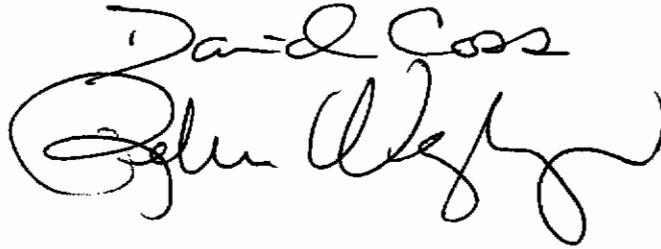


CITY OF SANTA FE, NEW MEXICO

BILL NO. 2008 - 53

INTRODUCED BY:

Handwritten signatures of David Coss and John Alfaro.

AN ORDINANCE

AMENDING ARTICLE 18-19 SFCC 1987 REGARDING THE WORKFORCE HOUSING
FUNDING INITIATIVE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Section 18-9.3 SFCC 1987 (being Ord. #2008-37, §4) is amended to
read:

18-19.3 Purpose. The purpose of this article is to establish an ongoing source of funding
for workforce housing initiatives by imposing an excise tax on the use by purchasers of transfer
services to effectuate and facilitate the transfer of certain real property. This tax is imposed
pursuant to § 3-18-2 NMSA 1978 authorizing municipalities to impose an excise tax on products
and services specifically named upon approval at election by the voters.

Section 2. Section 18-19.4 SFCC 1987 (being Ord. #2008-37, §5) is amended to
read:

18-19.4 Definitions. For the purposes of this article, certain words are defined as
follows:

1 *Consideration means and includes the actual cash paid and/or value of the property*
2 delivered, or contracted to be paid or delivered, in return for the transfer of ownership or title to
3 real property and shall include the amount of any lien, mortgage, contract indebtedness, or other
4 encumbrance, either given to secure the purchase price, or any part thereof, or remaining unpaid
5 on the property at the time of sale. The term does not include the amount of any outstanding lien
6 or encumbrance in favor of the United States, the State of New Mexico, or of a municipal or
7 quasi-municipal governmental corporation or district for taxes, special benefits or improvements.

8 *Conveyance of ownership means any transfer of title to real property and is evidenced by*
9 any deed or instrument or writing wherein or whereby title to real property situated in the city is
10 granted or conveyed, subject to the exclusions provided in this article, and includes the transfer of
11 more than fifty percent of the authorized and issued shares of a corporation or majority ownership
12 interest in a pass through entity which has as its principal asset real property situated in the city.

13 *Document means and includes any deed, instrument or writing by which real property*
14 located within the city is transferred.

15 *Real property means and includes all lands or interests in lands within the city, and shall*
16 be construed as coextensive in meaning with the terms "land," "tenements" and "hereditaments"
17 and as embracing all mining claims and other claims and chattels real.

18 *Transfer means and includes any conveyance of the ownership of a title to real property*
19 and is evidenced by any deed or instrument or writing wherein or whereby title to real property
20 situated in the city is granted or conveyed, subject to the exclusions provided in this article.

21 *Transfer Services means the services of real estate brokers and title companies to*
22 *effectuate and facilitate the transfer of the property from a seller to a purchaser.*

23 *Workforce housing means housing for those with at least one full-time worker who earns*
24 between the living wage and the amount needed to afford to live in the area.

25 **Section 3. Section 18-19.5 SFCC 1987 (being Ord. #2008-37, §6) is amended to**

1 read:

2 **18-19.5 Imposition of Tax.**

3 A. *Tax imposed.* There is hereby imposed a real estate transfer tax on the use by
4 purchasers of transfer services to effectuate and facilitate every conveyance of ownership of real
5 property situated in the city, unless exempted, which tax shall be imposed on the purchaser of the
6 property and measured by the consideration paid or to be paid for such ~~[grant or]~~ conveyance of
7 ownership and shall be due and payable by the purchaser at the time of transfer
8 contemporaneously therewith. ~~[No document shall be recorded whereby or wherein title to real~~
9 ~~property situated in the city is transferred until the real estate transfer tax has been paid or~~
10 ~~exempted.]~~

11 B. *Amount of tax.* The amount of real estate transfer tax payable is equal to one
12 percent of the consideration paid or to be paid exceeding \$750,000 for the transfer of ownership
13 or title.

