

# 54:50-38

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2017                    **CHAPTER:** 307

**NJSA:** 54:50-38 (Clarifying ownership requirements for certain homes and seasonal rentals exempt from bulk sale notification requirements.)

**BILL NO:** S2839                    (Substituted for A4562)

**SPONSOR(S)** Diegnan and others

**DATE INTRODUCED:** 12/12/2016

**COMMITTEE:**                **ASSEMBLY:** Appropriations  
**SENATE:** Community & Urban Affairs  
Budget & Appropriations

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**                **ASSEMBLY:** 1/8/2018  
**SENATE:** 12/7/2017

**DATE OF APPROVAL:** 1/16/2018

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (First Reprint enacted) Yes

#### S2839

**SPONSOR'S STATEMENT:** (Begins on page 4 of introduced bill) Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** Yes      Appropriations

**SENATE:** Yes      Community & Urban Affairs  
Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

#### A4562

**SPONSOR'S STATEMENT:** (Begins on page 4 of introduced bill) Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** Yes

**SENATE:** No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

(continued)

**FLOOR AMENDMENT STATEMENT:**

No

**LEGISLATIVE FISCAL ESTIMATE:**

Yes 12/7/2017  
1/9/2018

**VETO MESSAGE:**

No

**GOVERNOR'S PRESS RELEASE ON SIGNING:**

No

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

RH/CL

P.L. 2017, CHAPTER 307, *approved January 16, 2018*  
Senate, No. 2839 (*First Reprint*)

1 AN ACT clarifying the ownership requirements for certain homes  
2 and seasonal rentals exempt from the bulk sale notification  
3 requirements, amending P.L.2007, c.100.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 5 of P.L.2007, c.100 (C.54:50-38) is amended to read as  
9 follows:

10 5. a. (1) Whenever a person shall make a sale, transfer, or  
11 assignment in bulk of any part or the whole of the person's business  
12 assets except as provided by paragraph (2) of this subsection,  
13 otherwise than in the ordinary course of business, the purchaser,  
14 transferee or assignee shall, at least 10 days before taking possession  
15 of the subject of the sale, transfer or assignment, or paying therefor,  
16 notify the director by registered mail, or other such method as the  
17 director may prescribe, of the proposed sale and of the price, terms and  
18 conditions thereof whether or not the seller, transferrer or assignor has  
19 represented to, or informed the purchaser, transferee or assignee that  
20 the seller, transferrer or assignor owes any State tax and whether or not  
21 the purchaser, transferee, or assignee has knowledge that such taxes  
22 are owing, and whether any such taxes are in fact owing. Within 10  
23 days of receiving such notice, the director shall notify the purchaser,  
24 transferee or assignee by such means as the director may prescribe that  
25 a possible claim for State taxes exists and include the amount of the  
26 State's claim.

27 (2) (a) Paragraph (1) of this subsection shall not apply to the sale,  
28 transfer or assignment of a simple dwelling house if the seller,  
29 transferrer or assignor is an "individual," "estate," or "trust" as those  
30 terms are used for the purposes of the "New Jersey Gross Income Tax  
31 Act," N.J.S.54A:1-1 et seq. or any combination thereof owning the  
32 simple dwelling house as joint tenants, tenants in common or tenancy  
33 by the entirety; paragraph (1) shall apply to the sale, transfer or  
34 assignment of a simple dwelling house if the seller, transferrer or  
35 assignor is a business entity, including but not limited to a corporation  
36 or a partnership. "Simple dwelling house" means a dwelling unit,  
37 attached or detached, and land appurtenant thereto, including but not  
38 limited to a one-family or two-family building or structure, a unit of a  
39 horizontal property regime established pursuant to the "Horizontal  
40 Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.), a unit in a housing  
41 cooperative as defined under "The Cooperative Recording Act of New

**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 underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SCU committee amendments adopted June 19, 2017.

1 Jersey," P.L.1987, c.381 (C.46:8D-1 et seq.), or a unit of a  
2 condominium property established pursuant to the "Condominium  
3 Act," P.L.1969, c.257 (C.46:8B-1 et seq.), but does not include a  
4 structure or structures containing more than two units of dwelling  
5 space or containing, according to the records of the municipal property  
6 tax assessor, commercial property including, or in addition to, the units  
7 of dwelling space.

