



GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

Legislative Fiscal Note

BILL NUMBER: Senate Bill 462 (First Edition)

SHORT TITLE: Distribution of Excise Tax on Title Instruments.

SPONSOR(S): Senators Clary, Gunn, and Mansfield

FISCAL IMPACT					
	Yes ()	No (X)	No Estimate Available ()		
	(\$ In Millions)				
	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>FY 2015-16</u>
REVENUES	0	0	0	0	0
EXPENDITURES					
Parks & Rec	(12.3)	(12.6)	(12.8)	(13.1)	(13.5)
Natural Heritage	(3.9)	(4.0)	(4.0)	(4.0)	(4.0)
Housing	16.2	16.6	16.9	17.2	17.5
POSITIONS (cumulative):	0	0	0	0	0
*** See Technical Considerations ***					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					
North Carolina Department of Revenue, North Carolina Housing Trust Fund (NCHTF), Parks and Recreation Trust Fund (PARTF), and Natural Heritage Trust Fund (NHTF)					
EFFECTIVE DATE: July 1, 2011					

BILL SUMMARY:

Senate Bill 462, Distribution of Excise Tax on Title Instruments, amends G.S. 105-228.30(b), reallocating the State’s portion of the excise tax on title instruments, which is more commonly known as the Deed Stamp Tax or the Real Estate Conveyance Tax. SB 462 directs the Department of Revenue to distribute the funds as follows: 50% to the NC Housing Trust Fund (NCHTF) created by G.S. 122E-3, 37% to the Parks and Recreation Trust Fund (PARTF) created under G.S. 113-44.15, and 13% to the Natural Heritage Trust Fund (NHTF) created by G.S. 113-77.7. Currently, 75% of the State’s portion of the Deed Stamp tax is distributed to PARTF and 25% to NHTF.

ASSUMPTIONS AND METHODOLOGY:

Distribution of the Excise Tax on Conveyances

When real estate is sold the transaction becomes subject to the North Carolina excise tax on conveyances under G.S. 105-228.28, also known as the deed stamp tax. The deed stamp tax rate is one dollar (\$1.00) on each five hundred dollars (\$500.00) of the price of the property being transferred. In FY 2009-10, the deed stamp tax generated roughly \$68.4 million in revenue with the state receiving 48%, or \$34.2 million of the total. All of the state’s conveyance tax proceeds are earmarked for specific purposes. Table 1 provides detail on how the revenue is distributed under current law and as proposed by SB 462.

Table 1. Fiscal Impact of SB 462, Distribution of Excise Tax on Title Instruments
(in millions)

	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
Total Deed Stamp Tax	\$32.30	\$33.10	\$33.70	\$34.40	\$35.10
Current Distribution					
Parks & Rec. (75%)	\$24.23	\$24.83	\$25.28	\$25.80	\$26.33
Natural Heritage (25%)	\$8.08	\$8.28	\$8.43	\$8.60	\$8.78
Housing (0%)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
SB 462 Distribution					
Parks & Rec (37%)	\$11.95	\$12.25	\$12.47	\$12.73	\$12.99
Natural Heritage (13%)	\$4.20	\$4.30	\$4.38	\$4.47	\$4.56
Housing (50%)	\$16.15	\$16.55	\$16.85	\$17.20	\$17.55
Difference					
Parks & Rec	(\$12.27)	(\$12.58)	(\$12.81)	(\$13.07)	(\$13.34)
Natural Heritage	(\$3.88)	(\$3.97)	(\$4.04)	(\$4.13)	(\$4.21)
Housing	\$16.15	\$16.55	\$16.85	\$17.20	\$17.55

* Revenue forecasts for the excise tax on conveyances are revised on a biennial basis. The numbers reflect a conservative annual growth rate of 2% for years beyond FY 2012-13.

Department of Environment and Natural Resources

The Department of Environment and Natural Resources (DENR) administers both PARTF and NHTF. While the excise tax on conveyances is the primary source of revenue, these trust funds also receive special license plate revenues and earn interest on their funds. Table 2 provides a five year history of revenue allocated to PARTF and NHTF by source of funds.

