STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N   A C T

RELATING TO TAXATION -- REAL ESTATE CONVEYANCE TAX

Introduced By: Representatives Speakman, Alzate, Williams, Potter, and Kislak

Date Introduced: February 24, 2021

Referred To: House Finance

It is enacted by the General Assembly as follows:

SECTION 1. Sections 44-25-1 and 44-25-2 of the General Laws in Chapter 44-25 entitled "Real Estate Conveyance Tax" are hereby amended to read as follows:


(a) There is imposed, on each deed, instrument, or writing by which any lands, tenements, or other realty sold is granted, assigned, transferred, or conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or her or their direction, or on any grant, assignment, transfer, or conveyance or such vesting, by such persons which has the effect of making any real estate company an acquired real estate company, when the consideration paid exceeds one hundred dollars ($100), a tax at the rate of (1) two dollars and thirty cents ($2.30) for each five hundred dollars ($500) or fractional part of it of the first five hundred thousand dollars ($500,000) of the consideration paid, and (2) at the rate of four dollars and sixty cents ($4.60) for each five hundred dollars ($500), or fractional part of it, of the consideration paid in excess of five hundred thousand dollars ($500,000) which is paid for the purchase of property or the interest in an acquired real estate company (inclusive of the value of any lien or encumbrance remaining at the time of the sale, grant, assignment, transfer or conveyance or vesting occurs, or in the case of an interest in an acquired real estate company, a percentage of the value of such lien or encumbrance equivalent to the percentage interest in the acquired real estate company being granted, assigned, transferred, conveyed or vested), which tax is payable at the time of making, the execution, delivery, acceptance or presentation for recording of any instrument affecting such transfer grant,
assignment, transfer, conveyance or vesting. In the absence of an agreement to the contrary, the tax shall be paid by the grantor, assignor, transferor or person making the conveyance or vesting.

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

(c) The tax administrator shall contribute The tax shall be distributed as follows:

(i) With respect to the portion of the tax assessed against the first five hundred thousand dollars ($500,000) of the consideration paid: the tax administrator shall contribute to the distressed community relief program the sum of thirty cents ($0.30) per two dollars and thirty cents ($2.30) of the face value of the stamps to be distributed pursuant to § 45-13-12, and to the housing resources commission restricted receipts account the sum of thirty cents ($0.30) per two dollars and thirty cents ($2.30) of the face value of the stamps. Funds will be administered by the office of housing and community development, through the housing resources commission. The state shall retain sixty cents ($0.60) for state use. The balance of the tax shall be retained by the municipality collecting the tax.

(ii) With respect to the portion of the tax assessed against the consideration paid in excess of five hundred thousand dollars ($500,000): the tax administrator shall contribute to the distressed community relief program the sum of thirty cents ($0.30) per four dollars and sixty cents ($4.60) of the face value of the stamps to be distributed pursuant to § 45-13-12, to the housing resources commission restricted receipt account the sum of thirty cents ($0.30) per four dollars and sixty cents ($4.60) of the face value of the stamps, and to the housing production fund established pursuant to § 42-128-10(b) the sum of two dollars and thirty cents ($2.30) per four dollars and sixty cents ($4.60) of the face value of the stamps. The state shall retain sixty cents ($0.60) for state use. The balance of the tax shall be retained by the municipality collecting the tax.

(iii) Notwithstanding the above, in the case of the tax on the grant, transfer, assignment or conveyance or vesting with respect to an acquired real estate company, the tax shall be collected by the tax administrator and shall be distributed to the municipality where the real estate owned by the acquired real estate company is located provided, however, in the case of any such tax collected by the tax administrator, if the acquired real estate company owns property located in more than one municipality, the proceeds of the tax shall be allocated amongst said municipalities in the proportion the assessed value of said real estate in each such municipality bears to the total of the assessed values of all of the real estate owned by the acquired real estate company in Rhode Island. Provided, however, in fiscal years 2004 and 2005, from the proceeds of this tax, the tax administrator shall deposit as general revenues the sum of ninety cents ($0.90) per two dollars and
thirty cents ($2.30) of the face value of the stamps. The balance of the tax on the purchase of
property shall be retained by the municipality collecting the tax. The balance of the tax on the
transfer with respect to an acquired real estate company, shall be collected by the tax administrator
and shall be distributed to the municipality where the property for which interest is sold is
physically located. Provided, however, that in the case of any tax collected by the tax administrator
with respect to an acquired real estate company where the acquired real estate company owns
property located in more than one municipality, the proceeds of the tax shall be allocated amongst
the municipalities in proportion that the assessed value in any such municipality bears to the
assessed values of all of the real estate owned by the acquired real estate company in Rhode Island.

With respect to the revenue collected by the division of taxation on behalf of each municipality in
this section, before distributing said revenue to the municipalities, a two percent (2%) administrative fee shall be deducted therefrom and transferred to the general fund.

