

BOARD of SUPERVISORS



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MEMORANDUM

Date: September 5, 2025
To: Planning Department / Commission
From: Brent Jalipa, Clerk of the Budget and Appropriations Committee
Subject: Board of Supervisors Legislation Referral - File No. 250890
Business and Tax Regulations Code - Transfer Tax Exemption for Affordable Housing

- ☒ California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - ☒ Ordinance / Resolution
 - ☐ Ballot Measure
- ☐ Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - ☐ General Plan ☐ Planning Code, Section 101.1 ☐ Planning Code, Section 302
- ☐ Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)
- ☐ General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- ☐ Historic Preservation Commission
 - ☐ Landmark (*Planning Code, Section 1004.3*)
 - ☐ Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - ☐ Mills Act Contract (*Government Code, Section 50280*)
 - ☐ Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to Brent Jalipa at Brent.Jalipa@sfgov.org.

[Business and Tax Regulations Code - Transfer Tax Exemption for Affordable Housing]

Ordinance amending the Business and Tax Regulations Code to temporarily exempt transfers of certain rent-restricted affordable housing from the real property transfer tax, retroactive to transfers on or after April 12, 2024; and affirming the Planning Department's determination under the California Environmental Quality Act.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. ____ and is incorporated herein by reference. The Board affirms this determination.

Section 2. Article 12-C of the Business and Tax Regulations Code is hereby amended by revising Section 1108.6 to read as follows:

SEC. 1108.6. ~~PARTIAL~~ EXEMPTIONS FOR RENT-RESTRICTED AFFORDABLE HOUSING.

* * * *

1 (b) **Exemptions from ~~Increased Tax Rate.~~** ~~As authorized by the last sentence of~~
2 ~~Section 1102 of this Article 12-C, the increased tax rates imposed by subsections (d), (e), and (f) of~~

3 (1) The tax imposed under Section 1102 shall not apply with respect to any deed,
4 instrument, or writing that effects a transfer of Rent-Restricted Affordable Housing under
5 subsections (2)(A)(i) and (2)(A)(iii) of the definition of Rent-Restricted Affordable Housing in
6 Section 1108.6(a) that are or have been delivered on or after April 12, 2024.

7 (2) The increased tax rates imposed by subsections (d), (e), and (f) of Section 1102 shall
8 not apply with respect to any deed, instrument, or writing that effects a transfer of Rent-Restricted
9 Affordable Housing not fully exempt under subsection (b)(1) of this Section 1108.6. Instead, t~~The~~
10 lower tax rate imposed by subsection (c) of Section 1102 shall apply to the entire
11 consideration or value of the interest or property conveyed by a deed, instrument, or writing
12 that is subject to the exemption in this subsection (b) effects any transfer of Rent-Restricted Affordable
13 Housing not fully exempt under subsection (b)(1) of this Section 1108.6.

14 (c) **Requirements for Exemption.**

15 (1) ~~Except as provided in subsection (e)(2), e~~Every person claiming ~~thean~~ an exemption
16 under subsection (b) must:

17 (A) Obtain from MOHCD a certificate confirming that the deed,
18 instrument, or writing effects a transfer of Rent-Restricted Affordable Housing. Such certificate
19 shall specify eligibility for the requested exemption by indicating the applicable subsection(s) of the
20 definition of Rent-Restricted Affordable Housing in Section 1108.6 for the interest or property
21 conveyed by the deed, instrument, or writing effecting the transfer.

22 (B) Submit the certificate described in subsection (c)(1)(A) of this
23 Section 1108.6 to the County Recorder at the time such person submits the affidavit
24 described in subsection (c) or (d) of Section 1111.

1 (2) Notwithstanding the requirements in subsection (c)(1), every person
2 claiming the exemption under subsection (b)(~~1~~) for a deed, instrument, or writing that effects a
3 transfer of Rent-Restricted Affordable Housing, when that deed, instrument, or writing is
4 delivered on or after ~~January 1, 2017~~April 12, 2024, but prior to ~~July 1, 2024~~December 31, 2025,
5 may do the following in lieu of the procedures described in subsection (c)(1):

6 (A) Obtain from MOHCD a certificate confirming that the deed,
7 instrument, or writing effected a transfer of Rent-Restricted Affordable Housing that contains
8 the information specified in subsection (c)(1)(A).

9 (B) By ~~December 31, 2024~~June 30, 2026, submit the certificate described in
10 subsection (c)(2)(A) of this Section 1108.6 to the County Recorder, along with a request for a
11 refund of the tax paid on, or the cancellation or reduction of any deficiency assessed with
12 respect to, the transfer subject to the certificate ~~that exceeds the rates described in Section~~
13 ~~1102(e)~~. The County Recorder may authorize the Controller to refund these amounts, without
14 interest, without the need for a refund claim.