Table 2: Actual Revenue Collections for NHTF and PARTF, FY 2006-07 to 3/31/2011
(in millions)

NHTF	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 10-11 YTD 3/31
Deed Stamp Tax	\$18.61	\$15.20	\$9.01	\$8.55	\$5.42
License Plates	\$4.23	\$4.35	\$4.37	\$4.15	\$3.17
Interest	\$1.13	\$1.26	\$0.92	\$0.40	\$0.19
Total	\$23.96	\$20.80	\$14.29	\$13.11	\$8.77

PARTF	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 10-11 YTD 3/31
Deed Stamp Tax	\$55.83	\$45.59	\$27.03	\$25.65	\$16.25
License Plates	\$1.38	\$1.45	\$1.43	\$1.37	\$1.04
Interest	\$0.00	\$2.36	\$1.79	\$0.51	\$0.29
Total	\$57.21	\$49.39	\$30.25	\$27.54	\$17.59

Total					
Deed Stamp Tax	\$74.44	\$60.78	\$36.04	\$34.20	\$21.67
License Plates	\$5.61	\$5.80	\$5.79	\$5.52	\$4.21
Interest	\$1.13	\$3.61	\$2.71	\$0.92	\$0.48
Total	\$81.18	\$70.20	\$44.54	\$40.64	\$26.36

SB 462 would impact both the distribution of the tax on conveyances as well as the interest earned by the trust funds.

Parks & Recreation Trust Fund

Per G.S. 113-44.15(b) PARTF funds may be used for three functions: (1) 65% of funds distributed to PARTF may be used for land acquisition, capital projects, repairs, and renovations in North Carolina State Parks System; (2) 30% of PARTF funds provide assistance to local governments with recreation projects, and (3) 5% of PARTF funds support the Public Beach and Coastal Waterfront Access Program. G.S. 133-44.15(b2) authorizes the North Carolina Parks and Recreation Authority to use up to 3% of PARTF funds for operating expenses associated with managing capital improvements projects, acquiring land, and administering local grants programs. Of the funds distributed to the State Park System, up to 50% may be allocated for debt service on special indebtedness (G.S. 113-44.15(d)); PARTF has an annual debt payment of just over \$7.2 million in FY 2011-12. Substantial debt service payments are required through FY 2028-29.

Using FY 2011-12 as an example of the impact of SB 462, PARTF would be allocated 37% of deed stamp tax revenues instead of 75%; that is, \$11.95 million in deed stamp tax revenue instead of \$24.23 million (See Table 1). In addition, \$1.41 million in license plate revenue is expected.¹ Interest under SB 462 would be nearly \$615,000 instead of the \$1.18 million expected under the

¹ The License Plate revenue estimate is based on average actual collections FY 2006-07 through FY 2009-10; as shown in Table 2, actual revenue collections from license plates have remained fairly constant over this period.

current distribution.² Therefore, total revenues into the fund would be \$13.98 million, \$12.84 million less than the \$26.82 million currently expected. These funds would be distributed in the same manner as outlined in the G.S. 133-44.15(b). Table 3 shows the impact SB 462 would have on funding to administration, the State Park System, local grants, and coastal beach access grants.

Table 3. PARTF Revenues and Expenditures, Current and per SB 462, FY 2011-12
(in millions)

	Current Distribution	SB 462	Difference
PARTF			
Percent of Deed Stamp Tax	75%	37%	-38%
Amount of Deed Stamp Tax	\$24.23	\$11.95	(\$12.27)
Est. License Plate Revenue	\$1.41	\$1.41	\$0.00
Est. Interest	\$0.49	\$0.25	(\$0.23)
Total Revenue	\$26.13	\$13.62	(\$12.51)
Distribution of Funds			
Program Administration	\$0.78	\$0.41	(\$0.38)
State Park System (acquisition, repairs, etc.)	\$9.27	\$1.38	(\$7.89)
State Park System Debt Service	\$7.20	\$7.20	\$0.00
Local Government Grants	\$7.60	\$3.96	(\$3.64)
Coastal Beach Access Grants	\$1.27	\$0.66	(\$0.61)

The primary impact of SB 462 will be reduced funding for all purposes outlined G.S. 113-44.15(b). Reductions by category are:

1. **PARTF administration** - Funds available from administration drop from nearly \$784,000 to less than \$409,000, a 47.9% reduction. This may impact the North Carolina Parks and Recreation Authority's ability to administer grants at the current level. However, with less funding, there will be fewer grants to administer, fewer land purchases to evaluate. In addition, PARTF has not distributed these administration funds to the Department in the last two fiscal years. The last administrative transfer, for \$788,866, occurred in FY 2007-08. No transfers have been made in the previous two fiscal years for two reasons. First, lower deed stamp tax transfers created concerns over the ability to cover encumbrances. Second, due to large reversion requirements, the Division of Parks and Recreation reduced operating and left positions vacant, eliminating the need for the transfer.
2. **State Park land purchase, capital projects, repairs, and renovations** - The reduction to funds available for the State Park System is expected to be 85.1%, larger than the others due to the required debt service payment. After making this payment, only \$1.38 million would be available for other State Park System related purposes such as land acquisition, capital projects, repairs, and renovations; \$9.27 million is currently expected.
3. **Local governments for parks and recreation projects** - Funds available for local government grants for parks and recreation projects drop from \$7.6 million to \$3.96