14 C. *Application of funds.* All funds received by the city of Santa Fe pursuant to this
15 Article 18-19 shall be deposited into the Affordable Housing Trust Fund to be used only for the
16 following types of affordable housing projects or programs provided that the assistance is related
17 to workforce housing initiatives. The funds shall be subject to appropriation by the governing
18 body of the city of Santa Fe, or its designee, only to the extent permitted by state law for the
19 purpose(s) of:

20 (1) Supporting workforce housing initiatives, including: providing matching
21 funds to be used for down payment assistance;

22 (2) Acquiring vacant land for affordable workforce housing;

23 (3) Acquiring buildings for the purpose of affordable workforce housing;

24 (4) Constructing or reconstructing housing for the workforce;

25 (5) Maintaining and rehabilitating affordable housing;

(6) Operating employer housing projects; and

(7) Paying principal and interest on the bonds issued for affordable workforce housing purposes and incidental costs of issuing the bonds and the funding of any reserve.

Section 4. Section 18-19.6 SFCC 1987 (being Ord. #2008-37, §7) is amended to read:

18-19.6 Exemptions. The real estate transfer tax imposed by this section shall not apply to transfer services used to effectuate:

A. Any conveyance of ownership of property which is part of a development subject to the Santa Fe Homes Program, to HOP homes subject to the Housing Opportunity Program guidelines, as amended from time to time, or to any other form of permanently affordable housing including those sold subject to liens, deeds of trust or other instruments that ensure the unit will remain affordable;

B. Any conveyance of ownership of property wherein the United States, or any agency or instrumentality thereof, the state of New Mexico, any county, municipality, district or other political subdivision of this state, is either the grantor or grantee;

C. Any conveyance of ownership of property wherein the grantee corporation, association or trust has been organized, operated and maintained solely and exclusively for charitable or religious purposes;

D. Any conveyance of ownership of real property as a gift, where no consideration other than love and affection, charitable donation or nominal compensation is evidenced by the terms of the instrument of transfer;

E. Any termination of a joint tenancy in real property except where additional consideration of value is paid in connection with such termination, or a decree or agreement partitioning real property held under common ownership unless a consideration of value is paid in

1 connection therewith.;

2 F. The transfer of title or change of interest in real property by reason of death, will
3 or decree of distribution;

4 G. Transfers made pursuant to mergers or consolidations of corporations, or by a
5 subsidiary to a parent corporation for no consideration other than cancellation or surrender of the
6 subsidiary's stock;

7 H. Any deed or conveyance made and delivered without consideration for the
8 purpose of confirming, correcting, modifying, or supplementing a transfer previously recorded;
9 making minor boundary adjustments, removing clouds on titles; or granting easements, rights-of-
10 way or licenses;

11 I. Any decree or order of a court of record determining or resting title, including a
12 final order awarding title pursuant to a condemnation proceeding;

13 J. Any deed granting or conveying title to cemetery lots;

14 K. Any lease of any real property (or assignment or transfer of any interest in any
15 such lease) provided such lease by its terms does not constitute a de facto conveyance of the
16 subject property. In the latter event the real estate transfer tax shall be based upon the
17 capitalization at five percent of the average annual rental over the entire term of the lease,
18 including any renewal term, plus the actual consideration, other than rent, paid or to be paid.
19 When the average annual rental cannot be determined, or at the election of the city's finance
20 officer, the tax shall be based upon the assessed value of the property covered by the lease;

21 L. Any mineral deed or royalty deed;

22 M. Transfers to secure a debt or other obligation, or transfers or release of property
23 which is security for a debt or other obligation;

24 N. Any executory contract for the sale of real property under which the vendee is
25 entitled to or does take possession thereof without acquiring title thereto, or any assignment or

1 cancellation of any such contract;

2 O. Any deed or conveyance under execution, sale, or foreclosure sale under a power
3 sale or court decree of lien foreclosure; sheriff's deed; public trustee deed or treasurer's deed;

4 P. Any deed or conveyance of commercial property;

5 Q. Any deed or conveyance of undeveloped land;

6 R. Any deed or conveyance reflecting an interspousal transfer of real property; or

7 S. Any deed or conveyance of real property which is the principal residence of an
8 eligible transferor in the case of a family transfer between parents and their children or between
9 grandparents and their grandchild or grandchildren.

