

46:15-5 et al

**LEGISLATIVE HISTORY CHECKLIST**

**NJSA:** 46:15-5 et al

(Realty transfer fee--  
revision)

**LAWS OF:** 1985

**CHAPTER:** 225

**Bill No:** A3117

**Sponsor(s):** Schwartz

**Date Introduced:** February 14, 1985

**Committee: Assembly:** Revenue, Finance and Appropriations

**Senate:** -----

**Amended during passage:** Yes  
according to Governor's recommendations

Substituted for S2613 (not attached  
since identical to A3117).  
Amendments denoted by asterisks.

**Date of Passage:**

**Assembly:** March 7, 1985

Re-enacted 6-27-85

**Senate:** March 7, 1985

Re-enacted 6-27-85

**Date of Approval:** July 2, 1985

**Following statements are attached if available:**

**Sponsor statement:** Yes

**Committee statement: Assembly** No

**Senate** No

**Fiscal Note:** No

**Veto Message:** Yes

**Message on Signing:** Yes

**Following were printed:**

**Reports:** No

**Hearings:** No

225  
7 2 85

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 3117

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 14, 1985

By Assemblyman SCHWARTZ

AN ACT concerning the imposition of realty transfer fees, and amending P. L. 1968, c. 49 and P. L. 1975, c. 176.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Section 1 of P. L. 1968, c. 49 (C. 46:15-5) is amended to read  
2 as follows:

3 1. As used in this act:

4 (a) "Deed" means a written instrument entitled to be recorded  
5 in the office of a county recording officer which purports to convey  
6 or transfer title to a freehold interest in any lands, tenements or  
7 other realty in this State by way of grant or bargain and sale  
8 thereof from the named grantor to the named grantee. A lease-  
9 hold interest for 99 years or more, shall be treated as a "freehold"  
10 for the purpose of this act. Instruments providing for common  
11 driveways, for exchanges of easements or rights-of-way, for  
12 revocable licenses to use, to adjust or to clear defects of or clouds  
13 on title, to provide for utility service lines such as drainage,  
14 sewerage, water, electric, telephone or other such service lines, or to  
15 quitclaim possible outstanding interests, shall not be "deeds" for  
16 the purposes of this act.

17 (b) The terms "county recording officer" and "office of the  
18 county recording officer" mean the register of deeds and mortgages  
19 in counties having such an officer and office, and the county clerk  
20 and his office in the other counties.

21 (c) "Consideration" means in the case of any deed, the actual  
22 amount of money and the monetary value of any other thing of

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter printed in italics thus is new matter.**

**Matter enclosed in asterisks or stars has been adopted as follows:**

**\*—Assembly amendments adopted in accordance with Governor's recommendations June 17, 1985.**

23 value constituting the entire compensation paid or to be paid for  
24 the transfer of title to the lands, tenements or other realty, in-  
25 cluding the remaining amount of any prior mortgage to which  
26 the transfer is subject or which is to be assumed and agreed to  
27 be paid by the grantee and any other lien or encumbrance thereon  
28 not paid, satisfied or removed in connection with the transfer of  
29 title. The amount of liens for real property taxes, water or  
30 sewerage charges for the current or any subsequent year, or by  
31 way of added assessment or other adjustment, as well as of other  
32 like liens or encumbrances of a current and continuing nature  
33 ordinarily adjusted between the parties according to the period  
34 of ownership shall be excluded as an element in determining the  
35 consideration, notwithstanding that such amount is to be paid by  
36 the grantee.

37 In the case of a leasehold interest as defined in paragraph (a) of  
38 this section, the consideration shall be in the amount of the assessed  
39 value of the property at the date of the transaction for the pur-  
40 pose of levying local real property taxes adjusted to reflect the  
41 true value in accordance with the county percentage level estab-  
42 lished for the current year.

43 (d) "Blind person" means a person whose vision in his better  
44 eye with proper correction does not exceed 20/200 as measured by  
45 the Snellen chart or a person who has a field defect in his better  
46 eye with proper correction in which the peripheral field has con-  
47 tracted to such an extent that the widest diameter of visual field  
48 subtends an angular distance no greater than 20°.

49 **[(c)]** (e) "Disabled person" means any resident of this State who  
50 is permanently and totally disabled, unable to engage in gainful  
51 employment, and receiving disability benefits or any other com-  
52 pensation under any Federal or State law.

