

**THE RHODE ISLAND HOUSING AND CONSERVATION TRUST FUND:
A SOUND INVESTMENT FOR RHODE ISLAND'S FUTURE**



A REPORT

FROM

**THE RHODE ISLAND HOUSING AND CONSERVATION TRUST
STUDY COMMISSION**

TO

**THE GOVERNOR OF RHODE ISLAND
AND THE LEADERSHIP OF THE GENERAL ASSEMBLY**

APRIL 5, 2006

The Rhode Island Housing and Conservation Trust Study Commission

Scott Wolf, Grow Smart Rhode Island, Commission Chair

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Rhode Island League of Cities and Towns, represented by Daniel Beardsley

The Nature Conservancy, represented by Kathleen Wainwright

At the Commission's request, Lisa Primiano from the Rhode Island Department of Environmental Management participated in all meetings.

Sheila Brush, Grow Smart Rhode Island Director of Programs, staffed the Commission and prepared all Commission reports.

The Commission members thanks the Rhode Island Foundation, which funded the staff support for the Commission. The Commission also thanks the four research interns who contributed to this report:

Ashley Cork, Syracuse University

Caitlin Greeley, Connecticut College graduate

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Darin Ranahan, Brown University

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Rhode Island Housing and Conservation Trust Study Commission

TO: The Honorable Donald L. Carcieri, Governor
The Honorable Joseph A. Montalbano, President, Rhode Island Senate
The Honorable M. Teresa Paiva-Weed, Majority Leader, Rhode Island Senate
The Honorable William J. Murphy, Speaker, Rhode Island House
The Honorable Gordon D. Fox, Majority Leader, Rhode Island House

The Honorable John J. Tassoni, Jr., Co-Chair, Housing Act of 2004 Implementation Oversight Commission
The Honorable Brian Patrick Kennedy, Co-Chair, Housing Act of 2004 Implementation Oversight Commission

FROM: Scott Wolf, Executive Director, Grow Smart Rhode Island and
Chair, Rhode Island Housing and Conservation Trust Study Commission

As the Chair of the Housing & Conservation Trust Study Commission I am pleased to submit the Commission's second major report: *The Rhode Island Housing and Conservation Trust Fund: A Sound Investment for Rhode Island's Future*.

Section 4 of the 2004 Rhode Island Housing Act amended Chapter 42-113 of the Rhode Island General Laws by adding a new section (42-113-11) that created the Housing and Conservation Trust Study Commission. The Act gave the Commission two charges:

- To study the potential contribution of land trust mechanisms to the development of low and moderate income housing and to evaluate appropriate organization structures and financing mechanisms for such land trusts in Rhode Island
- To assess the potential and viability of the Housing and Conservation Trust Fund that was established by Chapter 42-113 in 1990 but has not yet received funding.

In February, 2005, we submitted our first major report: *Community Housing Land Trusts: An Important Tool for Rhode Island's Affordable Housing Initiative*. The submission of this second report completes the work that the General Assembly assigned to the Commission.

This report is the result of a year and a half of work by the Study Commission. During this time, the Study Commission analyzed Rhode Island's housing and land conservation needs and goals, looked into how housing and land conservation efforts are currently funded, and studied housing trust funds and land conservation trust funds around the country to learn about the funding mechanisms used. The Commission met with the Executive Director of the Vermont Housing and Conservation Trust Fund and with the Executive Director of the Center for Community Change's Housing Trust Fund Project. We also benefited from the assistance of four research interns.

Based on its research, the Commission determined that Rhode Island needs increased financial resources to meet its land conservation and affordable housing production goals. Increased state financial support is a key element and should include a dedicated funding stream. Dedicated funding will not only improve housing and conservation programs' ability to

make long-term plans and negotiate for land, but it will help to leverage new municipal and private funds.

In the following report, the Commission recommends a two-part approach to funding the Trust Fund: 1) one-time, start-up bond issue funding to jump-start the Fund and 2) dedicated funding achieved through an increase in the real estate conveyance tax, with two thirds of the increase going to the Housing and Conservation Trust Fund and one third of the increase allocated to municipalities for affordable housing production and land conservation purposes.

The Commission also concluded that increased coordination between housing and conservation efforts would help both efforts. The Commission believes that the Housing and Conservation Trust Fund and Fund's Board can play a key role in increasing coordination between land conservation and affordable housing production and in supporting municipal efforts to address both needs. Given the Board's responsibilities for allocating funds, the Commission is recommending an expansion of the Board to provide representation from a wider range of interested constituencies.

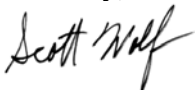
In designating the Commission's membership, the General Assembly provided representation for all key stakeholders. I am pleased to report that while various stakeholders had differences of opinion about some fundamental issues, that did not prevent them from remaining actively engaged in the Commission's work. All opinions were encouraged, and all suggestions were considered.

We had hoped that we would be able to report to you with a full consensus of all members. In the end, however, while all Commission members agreed on the positive impact that a funded Housing and Conservation Trust Fund could have on housing production and land conservation efforts, we could not reach full consensus on the best way to provide a dedicated funding stream for the Trust Fund.

This report is therefore in two sections. Section I discusses all of the Commission's research and gives the policy and funding recommendations agreed on by the majority of the Commission members. Section II gives the Rhode Island Association of Realtors' minority report on funding recommendations.

The Commission recognizes that Rhode Island is in a precarious fiscal position. At the same time, we believe that increased housing production and land conservation are essential for a healthy economic future and for all Rhode Islanders' quality of life. We urge the Executive and Legislative Branches to act during this General Assembly session to provide funding for the Housing and Conservation Trust Fund and to activate the Board.

Sincerely,



Scott Wolf
Chair, Housing and Conservation Trust Study Commission

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MINORITY REPORT BY THE RHODE ISLAND ASSOCIATION OF REALTORS

INTRODUCTION

Open space conservation and provision of low-moderate income housing are both high-priority goals for Rhode Island. Both are necessary for the health and quality of life of our citizens and for a strong state economy.

In working to achieve those goals, Rhode Island must deal with the reality that our state has a limited land area. Since both open space conservation and the provision of housing require land, the public will gain more benefit when the state and individual municipalities consider both priorities in land-use planning and fund allocation.

Over the last eighteen months, the Housing and Conservation Trust Study Commission has reviewed land conservation and affordable housing production activity in Rhode Island, focusing on funding and coordination. As the following report details, the Commission has found that efforts to conserve land and to promote production of affordable housing are hampered by two funding/coordination problems:

Insufficient and unpredictable funding

We cannot meet the State's goals for either open space protection or low-moderate income housing production without additional funding. Since it is likely that Federal funding for both areas will remain level or perhaps decrease, we cannot look to Federal funding. Additional resources must come from State and municipal funds and from private funds.

Current methods for providing State funds for both needs do not provide the predictability needed to make long-term plans for land conservation and affordable housing production.

Need to connect the state entities that allocate funding for the two purposes.

DEM has the chief responsibility at the State level for allocating land protection funds and coordinates State funding with Federal and private land protection funding. RI Housing and the Rhode Island Housing Resources Commission share responsibility at the State level for allocation and administration of state low-mod housing production funds and RI Housing coordinates the allocation of State funds with the allocation of Federal funds and private funding. There is currently no mechanism for communication/coordination between DEM and the state housing entities. This lack of coordination at the state level hampers integrated planning at both the state and municipal levels.

Based on its research, the Commission has concluded that providing dedicated funding for the Housing & Conservation Trust Fund and activating the Housing & Conservation Board would be a major step in addressing these challenges. It would increase available funding and make availability of the new funding predictable in future years, and it would improve coordination between land conservation and affordable housing efforts.

In the following report, the Commission presents the findings on which this conclusion is based and offers recommendations for structuring the Board, funding the Trust Fund and allocating funds.

THE RHODE ISLAND HOUSING AND CONSERVATION TRUST FUND

State housing trust funds and state conservation trust funds are used widely across the country as a means of producing affordable housing and protecting land. Thirty-one states currently have active state housing trust funds, and twenty-six states have active state conservation trust funds. (See Appendix A.)

In 1990, the Rhode Island General Assembly enacted the Rhode Island Housing and Conservation Trust Fund Act, which established a Housing and Conservation Trust Fund and provided for a Housing and Conservation Board to administer the Fund.

Section 42-113-2 clearly states the General Assembly's findings and policy concerning the need for such a Fund.

(a) The dual goals of creating and sustaining low and moderate income housing for Rhode Islanders, and conserving and protecting Rhode Island's important natural areas, recreational lands, and agricultural lands are of importance to the economic vitality and quality of life of the State.

(b) In the best interest of all of its citizens and in order to improve the quality of life for Rhode Islanders and to maintain for the benefit of future generations the essential characteristics of the Rhode Island countryside, Rhode Island should encourage and assist in creating low and moderate income housing and in preserving the state's important natural areas, recreation lands, historic properties, and agricultural land.

Rhode Island's Trust Fund was modeled on the Vermont Housing and Conservation Trust Fund, which had been enacted in 1987 and, six years later, had already demonstrated its effectiveness in promoting both affordable housing and land conservation. The Vermont Trust Fund receives half of the annual revenues from the Vermont property transfer tax, together with any monies that are appropriated to the fund from time to time by the general assembly or received from other private or public sources.

The Rhode Island Act did not include a dedicated funding source, and efforts by the housing and conservation communities in 1992 to promote a transfer tax to provide dedicated funding were unsuccessful. Sixteen years after its enactment, the Rhode Island Housing and Conservation Trust Fund has never received any funding, and the Housing and Conservation Board has never been activated.

STATE LAND CONSERVATION AND AFFORDABLE HOUSING PROGRAMS

The Commission first looked at the State's articulated goals for land conservation and affordable housing production, at the progress that the state is making in meeting those goals with current funding sources, and at the resources that will be needed in the future. Its study focused on purchase of land and development rights/conservation easements and on housing production. For land conservation, the Commission placed first priority on acquisition of land or development rights and second priority on capital improvements to enhance passive recreation.ⁱ For affordable housing, the Commission focused on land acquisition, production of new units, preservation and rehabilitation of existing units, and costs of infrastructure associated with new development.

ⁱ Passive recreation is generally defined as outdoor activities that are engaged in at undeveloped or minimally developed natural sites and that have minimal impacts on natural resources. Examples include hiking, cross-country skiing, biking, horseback riding, picnicking, canoeing/kayaking, swimming at salt or fresh water beaches, and nature viewing/photography.

LAND CONSERVATION

Open space conservation produces important public benefits. The most obvious are the recreational opportunities and scenic landscapes that are an essential element of Rhode Island's quality of life and the protection of ponds, streams and drinking water reservoirs from polluted run-off. Less obvious, but equally important, are other benefits including improved air quality achieved by reducing pollution and increasing oxygen production, increased infiltration of rain and snow to groundwater, and preservation of wild-life habitat (including game animals).

