

DEDICATED REVENUE SOURCES
FOR
STATE HOUSING TRUST FUNDS

DELAWARE HOUSING COALITION

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Summary

In evaluating potential dedicated revenue sources for state housing trust funds, there are five priorities to consider:

- *Revenue potential* – The source’s potential to provide an adequate and steady stream of funding
- *Administration* – ease of collecting funds and administering a fee/tax in an existing processing structure or one that can be simply implemented;
- *Impact* – The source’s impact on citizen’s tax burdens (i.e. it should not be regressive, falling disproportionately onto households with low or moderate incomes), whether a new or existing fee/tax;
- *Nexus to housing* - Its logical relationship to its intended use to provide affordable housing;
- *Feasibility* – The feasibility of achieving dedicated funding from the source.¹

Almost anything can be used as a dedicated revenue source for a housing trust fund, and the options are certainly not limited to sources already in use. Promising potential dedicated revenue sources for Delaware’s Housing Development Fund include interest on real estate escrow deposits, fees or taxes on new development, the hotel/motel room tax, and proceeds from settlements for housing and environmental code violations. In most of these cases, dedicating funding to the Housing Development Fund would result from the redirection of existing tax levels, not the imposition of a new tax or tax increase.

State escheat funds (abandoned property) and the realty transfer tax are particularly attractive potential sources of dedicated revenue for the HDF. Both bring in consistently high revenues, and currently only a small portion of revenues from these two sources is dedicated to other uses. A percentage of revenues from either or both of these sources, or a flat amount from one or both, could meet the necessary funding levels laid out in the Fostering a Livable Delaware Five-year Plan.

Inclusionary zoning fees, or fees/taxes on new development, are a more distant but nevertheless promising prospect. Generally, inclusionary zoning policies require that a set percentage of units in new developments of a set size be affordable to a set income group. If developers wish to opt out of this requirement, they must pay fees in lieu of producing the affordable units (“in-lieu fees”).

Another option is the combination of several smaller dedicated funding sources, such as eviction court fees, penalties on failure to pay realty transfer tax, penalties for code violations, and a portion of the hotel/motel tax.

¹ Economic & Planning Systems, Inc. *Colorado Housing Trust Fund Revenue Source Study*. Prepared for Colorado Housing Trust Fund Coalition, September 2002.

Across the country, state housing trust funds use a wide variety of revenue sources. The most popular dedicated sources include interest on real estate broker's escrow accounts, document recording fees or documentary stamp taxes, and real estate transfer taxes. Many trust funds receive state general funds beyond revenue received from the dedicated funding source. Some others are totally reliant upon state general funds. Some more innovative sources include unclaimed lottery winnings, penalties on late real estate property taxes, and eviction court fees. Some, such as California's, are unfunded and essentially defunct. In some states, such as Pennsylvania and California, the absence of an active state housing trust fund does not reflect a complete absence of trust fund activity. Several states lacking state housing trust funds encourage and support the development of local county or city housing trust funds.

Revenue Sources Currently In Use

| Revenue Source | States |
|-------------------------------------|--|
| Bond revenues, fees | Kansas, New Hampshire |
| Broker escrow accounts | Minnesota, Connecticut |
| Document recording fees | Delaware, Missouri |
| Documentary stamp tax | Florida, Nebraska |
| Eviction court fees | Oregon |
| Interest from loan base | Indiana |
| Loan repayment | Texas |
| Lottery funds | Kentucky |
| Mobile home park fees | Washington |
| Penalties on late real estate taxes | Washington |
| Real estate escrow interest | Washington, Wisconsin |
| Real estate transfer tax | Illinois, Maine, Nevada, New Jersey, South Carolina, Vermont |
| State funds | Delaware, Georgia, Kentucky, Massachusetts, Minnesota, North Carolina, Utah, Vermont, Ohio, Oklahoma, Oregon |
| TANF/Section 8 reserves | Montana |
| Tenant security deposits | Oregon |
| Title escrow accounts | Maryland |
| Unclaimed property fund | Arizona |
| Unfunded | Rhode Island, Idaho, California |

Source: Center for Community Change, Housing Trust Fund Progress Report 2002

Trust funds with more than \$10 million in revenue annually use:

