

38 N.J.R. 3658(b)

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RULE ADOPTIONS

**TREASURY - TAXATION
DIVISION OF TAXATION**

38 N.J.R. 3658(b)

Adopted New Rules: N.J.A.C. 18:16

Realty Transfer Fee

Proposed: May 15, 2006 at 38 N.J.R. 2084(a).

Adopted: August 1, 2006 by Maureen Adams, Acting Deputy Director, Division of Taxation.

Filed: August 2, 2006 as R.2006 d.310, **without change.**

Authority: N.J.S.A. 46:15-11.

Effective Date: September 5, 2006.

Expiration Date: September 5, 2011.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

A Federal standards analysis is not required because the rulemaking authority is derived from N.J.S.A. 46:15-11, the adopted new rules represent policies of the State of New Jersey regarding Implementation of N.J.S.A. 46:15-1.1 et seq., and there is no Federal requirement or standard that affects the subject of this rulemaking. Accordingly, no Federal standards analysis is required.

Full text of the adoption follows:

CHAPTER 16

REALTY TRANSFER FEE

SUBCHAPTER 1. DEFINITIONS

18:16-1.1 Words and phrases defined

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Act" or "law" means P.L. 1968, c. 49 (N.J.S.A. 46:15-5 et seq.) as amended and supplemented.

"Additional fee" means the part of the realty transfer fee established by section 3a(2) of P.L. 1968, c. 49 (N.J.S.A. 46:15-7).

"Basic fee" means the part of the realty transfer fee established by section 3a(1) of P.L. 1968, c. 49 (N.J.S.A. 46:15-7).

"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 20 degrees.

"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:

1. 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;
2. Any other lien or encumbrance 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 as defined in the Act, the consideration shall be in the 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; and
3. The entire purchase price of both land and real property improvements including real property upgrades on all new construction.

"Corrective deed" means a deed that is given by a grantor to correct a mistake made in a former deed of the same property conveyed by him, and may correct a defective acknowledgement or the name of a party, the description of the premises or any other error in the former deed.

"County recording officer" means the register of deeds and mortgages in counties having such officer and the county clerk in the other counties.

"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 shall be treated as a "freehold" for the purpose of this chapter. 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 chapter.

"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.

"Fee" or "realty transfer fee" means all fees imposed by the Act, as amended and supplemented.

"General purpose fee" means the part of the realty transfer fee established by section 3a(3) of P.L. 2004, c. 66 (N.J.S.A. 46:15-7).

"Grantor" means the person or persons who executed the deed or instrument by which title to any lands, tenements or other realty is transferred or otherwise conveyed. The term is interchangeable with the term "seller" or "sellers."

"Grantee" means the person or persons named in the deed or instrument to whom title to any lands, tenements or other realty is transferred or otherwise conveyed. The term is interchangeable with the term "buyer" or "buyers."

"Joint tenancy" means ownership of real property by two or more persons with the right of survivorship. When there is joint tenancy ownership, all grantors must qualify for the partial exemption or the full exemption or the entire fee should be paid.

"Legal representative" is to be interpreted broadly to include any person actively and responsibly participating in the deed transaction, such as, but not limited to:

1. An attorney representing one of the parties;
2. A closing officer of a title company or lending institution participating in the transaction; or
3. A holder of power of attorney from grantor or grantee.

"Low and moderate income housing" means any residential premises, or part hereof, affordable according to Federal Department of Housing and Urban Development or other recognized standards for home ownership, rental costs and occupied or reserved for occupancy by households with a gross income equal to 80 percent 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.

"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.

"Person" means a natural person or persons, association(s), corporation(s) and any other legal entity or entities.

"Real property upgrade" means an item of incremental cost above the cost of standard construction grade or builder's model which must be included in the amount of consideration stated in a deed of conveyance.

"Realty Transfer Fee Act" or "Realty Transfer Fee law" means P.L. 1968, c. 49 (N.J.S.A. 46:15-5 et seq.), as amended and supplemented.

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

"Supplemental fee" means that part of the realty transfer fee established by section 2a(4) of P.L. 2003, c. 113 (N.J.S.A. 46:15-7.1).

"Tenancy by the entirety" means ownership of property by a husband and wife granting each a right of survivorship. In the case of tenancy by the entirety, only one grantor needs to qualify to receive either the full or partial exemption from the realty transfer fee. A divorce creates ownership as a tenancy in common with all rules applying.

"Tenancy in common" means an ownership interest held by two or more persons, each having a possessory right, usually deriving from a title (a lease may also apply). Each person has an undivided interest and may partition, sell or encumber the property. When there is tenancy in common ownership, all grantors must qualify for the partial exemption or the full exemption or the entire fee should be paid. Ownership interest is a tenancy in common if the deed does not state the type of ownership. If prior deeds do not address the percentage of ownership, the ownership is in equal shares.

SUBCHAPTER 2. PREREQUISITES FOR RECORDING

18:16-2.1 Requirements for recording of deed; exemptions; incorrectly recited or unpaid consideration

(a) No county recording officer shall record any deed evidencing transfer of title to real property unless it satisfies one of the following requirements:

1. If the transfer is subject to any of the fees as provided or set forth by reference in P.L. 2004, c. 66, and as may be amended, a statement of the true consideration for the transfer is contained in:

i. The deed;

ii. The acknowledgement;

iii. The proof of the execution; or

iv. An appended affidavit by one of the parties to the deed or that party's legal representative.

2. If the transfer is exempt from any fee established under P.L. 1968, c. 49, §3 (N.J.S.A. 46:15-7), section 2 of P.L. 2003, c. 113 (N.J.S.A. 46:15-7.1), P.L. 2004, c. 66 or P.L. 2005, c. 19 (N.J.S.A. 46:25-7.2), an affidavit stating the basis for the exemption shall be appended to the deed.

(b) A fee at the rate of \$ 2.00 per \$ 500.00 of consideration or fractional part thereof not in excess of \$ 150,000; \$ 3.35 per \$ 500.00 of consideration or fractional part thereof in excess of \$ 150,000 but not in excess of \$ 200,000; and \$ 3.90 per \$ 500.00 of consideration or fractional part thereof in excess of \$ 200,000 for each \$ 500.00 of consideration or fractional part thereof (which shall be in addition to the recording fee imposed by P.L. 1965, c. 123, §2 (N.J.S.A. 22A:4-4.1)) shall be paid to the county recording officer at the time the deed is offered for recording. In addition, on the 10th 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 (N.J.S.A. 46:15-10.2), the county portion of the basic fee imposed shall be \$ 0.50 for each \$ 500.00 of consideration or fractional part thereof recited in the deed.

(c) In addition, a general purpose fee in the case of all conveyances or transfers for which the total consideration recited in the deed exceeds \$ 350,000 at the rate of \$.90 per \$ 500.00 of consideration or fractional part thereof not in excess of \$ 550,000; \$ 1.40 per \$ 500.00 of consideration or fractional part thereof in excess of \$ 550,000 but not in excess of \$ 850,000; \$ 1.90 per \$ 500.00 of consideration or fractional part thereof in excess of \$ 850,000 but not in excess of \$ 1,000,000; and \$ 2.15 per \$ 500.00 of consideration or fractional part thereof in excess of \$ 1,000,000 (which shall be in addition to the recording fee imposed by P.L. 1965, c. 123, §2 (N.J.S.A. 22A:4-4.1)) shall be paid to the county recording officer at the time the deed is offered for recording.

