
Closing a Fair Deal

What a Real Estate Transaction Tax Would Look Like in Colorado

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What is a Real Estate Transaction Tax?

A real estate transaction tax is charged when the title of a property is transferred between owners. Transaction taxes are separate from property taxes and recording fees. The amount of the transaction tax is based on the property's value—the higher the value the higher the amount of transaction tax.



What Do Other States Do?

The majority of states have a real estate transaction tax or something very similar (recordation tax, documentary transaction tax, conveyance tax, documentary stamp tax). Only 13 states don't have any kind of transaction tax. In addition to state-level taxes, many counties and cities also levy some sort of real estate transaction tax. This complicates the task of comparing real estate transaction taxes across states.

Some states have flat rates (Nebraska charges \$2.25 for every \$1000 real estate value¹), some are tiered (in New Jersey,² there are 8 different rates: the first \$150,000 of value is taxed at 0.4%, for values over \$1 million, a 1% tax is levied), some exempt certain buyers (in Delaware first-time home buyers pay a lower rate³), and some exempt value under a certain threshold (in one Oregon county, there is no tax on the first \$14,000 in value, then a tax of one dollar for every \$1000 in value is imposed).

States with real estate transaction taxes use the revenues collected for a variety of purposes, including conservation and open space, infrastructure in fast-growing areas, targeted property tax relief, ongoing needs like K-12 education, reserve funds, and affordable housing trust funds that provide housing assistance for people experiencing homelessness.⁴

1 <https://nebraskalegislature.gov/laws/statutes.php?statute=76-901>

2 <https://www.state.nj.us/treasury/taxation/pdf/pt/regs/reg1816.pdf>

3 <https://delcode.delaware.gov/title30/c054/sc01/index.html>

4 Atkins, Patricia, Catherine Collins, and Lisa Lowry. Real Estate Transaction Taxes: Widely Used, Little Conformity, State Tax Notes, October 19, 2015.

Why it is tricky in Colorado?

Real estate transaction taxes are complicated in Colorado because of a lesser-known provision of the state's constitutional revenue and spending limit, TABOR.

Passed in 1992, TABOR prohibits any new real estate transaction taxes from being imposed. Cities with existing transaction taxes prior to TABOR's passage could keep them. A handful of ski towns in Colorado have real estate transaction taxes: Aspen, Telluride, Breckenridge, Vail, Crested Butte, and the Town of Snowmass. Aspen, for instance, apportions their approximately 1.5% real estate transaction tax revenue for affordable housing and to support the

Wheeler Opera House.

Colorado does have a statewide documentary fee of 0.01%, or 10 cents paid on \$1000 in property value (see C.R.S. 39-13-102). That minimal documentary fee is paid to county clerk and recorder offices only to offset administrative costs. For example, a \$575,000 home purchase requires a \$57.50 documentary fee. Statewide, clerk and recorder's offices collected around \$10 million from the documentary fee in 2020.

Colorado voters would need to repeal the prohibition against a real estate transaction tax from the state constitution for Colorado to have a true statewide real estate transaction tax.

Real Estate Transactions in Colorado by the Numbers

\$100 Billion

Value of real estate sold in Colorado in 2020

\$66 Billion

Came from residential properties

1% = \$1 Billion

A 1% real estate transaction tax would have generated \$1 billion dollars in revenue.

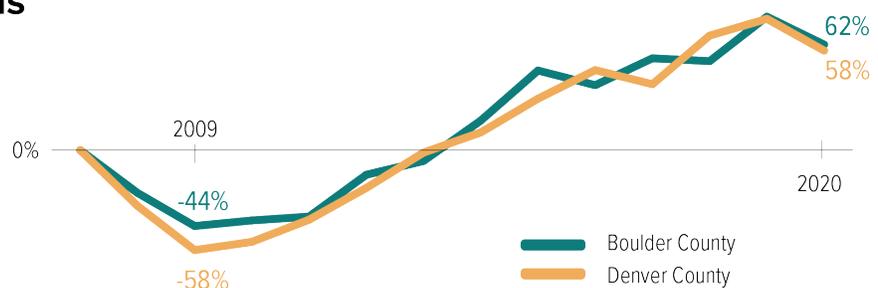
How Volatile is a Real Estate Transaction Tax?

