; and

21 (2) Such continuing partnership or other entity treated as a partnership
22 continues to hold the realty concerned.

23 (b) If there is a termination of any partnership or other entity treated as a
24 partnership for federal income tax purposes within the meaning of Section 708 of the Internal
25 Revenue Code of ~~1954~~ 1986, as amended, for purposes of this ~~ordinance~~ Article, such

1 partnership or other entity shall be treated as having executed an instrument whereby there
2 was conveyed, for fair market value, all realty held by such partnership or other entity at the
3 time of such termination.

4 (c) Not more than one tax shall be imposed pursuant to this ~~ordinance~~ Article
5 by reason of a termination described in Subdivision (b), and any transfer pursuant thereto,
6 with respect to the realty held by such partnership or other entity treated as a partnership for
7 federal income tax purposes at the time of such termination.

8 (d) The tax imposed under this Article shall not apply where the deed, instrument, or
9 other writing transferring title to real property between an individual or individuals and a legal entity
10 or between legal entities that results solely in a change in the method of holding title and in which the
11 proportional ownership interests in the real property, whether represented by stock, membership
12 interest, partnership interest, cotenancy interest, or otherwise, directly or indirectly, remains exactly
13 the same before and after the transfer.

14 SEC. 1108.4. EXEMPTION; CERTAIN CONVERSIONS OF STOCK COOPERATIVES
15 TO CONDOMINIUM UNITS.

16 Any tax imposed pursuant to this ~~ordinance~~ Article shall not apply with respect to
17 any deed, instrument, or writing in connection with the conversion to condominium units of the
18 following kind of stock cooperative project: a stock cooperative project (a) which is entitled to
19 an exemption from the annual limitation imposed on the number of conversions and the
20 annual condominium conversion lottery pursuant to Section 1396 of the San Francisco
21 Subdivision Code; and (b) ~~where-in~~ wherein 80 percent or more of the condominium units serve
22 as security for loans in favor of the City and County of San Francisco, pursuant to the
23 Homeownership Assistance Loan Fund (under San Francisco Administrative Code Section
24 ~~10.117-76~~ 10.100-108) or its predecessor program, as identified by the Mayor's Office of
25 Housing, prior to the conversion.

1 SEC. 1113. CLAIMS FOR REFUNDS.

2 Claims for refunds of taxes imposed pursuant to this ordinance shall be
3 governed by the provisions of Sections 6.15-1, 6.15-3, and 6.15-4 of the San Francisco Business and
4 Tax Regulations Code , as those sections currently read and as they may be amended, or
5 interpreted by regulations, in the future . The references in those sections to a "return" shall mean
6 the transfer tax affidavit and, the references to "tax period" shall mean date of transfer, and the
7 references to the "Tax Collector" shall mean the Recorder . Chapter 5 (commencing with Section
8 5096) of Part 9 of Division 1 of the Revenue and Taxation Code, except that in the event of any conflict
9 with the provisions of this ordinance, the ordinance provisions shall control. Claims for refunds shall
10 be presented in writing to the County Recorder within one year from and after the date of making the
11 payment that is sought to be refunded and any claim not presented within said one year period shall be
12 forever barred. The County Recorder shall investigate each claim and determine whether the claim
13 should be approved or denied. The County Recorder shall serve notice of his determination, personally
14 or by mail, on the person or persons who filed the claim for refund. Forms for refund claims shall be
15 provided by the County Recorder. If a refund claim is allowed under this section or Section
16 1113.1, the Controller will not pay the refund unless the taxpayer first records a document that
17 reflects payment of tax in an amount reduced by the amount of the refund. This requirement
18 does not apply if the taxpayer elected to record the deed in accordance with Section 1111
19 without any statement of transfer tax paid.

20 SEC. 1113. 1. REFUNDS PERMISSIBLE WITHOUT A CLAIM.

21 The Recorder may authorize the Controller to refund transfer tax payments,
22 without the need for a refund claim, if the Recorder determines:

23 (a) the tax was paid more than once;

24 (b) the amount paid exceeds the amount due as a result of an

25 arithmetic or clerical error; or

1 (c) the tax was paid on a type of transaction that is exempt from the
2 tax.