(d) A fee upon the grantee of a deed for the transfer of real property as set forth in (d)1, 2 or 3 below shall be an amount equal to one percent of the entire amount of consideration, where such consideration is in excess of \$ 1,000,000, as recited in the deed, and 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.

1. Property that is classified pursuant to the requirements of N.J.A.C. 18:12-2.2 as Class 2 "residential"; or land which was classified as vacant land, Class 1, on January 10th of the tax year in which the transfer occurred, but at the time of sale qualified as a Class 2 property;

2. Property 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 any other real property, regardless of class, that is effectively transferred to the same grantee in conjunction with the property described in the first clause of this paragraph; or

3. Property that is a cooperative unit as defined in section 3 of P.L. 1987, c. 381 (N.J.S.A. 46:8D-3).

(e) The fee imposed by (d) above 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. §501.

(f) Every deed subject to any additional fees required by this chapter, which is in fact recorded, shall be conclusively 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 any such additional fees, if any, shall not have been paid, and 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 any said additional fees at the time of recording shall be and remain liable to the county recording officer for the payment of the proper amount thereof.

(g) A completed form RTF-1, Affidavit of Consideration for Use by Seller, is attached to such deeds with respect to which exemption or partial exemption is claimed, pursuant to N.J.A.C. 18:16-5.1(a) or 5.2.

(h) A completed form RTF-1EE, Affidavit of Consideration for Use by Buyer, is attached to such deeds whether or not an exemption is claimed, where consideration recited in the deed exceeds \$ 1,000,000 for the purchase of real estate as classified pursuant to N.J.S.A. 46:15-7.2.

18:16-2.2 Consideration recited in deed

(a) Every deed shall recite the dollar amount, comprising 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 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 represented by the deed.

(b) The dollar amount may be written out or in figures or a combination of the two.

Example (1): Where the consideration paid or to be paid is \$ 10,000, the recital in the deed may read:

i. "In consideration of the sum of TEN THOUSAND DOLLARS";

ii. "In consideration of the sum of \$ 10,000"; or

iii. "In consideration of the sum of TEN THOUSAND DOLLARS (\$ 10,000)."

Example (2): A deed which states "one dollar and other good and valuable consideration" may not be recorded unless there is annexed thereto an Affidavit of Consideration setting forth the actual and full consideration paid or to be paid for the transfer.

Example (3): A deed which states "one dollar and love and affection" may not be recorded unless there is annexed thereto an Affidavit of Consideration for Use by Seller setting forth the actual and full consideration paid or to be paid for the transfer.

Example (4): An individual who transfers real property to a limited liability company which he fully owns, subject to a mortgage, will be liable for the realty transfer fee based on the remaining balance of the mortgage.

Example (5): A partner leaving a partnership and relinquishing his interest on the remaining balance of the mortgage will be liable for a realty transfer fee based on his proportionate share of the remaining balance of the mortgage.

18:16-2.3 Consideration recited in acknowledgement

Every acknowledgement or proof of execution of the deed shall contain, in addition to the usual language of acknowledgement, a statement in the following language:

"the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by the within deed, as such consideration is defined in P.L. 1968, c. 49, section 1(c) is \$....."

18:16-2.4 Deeds with more than one acknowledgment

Where a deed involving several parties contains several acknowledgments, some of which properly recite the consideration paid or to be paid for the transfer while others do not, the deed may be recorded upon the payment of a realty transfer fee computed in accordance with the properly recited consideration.

18:16-2.5 Affidavits of Consideration; when required; exemptions

(a) If the consideration is not stated in the deed and in the acknowledgment or proof of execution thereof in the manner set forth in N.J.A.C. 18:16-2.2 and 2.3, there must be annexed to the deed, for recording, an Affidavit of Consideration for Use by Seller (form RTF-1) by one or more parties named in the deed or by a legal representative, declaring the actual and full consideration for the deed.

(b) The execution of the Affidavit shall constitute an affirmation of the truth of the facts stated and shall be passed on personal knowledge of the affiant and not on hearsay.

(c) An RTF-1 is not required to be affixed to deeds transferring real property upon which there is new construction, but such deeds must prominently state the words "NEW CONSTRUCTION" as shown herein in uppercase lettering, on the top of the first page.

(d) An Affidavit of Consideration for Use by Buyer (form RTF-1EE) is required for all deeds where consideration exceeds \$ 1,000,000 whether or not an exemption is claimed.

(e) If exemption from the fee is claimed pursuant to N.J.S.A. 46:15-10(b) through (q) inclusive, a clear statement of the basis for such exemption must be recited in the deed or an accompanying Affidavit of Consideration for Use by Seller (form RTF-1).

(f) All Affidavits of Consideration shall be recorded with the deed when required.

(g) An Affidavit of Consideration for Use by Seller (form RTF-1) is required to be

attached to any deed with respect to which claim is made for exemption from payment of any portion of the realty transfer fee where such claim is made for the conveyance of a one or two-family residence owned and occupied by a "senior citizen," "blind person," "disabled person," or conveyance of "low and moderate income housing."

18:16-2.6 Exemption from any portion of the realty transfer fee

(a) If a deed is claimed to be exempt from payment of the \$ 1.25 per \$ 500.00 of consideration or fractional part thereof on the ground that it is a conveyance by a senior citizen, blind or disabled person or that the conveyance entails low and moderate income housing, the claimant shall complete the "Affidavit of Consideration" (form RTF-1) setting forth the reason for which the claim is made attesting to its validity. This partial exemption is only available to grantors.

18:16-2.7 Exemption where consideration is less than \$ 100.00

(a) If a deed is claimed to be exempt from the fee on the ground that the consideration is less than \$ 100.00, the amount of consideration to be recited in the deed and acknowledgement of the Affidavit of Consideration, shall include, in addition to all other consideration passing between the parties, 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.

(b) Failure to include any prior existing mortgage or lien or any other element of compensation in the statement of consideration recited in the deed or acknowledgment or in an Affidavit of Consideration constitutes a crime of the fourth degree.

SUBCHAPTER 3. LIABILITY FOR REALTY TRANSFER FEE

18:16-3.1 Imposition of fee at time of recording deed

The Act imposes a fee for recording any deed defined as an instrument or writing by which title to any lands, tenements or other realty sold shall be granted, assigned, transferred or otherwise conveyed, except such deeds as may be exempt.

18:16-3.2 Payment of realty transfer fee

When applicable, the realty transfer fee is payable to the recording officer of the county in which the property is located at the time the deed is presented for recording. The recording officer is not permitted to record the deed unless the applicable fees are paid at the time the deed is presented for recording.

18:16-3.3 Effective date for implementation of rate changes

Whenever the Legislature amends the rates for any of the fees as set forth in this chapter, the amended rate or rates shall apply to all deeds physically received by the county recording officer on or after the effective date established by the amended legislation requiring the new rate or rates as a prerequisite to recording. Neither the date of the execution of the deed, the date of placing the deed in the mail addressed to the county recording officer, nor the postmark on the envelope in which the deed

is mailed, is of any relevance to the determination as to whether the amended fee is applicable.

