

A Utah Community Action Partnership Association Report

Olene Walker Housing Loan Fund Dedicated Source Funding

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Overview

Utah has a shortage of housing opportunities for low-income families. The Olene Walker Housing Loan Fund (OWHLF) is the state's largest tool for creating affordable housing. However, the OWHLF's impact is limited because it does not have a dedicated funding source. While there are many possible options for this dedicated source, the number of viable options is limited. This report discusses several revenue streams including a real estate transfer tax, a document recording fee, and interest on real estate escrow accounts. Whatever the source, the housing *need* must be the driving force for obtaining this revenue.

Housing Trust Funds

The Center for Community Change's 2007 Housing Trust Fund Progress Report states that there are nearly 600 state, county, and local trust funds in the nation. These funds produced \$1.6 billion in 2006. The 49 state housing trust funds in 39 states and the District of Columbia have produced \$1.28 billion in 2006 for affordable housing related projects. The OWHLF is Utah's state fund.

Olene Walker Housing Loan Fund

As stated in the OWHLF's report to the legislature, the goal of the OWHLF is to "create and preserve affordable housing for Utah's low-income community." The OWHLF is managed by the Division of Housing and Community Development to provide low interest loans and grants that "support the construction, rehabilitation, and purchase of affordable multi-family and single-family housing throughout Utah."

Current Funding Sources for the Olene Walker Housing Loan Fund

Funding for the OWHLF is a mixture of new federal and state monies as well program revenue. The OWHLF's current funding sources are as follows:

- *U.S. Dept. of Housing and Urban Development's HOME program funds.* These funds must be matched at \$0.25 per dollar by cash (non-CDBG funds), bonds, labor, property, or other non-cash contributions. The funding for FY08 totals \$3,829,421, up from \$3,783,080 for FY07.
- *HUD's American Dream Down-payment Initiative.* These funds are used to provide assistance to first time homebuyers. These funds total \$57,374 for FY08, approximating the \$57,305 received for FY07.

- *On-going funds from the Utah Legislature.* These funds, first received in 1994 to supplement and match the federal HUD funds, have seen gradual increases to a total of \$2,635,400 for FY08.
- *One-time funds from the Utah Legislature.* These fund have been received eight times beginning in 1995, and totaled \$1,000,000 in FY07 with no one-time funding for FY08.
- *OWHLF Revenue.* These funds, which include program income and repayments (much of which is from the OWHLF's portfolio of low interest loans), totaled \$2.4 million for FY07.

While nearly nine million dollars is a substantial pool of money with which to provide gap funding for low-income housing projects, this funding is not keeping up with Utah's expanding need. According to OWHLF personnel, there has been a gap between housing need and housing production totaling over 1700 new affordable units per year. Additionally, the OWHLF finds an estimated 2500 affordable units in need of rehabilitation per year. As such, the OWHLF needs to look to the legislature to help expand revenue available to the fund.

Dedicated Funding Sources for the Olene Walker Housing Loan Fund

Nineteen of the 49 state housing trust funds produce revenue from real estate transfer taxes and document recording fees. Less common sources include interest from real estate escrow or mortgage escrow accounts, on-going and one time funds, bonds, grants, and interest from state held funds (including unclaimed property funds and budget stabilization funds).

Real Estate Transfer Tax or Fee

Sometimes referred to as deed recordation taxes or documentary stamp taxes, transfer taxes are imposed upon the sale or transfer of real estate. The tax is commonly collected by local officials responsible for deed recordation and is usually based upon fair market value of the real estate, often evidenced by affixing a stamp to the deed. In addition to being used to fund low-income housing programs, these taxes are used to preserve and protect open space or "green space." Park City is one Utah community that has included in their General Plan the desire to seek a transfer tax option for both housing and open space preservation.

The following is a summary of transfer taxes nation-wide:

- Thirty-five states plus Washington D.C. impose statewide transfer taxes;
- Three additional states allow for the imposition of local transfer taxes;
- Several of the states that impose or allow statewide collection also allow for local option taxes;
- The taxes range from 0.01 percent to 2.2 percent, most of which are lower than 0.5 percent;
- Utah imposed a documentary stamp tax 70 years ago, whereby a person transferring property had to go to the county assessor for a stamp as proof of payment; and
- Eleven states use transfer taxes to fund their housing trust funds.

