

SENATE, No. 1440

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Senator JAMES W. HOLZAPFEL

District 10 (Ocean)

SYNOPSIS

Exempts certain transactions of residential property involving senior, blind, and disabled citizens from general purpose fee under realty transfer fee and one percent assessment on real property selling for more than \$1,000,000.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT exempting senior, blind, and disabled citizens from the
2 payment of certain fees on the transfer of title to real property,
3 amending P.L.1975, c.176 and P.L.2004, c.66.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 4 of P.L.1975, c.176 (C.46:15-10.1) is amended to
9 read as follows:

10 4. a. The following transfers of title to real property shall be
11 exempt from payment of **the State portion of the basic fee** fees
12 imposed under P.L.1968, c.49 (C.46:15-5 et seq.) to the extent
13 specified:

14 (1) The sale of any one- or two-family residential premises
15 which are owned and occupied by a senior citizen, blind person or
16 disabled person who is the seller in such transaction shall be exempt
17 from (a) the State portion of the basic fee and (b) the general
18 purpose fee; provided, however, that except in the instance of a
19 husband and wife no exemption shall be allowed if the property
20 being sold is jointly owned and one or more of the owners is not a
21 senior citizen, blind person or disabled person.

22 (2) The sale of low and moderate income housing shall be
23 exempt from the State portion of the basic fee.

24 b. Transfers of title to real property upon which there is new
25 construction shall be exempt from payment, with respect to all
26 consideration therefor up to \$150,000.00, of 80% of the State
27 portion of the basic fee.

28 c. (1) The director shall promulgate rules, regulations and
29 forms of certification or otherwise necessary to carry out the
30 provisions of this section.

31 (2) No transfer shall be eligible for more than one exemption
32 under this section.

33 d. The balance of the State portion of the basic fee and the
34 additional fee collected on transfers subject to exemption under
35 subsection b. of this section shall be remitted to the State Treasurer
36 and shall be credited to the **Neighborhood Preservation Nonlapsing**
37 **Revolving** New Jersey Affordable Housing Trust Fund established
38 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), to be spent in the
39 manner established under section 20 thereof (C.52:27D-320).

40 e. Subsections a. through d. of this section shall be without
41 effect on and after the tenth day following a certification by the
42 Director of the Division of Budget and Accounting in the
43 Department of the Treasury pursuant to subsection b. of section 2 of
44 P.L.1992, c.148 (C.46:15-10.2) **or** subparagraph (ii) 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 subparagraph (b) of paragraph 2 of subsection b. of section 1 of
2 P.L.1992, c.148 (C.13:19-16.1)].

3 (cf: P.L.2008, c.31, s.3)

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

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

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

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

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

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

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

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

36 (2) The fee imposed by subsection a. of this section shall not
37 apply to a deed if the transfer of real property is incidental to a
38 corporate merger or acquisition and the equalized assessed value of
39 the real property transferred is less than 20% of the total value of all
40 assets exchanged in the merger or acquisition. A grantee shall
41 claim this exemption from imposition of the fee at the time the deed
42 is offered for recording by filing with the county recording officer
43 such information, in addition to the affidavit of consideration filed
44 by one or more of the grantee parties named in the deed or by the
45 grantee's legal representative pursuant to subsection d. of this
46 section, as the Director of the Division of Taxation in the
47 Department of the Treasury may prescribe as to constitute a filing
48 of a protest of the assessment of the fee and by paying any other

1 recording fees not exempted pursuant to this paragraph. This
2 additional information shall be forwarded by the county recording
3 officer to the director along with the grantee's affidavit of
4 consideration, and shall be deemed to be and have the effect of a
5 protest of a finding by the director of a deficiency of payment of the
6 fee filed on the date on which the deed is recorded.

7 (3) The fee imposed by subsection a. of this section shall not
8 apply to a deed for the transfer of one- or two-family residential
9 premises if the grantee of the deed is a senior citizen, blind person
10 or disabled person.

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

18 d. (1) If a transfer includes property classified pursuant to the
19 requirements of N.J.A.C.18:12-2.2 as Class 4 property of any type,
20 an affidavit of consideration shall be filed by one or more of the
21 grantor parties named in the deed or by the grantor's legal
22 representative declaring the consideration and shall be annexed to
23 and recorded with the deed as a prerequisite for the recording of the
24 deed. The filing of an affidavit of consideration pursuant to this
25 paragraph shall be in addition to the filing, if any, pursuant to
26 paragraph (2) of this subsection.

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

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

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

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

1 3. This act shall take effect immediately and apply to transfers
2 of real property occurring on or after the first day of the second
3 calendar month following the date of enactment.

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5
6 **STATEMENT**
7

8 This bill exempts the sale of owner-occupied residential property
9 by senior, blind, and disabled citizens from the general purpose fee,
10 one of the fees levied on the transfer of title to real property, which
11 are collectively known as the realty transfer fee. Established
12 pursuant to P.L.2004, c.66, the general purpose fee is imposed on
13 the seller of non-exempt real property whose selling price equals or
14 exceeds \$350,000. It applies to the full amount of the property sale
15 and has the following schedule: \$0.90 on each \$500 of
16 consideration on the first \$550,000 of the value recited in the deed
17 of transfer; \$1.40 on each \$500 of consideration between \$550,000
18 and \$850,000; \$1.90 on each \$500 of consideration between
19 \$850,000 and \$1,000,000; and \$2.15 on each \$500 of consideration
20 over \$1,000,000. The State General Fund is credited with all the
21 proceeds from this fee. A senior, blind or disabled resident selling
22 his or her abode for \$650,000, for example, would thus pay \$1,400
23 in realty transfer fees, a reduction of \$1,270, or 47.6 percent, from
24 the current \$2,670 liability.

25 The bill also exempts the purchase of residential property by
26 senior, blind, and disabled citizens from the one percent assessment
27 imposed pursuant to P.L.2004, c.66 upon the recording of title to
28 residential and commercial property selling for more than
29 \$1,000,000. A senior, blind or disabled resident acquiring a
30 residential property for \$1,500,000 would thus not have to pay
31 \$15,000 in fees.