18:16-3.4 Fees payable by grantor and grantee

- (a) The law provides that the fees are imposed upon the grantor and grantee.
- (b) The language operates only to establish the liability for the fees as between the grantor and grantee.
- (c) Any deed physically delivered or submitted to the recording officer, on or after July 1, 2003, which alters realty transfer fee rates (P.L. 2003, c. 113), regardless of the manner of delivery and notwithstanding an execution date on the deed prior to July 1, 2003, is subject to the fees as amended, as a prerequisite to recording.

18:16-3.5 Fee payable on realty located partially out-of-State

- (a) Where a deed covers realty that is located partially outside of this State, the fee shall be based on the full consideration, unless proof is furnished by affidavit establishing that a portion of the consideration should be allocated to the property located outside New Jersey.
- (b) Upon such proof, the amount of the fee shall be calculated on the basis of the consideration paid with respect to the property located in New Jersey.

18:16-3.6 Fee payable on realty located in two or more counties

- (a) If the realty is situated in two or more counties in this State, the total fee shall be paid to the recording officer of the county in which the deed is first recorded.
- (b) Upon satisfactory proof of the total fee upon the first recording, no fee shall be payable to the recording officer of any other county to whom the deed may be subsequently presented for further recording.
- (c) Where a property is located entirely within one county, but a deed for that property was incorrectly recorded in another county, the full realty transfer fee must be paid in the county in which the property is located before recordation of the deed is permitted in that county. Claims for a refund of the realty transfer fees incorrectly paid to the wrong county must be filed with the Division of Taxation using form RTF-3. Claimants are entitled to a refund from the State of New Jersey in an amount equal to that remitted to the State Treasurer for the erroneously paid realty transfer fees. The county portion of realty transfer fees erroneously paid to the wrong county must be refunded separately by that county.

SUBCHAPTER 4. CALCULATION OF FEE

18:16-4.1 Fee in addition to usual recording fees

The fee imposed under P.L. 1968, c. 49, as amended and supplemented, is in addition to the usual recording fees imposed under P.L. 2001, c. 370 (N.J.S.A. 22A:4-4.1).

18:16-4.2 Fee schedule

(a) The realty transfer fee on standard transactions and on "new construction" to be paid by grantors must be calculated as follows:

Total Consideration Not in Excess of \$ 350,000

1. \$ 2.00/\$ 500.00 of consideration not in excess of \$ 150,000;
2. \$ 3.35/\$ 500.00 of consideration in excess of \$ 150,000 but not in excess of \$ 200,000; and
3. \$ 3.90/\$ 500.00 of consideration in excess of \$ 200,000 but not in excess of \$ 350,000.

Total Consideration in Excess of \$ 350,000

1. \$ 2.90/\$ 500.00 of consideration not in excess of \$ 150,000;
2. \$ 4.25/\$ 500.00 of consideration in excess of \$ 150,000 but not in excess of \$ 200,000;
3. \$ 4.80/\$ 500.00 of consideration in excess of \$ 200,000 but not in excess of \$ 550,000;
4. \$ 5.30/\$ 500.00 of consideration in excess of \$ 550,000 but not in excess of \$ 850,000;
5. \$ 5.80/\$ 500.00 of consideration in excess of \$ 850,000 but not in excess of \$ 1,000,000; and
6. \$ 6.05/\$ 500.00 of consideration in excess of \$ 1,000,000.

(b) The realty transfer fee by senior citizens, blind persons, disabled persons, and on property that is qualified as low and moderate income housing must be calculated as follows:

Total Consideration Not in Excess of \$ 350,000

1. \$.50/\$ 500.00 of consideration not in excess of \$ 150,000; and
2. \$ 1.25/\$ 500.00 of consideration in excess of \$ 150,000 but not in excess of \$ 350,000.

Total Consideration in Excess of \$ 350,000

1. \$ 1.40/\$ 500.00 of consideration not in excess of \$ 150,000;
2. \$ 2.15/\$ 500.00 of consideration in excess of \$ 150,000 but not in excess of \$ 550,000;
3. \$ 2.65/\$ 500.00 of consideration in excess of \$ 550,000 but not in excess of \$ 850,000;

4. \$ 3.15/\$ 500.00 of consideration in excess of \$ 850,000 but not in excess of \$ 1,000,000; and

5. \$ 3.40/\$ 500.00 of consideration in excess of \$ 1,000,000.

(c) A one percent fee on the sale of real property is imposed on grantees for deeds where consideration stated in the deed is in excess of \$ 1,000,000 for real property classified in accordance with P.L. 2005, c. 19.

(d) No deed is eligible for more than one partial exemption.

(e) For purposes of the realty transfer fee, any fractional part of the \$ 500.00 amount is rounded up to the nearest \$ 500.00 increment.

(f) The realty transfer tax guide listing amounts of consideration and corresponding realty transfer fees to be paid, are publicly disseminated on the Division of Taxation internet website at www.state.nj.us/treasury/taxation. The following are illustrative of fee assessments:

Example (1): The full consideration is \$ 80,000. The fee to be paid by the grantor at the time of recording is \$ 320.00.

Example (2): The full consideration is \$ 150,000. The grantor who owns the property as a tenant by the entirety claims the senior citizen partial exemption. The fee paid at time of recording is \$ 150.00.

Example (3): The full consideration is \$ 185,330. The fee to be paid at the time of recording is \$ 837.85.

Example (4): The full consideration is \$ 80.00. The grantor may claim an exemption of "consideration of less than \$ 100.00" with an Affidavit of Consideration or pay \$ 1.75.

Example (5): The full consideration is \$ 600,000. The fee (including that part of the realty transfer fee designated the "general purpose" fee) to be paid is \$ 5,185.

Example (6): The full consideration is \$ 600,000. The grantor is a senior citizen, blind or disabled person entitled to a partial exemption. The realty transfer fee is \$ 2,405.

(g) The fee upon the grantee of a deed for the transfer of real property as set forth in (g)1, 2 or 3 below, is calculated in an amount equal to one percent of the entire amount of such consideration that is transferred for consideration, in excess of \$ 1,000,000, recited in the deed.

1. Property that is classified pursuant to the requirements of N.J.A.C. 18:12-2.2 as Class 2 "residential"; or land which was classified as vacant land, Class 1, on January 10th of the tax year in which the transfer occurred, but at the time of sale qualified as a Class 2 property situated on that lot or parcel of land;

2. Property 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 any other real

property, regardless of class, that is effectively transferred to the same grantee in conjunction with the property described in first clause of this paragraph; or

3. Property that is a cooperative unit as defined in section 3 of P.L. 1987, c. 381 (N.J.S.A. 46:8D-3).

4. Example: Grantee purchases real property that falls within the categories established in P.L. 2005, c. 19, and more fully described in this subsection, for \$ 1,480,000. The fee to be paid by the grantee to the county recording officer when the deed is submitted for recording is \$ 14,800.

18:16-4.3 Fee calculation for realty conveyed subject to mortgage

In the case of a deed conveying real property which is subject to a mortgage, the consideration base upon which the realty transfer fee shall be computed shall include, in addition to any cash consideration, the unpaid balance on any mortgage to which the property is subject, and any other lien or encumbrance not paid, satisfied, or removed in connection with the transfer of real property constitutes "consideration."

18:16-4.4 Calculation of fee on recording deed including realty and personalty

(a) Where the consideration recited in a deed covers the sale of both real and personal property, the realty transfer fee need only be computed on the portion of the consideration which is allocated to the real estate, provided the recital of consideration is broken down according to property classification by a licensed New Jersey real estate appraiser, provided that the grantee obtain an appraisal of the personal property should the Division request one be done, and furthermore, that the Division reserves the right to dispute and deny the appraisal and to obtain its own appraisal of the personal property.

