

[Second Reprint]

ASSEMBLY, No. 2748

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED MAY 13, 2010

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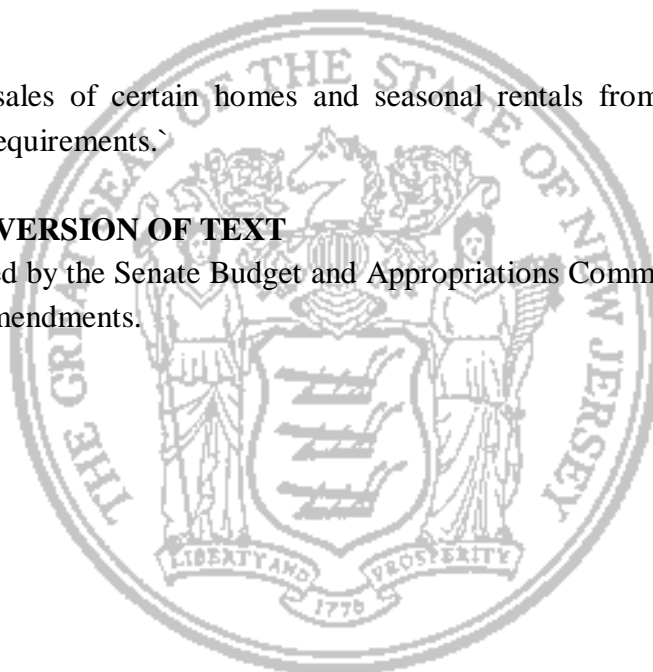
**Assemblymen Milam, Albano, Rible, Assemblywoman Greenstein,
Senators Van Drew, T.Kean, Oroho, Whelan, Turner, Assemblymen
Polistina, Rumana and Coutinho**

SYNOPSIS

Exempts sales of certain homes and seasonal rentals from the bulk sale notification requirements.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 6, 2011, with amendments.



(Sponsorship Updated As Of: 6/24/2011)

1 AN ACT exempting sales of certain ¹homes and¹ seasonal rentals
2 ¹**[and other dwelling units]**¹ from the bulk sale notification
3 requirements, amending P.L.2007, c.100.
4

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

7
8 1. Section 5 of P.L.2007, c.100 (C.54:50-38) is amended to
9 read as follows:

10 5. a. (1) Whenever a person shall make a sale, transfer, or
11 assignment in bulk of any part or the whole of the person's business
12 assets except as provided by paragraph (2) of this subsection,
13 otherwise than in the ordinary course of business, the purchaser,
14 transferee or assignee shall, at least 10 days before taking
15 possession of the subject of the sale, transfer or assignment, or
16 paying therefor, notify the director by registered mail, or other such
17 method as the director may prescribe, of the proposed sale and of
18 the price, terms and conditions thereof whether or not the seller,
19 transferor or assignor has represented to, or informed the
20 purchaser, transferee or assignee that the seller, transferor or
21 assignor owes any State tax and whether or not the purchaser,
22 transferee, or assignee has knowledge that such taxes are owing,
23 and whether any such taxes are in fact owing. Within 10 days of
24 receiving such notice, the director shall notify the purchaser,
25 transferee or assignee by such means as the director may prescribe
26 that a possible claim for State taxes exists and include the amount
27 of the State's claim.

28 (2) (a) Paragraph (1) of this section shall not apply to the sale,
29 transfer or assignment of a simple dwelling house ¹if the seller,
30 transferor or assignor is an "individual," "estate," or "trust" as
31 those terms are used for the purposes of the "New Jersey Gross
32 Income Tax Act," N.J.S.54A:1-1 et seq. ²[,or if the seller,
33 transferor or assignor is a limited liability company]²; paragraph
34 (1) shall apply to the sale, transfer or assignment of a simple
35 dwelling house if the seller, transferor or assignor is a business
36 entity, including but not limited to a corporation or a partnership¹ .
37 "Simple dwelling house" means a dwelling unit, attached or
38 detached, and land appurtenant thereto, including but not limited to
39 a one-family or ¹two-family¹ building or structure, a unit of a
40 horizontal property regime established pursuant to the "Horizontal
41 Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.), a unit in a
42 housing cooperative as defined under "The Cooperative Recording
43 Act of New Jersey," P.L.1987, c.381 (C.46:8D-1 et seq.), or a unit

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted January 20, 2011.