- Unclaimed property funds
- Real estate transfer tax
- Capital budget funds (government and obligation bonds)
- State income tax
- General fund appropriations

State Housing Trust Funds

| State | Housing Trust Fund | Revenue Source |
|----------------|--|---|
| Arizona | Housing Trust Fund | Unclaimed Property Fund |
| California | Housing Trust Fund | -- |
| Connecticut | Interest on Real Estate Brokers Trust Account | Interest on broker escrow accounts |
| Delaware | Housing Development Fund | Document recording fees; general funds |
| Florida | William E. Sadowski Act | Documentary stamp tax |
| Georgia | Housing Trust Fund for the Homeless | -- |
| Hawaii | Rental Housing Trust Fund | Real Estate Conveyance Tax |
| Idaho | Housing Trust Fund | -- |
| Illinois | Affordable Housing Trust Fund | Real Estate Transfer Tax |
| Indiana | Low Income Housing Trust Fund | Interest from Loan base |
| Kansas | Housing Trust Fund | Bond and fee revenues |
| Kentucky | Affordable Housing Trust Fund | General Fund; unclaimed lottery funds; KHC funds; Dept of Mental Health funds |
| Maine | Housing Opportunities for Maine | Real Estate Transfer Tax |
| Maryland | Affordable Housing Trust | Interest on title escrow accounts |
| Massachusetts | Affordable Housing Trust Fund | State Income tax |
| Minnesota | Housing Trust Fund | Interest on broker scrow accounts; revenue bond application fees; state general fund |
| Missouri | Housing Trust Fund | Document Recording Fees |
| Montana | Revolving Loan Account for Housing | Unspent TANF reserves, Section 8 reserves |
| Nebraska | Affordable Housing Trust Fund | Documentary Stamp Tax; Securities Act Cash Fund |
| Nebraska | Homeless Assistance Trust Fund | Documentary Stamp Tax |
| Nevada | Account for Low Income Housing Trust Fund | Real Estate Transfer Tax |
| Nevada | Assistance for Low-Income Owners of Mobile Homes | Fees from Mobile Home park Owners |
| New Hampshire | Affordable Housing Trust | Bond fees |
| New Jersey | Balanced Housing Program | Real Estate Transfer Tax |
| North Carolina | Housing Trust Fund | State general Fund |
| Ohio | Housing Trust Fund | State General Fund; interest from budget stabilization fund |
| Oklahoma | Housing Trust Fund | State general fund |
| Oregon | Housing Development Grant Program | Interest on Corpus, state general fund |
| Oregon | Low Income Rental Housing Fund | Interest from Tenant Security Deposits, Eviction court fees |
| Rhode Island | Housing and Conservation Trust | -- |
| South Carolina | Housing Trust Fund | Real Estate Transfer Tax |
| Texas | Housing Trust Fund | Loan repayments |
| Utah | Olene Walker Housing Trust Fund | State general fund |
| Vermont | Housing and Conservation Trust | Property transfer tax, state budget surplus |
| Washington | Housing Trust Fund | Interest on Real Estate Escrow Accounts; Penalties on late real estate excise taxes; origination fees; GO bond proceeds |
| West Virginia | Affordable Housing Trust Fund | Grant |
| Wisconsin | Interest Bearing Real Estate Trust Account | Interest on real estate escrow accounts |

Snapshots of Selected State Housing Trust Funds

State: Missouri
Name: Housing Trust Fund
Administrator: Housing Development Commission
Revenue source: \$3 fee on real estate related document recording
Revenue: \$5,500,000 (FY 2004)
Restrictions: 30% nonprofit set-aside
Funds: acquisition and/or rehabilitation or new construction of rental housing (and related services) for very low income families, rental assistance, emergency housing aid and home repair, special projects

State: Illinois
Name: Affordable Housing Trust Fund
Administrator: Housing Development Authority
Revenue source: 50% of real estate transfer tax
Revenue: \$20 – 22 million annually
Restrictions: approximately 65% to metropolitan Chicago counties
Funds: Acquisition and rehabilitation of existing housing, new construction, adaptive re-use of nonresidential buildings, special needs housing, technical assistance to nonprofit organizations, special projects

