

SENATE, No. 1941

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MAY 20, 2010

Sponsored by:

Senator JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

Co-Sponsored by:

Senator Whelan

SYNOPSIS

Exempts sales of certain seasonal rentals and other dwelling units from the bulk sale notification requirements.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/29/2010)

1 AN ACT exempting sales of certain seasonal rentals and other
2 dwelling units from the bulk sale notification requirements,
3 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 transferrer or assignor has represented to, or informed the
20 purchaser, transferee or assignee that the seller, transferrer 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. "Simple
30 dwelling house" means a dwelling unit, attached or detached, and
31 land appurtenant thereto, including but not limited to a one-family
32 building or structure, a unit of a horizontal property regime
33 established pursuant to the "Horizontal Property Act," P.L.1963,
34 c.168 (C.46:8A-1 et seq.), a unit in a housing cooperative as defined
35 under "The Cooperative Recording Act of New Jersey," P.L.1987,
36 c.381 (C.46:8D-1 et seq.), or a unit of a condominium property
37 established pursuant to the "Condominium Act," P.L.1969, c.257
38 (C.46:8B-1 et seq.), but does not include a structure or structures
39 containing more than one unit of dwelling space or containing,
40 according to the records of the municipal property tax assessor,
41 commercial property including, or in addition to, a unit of dwelling
42 space.

43 (b) Paragraph (1) of this section shall not apply to the sale,
44 transfer or assignment of a seasonal rental unit or the sale, transfer
45 or assignment of a lease for the seasonal use or rental of real

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.

1 property. For the purposes of this paragraph, “seasonal rental unit”
2 means a “time share estate” as that term is defined by section 2 of
3 P.L.2006, c.63 (C.45:15-16.51) and means a dwelling unit rented
4 for a term of not more than 125 consecutive days for residential
5 purposes by a person having a permanent residence elsewhere and
6 “lease for the seasonal use or rental of real property” means a “time
7 share use” as that term is defined by section 2 of P.L.2006, c.63
8 (C.45:15-16.51) and means the use or rental for a term of not more
9 than 125 consecutive days for residential purposes by a person
10 having a permanent place of residence elsewhere.

11 b. If, upon receiving timely notice of a sale, transfer or
12 assignment from a purchaser, transferee or assignee, the director
13 fails to provide timely notice to the purchaser, transferee or
14 assignee that a possible claim for such State tax or taxes exists, the
15 purchaser, transferee or assignee may transfer over to the seller,
16 transferrer or assignor any sums of money, property or choses in
17 action, or other consideration to the extent of the amount of the
18 State's claim. The purchaser, transferee or assignee shall not be
19 subject to the liabilities and remedies imposed under the provisions
20 of the uniform commercial code, Title 12A of the Revised Statutes
21 of New Jersey, and shall not be personally liable for the payment to
22 the State of any such taxes theretofore or thereafter determined to
23 be due to the State from the seller, transferrer or assignor.

24 c. If the purchaser, transferee or assignee shall fail to give
25 notice to the director as required by the preceding paragraph, or if
26 the director shall inform the purchaser, transferee or assignee that a
27 possible claim for such State tax or taxes exists, any sums of
28 money, property or choses in action, or other consideration, which
29 the purchaser, transferee or assignee is required to transfer over to
30 the seller, transferrer or assignor shall be subject to a first priority
31 right and lien for any such State taxes theretofore or thereafter
32 determined to be due from the seller, transferrer or assignor to the
33 State, and the purchaser, transferee or assignee is forbidden to
34 transfer to the seller, transferrer or assignor any such sums of
35 money, property or choses in action to the extent of the amount of
36 the State's claim. For failure to comply with the provisions of this
37 section the purchaser, transferee or assignee, in addition to being
38 subject to the liabilities and remedies imposed under the provisions
39 of the uniform commercial code, Title 12A of the Revised Statutes
40 of New Jersey, shall be personally liable for the payment to the
41 State of any such taxes theretofore or thereafter determined to be
42 due to the State from the seller, transferrer or assignor, and such
43 liability may be assessed and enforced in the same manner as the
44 liability for any State tax under the State Uniform Tax Procedure
45 Law, R.S.54:48-1 et seq.
46 (cf: P.L.2007, c.100, s.5)

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1 residence elsewhere. To clarify that those terms are intended to
2 apply to timeshares, the bill explicitly makes time shares exempt
3 from the bulk sale notification requirements.

4 The bill is retroactive to August 1, 2007, the date on which the
5 bulk sale notification requirements first took effect.