8 (b) Paragraph (1) of this subsection shall not apply to the sale,  
9 transfer or assignment of a seasonal rental unit or the sale, transfer or  
10 assignment of a lease for the seasonal use or rental of real property if  
11 the seller, transferrer or assignor is an "individual," "estate," or "trust"  
12 as those terms are used for the purposes of the "New Jersey Gross  
13 Income Tax Act," N.J.S.54A:1-1 et seq. or any combination thereof  
14 owning the season rental unit or lease for the seasonal use or rental of  
15 real property as joint tenants, tenants in common or tenancy by the  
16 entirety; paragraph (1) shall apply to the sale, transfer or assignment of  
17 a seasonal rental unit or the sale, transfer or assignment of a lease for  
18 the seasonal use or rental of real property if the seller, transferrer or  
19 assignor is a business entity, including but not limited to a corporation  
20 or a partnership.

21 For the purposes of this paragraph:

22 "seasonal rental unit" means

23 (i) a "timeshare estate" as that term is defined by section 2 of  
24 P.L.2006, c.63 (C.45:15-16.51); and

25 (ii) a dwelling unit rented for a term of not more than 125  
26 consecutive days for residential purposes by a person having a  
27 permanent residence elsewhere; and

28 "lease for the seasonal use or rental of real property" means

29 (i) a "timeshare use" as that term is defined by section 2 of  
30 P.L.2006, c.63 (C.45:15-16.51); and

31 (ii) the use or rental for a term of not more than 125 consecutive  
32 days for residential purposes by a person having a permanent place of  
33 residence elsewhere.

34 <sup>1</sup>(3) Paragraph (1) of this subsection shall not apply to the sale,  
35 transfer, or assignment of a grant, tax credit, or tax credit transfer  
36 certificate that has been awarded, issued, or otherwise made available  
37 to a person in connection with a State or local business assistance or  
38 incentive program or activity authorized by law in effect on the  
39 effective date of P.L. , c. (C. ) (pending before the Legislature  
40 as this bill).

41 For purposes of this paragraph, "State or local business assistance  
42 or incentive program or activity" includes but shall not be limited to:  
43 the corporation business tax credit and insurance premiums tax credit  
44 certificate transfer program established by section 17 of P.L.2004, c.65  
45 (C.34:1B-120.2); the Business Retention and Relocation Assistance  
46 Program established by P.L.1996, c.25 (C.34:1B-112 et seq.); the  
47 Business Employment Incentive Program established by P.L.1996,  
48 c.26 (C.34:1B-124 et al.); the Urban Transit Hub Tax Credit Program

1 established by P.L.2007, c.346 (C.34:1B-207 et seq.); the Grow New  
2 Jersey Assistance Program established by section 3 of P.L.2011, c.149  
3 (C.34:1B-244); and the State or local Economic Redevelopment and  
4 Growth Grant program established by section 4 or section 5 of  
5 P.L.2009, c.90 (C.52:27D-489d or C.52:27D-489e).<sup>1</sup>

6 b. If, upon receiving timely notice of a sale, transfer or  
7 assignment from a purchaser, transferee or assignee, the director fails  
8 to provide timely notice to the purchaser, transferee or assignee that a  
9 possible claim for such State tax or taxes exists, the purchaser,  
10 transferee or assignee may transfer over to the seller, transferrer or  
11 assignor any sums of money, property or choses in action, or other  
12 consideration to the extent of the amount of the State's claim. The  
13 purchaser, transferee or assignee shall not be subject to the liabilities  
14 and remedies imposed under the provisions of the uniform commercial  
15 code, Title 12A of the New Jersey Statutes, and shall not be personally  
16 liable for the payment to the State of any such taxes theretofore or  
17 thereafter determined to be due to the State from the seller, transferrer  
18 or assignor.

