

2021 -- S 0229

=====
LC001246
=====

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: Senators DiPalma, Picard, and Burke

Date Introduced: February 10, 2021

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.**

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

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

4 (c) The tax administrator shall contribute to the distressed community relief program the
5 sum of ~~thirty ninety~~ cents ~~(\$.30)~~ (\$.90) per two dollars and thirty cents (\$2.30) of the face value of
6 the stamps to be distributed pursuant to § 45-13-12, and to the housing resources commission
7 restricted receipts account the sum of thirty cents (\$.30) per two dollars and thirty cents (\$2.30) of
8 the face value of the stamps. Funds will be administered by the office of housing and community
9 development to construct and rehabilitate affordable housing as defined in § 42-128-8.1(d)(1),
10 ~~through the housing resources commission. The state shall retain sixty cents (\$.60) for state use.~~

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

31 (d) For purposes of this section, the term "acquired real estate company" means a real estate
32 company that has undergone a change in ownership interest if (i) such change does not affect the
33 continuity of the operations of the company; and (ii) the change, whether alone or together with
34 prior changes has the effect of granting, transferring, assigning or conveying or vesting, transferring

1 directly or indirectly, 50% or more of the total ownership in the company within a period of three
2 (3) years. For purposes of the foregoing subsection (ii) hereof, a grant, transfer, assignment or
3 conveyance or vesting, shall be deemed to have occurred within a period of three (3) years of
4 another grant(s), transfer(s), assignment(s) or conveyance(s) or vesting(s) if during the period the
5 granting, transferring, assigning or conveying or party provides the receiving party a legally binding
6 document granting, transferring, assigning or conveying or vesting said realty or a commitment or
7 option enforceable at a future date to execute the grant, transfer, assignment or conveyance or
8 vesting.

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

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

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

22 (f) In the case of a grant, assignment, transfer or conveyance or vesting which results in a
23 real estate company becoming an acquired real estate company, the grantor, assignor, transferor, or
24 person making the conveyance or causing the vesting, shall file or cause to be filed with the division
25 of taxation, at least five (5) days prior to the grant, transfer, assignment or conveyance or vesting,
26 notification of the proposed grant, transfer, assignment, or conveyance or vesting, the price, terms
27 and conditions of thereof, and the character and location of all of the real estate assets held by real
28 estate company and shall remit the tax imposed and owed pursuant to subsection (a) hereof. Any
29 such grant, transfer, assignment or conveyance or vesting which results in a real estate company
30 becoming an acquired real estate company shall be fraudulent and void as against the state unless
31 the entity notifies the tax administrator in writing of the grant, transfer, assignment or conveyance
32 or vesting as herein required in subsection (f) hereof and has paid the tax as required in subsection
33 (a) hereof. Upon the payment of the tax by the transferor, the tax administrator shall issue a
34 certificate of the payment of the tax which certificate shall be recordable in the land evidence

1 records in each municipality in which such real estate company owns real estate. Where the real
2 estate company has assets other than interests in real estate located in Rhode Island, the tax shall
3 be based upon the assessed value of each parcel of property located in each municipality in the state
4 of Rhode Island.

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

=====
LC001246
=====

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

1 This act would transfer the sixty (\$.60) cent share of the real estate conveyance tax that is
2 currently retained for state use into the housing resources restricted receipts account for affordable
3 housing to be administered by the office of housing and community development.

4 This act would take effect upon passage.

=====
LC001246
=====