

2022 -- S 2759

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO TAXATION -- REAL ESTATE CONVEYANCE TAX

Introduced By: Senators Mendes, and Calkin

Date Introduced: March 24, 2022

Referred To: Senate 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. [Effective January 1, 2022.]**

4 (a) There is imposed, on each deed, instrument, or writing by which any lands, tenements,
5 or other realty sold is granted, assigned, transferred, or conveyed to, or vested in, the purchaser or
6 purchasers, or any other person or persons, by his, her, or their direction, or on any grant,
7 assignment, transfer, or conveyance or such vesting, by such persons that has the effect of making
8 any real estate company an acquired real estate company, when the consideration paid exceeds one
9 hundred dollars (\$100), a tax at the rate of two dollars and thirty cents (\$2.30) for each five hundred
10 dollars (\$500), or fractional part of it, that is paid for the purchase of property or the interest in an
11 acquired real estate company (inclusive of the value of any lien or encumbrance remaining at the
12 time the sale, grant, assignment, transfer or conveyance or vesting occurs, or in the case of an
13 interest in an acquired real estate company, a percentage of the value of such lien or encumbrance
14 equivalent to the percentage interest in the acquired real estate company being granted, assigned,
15 transferred, conveyed or vested). The 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 tax
18 shall be paid by the grantor, assignor, transferor or person making the conveyance or vesting;
19 provided, however, the sale of homes not considered the primary residence to the seller shall be

1 [taxed pursuant to subsection \(c\) of this section.](#)

2 (b) In addition to the tax imposed by subsection (a), there is imposed, on each deed,
3 instrument, or writing by which any residential real property sold is granted, assigned, transferred,
4 or conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his,
5 her, or their direction, or on any grant, assignment, transfer, or conveyance or such vesting, by such
6 persons that has the effect of making any real estate company an acquired real estate company,
7 when the consideration paid exceeds eight hundred thousand dollars (\$800,000), a tax at the rate of
8 two dollars and thirty cents (\$2.30) for each five hundred dollars (\$500), or fractional part of it, of
9 the consideration in excess of eight hundred thousand dollars (\$800,000) that is paid for the
10 purchase of property or the interest in an acquired real estate company (inclusive of the value of
11 any lien or encumbrance remaining at the time the sale, grant, assignment, transfer, or conveyance
12 or vesting occurs, or in the case of an interest in an acquired real estate company, a percentage of
13 the value of such lien or encumbrance equivalent to the percentage interest in the acquired real
14 estate company being granted, assigned, transferred, conveyed, or vested). The tax imposed by this
15 subsection shall be paid at the same time and in the same manner as the tax imposed by subsection
16 (a).

17 [\(c\) There is imposed, on each deed, instrument, or writing by which any residential real](#)
18 [property sold is granted, assigned, transferred, or conveyed to, or vested in, the purchaser or](#)
19 [purchasers, or any person or persons, by his or her or their discretion, or on any grant, assignment,](#)
20 [transfer, or conveyance or such vesting, by such persons which has the effect of making any real](#)
21 [estate company an acquired real estate company, when the property subject to the sale is not a](#)
22 [primary residence and assess at over two hundred thousand dollars \(\\$200,000\), a tax at the rate of](#)
23 [five percent \(5%\) of the total assessed value of the property. The tax imposed by this subsection](#)
24 [shall be paid at the same time and in the same manner as the tax imposed by subsection \(a\) of this](#)
25 [section.](#)

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

29 ~~(e)~~ The tax shall be distributed as follows:

30 (1) With respect to the tax imposed by subsection (a): the tax administrator shall contribute
31 to the distressed community relief program the sum of thirty cents (\$.30) per two dollars and thirty
32 cents (\$2.30) of the face value of the stamps to be distributed pursuant to § 45-13-12, and to the
33 housing resources commission restricted receipts account the sum of thirty cents (\$.30) per two
34 dollars and thirty cents (\$2.30) of the face value of the stamps. Funds will be administered by the

1 office of housing and community development, through the housing resources commission. The
2 state shall retain sixty cents (\$.60) for state use. The balance of the tax shall be retained by the
3 municipality collecting the tax.

4 (2) With respect to the tax imposed by subsection (b): the tax administrator shall contribute
5 the entire tax to the housing production fund established pursuant to § 42-128-2.1.