Recognizing the wide range of potential benefits provided by open space conservation, the legislative language establishing the Trust Fund applies the term "conservation" broadly to include natural areas, recreational lands and agricultural land. In discussing goals and funding needs for conservation, the Commission is taking into account all of those resources.

State Goals for Land Conservation

As far back as 1975, the *State Land Use Policies and Plan* first articulated the importance of permanently conserving a significant amount of open space:

Therefore, Rhode Island must protect some of its own rural areas in their present condition indefinitely in order to maintain the character of the state, with its large expanses of open landscape outside the metropolitan area and the smaller urban centers. . . . A reasonable objective might be to maintain 50 percent (about 510 square miles) of the total land area of the state in an open space status in the future.ⁱⁱ

While later Land Use Plans and other State Guide Plan Elements have revisited strategies for land protection, none have changed the goal of maintaining 50% of our land as open space.

In 1994, *A Greener Path...Green Space and Greenways for Rhode Island's Future*, State Guide Plan Element 155, set an interim goal for greenspace protection:

By 2020, Rhode Island's protected greenspace network should encompass one third of the state's land area. [Approximately 213,000 acres.]ⁱⁱⁱTo help accomplish that goal, *A Greener Path* called for the permanent protection of 35,000 acres by 2020, to be accomplished by a joint effort of the State, municipal, Federal and private entities.

In 2000, Governor Lincoln Almond, with the support of the General Assembly, called for Rhode Island to accelerate its pace of land preservation in order to accomplish the 35,700 acre goal by 2010.

How are we doing in reaching our goals?

Between 2001 and 2005, combined conservation efforts permanently protected more than 14,800 acres. Using GIS mapping, the Department of Environmental Management has estimated that by the end of 2005, Rhode Island public and private conservation efforts had preserved approximately

ⁱⁱ Report Number 22, *State Land Use Policies and Plan*, January 1975

ⁱⁱⁱ *A Greener Path... Green Space and Greenways for Rhode Island's Future*, State Guide Plan Element 155, p. 4.3.

146,000 acres, or a little more than 23% of the state's total land acres^{iv} through purchase of land or development rights/conservation easements.

What is it currently costing?

In total, the Commission's research indicates that in the five-year period from 2001 through 2005, at least \$99,500,000 in Federal, State, and local government funds and private funds were spent in Rhode Island to conserve land via acquisition and the purchase of development rights and conservation easements.^v (See Appendix B for a more detailed breakdown of conservation funding sources.)

The overall average cost per acre was approximately \$7,600 per acre, and DEM and The Nature Conservancy report that in the last couple of years the cost per acre has been running closer to \$8,500.

It is important to note that state spending represented approximately \$26,565,000, or 27% of the total funds spent. In other words, the state outlay for conservation helped to leverage Federal, municipal and private conservation funds totaling three times the state investment.

Future Resources Needed to Achieve Land Conservation Goals

Development pressures have increased the urgency to act over the next 10 years to protect the additional acres needed to reach our state goal.

- The demand for developable land has greatly increased the value of agricultural land. This increased value, together with the growing challenges of maintaining viable farms, has led many farmers to sell their lands to developers, resulting in loss of farmland and loss of the relatively affordable housing found on many farms. Loss of farmland has intensified the need to protect Rhode Island's remaining active farms and prime farmland. The Agricultural Land Preservation Program list of farms that have met the qualifications for protection via purchase of development rights currently includes 28 farms totaling 2,100 acres. While the program estimates that the \$6.7 million in funding that it has remaining for the next five years will be sufficient, when combined with other public and private funding sources, to protect farms currently on the list, it is highly likely that additional farms will apply for protection, necessitating additional funding.
- As municipal planners and officials make plans to incorporate additional housing, industrial and commercial space in urban and town centers, they need resources to provide permanently protected green space in and adjacent to those compact centers to ensure a high quality of life for residents and to protect natural resources.
- The increased demand for developable land has narrowed the window of opportunity available to the state to complete conservation of large tracts needed to protect ecosystems, sustain animal and wild plant populations, and protect water supply watersheds and water recharge areas. DEM's

^{iv} Paul Jordan, RI Department of Environmental Management

^v Many entities – Federal, state, municipal and private – participate in land conservation, and form different funding partnerships to conserve land. There is no one database that consolidates information about land conservation project funding and acres preserved. The information in this section is the Commission's best attempt to pull together information from various sources and avoid double-counting protected acreage and/or funding totals.

report *Land Conservation in Rhode Island, Fiscal Year 2003* comments, “There is a critical need to secure major important lands for preservation before they are lost to fragmentation due to development. Fewer large parcels remain and the competition for funding is very strong.”^{vi} The Nature Conservancy estimates that within the next 10 years there will be no more large parcels to protect.^{vii} It has set a goal of conserving 15,000 acres over the next five years by partnering with federal, state and local governments as well as other private funding sources.

In order to preserve agricultural lands, protect natural resources and open space in our urbanized areas, and preserve additional acres within the time window that remains, we will need to increase our overall spending for land conservation and also identify other strategies to achieve permanent land protection.

At the state level, the Commission believes that we must continue the bond funding that voters have supported so enthusiastically over the past three decades. In addition, the Commission believes that the state should establish a dedicated funding stream for both land conservation and affordable housing.

However, it is important to remember that the increased state funds generated by a dedicated funding stream will not be sufficient in and of themselves. Over the last five years, Federal funds covered 19% of the land conservation costs in Rhode Island while municipal and private funds covered about 55% of the total land conservation costs. It is unlikely that the level of Federal funding will rise significantly. However, it will be important for municipalities to continue and hopefully increase their funding for conservation via bond issues, allocation of a portion of the local share of the transfer tax, and budget appropriations. In addition, municipal planning strategies such as conservation development can add to permanently protected acreage. The Commission believes that an increase in state funding would help to leverage municipal funding because it would enable the state to expand its matching grant programs for municipalities.

Private support for land conservation will also continue to be essential, and the Commission believes that the creation of a dedicated funding stream could be used to leverage increased private support.

^{vi} RI Department of Environmental Management, *Land Conservation in Rhode Island Fiscal Year 2003*, p. 5.

^{vii} Kathleen Wainwright, The Nature Conservancy

AFFORDABLE HOUSING

The gap between housing prices and household incomes in Rhode Island has widened greatly over recent years. In the past five years, housing prices have more than doubled and the average rent for a two-bedroom apartment has increased by 48% while household incomes have increased by only 11 percent. In 2000, Rhode Island ranked 9th in the country in the percentage of households paying more than 50 percent of their income for housing. The lack of housing affordable to low and moderate income households negatively impacts the health of our families, the stability of our communities, the ability of businesses to retain workers, and the ability of the state to attract new business.^{viii}

State goals for housing

Over the last nine months, the Housing Resources Commission and the Statewide Planning Program have overseen the development of a State Strategic Housing Plan, which has been adopted by the Housing Resources Commission and is now under review by the State Planning Council. The plan adopted by the Housing Resources Commission sets a goal of creating 5,000 long-term affordable units over the next five years (from 2006 through 2010), or approximately 1,000 units per year.^{ix}

How are we doing?

Between 2001 and 2005, Rhode Island produced approximately 1,300 low-moderate income units, or an average of approximately 260 units per year.

What is it currently costing?

The Commission's research indicates that in the five-year period from 2001 through 2005, approximately \$137,700,000 in Federal and State subsidies and tax incentives and private grants were allocated in Rhode Island to produce affordable housing via either rehabilitation or new construction. (See Appendix C for a more detailed breakdown of housing funding sources.)

While this may seem like a high figure, in terms of dedicated state funding per capita for affordable housing, Rhode Island is among the lowest-ranking states in the country.^x

The average total cost in Rhode Island to produce a low-moderate income unit in recent years has been approximately \$200,000. The average total subsidy per unit in Federal, state and private dollars was \$100,000. This amount represents only public and private subsidies and tax incentives. It does not include the production costs covered by public and private loans to developers and by private investment stimulated by the Low Income Housing Tax Credits. Nor does it include the homeowner's downpayment and mortgage loan if the unit is built for sale rather than for rental.^{xi}

Again, it is important to note that state funding totaled \$41,500,000, or 30%. In other words, the state outlay for low-mod housing production helped to leverage Federal and private housing fund funding totaling more than two times the state investment.

^{viii} Rhode Island Housing Resources Commission, *Rhode Island Five Year Strategic Housing Plan: 2006-2010*, January 6, 2006

^{ix} Rhode Island Housing Resources Commission, *Rhode Island Five Year Strategic Housing Plan: 2006-2010*, January 6, 2006

^x Rhode Island Housing Resources Commission, *Rhode Island Five Year Strategic Housing Plan: 2006-2010*, January 6, 2006

^{xi} Rhode Island Housing

Future resources needed to achieve state housing goals

The Strategic Housing Plan's production goal for the period from 2006 through 2010 -- 4,970 long-term affordable units, or approximately 1,000 units per year -- is almost four times what the state's average annual production over the past five years has been.

We cannot generate those units if we rely only on existing State, Federal, local and private funding sources and tax incentives and on the limited amounts of additional Federal, local and private dollars that might be leveraged.

The State already uses its full annual allocation of Federal grants and "9%" Low Income Housing Tax Credits, and there are very limited opportunities for other Federal funding sources. One step that we could take is to look closely at ways to use Federal Community Development Block Grant funds for specific costs associated with low-moderate housing production. Rhode Island developers may also be able to take advantage of a second Low Income Housing Tax Credit, known as the "4%" credit. However, that credit requires heavy subsidies, and we will need to identify new subsidy resources.

There are more opportunities to generate additional funding at the municipal and private levels. At the municipal level, the potential for new funding includes fees paid by developers into a local affordable housing fund in lieu of building low-moderate units required under Inclusionary Zoning. Municipal affordable housing plans also include a number of subsidies that municipalities can provide that do not require direct funding. These include the value of density bonuses, fee waivers and use of municipally owned land. Finally, municipalities could also use bond issues to generate funds for affordable housing.

At the private level, activity in other states suggests that the philanthropic community and the corporate community could be a source for significant additional resources for affordable housing. Foundations in several states have begun to invest a portion of their endowment to support housing production, and funds have also been established by which corporations support housing production.^{xiii} The Commission believes that an increased state commitment to affordable housing in the form of a dedicated funding stream will be needed to generate foundation and corporate interest in Rhode Island for new forms of foundation and corporate support for affordable housing production.

CONCLUSION

Given the state's goals for land conservation and low-moderate housing production, and the likelihood that Federal funding for both activities will remain level, at best, for the foreseeable future, the Commission has concluded that the State cannot meet its goals unless it increases the level of state funding for both housing production and land conservation. Furthermore, increases in state funding must be used as strategically as possible to increase municipal and private support.