3 The Recorder may authorize such a refund no later than one year after payment
4 of the tax.

5 Section 2. The San Francisco Business and Tax Regulations Code is hereby amended
6 by amending Sections 1115, 1115.1, and 1115.3, to read as follows, operative until January 1,
7 2013:

8 SEC. 1115. DELINQUENCY TAXES.

9 (a) Delinquency Penalties. The tax imposed by this ordinance is due and
10 payable at the time the deed, instrument or writing effecting a transfer subject to the tax is
11 delivered, and is delinquent if unpaid ~~at the time of recordation thereof.~~ thirty days later. In the
12 event that tax is not paid prior to becoming delinquent, a delinquency penalty of 25 percent of
13 the amount of tax due shall accrue. In the event only a portion of the tax is unpaid prior to
14 becoming delinquent, the penalty shall accrue only as to the portion remaining unpaid. An
15 additional penalty of 10 percent shall accrue if the tax remains unpaid in the ninetieth day
16 following the date of the original delinquency except that the additional penalty shall not
17 accrue during the pendency of a taxpayer's appeal before the Transfer Tax Review Board
18 and, in such event, the additional penalty shall accrue if the tax remains unpaid on the
19 ninetieth day following service or mailing of notice of the ruling of the Review Board. Interest
20 shall accrue at the rate of one percent a month, or fraction thereof, on the amount of
21 delinquent tax, exclusive of penalties, from the date the tax becomes delinquent to the date of
22 payment. Interest and penalties accrued shall become part of the tax.

23 (b) ~~Post-Recording Audits.~~ The County Recorder ~~shall adopt and implement a~~
24 ~~post-recording may~~ audit ~~any procedure which shall provide for a review of at least five percent of~~
25 ~~those documents recorded each month~~ transferring an interest in real property, ~~the said documents~~

1 ~~to be selected at random, and, in addition, for a review of any other documents which the County~~
2 ~~Recorder has reason to believe may have been recorded without full payment of the tax and for a~~
3 ~~review of those documents where the tax is likely to be before or after any recording any deed,~~
4 ~~instrument or other writing effecting the transfer, to determine if the transfer is exempt from the tax~~
5 ~~under this Article or is unpaid or underpaid. The rules, procedures and criteria for conducting~~
6 such audits shall be prepared by the County Recorder within 90 days of the effective date of
7 this ordinance and promptly thereafter submitted to the Transfer Tax Review Board for review
8 and approval. ~~The County Recorder may adopt and implement necessary and appropriate audit~~
9 ~~procedures.~~

10 (c) Delinquency Determination. Whenever the County Recorder, ~~as the result~~
11 ~~of a post-recording audit or otherwise,~~ has reason to believe that the full amount of tax due
12 under this ordinance was not paid ~~before recordation,~~ the County Recorder may, by notice
13 served upon any person liable therefor, require him to furnish affidavits, true copies of relevant
14 records or other documentary proof sufficient to establish the amount of the consideration or
15 value of the interest or property conveyed ~~and~~ including the amount of any lien or
16 encumbrance remaining thereon at the time of sale; and, if it was claimed that the ~~previously~~
17 ~~recorded~~ deed, instrument or other writing was not subject to this tax or was exempt therefrom,
18 the County Recorder may, by such notice, require any person liable for the tax to furnish
19 affidavits, true copies of relevant records or other documentary proof to substantiate such
20 claim. On the basis of the proof so submitted and any other available evidence, the County
21 Recorder shall determine whether the full amount of tax due under this ordinance was paid
22 before recordation and, if it was not, the County Recorder shall determine the amount of tax
23 which was not paid and is delinquent.