During the Great Recession, real estate transactions in Denver fell by 58 percent and in Boulder by 44 percent (comparing 2009 levels to 2007). In 2020, the total value of real estate transactions in Denver was up 58 percent since 2007 and up 62 percent in Boulder since 2007.

Given these fluctuations, using a real estate transaction tax to fund ongoing and steadily growing needs, such as K-12 education, presents challenges. Many states have therefore dedicated these revenues to mitigating the costs of growth and real estate development, rather than funding critical services like education

Real Estate Transactions Over Recession

Real estate transaction percentage change - 2007 baseline



Source: Data requested from the Office of the Clerk and Recorder in Boulder and Denver Counties

Is a Real Estate Transaction Tax a Potential Solution to the Challenges of a Growing State?

Colorado's housing market has exploded in recent years. The influx of people buying property in Colorado means home prices are climbing, affordable housing supply is dwindling, and property taxes are increasing. This explosive growth is putting pressure on individuals and communities in every part of the state. A modest, equitable real estate transaction tax, which exempts the first \$100,00-200,000 in value, could generate sufficient revenues to significantly expand access to affordable housing, ease the challenges faced by rural and urban communities, and also provide targeted property tax relief to Coloradans who need it.

For example, a 0.5% real estate transaction tax that exempts the first \$200,000 value of a home could generate \$375 million. This revenue could then fund a property tax circuit breaker for homeowners and renters who earn low incomes, as well as increase the Colorado Division of Housing's ability to expand access to the Colorado Housing Development Grant Fund.

Property tax "circuit breakers" are property tax rebates provided by the taxing government authority to offset the cost of a homeowner's or renter's property tax expense. In the same way an electrical circuit breaker protects a circuit from being overloaded with energy,

these policies protect certain households from being overloaded from the costs of property taxes or rent increases. Most often, property tax circuit breakers are targeted at older people, veterans, and the people who earn low incomes who pay a higher percentage of their income in property taxes. They can also result in a fairer property tax system that is less slanted toward wealthier homeowners.

Targeted property tax relief is only one potential use of real estate transaction tax revenue. Most states use these funds to increase access to affordable housing. Recently, in an effort to boost the supply of affordable housing, the Colorado General Assembly provided limited funding to the Division of Housing for the Colorado Housing Development Grant Fund and expanded its eligible purposes. Grant from the fund can be used for:

- Grants and loans for housing in non-urban areas for purchasers with up to 120 percent of the area median household income;
- Down payment assistance programs
- Programs for home rehabilitation;
- Repair, replacement, and disposal of mobile homes, in conjunction with local organizations;
- Grants and loans for land acquisition and infrastructure costs for the provision of utilities for affordable housing developments;
- Grants and loans for affordable housing targeted at specific area or income levels; and
- Rental assistance targeting working families, households below 60 percent of the area's median income, and survivors of domestic violence¹.

Additional real estate transaction tax money could supercharge the fund's impact.

Most states and many local governments utilize real estate transaction taxes to fund tools that communities can use to relieve the pressures caused by explosive growth and development. A real estate transaction tax used to boost affordable housing supply and fund targeted property tax relief would help Colorado manage many of the challenges the state faces today. Colorado has always been one of the most desirable places to live, and the rush of people to the state isn't anticipated to slow any time soon. We should seek adaptable, innovative solutions, so that Colorado can continue to be a place we can all call home.

Methodology

We obtained documentary fees from 47 out of the 64 counties in Colorado by calling and emailing county clerk and recorder offices. Those 47 counties represent 96.3% of Colorado's population and 95.7% of Colorado taxable property value. Residential real estate values for those missing counties were available from the Colorado Association of Realtors, but that does not provide the full extent of real estate transactions in those counties because it does not include non-residential sales. Missing non-residential real estate transaction values in the counties that did not provide documentary fee data was imputed in proportion to each county's share of residential market value. This market value was calculated from DOLA's assessed values by dividing most property classes by 29% (non-residential assessment rate) or by 7.15% (residential rate). For oil and gas and producing mine classes a composite rate was used based on each subclass. For oil and gas, that composite percentage has ranged between 55.37% to 72% in the last 10 years. For mines, it has varied wildly, from 37% to 66%. We assumed 65% composite percentage for both oil/gas and mining.