^{xiii} F. B. Heron Foundation, *New Frontiers in Mission-Related Investing*; "Foundations Join City's Effort on Affordable Housing Loans," *New York Times*, Oct. 14, 2005

HOW THE TRUST FUND CAN HELP MEET RHODE ISLAND GOALS

Increased, predictable state funding will help leverage other funding.

As documented in the previous section, Rhode Island needs to allocate more resources for both land conservation and housing production if we are to achieve our goals.

Funding the Housing and Conservation Trust Fund will represent a much-needed increase to the state funding already provided through the Neighborhood Opportunities Program and periodic Open Space Bonds.

However, it is clear that we cannot increase state funding sufficiently to achieve our goals. It will also be essential to leverage additional municipal and private resources. This is where we believe the Trust Fund can be particularly helpful provided that a dedicated funding source is identified to support the Trust Fund. The Commission believes that the availability of an on-going dedicated source of state funding for housing and conservation, coupled with a requirement for a municipal match, would encourage municipalities to raise funds to match state funds. And we believe that a permanent state commitment would also stimulate new foundation and corporate support.

We also believe that the availability of some predictable, long-term State funding will assist land conservation programs and affordable housing producers in their long-range planning and negotiations for land purchases.

The ability to leverage additional resources, the Commission believes, depends on establishing a dedicated funding stream that demonstrates the State's long-term commitment to providing funding for land conservation and low-moderate income housing production.

The Housing and Conservation Board will help to coordinate land conservation and affordable housing planning and projects.

The Commission members recognize that other state agencies already administer state funds for housing and land conservation. It is therefore very reasonable for Rhode Island officials and citizens to ask whether funding the Housing & Conservation Trust Fund and appointing a Housing & Conservation Board to administer the Trust Fund wouldn't lead to duplication of effort and wasted resources. Why not simply assign additional funds directly to DEM and RI Housing for distribution?

The Commission believes that the role of the Housing & Conservation Trust Fund and the Housing & Conservation Board should and must be significantly greater than simply providing additional funding. Achieving the two goals of producing affordable housing and conserving land depends on more than financing. It also very much depends on giving equal public policy weight to housing and land conservation and on integrating planning and programming at the State and local levels to achieve both goals. Both the draft update of *State Land Use Plan* and the *Rhode Island Five Year Strategic Housing Plan: 2006-2010* recognize the importance of an integrated approach and refer specifically to the interrelationship between housing and land protection.

If activated, the Housing and Conservation Board would be the only public entity that represents both interests equally and has the authority to administer grants to achieve both goals. Through the criteria

it develops to evaluate applications and the projects that it supports, the Housing and Conservation Board can play a key role in state efforts to meet housing and land conservation goals in a way that is environmentally and economically sound.

It is particularly important for the state to have the funding needed to support municipal initiatives to increase affordable housing and conserve additional land. As communities developed their affordable housing plans over the past year, discussions in community after made it clear that citizens and officials will only put community support behind affordable housing production if they believe that at the same time they will have the ability to protect natural resources and community character. The affordable housing plans developed by municipalities have, in many cases, suggested projects that could combine both goals.

RECOMMENDATIONS CONCERNING FUNDING MECHANISMS FOR THE HOUSING AND CONSERVATION TRUST FUND

After carefully evaluating all options, the Commission recommends:

1. That a bond be put on the November, 2006, ballot and that it include start-up capital for the Trust Fund.
2. That a Housing and Conservation Trust Fund line item be added to the state budget and that a new, permanent funding source be established to support the Trust Fund line item. To provide a new, permanent source of funds, the Commission recommends an increase in the real estate conveyance tax, also known as the real estate transfer tax, from \$4.00/\$1,000 to \$5.50/\$1,000. \$1.00 of the increase would go to the State to fund the Housing and Conservation Trust Fund. To assist municipalities to implement their land conservation goals and affordable housing plans, \$.50 of the increase would be retained by the municipalities to be used to help fund low-moderate income housing production and land conservation. The same allocation percentages recommended below on page 14 for the Housing and Conservation Trust Fund would apply to funds retained by the municipalities.

How the real estate conveyance tax works

The real estate conveyance tax, also known as the real estate transfer tax, is a tax assessed on the value of a piece of property when ownership is transferred from one entity to another. In Rhode Island, the tax is paid by the seller. The same rate is charged for all types of property, whether it is undeveloped land or land with residential, commercial, or industrial improvements. Rhode Island charges an across-the-board transfer tax – in other words, there are no exemptions or reductions for property below a certain value and there are no increases for property above a certain value.

The current Rhode Island real estate conveyance tax is \$4 per thousand dollars of real property value. Rhode Island's real estate conveyance tax is lower than, or equal to, the real estate conveyance taxes assessed by other New England states and by Atlantic Coast states as far south as Delaware. (See Appendix for conveyance taxes in these states.) By comparison, the Massachusetts real estate transfer tax is currently \$4.56/\$1,000. Connecticut's conveyance tax is \$6.10/\$1,000, and, for properties valued above \$800,000, the tax on the value over \$800,000 is increased by an additional 1%, or \$10/\$1,000.

The Rhode Island real estate conveyance tax is collected at the municipal level, and the municipality retains \$2.20/\$1,000 of value. Some municipalities use part of their share for land conservation purposes; others assign the revenues to their general funds. The State receives \$1.80/\$1,000 of value, of which \$1.20 goes to the General Fund and \$.60 goes to the Distressed Communities Fund.

Why does the Commission believe that an increase in the real estate conveyance tax represents the best funding mechanism for the Housing and Conservation Trust Fund?

Criteria used to evaluate potential funding mechanisms

The Commission reached its recommendation to use an increase in the real estate conveyance tax as the means for funding the Trust Fund on a long-term basis after studying a wide range of funding mechanisms that are used in other states for housing trust funds and conservation trust funds (see Appendix D), as well as other possible funding sources suggested by Commission members.

Potential mechanisms studied included:

- Increase in real estate conveyance tax (a.k.a, real estate transfer tax)
- Mortgage recording tax
- Real estate non-utilization tax
- Increase in sales tax
- Tax on conversion of rental units to condominiums
- Tax on second homes

- Increase in document recording fees
- Interest on escrow accounts
- Interest on the unclaimed property fund
- Specialized license plate sales
- Income tax check-off
- Sale of state-owned land / property
- Unclaimed lottery winnings

- Allocation of CDBG Funds

The Commission developed a number of criteria to evaluate those potential funding sources and the Commission Chair and others met with Senate and House fiscal policy advisors Michael O’Keefe and Russell Dannecker to solicit their comments about the criteria used and the funding mechanisms reviewed. The criteria used to evaluate the potential funding sources were:

1. Revenue potential: Although a combination of funding sources could be used, any funding source must be able to generate a significant amount of revenue. The Commission determined that the funding mechanism should generate at least \$7 million or more annually.
2. Nexus to housing and conservation: An appropriate revenue source should reflect the problem that it seeks to address. In this case it should have a logical relationship to the lack of affordable housing and need for land conservation in Rhode Island.
3. Administration: The relative ease of administration and flexibility in collection and distribution of funds should be taken into account.
4. Tax incidence: The relative impact of each possible revenue source on different socioeconomic brackets should be taken into account.
5. Sustainability: In order to serve as a long-term solution to housing and conservation issues in Rhode Island, the Housing and Conservation Trust Fund needs a revenue source that is fairly consistent from year to year.

6. Budget realities: Given Rhode Island's current tight budget, the revenue source should represent a new source of funds, rather than reallocating funds from another existing program.
7. Market impact: - A revenue source should seek to have a minimal impact on the market.

The Commission's evaluation of the different potential funding mechanisms using these criteria can be found in Appendix D.

How does the real estate conveyance tax measure up to the criteria that the Commission considered?

The Commission recommends an increase in the real estate conveyance tax as a potential funding mechanism because it meets all seven criteria evaluated.

1. Revenue potential: The Commission looked at the State of Rhode Island's share of the existing real estate conveyance tax in FY 2004 to determine potential future revenue. It determined that if Rhode Island were to increase its real estate transfer tax from \$4/\$1000 to \$5.50/\$1,000 and allocate \$1.00/\$1,000 of the increase to the state to fund the Housing and Conservation Trust Fund, the annual revenue for the Trust Fund, based on FY 2004, would be approximately \$7,000,000.
2. Nexus to housing and conservation: There is a clear nexus between the real estate conveyance tax and housing and conservation needs: High demand for real estate and rapidly escalating prices are causing a dramatic loss in open space and affordable housing and at the same time providing significant increases in equity for many of those selling their property. .
3. Administration: Because this is an increase in an existing tax, the mechanisms for collecting and distributing the tax revenue are already in place.
4. Tax incidence: Rhode Island's current flat-rate conveyance tax assessed on all property is somewhat regressive. In the interest of creating a more progressive tax scheme, the tax could be assessed on a scale, with properties at different values being taxed at different rates. Another approach would be to exempt properties below a certain sales price.
5. Sustainability: While conveyance tax revenues will fluctuate somewhat from year to year, depending on the real estate market, there will always be a stream of income.
6. Budget impact: By increasing the transfer tax to fund the Housing and Conservation Trust Fund, the state would be providing a new source of funds rather than re-allocating funds from another existing program.
7. Market impact: It is the seller's obligation to pay the transfer tax. Since most sales are negotiated between the seller and the buyer it is not clear that a minor change in the transfer tax will have any impact on the buyer. Looking at a house on the market for \$300,000, for example, if the amount of the transfer tax were increased by \$1.50/\$1,000, the seller would have to pay an additional \$450 from sale proceeds.

RECOMMENDATIONS CONCERNING FUND ALLOCATION

The current law requires that 25% of the funds raised annually must be utilized for housing projects and 25% of the funds must be utilized for conservation projects and that 50% of the annual funds may be utilized for either purpose, with projects combining these goals receiving highest priority.

In order to give both housing and conservation advocates confidence that the Fund will never marginalize either of these critical areas of public policy, the Commission recommends that the law be amended to require that **30%** of the annual funds must be utilized for housing projects and **30%** of the annual funds must be utilized for conservation projects and that **40%** of the annual funds may be utilized for either purpose with projects combining these goals receiving highest priority.

Comments about Funding for Organizational Capacity

As already noted, the Commission believes that the Trust Fund's primary purpose should be to provide funding for capital expenses associated with land protection and low-moderate income housing production.

In researching current program activities, the Commission has learned that organizational capacity is an issue for the municipalities, state agencies and organizations responsible for land conservation. We have identified two areas of concern:

Insufficient resources for land conservation activities

- Limited staffing in DEM at times makes it difficult to administer land conservation funds expeditiously and to track land conservation data.
- Many local land trusts do not have paid staff and so they need support in negotiating and structuring purchases of land/development rights/conservation easements.

Insufficient resources for stewardship

- Some municipalities have insufficient funds for park maintenance.
- Many of the land trusts that have stewardship responsibilities for protected lands have no paid staff and depend on volunteers to carry out those responsibilities.