24 (d) Delinquency Notices. Promptly after making his or her delinquent tax
25 determination, the County Recorder shall record a notice of delinquent tax which shall include:

- 1 (1) The amount of delinquent tax;
- 2 (2) The interest that shall accrue on the delinquent tax;
- 3 (3) The delinquency penalty then due;
- 4 (4) The additional penalty that shall accrue if the tax is not promptly
- 5 paid;
- 6 (5) A description of the real property that was transferred by the
- 7 document recorder without full payment of tax; ~~and~~
- 8 (6) A notice that if the tax, penalties and interest are not paid within 30
- 9 days, proceeding will be taken at a noticed hearing before the Board of Supervisors to impose
- 10 a lien for the unpaid tax, together with penalties and interest, against the real property
- 11 described in the delinquency notice; and
- 12 (7) A notice of the taxpayer's right to appeal the delinquency tax
- 13 determination to the Transfer Tax Review Board.

14 The County Recorder shall also serve or mail copies of the notice of delinquent

15 tax to the person liable for the tax and to the owner or owners of the real property described in

16 the notice, as said owners are shown on the records of the County Tax Collector.

17 (e) The provisions of this Section shall only apply until January 1, 2013,

18 when the alternate version of Section 1115 adopted in Ordinance No. _____ shall

19 take effect.

20 SEC. 1115.1. LIEN PROCEEDINGS.

21 (a) Initiating Lien Proceedings. If the full amount of the delinquent tax,

22 penalties and interest is not paid within 30 days following mailing of the delinquency notice or,

23 in the event of an appeal to the Transfer Tax Review Board, within 10 days following service

24 or mailing of the Review Board's ruling, the County Recorder, within one year ~~after recordation~~

25

1 ~~of the document that was recorded without full payment of when the~~ tax became delinquent, shall
2 report the delinquency to the Board of Supervisors ("the Board") and request the Board to
3 initiate proceedings to impose a lien for the total unpaid balance against the real property that
4 was transferred by the document delivered ~~recorded~~ without full payment of tax. Said report
5 shall, for each delinquent account, contain the names of the persons liable for the tax, the
6 total amount due, including delinquent taxes, penalties and interest, and a description of the
7 real property that was transferred by the document ~~recorded~~ delivered without full payment of
8 tax. Upon receipt of such report the Board shall fix a time and place for hearing the report and
9 any protests or objections thereto and shall cause notice of the hearing to be mailed not less
10 than 10 days prior to the date of hearing to each person liable for the tax and to the owner or
11 owners of the real property described in the recorded notice of delinquent tax.

12 (b) Hearing. At the time so fixed, the Board shall meet to hear the report and
13 any protests or objections thereto. The Board may make such revisions, corrections or
14 modifications of the report as it may deem just; and in the event that the Board is satisfied with
15 the correctness of the report (as submitted or as revised, corrected or modified), it shall be
16 confirmed. The decision of the Board on the report and on all protests or objections thereto
17 shall be final and conclusive; provided, however, any delinquent account may be removed
18 from the report by payment in full at any time prior to confirmation of the report. The Clerk of
19 the Board shall cause the confirmed report to be verified in form sufficient to meet recording
20 requirements.

21 (c) Special Assessment Lien. Upon confirmation of the report by the Board,
22 the unpaid balance reported therein, including tax, penalties and interest, shall constitute a
23 special assessment against the real property that was transferred by the document ~~recorded~~
24 delivered without full payment of tax; provided, however, that the special assessment, and the
25 lien created thereby, shall attach only to interests in the property that were held, on the date

1 the notice of delinquent tax was recorded, by persons liable for the tax. Each such
2 assessment shall be subordinate to all existing special assessment liens previously imposed
3 upon such parcels and paramount to all other liens except those for State, County and
4 municipal taxes with which it shall be in parity. The lien shall continue until the assessment
5 and all interest and penalties due and payable thereon are paid. All laws applicable to the
6 levy, collection and enforcement of municipal taxes shall be applicable to said special
7 assessment. The Clerk of the Board shall give notice of the confirmation of the report to each
8 person liable for the tax and to the owner~~s~~ or owners of the real property described in the
9 recorded notice of delinquent tax and shall cause the confirmed and verified report to be
10 recorded in the County Recorder's office and the special assessment lien on each parcel of
11 property described in the report shall thereupon secure an additional charge for administrative
12 expenses of \$50 or 10 percent of the unpaid balance, whichever is higher. An action to set
13 aside the special assessment and the lien created thereby shall be commenced within one
14 year from and after the date that notice of the confirmation of the report was given to the
15 persons liable for the tax and to the property owners.