10 **Section 5. Section 18-19.7 SFCC 1987 (being Ord. #2008-37, §8) is amended to**
11 **read:**

12 **18-19.7 Application for Exemption.** In the event that the transfer services used to
13 effectuate and facilitate any [document] transfer of real property which [is] are exempt from the
14 real estate transfer tax herein imposed [~~does contain language~~] do not provide documentation
15 clearly showing [its] their exempt character, the [~~grantor or~~] grantee may apply for and obtain
16 from the city's finance officer a certificate of exemption [~~which may be affixed to such deed or~~
17 ~~instrument of transfer~~].

18 **Section 6. Section 18-19.8 SFCC 1987 (being Ord. #2008-37, §9) is amended to**
19 **read:**

20 **18-19.8 Finance Officer to Enforce.**

21 A. The city's finance officer is charged with the enforcement of the provisions of
22 this section and is hereby authorized and empowered to prepare such forms and adopt and enforce
23 such rules and regulations consistent with this section, as he deems necessary to implement the
24 same.

25 B. At the time of any transfer attendant to which a purchaser's use of transfer

1 services is subject to the tax ~~[upon which a tax is]~~ imposed by this section, ~~[the purchaser]~~ the
2 title company on behalf of the purchaser shall make a report to the finance officer on forms
3 prescribed by the officer, setting forth the true, complete and actual consideration for the transfer,
4 the names of the parties thereto, the location of the real estate transferred, and such other
5 information as may be required.

6 C. For the purpose of collection of the taxes imposed by this section, ~~[the finance~~
7 ~~officer shall appoint as authorized agents for the city for the collection of said tax the office of the~~
8 ~~Santa Fe county clerk, and all banks,]~~ title companies~~[-escrow companies, building and loan~~
9 ~~institutions and real estate agencies permitted as such to do business under the laws of the state of~~
10 ~~New Mexico and maintaining offices within the city]~~ shall collect the tax imposed on the
11 purchaser and remit the tax to [F]the finance officer ~~[is authorized to negotiate with such~~
12 ~~appointed agents to]~~ who shall allow them to retain a reasonable amount of the sum collected to
13 cover their expense in the collection and remittance of said tax. If no title company is involved in
14 the transfer, the purchaser shall make the report and remit the tax.

15 **Section 7. Section 18-19.9 SFCC 1987 (being Ord. #2008-37, §10) is amended to**
16 **read:**

17 **18-19.9 Lands Affected.** When the use of transfer services subject to tax under this
18 section effectuates a conveyance ~~[subject to this section]~~ that includes property located within the
19 city of Santa Fe and property located outside the city of Santa Fe, the tax imposed under the
20 authority of this section shall be computed only with respect to that portion of the property
21 located within the city of Santa Fe and the tax shall be assessed on that part of the consideration
22 fairly attributable to the portion of the property located within the city.

23 **Section 8. Section 18-19.10 SFCC 1987 (being Ord. #2008-37, §11) is amended**
24 **to read:**

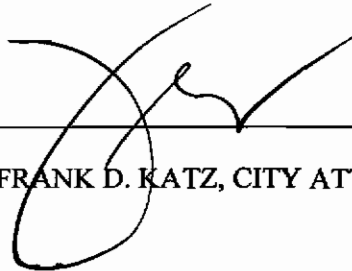
25 **18-19.10 Failure to Pay Tax When Due; Interest and Penalties ~~[and Liens].~~**

1 A. All taxes imposed by this section, if not paid when due, shall bear interest at the
2 rate of twelve percent per annum until so paid. ~~[The amount of the real estate transfer tax imposed~~
3 ~~by this section and interest due thereon is hereby assessed against the property upon the transfer~~
4 ~~of which said tax is imposed, and if not paid when due, such tax and interest, if any, shall~~
5 ~~constitute a lien on the property for the amount thereof, which lien shall continue until the amount~~
6 ~~thereof is paid or until it is discharged of record by foreclosure or otherwise.]~~

7 B. Any person who shall fail or refuse to pay any tax due hereunder shall be subject
8 to the general penalty under SFCC §1-3.1.

9 C. Any remedies provided for herein shall be cumulative, not exclusive and shall be
10 in addition to any other remedies provided by law.

11 APPROVED AS TO FORM:

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13 _____
14 FRANK D. KATZ, CITY ATTORNEY
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