While the Trust Fund's primary purpose is to provide funding for capital expenses, the current law does include a provision that helps to address the issue of funding for stewardship. It provides, "If an activity funded by the board involves acquisition by the state of an interest in real property for the purpose of conserving and protecting important natural areas, recreational lands, or agricultural land, the board, in its discretion may make a one-time grant to the appropriate state agency or municipality. The grant shall not exceed ten percent (10%) of the current appraised value of that property interest and shall be used to support its proper management or maintenance or both." The Commission recommends that that provision be retained.

While staff costs and the costs of services for land appraisals, surveying, project planning, architectural design, etc. are not included in this study, the Commission does not want to create the impression that funding for those costs is not essential to the overall effectiveness of housing and conservation programs. They are, in fact, critical costs that must be covered.

RECOMMENDATIONS CONCERNING THE HOUSING AND CONSERVATION BOARD AND STAFF

Board

The following recommendations concerning the make-up of the Housing and Conservation Board are based on the Commission's belief that that the Board's structure should enable it to effectively integrate housing and conservation goals.

Position within State Government

Under the current law the Board is a free-standing entity. The Commission recommends that the Board be located within the Rhode Island Division of Planning.

Membership

The current law provides for a nine-member board, comprised of four non-voting *ex officio* members and five public members. The *ex officio* members identified in the current law are:

- Director of DEM or a designee who is appointed upon the advice of the natural heritage commission
- Director of the Office of Intergovernmental Affairs/Housing or a designee
- Executive Director of RIHMFC or a designee
- Director of the Office of Statewide Planning or a designee

In order to reflect recent changes in organizational structure within the Department of Administration and to balance housing and conservation interests, the Commission recommends that the Board have five *ex officio* government entity members:

- Director of DEM or a designee
- Director of CRMC or some other state conservation entity or a designee
- Executive Director of RI Housing or a designee
- Executive Director, Housing Resources Commission or a designee
- Associate Director for State Planning Division or a designee.

The Commission further recommends that the *ex officio* government entity members be voting members rather than non-voting members. Since the *ex officio* members can play a key role in ensuring coordination of housing and conservation work, the Commission hopes that this change will engage the *ex officio* members and encourage them to attend meetings.

The law provides for five voting members from the general public, appointed by the Governor with the advice and consent of the Senate. The Act stipulates that the Governor should give consideration to recommendations made by the RI Community Reinvestment Association, the Environment Council of Rhode Island, the Rhode Island Association of Land Trusts, and representatives of a tenancy advocacy association and a family farm association.

The Commission recommends that public representation be expanded to eight members, appointed by the Governor with the advice and consent of the Senate. Members should include:

- One public member representing the interests of the environmental community
- One public member representing the interests of the conservation land trust community
- One public member representing family farm interests
- One public member representing the interests of urban planning
- One public member representing the interests of non-profit community development corporations
- One public member representing the interests of the community housing land trust community
- One public member representing the interests of the for-profit development/builder community
- One public member representing land use planning/smart growth interests.

Quorum

The current law appears to provide conflicting direction about what constitutes a quorum. Chapter 42-113-4 (d) provides that “. . . A majority of the sitting members shall constitute a quorum and action taken by the board under the provisions of this chapter may be authorized by a majority of the members present and voting at any regular or special meeting” while Chapter 42-113-4 (e) provides that “Three (3) or more voting members of the board shall constitute a quorum for the transaction of business. A majority vote of those present shall be required for action. . . .”

Given the recommended expansion in membership and the significant amount of funding that the Board will be responsible for administering, the Commission recommends that the number of voting members required to constitute a quorum be increased to seven, of which at least four must be public members. The number of affirmative votes required for action should be a majority of those present and voting.

Staffing

The Commission is mindful of the need to avoid duplication of resources and to limit increases in State staff. While it is important for the Board to have an Executive Director to handle Board administrative duties, prepare annual reports, etc., the Commission envisions that the Executive Director will not administer projects once grants are awarded.

Instead, the Commission recommends that the Executive Director should be able to call on assistance from the Housing Resources Commission, RI Housing and DEM in developing recommendations about specific applications being considered by the Housing and Conservation Trust Board and that RI Housing and DEM, who are already tasked with administering and monitoring similar projects, should be responsible for administering and monitoring projects that receive grant awards. A memorandum of agreement should be signed with DEM and RI Housing to formalize this arrangement.

The Commission also recommends that the Executive Director be authorized to hire no more than one full-time staff person. The current law provides for administrative expenses to be restricted to no more than 5% of the total budget, and the Commission recommends that that provision be retained.

SUMMARY OF CONCLUSIONS

After studying the funding available for land conservation and affordable housing production and the current level of coordination between the two areas, the Housing and Conservation Trust Study Commission has concluded that limited, unpredictable funding and lack of coordinated planning for housing and conservation hamper both efforts.

The Commission has determined that Rhode Island needs increased financial resources to meet its land conservation and affordable housing production goals. Increased state financial support is a key element, and should include a dedicated funding stream. Dedicated funding will not only improve housing and conservation programs' ability to make long-term plans and negotiate for land, but it will help to leverage new municipal and private funds.

The Commission recommends a two-part approach to funding the Trust Fund: 1) one-time, start-up bond issue funding to jump-start the Fund and 2) dedicated funding achieved through an increase in the real estate conveyance tax.

The Commission believes that the Housing and Conservation Trust Fund and the Housing and Conservation Board can play a key role in increasing coordination between land conservation and affordable housing production and in supporting municipal efforts to address both needs. Given the Board's responsibilities for allocating funds, it recommends an expansion of the Board to provide representation from interested constituencies.

WHAT CAN WE AIM TO ACHIEVE?

The following pages provide examples of Rhode Island projects, most of which are either completed or under way. Some are specifically designed to create and sustain low and moderate income housing for Rhode Islanders; others are designed to conserve and protect Rhode Island's important natural areas, recreational lands, and agricultural land; still others are examples of how one project can help to meet both goals. Increased funding support from the state combined with the increased municipal and private funding that the state's increased commitment will help to leverage, municipalities can work with non-profit and for-profit developers to plan and carry out many more similar projects.

Riverside Gateway Development and Woonasquatucket Greenway Project, Providence



The Olneyville Housing Corporation’s Riverside Gateway Development is an initiative that will create more than 35 units of new affordable housing and two rehabilitated commercial units and bring community-controlled investment to an area that desperately needs it. It will turn large vacant parcels of land that line the Riverside Mills site on the Woonasquatucket River in Olneyville into new two- and three-unit houses as well as rehab several vacant, abandoned and underutilized two- and three-family properties near Manton Avenue into two-, three-, and four-bedroom units.^{xiii}



The Gateway project is directly across the street from a proposed park that is part of the Woonasquatucket Greenway project, a catalyst for renewal along the Woonasquatucket River in Providence. The green linear park will revitalize a major hidden natural resource on the West Side of the City and become a destination for neighborhood residents and people throughout Providence and Rhode Island. The Greenway and restored parks will provide needed urban passive recreation areas, address local transportation needs,

and promote restoration of abandoned industrial sites and impaired riverbank habitats.^{xiv}

Steve Lopes Way, Woonsocket



The 9.7-acres that the Woonsocket Neighborhood Development Corporation acquired for affordable housing was a beautiful wooded site, with oak trees and a number of vernal pools, that abutted the city-owned Rhodes Avenue Conservation Area. Recognizing the scarcity of wooded land in Woonsocket, the WNDC built 13 duplexes on 2.88 acres, reserving almost 7 acres of the site in its natural state. The 7-acre portion was deeded to the city, thus expanding the existing conservation area.

^{xiii} Riverside Gateway Project. http://www.olneyville.org/index_files/Page713.htm. 1/13/06

^{xiv} Woonasquatucket River Watershed Council. <http://www.woonasquatucket.org/ata glance.htm>. 1/13/06

The Crossroads, Coventry

The Crossroads, developed by Coventry Housing Associates, is located at the corner of Tiogue Avenue and Old North Main Road in Coventry. Its 32 apartments serve households earning up to 60 percent of median family income. To complement the surrounding neighborhood, the four “L” shaped buildings that contain the apartments are separated and nestled into a slope, providing ground-level entrances for all upper level units. Each family’s home has its own entrance and walkway, and outdoor areas such as patios are defined with fencing and plantings. The definition of private outdoor space extends the living unit outdoors and promotes responsible care of the areas. Completed in 2003, the development was financed with a combination of Federal HOME funding, equity leveraged by the Federal Low Income Housing Tax Credit, state NOP funds, and low-interest loans from Rhode Island Housing.



Borders Farm, Foster

Permanent protection of the 200-acre Borders farm in 2003 provided a vital link to an agricultural past that is fast disappearing from our state. Charles Borders, who was born in the 1840 farmhouse and lived and worked on the farm. Without heirs of their own, Charles and his wife Margery were concerned the family tradition of working the land might cease with their generation, and they determined that they wanted the farm to remain preserved for future generations to enjoy. Working together with The Champlin Foundation, The Nature Conservancy, and the Agricultural Lands Protection Commission, they arranged to sell the development rights for the property. They also formed the Borders Farm Preservation group, a nonprofit organization created to care for the farm in perpetuity and to make certain that the farm continues to be used in a manner consistent with their aims and wishes.^{xv}



Harbor House, Newport

With its sweeping views of the harbor, Harbor House offers 38 small apartments for seniors who wish to live in an active and intentional community. It provides an abundance of common spaces for social gatherings, activities and hobbies that promote interaction with others. A notable example of rehabilitating an historic building for affordable housing purposes, it provides a housing opportunity to seniors wishing to reside in the Newport area.^{xvi}



^{xv} The Champlin Foundations, 2003 Annual Report, p. 11-12.

Sanford Conservation and Mobile Home Project, Tiverton

The Sanford property in Tiverton totaled approximately 129 acres and included a mobile home park. The Sanfords' decision to sell the property threatened both the property's open space and the future of the mobile home park and its residents. The Tiverton Open Space and Land Preservation Commission (TOSLPC) and Church Community Housing negotiated a purchase arrangement that met everyone's interests. With the assistance of a DEM grant and additional funding from The Nature Conservancy, the TOSLPC has permanently preserved approximately 105 acres as open space. Church Community Housing purchased the 24 acres that house the mobile home park, created 39 long-term affordable units, and, at the same time, corrected wastewater problems that threatened the park's water supply.

Proposed Park at Greene Lane/ Burma Road^{xvii}



Currently, community access to the shoreline on the west side of Aquidneck Island is very limited. The Aquidneck Island Planning Commission's West Side Master Plan proposes to greatly expand access by creating a shoreline path and locating a series of uses, including a park, along the path. The proposed park at Greene Lane/Shoreline Drive (Burma Road), which is located across the street from Navy housing at Greene Lane, would provide nearby park for the neighborhood as well as providing shoreline access for the larger community.