16 (d) Filing with Controller and Tax Collector. The Clerk of the Board shall file a
17 certified copy of each confirmed report with the Controller and Tax Collector within 10 days
18 after confirmation of the report, whereupon it shall be the duty of said officers to add the
19 amount of each special assessment to the next regular bill for taxes levied for municipal
20 purposes against the respective parcels of property described in the confirmed report.

21 (e) Payment of Special Assessment. On payment to the Tax Collector of the
22 special assessment, including delinquent taxes, accrued penalties, interest and the
23 administrative expense charge authorized by Subdivision (c) above, the Tax Collector shall
24 cause a Release of Lien to be recorded with the County Recorder and shall pay the statutory
25 recording fee from the administrative expense charge. Except for the fee paid to record the

1 Release of Lien, all sums collected by the Tax Collector pursuant to this ordinance shall be
2 deposited to the General Fund.

3 (f) The provisions of this Section shall only apply until January 1, 2013,
4 when the alternative version of Section 1115.1 adopted in Ordinance No.
5 shall take effect.

6 SEC. 1115.3. MANNER OF GIVING NOTICE.

7 Any notice required to be given hereunder by *the County Recorder* the Board of
8 Supervisors, the Transfer Review Board or the Review Board to any person shall be
9 sufficiently given or served if it is personally served upon such person or if it is deposited,
10 postage prepaid, in a post office letter box addressed to the person at the address for such
11 person given on a refund claim form, a Petition for Review or written protests or objections to
12 a report of delinquency filed for or on behalf of the person or, if no such address is available,
13 to the person at the official address maintained by the Tax Collector for mailing of tax bills
14 levied against the real property that was transferred by document recorded without full
15 payment of tax or, if no such address is available, to the person at the address of said real
16 property.

17 The provisions of this Section shall only apply until January 1, 2013, when the
18 alternate version of Section 1115.3 adopted in Ordinance No. shall take effect.

19 Section 3. The San Francisco Business and Tax Regulations Code is hereby amended
20 by amending Sections 1115, 1115.1, and 1115.3 to read as follows, operative on or after
21 January 1, 2013:

22 SEC. 1115. DELINQUENCY TAXES.

23 (a) Delinquency Penalties. The tax imposed by this ordinance is due and
24 payable at the time the deed, instrument or writing effecting a transfer subject to the tax is
25 delivered, and is delinquent if unpaid *at the time of recordation thereof. thirty days later.* In the

1 event that tax is not paid prior to becoming delinquent, a delinquency penalty of 25 percent of
2 the amount of tax due shall accrue. In the event only a portion of the tax is unpaid prior to
3 becoming delinquent, the penalty shall accrue only as to the portion remaining unpaid. An
4 additional penalty of 10 percent shall accrue if the tax remains unpaid in the ninetieth day
5 following the date of the original delinquency ~~except that the additional penalty shall not accrue~~
6 ~~during the pendency of a taxpayer's appeal before the Transfer Tax Review Board and, in such event,~~
7 ~~the additional penalty shall accrue if the tax remains unpaid on the ninetieth day following service or~~
8 ~~mailing of notice of the ruling of the Review Board.~~ Interest shall accrue at the rate of one percent
9 a month, or fraction thereof, on the amount of delinquent tax, exclusive of penalties, from the
10 date the tax becomes delinquent to the date of payment. Interest and penalties accrued shall
11 become part of the tax.