¹ Use of the Housing Development Grant Fund was expanded in 2019 through a bi-partisan bill HB19-1322. <https://leg.colorado.gov/bills/hb19-1322>

Appendix

Figure 1: Real Estate Transaction Figures by County

	Value of Residential Sales 2020 ⁽¹⁾	Residential Portion of Total Market Value ⁽²⁾	Value of Non-Residential Sales 2020 (Imputed) ⁽³⁾	Total Value of Real Estate Transactions in 2020 (From Documentary Fee) ⁽⁴⁾	Total Value of Real Estate Transactions 2020
ADAMS		77%		\$7,040,000,000	\$7,040,000,000
ALAMOSA	\$33,363,539	63%	\$19,490,930		\$52,854,469
ARAPAHOE		83%		\$9,638,670,000	\$9,638,670,000
ARCHULETA	\$295,792,320	86%	\$ 48,367,734		\$344,160,054
BACA		24%		\$16,166,500	\$16,166,500
BENT		26%		\$23,637,500	\$23,637,500
BOULDER		84%		\$5,455,779,200	\$5,455,779,200
BROOMFIELD		80%		\$1,770,498,600	\$1,770,498,600
CHAFFEE	\$303,337,488	83%	\$61,049,078		\$364,386,566
CHEYENNE		18%		\$18,203,800	\$18,203,800
CLEAR CREEK		78%		\$2,068,300	\$2,068,300
CONEJOS	\$11,224,484	75%	\$3,799,610		\$15,024,094
COSTILLA	\$13,005,684	39%	\$20,179,944		\$33,185,628
CROWLEY		42%		\$17,878,600	\$17,878,600
CUSTER		86%		\$139,287,400	\$139,287,400
DELTA		81%		\$87,180,000	\$87,180,000
DENVER		74%		\$13,910,000,000	\$13,910,000,000
DOLORES	\$4,481,505	47%	\$4,953,809		\$9,435,314
DOUGLAS		87%		\$8,040,000,000	\$8,040,000,000
EAGLE		89%		\$3,518,110,000	\$3,518,110,000
ELBERT		90%		\$490,048,000	\$490,048,000
EL PASO		86%		\$10,593,530,000	\$10,593,530,000
FREMONT	\$277,336,521	79%	\$72,032,693		\$349,369,214
GARFIELD		70%		\$1,068,760,000	\$1,068,760,000
GILPIN	\$86,990,530	46%	\$103,250,283		\$190,240,813
GRAND		88%		\$996,053,600	\$996,053,600
GUNNISON		83%		\$157,491,900	\$157,491,900
HINSDALE		80%		\$43,385,800	\$43,385,800
HUERFANO	\$36,051,346	62%	\$21,928,586		\$57,979,932
JACKSON		46%		\$420,750,000	\$420,750,000
JEFFERSON		87%		\$8,300,000,000	\$8,300,000,000
KIOWA					\$0
KIT CARSON	\$12,784,390	13%	\$85,106,777	\$52,069,200	\$149,960,367