19 c. If the purchaser, transferee or assignee shall fail to give notice  
20 to the director as required by the preceding paragraph, or if the director  
21 shall inform the purchaser, transferee or assignee that a possible claim  
22 for such State tax or taxes exists, any sums of money, property or  
23 choses in action, or other consideration, which the purchaser,  
24 transferee or assignee is required to transfer over to the seller,  
25 transferrer or assignor shall be subject to a first priority right and lien  
26 for any such State taxes theretofore or thereafter determined to be due  
27 from the seller, transferrer or assignor to the State, and the purchaser,  
28 transferee or assignee is forbidden to transfer to the seller, transferrer  
29 or assignor any such sums of money, property or choses in action to  
30 the extent of the amount of the State's claim. For failure to comply  
31 with the provisions of this section the purchaser, transferee or  
32 assignee, in addition to being subject to the liabilities and remedies  
33 imposed under the provisions of the uniform commercial code, Title  
34 12A of the New Jersey Statutes, shall be personally liable for the  
35 payment to the State of any such taxes theretofore or thereafter  
36 determined to be due to the State from the seller, transferrer or  
37 assignor, and such liability may be assessed and enforced in the same  
38 manner as the liability for any State tax under the State Uniform Tax  
39 Procedure Law, R.S.54:48-1 et seq.

40 (cf: P.L.2017, c.12, s.3)

41  
42 2. This act shall take effect immediately, and shall apply  
43 retroactively to sales, transfers, and assignments on or after August  
44 1, 2007.

**S2839 [1R]**

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Clarifying ownership requirements for certain homes and  
seasonal rentals exempt from bulk sale notification requirements,  
amending P.L.2007, c.100.

**SENATE, No. 2839**

**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

INTRODUCED DECEMBER 12, 2016

**Sponsored by:**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**SYNOPSIS**

Clarifying ownership requirements for certain homes and seasonal rentals exempt from bulk sale notification requirements, amending P.L.2007, c.100.

**CURRENT VERSION OF TEXT**

As introduced.



S2839 DIEGNAN

2

1 AN ACT clarifying the ownership requirements for certain homes  
2 and seasonal rentals exempt from the bulk sale notification  
3 requirements, amending P.L.2007, c.100.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 5 of P.L.2007, c.100 (C.54:50-38) is amended to read  
9 as follows:

10 5. a. (1) Whenever a person shall make a sale, transfer, or  
11 assignment in bulk of any part or the whole of the person's business  
12 assets except as provided by paragraph (2) of this subsection,  
13 otherwise than in the ordinary course of business, the purchaser,  
14 transferee or assignee shall, at least 10 days before taking  
15 possession of the subject of the sale, transfer or assignment, or  
16 paying therefor, notify the director by registered mail, or other such  
17 method as the director may prescribe, of the proposed sale and of  
18 the price, terms and conditions thereof whether or not the seller,  
19 transferrer or assignor has represented to, or informed the  
20 purchaser, transferee or assignee that the seller, transferrer or  
21 assignor owes any State tax and whether or not the purchaser,  
22 transferee, or assignee has knowledge that such taxes are owing,  
23 and whether any such taxes are in fact owing. Within 10 days of  
24 receiving such notice, the director shall notify the purchaser,  
25 transferee or assignee by such means as the director may prescribe  
26 that a possible claim for State taxes exists and include the amount  
27 of the State's claim.

28 (2) (a) Paragraph (1) of this subsection shall not apply to the  
29 sale, transfer or assignment of a simple dwelling house if the seller,  
30 transferrer or assignor is an "individual," "estate," or "trust" as  
31 those terms are used for the purposes of the "New Jersey Gross  
32 Income Tax Act," N.J.S.54A:1-1 et seq. or any combination thereof  
33 owning the simple dwelling house as joint tenants, tenants in  
34 common or tenancy by the entirety; paragraph (1) shall apply to the  
35 sale, transfer or assignment of a simple dwelling house if the seller,  
36 transferrer or assignor is a business entity, including but not limited  
37 to a corporation or a partnership. "Simple dwelling house" means a  
38 dwelling unit, attached or detached, and land appurtenant thereto,  
39 including but not limited to a one-family or two-family building or  
40 structure, a unit of a horizontal property regime established  
41 pursuant to the "Horizontal Property Act," P.L.1963, c.168  
42 (C.46:8A-1 et seq.), a unit in a housing cooperative as defined  
43 under "The Cooperative Recording Act of New Jersey," P.L.1987,  
44 c.381 (C.46:8D-1 et seq.), or a unit of a condominium property  
45 established pursuant to the "Condominium Act," P.L.1969, c.257

