

ASSEMBLY, No. 3045

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 16, 2016

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Eliminates general purpose, supplemental and mansion realty transfer fees.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/13/2016)

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2

1 AN ACT eliminating the general purpose, supplemental and mansion
2 realty transfer fees, amending P.L.1968, c.49 and repealing
3 various sections of the statutory law.

4

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

7

8 1. Section 1 of P.L.1968, c.49 (C.46:15-5) is amended to read as
9 follows:

10 1. As used in this act:

11 (a) "Deed" means a written instrument entitled to be recorded in
12 the office of a county recording officer which purports to convey or
13 transfer title to a freehold interest in any lands, tenements or other
14 realty in this State by way of grant or bargain and sale thereof from
15 the named grantor to the named grantee. A leasehold interest for 99
16 years or more or a proprietary lease of a cooperative unit and any
17 assignment of a proprietary lease of a cooperative unit, shall be
18 treated as a "freehold" for the purpose of this act. Instruments
19 providing for common driveways, for exchanges of easements or
20 rights-of-way, for revocable licenses to use, to adjust or to clear
21 defects of or clouds on title, to provide for utility service lines such
22 as drainage, sewerage, water, electric, telephone or other such
23 service lines, or to quitclaim possible outstanding interests, shall
24 not be "deeds" for the purposes of this act.

25 (b) The terms "county recording officer" and "office of the
26 county recording officer" mean the register of deeds and mortgages
27 in counties having such an officer and office, and the county clerk
28 and his office in the other counties.

29 (c) "Consideration" means in the case of any deed, the actual
30 amount of money and the monetary value of any other thing of
31 value constituting the entire compensation paid or to be paid for the
32 transfer of title to the lands, tenements or other realty, including the
33 remaining amount of any prior mortgage to which the transfer is
34 subject or which is to be assumed and agreed to be paid by the
35 grantee and any other lien or encumbrance thereon not paid,
36 satisfied or removed in connection with the transfer of title. The
37 amount of liens for real property taxes, water or sewerage charges
38 for the current or any subsequent year, or by way of added
39 assessment or other adjustment, as well as of other like liens or
40 encumbrances of a current and continuing nature ordinarily adjusted
41 between the parties according to the period of ownership shall be
42 excluded as an element in determining the consideration,
43 notwithstanding that such amount is to be paid by the grantee.

44 In the case of a leasehold interest for 99 years or more as defined
45 in subsection (a) of this section, the consideration shall be in the

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 amount of the assessed value of the property at the date of the
2 transaction for the purpose of levying local real property taxes
3 adjusted to reflect the true value in accordance with the county
4 percentage level established for the current year.

5 In the case of a proprietary lease of a cooperative unit or
6 assignment thereof as defined in subsection (a) of this section, the
7 consideration is the total price paid for the ownership interest held
8 in conjunction with a cooperative unit, including the pro rata
9 amount of any underlying mortgage or other obligation of the
10 cooperative.

11 (d) "Blind person" means a person whose vision in his better eye
12 with proper correction does not exceed 20/200 as measured by the
13 Snellen chart or a person who has a field defect in his better eye
14 with proper correction in which the peripheral field has contracted
15 to such an extent that the widest diameter of visual field subtends an
16 angular distance no greater than 20°.

17 (e) "Disabled person" means any resident of this State who is
18 permanently and totally disabled, unable to engage in gainful
19 employment, and receiving disability benefits or any other
20 compensation under any federal or State law.

21 (f) "Senior citizen" means any resident of this State of the age
22 of 62 years or over.

23 (g) "New construction" means any conveyance or transfer of
24 property upon which there is an entirely new improvement not
25 previously occupied or used for any purpose.

26 (h) "Low and moderate income housing" means any residential
27 premises, or part thereof, affordable according to federal
28 Department of Housing and Urban Development or other
29 recognized standards for home ownership and rental costs and
30 occupied or reserved for occupancy by households with a gross
31 income equal to 80% or less of the median gross household income
32 for households of the same size within the housing region in which
33 the housing is located, but shall include only those residential
34 premises subject to resale controls pursuant to contractual
35 guarantees.

36 (i) "Basic fee" means the fee established by paragraph (1) of
37 subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7), which fee
38 shall consist of a State portion and a county portion as prescribed
39 under that paragraph.