State: Ohio
Name: Housing Trust Fund
Administrator: Housing Finance Agency
Revenue source: general fund, interest from budget stabilization fund
Revenue: FY 03 awards: \$20,987,170
Restrictions: 45% nonprofit set-aside (FY 03 actual: 95%)
Preference to projects benefiting 35% AMI or below (actual FY 03 40%)
75% set-aside for projects benefiting 50% or below
Funds: acquiring, financing, constructing, leasing, rehabilitating, remodeling, improving or equipping publicly or privately-owned housing
Supportive services related to housing and homelessness
Technical assistance, design and finance services and consultation and predevelopment and administrative costs related to the above
Matching money for federal funds
Special projects

As these snapshots indicate, there is great diversity in the funding levels and priorities for state housing trust funds. Some states have highly prioritized housing trust funds: Georgia's, for example, specifically funds projects benefiting the homeless, including service providers. Nevada has a separate housing trust fund, supported by fees levied on manufactured home owners and community owners, that assists low-income manufactured home owners with cash subsidies towards monthly lot rent payments.

Potential Revenue Sources

Interest on real estate sale escrow deposits

- ⇒ Smaller potential funding source, would likely need to be combined with other dedicated sources
- ⇒ Does not use public funds – no need to increase a fee or tax or redirect existing funds from other sources
- ⇒ No existing collection structure, but not excessively complicated to implement
- ⇒ Similar to Interest on Lawyer's Trust Accounts (IOLTA) program used to fund legal services

State escheat funds

- ⇒ Either a percentage of or interest on abandoned property/escheat funds
- ⇒ Currently, all escheat funds are deposited in the state's General Fund and claims paid out of the General Fund
- ⇒ Large potential "pot" of funding
- ⇒ Existing source of funding, existing collection structure
- ⇒ Less logical relationship to housing, but these funds are particularly high in Delaware as abandoned stock is, in many cases, eventually returned to the state of incorporation. A possible selling point is the dedication of some of these funds to housing as a return on Delaware's generosity to business.

Realty transfer tax

- ⇒ Redistribution of the state's portion of this tax; majority currently into General Fund
- ⇒ Excellent logical relationship to the purposes of the housing trust fund; a revenue source used to much success in several other states
- ⇒ Large potential "pot" of funding
- ⇒ Existing source of funding, existing collection structure

Fees or taxes on new development

- ⇒ Could take the form of inclusionary zoning in-lieu fees – a certain percentage of any new development must be affordable to a set income level, and if the developer does not include affordable units, they must pay fees in lieu of producing affordable units (Montgomery County in Maryland is a good example of inclusionary zoning's success)
- ⇒ If part of broader inclusionary zoning policy, would require bigger campaign

Tax on hotel/motel rooms

- ⇒ Dedication of revenues from this existing tax (8% of the fee for the room plus \$25 annual licensing fee for each room, \$30 for each suite, and \$15 for each room in a tourist home)
- ⇒ Smaller potential source; would likely need to combine with other dedicated sources
- ⇒ Currently, 1/8 goes to DNREC, 1/8 to county level convention and visitors' bureaus, 1/8 to Delaware Tourism Office, and 5/8 into General Fund. In 2003, approximately \$5.64 million went to the General Fund.

Proceeds from settlements for housing code violations

- ⇒ Could possibly include proceeds from other settlements, such as DNREC violations
- ⇒ Smaller potential source; would likely need to combine with other dedicated sources
- ⇒ Logical relationship to housing

Interest from rainy day fund

- ⇒ Smaller potential source; would likely need to combine with other dedicated sources

Eviction court fees

- ⇒ Smaller potential source; would likely need to combine with other dedicated sources

Less promising options:

- Tenant security deposits
 - Difficult to set up collection and enforcement structure
 - Unclear whether interest on these deposits belongs to tenants; currently nothing is done with this interest, but if it was to be used and “claimed” as belonging to anyone, it would likely be tenants.
 - This funding source has experienced opposition from banks in some states.
- Mortgage escrow accounts
 - Many out-of-state lenders, unclear whether DE could impose requirements for payment of interest on these lenders. Also, some banks do pay this interest to the borrower.
- Surcharge on state income tax
 - Likely regressive
 - Difficult battle of directly increasing income taxes
- Check-off on state income tax
 - Likely a small funding source
 - Unpredictable
 - Possibly easier to win
- Surcharge on building permits
- Penalties for failure to pay realty transfer tax
 - Likely a small funding source
- Tax on construction materials
 - Possibly regressive
 - Difficult battle of adding a new tax

