

SENATE, No. 2080

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED JUNE 22, 2006

Sponsored by:

Senator BERNARD F. KENNY, JR.

District 33 (Hudson)

SYNOPSIS

Permits a local realty transfer fee.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing a local realty transfer fee, amending P.L.1968,
2 c.49 and supplementing Title 40 of the Revised Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 2 of P.L.1968, c.49 (C.46:15-6) is amended to read as
8 follows:

9 2. In addition to other prerequisites for recording, no deed
10 evidencing transfer of title to real property shall be recorded in the
11 office of any county recording officer unless it satisfies the
12 following requirements:

13 a. If the transfer is subject to any fee established under section
14 3 of P.L.1968, c.49 (C.46:15-7) **[or]**, section 2 of P.L.2003, c.113
15 (C.46:15-7.1), section 8 of P.L.2004, c.66 (C.46:15-7.1), or section
16 2 of P.L. , c. (C.) (pending before the Legislature as this
17 bill), a statement of the true consideration for the transfer shall be
18 contained in the deed, the acknowledgment, the proof of the
19 execution, or an appended affidavit by one of the parties to the deed
20 or that party's legal representative.

21 b. If the transfer is exempt from any fee established under
22 section 3 of P.L.1968, c.49 (C.46:15-7) **[or]**, section 2 of P.L.2003,
23 c.113 (C.46:15-7.1), section 8 of P.L.2004, c.66 (C.46:15-7.1), or
24 section 2 of P.L. , c. (C.) (pending before the
25 Legislature as this bill), an affidavit stating the basis for the
26 exemption shall be appended to the deed.

27 c. If the transfer is of real property upon which there is new
28 construction, the words "NEW CONSTRUCTION" in upper case
29 lettering shall be printed clearly at the top of the first page of the
30 deed, and an affidavit by the grantor stating that the transfer is of
31 property upon which there is new construction shall be appended to
32 the deed.

33 (cf: P.L. 2004, c.66, s.2)

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35 2. (New section) a. A municipality, by ordinance, may impose
36 a local realty transfer fee on the conveyance or transfer of real
37 property within the municipality, to be paid to the county recording
38 officer by the grantor at the time the deed is offered for recording,
39 in the amount of \$0.50 per \$500 of consideration or fractional part
40 thereof recited in the deed. The local realty transfer fee authorized
41 by this section shall be in addition to the realty transfer fees
42 imposed by P.L.1968, c.49 (C.46:15-1 et seq.), section 2 of
43 P.L.2003, c.113 (C.46:15-7.1), and section 8 of P.L.2004, c.66
44 (C.46:15-7.2). A municipality that adopts an ordinance pursuant to
45 this section shall forward to the county recording officer a certified

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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1 copy of the ordinance. An ordinance so adopted shall provide that
2 the imposition of the local realty transfer fee shall apply to
3 conveyances and transfers of real property occurring on or after the
4 first day of the third month next following the date of the
5 transmittal to the county recording officer.

6 b. The proceeds of the local realty transfer fee collected by the
7 county recording officer pursuant to this section shall be accounted
8 for and remitted to the county treasurer. The county treasurer shall
9 pay to the chief financial officer of the municipality, for the use of
10 the municipality, the amount of local realty transfer fee revenue
11 collected by the county recording officer on the tenth day of each
12 month following the month of collection.

13 c. The local realty transfer fee imposed by subsection a. of this
14 section is not applicable to a conveyance or transfer that is:

15 (1) made by a deed described in section 6 of P.L.1968, c.49
16 (C.46:15-10);

17 (2) the sale of any one- or two-family residential premises which
18 are owned and occupied by a senior citizen, blind person or
19 disabled person who is the seller in such transaction; provided,
20 however, that except in the instance of a husband and wife no
21 exemption shall be allowed if the property being sold is jointly
22 owned and one or more of the owners is not a senior citizen, blind
23 person or disabled person;

24 (3) the sale of low and moderate income housing; or

25 (4) concerning property owned by an organization determined
26 by the federal Internal Revenue Service to be exempt from federal
27 income taxation pursuant to paragraph (3) of subsection (c) of
28 section 501 of the federal Internal Revenue Code of 1986 (26
29 U.S.C. s.501).

30 d. A fee imposed by subsection a. of this section is subject to the
31 provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et
32 seq.

33 e. Every deed subject to the fee imposed by subsection a. of this
34 section, which is in fact recorded, is conclusively deemed to have
35 been entitled to recording, notwithstanding that the amount of the
36 consideration was incorrectly stated, or that the correct amount of
37 the fee was not paid, and no such defect shall in any way affect or
38 impair the validity of the title conveyed or render the same
39 unmarketable; but the person or persons required to pay that
40 supplemental fee at the time of recording shall be and remain liable
41 to the county recording officer for the payment of the proper
42 amount thereof.

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44 3. This act shall take effect immediately.

STATEMENT

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This bill permits a municipality, by ordinance, to impose a local realty transfer fee on the conveyance or transfer of real property within the municipality, to be paid to the county recording officer by the grantor at the time the deed is offered for recording, in the amount of \$0.50 per \$500 of consideration or fractional part thereof recited in the deed. The local realty transfer fee would be in addition to the realty transfer fees currently imposed by law.

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Under the provisions of the bill, a municipality that adopts an ordinance imposing a local realty transfer fee must forward to the county recording officer a certified copy of the ordinance. The ordinance must provide that the imposition of the local realty transfer fee shall apply to conveyances and transfers of real property occurring on or after the first day of the third month next following the date of the transmittal to the county recording officer.

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Under the bill, the proceeds of the local realty transfer fee collected by the county recording officer must be accounted for and remitted to the county treasurer. The county treasurer is required to pay to the chief financial officer of the municipality, for the use of the municipality, the amount of local realty transfer fee revenue collected by the county recording officer on the tenth day of each month following the month of collection.

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Under the provisions of the bill, the local realty transfer fee cannot be imposed on a conveyance or transfer that is:

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(1) made by a deed described in section 6 of P.L.1968, c.49 (C.46:15-10);

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(2) the sale of any one- or two-family residential premises which are owned and occupied by a senior citizen, blind person or disabled person who is the seller in such transaction; provided, however, that except in the instance of a husband and wife no exemption shall be allowed if the property being sold is jointly owned and one or more of the owners is not a senior citizen, blind person or disabled person;

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(3) the sale of low and moderate income housing; or

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(4) concerning property owned by an organization determined by the federal Internal Revenue Service to be exempt from federal income taxation pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.501).

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