

ASSEMBLY, No. 421

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman GREGORY P. MCGUCKIN

District 10 (Ocean)

Assemblyman JOHN CATALANO

District 10 (Ocean)

SYNOPSIS

Terminates imposition of general purpose fee under realty transfer fee and one percent assessment on purchases of residential real property selling for more than \$1,000,000.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/3/2020)

1 AN ACT terminating the general purpose fee under the realty
2 transfer fee and the one percent assessment on purchases of
3 residential real property selling for more than \$1,000,000,
4 amending P.L.1968, c.49 and P.L.2004, c.66.

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

8
9 1. The title of P.L.2004, c.66 is amended to read as follows:

10 AN ACT **imposing a "general purpose fee" on certain realty**
11 **transfers and a fee upon grantees under certain deeds conveying**
12 **residential property and** clarifying the law with respect to realty
13 transfer fees generally, amending **and supplementing**
14 P.L.1968, c.49, **and amending** P.L.1975, c.176 and P.L.1992,
15 c.148.

16 (cf: P.L.2004, c.66, title)

17
18 2. Section 1 of P.L.1968, c.49 (C.46:15-5) is amended to read
19 as follows:

20 1. As used in this act:

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

35 (b) The terms "county recording officer" and "office of the
36 county recording officer" mean the register of deeds and mortgages
37 in counties having such an officer and office, and the county clerk
38 and his office in the other counties.

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

8 In the case of a leasehold interest for 99 years or more as defined
9 in subsection (a) of this section, the consideration shall be in the
10 amount of the assessed value of the property at the date of the
11 transaction for the purpose of levying local real property taxes
12 adjusted to reflect the true value in accordance with the county
13 percentage level established for the current year.

14 In the case of a proprietary lease of a cooperative unit or
15 assignment thereof as defined in subsection (a) of this section, the
16 consideration is the total price paid for the ownership interest held
17 in conjunction with a cooperative unit, including the pro rata
18 amount of any underlying mortgage or other obligation of the
19 cooperative.

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

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

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

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

35 (h) "Low and moderate income housing" means any residential
36 premises, or part thereof, affordable according to federal
37 Department of Housing and Urban Development or other
38 recognized standards for home ownership and rental costs and
39 occupied or reserved for occupancy by households with a gross
40 income equal to 80% or less of the median gross household income
41 for households of the same size within the housing region in which
42 the housing is located, but shall include only those residential
43 premises subject to resale controls pursuant to contractual
44 guarantees.

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

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

3 (k) **["General purpose fee" means the fee established by**
4 **paragraph (3) of subsection a. of section 3 of P.L.1968, c.49.】**
5 **(Deleted by amendment, P.L. , c.) (pending before the**
6 **Legislature as this bill)**

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

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

10

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

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

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

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

38 (3) **【A general purpose fee at the rate of:**

39 (a) \$0.90 for each \$500.00 of consideration or fractional part
40 thereof recited in the deed that is not in excess of \$550,000.00,
41 except that in the case of a conveyance or transfer of property for
42 which the total consideration recited in the deed does not exceed
43 \$350,000.00, no general purpose fee shall be imposed;

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

47 (c) \$1.90 for each \$500.00 of consideration or fractional part

1 thereof in excess of \$850,000.00 but not in excess of \$1,000,000.00
2 recited in the deed; and

3 (d) \$2.15 for each \$500.00 of consideration or fractional part
4 thereof in excess of \$1,000,000.00 recited in the deed. ~~】 (Deleted by~~
5 ~~amendment, P.L. , c.) (pending before the Legislature as this~~
6 ~~bill)~~

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

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

18

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

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

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

28 (2) The State portion of the basic fee ~~】,】~~ and the additional fee ~~】,~~
29 and the general purpose fee ~~】~~ shall be paid to the State Treasurer for
30 the use of the State. Payments shall be made to the State Treasurer
31 on the tenth day of each month following the month of collection.

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

37 (2) In addition to the amounts credited to the "Shore Protection
38 Fund" pursuant to paragraph (1) of this subsection, amounts equal
39 to \$12,000,000 in each of the first 10 years after the date of
40 enactment of the "Highlands Water Protection and Planning
41 Act," P.L.2004, c.120 (C.13:20-1 et al.) and to \$5,000,000 in each
42 year thereafter, paid during the State fiscal year to the State
43 Treasurer from the payment of fees collected by the county
44 recording officer other than the additional fee of \$0.75 for each
45 \$500.00 of consideration or fractional part thereof recited in the
46 deed in excess of \$150,000.00 shall be credited to the "Highlands
47 Protection Fund" created pursuant to section 21 of P.L.2004, c.120
48 (C.13:20-19), in the manner established under that section. No

1 monies shall be credited to the "Highlands Protection Fund"
2 pursuant to this paragraph until and unless the full amount of
3 \$25,000,000 has first been credited to the "Shore Protection Fund"
4 pursuant to paragraph (1) of this subsection.