(b) Where the parties to a real estate sales contract separately contract for an accompanying sale of personal property, the Division reserves the right to dispute and deny either contract sales amount and to obtain its own appraisal of both the real and personal property.

18:16-4.5 Calculation of fee on deed on exchange of properties or where the consideration is indeterminable

In the case of an exchange of two properties, the deeds transferring title to each are subject to a realty transfer fee, or when the consideration cannot be determined, in such cases, consideration shall be computed on the assessed valuation at the date of the transaction, adjusted to reflect the true value as determined by the Director's Ratio established for that municipality for the current year.

18:16-4.6 Calculation of fee on sheriff's deed

(a) As a general rule, in the case of a sheriff's deed confirming a sheriff's sale, the amount of the realty transfer fee shall be computed upon the amount of the accepted bid for the property sold.

1. Where, however, the sale is for delinquent taxes or assessments, no fee is imposed.

2. Where a deed is executed by a sheriff to a mortgagee who bids on property at a foreclosure sale to satisfy a mortgage lien, the realty transfer fee will be computed upon the amount bid for the property, plus the remaining amount of any superior mortgage liens.

18:16-4.7 Calculation of fee where the transfer is subject to a construction mortgage

In determining the amount of consideration based upon which the realty transfer fee shall be computed in the case of a deed conveying real estate, which is subject to a prior existing construction mortgage executed by the grantor, the amount due on the mortgage at the time the deed is recorded is measured by the sum total of advances which have been made on the mortgage prior to the date of the transfer.

18:16-4.8 Calculation of realty transfer fee where taxpayer underestimates the consideration or underpays the realty transfer fee

Where the taxpayer has underestimated the consideration and underpaid the realty transfer fee, the Director may make an estimate of the taxable liability of such taxpayer, from any information he may obtain, and assess the taxes, fees, penalties and interest due the State from such taxpayer, give notice of such assessment to the taxpayer, and make demand upon him or her for payment.

18:16-4.9 Calculation of fee and deed notation on transfers of new construction

(a) Transfers of property upon which there is "new construction" must remit the realty transfer fee at the rates of \$ 2.00 per \$ 500.00 of consideration not in excess of \$ 150,000; \$ 3.35 per \$ 500.00 of consideration in excess of \$ 150,000 but not in excess of \$ 200,000; \$ 3.90 per \$ 500.00 of consideration in excess of \$ 200,000.

(b) Deeds transferring property upon which there is new construction must prominently note in upper case letters, "NEW CONSTRUCTION" on the top of the first page of the document.

18:16-4.10 Multiple grantee transactions

When the same real property is purchased by grantees from the same grantor under separate contracts to each grantee, the transactions will be treated as one in determining total consideration for purposes of calculating the fees that may be due under N.J.S.A. 46:15-1 et seq.

SUBCHAPTER 5. DEEDS EXEMPT FROM FEE

18:16-5.1 Recording without payment of fee

(a) No fee, by grantor or grantee, is required to be paid where it is established to the satisfaction of the recording officer that the deed was given for one of the following reasons:

1. For consideration of less than \$ 100.00;
2. By or to the United States of America, this State, or any instrumentality, agency

or subdivision thereof;

3. Solely in order to provide or release security for a debt or obligation;
4. Which confirms or corrects a deed previously recorded;
5. On a sale for delinquent taxes or assessments;
6. On partition;
7. By a receiver, trustee in bankruptcy or liquidation, or assignee for the benefit of creditors;
8. Eligible to be recorded as an "ancient deed" pursuant to N.J.S.A. 46:16-7;
9. Acknowledged or proved on or before July 3, 1968;
10. Between husband and wife, or parent and child;
11. Conveying a cemetery lot or plot;
12. In specific performance of a final judgment;
13. Releasing a right of reversion;
14. Previously recorded in another county and full realty transfer fee paid or accounted for, as evidenced by written instrument, attested by the grantee and acknowledged by the county recording officer of the county of such prior recording, specifying the county, book, page, date of prior recording, and amount of realty transfer fee previously paid;
15. By an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this State;
16. Recorded within 90 days following the entry of a divorce decree which dissolves the marriage between the grantor and grantee;
17. Issued by a cooperative corporation, as part of a conversion of all of the assets of the cooperative corporation into a condominium, to a shareholder upon the surrender by the shareholder of all of the shareholder's stock in the cooperative corporation and the proprietary lease entitling the shareholder to exclusive occupancy of a portion of the property owned by the corporation; or
18. For the fee applicable to grantees pursuant to P.L. 2004, c. 66, as amended, where the grantee is an organization, domestic or foreign, 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. 501.

18:16-5.2 Exemption from payment of any portion of \$ 1.75 fee

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

(b) A conveyance of a one or two-family residence is not subject to payment of the \$ 1.25 Extraordinary Aid Account and Public Health Priority Fund portion of the \$ 1.75 fee when the grantor qualifies under one or more of the following categories:

1. Senior citizen;
2. Blind person;
3. Disabled person; or
4. Low and moderate income housing.

(c) Paragraphs (b)1 through 3 above are personal exemptions that are not available to trusts or other legal entities. Real property becomes a part of the estate (a legal entity upon the death of the grantor).

(d) Examples include the following:

Example (1): A husband and wife sell their dwelling house which they own as tenants by the entirety for a total consideration of \$ 200,000. The husband is 63 years old; his wife is 55. Would the recording of the deed transferring this property qualify for the partial exemption?

Yes. The realty transfer fee to be collected upon recording of the deed is \$ 275.00. P.L. 1975, c. 176 provides for an exemption of \$ 1.25 of the \$ 1.75 fee where either the husband or wife as owners of the property being sold is a senior citizen (62 years or over, for the purposes of this chapter).

Example (2): Three individuals, not related, own and occupy a residential property, which they are selling as joint tenants. One of the sellers is blind, another is disabled. The third individual is not a senior citizen, or blind, or disabled. Are they subject to the entire realty transfer fee upon recording of the deed transferring the property?

Yes. One of the owners of the jointly owned property is not a senior citizen, blind person, or disabled person; the exception to which would apply only to a husband and wife.

Example (3): A husband and wife are selling a residential property which they have owned for 20 years and in which they resided for the first 15 years. However, the home has been rented to another party for the past five years. The husband is blind. Are they eligible for the partial exemption from the realty transfer fee upon recording of the deed transferring the property?

No. Although the husband is blind, the couple does not meet the requirement of occupancy in the property at the time of sale.

Example (4): Two brothers, one of whom is blind and the other is disabled own a one-story structure consisting of a store, which they rent to another party, and a small apartment behind the store in which they reside. They are selling the property, which is listed on the tax lists as a commercial property. Are they eligible for the partial exemption from the realty transfer fee upon recording of the deed?

transferring the property?

No. One of the stipulations for exemption from the entire fee is that the property be a "residential premise." Here, it is listed on the tax lists as "commercial property."

Example (5): A husband and wife, over 62 years of age, previously transferred their residence to a "trust" for estate planning purposes. They are now selling that property. Are they eligible for the "senior citizen" partial exemption?

No. They do not qualify. The "senior citizen" partial exemption is a personal exemption. The property is being held by a trust which is a legal entity.

