

2016 -- H 7984

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO TAXATION -- REAL ESTATE CONVEYANCE TAX

Introduced By: Representatives Kazarian, Barros, Maldonado, O'Brien, and Coughlin

Date Introduced: March 23, 2016

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 44-25-1 of the General Laws in Chapter 44-25 entitled "Real Estate  
2   Conveyance Tax" is hereby amended to read as follows:  
3           **44-25-1. Tax imposed -- Payment -- Burden.** -- (a) There is imposed, on each deed,  
4   instrument, or writing by which any lands, tenements, or other realty sold is granted, assigned,  
5   transferred, or conveyed to, or vested in, the purchaser or purchasers, or any other person or  
6   persons, by his or her or their direction, or on any grant, assignment, transfer, or conveyance or  
7   such vesting, by such persons which has the effect of making any real estate company an acquired  
8   real estate company, when the consideration paid exceeds one hundred dollars (\$100), a tax at the  
9   rate of two dollars and thirty cents (\$2.30) for each five hundred dollars (\$500) or fractional part  
10   of it which is paid for the purchase of property or the interest in an acquired real estate company  
11   (inclusive of the value of any lien or encumbrance remaining at the time of the sale, grant,  
12   assignment, transfer or conveyance or vesting occurs, or in the case of an interest in an acquired  
13   real estate company, a percentage of the value of such lien or encumbrance equivalent to the  
14   percentage interest in the acquired real estate company being granted, assigned, transferred,  
15   conveyed or vested), which tax is payable at the time of making, the execution, delivery,  
16   acceptance or presentation for recording of any instrument affecting such transfer grant,  
17   assignment, transfer, conveyance or vesting. In the absence of an agreement to the contrary, the  
18   tax shall be paid by the grantor, assignor, transferor or person making the conveyance or vesting.  
19   Nothing in this subsection shall be construed to impose a tax upon any grant, assignment,

1 transfer, conveyance or vesting of any interest, direct or indirect, by or among owners, members  
2 or partners in any real estate company that owns, either directly or indirectly through another real  
3 estate company, a housing development financed in whole or in part with federal low income  
4 housing tax credits pursuant to the Internal Revenue Code, 26 U.S.C. §42, as amended, and no  
5 such real estate company shall be an acquired real estate company under this section.

6 (b) In the event no consideration is actually paid for the lands, tenements, or realty, the  
7 instrument or interest in an acquired real estate company of conveyance shall contain a statement  
8 to the effect that the consideration is such that no documentary stamps are required.

9 (c) The tax administrator shall contribute to the distressed community relief program the  
10 sum of thirty cents (\$.30) per two dollars and thirty cents (\$2.30) of the face value of the stamps  
11 to be distributed pursuant to § 45-13-12, and to the housing resources commission restricted  
12 receipts account the sum of thirty cents (\$.30) per two dollars and thirty cents (\$2.30) of the face  
13 value of the stamps. Funds will be administered by the office of housing and community  
14 development, through the housing resources commission. The state shall retain sixty cents (\$.60)  
15 for state use. The balance of the tax shall be retained by the municipality collecting the tax.  
16 Notwithstanding the above, in the case of the tax on the grant, transfer, assignment or conveyance  
17 or vesting with respect to an acquired real estate company, the tax shall be collected by the tax  
18 administrator and shall be distributed to the municipality where the real estate owned by the  
19 acquired real estate company is located provided, however, in the case of any such tax collected  
20 by the tax administrator, if the acquired real estate company owns property located in more than  
21 one municipality, the proceeds of the tax shall be allocated amongst said municipalities in the  
22 proportion the assessed value of said real estate in each such municipality bears to the total of the  
23 assessed values of all of the real estate owned by the acquired real estate company in Rhode  
24 Island. Provided, however, in fiscal years 2004 and 2005, from the proceeds of this tax, the tax  
25 administrator shall deposit as general revenues the sum of ninety cents (\$.90) per two dollars and  
26 thirty cents (\$2.30) of the face value of the stamps. The balance of the tax on the purchase of  
27 property shall be retained by the municipality collecting the tax. The balance of the tax on the  
28 transfer with respect to an acquired real estate company, shall be collected by the tax  
29 administrator and shall be distributed to the municipality where the property for which interest is  
30 sold is physically located. Provided, however, that in the case of any tax collected by the tax  
31 administrator with respect to an acquired real estate company where the acquired real estate  
32 company owns property located in more than one municipality, the proceeds of the tax shall be  
33 allocated amongst the municipalities in proportion that the assessed value in any such  
34 municipality bears to the assessed values of all of the real estate owned by the acquired real estate

1 company in Rhode Island.