**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 underlined thus is new matter.**



1 (C.46:8B-1 et seq.), but does not include a structure or structures  
2 containing more than two units of dwelling space or containing,  
3 according to the records of the municipal property tax assessor,  
4 commercial property including, or in addition to, the units of  
5 dwelling space.

6 (b) Paragraph (1) of this subsection shall not apply to the sale,  
7 transfer or assignment of a seasonal rental unit or the sale, transfer  
8 or assignment of a lease for the seasonal use or rental of real  
9 property if the seller, transferrer or assignor is an "individual,"  
10 "estate," or "trust" as those terms are used for the purposes of the  
11 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or any  
12 combination thereof owning the season rental unit or lease for the  
13 seasonal use or rental of real property as joint tenants, tenants in  
14 common or tenancy by the entirety; paragraph (1) shall apply to the  
15 sale, transfer or assignment of a seasonal rental unit or the sale,  
16 transfer or assignment of a lease for the seasonal use or rental of  
17 real property if the seller, transferrer or assignor is a business entity,  
18 including but not limited to a corporation or a partnership.

19 For the purposes of this paragraph:

20 "seasonal rental unit" means

21 (i) a "timeshare estate" as that term is defined by section 2 of  
22 P.L.2006, c.63 (C.45:15-16.51); and

23 (ii) a dwelling unit rented for a term of not more than 125  
24 consecutive days for residential purposes by a person having a  
25 permanent residence elsewhere; and

26 "lease for the seasonal use or rental of real property" means

27 (i) a "timeshare use" as that term is defined by section 2 of  
28 P.L.2006, c.63 (C.45:15-16.51); and

29 (ii) the use or rental for a term of not more than 125 consecutive  
30 days for residential purposes by a person having a permanent place  
31 of residence elsewhere.

32 b. If, upon receiving timely notice of a sale, transfer or  
33 assignment from a purchaser, transferee or assignee, the director  
34 fails to provide timely notice to the purchaser, transferee or  
35 assignee that a possible claim for such State tax or taxes exists, the  
36 purchaser, transferee or assignee may transfer over to the seller,  
37 transferrer or assignor any sums of money, property or choses in  
38 action, or other consideration to the extent of the amount of the  
39 State's claim. The purchaser, transferee or assignee shall not be  
40 subject to the liabilities and remedies imposed under the provisions  
41 of the uniform commercial code, Title 12A of the New Jersey  
42 Statutes, and shall not be personally liable for the payment to the  
43 State of any such taxes theretofore or thereafter determined to be  
44 due to the State from the seller, transferrer or assignor.

45 c. If the purchaser, transferee or assignee shall fail to give  
46 notice to the director as required by the preceding paragraph, or if  
47 the director shall inform the purchaser, transferee or assignee that a  
48 possible claim for such State tax or taxes exists, any sums of

1 money, property or choses in action, or other consideration, which  
2 the purchaser, transferee or assignee is required to transfer over to  
3 the seller, transferrer or assignor shall be subject to a first priority  
4 right and lien for any such State taxes theretofore or thereafter  
5 determined to be due from the seller, transferrer or assignor to the  
6 State, and the purchaser, transferee or assignee is forbidden to  
7 transfer to the seller, transferrer or assignor any such sums of  
8 money, property or choses in action to the extent of the amount of  
9 the State's claim. For failure to comply with the provisions of this  
10 section the purchaser, transferee or assignee, in addition to being  
11 subject to the liabilities and remedies imposed under the provisions  
12 of the uniform commercial code, Title 12A of the New Jersey  
13 Statutes, shall be personally liable for the payment to the State of  
14 any such taxes theretofore or thereafter determined to be due to the  
15 State from the seller, transferrer or assignor, and such liability may  
16 be assessed and enforced in the same manner as the liability for any  
17 State tax under the State Uniform Tax Procedure Law, R.S.54:48-1  
18 et seq.

