ASSEMBLY, No. 2478

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:
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District 21 (Morris, Somerset and Union)
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SYNOPSIS

Eliminates general purpose, supplemental and mansion realty transfer fees.

CURRENT VERSION OF TEXT

As introduced.

AN ACT eliminating the general purpose, supplemental and mansion realty transfer fees, amending P.L.1968, c.49 and repealing various sections of the statutory law.

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

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

1. As used in this act:

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

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

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

In the case of a leasehold interest for 99 years or more as defined in subsection (a) of this section, the consideration shall be in 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 <u>thus</u> is new matter.

amount of the assessed value of the property at the date of the transaction for the purpose of levying local real property taxes adjusted to reflect the true value in accordance with the county percentage level established for the current year.

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

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

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

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

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

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

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

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

[(k) "General purpose fee" means the fee established by paragraph (3) of subsection a. of section 3 of P.L.1968, c.49.

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

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

2. Section 2 of P.L.1968, c.49 (C.46:15-6) is amended to read as follows:

2. In addition to other prerequisites for recording, no deed evidencing transfer of title to real property shall be recorded in the office of any county recording officer unless it satisfies the following requirements:

a. If the transfer is subject to any fee established under section 3 of P.L.1968, c.49 (C.46:15-7) **[**or section 2 of P.L.2003, c.113 (C.46:15-7.1)**]**, a statement of the true consideration for the transfer shall be contained in the deed, the acknowledgment, the proof of the execution, or an appended affidavit by one of the parties to the deed or that party's legal representative.

b. If the transfer is exempt from any fee established under section 3 of P.L.1968, c.49 (C.46:15-7) **[**or section 2 of P.L.2003, c.113 (C.46:15-7.1)**]**, an affidavit stating the basis for the exemption shall be appended to the deed.

c. If the transfer is of real property upon which there is new construction, the words "NEW CONSTRUCTION" in upper case lettering shall be printed clearly at the top of the first page of the deed, and an affidavit by the grantor stating that the transfer is of property upon which there is new construction shall be appended to the deed.

(cf: P.L.2004, c.66, s.2)

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

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

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

(2) An additional fee at the rate of $0.75 for each $500.00 of consideration or fractional part thereof recited in the deed in excess of $150,000.00; provided however, that on and after the tenth day following a certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2) or subsubparagraph (ii) of subparagraph (b) of paragraph (2) of

subsection b. of section 1 of P.L.1992, c.148 (C.13:19-16.1) as amended, the additional fee shall not be imposed**[**; and

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

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

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

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

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

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

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

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

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

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

(2) The State portion of the basic fee**[**,**]** and the additional fee**[**, and the general purpose fee**]** shall be paid to the State Treasurer for the use of the State. Payments shall be made to the State Treasurer on the tenth day of each month following the month of collection.

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

(2) In addition to the amounts credited to the "Shore Protection Fund" pursuant to paragraph (1) of this subsection, amounts equal to $12,000,000 in each of the first 10 years after the date of enactment of

the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.) and to $5,000,000 in each year thereafter, paid during the State fiscal year to the State Treasurer from the payment of ⟦fees collected by the county recording officer other than the additional fee of $0.75 for each $500.00 of consideration or fractional part thereof recited in the deed in excess of $150,000.00⟧ the State portion of the basic fee shall be credited to the "Highlands Protection Fund" created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), in the manner established under that section. No monies shall be credited to the "Highlands Protection Fund" pursuant to this paragraph until and unless the full amount of $25,000,000 has first been credited to the "Shore Protection Fund" pursuant to paragraph (1) of this subsection.

d. All amounts paid to the State Treasurer from the payment of the additional fee shall be credited to the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), in the manner established under section 20 thereof (C.52:27D-320).

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

5. The following sections are repealed:
Section 2 of P.L.2003, c.113 (C.46:15-7.1);
Section 8 of P.L.2004, c.66 (C.46:15-7.2); and
Section 2 of P.L.2005, c.19 (C.46:15-7.3).

6. This act shall take effect immediately.

STATEMENT

This bill eliminates three recently enacted realty transfer fees: the supplemental fee created in 2003 and the general purpose fee and “mansion” fee created 2004. The supplemental fee applies to sellers and consists of a graduated fee, applicable to non-exempt property sales generally. The general purpose fee applies to a seller and consists of a graduated fee, applicable to non-exempt real property exceeding $350,000. The “mansion” fee consists of 1% of the purchase price and applies to buyers of residential property exceeding $1,000,000.

The three fees substantially increase cost of buying and selling real property for New Jerseyans. As an example, the total transfer fee costs of selling a $750,000 home is now $6,775. This amount is almost double the $3,525 cost from fiscal year 2003.

These realty transfer fees are actually taxes, as they add to the cost of a transaction to increase State revenue, rather than cover a cost of a transaction or service. As such, the realty transfer fees in New Jersey are an abuse of legitimate fee processes. In contrast, the Realty

Transfer Tax Act of the Commonwealth of Pennsylvania is properly called a tax, as it is a state tax on the transaction of transferring realty.

The elimination of the fees helps reduce costs to New Jerseyans and makes the New Jersey fee process more legitimate.