

ORDINANCE NO. 2000 - 6

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ELK GROVE REGARDING
DOCUMENTARY TRANSFER TAX

The City Council of the City of Elk Grove does ordain as follows:

Section 1. The Council of the City of Elk Grove finds that the ballot measure regarding incorporation of the City of Elk Grove specifically included authorization by the voters for the City to continue to levy and collect within the City the same general taxes, fees, charges, and assessments and rates as are presently levied and collected by the County of Sacramento, and that in adopting this ordinance it is the intent of the Council to exercise such authorization. In light of said approval by the voters, no further approval is required pursuant to Government Code section 57135, Proposition 62, or Proposition 218 prior to the adoption of the general taxes levied by this ordinance.

Section 2. A documentary transfer tax is hereby established as follows:

1. **Short Title.** This chapter shall be known as the "Real Property Transfer Tax Law of the City of Elk Grove." It is adopted pursuant to the authority contained in Part 6.7 (commencing with Section 11901) of the Division 2 of the Revenue and Taxation Code of the State of California.

2. **Tax Imposed.** There is imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the City shall be granted, assigned, transferred or otherwise conveyed to or vested in the purchaser or purchasers or any other person or persons, by his, her or their direction when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds One Hundred and no/100ths Dollars (\$100.00), a tax at the rate of Twenty-Seven and One-Half Cents (\$.275) for each Five Hundred and no/100ths (\$500.00) Dollars, or fractional part thereof.

3. **Paid by Whom.** Any tax imposed pursuant to this ordinance shall be paid by any person who makes, signs or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued.

4. **Securing Debt Exempt.** Any tax imposed pursuant to this chapter shall not apply to any instrument in writing given to secure a debt.

5. **Governmental Agencies Exempt.** The United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, or the District of Columbia shall not be liable for any tax imposed pursuant to this chapter with respect to any deed, instrument, or writing to which it is a party, but the tax may be collected by assessment from any other party liable therefor.

6. **Reorganization or Adjustment Exempt.**

a. Any tax imposed pursuant to this ordinance shall not apply to making, delivering or filing of conveyances to make effective any plan of organization or adjustment:

(1) Confirmed under the Federal Bankruptcy Act, amended;

(2) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title 11 of the United States Code, as amended;

(3) Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 506 of Title 11 of the United States Code, as amended; or

(4) Whereby a mere change in identity, form or place of organization is effected.

b. The provisions of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five years from the date of such confirmation, approval or change.

7. **Securities and Exchange Commission Orders Exempt.** Any tax imposed pursuant to this ordinance shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954, but only if:

a. The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;

b. Such order specifies the property which is ordered to be conveyed; and

c. Such conveyance is made in obedience to such order.

8. **Partnerships Exempt.**

a. In the case of any realty held by a partnership, no levy shall be imposed pursuant to this ordinance by reason of any transfer of an interest in a partnership or otherwise, if:

(1) Such partnership (or another partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and

(2) Such continuing partnership continues to hold the realty concerned.

b. If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for the purposes of this ordinance, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereof), all realty held by such partnership at the time of such termination.

c. Nor more than one tax shall be imposed pursuant to this ordinance by reason of a termination described in subsection (b) of this section, and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.

9. **Administration.** The Sacramento County Clerk-Recorder shall administer this ordinance in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code and the provisions of any County ordinance adopted pursuant thereto.

10. **Claims for Refund.** Claims for refund of taxes imposed pursuant to this chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the State Revenue and Taxation Code.

Section 3. This Ordinance is intended to, and hereby does, supersede Chapter 3.12 of the Sacramento County Code as adopted by the City of Elk Grove, unless this ordinance is found invalid. This Ordinance is merely a transfer of Real Property Tax from Sacramento County to the City and will effect no increased tax burden.

Section 4. This ordinance shall take effect immediately as an urgency ordinance. Commencing July 1, 2000, the City of Elk Grove will be required to provide services to its citizens. The City is also required to make "revenue-neutrality" payments to Sacramento County in accordance with state law. In order to meet these obligations, the City must ensure that it begin receiving revenue from all sources to which is it entitled. For these reasons, the City Council finds that the immediate passage of this ordinance is necessary for the immediate preservation of the public peace, health and safety, and the fiscal integrity of the City.

Section 5. The City Clerk may post this ordinance in at least three public places in the City of Elk Grove within fifteen days after its passage, in lieu of publication.

Section 6. The City Clerk is further directed to submit two copies of this ordinance to the Sacramento County Clerk-Recorder.

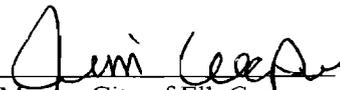
PASSED AND ADOPTED by the City Council of the City of Elk Grove this 1st day of July, 2000, by the following roll call vote:

AYES: Cooper, Soares, Leary, Scherman, Briggs

NOES: 0

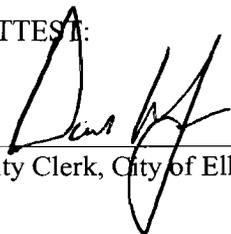
ABSENT: 0

ABSTAIN: 0



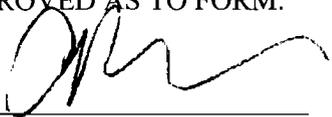
Mayor, City of Elk Grove

ATTEST:



City Clerk, City of Elk Grove

APPROVED AS TO FORM:



City Attorney, City of Elk Grove

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