Example (6): A husband and wife who are over 62 years of age own a home by the Jersey shore. The home is not their principal residence as they only occupy it about 30 percent of the year and do not rent it out or allow any other third party to occupy it to the exclusion of the husband and wife. They are now selling the property. Are they eligible for the "senior citizen" partial exemption?

Yes. The realty transfer fee law does not require that senior citizens use the real property to be sold as a "principal residence" in order to be entitled to the partial exemption. The law only requires that the property be an owner occupied one or two family residential premises. However, the property must be available for the use of the senior citizens at all times and not be rented to third parties or occupied by any third party, including family members, without the presence of the owners except in limited and rare situations such as temporary visits by the third parties.

Example (7): A widow aged 79 is selling the one-family residential premises she owned with her deceased husband. Several months before the transfer, she suffers a stroke and is confined to a nursing home during her rehabilitation. During this time, the property is not rented out and remains unoccupied. Is she eligible for the "senior citizen" partial exemption?

Yes. She may qualify for the "senior citizen" partial exemption. For purposes of the realty transfer fee law, although confined to a nursing home, as long as the residential premises she owns remains her legal domicile and it was her intention to return to her residence if her health improved, she would qualify. Also, if the property is not rented during her absence, the widow would be entitled to claim the "senior citizen" partial exemption upon selling the property.

18:16-5.3 Deed from mortgagor to Secretary of Housing and Urban Development

A deed from a mortgagor to the Secretary of Housing and Urban Development given in lieu of foreclosure is exempt from the application of the realty transfer fee law as a deed to an agency of the United States of America.

18:16-5.4 Deed by trustee in bankruptcy

The recording of a deed where the grantor is a trustee in bankruptcy is not subject to the realty transfer fee law, since the grantor is a court appointed officer liquidating the assets of a bankrupt entity and is performing the function of a Federal governmental instrumentality.

18:16-5.5 Deed to a municipal housing authority

(a) A deed to a municipal housing authority is not subject to the realty transfer fee.

(b) A housing authority, though not a subdivision of the State, qualifies for the exemption accorded a subdivision of the State since the housing authority performs an essential public purpose for the municipality.

18:16-5.6 Conveyance to execute mortgage on property

Where real property is transferred by the owner to a corporation for the purpose of executing a mortgage and then reconveyed to the owner, the transfer to the corporation is not subject to a realty transfer fee if the transfer is solely to provide security for a debt or obligation; provided, however, the conveyance by the corporation back to the beneficial owners is subject to a realty transfer fee, which shall be computed on the full and actual consideration as defined at N.J.A.C. 18:16-1.1.

18:16-5.7 Deed correcting name of party; corrective deeds

A conveyance by two single persons to themselves in their married name or by a woman to herself from her maiden name to her married name does not involve a transfer, but is in the nature of a corrective deed, and accordingly, is exempt from the application of the Realty Transfer Fee law. Likewise, a deed being recorded so as to correct a typographical error, name misspelling or to include or amend a metes and bounds or legal description, or for any other corrective deed purpose, is exempt from the application of the Realty Transfer Fee law.

18:16-5.8 Deed of trust

A deed of trust conveying real estate as security for a lien or encumbrance to a third party called the "trustee" who holds title on behalf of the lender comes within the exemption accorded deeds recorded "solely in order to provide or release security for a debt or obligation" in accordance with the exemption set forth N.J.A.C. 18:16-5.1(a)3.

18:16-5.9 Deed by liquidating corporation or partnership to stockholder or partner

(a) In the case of a transfer of real estate to stockholder(s) by a corporation in liquidation, or to partner(s) by a partnership firm in liquidation, no attempt will be made to project value on the basis of consideration passing between grantor and grantee, since such a transaction, in general, represents a return of capital.

(b) The transfer is not subject to the transfer fee if there is no other consideration as defined at N.J.A.C. 18:16-1.1.

(c) In the event there are no mortgages, liens or other encumbrances on the property, the transfer is not subject to realty transfer fees.

18:16-5.10 Deeds of confirmation not transferring title

Where title to property has been transferred by operation of law, a confirmatory deed of the premises upon which title has already passed may be recorded without being subject to realty transfer fees.

18:16-5.11 Transfer of property to trustee for exclusive benefit of grantor

(a) A transfer of realty to a grantee in trust to hold the property for the exclusive use and benefit of the grantor is not subject to a realty transfer fee, since the rights of ownership are still completely enjoyed by the grantor as beneficial owner.

(b) A transfer of realty to a grantee in trust to hold the property for the benefit of other beneficiaries is subject to the realty transfer fee, since the grantor has divested himself or herself of the benefits of ownership.

18:16-5.12 Sale of residence owned as joint tenants by senior citizen, blind person, disabled person

The exemption accorded to a sale by a senior citizen, blind person or disabled person, as set forth in N.J.A.C. 18:16-2, shall not apply if the property being sold is owned by more than one person as joint tenants, unless each owner is a senior citizen, blind person or disabled person, except in the case of a sale by a husband and wife.

SUBCHAPTER 6. DEEDS NOT WITHIN EXEMPT PROVISIONS

18:16-6.1 Conveyance from one legal entity to another legal entity

A deed transferring real property from one legal entity to another legal entity that has common ownership is subject to the realty transfer fee. The consideration that the realty transfer fee is calculated on includes the monetary value of stock transferred or contribution to capital by the grantor. When a value is indeterminable, the realty transfer fee is calculated on the assessed value of the property being conveyed on the date of the transfer adjusted to reflect the true value as determined by the Director's Ratio established for that municipality for the current year.

18:16-6.2 Conveyance by former spouse of undivided interest in property

(a) A deed after divorce proceedings from one former spouse to the other conveying the grantor's undivided interest in their jointly held real property is subject to the realty transfer fee if there is consideration, as defined at N.J.A.C. 18:16-1.1, and the deed is being recorded more than 90 days from the entry of the divorce decree. The consideration shall include:

1. That fraction of the amount due on the mortgage which corresponds to the fractional interest of the property conveyed; and
2. Any other element of compensation constituting part of the consideration paid or to be paid for the transfer.

18:16-6.3 Deed by individual to wholly-owned corporation or partnership

The conveyance from an individual to a wholly owned corporation or partnership of which he is the sole owner or shareholder is subject to a realty transfer fee upon recording if the consideration, as defined in the law, is \$ 100.00 or more.

18:16-6.4 Deeds by executors, administrators and trustees to third parties

(a) A recording of a deed from an executor, executrix, administrator, administratrix or trustee transferring title to real estate is subject to the realty transfer fee law if the grantee is not named an heir in accordance with the will or is not a devisee by operation of the law of intestacy laws of the State of New Jersey.

(b) The realty transfer fee shall be computed on the amount of consideration, as defined in the law, paid or to be paid for the transfer of title.

(c) If there is no consideration, as defined in the law, or if the consideration, as defined in the law, is under \$ 100.00, no fee is imposed.

SUBCHAPTER 7. PENALTY FOR FALSE STATEMENT OF CONSIDERATION

18:16-7.1 Crime of the fourth degree

Any person who knowingly falsifies the consideration recited in a deed or in the proof or acknowledgment of the execution of a deed or in any Affidavit of Consideration annexed to a deed is guilty of a crime of the fourth degree.

