

CS FOR HOUSE BILL NO. 522 (CRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 4/11/92

Referred: Labor & Commerce, Finance

Sponsor(s): REPRESENTATIVE KOPONEN

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; adding to the duties of the recorder
4 applicable to disclosure of information involving certain public records, and amending the
5 formal requisites of recording a conveyance; and providing for an effective date."

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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

8 CHAPTER 33. REAL ESTATE CONVEYANCE TAX.

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

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

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

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

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

14 **Sec. 43.33.050. REPORTING REQUIREMENTS FOR CONVEYANCE.** The department
15 shall prescribe

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

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

19 (A) identification of the seller and purchaser;

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

22 (C) date of conveyance, type of instrument of conveyance, and nature of
23 transfer;

24 (D) gross sales price of the parcel, or the appraised market value of the
25 property if the transaction is an exchange; and

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

27 **Sec. 43.33.060. DISTRIBUTION OF REVENUE.** Subject to legislative appropriation,
28 from the proceeds of the tax collected under this chapter, excluding penalties and the amount
29 determined to have been spent by the state in its collection, the department shall pay one-half of
30 the revenue received

31 (1) to each unified municipality, each city in the unorganized borough, and each

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

5 Sec. 43.33.100. DEFINITIONS. In this chapter,

6 (1) "conveyance"

7 (A) means

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

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

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

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

18 (B) does not include

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

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

21 (iii) a cancellation or forfeiture of a purchaser's interest in a
22 contract for the conveyance of real property, whether or not the contract contains
23 a forfeiture clause;

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

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

30 (vi) a transfer, conveyance, or assignment of property or interest
31 in property from one spouse to the other under the terms of a decree of divorce

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

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;

(xv) a conveyance of land or an interest in land by a Native corporation, as that term is defined in 43 U.S.C. 1602, to the United States if the conveyance of the land or the interest by the Native corporation is made for cash or credit;

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

(3) "selling price"

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

(B) includes the amount of a lien, mortgage, contract indebtedness, or

1 other encumbrance, either given to secure the purchase price or as a part of the purchase
2 price, or remaining unpaid at the time of conveyance of the real property or an estate or
3 interest in real property;

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

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

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

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

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

10 ARTICLE 6. REAL ESTATE CONVEYANCE TAX.

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

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

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

25 (d) An instrument evidencing a conveyance subject to the tax may not be accepted by
26 the recorder for recording under AS 40.17 until the tax has been paid and the stamp affixed. In
27 a case in which the tax is not due on the transfer, the instrument may not be accepted for
28 recording until suitable notation of the exception has been made on the instrument by the
29 recorder.

30 (e) In this section,

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

- 1 (2) "selling price" has the meaning given in AS 43.33.100;
- 2 (3) "tax" means the real estate conveyance tax authorized by (a) of this section.
- 3 (f) This section
- 4 (1) applies to home rule boroughs and general law boroughs;
- 5 (2) does not apply to third class boroughs, whether home rule or general law.
- 6 * Sec. 4. AS 40.17.030(a) is amended to read:
- 7 (a) To be eligible for recording, a document must be
- 8 (1) legible or capable of being converted into legible form by a machine or device
- 9 used in the recording office;
- 10 (2) capable of being copied by the method used in the recording office;
- 11 (3) accompanied by the proper fee for recording and include or be accompanied
- 12 by information, stamps, certificates, taxes, or fees that under AS 29.45.750, AS 43.33, and other
- 13 laws are necessary to qualify the document for recording;
- 14 (4) accompanied by or include the information needed to index the document
- 15 under regulations of the department;
- 16 (5) accompanied by or include the name and address of the person to whom the
- 17 document is to be returned after recording; and
- 18 (6) accompanied by or include the mailing addresses of all persons named in the
- 19 document who grant or acquire an interest under the document if it is a conveyance; this
- 20 paragraph does not apply to a release of a security interest.
- 21 * Sec. 5. AS 40.17.070 is amended by adding a new subsection to read:
- 22 (j) After recording, the recorder shall report to the assessor of a municipality in which
- 23 property subject to the tax imposed by AS 43.33 is located the gross sales price, as stated in the
- 24 tax affidavit prescribed under AS 43.33.050, of each parcel of property that is conveyed within
- 25 the municipality and that is subject to that tax.
- 26 * Sec. 6. This Act takes effect January 1, 1993.