

[First Reprint]

SENATE, No. 2839

STATE OF NEW JERSEY
217th LEGISLATURE

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Sponsored by:

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Assemblywoman MARLENE CARIDE

District 36 (Bergen and Passaic)

SYNOPSIS

Clarifying ownership requirements for certain homes and seasonal rentals exempt from bulk sale notification requirements, amending P.L.2007, c.100.

CURRENT VERSION OF TEXT

As reported by the Senate Community and Urban Affairs Committee on June 19, 2017, with amendments.



(Sponsorship Updated As Of: 1/9/2018)

1 AN ACT clarifying the ownership requirements for certain homes
2 and seasonal rentals exempt 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 read as
9 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 possession
15 of the subject of the sale, transfer or assignment, or paying therefor,
16 notify the director by registered mail, or other such method as the
17 director may prescribe, of the proposed sale and of the price, terms and
18 conditions thereof whether or not the seller, transferrer or assignor has
19 represented to, or informed the purchaser, transferee or assignee that
20 the seller, transferrer or assignor owes any State tax and whether or not
21 the purchaser, transferee, or assignee has knowledge that such taxes
22 are owing, and whether any such taxes are in fact owing. Within 10
23 days of receiving such notice, the director shall notify the purchaser,
24 transferee or assignee by such means as the director may prescribe that
25 a possible claim for State taxes exists and include the amount of the
26 State's claim.

27 (2) (a) Paragraph (1) of this subsection shall not apply to the sale,
28 transfer or assignment of a simple dwelling house if the seller,
29 transferrer or assignor is an "individual," "estate," or "trust" as those
30 terms are used for the purposes of the "New Jersey Gross Income Tax
31 Act," N.J.S.54A:1-1 et seq. or any combination thereof owning the
32 simple dwelling house as joint tenants, tenants in common or tenancy
33 by the entirety; paragraph (1) shall apply to the sale, transfer or
34 assignment of a simple dwelling house if the seller, transferrer or
35 assignor is a business entity, including but not limited to a corporation
36 or a partnership. "Simple dwelling house" means a dwelling unit,
37 attached or detached, and land appurtenant thereto, including but not
38 limited to a one-family or two-family building or structure, a unit of a
39 horizontal property regime established pursuant to the "Horizontal
40 Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.), a unit in a housing
41 cooperative as defined under "The Cooperative Recording Act of New
42 Jersey," P.L.1987, c.381 (C.46:8D-1 et seq.), or a unit of a
43 condominium property established pursuant to the "Condominium
44 Act," P.L.1969, c.257 (C.46:8B-1 et seq.), but does not include a
45 structure or structures containing more than two units of dwelling

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 SCU committee amendments adopted June 19, 2017.

1 space or containing, according to the records of the municipal property
2 tax assessor, commercial property including, or in addition to, the units
3 of dwelling space.

4 (b) Paragraph (1) of this subsection shall not apply to the sale,
5 transfer or assignment of a seasonal rental unit or the sale, transfer or
6 assignment of a lease for the seasonal use or rental of real property if
7 the seller, transferrer or assignor is an "individual," "estate," or "trust"
8 as those terms are used for the purposes of the "New Jersey Gross
9 Income Tax Act," N.J.S.54A:1-1 et seq. or any combination thereof
10 owning the season rental unit or lease for the seasonal use or rental of
11 real property as joint tenants, tenants in common or tenancy by the
12 entirety; paragraph (1) shall apply to the sale, transfer or assignment of
13 a seasonal rental unit or the sale, transfer or assignment of a lease for
14 the seasonal use or rental of real property if the seller, transferrer or
15 assignor is a business entity, including but not limited to a corporation
16 or a partnership.

17 For the purposes of this paragraph:

18 "seasonal rental unit" means

19 (i) a "timeshare estate" as that term is defined by section 2 of
20 P.L.2006, c.63 (C.45:15-16.51); and

21 (ii) a dwelling unit rented for a term of not more than 125
22 consecutive days for residential purposes by a person having a
23 permanent residence elsewhere; and

24 "lease for the seasonal use or rental of real property" means

25 (i) a "timeshare use" as that term is defined by section 2 of
26 P.L.2006, c.63 (C.45:15-16.51); and

27 (ii) the use or rental for a term of not more than 125 consecutive
28 days for residential purposes by a person having a permanent place of
29 residence elsewhere.

30 ¹(3) Paragraph (1) of this subsection shall not apply to the sale,
31 transfer, or assignment of a grant, tax credit, or tax credit transfer
32 certificate that has been awarded, issued, or otherwise made available
33 to a person in connection with a State or local business assistance or
34 incentive program or activity authorized by law in effect on the
35 effective date of P.L. , c. (C.) (pending before the Legislature
36 as this bill).

37 For purposes of this paragraph, "State or local business assistance
38 or incentive program or activity" includes but shall not be limited to:
39 the corporation business tax credit and insurance premiums tax credit
40 certificate transfer program established by section 17 of P.L.2004, c.65
41 (C.34:1B-120.2); the Business Retention and Relocation Assistance
42 Program established by P.L.1996, c.25 (C.34:1B-112 et seq.); the
43 Business Employment Incentive Program established by P.L.1996,
44 c.26 (C.34:1B-124 et al.); the Urban Transit Hub Tax Credit Program
45 established by P.L.2007, c.346 (C.34:1B-207 et seq.); the Grow New
46 Jersey Assistance Program established by section 3 of P.L.2011, c.149
47 (C.34:1B-244); and the State or local Economic Redevelopment and

1 Growth Grant program established by section 4 or section 5 of
2 P.L.2009, c.90 (C.52:27D-489d or C.52:27D-489e).¹

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

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

37 (cf: P.L.2017, c.12, s.3)

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39 2. This act shall take effect immediately, and shall apply
40 retroactively to sales, transfers, and assignments on or after August
41 1, 2007.