ORDINANCE NO. 661

AN ORDINANCE IMPOSING A DOCUMENTARY STAMP TAX ON EACH DEED, INSTRUMENT OR WRITING BY WHICH LAND, TENEMENTS OR REALTY SOLD WITHIN THE COUNTY OF SOLANO IS GRANTED, ASSIGNED, TRANSFERRED OR OTHERWISE CONVEYED TO OR VESTED IN THE PURCHASER OR PURCHASERS OR ANY OTHER PERSON OR PERSONS

The Board of Supervisors of the County of Solano do ordain as follows:

SECTION 1. This ordinance shall be known as the "Real Property Transfer Tax Ordinance of the County of Solano". It is adopted pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code.

SECTION 2. There is hereby imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the County of Solano shall be granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or purchasers or any other person or persons by his 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 $100.00, a tax at the rate of fifty-five cents (55¢) for each five hundred dollars ($500.00) or fractional part thereof.

SECTION 3. The tax imposed by Section 2 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.

SECTION 4. The tax imposed pursuant to this ordinance shall not apply to any instrument in writing given to secure a debt.

SECTION 5. 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 ordinance 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.

SECTION 6. The tax imposed pursuant to this ordinance shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Federal Bankruptcy Act, as amended;

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

(c) 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

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

Subdivisions (a) to (d), inclusive, 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.

SECTION 7. The 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;

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

SECTION 8. (a) In the case of any realty held by a partnership, no tax shall be imposed pursuant to this ordinance by reason of any transfer of an interest in the partnership or otherwise, if:

(1) Such partnership (or other 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 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 thereon), all realty held by such partnership at the time of such termination.

(3) Not more than one tax shall be imposed pursuant to this ordinance by reason of a termination described in subdivision (b), and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.

SEC. 9. If the legislative body of any city in the county imposes a tax pursuant to part 6.7 of Division 2 of the Revenue and Taxation Code equal to one-half the amount specified in Section 2 of this ordinance, a credit shall be granted against the taxes due under this ordinance in the amount of the city's tax.

SEC. 10. The County Recorder shall purchase from the State Board of Equalization adhesive stamps in suitable denominations to be affixed to the deeds, instruments, and writing subject to tax pursuant to this ordinance.

Any person may purchase adhesive stamps from the County Treasury within the time and in the manner prescribed by law.

The Recorder shall repurchase any unused adhesive stamps sold by him pursuant to this ordinance. As used in this ordinance "adhesive stamps" means any indicia of the tax imposed pursuant to this ordinance which is authorized by law and furnished by the State Board of Equalization.

SEC. 11. The County Recorder shall administer this ordinance and shall also administer any ordinance adopted by any city in the county pursuant to Part 6.7 of Division 2 of the Revenue and Taxation Code imposing a tax for which a credit is allowed by this ordinance.

On or before the fifteenth day of the month the Recorder shall report to the County Auditor the amounts of taxes represented by stamps affixed to documents recorded during the preceding month pursuant to this ordinance and each such city ordinance. The Auditor shall allocate and distribute monthly said taxes as follows:

(1) All monies which relate to transfers of real property located in the unincorporated territory of the county shall be allocated to the county.

(2) All monies which relate to transfers of real property located in a city in the county which has imposed a tax pursuant to said Part 6.7 shall be allocated one-half (1/2) to such city and one-half (1/2) to the county.

(3) All monies which relate to transfers of real property located in a city in the county which imposes a tax on transfers of real property not in conformity with said Part 6.7 shall be allocated to the county.

(4) All monies which relate to transfers of real property in a city in the county which does not impose a tax on transfers of real property shall be allocated to the county.

SEC. 12. The recorder shall not record any deed, instrument or writing subject to the tax imposed by this ordinance unless the stamps described in Section 10 are affixed thereto having a face value equal to the total amount of tax due under this ordinance.

If the party submitting the document for recordation so requests, stamps having face value equal to the total amount of tax due under this ordinance may be deposited with the recorder and shall be affixed to the document by the recorder after the permanent record is made and before the original is returned as specified in Section 27321 of the Government Code.

Every document subject to tax hereunder which is submitted for recordation shall show on the face of the document or in a separate document the amount of taxes due under this ordinance and the Recorder may rely thereon.

Every document subject to tax hereunder which is submitted for recordation shall show in the face of the document, or in a separate document, the location of the lands, tenements or other realty described in the document. "If said lands, tenements or other realty are located within a city in the county, the name of the city shall be set forth. If said lands, tenements or other realty are located in the unincorporated area of the county, that fact shall be set forth".

SEC. 13. The recorder shall cancel the stamps affixed to any document by printing or stamping thereon the date of affixation or recordation.

SEC. 14. Claims for refunds of taxes imposed pursuant to this ordinance shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of part 9 of Division 1 of the revenue and Taxation Code.

SEC. 15. In the administration of this ordinance the Recorder shall interpret
ORDINANCE No. 661 continued---

its provisions consistently with those Documentary Stamps Tax Regulations adopted by the Internal Revenue Service of the United States Treasury Department which relate to the Tax on Conveyances and identified as Sections 47.4361-1, 47.4361-2 and 47.4362-1 of Part 47 of Title 26 of the Code of Federal Regulations, as the same existed on November 8, 1967, except that for the purposes of this ordinance, the determination of what constitutes "realty" shall be determined by the definition or scope of that term under state law.

SECTION 16. Whenever the County Recorder has reason to believe that the full amount of tax due under this ordinance has not been paid, he may, by notice served upon any person liable therefor, require him to furnish a true copy of his records relevant to the amount of the consideration or value of the interest or property conveyed.

SECTION 17. Any person or persons who makes, signs, issues or accepts or causes to be made, signed, issued or accepted and who submits or causes to be submitted for recordation any deed, instrument or writing subject to the tax imposed by this ordinance and makes any material misrepresentation of fact for the purpose of avoiding all or any part of the tax imposed by this ordinance shall be guilty of a misdemeanor.

SECTION 18. This ordinance shall become operative at 12:00 A.M. on January 1, 1968.

SECTION 19. This Ordinance shall be published once in the Times Herald, a newspaper of general circulation in the County of Solano, not later than fifteen (15) days after the date of its passage and adoption.

J. ELLIS GODFREY,
Chairman of the Board of Supervisors of the County of Solano, State of California.

I, Neil Crawford, County Clerk of Solano County, and ex-officio Clerk of the Board of Supervisors of said County, do hereby certify that the foregoing Ordinance was regularly introduced, passed and adopted by said Board at a regular meeting thereof held October, 31, 1967, by the following vote:---

AYES: SUPERVISORS Bradley, Brazelton, Church, Kilby & Godfrey

NOES: SUPERVISORS none

ABSENT: SUPERVISORS none

WITNESS my hand and the Seal of said Board this 31 day of October, 1967.

Neil Crawford, County Clerk
By Ellen Starmer, Deputy