²Senate SBA committee amendments adopted June 6, 2011.

1 of a condominium property established pursuant to the
 2 "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.), but does
 3 not include a structure or structures containing more than ¹["one
 4 unit] two units¹ of dwelling space or containing, according to the
 5 records of the municipal property tax assessor, commercial
 6 property including, or in addition to, ¹["a unit] the units¹ of
 7 dwelling space.

8 (b) Paragraph (1) of this ¹["section] subsection¹ shall not apply
 9 to the sale, transfer or assignment of a seasonal rental unit or the
 10 sale, transfer or assignment of a lease for the seasonal use or rental
 11 of real property ¹if the seller, transferrer or assignor is an
 12 "individual," "estate," or "trust" as those terms are used for the
 13 purposes of the "New Jersey Gross Income Tax Act," N.J.S.54A:1-
 14 1 et seq. ²[" or if the seller transferrer or assignor is a limited
 15 liability company]²; paragraph (1) shall apply to the sale, transfer
 16 or assignment of a seasonal rental unit or the sale, transfer or
 17 assignment of a lease for the seasonal use or rental of real property
 18 if the seller, transferrer or assignor is a business entity, including
 19 but not limited to a corporation or a partnership¹ .

20 For the purposes of this paragraph ²[".] ²
 21 "seasonal rental unit" means
 22 ²(i) ² a ¹["time share] timeshare¹ estate" as that term is defined
 23 by section 2 of P.L.2006, c.63 (C.45:15-16.51) ^{2,2} and
 24 ²["means] (ii) ² a dwelling unit rented for a term of not more than
 25 125 consecutive days for residential purposes by a person having a
 26 permanent residence elsewhere ^{2,2} and
 27 "lease for the seasonal use or rental of real property" means
 28 ²(i) ² a ¹["time share] timeshare¹ use" as that term is defined by
 29 section 2 of P.L.2006, c.63 (C.45:15-16.51) ^{2,2} and
 30 ²["means] (ii) ² the use or rental for a term of not more than 125
 31 consecutive days for residential purposes by a person having a
 32 permanent place of residence elsewhere.

33 b. If, upon receiving timely notice of a sale, transfer or
 34 assignment from a purchaser, transferee or assignee, the director
 35 fails to provide timely notice to the purchaser, transferee or
 36 assignee that a possible claim for such State tax or taxes exists, the
 37 purchaser, transferee or assignee may transfer over to the seller,
 38 transferrer or assignor any sums of money, property or choses in
 39 action, or other consideration to the extent of the amount of the
 40 State's claim. The purchaser, transferee or assignee shall not be
 41 subject to the liabilities and remedies imposed under the provisions
 42 of the uniform commercial code, Title 12A of the Revised Statutes
 43 of New Jersey, and shall not be personally liable for the payment to
 44 the State of any such taxes theretofore or thereafter determined to
 45 be due to the State from the seller, transferrer or assignor.

1 c. If the purchaser, transferee or assignee shall fail to give
2 notice to the director as required by the preceding paragraph, or if
3 the director shall inform the purchaser, transferee or assignee that a
4 possible claim for such State tax or taxes exists, any sums of
5 money, property or choses in action, or other consideration, which
6 the purchaser, transferee or assignee is required to transfer over to
7 the seller, transferrer or assignor shall be subject to a first priority
8 right and lien for any such State taxes theretofore or thereafter
9 determined to be due from the seller, transferrer or assignor to the
10 State, and the purchaser, transferee or assignee is forbidden to
11 transfer to the seller, transferrer or assignor any such sums of
12 money, property or choses in action to the extent of the amount of
13 the State's claim. For failure to comply with the provisions of this
14 section the purchaser, transferee or assignee, in addition to being
15 subject to the liabilities and remedies imposed under the provisions
16 of the uniform commercial code, Title 12A of the Revised Statutes
17 of New Jersey, shall be personally liable for the payment to the
18 State of any such taxes theretofore or thereafter determined to be
19 due to the State from the seller, transferrer or assignor, and such
20 liability may be assessed and enforced in the same manner as the
21 liability for any State tax under the State Uniform Tax Procedure
22 Law, R.S.54:48-1 et seq.
23 (cf: P.L.2007, c.100, s.5)

24
25 2. This act shall take effect immediately, and shall apply
26 retroactively to sales, transfers and assignments on or after August
27 1, 2007.