

**ASSEMBLY, No. 1778**

---

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

---

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblywoman NANCY F. MUNOZ**

**District 21 (Morris, Somerset and Union)**

**SYNOPSIS**

Allocates nondedicated portion of State realty transfer fee collections to municipal property tax relief.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT requiring that municipalities receive the nondedicated  
2 General Fund portion of the State's realty transfer fee collections  
3 for property tax relief and amending P.L.1968, c.49, P.L.2004,  
4 c.66, and P.L.1992, c.148.

5

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

8

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

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

15 (1) A basic fee, which basic fee shall consist of (a) a State  
16 portion at the rate of \$1.25 for each \$500.00 of consideration or  
17 fractional part thereof recited in the deed, and (b) a county portion  
18 at the rate of \$0.50 for each \$500.00 of consideration or fractional  
19 part thereof so recited; provided however, that on and after the tenth  
20 day following a certification by the Director of the Division of  
21 Budget and Accounting in the Department of the Treasury pursuant  
22 to subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2) **[or**  
23 **subsubparagraph (ii) of subparagraph (b) of paragraph (2) of**  
24 **subsection b. of section 1 of P.L.1992, c.148 (C.13:19-16.1) as**  
25 **amended]**, the State portion of the basic fee shall not be imposed;

26 (2) An additional fee at the rate of \$0.75 for each \$500.00 of  
27 consideration or fractional part thereof recited in the deed in excess  
28 of \$150,000.00; provided however, that on and after the tenth day  
29 following a certification by the Director of the Division of Budget  
30 and Accounting in the Department of the Treasury pursuant to  
31 subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2) **[or**  
32 **subsubparagraph (ii) of subparagraph (b) of paragraph (2) of**  
33 **subsection b. of section 1 of P.L.1992, c.148 (C.13:19-16.1) as**  
34 **amended]**, the additional fee shall not be imposed; and

35 (3) A general purpose fee at the **[rate of]** following rates;  
36 provided however, that on and after the tenth day following a  
37 certification by the Director of the Division of Budget and  
38 Accounting in the Department of the Treasury pursuant to  
39 subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2), the  
40 general purpose fee shall not be imposed:

41 (a) \$0.90 for each \$500.00 of consideration or fractional part  
42 thereof recited in the deed that is not in excess of \$550,000.00,  
43 except that in the case of a conveyance or transfer of property for

**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 which the total consideration recited in the deed does not exceed  
2 \$350,000.00, no general purpose fee shall be imposed;

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

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

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

11 b. A deed subject to any of the fees established by this section,  
12 which is in fact recorded, shall be deemed to have been entitled to  
13 recording, notwithstanding that the amount of the consideration  
14 shall have been incorrectly stated or that the correct amount of such  
15 fee shall not have been paid. No such defect shall in any way affect  
16 or impair the validity of the title conveyed or render the same  
17 unmarketable; but the person or persons required to pay said  
18 additional fee at the time of recording shall be and remain liable to  
19 the county recording officer for the payment of the proper amount  
20 thereof.

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

22

23 2. Section 8 of P.L.2004, c.66 (C.46:15-7.2) is amended to read  
24 as follows:

25 8. a. In addition to all other fees imposed under P.L.1968,  
26 c.49 (C.46:15-5 et seq.), there is imposed a fee upon the grantee of  
27 a deed for the transfer of real property:

28 (1) that is classified pursuant to the requirements of  
29 N.J.A.C.18:12-2.2 as Class 2 "residential";

30 (2) (a) that includes property classified pursuant to the  
31 requirements of N.J.A.C.18:12-2.2 as Class 3A: "farm property  
32 (regular)" but only if the property includes a building or structure  
33 intended or suited for residential use, and

34 (b) any other real property, regardless of class, that is effectively  
35 transferred to the same grantee in conjunction with the property  
36 described in subparagraph (a) of this paragraph;

37 (3) that is a cooperative unit as defined in section 3 of P.L.1987,  
38 c.381 (C.46:8D-3); or

39 (4) that is classified pursuant to the requirements of  
40 N.J.A.C.18:12-2.2 as Class 4A "commercial properties"

41 that is transferred for consideration in excess of \$1,000,000 recited  
42 in the deed, which fee shall be an amount equal to 1 percent of the  
43 entire amount of such consideration, which fee shall be collected by  
44 the county recording officer at the time the deed is offered for  
45 recording and remitted to the State Treasurer not later than the 10th  
46 day of the month following the month of collection for deposit into  
47 the General Fund; provided however, that on and after the tenth day  
48 following a certification by the Director of the Division of Budget

1 and Accounting in the Department of the Treasury pursuant to  
2 subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2), the fee  
3 established by this section shall not be imposed.