Estimated revenue from transfer taxes

Utah is a non-disclosure state. As such, real estate prices are not publicly available. Thus, developing accurate transfer tax revenue data is difficult. However, utilizing the Utah Association of Realtors market reports of member multiple listing services (which include a significant portion of the residential sales in the state) one can obtain a rough estimate of the revenue to be gained through a transfer fee or tax on residential sales.

Transfer Fee and Transfer Tax Revenue Comparisons on Residential Real Estate

Year	Homes Sold	Average Price	Aggregate Price of Homes Sold	Revenue at \$10 per transaction	Revenue at \$50 per transaction	Revenue at .01% of market price	Revenue at .05% of market price
2006	45,013	\$251,413	\$11,316,853,369	\$450,130	\$2,250,650	\$1,131,685	\$5,658,427
2003	33,501	\$173,525	\$5,813,261,025	\$335,010	\$1,675,050	\$581,326	\$2,906,631
2000	25,393	\$168,251	\$4,272,397,643	\$253,930	\$1,269,650	\$427,240	\$2,136,199

Source: *Homes Sold* and *Average Price* from the Utah Association of Realtors market reports

Commercial real estate prices are not disclosed either. However, NAI Utah, the largest commercial real estate agency in the state, provided competitor analysis data for this report. The data covers all NAI Utah, Caldwell Banker, CBRE, Commerce CRG, and Prudential transactions in 2006. It includes aggregate prices of all the transactions but not the number of transactions involved. Since the data includes *involvement* in sales transactions, there are duplications between the covered companies. The data only includes transactions originating in Salt Lake, Cache, Davis, Weber, and Utah Counties.

Transfer Tax Revenue on Commercial Real Estate

Year	Aggregate Commercial Sales	Revenue at .01% of market price	Revenue at .05% of market price
2006	\$1,399,051,000	\$139,905	\$699,526

Source: *Aggregate Commercial Sales* from NAI Utah

Impact of the transfer tax on households

The impact on each household from the above transfer fees and taxes ranges between \$10 and \$125.71 at closing.

Who pays the tax?

Transfer taxes are the responsibility of the buyer, the seller, or both jointly. Generally, the division of the responsibility of the tax is negotiated upon closing between the buyer and the seller.

Document Recording Fee

Document recording fees are charged by the state county recorders to record deeds, mortgages, satisfactions of mortgage, or other documents required to clear or transfer title that are collected by closing agents. Utah statute allows for county recorders to receive a base charge of \$10.00 for recording deeds, mortgages, and trust deeds. Eight states receive revenue for their housing trust funds from document recording fees.

In 2000, Senator Karen Hale ran a document recording fee bill (S.B. 256 Optional County Affordable Housing Funds Act) (see Appendix) to give counties the option of doubling recording fees to fund affordable housing programs or projects. The bill never made its way out of the Senate Rules Committee.

The Utah Association of County Recorders opposed the bill for several reasons, including the following:

- The fees which recorders charge in the state are user fees for services provided (ex. more pages result in a larger fee). As such, recorders were not interested in collecting fees for non-service related items;
- S.B. 256 did not clearly define which documents could have an increased fee; and
- S.B. 256 would have caused an administrative burden in two ways: a) the computer systems would have needed to have been reworked to change recording fees, and b) the counties would have had to start segregating funds for this new charge; and
- While some counties could have generated significant funding, many small counties would not have been able to generate enough revenue to warrant the administrative costs of setting up a local housing funding mechanism (S.B. 256 did not dedicate the funds to the OWHLF).

One possible way to utilize an *optional* fee like S.B. 256 for the OWHLF would be to pool the fees from county recorders and earmark such funds to be used in the originating counties. Otherwise, since counties would not control the usage of their funds, the document recording fee would likely need to be *mandatory* if it were to generate a significant revenue stream.

Estimated revenue from document recording fee

Utilizing the Utah Association of Realtors market reports of member multiple listing services (which include a significant portion of the residential sales in the state), one can obtain a rough estimate of the revenue to be gained through a document recording fee increase, not including revenue from commercial sales.