12 (b) Post-Recording Audits. The County Recorder ~~shall adopt and implement a~~
13 ~~post-recording may~~ audit any procedure which shall provide for a review of at least five percent of
14 ~~those documents recorded each month~~ transferring an interest in real property, ~~the said documents~~
15 ~~to be selected at random, and, in addition, for a review of any other documents which the County~~
16 ~~Recorder has reason to believe may have been recorded without full payment of the tax and for a~~
17 ~~review of those documents where the tax is likely to be before or after any recording any deed,~~
18 ~~instrument or other writing effecting the transfer, to determine if the transfer is exempt from the tax~~
19 ~~under this Article or is~~ unpaid or underpaid. The rules, procedures and criteria for conducting
20 such audits shall be prepared by the County Recorder within 90 days of the effective date of
21 this ordinance and promptly thereafter submitted to the Transfer Tax Review Board for review
22 and approval. The County Recorder may adopt and implement necessary and appropriate audit
23 procedures.

24 (c) Delinquency Determination. Whenever the County Recorder, ~~as the result~~
25 ~~of a post-recording audit or otherwise,~~ has reason to believe that the full amount of tax due

1 under this ordinance was not paid ~~before recordation~~, the County Recorder may, by notice
2 served upon any person liable therefor, require him to furnish affidavits, true copies of relevant
3 records or other documentary proof sufficient to establish the amount of the consideration or
4 value of the interest or property conveyed ~~and~~ including the amount of any lien or
5 encumbrance remaining thereon at the time of sale; and, if it was claimed that the ~~previously~~
6 ~~recorded~~ deed, instrument or other writing was not subject to this tax or was exempt therefrom,
7 the County Recorder may, by such notice, require any person liable for the tax to furnish
8 affidavits, true copies of relevant records or other documentary proof to substantiate such
9 claim. On the basis of the proof so submitted and any other available evidence, the County
10 Recorder shall determine whether the full amount of tax due under this ordinance was paid
11 before recordation and, if it was not, the County Recorder shall determine the amount of tax
12 which was not paid and is delinquent.

13 (d) Delinquency Notices. Promptly after making his or her delinquent tax
14 determination, the County Recorder shall record a notice of delinquent tax which shall include:

- 15 (1) The amount of delinquent tax;
16 (2) The interest that shall accrue on the delinquent tax;
17 (3) The delinquency penalty then due;
18 (4) The additional penalty that shall accrue if the tax is not promptly

19 paid;

20 (5) A description of the real property that was transferred by the
21 document recorder without full payment of tax; and

22 (6) A notice that if the tax, penalties and interest are not paid within 30
23 days, proceeding will be taken at a noticed hearing before the Board of Supervisors to impose
24 a lien for the unpaid tax, together with penalties and interest, against the real property
25 described in the delinquency notice; ~~and~~

1 the correctness of the report (as submitted or as revised, corrected or modified), it shall be
2 confirmed. The decision of the Board on the report and on all protests or objections thereto
3 shall be final and conclusive; provided, however, any delinquent account may be removed
4 from the report by payment in full at any time prior to confirmation of the report. The Clerk of
5 the Board shall cause the confirmed report to be verified in form sufficient to meet recording
6 requirements.

7 (c) Special Assessment Lien. Upon confirmation of the report by the Board,
8 the unpaid balance reported therein, including tax, penalties and interest, shall constitute a
9 special assessment against the real property that was transferred by the document *recorded*
10 *delivered* without full payment of tax; provided, however, that the special assessment, and the
11 lien created thereby, shall attach only to interests in the property that were held, on the date
12 the notice of delinquent tax was recorded, by persons liable for the tax. Each such
13 assessment shall be subordinate to all existing special assessment liens previously imposed
14 upon such parcels and paramount to all other liens except those for State, County and
15 municipal taxes with which it shall be in parity. The lien shall continue until the assessment
16 and all interest and penalties due and payable thereon are paid. All laws applicable to the
17 levy, collection and enforcement of municipal taxes shall be applicable to said special
18 assessment. The Clerk of the Board shall give notice of the confirmation of the report to each
19 person liable for the tax and to the owner~~s~~ or owners of the real property described in the
20 recorded notice of delinquent tax and shall cause the confirmed and verified report to be
21 recorded in the County Recorder's office and the special assessment lien on each parcel of
22 property described in the report shall thereupon secure an additional charge for administrative
23 expenses of \$50 or 10 percent of the unpaid balance, whichever is higher. An action to set
24 aside the special assessment and the lien created thereby shall be commenced within one
25