Westerly limited development

When descendants of John Champlin decided to sell the 173-acre waterfront site he had acquired in 1916, developers envisioned it as the perfect place to build a retirement community. Conservationists valued the site's woodlands, rich in geological history and wildlife, as a rarity that should be preserved for hiking, bird watching, and studying glacial wonders. In the end, the Westerly Land Trust and an Iowa-based development company created a plan to accommodate both visions. The land trust, with assistance from The Nature Conservancy, RIDEM, and RIDOT, bought the parcel for \$2.8 million. It then sold the development company a 38.7-acre section of the property for \$1.6 million, thereby recovering more than half of the original cost. The land trust will preserve its 134+ acres as the Dr. John Champlin Glacier Park. The developers will build retirement cottages and a structure containing both independent living and assisted living units. They also hope to include a small nursing home section. The developers wanted the high flat lands and the land trust was determined to preserve the wetlands and the rolling landscape. "What we were most interested in was what they were least interested in," says Harvey C. Perry II, president of the Westerly Land Trust. "A lot of time people think you have to choose between conservation and development. We think you can have both."^{xviii}

^{xvi} Rhode Island Housing Network.

http://www.housingnetworkri.org/sub_housing_files/cases/case_study_report.php?id=45. 1/17/06

^{xvii} Aquidneck Island Planning Commission, *Westside Master Plan*. November 2005.

^{xviii} Phua, Chelsea. "Limited development a 'win-win' for Westerly" *The Providence Journal*. 13 March 2005

APPENDIX A: State Housing and Conservation Trust Funds Across the Country^{xix}

<u>State</u>	<u>State Housing Trust Fund</u>	<u>Revenue Source(s)</u>	<u>State Conservation Trust Fund</u>	<u>Revenue Source(s)</u>
Alabama	no		yes	% interest income from payments from sale or lease of rights to explore and drill oil in off-shore areas
Alaska	no		yes	Environmental Penalty Monies
Arizona	yes	Unclaimed Property Fund	yes	Lottery, direct appropriations, surcharges on sales of Central Arizona Project water to out-of-state utilities
Arkansas	no		yes	Conservation Tax, Real Estate Transfer Tax
California	yes		yes	Cigarette Tax
Colorado	no		yes	Lottery
Connecticut	yes	Interest on Broker Escrow Accounts	yes	Bonds
Delaware	yes	Document Recording Fees; State General Fund	yes	One-time funding from state's claim to abandoned securities and other financial properties
Florida	yes	Documentary Stamp Tax	yes	Document Stamp Tax Revenues
Georgia	yes	State General Funds	yes	Nongame check-off
Hawaii	yes	Real Estate Conveyance Tax	no	
Idaho	yes		no	
Illinois	yes	Real Estate Transfer Tax	yes	Real Estate Transfer Tax; General Fund Appropriation
Indiana	yes	Interest from Loan Base	yes	General Fund Appropriations matched w/ same amount from private sector
Iowa	no		no	
Kansas	yes	Bond and Fee Revenues	no	
Kentucky	yes	Kentucky Housing Corporation Debt Service Reserve	no	
Louisiana	no		yes	Severance Tax on Off-shore Oil Drilling
Maine	yes	Real Estate Transfer Tax	yes	Lottery
Maryland	yes	Interest on Title Escrow Accounts	yes	Real Estate Transfer Tax
Massachusetts	yes	State Income Tax	yes	Wildlife Stamp, Hunting and Fishing Licenses
Michigan	no		yes	Oil and Gas Lease Revenues

^{xix} Center for Community Change, Housing Trust Fund Project

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Minnesota	yes	Interest on Broker Escrow Accounts; Revenue Bond application Fees; State General Fund	yes	Lottery
Mississippi	no		no	
Missouri	yes	Document Recording Fees	no	
Montana	yes	Unspent TANF Reserves; Section 8 Reserves	yes	Portion of State Game Licenses
Nebraska	yes	Documentary Stamp Tax	yes	Lottery
Nevada	yes	Real Estate Transfer Tax	no	
New Hampshire	yes	Bond Fees	no	
New Jersey	yes	Real Estate Transfer Tax	no	
New Mexico	no		no	
New York	no		yes	General Fund
North Carolina	yes	State General Fund	yes	General Fund, Real Estate Transfer Tax
North Dakota	no		no	
Ohio	yes	State General Fund; Interest from Budget Stabilization Fund	no	
Oklahoma	yes	State General Fund	no	
Oregon	yes	Interest on Corpus; State Genral Fund	no	
Pennsylvania	no		yes	Cigarette Tax
Rhode Island	yes	Not funded	no	
South Carolina	yes	Real Estate Conveyance Tax	yes	State/Federal Appropriations, Bond Revenues, Securities, and Real Estate Transfer Tax
South Dakota	no		no	
Tennessee	no		no	
Texas	yes	Loan Repayments	no	
Utah	yes	State General Fund	no	
Vermont	yes	Property Transfer Tax; State Budget Surplus	yes	General Fund Appropriations, capital bonds, Property Transfer Tax
Virginia	no		no	
Washington	yes	Interest on Real Estate Escrow Accounts; Penalties on Late Real Estate Excise Taxes; Origination Fees; GO Bond proceeds	no	
West Virginia	yes	Grant	no	
Wisconsin	yes	Interest on Real Estate Escrow Accounts	no	
Wyoming	no		yes	Hunting and Fishing Licenses and Application Fees

**APPENDIX B:
Resources Spent in Rhode Island to Protect Natural Areas, Passive Recreational Lands and
Agricultural Lands, 2001-2005^{xx}**

Source of Funds	Total
State	
DEM	24,200,420
WRB	2,365,063
Total	26,565,483
Federal	
US Fish & Wildlife	9,500,000
thru DEM	8,488,679
thru CRMC	1,474,454
NRCS	317,776
Total	19,780,909
Municipal and Private	53,155,741
GRAND TOTAL	99,502,133

NOTE: This table only includes funding spent for land acquisition and/or purchase of development rights. It does not include funding for planning or organizational capacity.

^{xx} RI DEM, *Land Acquisition Yearly Totals*; Will Rivero, Rhode Island Water Resources Board and www.wrb.state.ri.us/programs/pdwp; Charles Vandermoer, U.S. Fish and Wildlife Service; Megan Higgins, Coastal Resources Management Council; Natural Resource Conservation Service; Kathleen Wainwright, The Nature Conservancy; Keith Lang, The Champlin Foundation

APPENDIX C: HOUSING FUNDING SOURCES, 2001-2005^{xxi}

	Totals
FEDERAL	
HOME Program	45,354,938
811(capital advance only)	8,019,300
202	26,311,600
9% Tax Credits	10,230,000
Total Federal	89,915,838
STATE	
NOP	27,500,000
Thresholds	5,500,000
Total State	33,000,000
PRIVATE	
FHLB	4,252,364
LISC	125,500
Total Private	4,377,864
TOTAL	127,293,702

^{xxi} www.hud.gov; www.fhlbboston.com; RI LISC; RI Housing
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Appendix D

**Potential State Funding Sources
for the
Rhode Island Housing and Conservation Trust Fund**

**Research and Analysis
for the
Housing and Conservation Trust Study Commission**

by

**Darin Ranahan
Senior, Brown University**

March 2005

INTRODUCTION

In analyzing the different possible funding sources for Rhode Island's Housing and Conservation Trust Fund, certain criteria are necessary for weighing the pros and cons of each option. We will base our examination on the following criteria:

1. Nexus to housing and conservation
2. Revenue potential
3. Sustainability and reliability of revenue from year to year
4. Leveraging -- has capacity for leveraging other funds; meets matching requirements for federal housing funds; promotes public-private partnerships
5. Administration -- flexibility and ease in administration and distribution
6. Tax incidence -- is not regressive
7. Budget impacts
8. Market impacts

Our primary research suggested a number of different possible funding sources. They include:

- Increase in real estate conveyance tax (realty transfer tax)
- Mortgage recording tax
- Real estate non-utilization tax
- Tax on conversion of rental units to condos
- Tax on second homes
- Increase in sales tax

- Increase in document recording fees
- Interest on escrow accounts
- Interest on the unclaimed property fund

- Unclaimed lottery winnings
- Specialized license plate sales
- Income tax check-off
- Sale of state-owned land / property

- CDBG funds

In this initial study, we will weigh each of these possible funding sources against the eight criteria listed above.

REAL ESTATE CONVEYANCE TAX (TRANSFER TAX)

Description – A real estate conveyance tax (or transfer tax) is charged to the buyer and/or seller of real property at the time of sale, based on a percentage of sale value of the property. In some states, this tax is known as a documentary stamp tax. Approximately 11 states have used real estate transfer taxes as revenue sources for housing funds, while approximately 15 states have used them as funding sources for land conservation efforts.ⁱ

Nexus to Housing / Conservation – There is a direct connection between Rhode Island’s active real estate market, which has greatly increased the demand for, and value of, land and existing housing, and the need to conserve land while it is still available and create additional affordable housing.

Current Use in Rhode Island – Currently the rate for the real estate conveyance tax is .4%, or \$4 for every \$1,000 of “lands, tenements, or other realty sold.” (RI 44-25-1) In total, the state receives a total of .18%, or one dollar and eighty cents per thousand (\$1.80) of all real estate conveyances. Sixty cents (\$.60) goes to the distressed community relief program, while one dollar and twenty cents (\$1.20) goes to the state’s general fund. (In fiscal years 2004 and 2005, the \$.60 delegated to the distressed community relief program has been instead added to the state’s general fund due to the state’s tight fiscal situation.) The remaining .22%, or two dollars and twenty cents per thousand (\$2.20) is allocated to the municipality.

This compares with the current Massachusetts conveyance tax of .456% (or \$4.56 per \$1,000) plus a surcharge of \$10-\$20, and the current Connecticut tax of .6% plus an addition 1% on property value over \$800,000.

Potential for Revenue – Rhode Island’s preliminary figure for the amount received by the state in FY 2004 through the existing real estate transfer tax is \$13,036,709.ⁱⁱ Therefore the total amount of real estate conveyances taxed by the state was \$7,242,616,111.

If an extra .056% were added to Rhode Island’s real estate conveyance tax, bringing it to the level of Massachusetts’ tax (without including the \$10 - \$20 surcharge) it would have generated an additional \$4,055,864 for FY 2004.ⁱⁱⁱ

If an extra .1% were added to Rhode Island’s real estate conveyance tax, bringing it to the level of Connecticut’s basic tax (without including the extra tax for properties valued over \$800,000) it would have generated an additional \$7,242,616 in revenue for FY 2004.

The table on the next page shows what revenues would be generated for the Housing and Conservation Trust Fund under each of the above scenario, based on state projections of future conveyance tax revenues.

ⁱ The Resources Agency of California. (December 1998). State Land Conservation Summary: Selected Funding Sources. Online: <http://ceres.ca.gov/planning/conservation_guidebook/OtherStates.pdf>. April 28, 2005.