² In order to provide an estimate that reflects current economic conditions, interest income is based on the percent of interest earned in FY 2009-10, 1.9%. Interest earned from FY 2007-08 and FY 2009-10 varies from 6.3% to 1.9%.

million, a 47.9% reduction. This will impact local government's ability to provide recreational opportunities to their citizens.

4. **Local governments for coastal beach access projects** - Funds available for local government coastal beach access projects drop from \$1.27 million to just over \$66,000, a 47.9% reduction, impacting local government's ability to provide beach access.

Natural Heritage Trust Fund

NHTF funds may be used by State agencies for the acquisition of land with outstanding natural or cultural heritage value. Up to 60% of NHTF funds may be allocated for debt service on special indebtedness; NHTF has an annual debt payment of over \$4.4 million in FY 2011-12. Substantial debt service payments are required through FY 2028-29. While there is not an administrative cap on the use of NHTF for operations, the only other purposes (aside from land acquisition) for which NHTF funds may be used are to pay for: (1) the inventory of natural areas conducted under the Natural Heritage program; (2) conservation and protection planning; and (3) informational programs for owners of natural areas. Currently, \$279,000 is used for these "other purposes."

Using FY 2011-12 as an example of the impact of SB 462, NHTF would be allocated 13% of deed stamp tax revenues instead of 25%; that is, \$4.2 million in deed stamp tax revenue instead of \$8.08 million (See Table 1). License plate revenue is expected to add \$4.28 million to NHTF.³ Interest under SB 462 would be \$271,174 instead of the \$395,206 expected under the current distribution.⁴ Therefore, total revenues into the fund would be \$8.75 million, \$4.0 million less than the \$12.75 million currently expected. These funds would be distributed in the same manner as outlined in the G.S. 113-77.9, for programs related to NHTF purposes and land acquisition.

Unlike PARTF, funding for "other purposes" is not defined in Statute. Funds needed for "other purposes" is fixed at \$279,000. Thus, the primary impact of SB 462 would be reduced funds for land acquisition from \$8.06 million to \$4.06 million, a \$4.0 million or 49.6% reduction. Table 4 summarizes this information and provides the impact SB 462 would have on land acquisitions activities funded by the NHTF.

³ The License Plate revenue estimate is based on average actual collections FY 2006-07 through FY 2009-10; as shown in Table 2, actual revenue collections from license plates have remained fairly constant over this period.

⁴ In order to provide an estimate that reflects current economic conditions, interest income is based on the percent of interest earned in FY 2009-10, 3.2%. Interest earned from FY 2007-08 and FY 2009-10 varies from 6.9% to 3.2%

Table 4. NHTF Revenues and Expenditures, Current and per SB 462, FY 2011-12
(in millions)

	Current Distribution	SB 462	Difference
NHTF			
Percent of Deed Stamp Tax	25%	13%	-12%
Amount of Deed Stamp Tax	\$8.08	\$4.20	(\$3.88)
Est. License Plate Revenue	\$4.28	\$4.28	\$0.00
Est. Interest	\$0.40	\$0.27	(\$0.12)
Total Revenue	\$12.75	\$8.75	(\$4.00)
Debt Service	\$4.41	\$4.41	\$0.00
Program Operations	\$0.28	\$0.28	\$0.00
Total Fixed Expenditures	\$4.69	\$4.69	
Funds Remaining for Land Acquisition	\$8.06	\$4.06	(\$4.00)

Both PARTF and NHTF grants leverage private, federal, and local funds. On average from FY 2005-06 through FY 2009-10, PARTF local government grants leveraged \$1.79 for every dollar granted, significantly exceeding the required one to one match. While it is difficult to determine an exact figure, PARTF State Park System funds also leverage substantial private and federal funds; in FY 2009-10, \$600,000 was spent from PARTF on State park land acquisition, which helped to leverage nearly \$7.37 million in private and federal funds and donations, a leverage rate of over \$12.27 for every PARTF dollar spent on land acquisition. For NHTF, in FY 2009-10, the trust fund granted over \$18.3 million in grants to State agencies. These funds brought in over \$10.16 million in private and federal funds for land acquisition.⁵