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

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

12

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

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

18 (1) **【that is classified pursuant to the requirements of**
19 **N.J.A.C.18:12-2.2 as Class 2 "residential";】** (Deleted by
20 amendment, P.L. , c.) (pending before the Legislature as this
21 bill)

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

26 (b) any other real property, regardless of class, that is effectively
27 transferred to the same grantee in conjunction with the property
28 described in subparagraph (a) of this paragraph;**】** (Deleted by
29 amendment, P.L. , c.) (pending before the Legislature as this
30 bill)

31 (3) **【that is a cooperative unit as defined in section 3 of**
32 **P.L.1987, c.381 (C.46:8D-3); or】** (Deleted by amendment, P.L. ,
33 c.) (pending before the Legislature as this bill)

34 (4) that is classified pursuant to the requirements of
35 N.J.A.C.18:12-2.2 as Class 4A "commercial properties"
36 that is transferred for consideration in excess of \$1,000,000 recited
37 in the deed, which fee shall be an amount equal to 1 percent of the
38 entire amount of such consideration, which fee shall be collected by
39 the county recording officer at the time the deed is offered for
40 recording and remitted to the State Treasurer not later than the 10th
41 day of the month following the month of collection for deposit into
42 the General Fund.

43 b. (1) The fee imposed by subsection a. of this section shall not
44 apply to a deed if the grantee of the deed for the transfer of real
45 property is an organization determined by the federal Internal
46 Revenue Service to be exempt from federal income taxation
47 pursuant to paragraph (3) of subsection (c) of section 501 of the

1 federal Internal Revenue Code of 1986, 26 U.S.C. s.501.

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

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

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

37 (2) Whether or not the transfer is exempt, pursuant to subsection
38 b. of this section or any other provision of law, from payment of the
39 fee pursuant to subsection a. of this section, if a transfer includes
40 property otherwise subject to subsection a. of this section, then an
41 affidavit of consideration shall be filed by one or more of the
42 grantee parties named in the deed or by the grantee's legal
43 representative declaring the consideration and shall be annexed to
44 and recorded with the deed as a prerequisite for the recording of the
45 deed. The filing of an affidavit of consideration pursuant to this
46 paragraph shall be in addition to the filing, if any, pursuant to
47 paragraph (1) of this subsection.

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

6 (4) One copy of each affidavit of consideration filed and
7 recorded with deeds pursuant to this subsection shall be forwarded
8 by the county recording officer to the Director of the Division of
9 Taxation in the Department of the Treasury on the tenth day of the
10 month following the month of the filing of the deed.

11 (cf: P.L.2006, c.33, s.1)

12
13 6. This act shall take effect immediately and shall apply to
14 transfers of real property occurring on or after the first day of the
15 second calendar month following the date of enactment.

16
17
18 STATEMENT

19
20 This bill eliminates a) the general purpose fee, one of the four
21 realty transfer fees; and b) the one-percent assessment on the
22 selling price of residential property transacted for more than \$1
23 million.

24 P.L.2004, c.66 imposed the general purpose fee on the seller of
25 non-exempt real property whose selling price equals or exceeds
26 \$350,000. It applies to the full amount of the property sale and has
27 the following schedule: \$0.90 on each \$500 of consideration on the
28 first \$550,000 of the value recited in the deed of transfer; \$1.40 on
29 each \$500 of consideration between \$550,000 and \$850,000; \$1.90
30 on each \$500 of consideration between \$850,000 and \$1,000,000;
31 and \$2.15 on each \$500 of consideration over \$1,000,000. As a
32 consequence of this bill, property sellers will pay a diminished
33 amount in realty transfer fees. For example, the legislation lowers
34 the fee liability by \$900, or roughly 22 percent, for real property
35 selling at \$500,000. For a property selling at \$1.2 million, in turn,
36 the liability decreases by \$3,260, or about 27 percent.

37 P.L.2004, c.66 also levied a one-percent assessment on the
38 transaction of residential property selling for more than \$1 million
39 that the property's buyer has to pay. The assessment's repeal,
40 which also covers farmland if it includes a residential structure, will
41 save a purchaser of a \$1.5 million residential property \$15,000, for
42 example.