

1 [Real Property Transfer Tax]

2 Ordinance submitting to the voters an ordinance amending the Business and Tax  
3 Regulations Code by: (1) amending Section 1102 to increase the Real Property Transfer  
4 Tax rate from 0.75% to 1.5% if the consideration for or value of the transfer exceeds \$2  
5 \$5 million; (2) amending Section 1105 to reduce the tax on transfers of residential  
6 property by up to one third (1/3) if, after January 1, 2009, the transferor has installed an  
7 active solar system or made seismic retrofitting improvements or improvements  
8 utilizing earthquake hazard mitigation technologies; (3) amending Section 1114 to  
9 clarify application of tax to transfers of ownership interests in legal entities that own  
10 real estate; and (4) amending Section 1108.3 to apply transfer tax to transfers of 35 year  
11 or longer leasehold interests.

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

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

18 ~~Section 4. ORDAINED that Pursuant to Article XIII C of the Constitution of the State~~  
19 ~~of California, the Board of Supervisors hereby submits this ordinance shall be submitted to the~~  
20 ~~qualified electors of the City and County of San Francisco, at the November 4, 2008 general~~  
21 ~~municipal election and that this ordinance shall become operative only if approved by the~~  
22 ~~qualified electors at such election.~~

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

24 Section 12. The San Francisco Business and Tax Regulations Code is hereby  
25 amended by amending Section 1102, to read as follows:

SEC. 1102. TAX IMPOSED.

1 There is hereby imposed on each deed, instrument or writing by which any lands, tenements,  
2 or other realty sold within the City and County of San Francisco shall be granted, assigned,  
3 transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other  
4 person or persons, by his or her or their direction, when the consideration or value of the  
5 interest or property conveyed (not excluding the value of any lien or encumbrances remaining  
6 thereon at the time of sale) (i) exceeds \$100 but is less than or equal to \$250,000, a tax at the  
7 rate of \$2.50 for each \$500 or fractional part thereof; or (ii) more than \$250,000 and less than  
8 \$1,000,000, a tax at the rate of \$3.40 for each \$500 or fractional part thereof for the entire  
9 value or consideration, including, but not limited to, any portion of such value or consideration  
10 that is less than \$250,000; or (iii) more than \$1,000,000 and above less than \$2,000,000  
11 \$5,000,000, a tax at the rate of \$3.75 for each \$500 or fractional part thereof for the entire  
12 value or consideration, including, but not limited to, any portion of such value or consideration  
13 that is less than \$1,000,000; or (iv) \$2,000,000 \$5,000,000 and above, a tax at the rate of \$7.50 for  
14 each \$500 or fractional part thereof for the entire value or consideration, including, but not limited to,  
15 any portion of such value or consideration that is less than \$2,000,000\$5,000,000. The People of  
16 the City and County of San Francisco authorize the Board of Supervisors to enact ordinances,  
17 without further voter approval, that will exempt rent-restricted affordable housing, as the Board  
18 may define that term, from the increased tax rate in subsection (iv).

19 Section 2. This Ordinance will not change any of the current tax rates in Section  
20 1108 (i)-(iii) for transfers with a value or consideration less than \$5,000,000.

21 Section 3. The San Francisco Business and Tax Regulations Code is hereby amended  
22 by amending Section 1105, to read as follows:  
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24  
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1           SEC. 1105. EXEMPTIONS.

2   Any deed, instrument or writing to which the United States or any agency or instrumentality  
3   thereof, any state or territory, or political subdivision thereof, is a party shall be exempt from  
4   any tax imposed pursuant to this ordinance when the exempt agency is acquiring title.

5   Any deed, instrument or writing shall be exempt from up to one third (1/3) of any tax imposed pursuant  
6   to this ordinance if: (1) it transfers an interest in real property used as a residence; and (2) after  
7   January 1, 2009, the transferor has installed an active solar system, as that term is defined in Revenue  
8   & Taxation Code §73(b), or has made seismic retrofitting improvements or improvements utilizing  
9   earthquake hazard mitigation technologies, as those terms are defined in Revenue & Taxation Code  
10   §74.5(b), and the transferor has claimed and the Assessor has approved an exclusion from  
11   reassessment for the value of that system or those improvements. This partial exemption shall only  
12   apply to the initial transfer by the person who installed the active solar system or made the seismic  
13   safety improvements. The amount of this partial exemption shall not exceed the transferor's cost of  
14   seismic retrofitting improvements or the active solar system. Multi-family residential properties are  
15   eligible for this partial exemption.

16           Section 4.   Article 12-C of the San Francisco Business and Tax Regulations Code is  
17   hereby amended by amending Section 1114 to read as follows:

18           SEC. 1114. ADMINISTRATION AND INTERPRETATION.

19   In the administration of this ordinance the recorder shall interpret its provisions consistently  
20   with those Documentary Stamp Tax Regulations adopted by the Internal Revenue Service of  
21   the United States Treasury Department which relate to the Tax on Conveyances and are  
22   identified as Sections 47.4361-1, 47.4361-2 and 47.4362-1 of Part 47 of Title 26 of the Code  
23   of Federal Regulations, as the same existed on November 8, 1967, except that for the  
24   purposes of this ordinance, the determination of what constitutes "realty" shall be determined  
25

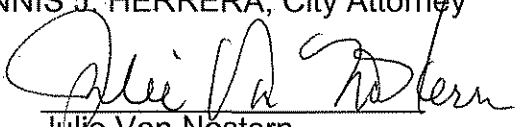
1 by the definition or scope of that term under state law. Notwithstanding the preceding sentence,  
2 "realty sold" includes any acquisition or transfer of ownership interests in a legal entity that would be  
3 a change of ownership of the entity's real property under California Revenue & Taxation Code §64.

4 Section 5. Article 12-C of the San Francisco Business and Tax Regulations Code is  
5 hereby amended by amending Section 1108.3 to read as follows:

6 SEC. 1108.3. APPLICATION TO LEASEHOLD INSTRUMENTS.

7 Any tax imposed pursuant to this ordinance shall not apply with respect to any deed,  
8 instrument or writing which creates, terminates, or transfers a leasehold interest having a  
9 remaining term (including renewal options) of 50 years or less than 35 years.

10  
11 APPROVED AS TO FORM:  
12 DENNIS J. HERRERA, City Attorney

13 By:   
14 Julie Van Nostern  
15 Deputy City Attorney



# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Ordinance

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**File Number:** 080832

**Date Passed:**

Ordinance submitting to the voters an ordinance amending the Business and Tax Regulations Code by: (1) amending Section 1102 to increase the Real Property Transfer Tax rate from 0.75% to 1.5% if the consideration for or value of the transfer exceeds \$5 million; (2) amending Section 1105 to reduce the tax on transfers of residential property by up to one third (1/3) if, after January 1, 2009, the transferor has installed an active solar system or made seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies; (3) amending Section 1114 to clarify application of tax to transfers of ownership interests in legal entities that own real estate; and (4) amending Section 1108.3 to apply transfer tax to transfers of 35 year or longer leasehold interests.

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July 22, 2008 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

Noes: 1 - Chu

July 29, 2008 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Ammiano, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

Noes: 2 - Alioto-Pier, Chu

File No. 080832

I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on July 29, 2008 by the Board of Supervisors of the City and County of San Francisco.



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Angela Calvillo  
Clerk of the Board

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Date Approved

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Mayor Gavin Newsom

Date: August 1, 2008

I hereby certify that the foregoing ordinance, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter.

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Angela Calvillo  
Clerk of the Board

File No.  
080832