SUBCHAPTER 8. COUNTY RECORDING OFFICERS' DUTIES

18:16-8.1 General prerequisites for recording

(a) No county recording officer shall record any deed evidencing transfer of title to real property unless:

1. Consideration is recited either in the deed, the acknowledgement or proof of execution;
2. The proper Affidavit of Consideration by one or more of the parties named or by a legal representative declaring the consideration is annexed for recording with the deed;
3. A fee at the rate set for in (a)3i through iv below shall be paid to the county recording officer at the time the deed is offered for recording, which shall be in addition to the recording fee imposed by N.J.S.A. 22A:4-4.1.
 - i. \$ 2.00 per \$ 500.00 of consideration or fractional part thereof not in excess of \$ 150,000;
 - ii. \$ 3.35 per \$ 500.00 of consideration or fractional part thereof in excess of \$ 150,000 but not in excess of \$ 200,000;
 - iii. \$ 3.90 per \$ 500.00 of consideration or fractional part thereof in excess of \$ 200,000; and
 - iv. A general purpose fee in the case of all conveyances or transfers for which the total consideration recited in the deed exceeds \$ 350,000 at the rate of:
 - (1) \$.90 per \$ 500.00 of consideration or fractional part thereof not in excess of \$ 550,000;

(2) \$ 1.40 per \$ 500.00 of consideration or fractional part thereof in excess of \$ 550,000 but not in excess of \$ 850,000;

(3) \$ 1.90 per \$ 500.00 of consideration or fractional part thereof in excess of \$ 850,000 but not in excess of \$ 1,000,000; and

(4) \$ 2.15 per \$ 500.00 of consideration or fractional part thereof in excess of \$ 1,000,000.

4. A completed Affidavit of Consideration for Use by Seller form (RTF-1) for the grantor and Affidavit of Consideration for Use by Buyer form (RTF-1EE) for the grantee where applicable, is attached to such deed; and

5. A completed GIT/REP-1 (or receipted GIT/REP-2), GIT/REP-3, 4, or 4A, is attached to such deed.

(b) Every deed subject to the additional fee required by this chapter, which is in fact recorded, shall be conclusively 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 additional fee, if any, shall not have been paid, and 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.

18:16-8.2 Endorsement of fee payment on deed or computer generated recording data page

Upon receiving payment of the recording fee, the county recording officer shall imprint upon the front page of the deed, or label affixed to the deed, or computer generated recording data page, prior to the recording, the following data in jet black ink:

COUNTY OF.....

CONSIDERATION.....

REALTY TRANSFER FEE (Grantor)..... *

REALTY TRANSFER FEE (Grantee).....

DATE..... BY.....

*Use

18:16-8.3 Notation of exemption on deed and Affidavit of Consideration

(a) The county recording officer receiving a deed for first recording shall note the grant of an exemption or exemptions as the case may be, by writing "Exempt" on the lines captioned "REALTY TRANSFER FEE" on the endorsement imprint of the deed, as prescribed in N.J.A.C. 18:16-8.2.

(b) If the deed is accompanied by an Affidavit or Affidavits of Consideration in

support of the claim or claims for exemption, the county recording officer shall also note the grant of an exemption or exemptions on this affidavit by writing "Exempt" on the line captioned "REALTY TRANSFER FEE" in the block on the affidavit designated "For Recorder's Use Only."

18:16-8.4 Endorsement of fee payment or exemption before recording

No recording officer shall record any deed unless the amount of the realty transfer fee payment or payments in the manner prescribed in N.J.A.C. 18:16-8.2, or grant of the exemption or exemptions in the manner prescribed in N.J.A.C. 18:16-8.3, as applicable, is endorsed on the deed.

18:16-8.5 Endorsement of consideration on deed including more than one parcel

Where a deed includes more than one parcel and the consideration is separately shown for each individual parcel, the endorsement must show the total amount of consideration on the basis of which the fee was calculated.

18:16-8.6 Second or subsequent recording of deed

(a) A county recording officer may not record a deed in a second or subsequent recording without payment of the fee, such as where a deed is recorded in the wrong county, unless there appears on the deed and on an accompanying Affidavit or Affidavits of Consideration, if presented an endorsement showing the amount or amounts of realty transfer fee(s) previously paid or exemption or exemptions, made by the recording officer of the county in which the deed was previously recorded.

(b) Where the deed bears an endorsement that it was first recorded prior to July 3, 1968, such endorsement shall be equivalent to an endorsement that the deed is exempt from the fee.

18:16-8.7 Re-recording of deed where fee not fully paid on first recording

A deed referring to a parcel or parcels of land in multiple counties, but previously recorded in only a single county, may be presented for subsequent recording in additional counties, as necessary. If the realty transfer fee(s) paid to record a deed previously in one county did not include the fee or fees payable for any parcels of land located in another county or counties, the recording officer of the county of subsequent recording shall exact a fee or fees, as necessary, based upon the consideration paid or to be paid for the parcel or parcels of land located in that recording officer's county.

18:16-8.8 Reproduction of endorsements

Every county recording officer shall cause the contents of any endorsement upon a deed or affidavit, if any, accompanying the same, showing the amount of fee received or exemption, to appear on each reproduction of the document in the public records of the county.

18:16-8.9 Deposit of tentative fee in case of dispute

(a) In order to facilitate the recording in advance of the final resolution of disputes which may arise, the county recording officer is required to collect the full amount of

the realty transfer fee due, based on the consideration stated in the deed as a prerequisite for recording. Where the fee from the grantee is required because consideration recited in the deed exceeds \$ 1,000,000 for the purchase of real estate as classified pursuant to N.J.S.A. 46:15-7.2, the amount to be paid shall always be one percent of said consideration.

(b) A grantor's payment for realty transfer fees, when made and accepted, shall be without prejudice to the right of the county recording officer to fix and receive an additional fee, or to the right of the person making the payment to receive a refund of any excess fee paid when the amount of realty transfer fee liability is finally determined.

(c) Acknowledgement of the deposit shall be in writing in substantially the following form:

"Received from _____ the sum of _____ on account of the presently undetermined Realty Transfer Fee liability under P.L. 1968, c. 49, as amended and supplemented, as a prerequisite for recording Deed No. _____ Book _____ Page _____. This payment is accepted in advance of the final determination of the amount of the fee for the purpose of facilitating the prompt recording of the deed.

Date Signature of recording officer"

(d) A county recording officer shall not record any deed evidencing transfer of title to realty for which he has issued written acknowledgement of tentative deposit payment in accordance with this section, unless said written acknowledgement of tentative deposit payment is recorded simultaneously.

18:16-8.10 Processing disputes as to payment of realty transfer fee

(a) The following procedure shall be followed when a dispute arises with respect to liability for a realty transfer fee and a deposit has been paid to the recording officer under protest pursuant to N.J.A.C. 18:16-8.9:

1. The "protester" shall formalize his protest, setting forth all the pertinent facts in a letter of protest addressed to the recording officer, including copies of supporting documents. The protest letter should fully describe the transaction and the basis upon which the claim is asserted.

2. Upon receipt of the formal protest, the recording officer shall promptly review it and either:

i. Grant a refund on the county portion of the fee if he is in accord with the "protester's" position; or

ii. Deny the claim and advise the "protester" accordingly, and inform the "protester" of the latter's right to appeal the recording officer's determination to the Tax Court of New Jersey.

(b) If the recording officer is not certain of the applicable law or regulation controlling the factual situation, and the requested refund involves the State's

portion of the fee, the recording officer must forward all the papers presented to him by the protester, in support of the claim, to the Property Administration Section of the Division of Taxation for further determination.