40 (j) "Additional fee" means the fee established by paragraph (2)
41 of subsection a. of section 3 of P.L.1968, c.49.

42 (k) **["General purpose fee" means the fee established by**
43 **paragraph (3) of subsection a. of section 3 of P.L.1968,**
44 **c.49.] Deleted by amendment, P.L. , c.) (pending before the**
45 **Legislature as this bill**

46 (l) **["Supplemental fee" means the fee established by subsection**
47 **a. of section 2 of P.L.2003, c.113 (C.46:15-7.1).] Deleted by**

1 amendment, P.L. , c.) (pending before the Legislature as this
2 bill)

3 (cf: P.L.2004, c.66, s.1)

4

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

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

11 a. If the transfer is subject to any fee established under section
12 3 of P.L.1968, c.49 (C.46:15-7) **【**or section 2 of
13 P.L.2003, c.113 (C.46:15-7.1)**】**, a statement of the true
14 consideration for the transfer shall be contained in the deed, the
15 acknowledgment, the proof of the execution, or an appended
16 affidavit by one of the parties to the deed or that party's legal
17 representative.

18 b. If the transfer is exempt from any fee established under
19 section 3 of P.L.1968, c.49 (C.46:15-7) **【**or section 2 of P.L.2003,
20 c.113 (C.46:15-7.1)**】**, an affidavit stating the basis for the
21 exemption shall be appended to the deed.

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

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

29

30 3. Section 3 of P.L.1968, c.49 (C.46:15-7) is amended to read as
31 follows:

32 3. a. In addition to the recording fees imposed by section 2 of
33 P.L.1965, c.123 (C.22A:4-4.1), a grantor shall pay to the county
34 recording officer at the time the deed is offered for recording the
35 following fees:

36 (1) A basic fee, which basic fee shall consist of (a) a State
37 portion at the rate of \$1.25 for each \$500.00 of consideration or
38 fractional part thereof recited in the deed, and (b) a county portion
39 at the rate of \$0.50 for each \$500.00 of consideration or fractional
40 part thereof so recited; provided however, that on and after the tenth
41 day following a certification by the Director of the Division of
42 Budget and Accounting in the Department of the Treasury pursuant
43 to subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2) or
44 subparagraph (ii) of subparagraph (b) of paragraph (2) of
45 subsection b. of section 1 of P.L.1992, c.148 (C.13:19-16.1) as
46 amended, the State portion of the basic fee shall not be imposed;
47 and

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1 (2) An additional fee at the rate of \$0.75 for each \$500.00 of
2 consideration or fractional part thereof recited in the deed in excess
3 of \$150,000.00; provided however, that on and after the tenth day
4 following a certification by the Director of the Division of Budget
5 and Accounting in the Department of the Treasury pursuant to
6 subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2) or
7 subparagraph (ii) of subparagraph (b) of paragraph (2) of
8 subsection b. of section 1 of P.L.1992, c.148 (C.13:19-16.1) as
9 amended, the additional fee shall not be imposed; and

10 (3) A general purpose fee at the rate of:

11 (a) \$0.90 for each \$500.00 of consideration or fractional part
12 thereof recited in the deed that is not in excess of \$550,000.00,
13 except that in the case of a conveyance or transfer of property for
14 which the total consideration recited in the deed does not exceed
15 \$350,000.00, no general purpose fee shall be imposed;

16 (b) \$1.40 for each \$500.00 of consideration or fractional part
17 thereof in excess of \$550,000.00 but not in excess of \$850,000.00
18 recited in the deed;

19 (c) \$1.90 for each \$500.00 of consideration or fractional part
20 thereof in excess of \$850,000.00 but not in excess of \$1,000,000.00
21 recited in the deed; and

22 (d) \$2.15 for each \$500.00 of consideration or fractional part
23 thereof in excess of \$1,000,000.00 recited in the deed.

24 b. A deed subject to any of the fees established by this section,
25 which is in fact recorded, shall be deemed to have been entitled to
26 recording, notwithstanding that the amount of the consideration
27 shall have been incorrectly stated or that the correct amount of such
28 fee shall not have been paid. No such defect shall in any way affect
29 or impair the validity of the title conveyed or render the same
30 unmarketable; but the person or persons required to pay said
31 additional fee at the time of recording shall be and remain liable to
32 the county recording officer for the payment of the proper amount
33 thereof.