Detail: Escheat/Unclaimed Property

Collection/Administrative Agency:

Department of Finance, Division of Revenue, Bureau of Unclaimed Property

Required to report:

Financial Institutions, life insurance companies, corporations, and financial intermediaries

Must report:

Any debt or obligation which has gone unclaimed or undelivered or security that has remained undelivered for five (5) or more years after the date the owners should have received it or was entitled to claim it.

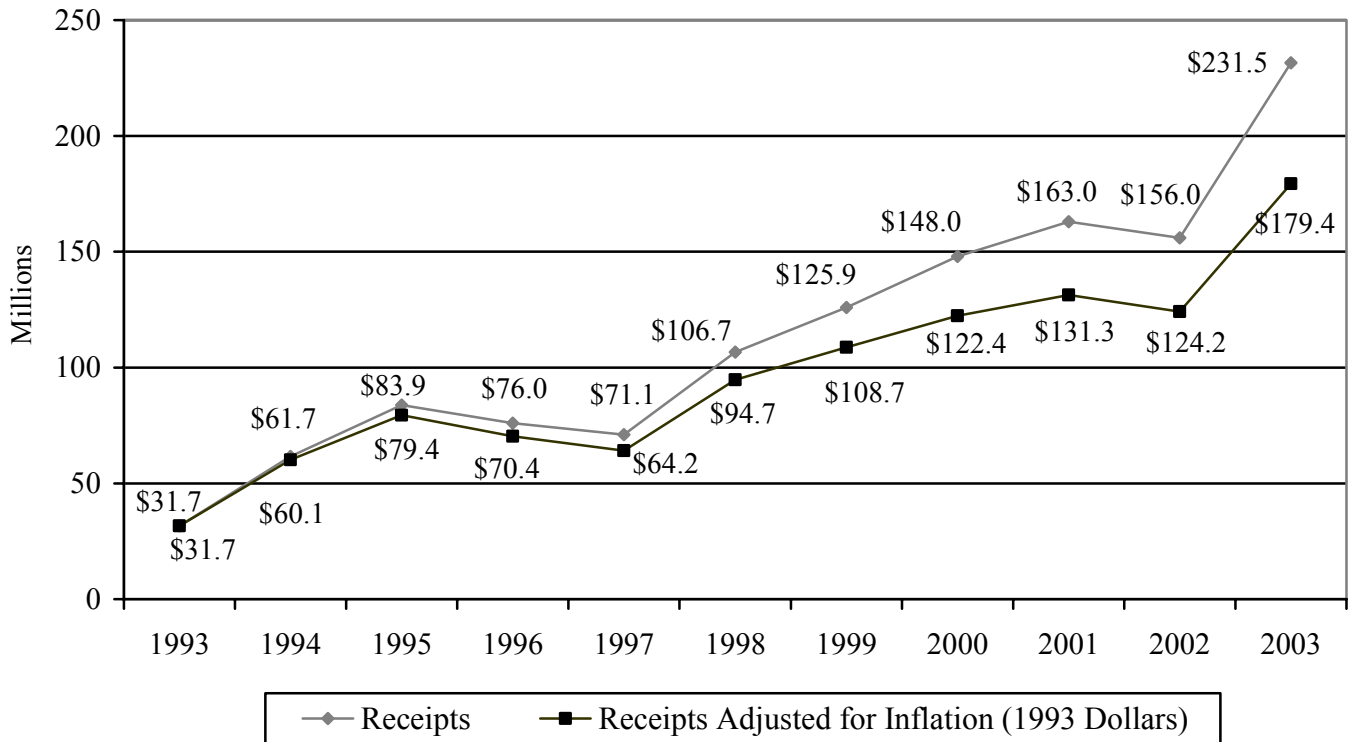
Report to:

Unclaimed property will be reported to the state of the lost owners last known address. If the owner's address is unknown or is in a foreign country, the unclaimed property is reported to the state of incorporation of the holder of the unclaimed property.