4 b. (1) The fee imposed by subsection a. of this section shall  
5 not apply to a deed if the grantee of the deed for the transfer of real  
6 property is an organization determined by the federal Internal  
7 Revenue Service to be exempt from federal income taxation  
8 pursuant to paragraph (3) of subsection (c) of section 501 of the  
9 federal Internal Revenue Code of 1986, 26 U.S.C. s.501.

10 (2) The fee imposed by subsection a. of this section shall not  
11 apply to a deed if the transfer of real property is incidental to a  
12 corporate merger or acquisition and the equalized assessed value of  
13 the real property transferred is less than 20% of the total value of all  
14 assets exchanged in the merger or acquisition. A grantee shall  
15 claim this exemption from imposition of the fee at the time the deed  
16 is offered for recording by filing with the county recording officer  
17 such information, in addition to the affidavit of consideration filed  
18 by one or more of the grantee parties named in the deed or by the  
19 grantee's legal representative pursuant to subsection d. of this  
20 section, as the Director of the Division of Taxation in the  
21 Department of the Treasury may prescribe as to constitute a filing  
22 of a protest of the assessment of the fee and by paying any other  
23 recording fees not exempted pursuant to this paragraph. This  
24 additional information shall be forwarded by the county recording  
25 officer to the director along with the grantee's affidavit of  
26 consideration, and shall be deemed to be and have the effect of a  
27 protest of a finding by the director of a deficiency of payment of the  
28 fee filed on the date on which the deed is recorded.

29 c. The fee imposed by subsection a. of this section shall be  
30 subject to the provisions of the State Uniform Tax Procedure Law,  
31 R.S.54:48-1 et seq.; provided however, that notwithstanding the  
32 provisions of subsection a. of R.S.54:49-14, a taxpayer may file a  
33 claim under oath for refund at any time within 90 days after the  
34 payment of any original fee and that subsection b. of R.S.54:49-14  
35 shall not apply to any additional fee assessed.

36 d. (1) If a transfer includes property classified pursuant to the  
37 requirements of N.J.A.C.18:12-2.2 as Class 4 property of any type,  
38 an affidavit of consideration shall be filed by one or more of the  
39 grantor parties named in the deed or by the grantor's legal  
40 representative declaring the consideration and shall be annexed to  
41 and recorded with the deed as a prerequisite for the recording of the  
42 deed. The filing of an affidavit of consideration pursuant to this  
43 paragraph shall be in addition to the filing, if any, pursuant to  
44 paragraph (2) of this subsection.

45 (2) Whether or not the transfer is exempt, pursuant to subsection  
46 b. of this section or any other provision of law, from payment of the  
47 fee pursuant to subsection a. of this section, if a transfer includes  
48 property otherwise subject to subsection a. of this section, then an

1 affidavit of consideration shall be filed by one or more of the  
2 grantee parties named in the deed or by the grantee's legal  
3 representative declaring the consideration and shall be annexed to  
4 and recorded with the deed as a prerequisite for the recording of the  
5 deed. The filing of an affidavit of consideration pursuant to this  
6 paragraph shall be in addition to the filing, if any, pursuant to  
7 paragraph (1) of this subsection.

8 (3) An affidavit of consideration filed pursuant to paragraph (1)  
9 or paragraph (2) of this subsection shall clearly and entirely state  
10 the consideration, the county and municipality in which the  
11 property is situate, and the block and lot description of the real  
12 property conveyed.