Year	Homes Sold	Revenue at \$10 per transaction	Revenue at \$50 per transaction
2006	45,013	\$450,130	\$2,250,650
2003	33,501	\$335,010	\$1,675,050
2000	25,393	\$253,930	\$1,269,650

Source: *Homes Sold* from the Utah Association of Realtors market reports

Interest on Real Estate Escrow Accounts

Five states receive revenue for their housing trust funds from interest on real estate escrow accounts. In this state, the Utah Association of Realtors (UAR) is currently doing just that in a very limited way. Modeled after the Colorado Association of Realtors, the Utah Association of Realtors Housing Opportunity Fund (UARHOF) began operating in 1998. Since inception, the UARHOF has received interest contributions of \$344,000 and has dispersed \$155,000 of those funds for housing projects. As a statewide mandatory program, this revenue source has a much larger potential to generate funds for affordable housing.

Estimated revenue from escrow account interest

Approximately 300 of the state's 16,000 UAR members are participating in UARHOF. Between January 1 and May 22, 2007, the fund raised approximately \$43,000. With full UAR participation, interest on real estate escrow accounts could generate revenues totaling \$5,894,835. Additionally, there are an untold number of realtors who are not UAR members.

Opposition

Each of the above funding sources has at least one major drawback: the strength of the potential opposition. The National Association of Realtors is opposed to any taxes or fees that, in their opinion, hinders or restricts home ownership. The National Association of Realtors has taken an official policy position in opposition to real estate transfer taxes. Their position as of May 2003 is as follows:

“The National Association of REALTORS® opposes the imposition of real estate transfer taxes or fees under any condition. Whether as a general or earmarked revenue source, real estate transfer taxes and fees are a major burden to buyers and sellers, particularly at time of closing. Additionally, these taxes and fees:

- have a negative impact on housing costs and economic development,
- reduce housing opportunities across the income spectrum, and;
- are a particularly poor revenue source for the general operating budgets of state and local governments because of their extreme volatility.”

Following the national position, the Utah Association of Realtors is opposed to transfer taxes and recording fees. UAR has further rejected calls for folding UARHOF funds into the OWHLF, and would certainly oppose legislative action on the issue. The Salt Lake Board of Realtors has already begun a billboard campaign along Interstate-15 through Salt Lake City opposing transfer taxes.

Other Dedicated Sources

There are numerous other options for dedicated funding sources (see Appendix). A few of these sources are as follows:

- *Mortgage interest deduction.* From the outset, a reduction in the mortgage interest deduction (credit) seems like a good option for a housing fund revenue source. However, in the state of Utah income taxes are constitutionally required to supply the state’s education fund.
- *Sales and use taxes.* An increase in the sales tax or the tourism, recreation, and convention facility tax may be an option for funding the OWHLF.
- *Property tax.* Property tax has not been assessed statewide since 1940, but, while generally unpopular, may be a funding option.

Summary

When searching for a dedicated funding source, the “best practices” include:

- Pursuing a housing related source, thereby justifying the uses of the revenue stream on affordable housing;
- Pursuing an increase in an existing source;
- Steering clear of new taxes or fees; and
- Pursuing multiple sources, thereby decreasing revenue fluctuations and risk.

Real estate transfer taxes, document recording fees, and escrow account interest are all housing related sources. Of the best practices, only the document recording fee is currently written into Utah statute. A revenue summary of the three main revenue sources discussed in this report is as follows:

Transfer tax and document recording fee at \$10 per transaction	Transfer tax and document recording fee at \$50 per transaction	Transfer tax at .01% of market price	Transfer tax at .05% of market price	Interest on real estate escrow accounts
\$450,130	\$2,250,650	\$1,271,590	\$6,357,953	\$5,894,835

Whatever the source, a dedicated revenue stream is necessary to close the gap between the affordable housing that the OWHLF can produce and what affordable housing is needed in the state of Utah.

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Housing Trust Fund Revenue Sources