Existing dedications:

\$10 million annually to the Transportation Trust Fund

Unclaimed Property/Escheat Revenue Receipts 1993-2003



Source: Delaware Fiscal Notebook 2003

The following table illustrates revenue into the HDF had 5%, 7.5% or 10% of Delaware's escheat funds been dedicated to the HDF (based on actual receipts, not adjusted for inflation).

Potential Revenue from Percentage of Escheat Funds, 1993-2003
(millions)

| | 5% | 7.5% | 10% |
|------|-----------|-------------|------------|
| 1993 | 1.59 | 2.38 | 3.17 |
| 1994 | 3.01 | 4.51 | 6.01 |
| 1995 | 3.97 | 5.96 | 7.94 |
| 1996 | 3.52 | 5.28 | 7.04 |
| 1997 | 3.21 | 4.82 | 6.42 |
| 1998 | 4.74 | 7.10 | 9.47 |
| 1999 | 5.44 | 8.15 | 10.87 |
| 2000 | 6.12 | 9.18 | 12.24 |
| 2001 | 6.56 | 9.85 | 13.13 |
| 2002 | 6.21 | 9.31 | 12.42 |
| 2003 | 8.97 | 13.46 | 17.94 |

Detail: Realty Transfer Tax

Collection/Administrative Agency

Department of Finance, Division of Revenue appoints affixing agents for the sale of realty transfer tax stamps. The Recorders of Deeds in New Castle, Kent and Sussex Counties are generally designated as affixing agents, responsible for the collection of the tax upon the recording of a deed. The Division of Revenue also collects a tax on the value of improvements exceeding \$10,000 when the underlying property has been held by the same owner for less than one year.

Liability and Rate

The tax is imposed on real estate transactions at the time of the execution, delivery or presentation for recording any documents transferring the property. The state imposes a tax at the rate of 2.0% of the fair market value of the property divided equally between the grantor and grantee. Local governments are permitted to levy a 1.5% tax. If the local levy exceeds 1.0%, the state rate decreases to 1.5%. In most cases, the state and local taxes are both levied at a rate of 1.5% for a combined rate of 3.0%. A 1.0% tax is levied on the value of improvements exceeding \$10,000 when the underlying property has been held by the same owner for less than one year.