53 (f) "Senior citizen" means any resident of this State of the age  
54 of 62 years or over.

55 (g) "New construction" means any conveyance or transfer of  
56 property upon which there is an entirely new improvement not  
57 previously occupied or used for any purpose.

58 (h) "*Low and moderate income housing*" means any residential  
59 premises, or part thereof, affordable according to federal Depart-  
60 ment of Housing and Urban Development or other recognized  
61 standards for home ownership and rental costs and occupied or  
62 reserved for occupancy by households with a gross income equal to  
63 80% or less of the median gross household income for households  
64 of the same size within the housing region in which the housing is  
65 located, but shall include only those residential premises subject to  
66 resale controls pursuant to contractual guarantees.

1 2. Section 3 of P. L. 1968, c. 49 (C. 46:15-7) is amended to read  
2 as follows:

3 3. In addition to the recording fees imposed by P. L. 1965, c. 123,  
4 s. 2 (C. 22A:4-4.1) a fee is imposed upon grantors, at the rate  
5 of \$1.75 for each \$500.00 of consideration or fractional part thereof  
6 recited in the deed, which fee shall be collected by the county  
7 recording officer at the time the deed is offered for recording. *For*  
8 *each \$500.00 of consideration or fractional part thereof recited in*  
9 *the deed in excess of \$150,000.00 an additional fee is imposed of*  
10 *\$0.75.*

11 Every deed subject to the additional fee required by this act,  
12 which is in fact recorded, shall be conclusively deemed to have  
13 been entitled to recording, notwithstanding that the amount of  
14 the consideration shall have been incorrectly stated, or that the  
15 correct amount of such additional fee, if any, shall not have been  
16 paid, and no such defect shall in any way affect or impair the  
17 validity of the title conveyed or render the same unmarketable;  
18 but the person or persons required to pay said additional fee at  
19 the time of recording shall be and remain liable to the county  
20 recording officer for the payment of the proper amount thereof.

1 3. Section 4 of P. L. 1968, c. 49 (C. 46:15-8) is amended to read  
2 as follows:

3 4. The proceeds of the fees collected by the county recording  
4 officer, as authorized by this act, shall be accounted for and re-  
5 mitted to the county treasurer. An amount equal to 28.6% of the  
6 proceeds *from the first \$1.75 for each \$500.00 of consideration or*  
7 *fractional part thereof recited in the deed* so collected shall be re-  
8 tained by the county treasurer for the use of the county and the  
9 balance shall be paid to the State Treasurer for the use of the State.  
10 Payments shall be made to the State Treasurer on the tenth day of  
11 each month following the month of collection. *All amounts paid to*  
12 *the State Treasurer \***[shall be credited to the Fair Housing Trust***  
13 *Fund Account]\* \*in payment of the additional fee of \$0.75 for*  
14 *each \$500.00 of consideration or fractional part thereof recited in*  
15 *the deed in excess of \$150,000.00 shall be credited to the Neighbor-*  
16 *hood Preservation Nonlapsing Revolving Fund\* established pursu-*  
17 *ant to P. L. . . . ., c. . . . . (C. . . . .) (now pending before the*  
18 *Legislature as Senate Committee Substitute for Senate Bill No.*  
19 *2046 and Senate Bill No. 2334), in the manner established under*  
20 *section 20 thereof (C. . . . .).*

1 4. Section 4 of P. L. 1975, c. 176 (C. 46:15-10.1) is amended to  
2 read as follows:

3 4. a. The following transfers of title to real property shall be

4 exempt from payment of \$1.25 per \$500.00 of consideration or frac-  
 5 tional part thereof of the **[\$1.75]** fee imposed upon grantors by this  
 6 act:

7 **[(a)]** (1) The sale of any one- or two-family residential premises  
 8 which are owned and occupied by a senior citizen, blind person, or  
 9 disabled person who is the seller in such transaction; provided,  
 10 however, that except in the instance of a husband and wife no  
 11 exemption shall be allowed if the property being sold is jointly  
 12 owned and one or more of the owners is not a senior citizen, blind  
 13 person, or disabled person.