ⁱⁱ Rhode Island, State of Rhode Island Budget Office, *Fiscal Year 2006 Budget Executive Summary* (Providence, 2005), A-14. Online: <<http://www.budget.state.ri.us/execsupp06.pdf>>. April 28, 2005.

ⁱⁱⁱ Information on Massachusetts’s and Connecticut’s real estate transfer taxes comes from: Pennsylvania Association of Realtors, *Summary of Realty Transfer Taxes by State*, (Pennsylvania, 2004). Online:<<http://www.parealtor.org/content/AssetMgmt/Issues%20Resource%20Center/Realty%20Transfer%20Tax/Transfer%20tax%20chart.pdf>>. April 28, 2005.

	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010
TOTAL TRANSFER	\$7.44 bil.	\$7.83 bil.	\$8.06 bil.	\$8.33 bil.	\$8.44 bil.	\$8.44 bil.
Current .4% level	\$29.8 mil.	\$31.3 mil.	\$32.2 mil.	\$33.3 mil.	\$33.8 mil.	\$33.8 mil.
.18% - state ^{iv}	\$13.4 mil.	\$14.1 mil.	\$14.5 mil.	\$15.0 mil.	\$15.2 mil.	\$15.2 mil.
Increase of .056% - HCTF	\$33.9 mil. <i>\$4.17 mil.</i>	\$35.7 mil. <i>\$4.39 mil.</i>	\$36.8 mil. <i>\$4.51 mil.</i>	\$38.0 mil. <i>\$4.67 mil.</i>	\$38.5 mil. <i>\$4.73 mil.</i>	\$38.5 mil. <i>\$4.73 mil.</i>
Increase of .1% - HCTF	\$37.2 mil. <i>\$7.44 mil.</i>	\$39.2 mil. <i>\$7.83 mil.</i>	\$40.3 mil. <i>\$8.06 mil.</i>	\$41.7 mil. <i>\$8.33 mil.</i>	\$42.2 mil. <i>\$8.44 mil.</i>	\$42.2 mil. <i>\$8.44 mil.</i>

Following Connecticut’s example, other surcharges for properties valued over a certain amount could help increase the potential revenue for a real estate conveyance tax.

Sustainability/Reliability of revenue from year to year – As long as the real estate market in Providence continues to boom, the real estate conveyance tax would bring in increasing revenues. Even if the real estate market stagnated, it would continue to bring in an amount reflective of the amount of transactions each year.

Leveraging – The transfer tax would meet matching requirements for federal housing funds and, as a dedicated funding stream, could help to promote public-private partnerships.

Ease of Administration – Because this would be an increase of an existing tax, the infrastructure for collecting and distributing the tax revenue is largely already in place. If it were decided to make the tax more “progressive” by assessing the tax on a sliding scale, the calculation of the tax would be slightly more complicated but the actual administrative processes could remain the same.

Tax Incidence – A real estate conveyance tax with a flat rate would equally affect all property buyers. In that sense, it is a regressive tax. In the interest of creating a more progressive tax scheme, the tax could be assessed on a sliding scale, similar to how Connecticut charges an extra 1% for every dollar over \$800,000 in real estate transferred.

Budget Impact – An increase in the real estate conveyance tax would represent a new source of revenue, and thus would not conflict with current budget allocations.

Market Impact – In Rhode Island, where the real estate transfer tax is charged to the seller, the impact on the seller’s net profit would be fairly minimal. For example, an increase of \$1.00/\$1,000 in the tax would reduce the seller’s net profit on a \$300,000 transaction by only \$300.000. Is it unlikely that this would have a significant impact on real estate costs.

^{iv} Rhode Island, State of Rhode Island Budget Office, *Fiscal Year 2006 Budget Executive Summary* (Providence, 2005), 143, A-14. Online: < <http://www.budget.state.ri.us/execsupp06.pdf>>. April 28, 2005.
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MORTGAGE RECORDING TAX

Description – A mortgage recording tax is a tax charged on the amount of a mortgage when the mortgage is recorded. It generally applies to mortgage-related financing instruments, including new mortgages resulting from refinancing of a home, second mortgages, and home equity loans. Thus it would tax current homeowners who refinanced their homes as well as those who take out mortgages to buy new property.

Nexus to Housing / Conservation – Rising property values and a strong real estate market result in a higher amount of mortgages, and, in turn, the need for strengthened affordable housing and conservation efforts.

Current Use in Rhode Island – No mortgage recording tax exists in Rhode Island at the moment.

Potential for Revenue – 2003 saw mortgage activity of about \$14 billion in Rhode Island. A tax of .05% would generate \$7 million. A tax of .1% would generate \$14 million.^v

Sustainability/Reliability of revenue from year to year – Like the real estate conveyance tax, the mortgage recording tax would fluctuate somewhat with the housing market.

Ease of Administration – Currently, no mortgage tax exists, so a new apparatus for administering the tax would have to be created.

Tax Incidence – The mortgage recording tax could be regressive, increasing the cost of housing for low-end homebuyers. For example, someone taking out a \$200,000 mortgage to buy a \$250,000 house with a \$50,000 down payment would pay the same tax as someone taking out a \$200,000 mortgage to buy an \$800,000 house with a \$600,000 down payment.

Budget Impact – As a new source of revenue, a mortgage recording tax would not place extra stress on the tight budget.

Market Impact – A mortgage recording tax would increase the cost of taking out a mortgage, thus impacting both the real estate and banking industries.

REAL ESTATE NONUTILIZATION TAX

Description – RIGL 44-5.1, enables each of the state's cities and towns to impose a real estate nonutilization tax upon abandoned or vacant property at a rate of ten dollars for each one hundred dollars of the assessed value of the real estate.

Nexus to Housing / Conservation – Because of the housing crunch, any underutilized property puts more stress on the short housing supply, as well as encourages greenfield development.

Current Use in Rhode Island – Certain cities have imposed taxes on vacant or abandoned property as a means of discouraging urban deterioration and generating funds for community development.

Potential for Revenue – Unknown, but the number of underutilized properties is decreasing.

^v RI Housing

Sustainability – Given Rhode Island’s strong real estate market, less and less real estate can be considered vacant or abandoned.

Leveraging – The non-utilization tax would meet matching requirements for federal housing funds and, as a dedicated funding stream, could help to promote public-private partnerships.

Ease of Administration – Real estate nonutilization taxes are currently collected at the municipal level and are not used in all municipalities. Conceivably the tax could be increased and the increase could go to the state, but this seems very unlikely.

Tax Incidence – A real estate nonutilization tax would most likely be progressive because it taxes property owners.

Budget Impact – This would represent new revenue for the state. However, this tax is a municipal tax, not a state tax.

Market Impact – It would likely encourage infill development because it would raise the cost of holding on to vacant properties.

TAX ON CONVERSION OF RENTAL UNITS TO CONDOS

Description – One suggestion has been a tax on rental units converted into condos. Currently no states use this method to fund housing or conservation trust funds.

Nexus to Housing / Conservation – The conversion of rental units to condos, often resulting in a loss of moderately priced rental units, relates to the affordable housing crisis in the state. Its connection to land conservation is less clear.

Current Use in Rhode Island – At the moment, there is no tax on the conversion of rental units to condos.

Potential for Revenue – We could not locate a centralized data source that counted the number of rental units converted to condos in recent years, and so we were unable to estimate potential revenue.

Sustainability – As the number of properties appropriate for such conversion is reduced, the revenue potential will diminish.-

Leveraging – A tax on the conversion of rental units to condos would meet matching requirements for federal housing funds.

Ease of Administration – Currently there is no centralized measurement of the number of rental units converted to condos. One possible way of measuring this process would be through the permitting process required to undergo the construction necessary for the conversion. Such a tax would require a new administrative process involving both municipalities and the state.

Tax Incidence – This would most often be a progressive tax because it taxes property owners.

Budget Impact – This tax would represent a new revenue source and thus would not impact the existing budget.

Market Impact – This tax could have an impact on the price of condominium units produced through conversion of rental units.

TAX ON SECOND HOMES

Description – A tax on second homes would mostly target seasonal and vacation homes. Vermont is an example of a state that taxes second homes at time of purchase by charging a higher real estate transfer tax for those homes.

Nexus to Housing / Conservation – Second homes take housing off the market, adding to the housing crunch throughout the state.

Current Use in Rhode Island – There is currently no tax on second homes in Rhode Island.

Potential for Revenue – Rhode Island has a fairly large market for seasonal homes, largely due to its abundance of oceanfront property. Nevertheless, because no record is kept of whether or not a piece of property is somebody's second home, it is difficult to ascertain the revenue potential in the scope of this report.

Sustainability – If the Vermont model were used, this would be a one-time tax.

Leveraging – A tax on second homes would meet matching requirements for federal housing funds and, as a dedicated funding stream, could help to promote public-private partnerships.

Ease of Administration – Currently there is no system to identify second homes at time of purchase.

Tax Incidence – This tax would be relatively progressive because it would only tax those who could afford two homes.

Budget Impact – As a new tax, this funding source would represent new revenue for the State.

Market Impact – This would negatively affect the market for vacation and seasonal homes by raising the cost of acquiring a second home.

SALES TAX INCREASE

Description – Various states have used general or specific sales tax increases to fund their conservation trust funds. Examples include a conservation tax, sporting goods tax, cigarette tax, and gas tax.

Nexus to Housing / Conservation – No direct nexus

Current Use in Rhode Island – The sales tax in Rhode Island is currently 7%.

Potential for Revenue – Rhode Island estimates a revenue of \$864,000,000 from its sales and use tax in FY 2005.^{vi} It could generate an additional \$12.3 million if it increased the sales tax by .1%.

Sustainability – A sales tax increase would consistently generate revenue for the state.

Leveraging -- A sales tax increase would meet matching requirements for federal housing funds and, as a dedicated funding stream, could help to promote public-private partnerships.

^{vi} Rhode Island, State of Rhode Island Budget Office, *Fiscal Year 2006 Budget Executive Summary* (Providence, 2005), A-14. Online: < <http://www.budget.state.ri.us/execsuff06.pdf>>. April 28, 2005.

Ease of Administration – Rhode Island already collects a sales tax, so there would be no new administrative requirements.

Tax Incidence – Sales taxes are relatively regressive because they apply a flat rate to all income levels.

Budget Impact – It would not conflict with the existing budget because it would create additional funds.

Market Impact – An increase in the sales tax would directly affect Rhode Island’s commercial competitiveness with neighboring states. The Commission eliminated an increase in the sales tax as a potential funding source.

INCREASE IN DOCUMENT RECORDING FEES

Description – Document recording fees are imposed for the service of filing documents. Recording fees are imposed as per-document or per-page fees. Two states have financed housing trust funds with document recording fees.^{vii}

Nexus to Housing / Conservation – Some document recording fees reflect activity in the real estate market, and therefore have some nexus to housing and conservation.