2 (d) For purposes of this Section, the term "acquired real estate company" means a real  
3 estate company that has undergone a change in ownership interest if (i) such change does not  
4 affect the continuity of the operations of the company; and (ii) the change, whether alone or  
5 together with prior changes has the effect of granting, transferring, assigning or conveying or  
6 vesting, transferring directly or indirectly, 50% or more of the total ownership in the company  
7 within a period of three (3) years. For purposes of the foregoing subsection (ii) hereof, a grant,  
8 transfer, assignment or conveyance or vesting, shall be deemed to have occurred within a period  
9 of three (3) years of another grant(s), transfer(s), assignment(s) or conveyance(s) or vesting(s) if  
10 during the period the granting, transferring, assigning or conveying or party provides the  
11 receiving party a legally binding document granting, transferring, assigning or conveying or  
12 vesting said realty or a commitment or option enforceable at a future date to execute the grant,  
13 transfer, assignment or conveyance or vesting.

14 (e) A real estate company is a corporation, limited liability company, partnership or other  
15 legal entity which meets any of the following:

16 (i) Is primarily engaged in the business of holding, selling or leasing real estate, where  
17 90% or more of the ownership of said real estate is held by 35 or fewer persons and which  
18 company either (a) derives 60% or more of its annual gross receipts from the ownership or  
19 disposition of real estate; or (b) owns real estate the value of which comprises 90% or more of the  
20 value of the entity's entire tangible asset holdings exclusive of tangible assets which are fairly  
21 transferrable and actively traded on an established market; or

22 (ii) 90% or more of the ownership interest in such entity is held by 35 or fewer persons  
23 and the entity owns as 90% or more of the fair market value of its assets a direct or indirect  
24 interest in a real estate company. An indirect ownership interest is an interest in an entity 90% or  
25 more of which is held by 35 or fewer persons and the purpose of the entity is the ownership of a  
26 real estate company.

27 (f) In the case of a grant, assignment, transfer or conveyance or vesting which results in a  
28 real estate company becoming an acquired real estate company, the grantor, assignor, transferor,  
29 or person making the conveyance or causing the vesting, shall file or cause to be filed with the  
30 division of taxation, at least five (5) days prior to the grant, transfer, assignment or conveyance or  
31 vesting, notification of the proposed grant, transfer, assignment, or conveyance or vesting, the  
32 price, terms and conditions of thereof, and the character and location of all of the real estate assets  
33 held by real estate company and shall remit the tax imposed and owed pursuant to subsection (a)  
34 hereof. Any such grant, transfer, assignment or conveyance or vesting which results in a real

1 estate company becoming an acquired real estate company shall be fraudulent and void as against  
2 the state unless the entity notifies the tax administrator in writing of the grant, transfer,  
3 assignment or conveyance or vesting as herein required in subsection (f) hereof and has paid the  
4 tax as required in subsection (a) hereof. Upon the payment of the tax by the transferor, the tax  
5 administrator shall issue a certificate of the payment of the tax which certificate shall be  
6 recordable in the land evidence records in each municipality in which such real estate company  
7 owns real estate. Where the real estate company has assets other than interests in real estate  
8 located in Rhode Island, the tax shall be based upon the assessed value of each parcel of property  
9 located in each municipality in the state of Rhode Island.

10 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO TAXATION -- REAL ESTATE CONVEYANCE TAX

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- 1           This act would exempt from the real estate conveyance tax the transfer of interests in any
- 2 housing development financed in whole or in part by federal low income housing tax credits.
- 3           This act would take effect upon passage.

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