14 **[(b)]** (2) The sale of **[property upon which there is new con-**  
 15 **struction]** *low and moderate income housing.*

16 *b. Transfers of title to real property upon which there is new*  
 17 *construction shall be exempt from payment of \$1.00 for each \$500.00*  
 18 *or fractional part thereof not in excess of \$150,000.00.*

19 *c. The director shall promulgate rules, regulations and forms of*  
 20 *certification or otherwise necessary to carry out the provisions of*  
 21 *this section. [Any fee collected on any such transfer pursuant to*  
 22 *this act shall be remitted to the county treasurer for the use of the*  
 23 *county] No transfer shall be eligible for more than one exemption*  
 24 *under this section. All fees collected on transfers subject to exemp-*  
 25 *tion under subsection a. of this section shall be remitted to the*  
 26 *county treasurer for the use of the county. An amount equal to*  
 27 *66 2/3 of the proceeds from the fee imposed upon the consideration*  
 28 *not in excess of \$150,000.00 for transfers of real property upon*  
 29 *which there is new construction, and an amount equal to 20% of*  
 30 *the proceeds of the \$2.50 fee imposed upon each \$500.00 of consid-*  
 31 *eration or fractional part thereof in excess of \$150,000.00 for trans-*  
 32 *fers of real property upon which there is new construction, shall be*  
 33 *remitted to the county treasurer for the use of the county.*

34 *\*d. The balance of the fees collected on transfers subject to*  
 35 *exemption under subsection b. of this section shall be remitted to*  
 36 *the State Treasurer and shall be credited to the Neighborhood*  
 37 *Preservation Nonlapsing Revolving Fund established pursuant to*  
 38 *P. L. . . . ., c. . . . (C. . . . .) (now pending before the*  
 39 *Legislature as Senate Committee Substitute for Senate Bill No.*  
 40 *2046 and Senate Bill No. 2334), to be spent in the manner estab-*  
 41 *lished under section 20 thereof (C. . . . .).\**

1 5. This act shall take effect January 1 next following the enact-  
 2 ment of P. L. . . . ., c. . . . (C. . . . .) (now pending before  
 3 the Legislature as Senate Committee Substitute for Senate Bill No.  
 4 2046 and Senate Bill No. 2334).

5 tional part thereof of the **[\$1.75]** fee imposed upon grantors by this  
6 act:

7 **[(a)]** (1) The sale of any one- or two-family residential premises  
8 which are owned and occupied by a senior citizen, blind person, or  
9 disabled person who is the seller in such transaction; provided,  
10 however, that except in the instance of a husband and wife no  
11 exemption shall be allowed if the property being sold is jointly  
12 owned and one or more of the owners is not a senior citizen, blind  
13 person, or disabled person.

14 **[(b)]** (2) The sale of **[property upon which there is new con-**  
15 **struction]** *low and moderate income housing.*

16 *b. Transfers of title to real property upon which there is new*  
17 *construction shall be exempt from payment of \$1.00 for each \$500.00*  
18 *or fractional part thereof not in excess of \$150,000.00.*

19 *c. The director shall promulgate rules, regulations and forms of*  
20 *certification or otherwise necessary to carry out the provisions of*  
21 *this section. [Any fee collected on any such transfer pursuant to*  
22 *this act shall be remitted to the county treasurer for the use of the*  
23 *county] No transfer shall be eligible for more than one exemption*  
24 *under this section. All fees collected on transfers subject to exemp-*  
25 *tion under subsection a. of this section shall be remitted to the*  
26 *county treasurer for the use of the county. An amount equal to*  
27 *66 2/3 of the proceeds from the fee imposed upon the consideration*  
28 *not in excess of \$150,000.00 for transfers of real property upon*  
29 *which there is new construction, and an amount equal to 20% of*  
30 *the proceeds of the \$2.50 fee imposed upon each \$500.00 of consid-*  
31 *eration or fractional part thereof in excess of \$150,000.00 for trans-*  
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33 *remitted to the county treasurer for the use of the county.*

1 5. This act shall take effect January 1 next following the enact-  
2 ment of P. L. . . . ., c. . . . . (C. . . . .) (now pending before  
3 the Legislature as Senate Committee Substitute for Senate Bill No.  
4 2046 and Senate Bill No. 2334).

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STATEMENT

This bill provides a continuous funding source for low and moderate income housing through a revised schedule of realty transfer fees, and the use of State proceeds from those fees for the purposes of the Fair Housing Trust Fund Account established under the Senate Committee Substitute for Senate Bills Nos. 2046 and 2334. This bill would take effect January 1 next following the enactment of that legislation.