State	Housing Trust Fund	Revenue Sources
Arizona	Housing Trust Fund	State unclaimed property fund; Other
California	Housing Trust Fund	No revenue
Connecticut	Community Investment Act	Document recording fee
Connecticut	Interest on Real Estate Brokers Trust Account	Interest on real estate escrow accounts
Connecticut	Housing Trust Fund for Economic Growth and Opportunity	GO bonds (committed for 5 years)
Delaware	Housing Development Fund	Document recording fee; General fund
District of Columbia	Housing Production Trust Fund	Deed recordation and transfer tax
Florida	William E. Sadowski Act	Documentary stamp taxes
Georgia	Homeless Trust Fund	General fund
Hawaii	Rental Trust Fund	Real estate conveyance tax
Idaho	Housing Trust Fund	No revenue
Illinois	Affordable Housing Trust Fund	Real estate transfer tax
Illinois	Rental Housing Support Program	Real estate document recording fee
Indiana	Affordable Housing and Community Development Fund	Program income
Iowa	Housing Trust Fund	HFA funds
Kansas	Housing Trust Fund	Bond and fee revenues
Kentucky	Affordable Housing Trust Fund	General fund
Louisiana	Housing Trust Fund	Income tax check-off
Maine	Housing Opportunities for Maine	Real estate transfer tax
Maryland	Affordable Housing Trust	Interest on title escrow accounts
Massachusetts	Affordable Housing Trust Fund	GO bonds
Massachusetts	Community Preservation Act	Document recording fees (match only)
Michigan	Housing and Community Development Fund	No revenue
Minnesota	Housing Trust Fund	Interest on real estate escrow accounts ; Revenue bond application fees, etc.; General fund
Missouri	Housing Trust Fund	Document recording fee; Housing finance
Montana	Revolving Loan Account for Housing	No revenue
Nebraska	Affordable Housing Trust Fund	Documentary stamp tax
Nebraska	Homeless Assistance Trust Fund	Documentary stamp tax
Nevada	Account for Low-income Housing	Real estate transfer tax
Nevada	Assistance for Low-Income Owners of Mobile Homes	Fees from mobile home park owners
New Hampshire	Affordable Housing Trust Fund	Other
New Jersey	Balanced Housing Program	Realty transfer tax
New Jersey	Special Needs Housing Trust Fund	GO bonds [backed by driving violation fees]
New Mexico	Housing Trust Fund	Capital outlay fund

State	Housing Trust Fund	Revenue Sources
North Carolina	Housing Trust Fund	General fund
Ohio	Housing Trust Fund	Document recording fees
Oklahoma	Housing Trust Fund	Appropriations
Oregon	Housing Development Grant Program	Public purpose charge
Oregon	Low-income Rental Housing Fund	Interest on tenant security deposits; eviction court fees
Rhode Island	Housing and Conservation Trust	No revenue
South Carolina	Housing Trust Fund	Real estate transfer tax
Texas	Housing Trust Fund	General revenue
Utah	Olene Walker Housing Trust Fund	Base budget; General fund
Vermont	Housing and Conservation Trust	Real estate transfer tax; General fund
Washington	State Housing Trust Fund	Capital budget; Other: including interest on real estate escrow accounts; penalties from failure to pay transfer tax and repayments; General fund
Washington	Homeless Trust Fund	Document recording fee
Washington	2060 Program	Document recording fee
West Virginia	Affordable Housing Trust Fund	Grant
Wisconsin	Interest Bearing Real Estate Trust Account	Interest on real estate escrow accounts
<p>Key:</p> <p>Real estate transfer taxes</p> <p>Document recording fees</p> <p>Interest on real estate escrow accounts</p> <p>Source: Housing Trust Fund Progress Report, 2007</p>		

Revenue Sources Dedicated by Existing Housing Trust Funds¹

Property transactions

- Taxes on real estate transfers
- Fees on the recording of deed and mortgage documents
- Taxes on mortgage transfers
- Interest from pooled real estate escrow accounts
- Interest from pooled title escrow accounts
- Penalties against the failure to pay the real estate transfer tax

Development charges

- Fees, taxes or proffers on new development
- Fees-in-lieu from inclusionary zoning
- Payments for density bonuses or transfers of density
- Tax on conversion of rental units to condos and other uses
- Proceeds from the sale of inclusionary units

Municipal taxes

- Taxes on restaurant meals
- Sales taxes
- Property taxes
- Tax on hotel/motel rooms
- Tax increments from redevelopment districts

Government Activities

- Proceeds from the sale of publicly-owned land
- Repayments from government loan programs
- Proceeds from settlements for housing code a violation
- Fees from landfill activities
- Fees on mobile home park owners
- Funds from the Securities Act cash fund
- Interest or funds from unnamed, unclaimed property funds
- Interest from rainy day funds

Bond Programs

- Funds from government bonds
- Surplus from bond reserve programs
- Surplus from bond refinancing
- Fees from bond-financed programs
- Fees on mortgage revenue bond and mortgage credit certification programs
- Fees on applications for bond revenues

