ASSEMBLY, No. 1269

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman LOUIS D. GREENWALD
District 6 (Burlington and Camden)
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District 34 (Essex and Passaic)

SYNOPSIS

Eliminates the 1% fee, and the 1% tax, on purchasers of Class 4A commercial property transferred for consideration in excess of $1 million.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 10/19/2020)

AN ACT eliminating the fee on grantees under deeds conveying Class 4A commercial property and eliminating the tax on the transfer of controlling interests in Class 4A commercial property, amending P.L.2004, c.66 and repealing sections 2 and 3 of P.L.2006, c.33.

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

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

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

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

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

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

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

(4) **[**that is classified pursuant to the requirements of N.J.A.C.18:12-2.2 as Class 4A "commercial properties"**]** (Deleted by amendment, P.L. , c.)(pending before the Legislature as this bill)

that is transferred for consideration in excess of $1,000,000 recited in the deed, which fee shall be an amount equal to 1 percent of the entire amount of such consideration, which fee shall be collected by the county recording officer at the time the deed is offered for recording and remitted to the State Treasurer not later than the 10th day of the month following the month of collection for deposit into the General Fund.

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

(2) The fee imposed by subsection a. of this section shall not apply to a deed if the transfer of real property is incidental to a corporate merger or acquisition and the equalized assessed value of

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.

the real property transferred is less than 20% of the total value of all assets exchanged in the merger or acquisition. A grantee shall claim this exemption from imposition of the fee at the time the deed is offered for recording by filing with the county recording officer such information, in addition to the affidavit of consideration filed by one or more of the grantee parties named in the deed or by the grantee's legal representative pursuant to subsection d. of this section, as the Director of the Division of Taxation in the Department of the Treasury may prescribe as to constitute a filing of a protest of the assessment of the fee and by paying any other recording fees not exempted pursuant to this paragraph. This additional information shall be forwarded by the county recording officer to the director along with the grantee's affidavit of consideration, and shall be deemed to be and have the effect of a protest of a finding by the director of a deficiency of payment of the fee filed on the date on which the deed is recorded.

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

d. (1) **[**If a transfer includes property classified pursuant to the requirements of N.J.A.C.18:12-2.2 as Class 4 property of any type, an affidavit of consideration shall be filed by one or more of the grantor parties named in the deed or by the grantor's legal representative declaring the consideration and shall be annexed to and recorded with the deed as a prerequisite for the recording of the deed. The filing of an affidavit of consideration pursuant to this paragraph shall be in addition to the filing, if any, pursuant to paragraph (2) of this subsection.**]** (Deleted by amendment, P.L. , c.)(pending before the Legislature as this bill)

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

(3) An affidavit of consideration filed pursuant to **[**paragraph (1) or paragraph (2) of**]** this subsection shall clearly and entirely state the consideration, the county and municipality in which the

property is situate, and the block and lot description of the real property conveyed.

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

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

2. Sections 2 and 3 of P.L.2006, c.33 (C.46:15-7.4 and 54:15C-1) are repealed; provided, however, that the repeal of section 3 of P.L.2006, c.33 (C.54:15C-1) shall not affect any obligation, lien or duty to pay taxes, interest or penalties which have accrued or may accrue by virtue of any taxes imposed pursuant to the provisions of section 3 of P.L.2006, c.33 (C. 54:15C-1), or which may be imposed with respect to any redetermination, correction, recomputation or deficiency assessment; and provided that all taxes and returns which would have been due and payable under the provisions of section 3 of P.L.2006, c.33 (C.54:15C-1) shall be due and payable as if that section were in effect; and provided that this repeal shall not affect the legal authority of the State to audit records and assess and collect taxes due or which may be due, together with such interest and penalties as have accrued or would have accrued thereon under the provisions of section 3 of P.L.2006, c.33 (C.54:15C-1); and provided that this repeal shall not affect any determination of, or affect any proceeding for, the enforcement thereof.

3. This act shall take effect immediately; provided however, that sections 1 and 2 shall remain inoperative until the first day of the second month next following the date of enactment and shall apply to transfers made on or after that date.

STATEMENT

This bill eliminates the fee, equal to 1 percent of the total consideration paid, on the purchaser of Class 4A commercial property transferred by deed for consideration in excess of $1 million. Class 4A commercial property is any kind of income-producing real property other than property classified as vacant land, residential property or apartments, farm property, and industrial property.

This bill also eliminates a parallel tax on the purchaser in a non-deed transfer of a controlling interest in an entity that owns Class 4A commercial properties, equal to 1 percent of the total consideration paid, if the total consideration for the transfer is in excess of $1 million.