1 year from and after the date that notice of the confirmation of the report was given to the
2 persons liable for the tax and to the property owners.

3 (d) Filing with Controller and Tax Collector. The Clerk of the Board shall file a
4 certified copy of each confirmed report with the Controller and Tax Collector within 10 days
5 after confirmation of the report, whereupon it shall be the duty of said officers to add the
6 amount of each special assessment to the next regular bill for taxes levied for municipal
7 purposes against the respective parcels of property described in the confirmed report.

8 (e) Payment of Special Assessment. On payment to the Tax Collector of the
9 special assessment, including delinquent taxes, accrued penalties, interest and the
10 administrative expense charge authorized by Subdivision (c) above, the Tax Collector shall
11 cause a Release of Lien to be recorded with the County Recorder and shall pay the statutory
12 recording fee from the administrative expense charge. Except for the fee paid to record the
13 Release of Lien, all sums collected by the Tax Collector pursuant to this ordinance shall be
14 deposited to the General Fund.

15 SEC. 1115.3. MANNER OF GIVING NOTICE.

16 Any notice required to be given hereunder by the County Recorder or the Board of
17 Supervisors, ~~the Transfer Review Board or the Review Board~~ to any person shall be sufficiently
18 given or served if it is personally served upon such person or if it is deposited, postage
19 prepaid, in a post office letter box addressed to the person at the address for such person
20 given on a refund claim form, ~~a Petition for Review~~ or written protests or objections to a report
21 of delinquency filed for or on behalf of the person or, if no such address is available, to the
22 person at the official address maintained by the Tax Collector for mailing of tax bills levied
23 against the real property that was transferred by document recorded without full payment of
24 tax or, if no such address is available, to the person at the address of said real property.

25

1 Section 4. Article 12-C of the San Francisco Business and Tax Regulations Code is
2 hereby amended by repealing Sections 1109 in its entirety.

3 ~~SEC. 1109. DOCUMENTARY STAMPS.~~

4 ~~The County Recorder shall purchase any unused documentary tax stamps sold by him~~
5 ~~prior to July 1, 1968. The Recorder shall accept in payment of the tax any such stamps affixed to a~~
6 ~~document offered for recordation and shall cancel the stamps so affixed.~~

7 Section 5. The San Francisco Business and Tax Regulations Code is hereby amended
8 by amending Section 1115.2, to read as follows, operative until January 1, 2013:

9 SEC. 1115.2. TRANSFER TAX REVIEW BOARD.

10 (a) Review Board. A Transfer Tax Review Board (the "Review Board"),
11 consisting of the Controller, the Director of Property and the Tax Collector or their designated
12 representatives, is hereby created. The Review Board shall select from its members a
13 Chairperson who shall serve at its pleasure. A majority of the members of the Review Board
14 shall constitute a quorum. The Review Board shall keep a record of its transactions. The
15 Review Board shall be deemed to be situated in the office of the Controller, shall meet and
16 keep its files in the Controller's office and all filing with the Board relating to appeals or
17 otherwise shall be made at such office. Neither the members of the Review Board nor their
18 designated representatives shall receive any compensation for their services on the said
19 Board.

20 (b) Appeals Permitted. Provided a Petition for Review is filed with the Review
21 Board within the designated time period, a taxpayer shall have the right to appeal the
22 following actions by the Assessor-Recorder to the Review Board:

23 (1) A determination of tax made prior to recording of a document may
24 be appealed if the Petition for Review is filed within 10 days following the Assessor-
25 Recorder's determination of tax and refusal to record without payment of such tax.