Figure 1 Continued

	Value of Residential Sales 2020 ⁽¹⁾	Residential Portion of Total Market Value ⁽²⁾	Value of Non-Residential Sales 2020 (Imputed) ⁽³⁾	Total Value of Real Estate Transactions in 2020 (From Documentary Fee) ⁽⁴⁾	Total Value of Real Estate Transactions 2020
LAKE		31%		\$88,514,100	\$88,514,100
LA PLATA		40%		\$1,104,550,000	\$1,104,550,000
LARIMER		57%		\$5,505,757,000	\$5,505,757,000
LAS ANIMAS	\$22,537,820	16%	\$114,101,061		\$136,638,881
LINCOLN		9%		\$34,793,800	\$34,793,800
LOGAN		21%		\$108,138,800	\$108,138,800
MESA		47%		\$1,750,000,000	\$1,750,000,000
MINERAL		45%		\$25,577,000	\$25,577,000
MOFFAT	\$58,848,916	13%	\$387,142,821		\$445,991,737
MONTEZUMA		19%		\$199,517,200	\$199,517,200
MONTROSE		48%		\$456,579,000	\$456,579,000
MORGAN		23%		\$230,673,200	\$230,673,200
OTERO		23%		\$54,573,200	\$54,573,200
OURAY		54%		\$180,315,600	\$180,315,600
PARK		58%		\$489,076,700	\$489,076,700
PHILLIPS		20%		\$39,231,900	\$39,231,900
PITKIN		70%		\$4,170,000,000	\$4,170,000,000
PROWERS	\$7,997,385	16%	\$41,226,556		\$49,223,941
PUEBLO		38%		\$1,165,510,000	\$1,165,510,000
RIO BLANCO	\$30,280,326	5%	\$574,376,229		\$604,656,555
RIO GRANDE		35%		\$106,883,400	\$106,883,400
ROUTT		56%		\$800,000,000	\$800,000,000
SAGUACHE		28%		\$75,214,000	\$75,214,000
SAN JUAN		29%		\$10,020,000	\$10,020,000
SAN MIGUEL	\$237,618,513	62%	\$143,613,749		\$381,232,262
SEDGWICK		11%		\$16,404,000	\$16,404,000
SUMMIT		69%		\$2,450,000,000	\$2,450,000,000
TELLER	\$344,025,518	37%	\$587,189,990		\$931,215,508
WASHINGTON	\$11,210,057	9%	\$113,332,133		\$124,542,190
WELD		16%		\$4,950,000,000	\$4,950,000,000
YUMA		13%		\$60,822,100	\$60,822,100
TOTAL				\$95,871,719,400	\$100,059,747,726

(1) Colorado Association of Realtors FastStats

(2) Colorado Department of Local Affairs Assessed Value 2020 data converted to market value

(3) (Column 1 divided by Column 2) – Column 1

(4) Documentary Fee Obtained by contacting individual county clerk and recorder offices across CO which is multiplied by 10,000

Figure 2 shows what various real estate transaction tax rates would generate in Colorado annually based on 2020 sales data. Figure 2 also shows the revenue impact if a portion of the home’s value was exempt from the real estate transfer tax.

Figure 2: 2020 Revenue Raised from Real Estate Transaction Tax in Colorado

Real Estate Transaction Tax Rate	No Value Exempt for Homes	First \$100k Exempt for Homes	First \$150k Exempt for Homes	First \$200k Exempt for Homes
0.10%	\$100 million	\$88 million	\$81 million	\$75 million
0.25%	\$250 million	\$219 million	\$203 million	\$187 million
0.50%	\$500 million	\$438 million	\$406 million	\$375 million
0.75%	\$750 million	\$656 million	\$609 million	\$562 million
1%	\$1 billion	\$875 million	\$812 million	\$750 million

Source: CFI calculations based on data from figure 1 and Colorado Association of Realtors 2020 data of 125,480 homes sold

Figure 3 shows the impact of various rates of real estate transaction taxes on an individual home sale worth \$575,000, with exemptions ranging from \$0 to the first \$200,000 of value.

Figure 3: Individual Home Sale Scenarios

	No value exempt	First \$100k exempt	First \$150k exempt	First \$200k exempt
House Value	\$575,000	\$575,000	\$575,000	\$575,000
House Value Subject to Fee	\$575,000	\$475,000	\$425,000	\$375,000
Real Estate Transaction Tax Rate				
0.10%	\$575	\$475	\$425	\$375
0.25%	\$1,438	\$1,188	\$1,063	\$938
0.50%	\$2,875	\$2,375	\$2,125	\$1,875
0.75%	\$4,313	\$3,563	\$3,188	\$2,813
1%	\$5,750	\$4,750	\$4,250	\$3,750

Source:

Figure 4: Documentary Fee Revenue for Boulder and Denver Counties, 2007-2020

	Denver County Historical Documentary Fee Revenue	Boulder County Historical Documentary Fee Revenue
2007	\$877,511	\$337,520
2008	\$592,191	\$253,353
2009	\$365,377	\$187,991
2010	\$407,842	\$199,025
2011	\$521,122	\$206,658
2012	\$683,949	\$289,031
2013	\$865,236	\$316,226
2014	\$968,270	\$395,807
2015	\$1,141,361	\$494,409
2016	\$1,287,757	\$465,566
2017	\$1,215,175	\$518,497
2018	\$1,464,433	\$512,911
2019	\$1,550,059	\$600,525
2020	\$1,387,407	\$545,578

Source: Data requested from the Office of the Clerk and Recorder in Boulder and Denver Counties