Current Use in Rhode Island – Document recording fees apply to a number of different instruments relating to real estate. The fees are set at the state level, but collected and used at the municipal level. The fees, as outlined in RI 34-13-7, include:

Warranty deed	\$80
Quitclaim deed	\$80
Deed of executor, administrator, trustee, conservator, receiver, or commissioner	\$80
Mortgage	\$60
Partial release of mortgage	\$45
Assignment of mortgage	\$45
Foreclosure deed under power of sale with affidavit	\$80
Lease	\$60
General assignment	\$45
Discharge of mortgage	\$45
Discharge of attachment or execution	\$45
Any other instrument not otherwise expressly provided for by statute	\$45
Lien – Federal tax	\$7.25
Lien – Federal tax, discharge of	\$7.25
Maps, plats, surveys, drawings (not attached to or a part of another recordable instrument)	\$45
Bill of sale	\$45
Power of attorney	\$45
Lis pendens	\$80

^{vii} Housing Trust Fund Project. *Housing Trust Fund Progress Report 2002*. Center for Community Change, June 2002.

Ten per cent of the recording fees collected at the municipal level are used for document preservation and technological upgrades.^{viii}

Potential for Revenue – Unknown. Currently the rates for document recording fees are set at the state level, but the fees are collected at the municipal level. There is currently no statewide measurement of the total amount of document recording fees collected. Furthermore, municipalities are not required to list their revenue from document recording fees in their budgets, making the statewide total difficult to estimate. To give an idea of the existing revenue, Cranston projected revenues of \$940,000 for FY 2005.^{ix}

Sustainability – Document recording fees, like the real estate conveyance tax, would fluctuate with the state's housing market – more transactions would create higher revenue and fewer transactions would generate less revenue. However, because the document recording fee is a flat rate, it would not be affected by rising real estate prices.

Leveraging – An increase in document recording fees would meet matching requirements for federal housing funds and, as a dedicated funding stream, could help to promote public-private partnerships.

Ease of Administration – A system for collecting these fees already exists, so simply raising the fees would be easy. However, individual municipalities would now be responsible for relaying a portion of the revenues to the state.

Tax Incidence – Document recording fees are not taxes per se. However, because they are set at a flat rate, they could be viewed as regressive.

Budget Impact – As a new source of state revenue, increased document recording fees would not affect the state's existing budget.

Market Impact – Increased document recording fees would raise the cost of real estate transactions, thus negatively affecting the real estate market. The amount of a document recording fee could be small enough relative to what the document is recording that its impact would be negligible.

INTEREST ON ESCROW ACCOUNTS

Description – Five states have used the interest on real estate escrow accounts to fund housing trust funds.^x

Nexus to Housing / Conservation – There is a nexus between real estate activity and housing and conservation.

Current Use in Rhode Island – The Rhode Island state government currently does not manage a real estate escrow interest fund. About half of real estate licensees use non-interest bearing accounts for their escrow funds, while the rest use interest-bearing accounts in order to help pay the banking and book keeping charges.^{xi}

Potential for Revenue – Both attorneys and realtors utilize escrow accounts in their transactions. The interest on lawyer's trust accounts (IOLTA) program currently distributes over \$1 million a year in

^{viii} Rhode Island, *General Laws of Rhode Island*. Title 34, Chapter 13-7.

^{ix} Cranston, Rhode Island. *FY 2006 Proposed Budget*. Available online: <www.cranstonri.com>.

^x Housing Trust Fund Project. *Housing Trust Fund Progress Report 2002*. Center for Community Change, June 2002.

^{xi} E-mail from Bill Dilibero, Attorney at Law, December 17, 2004.

grants.^{xii} Without a central measurement of real estate escrow accounts, it is currently hard to judge the potential revenue from this source. It would likely be less than that of the IOLTA because it only deals with real estate transactions, whereas the IOLTA deals with some real estate transaction as well as many other types of transactions.

Sustainability – Both the interest rate and size of escrow accounts could affect the year-to-year revenue generated by this funding source.

Leveraging – Interest on escrow accounts would meet matching requirements for federal housing funds and, as a dedicated funding stream, could help to promote public-private partnerships.

Ease of Administration – Currently, no government management of real estate escrow accounts exists in Rhode Island, so a new apparatus would be required to collect the interest.

Tax Incidence – Because the interest on escrow accounts comes at no additional cost to tax payers, this category is not applicable.

Budget Impact – This would not conflict with the existing state budget.

Market Impact – This would likely have a negligible impact on the market.

INTEREST ON THE UNCLAIMED PROPERTY FUND

Description – Unclaimed property consists of money and other assets that are considered lost or abandoned after an owner cannot be located for a specific period of time. It includes bank accounts; stocks and dividends; wages; refunds; safe deposit boxes; insurance payments; gift certificates; credit memos; account receivable credits and payables, just to name a few.

Nexus to Housing / Conservation – No direct nexus.

Current Use in Rhode Island – Rhode Island's unclaimed property fund currently totals over \$80 million. However, unclaimed property is directly channeled into the state's general fund and thus does not collect interest separately.

Potential for Revenue – For FY 2005, the state expects to bring in \$11,150,000 in unclaimed property.

Sustainability – Because the interest is not collected separately, its sustainability is not an issue. The amount of unclaimed property brought in each year can vary greatly.

Leveraging – Interest on the unclaimed property fund would meet matching requirements for federal housing funds and, as a dedicated funding stream, could help to promote public-private partnerships.

Ease of Administration – Because unclaimed property currently does not generate interest on its own, a completely new way of dealing with unclaimed property would have to be developed.

Tax Incidence – Not applicable.

^{xii} E-mail from Bill Dilibero, Attorney at Law, December 17, 2004.

Budget Realities – Given Rhode Island’s current fiscal difficulties and the Commission’s criteria of not wanting to shift general revenue funds from a current use to a new use, the Commission eliminated the interest on the unclaimed property fund as a potential source of revenue.

Market Impact – This funding source would not affect the market.

UNCLAIMED LOTTERY WINNINGS

Description – Lottery winners do not always collect their winnings. One state has used unclaimed lottery earnings as a revenue source for its housing fund.

Nexus to Housing / Conservation – No direct nexus.

Current Use in Rhode Island – The Rhode Island state lottery’s unclaimed winnings currently go into the state’s general fund.

Potential for Revenue - In FY 2004, the unclaimed prize recovery was \$3,006,492.^{xiii}

Sustainability – The amount of unclaimed lottery winnings varies somewhat from year to year.

Leveraging – Unclaimed lottery winnings would meet matching requirements for federal housing funds and, as a dedicated funding stream, could help to promote public-private partnerships.

Ease of Administration – Unclaimed lottery winnings are already collected by the state, thus it would not require any significant new administrative procedures.

Tax Incidence – Not applicable.

Budget Realities – Given Rhode Island’s current fiscal difficulties and the Commission’s criteria of not wanting to shift general revenue funds from a current use to a new use, the Commission eliminated the unclaimed lottery winnings as a potential source of revenue.

Market Impact – Unclaimed lottery winnings do not affect the market.

SPECIALIZED LICENSE PLATE SALES

Description – One possible way of raising funds would be selling a specialized license plate whose proceeds go to the housing and conservation trust fund. 22 states have used this method to generate revenue for their conservation trust funds.^{xiv}

Nexus to Housing / Conservation – Rhode Islanders electing to purchase a special license plate dedicated to the Housing/Conservation Trust Fund would do so because they support affordable housing and/or conservation.

^{xiii} Rhode Island Lottery, Annual Financial Report For FY Ended June 30, 2004. Available online at <<http://www.oag.state.ri.us>>.

^{xiv} The Resources Agency of California. (December 1998). State Land Conservation Summary: Selected Funding Sources. Online: <http://ceres.ca.gov/planning/conservation_guidebook/OtherStates.pdf>. April 28, 2005.

Current Use in Rhode Island – The State of Rhode Island offers a specialized license plate as a means of generating extra revenue for the state. Currently, the state receives \$20 from the sale of each specialized license plate.

Potential for Revenue – The Rhode Island Food Bank conducted a special two-year sale of Mr. Potato Head license plates in which they sold 1,355 specialized license plates at a revenue of \$20 per plate, bringing in a total of \$27,100 over two years, or \$13,050 per year.^{xv}

Sustainability – Unless an extra fee were placed on the vehicle's bi-annual registration, specialized license plate sales would generate a finite amount of money.

Leveraging – Specialized license plate revenue would meet matching requirements for federal housing funds. The amount of revenue would be so small that it probably would not help to promote public-private partnerships.

Ease of Administration – Currently, the state already has the apparatuses set up to sell specialized license plates. However, in order to raise more money, the Housing and Conservation Trust Fund would have to undergo extensive promotion.

Tax Incidence – Not applicable.

Budget Impact – As a new revenue source, specialized license plate sales would not affect the state's existing budget.

Market Impact – Specialized license plate sales would not affect the market.

INCOME TAX CHECK-OFF

Description – Check-off programs allow taxpayers to “check off” a contribution to state programs on a state personal income tax form. Another term used for this process is a “voluntary tax contribution.”

Nexus to Housing / Conservation – Taxpayers electing a contribution to the Housing/Conservation Trust Fund would do so because they support affordable housing and/or conservation.

Current Use in Rhode Island – Rhode Island currently offers check-off programs for a drug program, arts & tourism, an Olympic fund, organ transplants, wildlife, and childhood diseases.

Potential for Revenue – In FY 2003, Rhode Island generated a total of \$55,100 from all of its income tax check-offs.^{xvi}

Sustainability – The check-off would likely generate a very small amount of revenue each year.

Leveraging – Income tax check-off revenue would meet matching requirements for federal housing funds. The amount of revenue would be so small that it probably would not help to promote public-private partnerships.

^{xv} Telephone conversation with Rhode Island Food Bank employee. March 2, 2005.

^{xvi} Telephone conversation with Bob Godin, Rhode Island Division of Taxation. April 8, 2005.

Ease of Administration – The state already has the apparatus set up to collect money from income tax check-offs.

Tax Incidence – Not applicable.

Budget Impact – As a new funding source this would not impact the existing state budget.

Market Impact – An income tax check-off would not impact the market.

SALE OF STATE-OWNED LAND / PROPERTY

Description – One way of financing state projects is the sale of surplus state land and property.

Nexus to Housing / Conservation – No direct nexus. Selling state-owned land could conflict with land conservation goals.

Current Use in Rhode Island – Various state departments sell property to generate revenue. The Department of Transportation, a major land-owner, particularly engages in this activity.

Potential for Revenue – Unknown.

Sustainability – The state has a limited amount of property, therefore this funding source would last only as long as the state still had property to sell.

Leveraging – Revenue from sale of State property would meet matching requirements for federal housing funds. The uncertain nature of the future revenue would probably make this funding source less effective in helping to promote public-private partnerships.

Ease of Administration – Although the state already generates revenue through the sale of land, using it as a regular source of revenue would require continuous activity.

