

HOUSE BILL NO. 522

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE KOPONEN

Introduced: 2/18/92

Referred: Community & Regional Affairs, Labor & Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act imposing a real estate conveyance tax; providing for sharing with municipalities
2 of a portion of the revenue obtained from the tax; authorizing certain municipalities to
3 levy and collect a real estate conveyance tax; amending the formal requisites of recording
4 a conveyance; and providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 43 is amended by adding a new chapter to read:

7 **CHAPTER 33. REAL ESTATE CONVEYANCE TAX.**

8 **Sec. 43.33.010. TAX IMPOSED.** There is imposed an excise tax upon each conveyance
9 of real property at the rate of one percent of the selling price of the real property.

10 **Sec. 43.33.020. TAX CONSTITUTES LIEN.** The tax imposed by AS 43.33.010 and the
11 interest or penalties on the tax are a specific lien upon each piece of real property conveyed from
12 the time of conveyance until the tax has been paid.

13 **Sec. 43.33.030. SELLER'S OBLIGATION TO PAY TAX.** Payment of the tax imposed
14 by this chapter is the obligation of the seller.

1 **Sec. 43.33.040. EVIDENCE OF PAYMENT.** (a) The tax shall be paid to and collected
2 by the recorder of the recording district in which the real property that was conveyed is located.
3 The recorder shall affix a stamp evidencing satisfaction of the lien to the instrument of
4 conveyance before its recording. A receipt issued by the recorder for the payment of the tax
5 imposed under this chapter is evidence of the satisfaction of the lien of the tax and may be
6 recorded in the manner prescribed for recording satisfactions of mortgages.

7 (b) An instrument evidencing a conveyance subject to the tax may not be accepted by
8 the recorder for filing or recording under AS 40.17 until the tax has been paid and the stamp
9 affixed. In a case in which the tax is not due on the transfer, the instrument may not be accepted
10 for recording until suitable notation of the exception has been made on the instrument by the
11 recorder.

12 **Sec. 43.33.050. REPORTING REQUIREMENTS FOR CONVEYANCE.** The department
13 shall prescribe

14 (1) minimum standards for uniformity in reporting, application, and collection of
15 the tax;

16 (2) a tax affidavit form that must contain, at least, the following:

17 (A) identification of the seller and purchaser;

18 (B) description of the property involved, including the tax parcel or
19 account number;

20 (C) date of conveyance, type of instrument of conveyance, and nature of
21 transfer;

22 (D) gross sales price of the parcel; and

23 (E) signatures of both the purchaser and seller, under oath.

24 **Sec. 43.33.060. DETERMINING SELLING PRICE.** (a) The department shall

25 (1) provide by regulation for cases where the selling price is not separately stated
26 or is not ascertainable at the time of conveyance, and for payment of the tax at a time when the
27 selling price is ascertained, in which case suitable security may be required for payment of the
28 tax; and

29 (2) provide for the determination of the selling price under (1) of this subsection
30 by an appraisal by the state assessor, a municipal assessor, or a local appraiser, based on the full
31 and true market value of the property conveyed; an appraisal under this paragraph is prima facie

1 evidence of the selling price of the real property.

2 (b) The department shall provide by regulation for the determination of the selling price
3 in the case of a lease with option to purchase, and may provide that the tax is not payable, if
4 inequity will otherwise result, until the option is exercised and the property sold.

5 Sec. 43.33.070. DISTRIBUTION OF REVENUE. Subject to legislative appropriation,
6 from the proceeds of the tax collected under this chapter, excluding penalties and the amount
7 determined to have been spent by the state in its collection, the department shall pay one-half of
8 the revenue received

9 (1) to each unified municipality, each city in the unorganized borough, and each
10 borough for the area outside cities, in proportion to the revenue that was earned within them; and

11 (2) to cities and boroughs for the area of each borough that is inside cities, in
12 proportion to the revenue that was earned within them; the payment under this paragraph shall
13 be divided equally between the city and the borough.

14 Sec. 43.33.100. DEFINITIONS. In this chapter,

15 (1) "conveyance"

16 (A) means

17 (i) a grant, assignment, quitclaim, sale, or transfer of the
18 ownership of or title to real property, or any estate or interest in real property for
19 a valuable consideration;

20 (ii) a contract for a conveyance, grant, assignment,
21 quitclaim, or transfer of real property;

22 (iii) a lease with an option to purchase real property, or any
23 estate or interest in real property; or

24 (iv) a contract under which possession of the property is
25 given to the purchaser, or another person at the purchaser's direction, and title is
26 retained by the seller as security for the payment of the purchase price;

27 (B) does not include

28 (i) a lease, except a lease under (A)(iii) of this paragraph;

29 (ii) a transfer by gift, devise, or inheritance;

30 (iii) a cancellation or forfeiture of a purchaser's interest in
31 a contract for the conveyance of real property, whether or not the contract contains

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a forfeiture clause;