13 (4) One copy of each affidavit of consideration filed and  
14 recorded with deeds pursuant to this subsection shall be forwarded  
15 by the county recording officer to the Director of the Division of  
16 Taxation in the Department of the Treasury on the tenth day of the  
17 month following the month of the filing of the deed.  
18 (cf: P.L.2006, c.33, s.1)

19

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

22 4. a. The proceeds of the fees collected by the county  
23 recording officer, as authorized by P.L.1968, c.49 (C.46:15-5 et  
24 seq.) and by section 8 of P.L.2004, c.66 (C.46:15-7.2), shall be  
25 accounted for and remitted to the county treasurer.

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

30 (2) The State portion of the basic fee, the additional fee, **[and]**  
31 the general purpose fee, and the fee imposed pursuant to section 8  
32 of P.L.2004, c.66 (C.46:15-7.2) shall be paid to the State Treasurer  
33 for the **[use of the State]** uses enumerated in subsections c. and d.  
34 of this section. Payments shall be made to the State Treasurer on  
35 the tenth day of each month following the month of collection. The  
36 payment shall be accompanied by a tabulation, compiled by the  
37 county recording officer, listing the county's municipalities in  
38 which a property transfer has occurred and the revenue the State  
39 receives from all the property transfers in each of the county's  
40 municipalities, with the fee revenue separately categorized into  
41 basic fee, additional fee, general purpose fee, and the fee imposed  
42 pursuant to section 8 of P.L.2004, c.66 (C.46:15-7.2).

43 (3) The county recording officer may charge the grantor of each  
44 deed offered for recording a surcharge of up to \$0.50 to offset the  
45 additional expenditures incurred by the county recording officer for  
46 the implementation of the tabulation requirement established  
47 pursuant to paragraph (2) of this subsection.

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  
3 State portion of the basic fee shall be credited to the "Shore  
4 Protection Fund" created pursuant to section 1 of P.L.1992, c.148  
5 (C.13:19-16.1), 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  
8 to \$12,000,000 in each of the first 10 years after the date of  
9 enactment of 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  
12 from the payment of fees collected by the county recording officer  
13 other than the additional fee of \$0.75 for each \$500.00 of  
14 consideration or fractional part thereof recited in the deed in excess  
15 of \$150,000.00 shall be credited to the "Highlands Protection Fund"  
16 created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), in  
17 the manner established under that section. No monies shall be  
18 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  
21 (1) of this subsection.

22 (3) (a) All amounts paid during the State fiscal year to the State  
23 Treasurer from the payment of the State portion of the basic fee that  
24 are not reserved by paragraph (1) and paragraph (2) of this  
25 subsection, the general purpose fee, and the fee imposed pursuant to  
26 section 8 of P.L.2004, c.66 (C.46:15-7.2), shall be determined and  
27 certified separately for each municipality by the Director of the  
28 Division of Taxation in the Department of the Treasury to the State  
29 Treasurer on December 31 of each year, as prescribed by the State  
30 Treasurer. A municipality may anticipate in its immediately  
31 succeeding budget the disbursement of the amount certified by the  
32 Director of the Division of Taxation. Subsequent to the  
33 certification of the Director of the Division of Taxation, the  
34 appropriation in the annual appropriations act for each State fiscal  
35 year of the sums thus certified, and the warrant of the Director of  
36 the Division of Budget and Accounting; the State Treasurer shall  
37 pay and distribute on July 1 of each year to each municipality the  
38 amount determined and certified by the Director of the Division of  
39 Taxation on the immediately preceding December 31.

40 (b) The Director of the Division of Taxation in the Department  
41 of the Treasury shall apportion to a municipality and deduct from  
42 that municipality's amount credited pursuant to this section the  
43 share of that municipality's revenue used to fulfill the requirements  
44 of paragraph (1) and paragraph (2) of this subsection in the  
45 following manner: commencing with the proceeds of the first  
46 month of the fiscal year, the State Treasurer shall retain all monthly  
47 remittances from the county treasurers pursuant to this section until  
48 the requirements of paragraph (1) and paragraph (2) of this

1 subsection are met. If, in any given month, the remittances from  
2 the county treasurers exceed the amount the State Treasurer is  
3 required to collect for the purposes of paragraph (1) and paragraph  
4 (2) of this subsection, the State Treasurer shall deduct from each  
5 municipality's total amount for that month as reported by the county  
6 treasurer pursuant to paragraph (2) of subsection b. of this section,  
7 the amount that corresponds to the percentage that the amount the  
8 State Treasurer is required to collect for the purposes of paragraph  
9 (1) and paragraph (2) of this subsection constitutes of that month's  
10 total statewide remittances from all county treasurers.