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

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

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

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

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

44-25-2. Exemptions.

(a) The tax imposed by this chapter does not apply to any instrument or writing given to 
secure a debt.

(b) The tax imposed by this chapter does not apply to any deed, instrument, or writing 
wherein the United States, the state of Rhode Island, or its political subdivisions are designated the 
grantor.

(c) The tax imposed by this chapter does not apply to any deed, instrument, or writing that 
has or shall be executed, delivered, accepted, or presented for recording in furtherance of, or 
pursuant to, that certain master property conveyance contract dated December 29, 1982, and 
recorded in the land evidence records of the city of Providence on January 27, 1983, at 1:30 p.m. 
in book 1241 at page 849, and relating to the capital center project in the city of Providence.

(d) The qualified sale of a mobile or manufactured home community to a resident-owned 
organization as defined in § 31-44-1 is exempt from the real estate conveyance tax imposed under 
this chapter.
(e) No transfer tax or fee shall be imposed by a land trust or municipality upon the acquisition of real estate by the state of Rhode Island or any of its political subdivisions.

(f) Nothing in § 44-25-1(a) shall be construed to impose a tax upon any grant, assignment, transfer, conveyance or vesting of any interest, direct or indirect, among owners, members or partners in any real estate company with respect to an affordable housing development where:

(i) The housing development has been financed in whole or in part with federal low-income tax credits pursuant to §42 of the Internal Revenue Code; or

(ii) At least one of the owners, members or partners of the company is a Rhode Island nonprofit corporation or an entity exempt from tax under § 501(c)(3) of the Internal Revenue Code, or is owned by a Rhode Island nonprofit corporation or an entity that is exempt from tax under § 501(c)(3) of the Internal Revenue Code, and the housing development is subject to a recorded deed restriction or declaration of land use restrictive covenants in favor of the Rhode Island housing and mortgage finance corporation, the state of Rhode Island housing resources commission, the federal home loan bank or any of its members, or any other state or local government instrumentality under an affordable housing program. No such real estate company shall be an acquired real estate company under this section.

SECTION 2. Section 42-128-10 of the General Laws in Chapter 42-128 entitled “Rhode Island Housing Resources Act of 1998” is hereby amended to read as follows:

42-128-10. Appropriations.

(a) The general assembly shall annually appropriate any sums it may deem necessary to enable the commission to carry out its assigned purposes; and the state controller is authorized and directed to draw his or her orders upon the general treasurer for the payment of any sums appropriated or so much as may be from time to time required, upon receipt by him or her of proper vouchers approved by the chairperson or the executive director.

(b) There is hereby established a restricted receipt account within the general fund of the state, to be known as the “housing production fund”. Funds from this account shall be administered by the Rhode Island housing and mortgage finance corporation, subject to all program and reporting guidelines adopted by the housing resources commission, for housing production initiatives, including:

(1) Financial assistance by loan, grant, or otherwise, for the planning, production, or preservation of housing opportunities in Rhode Island, including housing affordable to workers and located near major workforce centers; or

(2) Technical and financial assistance for cities and towns to support increased local housing production, including by reducing regulatory barriers.

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SECTION 3. Chapter 42-128 of the General Laws entitled “Rhode Island Housing Resources Act of 1998” is hereby amended by adding thereto the following section:


(a) Notwithstanding any laws to the contrary, any project funded in total or in part under §42-128-10(b)(1) shall include a requirement that any contractor and subcontractor working on the project shall have an apprenticeship program as defined herein for all apprenticeable crafts that will be employed on the project at the time of bid. The provisions of the section shall only apply to contractors and subcontractors with five (5) or more employees. For purposes of this section, an apprenticeship program is one that is registered with and approved by the United States Department of Labor in conformance with 29 C.F.R. 29 and 29 C.F.R. 30; and

(1) The department of labor and training must provide information and technical assistance to affected governmental, quasi-governmental agencies, and any contractors awarded projects relative to their obligations under this statute.

(2) The department of labor and training may also impose a penalty of up to five hundred dollars ($500) for each calendar day of noncompliance with this section, as determined by the director of labor and training. Mere errors and/or omissions shall not be grounds for imposing a penalty under this subsection.

(3) Any penalties assessed under this statute shall be paid to the housing production fund.

(4) To the extent that any of the provisions contained in §37-13-3.2 conflict with the requirements for federal aid contracts, federal law and regulations shall control.

(b) Projects funded under §42-128-10(b)(1) with total costs valued at five-million dollars ($5,000,000) or more shall be deemed public works and be subject to requirements set forth in §37-13.

(c) In administering the housing production fund, RI housing shall fund new housing construction projects and rental assistance in roughly equal proportion.

SECTION 4. This act shall take effect upon passage.
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 provide that a portion of the real estate conveyance tax be apportioned to a
2 newly established restricted receipt account known as the housing production fund.
3 This act would take effect upon passage.

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