Others

- Lottery earnings or unclaimed lottery earnings
- Contributions from employers
- Interest from tenant security deposits

¹ A Workbook for Creating a Housing Trust Fund, Mary Brooks, Center for Community Change

Utah's Major Non-Federal State Revenue Sources²

Alcoholic Beverage Taxes

- Beer Tax
- Liquor Tax (School Lunch)

Cigarette and Tobacco Tax

Environmental Taxes

- Environmental Assurance Fee
- Waste Tire Recycling Fee

Income Taxes

- Individual Income Tax
- Corporation Franchise Tax
- IPA and Electrical Gross Receipts Tax

Inheritance Tax

Insurance Taxes

- Insurance Premium Tax
- Self-Insurers Tax

Motor Vehicle Taxes

- Automobile Driver Education Tax
- Motor Fuel Tax
- Special Fuel Tax
- Motor Vehicle Title/Transfer Fees
- Motor Vehicle Registration Fees
- Commercial Vehicle Proportional Registration Fees
- Driver's License Fee

Property Tax

Public Utility Regulation Fee

Sales and Use Tax

Severance Taxes

- Mine Severance Tax
- Oil and Gas Severance Tax
- Oil and Gas Conservation Fee

Tourism, Recreation, Convention Facility Tax

Transient Room Tax

Unemployment Insurance Tax

² Utah Taxpayers Association's 2007 Fast Tax

Real Estate Transfer Taxes by State

State	Description	Rate in Percent	2004 Revenue (\$000)	2004 Revenue Per Capita
Alabama	\$.50 per \$500 of property conveyed	0.10%	\$45,080	\$9.95
Arizona	\$2 per deed required to be recorded	NA	NA	NA
Arkansas	\$3.30 per \$1,000 of consideration in excess of \$100	0.33%	\$25,972	\$9.43
California	Local taxes only	NA	NA	NA
Colorado	\$.01 per \$100 of consideration in excess of \$500	0.01%	NA	NA
Connecticut	1.25% of consideration paid if consideration exceeds \$2,000 – Other rates for commercial transfers	1.25%	\$175,816	\$50.18
Delaware	2-3% (depending on local tax) on transfers in excess of \$100; 1% on contracts for improvements to realty in excess of \$10,000	2.0-3.0%	98,566	\$118.74
District of Columbia	2.2% of consideration or fair market value	2.20%	\$286,269	\$485.20
Florida	\$.70 per \$100 of consideration except in Miami-Dade County where it is \$.60 per \$100	0.70%	\$1,950,402	\$111.99*
Georgia	\$1 for first \$1,000 of consideration plus \$.10 per \$100 of additional consideration	0.10%	\$420	\$0.05
Hawaii	\$.10 per \$100 of consideration	0.10%	\$18,426	\$14.59
Illinois	\$.50 per each \$500 of value or fraction of \$50	0.10%	NA	NA
Iowa	\$.80 per \$500 paid for the real property transferred	0.16%	\$13,869	\$4.69
Kansas	0.26% of debt or obligation secured by real estate	0.26%	\$52,569	\$14.59
Kentucky	\$.50 per \$500 of value conveyed in deed	0.10%	\$3,434	\$0.83
Louisiana	Local taxes only			
Maine	\$2.20 per \$500 of value conveyed – Split between grantor and grantee	0.44%	\$29,380	\$22.31
Maryland	0.5% of consideration paid for realty -- Also local deed recordation taxes ranging from \$2.20-\$5.00 per \$500 of value and local transfer taxes ranging up to 1.5% of consideration paid	Variable depending on local rates	\$183,189	\$32.96
Massachusetts	\$4.56 per \$1,000 of consideration	0.456%	\$245,906	\$38.32
Michigan	\$3.75 per \$500 of value for property being transferred plus local taxes of \$.55 - \$.75 per \$500 of value	0.75%	\$317,480	\$31.39
Minnesota	\$1.65 plus .33% of value in excess of \$500 plus .23% of debt secured by real estate for mortgage registry	0.56%	\$352,354	\$69.08