11 (c) Notwithstanding the provisions of subparagraph (a) of this  
12 paragraph to the contrary, in the first fiscal year following  
13 enactment of this act, the State Treasurer shall retain 80 percent of  
14 the amounts credited to each municipality pursuant to this  
15 paragraph for deposit into the State General Fund. In the second  
16 fiscal year following enactment of this act, the State Treasurer shall  
17 retain 60 percent of the amounts credited to each municipality  
18 pursuant to this paragraph for deposit into the State General Fund.  
19 In the third fiscal year following enactment of this act, the State  
20 Treasurer shall retain 40 percent of the amounts credited to each  
21 municipality pursuant to this paragraph for deposit into the State  
22 General Fund. In the fourth fiscal year following enactment of this  
23 act, the State Treasurer shall retain 20 percent of the amounts  
24 credited to each municipality pursuant to this paragraph for deposit  
25 into the State General Fund. In the fifth and each subsequent fiscal  
26 year following enactment of this act, all of the amounts credited to a  
27 municipality pursuant to this paragraph shall be paid and distributed  
28 to the municipality pursuant to subparagraph (a) and subparagraph  
29 (b) of this paragraph.

30 (d) Amounts paid to municipalities pursuant to this paragraph  
31 shall be used solely and exclusively by each municipality for the  
32 purposes of reducing the amount the municipality is required to  
33 raise by local property tax levy for municipal purposes. In the  
34 event that the amount paid pursuant to this paragraph exceeds the  
35 amount required to be raised by local property tax levy for  
36 municipal purposes, the balance of the State aid shall be used to  
37 reduce the amount the municipality is required to raise by local  
38 property tax levy for county purposes, notwithstanding the  
39 provisions of any law to the contrary. The Director of the Division  
40 of Local Government Services in the Department of Community  
41 Affairs shall certify that each municipality has complied with this  
42 subparagraph. If the Director of the Division of Local Government  
43 Services in the Department of Community Affairs finds that  
44 amounts paid pursuant to this paragraph are not used by a  
45 municipality solely and exclusively to reduce the amount required  
46 to be raised by local property tax levy, the Director of the Division  
47 of Local Government Services in the Department of Community

1 Affairs shall direct that the municipal governing body make  
2 corrections to its budget.

3 d. All amounts paid to the State Treasurer from the payment of  
4 the additional fee shall be credited to the **【Neighborhood**  
5 **Preservation Nonlapsing Revolving】** New Jersey Affordable  
6 Housing Trust Fund established pursuant to P.L.1985, c.222  
7 (C.52:27D-301 et al.), in the manner established under section 20  
8 thereof (C.52:27D-320).

9 (cf: P.L.2004, c.120, s.61)

10

11 4. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to  
12 read as follows:

13 2. a. The annual appropriations act for each State fiscal year  
14 shall, without other conditions, limitations or restrictions on the  
15 following:

16 (1) credit amounts paid to the State Treasurer, if any, in  
17 payment of fees collected pursuant to **【paragraph (1) of paragraph**  
18 **(2) of】** subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7) and  
19 section 8 of P.L.2004, c.66 (C.46:15-7.2) to the "Shore Protection  
20 Fund" created pursuant to section 1 of P.L.1992, c.148  
21 (C.13:19-16.1), the **【Neighborhood Preservation Nonlapsing**  
22 **Revolving】** New Jersey Affordable Housing Trust Fund established  
23 pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320), **【and】**  
24 the "Highlands Protection Fund" created pursuant to section 21 of  
25 P.L.2004, c.120 (C.13:20-19), pursuant to the requirements of  
26 section 4 of P.L.1968, c.49 (C.46:15-8), and the municipalities as  
27 determined and certified by the Director of the Division of Taxation  
28 in the Department of the Treasury on December 31 immediately  
29 preceding the annual appropriations act pursuant to paragraph (3) of  
30 subsection c. of section 4 of P.L.1968, c.49 (C.46:15-8);