The revised fee schedule would graduate realty transfer fees by providing for a \$1.75 fee per each \$500.00 of consideration up to \$150,000.00 and a \$2.50 fee per each \$500.00 in excess of \$150,000.00. The bill limits the current partial exemption for property upon which there is new construction to a \$1.00 exemption per each \$500.00 of consideration up to \$150,000.00. A partial exemption is also established for low and moderate income housing subject to resale controls.

The existing partial exemption for transfers by senior citizens, blind persons and disabled persons is continued. The bill holds the counties harmless from loss of their portion of revenues from realty transfer fees.

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5 tional part thereof of the **[\$1.75]** fee imposed upon grantors by this  
6 act:

7 **[(a)]** (1) The sale of any one- or two-family residential premises  
8 which are owned and occupied by a senior citizen, blind person, or  
9 disabled person who is the seller in such transaction; provided,  
10 however, that except in the instance of a husband and wife no  
11 exemption shall be allowed if the property being sold is jointly  
12 owned and one or more of the owners is not a senior citizen, blind  
13 person, or disabled person.

14 **[(b)]** (2) The sale of **[property upon which there is new con-**  
15 **struction]** *low and moderate income housing.*

16 *b. Transfers of title to real property upon which there is new*  
17 *construction shall be exempt from payment of \$1.00 for each \$500.00*  
18 *or fractional part thereof not in excess of \$150,000.00.*

19 *c. The director shall promulgate rules, regulations and forms of*  
20 *certification or otherwise necessary to carry out the provisions of*  
21 *this section. [Any fee collected on any such transfer pursuant to*  
22 *this act shall be remitted to the county treasurer for the use of the*  
23 *county] *No transfer shall be eligible for more than one exemption**  
24 *under this section. All fees collected on transfers subject to exemp-*  
25 *tion under subsection a. of this section shall be remitted to the*  
26 *county treasurer for the use of the county. An amount equal to*  
27  *$66\frac{2}{3}$  of the proceeds from the fee imposed upon the consideration*  
28 *not in excess of \$150,000.00 for transfers of real property upon*  
29 *which there is new construction, and an amount equal to 20% of*  
30 *the proceeds of the \$2.50 fee imposed upon each \$500.00 of consid-*  
31 *eration or fractional part thereof in excess of \$150,000.00 for trans-*  
32 *fers of real property upon which there is new construction, shall be*  
33 *remitted to the county treasurer for the use of the county.*

1 5. This act shall take effect January 1 next following the enact-  
2 ment of P. L. . . . ., c. . . . (C. . . . .) (now pending before  
3 the Legislature as Senate Committee Substitute for Senate Bill No.  
4 2046 and Senate Bill No. 2334).

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#### STATEMENT

This bill provides a continuous funding source for low and moderate income housing through a revised schedule of realty transfer fees, and the use of State proceeds from those fees for the purposes of the Fair Housing Trust Fund Account established under the Senate Committee Substitute for Senate Bills Nos. 2046 and 2334. This bill would take effect January 1 next following the enactment of that legislation.



The revised fee schedule would graduate realty transfer fees by providing for a \$1.75 fee per each \$500.00 of consideration up to \$150,000.00 and a \$2.50 fee per each \$500.00 in excess of \$150,000.00. The bill limits the current partial exemption for property upon which there is new construction to a \$1.00 exemption per each \$500.00 of consideration up to \$150,000.00. A partial exemption is also established for low and moderate income housing subject to resale controls.

The existing partial exemption for transfers by senior citizens, blind persons and disabled persons is continued. The bill holds the counties harmless from loss of their portion of revenues from realty transfer fees.

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STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

April 26, 1985

ASSEMBLY BILL NO. 3117

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 3117 with my recommendations for reconsideration.

Assembly Bill No. 3117 increases the realty transfer fees. This bill provides the funding mechanism for the Fair Housing Trust Fund set up pursuant to Senate Bill No. 2046 (Lipman), the Fair Housing Act.

In order to raise the revenues received by the State from this fee, the bill graduates the existing realty transfer fee as follows:

- a. \$1.75 for each \$500.00 of consideration up to \$150,000.00; and
- b. \$2.50 per each \$500.00 of consideration in excess of \$150,000.00.

Since the current realty transfer fee is \$1.75 per each \$500 of consideration, this change in the fee schedule will only affect sales of greater than \$150,000.00.

