

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)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

Assemblyman CLINTON CALABRESE

District 36 (Bergen 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

As reported by the Assembly Commerce and Economic Development Committee with technical review.



(Sponsorship Updated As Of: 12/14/2020)

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

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

9
 10 1. Section 8 of P.L.2004, c.66 (C.46:15-7.2) is amended to read
 11 as follows:

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

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

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

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

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

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

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

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

43 (2) The fee imposed by subsection a. of this section shall not
 44 apply to a deed if the transfer of real property is incidental to a
 45 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.

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

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

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

34 (2) Whether or not the transfer is exempt, pursuant to subsection
35 b. of this section or any other provision of law, from payment of the
36 fee pursuant to subsection a. of this section, if a transfer includes
37 property otherwise subject to subsection a. of this section, then an
38 affidavit of consideration shall be filed by one or more of the
39 grantee parties named in the deed or by the grantee'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 (1) of this subsection】.**

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

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

3 (4) One copy of each affidavit of consideration filed and
4 recorded with deeds pursuant to this subsection shall be forwarded
5 by the county recording officer to the Director of the Division of
6 Taxation in the Department of the Treasury on the tenth day of the
7 month following the month of the filing of the deed.
8 (cf: P.L.2006, c.33, s.1)
9

10 2. Sections 2 and 3 of P.L.2006, c.33 (C.46:15-7.4 and 54:15C-
11 1) are repealed; provided, however, that the repeal of section 3 of
12 P.L.2006, c.33 (C.54:15C-1) shall not affect any obligation, lien or
13 duty to pay taxes, interest or penalties which have accrued or may
14 accrue by virtue of any taxes imposed pursuant to the provisions of
15 section 3 of P.L.2006, c.33 (C. 54:15C-1), or which may be
16 imposed with respect to any redetermination, correction,
17 recomputation or deficiency assessment; and provided that all taxes
18 and returns which would have been due and payable under the
19 provisions of section 3 of P.L.2006, c.33 (C.54:15C-1) shall be due
20 and payable as if that section were in effect; and provided that this
21 repeal shall not affect the legal authority of the State to audit
22 records and assess and collect taxes due or which may be due,
23 together with such interest and penalties as have accrued or would
24 have accrued thereon under the provisions of section 3 of P.L.2006,
25 c.33 (C.54:15C-1); and provided that this repeal shall not affect any
26 determination of, or affect any proceeding for, the enforcement
27 thereof.
28

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