31 (2) appropriate the balance of the "Shore Protection Fund"  
32 created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), for  
33 the purposes of that fund;

34 (3) appropriate the balance of the **【Neighborhood Preservation**  
35 **Nonlapsing Revolving】** New Jersey Affordable Housing Trust Fund  
36 established pursuant to section 20 of P.L.1985, c.222  
37 (C.52:27D-320), for the purposes of that fund; **【and】**

38 (4) appropriate the balance of the "Highlands Protection Fund"  
39 created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), for  
40 the purposes of that fund; and

41 (5) appropriate to each municipality the amount of revenue  
42 determined and certified in the municipality's name by the Director  
43 of the Division of Taxation on December 31 immediately preceding  
44 the annual appropriations act pursuant to paragraph (3) of  
45 subsection c. of section 4 of P.L.1968, c.49 (C.46:15-8).

46 b. If the requirements of subsection a. of this section are not  
47 met on the effective date of an annual appropriations act for the



1 State fiscal year, or if an amendment or supplement to an annual  
2 appropriations act for the State fiscal year should violate any of the  
3 requirements of subsection a. of this section, the Director of the  
4 Division of Budget and Accounting in the Department of the  
5 Treasury shall, not later than five days after the enactment of the  
6 annual appropriations act, or an amendment or supplement thereto,  
7 that violates any of the requirements of subsection a. of this section,  
8 certify to the Director of the Division of Taxation that the  
9 requirements of subsection a. of this section have not been met.  
10 (cf: P.L.2004, c.120, s.62)

11

12 5. This act shall take effect on the first day of the State fiscal  
13 year commencing after the date of enactment and shall apply to all  
14 payments of the State portion of the basic fee, the additional fee, the  
15 general purpose fee, and the fee imposed pursuant to section 8 of  
16 P.L.2004, c.66 (C.46:15-7.2) on or after that day.

17

18

19

STATEMENT

20

21 This bill provides municipal property tax relief by requiring the  
22 State to allocate to municipalities that share of the State portion of  
23 realty transfer fee proceeds that is derived from the fee's "general  
24 purpose fee", its fee on buyers of residential and commercial  
25 property sold at a price of \$1,000,000 or above, and the State share  
26 of the "basic fee" that is not statutorily earmarked to other purposes.  
27 The fee's county share and its dedications to the New Jersey  
28 Affordable Housing Trust Fund, the Extraordinary Aid Account, the  
29 Shore Protection Fund, and the Highlands Protection Fund thus  
30 remain intact.

31 If, in any fiscal year, the State's annual appropriation act fails to  
32 appropriate to municipalities the entire balance of the State portion  
33 of nondedicated realty transfer fee proceeds, the county recording  
34 officers will only collect the county portion of the fee, a provision  
35 intended to prohibit the State from appropriating the revenue for  
36 other purposes.

37 Municipalities must use the realty transfer fee revenue they  
38 receive from the State exclusively to reduce their property tax  
39 levies, with the Director of the Division of Local Government  
40 Services in the Department of Community Affairs being required to  
41 mandate budget changes to municipal governing bodies that are  
42 noncompliant with that condition. Each municipality receives a  
43 payment that corresponds to the amount of the State portion of  
44 realty transfer fee payments on real estate transactions that have  
45 occurred in that municipality less the share that those transactions  
46 contribute to the aforementioned dedications.

47 The bill provides for a five-year phase-in period over which the  
48 State keeps a progressively decreasing share of the nondedicated

**A1778 N.MUNOZ**

1 State portion of fee proceeds: 80 percent in the first year following  
2 the bill's enactment, 60 percent in the second year, 40 percent in the  
3 third year, 20 percent in the fourth year, and zero percent in the fifth  
4 year. This transitional period smooths out the legislation's impact  
5 on the State General Fund, which would have lost almost \$190  
6 million in fiscal year 2012, if the bill's provisions had been in effect  
7 absent the phase-in period.

8 To compensate counties for the cost associated with the  
9 additional workload this bill may cause, it enables them to levy a  
10 \$0.50 surcharge on the recording of each deed.