State	Description	Rate in Percent	2004 Revenue (\$000)	2004 Revenue Per Capita
Nebraska	\$2.25 per \$1,000 of value transferred	0.225%	\$9,215	\$5.27
Nevada	\$1.95 - \$2.55 per \$500 of consideration depending on population of county	0.255% max.	\$96,704	\$41.41
New Hampshire	\$1.50 per \$100 of consideration split equally between buyer and seller	1.50%	\$145,386	\$111.82
New Jersey	Four transfer fees -- Basic is \$1.25 state and \$.50 county each \$500 of consideration; additional fees range from \$.25 - \$4.30 per \$500 of consideration; a fifth fee of 1% is imposed on buyers for an entire consideration in excess of \$1 million for certain residential and farmland property	1.21% max. if less than \$1 million	\$246,503	\$28.34
New York	\$2.00 per \$500 of consideration plus 1% on transfers of more than \$1 Million	0.4% if less than \$1 million	\$510,443	\$26.55
North Carolina	\$1 per \$500 of consideration or value transferred with 51% of revenue retained at local level	0.20%	\$54,940	\$6.43
Ohio	Local taxes only ranging from \$.10 -\$.40 per \$100 of value	0.4% max.		
Oklahoma	\$.75 per \$500 of consideration	0.15%	\$12,048	\$3.42
Pennsylvania	1% of consideration or fair market value with local transfer taxes of 1 – 3%	4.0% max.	\$470,789	\$37.95
Rhode Island	\$2 per \$500 of consideration	0.40%	\$12,645	\$11.70
South Carolina	\$1.85 per \$500 of value with \$.55 per \$500 retained at the local level	0.37%	\$50,493	\$ 12.03
South Dakota	\$.50 per \$500 of consideration payable by grantor	0.10%	\$141	\$0.18
Tennessee	\$.37 per \$100 of consideration plus a mortgage tax of \$.115 per \$100 of indebtedness in excess of \$2,000	0.485%	\$174,206	\$29.52
Vermont	1.25% of value of property transferred; lower rates on certain homes and farms	1.25% max.	\$20,762	\$33.43
Virginia	\$.25 per \$100 of conveyance plus \$.50 per \$500 of consideration for transfer of realty	0.35%	\$340,591	\$45.66
Washington	1.28% of selling price plus local tax of 0.3-0.5%	1.33% max.	\$640,086	\$103.17
West Virginia	\$1.10 per \$500 of consideration plus local taxes that may run to another \$1.10 per \$500	0.44% max.	\$10,129	\$5.58
Wisconsin	\$.30 per \$100 of value	0.30%	\$66,325	\$12.04
Total			\$6,615,458	

Revenue figures adjusted to eliminate taxes other than real estate transfers in the Census Bureau figures.

Source: Federation of Tax Administrators Bulletin (February 16, 2006) based upon the CCH, State Tax Handbook (2006), data from the U.S. Bureau of the Census, Governments Division, and information from individual states.

Possible Anti-Speculation Provisions of the Transfer Tax³

Transfer taxes are usually set low enough that they do not affect the market in any noticeable way. Some transfer taxes include provisions to help dampen speculation, which includes purchases followed by rapid resale and steep price increases with little or no actual improvement made to the property. Property "flipping" schemes also can employ fraudulent assessments of real estate value or inaccurate claims about the level of renovation. Transfer taxes can be developed to reduce the motivation for speculation by:

- setting tax rates based on the amount of time the property is held, with very high rates-high enough to affect profit-for properties held for six months or less. Rates then decrease until they reach a more usual, unobtrusive level after 3-6 years. Alternatively, a portion of the profit may be exempt from the tax, but only if a property has been held for a minimum period of time. These practices discourage speculation without penalizing long-term homeowners.
- setting taxes can also be based on the amount or increased price, and/or the percent of profit from sales. Thus, windfall profits with little investment would be taxed at a higher rate. The costs of improvements made to a property would be subtracted from the calculations of profit or sales price increase.

In either case, to make sure only speculators pay higher tax rates, exemptions can be made for people over 65, new construction, emergencies, or homeowners in situations such as job loss or transfer, adverse change in income, recent divorce, new children, marriage, or death of a family member.

Anti-speculation measures also make property-flipping scams less appealing and more difficult to carry out, since the enforcement agency will have records of sales that involve rapid ownership turnaround and large price hikes.

When a tax is graduated based on length of time of holding and/or profit received, the administration becomes much more complicated. The agency administering the tax needs to track the dates and prices when properties change hands, assess the value of improvements, and handle exemptions and appeals. This will cost more money and time, and generally makes these sort of measures unappealing to small jurisdictions.