(c) Notice to "protester" and appeal provisions are as follows:

1. The Property Administration Section shall then notify the "protester" by letter of the Division's ruling;
2. If the "protester" is not satisfied with the Division's ruling, he or she may appeal to the Tax Court of New Jersey.

(d) For the purpose of this section, "protester" means a party to the deed transaction, a legal representative or any person authorized by a party or legal representative to proceed under N.J.A.C. 18:16-8.9.

18:16-8.11 Transmittal of deed abstract and all Affidavits of Consideration to county board of taxation

(a) Every county recording officer shall, as soon as practicable, forward to the county board of taxation an abstract of every deed, including master deeds creating condominiums, recorded in his office with all copies of the Affidavits of Consideration accompanying the same, if any.

(b) The county recording officer shall, no later than the first and 15th day of each month, forward the deeds and affidavits recorded more than 10 days prior to such dates.

18:16-8.12 Transmittal of payments to Revenue Accounting Division of Treasury

The payments to be made to the State Treasurer on the 10th day of each month following the month of collection shall be forwarded to:

New Jersey Revenue Accounting Section
Mill Hill Processing Center, 3rd floor
PO Box 0628
Trenton, NJ 08646-0628.

18:16-8.13 Disposition of realty transfer fees

(a) The proceeds of the various designated fees as set forth in this chapter, collectively referred to as realty transfer fees, collected by the county recording officer, as authorized by P.L. 1975, c. 176, shall be accounted for and remitted to the county treasurer. Payments of the realty transfer fees for use of the State shall be made to the State Treasurer on the 10th day of each month following the month of collection.

(b) For the realty transfer fee imposed upon seller(s)/grantor(s), from the \$ 1.75 "basic" fee for each \$ 500.00 of consideration, \$ 0.50 is remitted to the county in which the property is located and the balance of \$ 1.25 is remitted to the State. An "additional" fee of \$ 0.75 is imposed for each \$ 500.00 of consideration in excess of \$ 150,000. The entire amount of this "additional" fee is remitted to the State Treasurer and credited to the Neighborhood Preservation Nonlapsing Revolving Fund.

(c) The entire "general purpose" fee is remitted to the State Treasurer and deposited in the General Fund.

(d) Portions of the "supplemental" fee are to be remitted to the County Public Health Priority Fund and the State Extraordinary Aid Account in accordance with the chart reproduced under (g) below.

(e) For the one percent fee imposed on the buyer(s)/grantee(s) for the transfer of real property classified pursuant to N.J.A.C. 18:12-2.2(b) or land which was classified as Class 1 vacant land, on January 10th of the tax year in which the transfer occurred, but at the time of sale, qualifies as a Class 2 property situated on that lot or parcel of land; and as otherwise set forth in N.J.S.A. 46:15-7.2, where the entire consideration is in excess of \$ 1,000,000 recited in the deed. The entire fee is remitted to the State Treasurer and deposited in the General Fund.

(f) Two types of transfers of real property are exempt from the State portion of the realty transfer fee (\$ 1.25 of the \$ 1.75 for each \$ 500.00 of consideration): the sale of one or two-family residential premises that are owned and occupied by a senior citizen 62 years of age or older, a blind person, or a disabled person who is the seller/grantor of a property (except, where the sellers are spouses, the exemption shall apply even if only one spouse meets one or more of the above referenced categories); and the sale of low and moderate income housing. On the non-exempt portion of the fee paid in these transfers, \$.50 for each \$ 500.00 of consideration is retained by the county for general county purposes.

(g) The following portions of the supplemental fee established by subsection a. of section 2 of P.L. 2003, c. 113 (N.J.S.A. 46:15-7.1a.), shall be remitted by the county to the State Treasurer for deposit to the Extraordinary Aid Account:

1. \$.60 for each \$ 500.00 of consideration in excess of \$ 150,000 but not in excess of \$ 200,000; and

2. \$ 1.15 for each \$ 500.00 of consideration in excess of \$ 200,000.

(h) A graduated, "supplemental" fee is imposed on the grantor(s)/ seller(s) in the following amounts:

1. \$.25 for each \$ 500.00 of consideration not in excess of \$ 150,000;

2. \$.85 for each \$ 500.00 of consideration in excess of \$ 150,000 but not in excess of \$ 200,000. \$.60 of the \$.85 of the supplemental fee per \$ 500.00 of consideration imposed herein shall be remitted to the State as its portion of said fee; and

3. \$ 1.40 for each \$ 500.00 of consideration in excess of \$ 200,000. \$ 1.15 of the \$ 1.40 of the supplemental fee per \$ 500.00 of consideration imposed herein shall be remitted to the State as its portion of said fee.

(i) Distribution of the "supplemental" fee shall be as follows:

1. The county shall retain \$.25 of the supplemental fees collected for each \$ 500.00 of consideration, and the remainder shall be remitted to the State. The retained supplemental fees shall be used by the counties to maintain their funding of public health services pursuant to the Public Health Priority Funding (PHPF) Act at levels at

least equal to the funding level attained in fiscal year 2003. Amounts retained in excess of such levels may be used for general county purposes.

2. The State portions of the supplemental fees referenced in (h) above are to be remitted to the State Treasurer for deposit to the Extraordinary Aid Account, which shall be established as an account in the General Fund. The Legislature shall annually appropriate the entire balance of the Extraordinary Aid Account for the purposes of providing extraordinary special education aid pursuant to section 19 of P.L. 1996, c. 138 (N.J.S.A. 18A:7F-19) and "Municipal Property Tax Relief Act" extraordinary aid pursuant to section 4 of P.L. 1991, c. 63 (N.J.S.A. 52:27D-118,35).

3. The sale of any one-family or two-family residential premises owned and occupied by a senior citizen, blind person, or disabled person, who is the seller in such transaction, shall not be subject to the collection of the supplemental fees referenced in (h) above. Sales of low and moderate income housing, shall also not be subject to the supplemental fees referenced in (h) above. Neither shall a supplemental fee be imposed on a conveyance or transfer that is made by deed described in N.J.S.A. 46:15-10. However, the supplemental fees referenced in (h) above shall be imposed and collected in instances where property jointly owned by a husband and wife is being sold where one or more of the sellers/grantors is/are not a senior citizen, a blind person, or a disabled person.

(j) An amount equal to 66 2/3 percent of the proceeds from the fee imposed upon the consideration not in excess of \$ 150,000 for transfers of real property upon which there is new construction shall be retained by the county treasurer for the use of the county; 33 1/3 percent of the proceeds from the fee imposed upon the consideration not in excess of \$ 150,000 for transfers of real property upon which there is new construction shall be remitted to the State Treasurer and credited to the Neighborhood Preservation Nonlapsing Revolving (NPNR) Fund. An amount equal to 20 percent of the proceeds of the \$ 2.50 fees imposed upon each \$ 500.00 of consideration or fractional part thereof in excess of \$ 150,000 for transfers of real property upon which there is new construction shall be retained by the county treasurer for the use of the county; 80 percent of the proceeds of the \$ 2.50 fees for each \$ 500.00 of consideration not in excess of \$ 150,000 for transfers of real property upon which there is new construction, and graduated "supplemental" fees of \$.60 of the \$.85 "supplemental" fee for consideration in excess of \$ 150,000 but less than \$ 200,000, and \$ 1.15 of the \$ 1.40 "supplemental" fee for consideration in excess of \$ 200,000, are to be remitted to the State Treasurer for deposit to the Extraordinary Aid Account (EAA), an account established in the General Fund. The Legislature shall annually appropriate the entire balance of the Extraordinary Aid Account for the purposes of providing extraordinary special education aid pursuant to section 19 of P.L. 1996, c. 138 and "Municipal Property Tax Relief Act" extraordinary aid pursuant to section 4 of P.L. 1991, c. 63.