1 (2) A denial of refund claim may be appealed if the Petition for Review
2 is filed within 10 days following service or mailing of notice of claim denial to the taxpayer.

3 (3) A determination of delinquent taxes may be appealed if the
4 Petition for Review is filed within 10 days following service or mailing of the delinquency notice
5 to the taxpayer.

6 Rulings of the Review Board on determinations of tax made prior to recording of
7 documents or on denials of refund claims are final and conclusive. An action to set aside such
8 a ruling of the Review Board shall be commenced within one year from and after the date that
9 notice of the Review Board's ruling was personally served upon or mailed to the taxpayer.
10 Rulings of the Review Board on delinquent tax determinations are subject to review by the
11 Board of Supervisors in connection with the Board's hearing of the Assessor-Recorder's
12 report of delinquency pursuant to Section 1115.1 of this ordinance.

13 Forms for Petitions for Review shall be provided by the Review Board.

14 (c) Powers of Review Board. The Review Board shall have power, and it
15 shall be its duty:

16 (1) To conduct public hearings for the purpose of reviewing and
17 making its ruling upon any Petition for Review. As to any question of fact upon which the
18 Assessor-Recorder's decision was based, including any questions involving taxability or
19 penalties, the Review Board may modify or revoke the decision of the Assessor-Recorder, or
20 it may affirm such decision and dismiss the Petition. The Review Board shall not make any
21 ruling inconsistent with the requirements of this ordinance, nor is the Review Board authorized
22 to relieve any taxpayer by reason of hardship alone from tax properly due under this
23 ordinance but it may, upon showing of good cause, relieve a taxpayer by reason of hardship
24 from delinquency penalties accrued hereunder. The Review Board shall prescribe such forms,
25 rules and regulations relating to appeals as it may deem necessary. In the review of the

1 Assessor-Recorder's decision, the Review Board shall not be limited to a review of the
2 evidence upon which the Assessor-Recorder made his decision, but may take such evidence
3 and make such investigation as it may be deemed necessary. It shall serve notice of its ruling,
4 personally or by mail, on the petitioning taxpayer, any other person liable for the tax and the
5 owner or owners of the real property described in the recorded notice of delinquent tax and
6 shall file a copy of each such ruling with the Assessor-Recorder with certification thereon of
7 the date and service thereof;

8 (2) To approve, modify, or disapprove all forms, rules and regulations
9 prescribed by the Assessor-Recorder in the administration and enforcement of this ordinance
10 and such forms, rules and regulations shall be subject to, and become effective only on such
11 approval; provided, however, any rules and regulations adopted by the Assessor-Recorder
12 shall also be approved by the City Attorney, and further provided that any modification
13 determined by the Review Board shall be approved as to legal form by the City Attorney
14 before becoming effective;

15 (3) To hear and determine in such manner as shall be just, any protest
16 which may be made by any person who may be interested to any form, rule or regulation
17 approved or prescribed by the Review Board.

18 (d) The provisions of this Section shall only apply until January 1, 2013,
19 when the alternate version of Section 1115.2, adopted in Ordinance No. _____ shall
20 take effect.

21 Section 6. The San Francisco Business and Tax Regulations Code is hereby amended
22 by amending Section 1115.2, to read as follows, operative on and after January 1, 2013:

23 SEC. 1115.2. TRANSFER TAX REVIEW BOARD.

24 ~~(a) Review Board. A Transfer Tax Review Board (the "Review Board"), consisting of~~
25 ~~the Controller, the Director of Property and the Tax Collector or their designated representatives, is~~