6 (3) Notwithstanding the above, in the case of the tax on the grant, transfer, assignment or
7 conveyance or vesting with respect to an acquired real estate company, the tax shall be collected
8 by the tax administrator and shall be distributed to the municipality where the real estate owned by
9 the acquired real estate company is located; provided, however, in the case of any such tax collected
10 by the tax administrator, if the acquired real estate company owns property located in more than
11 one municipality, the proceeds of the tax shall be allocated amongst said municipalities in the
12 proportion the assessed value of said real estate in each such municipality bears to the total of the
13 assessed values of all of the real estate owned by the acquired real estate company in Rhode Island.
14 Provided, however, in fiscal years 2004 and 2005, from the proceeds of this tax, the tax
15 administrator shall deposit as general revenues the sum of ninety cents (\$.90) per two dollars and
16 thirty cents (\$2.30) of the face value of the stamps. The balance of the tax on the purchase of
17 property shall be retained by the municipality collecting the tax. The balance of the tax on the
18 transfer with respect to an acquired real estate company, shall be collected by the tax administrator
19 and shall be distributed to the municipality where the property for which interest is sold is
20 physically located. Provided, however, that in the case of any tax collected by the tax administrator
21 with respect to an acquired real estate company where the acquired real estate company owns
22 property located in more than one municipality, the proceeds of the tax shall be allocated amongst
23 the municipalities in proportion that the assessed value in any such municipality bears to the
24 assessed values of all of the real estate owned by the acquired real estate company in Rhode Island.

25 ~~(e)~~(f) For purposes of this section, the term "acquired real estate company" means a real
26 estate company that has undergone a change in ownership interest if (1) The change does not affect
27 the continuity of the operations of the company; and (2) The change, whether alone or together
28 with prior changes has the effect of granting, transferring, assigning, or conveying or vesting,
29 transferring directly or indirectly, 50% or more of the total ownership in the company within a
30 period of three (3) years. For purposes of the foregoing subsection (e)(2), a grant, transfer,
31 assignment, or conveyance or vesting, shall be deemed to have occurred within a period of three
32 (3) years of another grant(s), transfer(s), assignment(s), or conveyance(s) or vesting(s) if during the
33 period the granting, transferring, assigning, or conveying party provides the receiving party a
34 legally binding document granting, transferring, assigning, or conveying or vesting the realty or a

1 commitment or option enforceable at a future date to execute the grant, transfer, assignment, or
2 conveyance or vesting.

3 ~~(g)~~ A real estate company is a corporation, limited liability company, partnership, or
4 other legal entity that meets any of the following:

5 (1) Is primarily engaged in the business of holding, selling, or leasing real estate, where
6 90% or more of the ownership of the real estate is held by 35 or fewer persons and which company
7 either (i) derives 60% or more of its annual gross receipts from the ownership or disposition of real
8 estate; or (ii) owns real estate the value of which comprises 90% or more of the value of the entity's
9 entire tangible asset holdings exclusive of tangible assets that are fairly transferrable and actively
10 traded on an established market; or

11 (2) Ninety percent or more of the ownership interest in such entity is held by 35 or fewer
12 persons and the entity owns as 90% or more of the fair market value of its assets a direct or indirect
13 interest in a real estate company. An indirect ownership interest is an interest in an entity 90% or
14 more of which is held by 35 or fewer persons and the purpose of the entity is the ownership of a
15 real estate company.

16 ~~(g)~~ (h) In the case of a grant, assignment, transfer or conveyance or vesting that results in a
17 real estate company becoming an acquired real estate company, the grantor, assignor, transferor, or
18 person making the conveyance or causing the vesting, shall file or cause to be filed with the division
19 of taxation, at least five (5) days prior to the grant, transfer, assignment, or conveyance or vesting,
20 notification of the proposed grant, transfer, assignment, or conveyance or vesting, the price, terms
21 and conditions thereof, and the character and location of all of the real estate assets held by the real
22 estate company and shall remit the tax imposed and owed pursuant to subsection (a). Any such
23 grant, transfer, assignment, or conveyance or vesting which results in a real estate company
24 becoming an acquired real estate company shall be fraudulent and void as against the state unless
25 the entity notifies the tax administrator in writing of the grant, transfer, assignment, or conveyance
26 or vesting as herein required in subsection (g) and has paid the tax as required in subsection (a).
27 Upon the payment of the tax by the transferor, the tax administrator shall issue a certificate of the
28 payment of the tax which certificate shall be recordable in the land evidence records in each
29 municipality in which such real estate company owns real estate. Where the real estate company
30 has assets other than interests in real estate located in Rhode Island, the tax shall be based upon the
31 assessed value of each parcel of property located in each municipality in the state of Rhode Island.
32 Delayed Effective Date.

33 P.L. 2018, ch. 39, § 2, and P.L. 2018, ch. 45, § 2 enacted identical amendments to this
34 section.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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- 1 This act would tax property not considered a primary residence at a flat rate of five percent
- 2 (5%) of the assess value.
- 3 This act would take effect upon passage.

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