(k) All "general purpose" fees collected pursuant to P.L. 2004, c. 66, §3, amending P.L. 1968, c. 49 (N.J.S.A. 46:15-7) by the county recording officers are to be accounted for and remitted to the State Treasurer for deposit in the General Fund.

(l) Distribution of realty transfer fee (per \$ 500.00 of consideration) proceeds is summarized in the following table.

Consideration Not in Excess of \$350,000

Consideration Not in Excess of \$350,000							
Consideration	Basic Fee		Additional Fee NPNR Fund	Supplemental Fee		General Purpose Fee State General Fund	Total RTF Rate
	County	State		PHPF to County	EAA		
\$0.00-\$150,000	\$0.50	\$1.25	\$0.00	\$0.25	\$0.00	\$0.00	\$2.00
\$150,000.01 to \$200,000	\$0.50	\$1.25	\$0.75	\$0.25	\$0.60	\$0.00	\$3.35
\$200,000.01 to \$350,000	\$0.50	\$1.25	\$0.75	\$0.25	\$1.15	\$0.00	\$3.90

Consideration in Excess of \$350,000

Consideration	Basic Fee		Additional Fee NPWR Fund	Supplemental Fee		General Purpose Fee State General Fund	Total RTF Rate
	County	State		PHPF to County	EAA		
\$0.00-\$150,000	\$0.50	\$1.25	\$0.00	\$0.25	\$0.00	\$0.90	\$2.90
\$150,000.01 to \$200,000	\$0.50	\$1.25	\$0.75	\$0.25	\$0.60	\$0.90	\$4.25
\$200,000.01 to \$550,000	\$0.50	\$1.25	\$0.75	\$0.25	\$1.15	\$0.90	\$4.80
\$550,000.01 to \$850,000	\$0.50	\$1.25	\$0.75	\$0.25	\$1.15	\$1.40	\$5.30
\$850,000.01 to \$1,000,000	\$0.50	\$1.25	\$0.75	\$0.25	\$1.15	\$1.90	\$5.80
In excess of \$1,000,000	\$0.50	\$1.25	\$0.75	\$0.25	\$1.15	\$2.15	\$6.05

An additional fee is imposed upon the grantee of a deed for the transfer of real property that is class 2 - residential; 3A - farm property (regular) if the property includes a building intended for residential use, and any other property sold to the same grantee; and a cooperative unit, for consideration in excess of \$1,000,000.00 in an amount of one percent of the entire consideration.

SENIOR CITIZEN, BLIND/DISABLED PERSON, LOW AND MODERATE INCOME HOUSING

Consideration Not in Excess of \$350,000

Consideration	Basic Fee		Additional Fee NPNR Fund	Supplemental Fee		General Purpose Fee State General Fund	Total RTF Rate
	County	State		PHPF to County	EAA		
\$0.00-\$150,000	\$0.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.50
\$150,000.01 to \$350,000	\$0.50	\$0.00	\$0.75	\$0.00	\$0.00	\$0.00	\$1.25

Consideration in Excess of \$350,000

Consideration	Basic Fee		Additional Fee NPNR Fund	Supplemental Fee		General Purpose Fee State General Fund	Total RTF Rate
	County	State		PHPF to County	EAA		
\$0.00-\$150,000	\$0.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.90	\$1.40
\$150,000.01-\$550,000	\$0.50	\$0.00	\$0.75	\$0.00	\$0.00	\$0.90	\$2.15
\$550,000.01-\$850,000	\$0.50	\$0.00	\$0.75	\$0.00	\$0.00	\$1.40	\$2.65
\$850,000.01-\$1,000,000	\$0.50	\$0.00	\$0.75	\$0.00	\$0.00	\$1.90	\$3.15
\$1,000,000.01 and over	\$0.50	\$0.00	\$0.75	\$0.00	\$0.00	\$2.15	\$3.40

An additional fee is imposed upon the grantee of a deed for the transfer of real property that is class 2 - residential; 3A - farm property (regular) if the property includes a building intended for residential use, and an other property sold to the same grantee; and a cooperative unit, for consideration in excess of \$1,000,000.00 in an amount of one percent of the entire consideration.

NEW CONSTRUCTION							
Consideration Not in Excess of \$350,000							
Consideration	Basic Fee		Additional Fee NPNR Fund	Supplemental Fee		General Purpose Fee State General Fund	Total RTF Rate
	County	State		PHPF to County	EAA		
\$0.00-\$150,000	\$0.50	\$0.00	\$0.25	\$0.25	\$1.00	\$0.00	\$2.00
\$150,000.01 to \$200,000	\$0.50	\$0.00	\$2.00	\$0.25	\$0.60	\$0.00	\$3.35
\$200,000.01 to \$350,000	\$0.50	\$0.00	\$2.00	\$0.25	\$1.15	\$0.00	\$3.90
Consideration in Excess of \$350,000							
Consideration	Basic Fee		Additional Fee NPNR Fund	Supplemental Fee		General Purpose Fee State General Fund	Total RTF Rate
	County	State		PHPF to County	EAA		
\$0.00-\$150,000	\$0.50	\$0.00	\$0.25	\$0.25	\$1.00	\$0.90	\$2.90
\$150,000.01 to \$200,000	\$0.50	\$0.00	\$2.00	\$0.25	\$0.60	\$0.90	\$4.25
\$200,000.01 to \$550,000	\$0.50	\$0.00	\$2.00	\$0.25	\$1.15	\$0.90	\$4.80
\$550,000.01 to \$850,000	\$0.50	\$0.00	\$2.00	\$0.25	\$1.15	\$1.40	\$5.30
\$850,000.01 to \$1,000,000	\$0.50	\$0.00	\$2.00	\$0.25	\$1.15	\$1.90	\$5.80
\$1,000,000.01 and over	\$0.50	\$0.00	\$2.00	\$0.25	\$1.15	\$2.15	\$6.05
An additional fee is imposed upon the grantee of a deed for the transfer of real property that is class 2 - residential; 3A - farm property (regular) if the property includes a building intended for residential use, and another property sold to the same grantee; and a cooperative unit, for consideration in excess of \$1,000,000.00 in an amount of one percent of the entire consideration.							

(m) The Director of the Division of Taxation shall, no later than five days after certification by the Director of the Division of Budget and Accounting in the Department of the Treasury, notify the county recording officers and county treasurers of the several counties of such certification if the requirements of subsection a of section 2 of P.L. 1992, c. 148 (N.J.S.A. 46:15-10.2) have not been met or have been violated by an amendment or supplement to the annual appropriations act.

(n) The "Shore Protection Fund," not in excess of \$ 25,000,000, shall be credited from the payment of fees 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 that was paid to the State Treasurer during the State fiscal year collected by the county recording officer, pursuant to P.L. 2003, c. 113, §3 amending N.J.S.A. 46:15-8.