Making the formula for calculating the tax rate as simple as possible, and creating a standardized form used in all closings (to determine which tax rate applies) can make the record-keeping somewhat simpler.

³ Reprinted from Policy Link at www.policylink.org

Nevada Revised Statutes – Real Estate Transfer Tax

Nevada Revised Statutes Section 375.023 - Revenue and Taxation

Imposition of additional tax; rate and collection of tax; disposition of proceeds; reimbursement for cost of collection.

1. In addition to all other taxes imposed on transfers of real property, a tax, at the rate of \$1.30 on each \$500 of value or fraction thereof, is hereby imposed on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, if the consideration or value of the interest or property conveyed exceeds \$100.

2. The amount of the tax must be computed on the basis of the value of the transferred property as declared pursuant to NRS 375.060.

3. The county recorder of each county shall collect the tax in the manner provided in NRS 375.030, except that the amount collected must be transmitted to the State Controller for deposit in the State General Fund within 30 days after the end of the calendar quarter during which the tax was collected.

4. The county recorder of a county:

(a) Whose population is 100,000 or more may deduct and withhold from the taxes collected 0.2 percent of those taxes to reimburse the county for the cost of collecting the tax.

(b) Whose population is less than 100,000 may deduct and withhold from the taxes collected 1 percent of those taxes to reimburse the county for the cost of collecting the tax.

Senate Bill 256 – Document Recording Fee

OPTIONAL COUNTY AFFORDABLE HOUSING

FUNDS ACT

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Karen Hale

AN ACT RELATING TO COUNTIES; AUTHORIZING COUNTIES TO INCREASE RECORDER FEES TO FUND AFFORDABLE HOUSING PROGRAMS OR PROJECTS; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

21-2-3, as last amended by Chapter 79, Laws of Utah 1996

ENACTS:

17-15-28, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-15-28 is enacted to read:

17-15-28. Increase of recorder fees -- Use of funds for affordable housing.

(1) For purposes of this section, "affordable housing" has the same meaning as provided in Section 11-38-102.

(2) (a) Subject to Subsection (2)(b), a county legislative body may increase the fees charged under Section 21-2-3 by a county recorder for recording deeds, mortgages, and trust deeds.

(b) No increase under Subsection (2)(a) may result in a total fee for recording deeds, mortgages, or trust deeds that is more than twice the amount of the fee in effect on May 1, 2000.

(3) Funds raised from an increase under Subsection (2) shall be dedicated to fund affordable housing in the county.

Section 2. Section 21-2-3 is amended to read:

21-2-3. Fees of county recorder.

(1) [The] Subject to Section 17-15-28, the county recorder shall receive the following fees:

(a) for receiving, entering, and filing any instrument, paper, or notice, not otherwise provided for, other than bonds of public officers, \$10;

(b) for recording any instrument, paper, or notice, including those provided for under Title 70A, Uniform Commercial Code, other than bonds of public officers, and not otherwise provided for, \$10 for the first page, if the page is not larger than 8 1/2 inches x 14 inches in size, and \$2 for each additional page, and if any instrument, paper, or notice contains more than one description, \$1 for each additional description;

(c) for recording any instrument in which a right-of-way is described, which is connected with or is appurtenant to any tract of land described in the instrument, \$1, but if the instrument contains a description of more than one right-of-way, \$1 for each additional right-of-way, and if any instrument contains more than two names for either first or second party, or plaintiffs or

39 defendants, for each additional name, \$1;
40 (d) for recording, indexing, and abstracting mining location notices, and recording,
41 indexing, and abstracting affidavits of labor affecting mining claims, \$10 for the first page if that
42 page is not larger than 8 1/2 inches by 14 inches in size, and \$2 for each additional page; and
43 (e) for a location notice, affidavit, or proof of labor which contains names of more than
44 two signers, \$1 for each additional name, and for an affidavit or proof of labor which contains
45 more than one mining claim, \$1 for each additional mining claim.
46 (2) (a) Each county recorder shall record the mining rules of the several mining districts
47 in each county without fee.
48 (b) Certified copies of these records shall be received in all tribunals and before all officers
49 of this state as prima facie evidence of the rules.
50 (3) The county recorder shall receive the following fees:
51 (a) for copies of any record or paper, a reasonable fee determined and set by the county
52 legislative body;
53 (b) for each certificate under seal, \$2;
54 (c) for recording any plat of a subdivision into lots and blocks, \$1 for each lot, and \$30 for
55 each sheet;
56 (d) for recording any other plat or map, \$30 for each sheet and \$1 for each lot or unit
57 designation;
58 (e) for taking and certifying acknowledgments, including seal, \$5 for one name and \$2 for
59 each additional name;
60 (f) for recording any license issued by the Division of Occupational and Professional
61 Licensing, \$10;
62 (g) for filing of federal tax lien, \$10, and for the discharge of the lien, \$10;
63 (h) for copies of microfilm, a charge per lineal foot as fixed by the county governing body,
64 not to exceed the cost of reproduction of the film plus 10%; and
65 (i) for all services not enumerated in this section, a reasonable compensation.