Assembly Bill No. 3117 also raises State revenues by limiting the new construction exemption currently allowed under law to a \$1.00 exemption per each \$500.00 of consideration up to \$150,000. Currently, the exemption is \$1.25 per each \$500.00 of consideration and also applies to sales above \$150,000.00.

The sections dealing with the State/county allocation are amended so that the counties receive the same portion of the fee that they did in the past and the State receives all of the new revenue generated by the bill.

The bill appropriates the entire State portion of the tax to the Fair Housing Trust Fund established by the Senate Committee Substitute for Senate Bill No. 2046 and Senate Bill No. 2334. This appropriation is estimated to be approximately \$38 million, \$30 million in existing State revenue and \$8 million from the changes in the fee schedule.

I propose to amend Assembly Bill No. 3117 to appropriate only the increase in fees. This will be accomplished in two ways. First, by appropriating the

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

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.75¢ increase in the realty transfer fee for sales above \$150,000.00 and second, by appropriating the additional revenue raised by the change in the new construction exemption.

Until the Council is in operation, it will be very difficult to evaluate new funding programs. Accordingly, rather than set up a new housing funding mechanism, I am amending this bill to appropriate these new revenues to the existing Neighborhood Preservation Program in the Department of Community Affairs. I am also conditionally vetoing the Senate Committee Substitute for Senate Bill No. 2046 and Senate Bill No. 2334 so that the housing funds in that bill are administered by the New Jersey Housing and Mortgage Finance Agency and the Neighborhood Preservation Program.

The Neighborhood Preservation Program will be appropriated in total approximately \$10 million to assist municipalities in Mt. Laurel housing programs. This will be accomplished by dedicating the increase in the realty transfer fee proposed by Assembly Bill No. 3117 to the fund and an appropriation of \$2 million from the General Fund to bring the sum up to \$10 million.

These funds will be used in Neighborhood Preservation areas for such things as rehabilitation, accessory conversions and conversions, acquisition and demolition costs, new construction, costs for technical and professional services associated with the project, assistance to qualified housing sponsors, infrastructure and other housing costs.

Housing units assisted by this program would be required to remain affordable for a twenty year period unless a shorter period is necessary to assure the financial feasibility of the project.

Accordingly, I herewith return Assembly Bill No. 3117 and recommend that it be amended as follows:

Page 3, Section 3, Lines 12 and 13: Omit "shall be credited to the Fair Housing Trust Fund Account"; insert "in payment of the additional fee of \$0.75 for each \$500.00 of consideration or fractional part thereof recited in the deed in excess of \$150,000.00 shall be credited to the Neighborhood Preservation Nonlapsing Revolving Fund"

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Page 4, Section 4, after Line 33: Insert new subsection d. as follows:

"d. The balance of the fees collected on transfers subject to exemption under subsection b. of this section shall be remitted to the State Treasurer and shall be credited to the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to P.L. , c. (C. ) (now pending before the Legislature as Senate Committee Substitute for Senate Bill No. 2046 and Senate Bill No. 2334), to be spent in the manner established under section 20 thereof (C. )."

Respectfully,  
/s/ Thomas H. Kean  
GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards  
Chief Counsel



# OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact: CARL GOLDEN  
609-292-8956

TRENTON, N.J. 08625

Release: WED., JULY 3, 1985

Governor Thomas H. Kean today signed legislation establishing a voluntary system by which municipalities can submit plans for low and moderate income housing to a State council for certification --- the first legislative proposal ever enacted to meet the so-called Mount Laurel court decision.

The legislation, S-2046, was sponsored by Senator Wynona Lipman, D-Essex, and had been conditionally vetoed by the Governor on April 26. The Legislature accepted the Governor's recommendations late last month.

The legislation also provides for a 12-month moratorium on the so-called "builder's remedy" to protect municipalities during the administrative review process.

It appropriates \$15 million to the Housing Mortgage Finance Agency and \$2 million to the Neighborhood Preservation Program.

The Governor signed a companion measure, A-3117, sponsored by Assemblyman David Schwartz, D-Middlesex, which increases the realty transfer fee by 75 cents for each \$500 of consideration over \$150,000. The proceeds from this increase are also appropriated to the Neighborhood Preservation Program.

"This legislation, worked out over a period of many months, is a reasonable and adequate response to the court rulings involving low and moderate income housing and exclusionary zoning," Kean said. "The so-called Mount Laurel issue has eluded any legislative action since it originated ten years ago. It is to the credit of all involved that the legislation I have signed today is now law."

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