(iv) a deed in lieu of foreclosure of a mortgage or the assumption by a grantee of the balance owing on an obligation that is secured by a mortgage or deed in lieu of forfeiture of the purchaser's interest in a contract of sale of real property, where no consideration passes;

(v) a partition of property by tenants in common by agreement or as the result of a court decree;

(vi) a transfer, conveyance, or assignment of property or interest in property from one spouse to the other under the terms of a decree of divorce or in fulfillment of a property settlement agreement;

(vii) the assignment or other transfer of a seller's interest in a contract for the sale of real property, even though accompanied by a conveyance of the seller's interest in the real property involved;

(viii) a transfer by appropriation or decree in condemnation proceedings brought by the United States, the state, or a municipality;

(ix) a mortgage or other transfer of an interest in real property to secure a debt or the assignment of a debt, or a document that reconveys or releases an interest that was held to secure a debt;

(x) a transfer or conveyance made under an order of sale by the court in a mortgage or lien foreclosure proceeding or upon execution of a judgment, or deed in lieu of foreclosure to satisfy a mortgage;

(xi) a conveyance to the Federal Housing Administration or the United States Department of Veterans Affairs by an authorized mortgagee made under a contract of insurance or guaranty with the Federal Housing Administration or the United States Department of Veterans Affairs;

(xii) a transfer in compliance with the terms of a lease or contract upon which the tax as imposed by this chapter has been paid or where the lease or contract was entered into before January 1, 1993;

(xiii) the sale of a grave or lot in an established cemetery;

(xiv) a sale by or to the United States, the state, or a municipality;

1 (2) "real property" means an estate in land, and includes mobile homes;

2 (3) "selling price"

3 (A) means the consideration, including money or anything of value, paid
4 or delivered or contracted to be paid or delivered in return for the conveyance of the real
5 property or an estate or interest in real property;

6 (B) includes the amount of a lien, mortgage, contract indebtedness, or
7 other encumbrance, either given to secure the purchase price or as a part of the purchase
8 price, or remaining unpaid at the time of conveyance of the real property or an estate or
9 interest in real property;

10 (C) does not include the amount of an outstanding lien or encumbrance
11 in favor of the United States, the state, or a municipality for taxes or special assessments;

12 (4) "tax" means the real estate conveyance tax imposed by AS 43.33.010.

13 * Sec. 2. AS 29.10.200 is amended by adding a new paragraph to read:

14 (51) AS 29.45.750 (real estate conveyance tax)

15 * Sec. 3. AS 29.45 is amended by adding a new section to read:

16 ARTICLE 6. REAL ESTATE CONVEYANCE TAX.

17 Sec. 29.45.750. REAL ESTATE CONVEYANCE TAX AUTHORIZED. (a) A unified
18 municipality and a first or second class borough may impose an excise tax upon each conveyance
19 of real property within the municipality. If the unified municipality imposes a tax, the rate of
20 the tax may not exceed one percent of the selling price of the real property.

21 (b) The tax levied by a unified municipality or first or second class borough under (a)
22 of this section shall be paid to and collected by the recorder of the recording district in which
23 the real property that was conveyed is located. The recorder shall affix a stamp evidencing
24 satisfaction of the lien to the instrument of conveyance before its recording. A receipt issued by
25 the recorder for the payment of the tax imposed under this chapter is evidence of the satisfaction
26 of the lien of the tax and may be recorded in the manner prescribed for recording satisfactions
27 of mortgages.

28 (c) The recorder shall remit payment of the tax imposed by a unified municipality or a
29 first or second class borough under (a) of this section to the municipality in which the real
30 property that was conveyed is located.

31 (d) An instrument evidencing a conveyance subject to the tax may not be accepted by

1 the recorder for filing or recording under AS 40.17 until the tax has been paid and the stamp
2 affixed. In a case in which the tax is not due on the transfer, the instrument may not be accepted
3 for recording until suitable notation of the exception has been made on the instrument by the
4 recorder.

5 (e) In this section,

6 (1) "conveyance" has the meaning given in AS 43.33.100;

7 (2) "selling price" has the meaning given in AS 43.33.100;

8 (3) "tax" means the real estate conveyance tax authorized by (a) of this section.

9 (f) This section applies to home rule boroughs.

10 * Sec. 4. AS 40.17.030(a) is amended to read:

11 (a) To be eligible for recording, a document must be

12 (1) legible or capable of being converted into legible form by a machine or device
13 used in the recording office;

14 (2) capable of being copied by the method used in the recording office;

15 (3) accompanied by the proper fee for recording and include or be accompanied
16 by information, stamps, certificates, taxes, or fees that under AS 29.45.750, AS 43.33, and other
17 laws are necessary to qualify the document for recording;

18 (4) accompanied by or include the information needed to index the document
19 under regulations of the department;

20 (5) accompanied by or include the name and address of the person to whom the
21 document is to be returned after recording; and

22 (6) accompanied by or include the mailing addresses of all persons named in the
23 document who grant or acquire an interest under the document if it is a conveyance; this
24 paragraph does not apply to a release of a security interest.

25 * Sec. 5. This Act takes effect January 1, 1993.