Tax Incidence – Not applicable.

Budget Impact – If these funds come from property whose sale would normally go to other uses, they could conflict with the state budget.

Market Impact – The sale of state property could have some impact on the value of other property on the market.

CDBG FUNDS

Description – The Community Development Block Grant program was founded in 1974 with the objectives of benefiting low and moderate income families and individuals and preventing or eliminating slums and blight.^{xvii} It has been suggested that Rhode Island CDBG funds could be allocated on a one-time basis to provide seed money for the Housing and Conservation Trust Fund.

Nexus to Housing / Conservation – The CDBG program is intended for similar purposes as the housing and conservation trust fund.

^{xvii} Rhode Island Community Development Block Grant Program, *FY'2005 Application Handbook*.

Current Use in Rhode Island – The CDBG program provides federal funds to six entitlement communities (Cranston, East Providence, Pawtucket, Providence, Warwick and Woonsocket), as well as a statewide Small Cities program.

Potential for Revenue – In FY 2005, Rhode Island received a total of \$19,164,880 in CDBG grants, with \$6,174,000 of that appropriated to the Small Cities program. The Small Cities program can give out a maximum grant of \$500,000.

Sustainability – Between FY 2004 and FY 2005, Rhode Island’s CDBG appropriations decreased by over \$1 million.^{xviii} President Bush recently proposed altogether cutting the CDBG program.^{xix}

Leveraging – CDBG funds would meet matching requirements for federal housing funds. Since CDBG funds would not represent an increase in State commitment, they would not help to promote new public-private partnerships.

Ease of Administration – The CDBG program already exists so administrative procedures are already in place. However, CDBG grants can only be used in areas where more than half of the population is at or below 80% of the median income. This would complicate the administration of the Fund and require documentation.

Tax Incidence – Not applicable.

Budget Realities – The use of CDBG funds would likely impact the budgets of municipalities that currently take advantage of this funding source.

Market Impact – The use of CDBG funds would not impact the market.

^{xviii} U.S. Department of Housing and Urban Development. *FY 2004 HUD Budget*. Available online at <<http://www.hud.gov/offices/cpd/about/budget/budget04>>. And *FY 2005 HUD Budget*. Available online at <<http://www.hud.gov/offices/cpd/about/budget/budget05>>.

^{xix} National Low Income Housing Coalition. Summary of President’s 2006 Requested HUD Budget. February 28, 2005.

APPENDIX E

Real Estate Conveyance Taxes assessed in nearby states

Connecticut

0.61% or \$6.10/\$1000 on all property over \$2,000 with properties over \$800,000 charged an additional 1% on the value over \$800,000.

Maine

0.44% or \$4.40/\$1,000 on all property

Massachusetts

0.4% or \$4.00/\$1,000 on all property plus 14% surtax (0.456% combined)

New Hampshire

0.75% or \$7.50/\$1000 on all property whose price or consideration is greater than \$4000.

New Jersey

0.35% or \$3.50/\$1000 on all property. A supplemental fee is also imposed in the following increments:

\$.50/\$1,000 for the first \$150,000

\$.85/\$1,000 for the value exceeding \$150,000 but less than \$200,000

\$1.40/\$1000 for the value exceeding \$200,000

New York

0.4% or \$4.00/\$1,000 on all property

Pennsylvania

1% or \$10.00/\$1000 on all property

Vermont

1.25% or \$12.50/\$1000 on the value of all property, except for property to be used for the transferee's principal residence. The tax rate is .5% or \$5.00/ \$1000 for the first \$100,000 in value provided that no tax is imposed on the first \$100,000 if the purchaser obtains a purchase money mortgage that the Vermont housing finance agency has committed to make or purchase.

**The Rhode Island Housing and Conservation Trust Fund:
A Sound Investment for Rhode Island's Future
Minority Report by the Rhode Island Association of REALTORS**

Overview

The Rhode Island Association of REALTORS (RIAR) is a professional association that consists of 5,000 real estate brokers and salespeople. Our members help the public buy, sell, and rent homes, and our association strongly supports the American Dream: home ownership. We recognize that some low and moderate income Rhode Islanders cannot afford to rent or purchase a home without a subsidy, which is why we actively participated in the Housing and Conservation Trust Study Commission for over a year. While RIAR agrees with many of the concepts outlined in the majority report, we strongly disagree with the funding alternative that the majority proposes: increasing the real estate transfer tax for the second time since 2002.

Areas of Agreement

The Rhode Island Association of REALTORS (RIAR) agrees with a number of proposals that are included in the majority report:

- “[A]dditional resources [for affordable housing and open space] must come from State and municipal funds and private funds.” Our primary area of disagreement is the majority’s proposal to increase the real estate transfer tax, which was increased less than four years ago, and earmark the proceeds for this purpose.
- Coordination of land conservation and affordable housing planning and programming should occur at the state level.
- Bond funding at the state and local level should continue to be used to preserve natural resources and open space. We further support the use of bond funding for affordable housing to supplement a line item in the budget and allow tax payers to determine their level of support of government subsidized housing.
- The Rhode Island Division of Planning should oversee the Housing and Conservation Board and its staff, which should be limited to an executive director and one administrative assistant.

Funding Issues

Although staff and university students spent a great deal of time researching alternatives from other states to assist the Housing and Conservation Trust Commission, it was clear from the first meeting of this commission that the majority wished to use the real estate transfer tax as a funding mechanism, and RIAR opposed the inevitable proposal to increase this tax. After reviewing research from other states, RIAR’s position has been to support a quiltwork of proposals including bonding, budgetary funding and means to adopt voluntary contributions from the private sector. The majority rejected

creative solutions that have been adopted in other states to increase voluntary – rather than involuntary - contributions from the private sector on the basis that they would not result in enough revenue. RIAR acknowledges that it is unlikely that proposals such as selling special housing license plates, and using voluntary check offs on the income tax return would generate sufficient revenue to be a sole source of funding subsidized housing; however, these proposals could be used to attract additional private funds – to supplement a line item in the state budget for housing and open space programs.

Areas of Disagreement Objections to Increasing the Real Estate Transfer Tax

The majority of the Rhode Island Housing and Conservation Trust Study Commission recommends that the real estate transfer tax imposed on home sellers should be increased for the second time since July 1, 2002 at nearly double the original rate and would dedicate a portion of the increase so that it would not be subject to appropriation by the General Assembly. The Rhode Island Association of REALTORS opposes placing the burden of creating affordable housing and open space on only those property owners who happen to sell their homes.

Adopting the majority’s proposal would result a 96% increase in the transfer tax since 2002.

Less than four years ago, the Rhode Island General Assembly increased the real estate transfer tax from \$1.40 per \$500 to \$2 per \$500, the current rate stated in R.I.G.L. § 44-25-1, (\$2.80 per \$1,000 to \$4 per \$1,000) to make Rhode Island consistent with the tax rate in Massachusetts.

Increasing the tax to \$2.25 per \$500 (\$5.50 per \$1,000) would represent an increase of 96% from the original rate of \$1.40 per \$500 before the tax increased on July 1, 2002.

Increasing housing taxes to fund government subsidized affordable housing will make the American Dream less accessible for middle income Rhode Islanders. We support Smart Growth and preservation of open space, which is why we met for more than a year to discuss possible sources of funding for affordable housing and open space.

The majority proposes tax increases claiming that the recent boom in the real estate market is responsible for a lack of affordable housing: in other words, that because a senior who sells her home for market rate is somehow responsible for a lack of affordable housing. In reality, regulatory hurdles, excessive impact fees, zoning restrictions, and NIMBY-ism have all discouraged the production of new affordable housing. Rhode Island ranks among the lowest in the country in new housing production. [*Rhode Island Builder Report*]

In addition, while preservation of open space has earned popular support statewide in terms of open space bonding and at the local level, the more land that is preserved places a premium on the value of the remaining land on which affordable housing could be built.

The majority report states that 23% of the state’s total land acres are “protected by purchase of land or development rights/conservation easements.” **The more open space that is preserved, the less land is available to build affordable housing.**

Rhode Island has the sixth highest property tax burden in the country.

Currently, Rhode Island’s property tax burden ranks as the 6th highest in the country. The high property tax burden affects the ability of this state to promote economic development and compete effectively with our neighboring states. “Rhode Island’s property tax burden is placing the State at a

competitive disadvantage and making it increasingly difficult for some Rhode Island to afford to live in their home.”[Rhode Island Public Expenditure Council report - “FY 2005 Property Tax Burdens in Rhode Island”] Our neighboring state of Massachusetts, ranks 17th. [RIPEC State and Local Property Tax Collections Per \$1,000 of Personal Income Fiscal Year 2002].

An increase in the real estate transfer tax is an additional property tax. The real estate transfer tax is an additional tax on home owners, who are already overburdened by their property taxes.

An increase in the transfer tax could rob seniors of equity acquired through years of home ownership. Rhode Island enjoys the third highest population of senior citizens in the country. Yet, the transfer tax taps the equity in the homes in which seniors have lived for many years. Since the majority has not made a firm recommendation to increase the transfer tax by a specific percentage increase it is not possible to know precisely how great the burden on seniors could be. Seniors who wish to sell their big family home to downsize could be deprived of much needed equity to be used to offset the cost of new housing, medications, and heating costs.

The transfer tax has a very narrow tax base – the burden falls on a small percentage of residents of the state: those who are selling their homes.

It is unfair for a small percentage of residents in the state to shoulder the burden of paying a tax to subsidize housing for which they derive no direct benefit. The funding of subsidized housing is normally a function of government. The burden should be distributed fairly among all residents of the state.

The transfer tax is regressive because it taxes all income levels at one flat rate.

The transfer tax does not take into account income levels of the taxpayer and their ability to pay. Both high and low income earners will be paying the same amount of tax; therefore low income earners will pay a higher percentage of their income and bear the highest burden. (This is true even if a two-tiered approach that exempts sales below a certain number is proposed because it still does not take into consideration the income levels of the individual sellers in each tier).

The transfer tax is highly volatile and dependent upon market conditions.

The transfer tax should not be relied upon as a steady stream of revenue for a particular purpose because it is a stream of revenue that is very volatile. While home sales have steadily increased in the past years, there is no predicting the future of home sales. In the 1980s homes sales volume had declined by 50 percent from the previous decade. Sales also fell in the early 1990’s by 20 percent. In the current market, some economists predict that rising interest rates could lead to a significant drop in homes sales. As the real estate market continues to slow, will the majority approach the General Assembly year after year to request additional increases in this tax.

Conclusion

The Rhode Island Association of REALTORS supports the creation of affordable housing – both market and government subsidized – and the preservation of open space. We also support the concept of “smart growth” to use our resources wisely, which is why we support most of the majority report. However, we believe that all Rhode Islanders should share the costs of these programs rather than shifting the burden to tax the nest egg of working and middle class families, seniors and others who have built equity in their home.