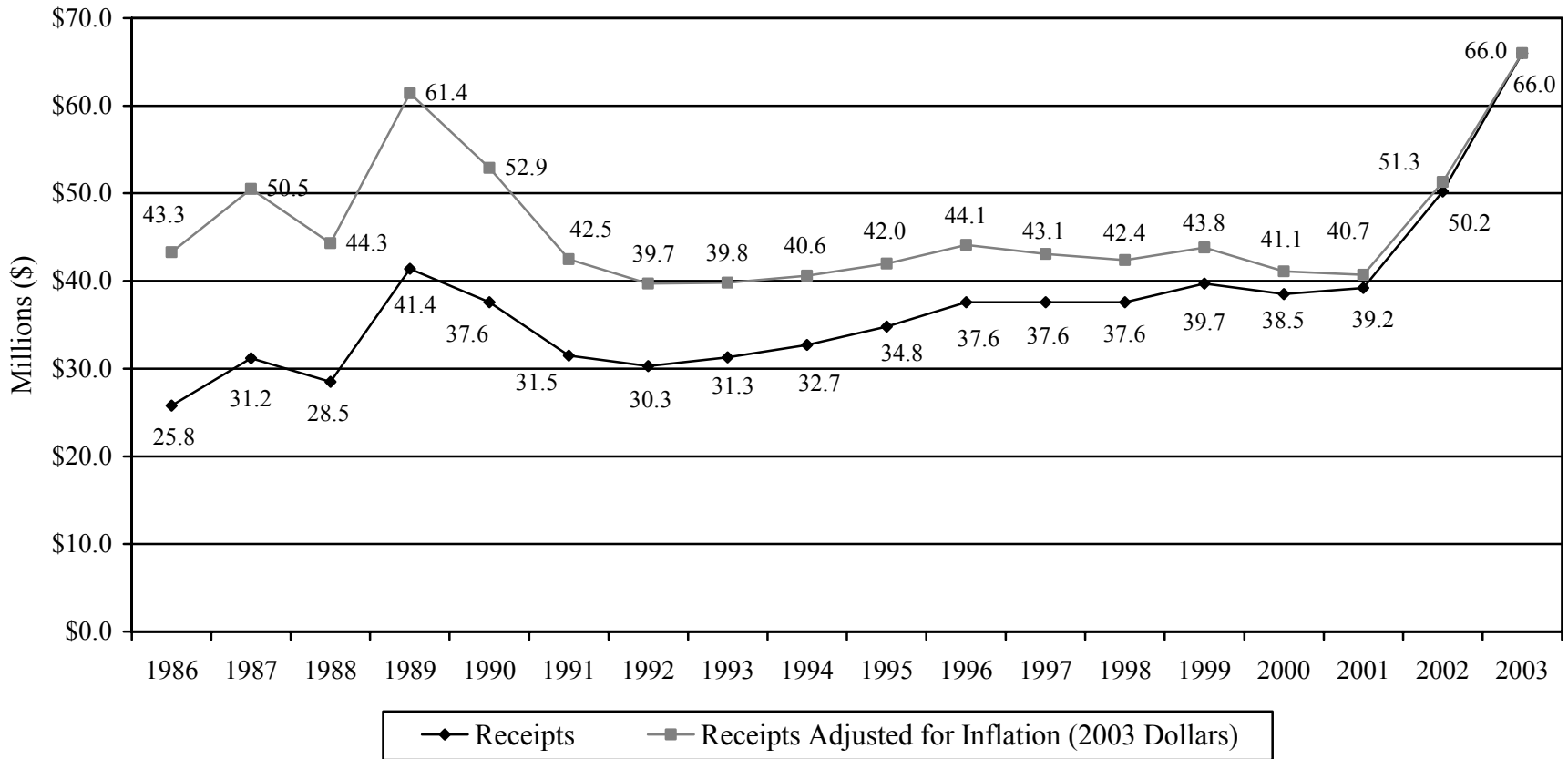
Existing dedications

\$1 million to the Endowment Account of the Land and Water Conservation Trust Fund accounts and \$9 million into the Project account of the Land and Water Conservation Trust Fund accounts (changed in 2001 from \$7 million and \$3 million respectively).

Potential Revenue from Percentage of Realty Transfer Tax Funds, 1986-2003
(millions, based on actual receipts, not adjusted for inflation)

| | 5% | 7.5% | 10% | 25% |
|------|-----------|-------------|------------|------------|
| 1986 | 1.29 | 1.93 | 2.58 | 6.45 |
| 1987 | 1.56 | 2.34 | 3.12 | 7.80 |
| 1988 | 1.43 | 2.14 | 2.85 | 7.13 |
| 1989 | 2.07 | 3.10 | 4.14 | 10.35 |
| 1990 | 1.88 | 2.82 | 3.76 | 9.40 |
| 1991 | 1.57 | 2.36 | 3.15 | 7.87 |
| 1992 | 1.52 | 2.27 | 3.03 | 7.58 |
| 1993 | 1.57 | 2.35 | 3.13 | 7.83 |
| 1994 | 1.64 | 2.45 | 3.27 | 8.18 |
| 1995 | 1.74 | 2.61 | 3.48 | 8.70 |
| 1996 | 1.88 | 2.82 | 3.76 | 9.40 |
| 1997 | 1.88 | 2.82 | 3.76 | 9.40 |
| 1998 | 1.88 | 2.82 | 3.76 | 9.40 |
| 1999 | 1.99 | 2.98 | 3.97 | 9.93 |
| 2000 | 1.93 | 2.88 | 3.85 | 9.63 |
| 2001 | 1.96 | 2.94 | 3.92 | 9.80 |
| 2002 | 2.51 | 3.77 | 5.02 | 12.56 |
| 2003 | 3.30 | 4.95 | 6.60 | 16.50 |

Realty Transfer Tax Receipts 1986-2003



Source: Delaware Fiscal Notebook 2003