15 ~~This subsection (c)(2) shall not apply where the deed, instrument, or writing effects a transfer~~
16 ~~under Section 41B.6 of the Administrative Code, as that Section 41B.6 existed as of June 3, 2019.~~

17 (3) Failure to timely satisfy the requirements in this subsection (c) renders the
18 transfer ineligible for the exemption.

19 * * * *

20 (f) **Sunset Date.** This Section 1108.6 shall expire by operation of law on December
21 31, 2030, and shall not apply to any deeds, instruments, or writings that are delivered on or
22 after January 1, 2031.

23 (g) **Penalty Waiver.** The County Recorder shall waive all penalties and interest
24 imposed on transfers qualifying for the exemption in Section 1108.6(b) for deeds, instruments,
25 or writings that effected a transfer of Rent-Restricted Affordable Housing under subsection (2)

1 of the definition of Rent-Restricted Affordable Housing in Section 1108.6(a), when the deed,
2 instrument, or writing was delivered on or after January 1, 2017, but prior ~~to the effective date of~~
3 ~~the ordinance, in Board File No. 231007, adding this subsection (g)~~ January 15, 2024. The waiver in
4 this subsection (g) shall include penalties and interest on the portion of the transfer tax not
5 subject to the exemption in Section 1108.6(b). ~~The County Recorder may authorize the Controller~~
6 ~~to refund any penalties or interest qualifying for waiver under this subsection (g), without interest, to~~
7 ~~the person that paid such penalties or interest if such person files a request for refund with the County~~
8 ~~Recorder on or before December 31, 2024.~~

9 * * * *

10
11 Section 3. Effective Date and Retroactivity.

12 (a) Effective Date. This ordinance shall become effective 30 days after enactment.
13 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
14 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
15 Supervisors overrides the Mayor's veto of the ordinance.

16 (b) Retroactivity. This ordinance shall be retroactive to April 12, 2024.

17
18 APPROVED AS TO FORM:
19 DAVID CHIU, City Attorney

20 By: /s/ Carole F. Ruwart
21 CAROLE F. RUWART
22 Deputy City Attorney

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24
25

LEGISLATIVE DIGEST

[Business and Tax Regulations Code - Transfer Tax Exemption for Affordable Housing]

Ordinance amending the Business and Tax Regulations Code to temporarily exempt transfers of certain rent-restricted affordable housing from the real property transfer tax, retroactive to transfers on or after April 12, 2024; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Since 2008, the voters have increased the real property transfer tax on the transfer of properties with a consideration or value of \$5 million or more from 0.75% of consideration or value to between 2.25% and 6%, depending on the consideration or value. (November 2008 Prop. N; November 2010 Prop. N; November 2016 Prop. W; and November 2020 Prop. I). Until April 12, 2024, the Board of Supervisors had the authority to partially exempt transfers of rent-restricted affordable housing. Pursuant to this authority, the Board provided a partial exemption for transfers of rent-restricted affordable housing, applying a rate of 0.75% instead of the standard rates of between 2.25% and 6%. In March 2024, the voters passed Proposition C, which, effective April 12, 2024, permits the Board of Supervisors to exempt transfers from all or any part of the transfer tax.

Amendments to Current Law

This legislation would fully exempt transfers of rent-restricted affordable housing properties on or after April 12, 2024, if at the time of the transfer the properties either (1) had the property tax welfare exemption for at least 90% of the residential units in the property; or (2) were wholly owned by certain nonprofit organizations and were being transferred to a person or legal entity who intended to apply for and hold the property in compliance with the welfare exemption for at least 90% of the residential units in the property. This legislation would not change the existing partial exemption for other rent-restricted affordable housing properties, keeping the existing tax rate of 0.75%. Both exemptions expire on December 31, 2030.

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OFFICE OF THE MAYOR
SAN FRANCISCO



DANIEL LURIE
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Adam Thongsavat, Liaison to the Board of Supervisors
RE: Business and Tax Regulations Code - Transfer Tax Exemption for Affordable Housing
DATE: September 2, 2025

Ordinance amending the Business and Tax Regulations Code to temporarily exempt transfers of certain rent-restricted affordable housing from the real property transfer tax, retroactive to transfers on or after April 12, 2024; and affirming the Planning Department's determination under the California Environmental Quality Act.

Should you have any questions, please contact Adam Thongsavat at adam.thongsavat@sfgov.org