

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 1. ORDAINED that Pursuant to Article XIIC 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:

1 SEC. 1102. TAX IMPOSED.

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

20 Section 2. This Ordinance will not change any of the current tax rates in Section
21 1108 (i)-(iii) for transfers with a value or consideration less than \$5,000,000.

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

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SEC. 1105. EXEMPTIONS.

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

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

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

SEC. 1114. ADMINISTRATION AND INTERPRETATION.

In the administration of this ordinance the recorder shall interpret its provisions consistently with those Documentary Stamp Tax Regulations adopted by the Internal Revenue Service of the United States Treasury Department which relate to the Tax on Conveyances and are identified as Sections 47.4361-1, 47.4361-2 and 47.4362-1 of Part 47 of Title 26 of the Code of Federal Regulations, as the same existed on November 8, 1967, except that for the

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

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

7 SEC. 1108.3. APPLICATION TO LEASEHOLD INSTRUMENTS.

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

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

By: _____
Julie Van Nostern
Deputy City Attorney