

2018 -- S 2613

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO TAXATION -- REAL ESTATE CONVEYANCE

Introduced By: Senator Gayle L. Goldin

Date Introduced: March 01, 2018

Referred To: Senate Judiciary

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.**

4 (a) There is imposed ~~;~~:

5 (1) On ~~on~~ each deed, instrument, or writing by which any lands, tenements, or other  
6 realty sold is granted, assigned, transferred, or conveyed to, or vested in, the purchaser or  
7 purchasers, or any other person or persons, by his or her or their direction ~~;~~ or

8 (2) On ~~on~~ any grant, assignment, transfer, or conveyance or such vesting, by such persons  
9 which has the effect of making any real estate company an acquired real estate company, when  
10 the consideration paid exceeds one hundred dollars (\$100), a tax at the rate of two dollars and  
11 thirty cents (\$2.30) for each five hundred dollars (\$500) or fractional part of it which is paid for  
12 the purchase of property or the interest in an acquired real estate company (inclusive of the value  
13 of any lien or encumbrance remaining at the time of the sale, grant, assignment, transfer or  
14 conveyance or vesting occurs, or in the case of an interest in an acquired real estate company, a  
15 percentage of the value of such lien or encumbrance equivalent to the percentage interest in the  
16 acquired real estate company being granted, assigned, transferred, conveyed or vested), which tax  
17 is payable at the time of making, the execution, delivery, acceptance or presentation for recording  
18 of any instrument affecting such transfer grant, assignment, transfer, conveyance or vesting. In  
19 the absence of an agreement to the contrary, the tax shall be paid by the grantor, assignor,

1 transferor or person making the conveyance or vesting.

2 Nothing in this subsection shall be construed to impose a tax under subsection (a)(2) of  
3 this section upon any grant, assignment, transfer, conveyance or vesting of any interest, direct or  
4 indirect, by or among owners, members or partners in any real estate company, in which at least  
5 one of the owners, members or partners is a Rhode Island nonprofit corporation or an entity  
6 exempt from tax under § 501(c)(3) of the Internal Revenue Code or is owned by a Rhode Island  
7 nonprofit corporation or an entity that is exempt from tax under § 501(c)(3) of the Internal  
8 Revenue Code, that owns, either directly or indirectly through another real estate company, a  
9 housing development financed in whole or in part with federal low-income housing tax credits  
10 pursuant to Section 42 of the Internal Revenue Code or that is subject to a recorded declaration of  
11 land use restrictive covenants use restriction in favor of Rhode Island housing and mortgage  
12 finance corporation, the state of Rhode Island housing resources commission, the Federal Home  
13 Loan Bank or any of its members, or any other state or local government instrumentality under an  
14 affordable housing program, and no such real estate company shall be an acquired real estate  
15 company under this section.

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

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

1 administrator shall deposit as general revenues the sum of ninety cents (\$.90) per two dollars and  
2 thirty cents (\$2.30) of the face value of the stamps. The balance of the tax on the purchase of  
3 property shall be retained by the municipality collecting the tax. The balance of the tax on the  
4 transfer with respect to an acquired real estate company, shall be collected by the tax  
5 administrator and shall be distributed to the municipality where the property for which interest is  
6 sold is physically located. Provided, however, that in the case of any tax collected by the tax  
7 administrator with respect to an acquired real estate company where the acquired real estate  
8 company owns property located in more than one municipality, the proceeds of the tax shall be  
9 allocated amongst the municipalities in proportion that the assessed value in any such  
10 municipality bears to the assessed values of all of the real estate owned by the acquired real estate  
11 company in Rhode Island.

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

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

26 (i) Is primarily engaged in the business of holding, selling or leasing real estate, where  
27 90% or more of the ownership of said real estate is held by 35 or fewer persons and which  
28 company either (a) derives 60% or more of its annual gross receipts from the ownership or  
29 disposition of real estate; or (b) owns real estate the value of which comprises 90% or more of the  
30 value of the entity's entire tangible asset holdings exclusive of tangible assets which are fairly  
31 transferrable and actively traded on an established market; or

32 (ii) 90% or more of the ownership interest in such entity is held by 35 or fewer persons  
33 and the entity owns as 90% or more of the fair market value of its assets a direct or indirect  
34 interest in a real estate company. An indirect ownership interest is an interest in an entity 90% or

1 more of which is held by 35 or fewer persons and the purpose of the entity is the ownership of a  
2 real estate company.

3 (f) In the case of a grant, assignment, transfer or conveyance or vesting which results in a  
4 real estate company becoming an acquired real estate company, the grantor, assignor, transferor,  
5 or person making the conveyance or causing the vesting, shall file or cause to be filed with the  
6 division of taxation, at least five (5) days prior to the grant, transfer, assignment or conveyance or  
7 vesting, notification of the proposed grant, transfer, assignment, or conveyance or vesting, the  
8 price, terms and conditions of thereof, and the character and location of all of the real estate assets  
9 held by real estate company and shall remit the tax imposed and owed pursuant to subsection (a)  
10 hereof. Any such grant, transfer, assignment or conveyance or vesting which results in a real  
11 estate company becoming an acquired real estate company shall be fraudulent and void as against  
12 the state unless the entity notifies the tax administrator in writing of the grant, transfer,  
13 assignment or conveyance or vesting as herein required in subsection (f) hereof and has paid the  
14 tax as required in subsection (a) hereof. Upon the payment of the tax by the transferor, the tax  
15 administrator shall issue a certificate of the payment of the tax which certificate shall be  
16 recordable in the land evidence records in each municipality in which such real estate company  
17 owns real estate. Where the real estate company has assets other than interests in real estate  
18 located in Rhode Island, the tax shall be based upon the assessed value of each parcel of property  
19 located in each municipality in the state of Rhode Island.

20 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

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1           This act would exempt from the real estate conveyance tax certain low-income and  
2 affordable housing developments.

3           This act would take effect upon passage.

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