North Carolina Housing Trust Fund (NCHTF)

The General Assembly created the NCHTF in 1987 with the statutory authority found in Chapter 122 E. The NC Housing Finance Agency (HFA) administers the fund. The purpose of NCHTF is to increase the supply of affordable and energy-efficient housing for low-income residents of the State. At least 30% of the funds each year must directly benefit persons whose income does not exceed 30% of the median income for the local area, and all funds must assist persons below 80% of median income. HFA uses the NCHTF to leverage federal, local and private resources and to make housing affordable to people with extremely low incomes. Historically, more than 75% of NCHTF's housing has benefitted people with incomes at 50% of the local median or less. NCHTF also finances rental apartments for seniors and low-wage workers, and down-payment assistance for low-income families.

Based on production averaged for the last five years, every \$1 of State investment leverages \$5 of housing. Every \$1 million finances 90 homes and apartments, supports 100 jobs and generates \$10.8 million of wages and retail spending. In FY 2010-11, the appropriation for NCHTF is being used to support three loan programs: the Rental Production Program, the Supportive Housing

⁵ Note these leverage figures exclude State funds from sources like the Clean Water Management Trust Fund, PARTF and NHTF. These funds often are used jointly to fund projects.

Development Program, and the Statewide Down payment Assistance Program. For FY 2010-11, current program allocations from appropriations include:

- **\$3.5 million for Supportive Housing** approximately six developments
These range from domestic violence shelters and small group homes for people with disabilities to large shelters. Two recent projects are transitional apartments for homeless veterans, and a third is being planned.
- **\$4.25 million for Rental Production Program** approximately 500 units
Supplemental loans lower the rent requirements for Housing Credit apartments, making them affordable for families and seniors who would not otherwise be able to afford them.
- **\$2.0 million for the Urgent Repair Program** approximately 300 units
Emergency repairs and accessibility modifications that enable elderly and/or disabled homeowners to continue living in their homes (and avoid institutional care)
- **\$0.25 million for Downpayment Assistance program** approximately 30-50 home buyers. Enables low-income families to purchase a home.

In accordance with Senate Bill 462, the distribution of excise tax would provide additional funding of \$16.2 million in FY 2011-12 and \$16.6 million in FY 2012-13. According to HFA, all funding would be used to support NCHTF's programs, as HFA pays the cost of managing the Fund. Specifically, the additional funding would be used to finance NCHTF's normal range of activities, with the distribution among programs based on annual needs that would include projects from homeless shelters to homeownership.

SOURCES OF DATA: North Carolina Department of Revenue, Housing Finance Agency (HFA)

TECHNICAL CONSIDERATIONS:

Appropriations Subcommittee on Natural and Economic Resources

The House budget presented in the Natural and Economic Resources Appropriations Subcommittee on Tuesday, April 12, 2011, included several items that impact the current use of the deed stamp tax, including:

- 1) Expanding the uses of the "other purposes" for the NHTF to include the Plant Conservation program in the Department of Agriculture and Consumer Services and the program staff of the Office of Conservation Planning and Community Affairs within the Department of Environment and Natural Resources;
- 2) Diverting all FY 2011-12 NHTF revenue not needed for the debt service and other purposes to the General Fund for availability in FY 2011-12;
- 3) Diverting the remainder of the State Park System allocation not needed for debt service to the General Fund for availability in FY 2011-12;
- 4) Diverting half of the funds expected to be available for local grants and beach access to the General Fund for availability in FY 2011-12; and
- 5) Using \$6 million of PARTF funds to fund operations of the State Parks for the biennium.

Appropriations Subcommittee on General Government

The General Fund appropriations to the NCHTF vary, but \$10 million was appropriated for FY 2009-19 and FY 2010-11. This is the amount in the Governor's recommended budget for NCHTF each year of the 2011-2013 Biennium. However, reductions discussed in the House Appropriations

Subcommittee on General Government on Tuesday, April 12, 2011 could reduce this appropriation by \$94,270 each year, but would still yield a net availability of more than \$9.9 million. The appropriation combined with the proceeds from the distribution of the excise tax under SB 462, increases availability for the NCHTF to \$26 million each fiscal year.

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Signed Copy Located in the NCGA Principal Clerk's Offices