34 (cf: P.L.2008, c.31, s.2)

35

36 4. Section 4 of P.L.1968, c.49 (C.46:15-8) is amended to read as
37 follows:

38 4. a. The proceeds of the fees collected by the county recording
39 officer, as authorized by P.L.1968, c.49 (C.46:15-5 et seq.), shall be
40 accounted for and remitted to the county treasurer.

41 b. (1) The county portion of the basic fee collected pursuant to
42 paragraph (1) of subsection a. of section 3 of P.L.1968, c.49 (C.46:15-
43 7) shall be retained by the county treasurer for the use of the county.

44 (2) The State portion of the basic fee, and the additional fee,
45 and the general purpose fee shall be paid to the State Treasurer for
46 the use of the State. Payments shall be made to the State Treasurer on
47 the tenth day of each month following the month of collection.

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1 c. (1) Amounts, not in excess of \$25,000,000, paid during the
2 State fiscal year to the State Treasurer from the payment of the State
3 portion of the basic fee shall be credited to the "Shore Protection
4 Fund" created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1),
5 in the manner established under that section.

6 (2) In addition to the amounts credited to the "Shore Protection
7 Fund" pursuant to paragraph (1) of this subsection, amounts equal to
8 \$12,000,000 in each of the first 10 years after the date of enactment of
9 the "Highlands Water Protection and Planning Act,"
10 P.L.2004, c.120 (C.13:20-1 et al.) and to \$5,000,000 in each year
11 thereafter, paid during the State fiscal year to the State Treasurer from
12 the payment of [fees collected by the county recording officer other
13 than the additional fee of \$0.75 for each \$500.00 of consideration or
14 fractional part thereof recited in the deed in excess of \$150,000.00]
15 the State portion of the basic fee shall be credited to the "Highlands
16 Protection Fund" created pursuant to section 21 of P.L.2004, c.120
17 (C.13:20-19), in the manner established under that section. No monies
18 shall be credited to the "Highlands Protection Fund" pursuant to this
19 paragraph until and unless the full amount of \$25,000,000 has first
20 been credited to the "Shore Protection Fund" pursuant to paragraph (1)
21 of this subsection.

22 d. All amounts paid to the State Treasurer from the payment of
23 the additional fee shall be credited to the Neighborhood Preservation
24 Nonlapsing Revolving Fund established pursuant to
25 P.L.1985, c.222 (C.52:27D-301 et al.), in the manner established under
26 section 20 thereof (C.52:27D-320).
27 (cf: P.L.2004, c.120, s.61)

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29 5. The following sections are repealed:
30 Section 2 of P.L.2003, c.113 (C.46:15-7.1);
31 Section 8 of P.L.2004, c.66 (C.46:15-7.2);
32 Section 2 of P.L.2005, c.19 (C.46:15-7.3); and
33 Section 2 of P.L.2006, c.33 (C.46.15-7.4).
34

35 6. This act shall take effect immediately.
36
37

38 STATEMENT
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40 This bill eliminates the three most recently enacted realty
41 transfer fees: the supplemental fee created in 2003 and the general
42 purpose fee and "mansion" fee created in 2004. The supplemental
43 fee is collected from sellers and consists of a graduated fee, applied
44 to non-exempt property sales generally. The general purpose fee is
45 collected from sellers and consists of a graduated fee, applied to
46 non-exempt real property exceeding \$350,000. The "mansion" fee
47 consists of 1 percent of the purchase price and collected from property
48 buyers of residential and commercial property exceeding \$1,000,000.

1 The three fees substantially increase the cost of buying and selling
2 real property for New Jerseyans. As an example, the total transfer fee
3 costs of selling a \$750,000 home is now \$6,775. This amount is
4 almost double the \$3,525 in transfer fees collectable on an identical
5 transaction during the first half of 2003. These additional realty
6 transfer fees are actually taxes, as they add to the cost of a transaction
7 to increase State revenue, rather than cover a cost of a transaction or
8 service. As such, the realty transfer fees in New Jersey are an abuse of
9 legitimate fee processes. In contrast, the Realty Transfer Tax Act of
10 the Commonwealth of Pennsylvania is properly called a tax, as it is a
11 state tax on the transaction of transferring realty.

12 The elimination of the fees helps reduce costs to New Jerseyans and
13 makes the New Jersey fee process more legitimate.