Revised Code of Washington – Interest on Real Estate Escrow Accounts

RCW 18.85.310

Broker's records — Separate accounts — Interest-bearing trust accounts — Disposition of interest.

(1) Every licensed real estate broker shall keep adequate records of all real estate transactions handled by or through the broker. The records shall include, but are not limited to, a copy of the earnest money receipt, and an itemization of the broker's receipts and disbursements with each transaction. These records and all other records hereinafter specified shall be open to inspection by the director or the director's authorized representatives.

(2) Every real estate broker shall also deliver or cause to be delivered to all parties signing the same, at the time of signing, conformed copies of all earnest money receipts, listing agreements and all other like or similar instruments signed by the parties, including the closing statement.

(3) Every real estate broker shall also keep separate real estate fund accounts in a recognized Washington state depository authorized to receive funds in which shall be kept separate and apart and physically segregated from licensee broker's own funds, all funds or moneys of clients which are being held by such licensee broker pending the closing of a real estate sale or transaction, or which have been collected for said client and are being held for disbursement for or to said client and such funds shall be deposited not later than the first banking day following receipt thereof.

(4) Separate accounts comprised of clients' funds required to be maintained under this section, with the exception of property management trust accounts, shall be interest-bearing accounts from which withdrawals or transfers can be made without delay, subject only to the notice period which the depository institution is required to reserve by law or regulation.

(5) Every real estate broker shall maintain a pooled interest-bearing escrow account for deposit of client funds, with the exception of property management trust accounts, which are nominal. As used in this section, a "nominal" deposit is a deposit of not more than ten thousand dollars.

The interest accruing on this account, net of any reasonable and appropriate financial institution service charges or fees, shall be paid to the state treasurer for deposit in the Washington housing trust fund created in RCW 43.185.030 and the real estate education account created in RCW 18.85.317. Appropriate service charges or fees are those charges made by financial institutions on other demand deposit or "now" accounts. An agent may, but shall not be required to, notify the client of the intended use of such funds.

(6) All client funds not required to be deposited in the account specified in subsection (5) of this section shall be deposited in:

- (a) A separate interest-bearing trust account for the particular client or client's matter on which the interest will be paid to the client; or

(b) The pooled interest-bearing trust account specified in subsection (5) of this section if the parties to the transaction agree.

The department of licensing shall promulgate regulations which will serve as guidelines in the choice of an account specified in subsection (5) of this section or an account specified in this subsection.

(7) For an account created under subsection (5) of this section, an agent shall direct the depository institution to:

(a) Remit interest or dividends, net of any reasonable and appropriate service charges or fees, on the average monthly balance in the account, or as otherwise computed in accordance with an institution's standard accounting practice, at least quarterly, to the state treasurer for deposit in the housing trust fund created by RCW 43.185.030 and the real estate education account created in RCW 18.85.317; and

(b) Transmit to the director of community, trade, and economic development a statement showing the name of the person or entity for whom the remittance is spent, the rate of interest applied, and the amount of service charges deducted, if any, and the account balance(s) of the period in which the report is made, with a copy of such statement to be transmitted to the depositing person or firm.

(8) The director shall forward a copy of the reports required by subsection (7) of this section to the department of licensing to aid in the enforcement of the requirements of this section consistent with the normal enforcement and auditing practices of the department of licensing.

(9) This section does not relieve any real estate broker from any obligation with respect to the safekeeping of clients' funds.

(10) Any violation by a real estate broker of any of the provisions of this section, or RCW 18.85.230, shall be grounds for revocation of the licenses issued to the broker.