1 ~~hereby created. The Review Board shall select from its members a Chairperson who shall serve at its~~
2 ~~pleasure. A majority of the members of the Review Board shall constitute a quorum. The Review Board~~
3 ~~shall keep a record of its transactions. The Review Board shall be deemed to be situated in the office of~~
4 ~~the Controller, shall meet and keep its files in the Controller's office and all filing with the Board~~
5 ~~relating to appeals or otherwise shall be made at such office. Neither the members of the Review Board~~
6 ~~nor their designated representatives shall receive any compensation for their services on the said~~
7 ~~Board.~~

8 (b) — ~~Appeals Permitted. Provided a Petition for Review is filed with the Review Board~~
9 ~~within the designated time period, a taxpayer shall have the right to appeal the following actions by the~~
10 ~~Assessor Recorder to the Review Board:~~

11 (1) — ~~A determination of tax made prior to recording of a document may be~~
12 ~~appealed if the Petition for Review is filed within 10 days following the Assessor Recorder's~~
13 ~~determination of tax and refusal to record without payment of such tax.~~

14 (2) — ~~A denial of refund claim may be appealed if the Petition for Review is~~
15 ~~filed within 10 days following service or mailing of notice of claim denial to the taxpayer.~~

16 (3) — ~~A determination of delinquent taxes may be appealed if the Petition for~~
17 ~~Review is filed within 10 days following service or mailing of the delinquency notice to the taxpayer.~~

18 ~~Rulings of the Review Board on determinations of tax made prior to recording of~~
19 ~~documents or on denials of refund claims are final and conclusive. An action to set aside such a ruling~~
20 ~~of the Review Board shall be commenced within one year from and after the date that notice of the~~
21 ~~Review Board's ruling was personally served upon or mailed to the taxpayer. Rulings of the Review~~
22 ~~Board on delinquent tax determinations are subject to review by the Board of Supervisors in connection~~
23 ~~with the Board's hearing of the Assessor Recorder's report of delinquency pursuant to Section 1115.1~~
24 ~~of this ordinance.~~

25 ~~Forms for Petitions for Review shall be provided by the Review Board.~~

1 (e) — ~~Powers of Review Board. The Review Board shall have power, and it shall be its~~
2 ~~duty:~~

3 (1) — ~~To conduct public hearings for the purpose of reviewing and making its~~
4 ~~ruling upon any Petition for Review. As to any question of fact upon which the Assessor-Recorder's~~
5 ~~decision was based, including any questions involving taxability or penalties, the Review Board may~~
6 ~~modify or revoke the decision of the Assessor-Recorder, or it may affirm such decision and dismiss the~~
7 ~~Petition. The Review Board shall not make any ruling inconsistent with the requirements of this~~
8 ~~ordinance, nor is the Review Board authorized to relieve any taxpayer by reason of hardship alone~~
9 ~~from tax properly due under this ordinance but it may, upon showing of good cause, relieve a taxpayer~~
10 ~~by reason of hardship from delinquency penalties accrued hereunder. The Review Board shall~~
11 ~~prescribe such forms, rules and regulations relating to appeals as it may deem necessary. In the review~~
12 ~~of the Assessor-Recorder's decision, the Review Board shall not be limited to a review of the evidence~~
13 ~~upon which the Assessor-Recorder made his decision, but may take such evidence and make such~~
14 ~~investigation as it may be deemed necessary. It shall serve notice of its ruling, personally or by mail, on~~
15 ~~the petitioning taxpayer, any other person liable for the tax and the owner or owners of the real~~
16 ~~property described in the recorded notice of delinquent tax and shall file a copy of each such ruling~~
17 ~~with the Assessor-Recorder with certification thereon of the date and service thereof;~~

18 (2) — ~~To approve, modify, or disapprove all forms, rules and regulations~~
19 ~~prescribed by the Assessor-Recorder in the administration and enforcement of this ordinance and such~~
20 ~~forms, rules and regulations shall be subject to, and become effective only on such approval; provided,~~
21 ~~however, any rules and regulations adopted by the Assessor-Recorder shall also be approved by the~~
22 ~~City Attorney, and further provided that any modification determined by the Review Board shall be~~
23 ~~approved as to legal form by the City Attorney before becoming effective;~~