19 (cf: P.L.2011, c.124, s.1)

20

21 2. This act shall take effect immediately, and shall apply  
22 retroactively to sales, transfers, and assignments on or after August  
23 1, 2007.

24

25

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#### STATEMENT

27

28 This bill is intended to clarify the type of sellers exempt from the  
29 bulk sale notification requirements.

30 The bulk sale notification requirement is intended to aid in the  
31 collection of State taxes. To help assure that a business pays all of  
32 its State taxes due prior to the sale of business assets, the Director  
33 of the Division of Taxation must be notified of the sale at least 10  
34 days before the transfer of goods. If the notification requirements  
35 are not met, the seller may become liable for the taxes owed by the  
36 seller.

37 While the bulk sale notification requirements are necessary for  
38 the transfer of business assets, the notification requirements merely  
39 add an unnecessary and unduly burdensome requirement to home  
40 sales. Currently, the sale of certain property is exempt from the  
41 bulk sale notification requirements when the owner of the property  
42 is an individual, trust, or estate. This bill is intended to clarify that  
43 when more than one individual, trust, or estate jointly own a home,  
44 the sale of such home is exempt from the bulk sale notification  
45 requirements. A home is defined as a one- or two-family home and  
46 single noncommercial dwelling units, whether those units are  
47 detached homes, condominiums or coops.

**S2839 DIEGNAN**

1       The exemption from bulk sale notifications also extends to the  
2 sale of seasonal rental units and the leases for the seasonal use or  
3 rental of units owned, either jointly or individually, by an  
4 individual, trust, or estate. Seasonal rental unit and seasonal lease  
5 are defined either in parallel with existing statutory definitions or  
6 as a dwelling unit rented for a period of no more than 125  
7 consecutive days by a person having a permanent residence  
8 elsewhere.

9       The requirement that the sale of property, including homes,  
10 seasonal rental units and leases for the seasonal use or rental of  
11 units, owned by a business entity is subject to the bulk sale  
12 notification requirement remains intact.

13       The bill is retroactive to August 1, 2007, the date on which the  
14 bulk sale notification requirements first took effect.

# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2839**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 19, 2017

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 2839.

This amended bill is intended to clarify the type of sellers exempt from the bulk sale notification requirements.

The bulk sale notification requirements are intended to aid in the collection of State taxes. To help assure that a business pays all of its State taxes due prior to the sale of business assets, the Director of the Division of Taxation must be notified of the sale at least 10 days before the transfer of goods. If the notification requirements are not met, the seller may become liable for the taxes owed by the seller.

While the bulk sale notification requirements are necessary for the transfer of business assets, the notification requirements merely add an unnecessary and unduly burdensome requirement to home sales. Currently, the sale of certain property is exempt from the bulk sale notification requirements when the owner of the property is an individual, trust, or estate. This bill is intended to clarify that when more than one individual, trust, or estate jointly own a home, the sale of such home is exempt from the bulk sale notification requirements. A home is defined as a one- or two-family home and single noncommercial dwelling units, whether those units are detached homes, condominiums, or coops.

The exemption from bulk sale notifications also extends to the sale of seasonal rental units and the leases for the seasonal use or rental of units owned, either jointly or individually, by an individual, trust, or estate. Seasonal rental unit and seasonal lease are defined either in parallel with existing statutory definitions or as a dwelling unit rented for a period of no more than 125 consecutive days by a person having a permanent residence elsewhere.

The requirement that the sale of property, including homes, seasonal rental units, and leases for the seasonal use or rental of units, owned by a business entity is subject to the bulk sale notification requirements remains intact.

The bill is retroactive to August 1, 2007, the date on which the bulk sale notification requirements first took effect.

#### COMMITTEE AMENDMENTS

The committee amendments make a technical change to reflect the current version of the law.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 2839**

# **STATE OF NEW JERSEY**

DATED: NOVEMBER 20, 2017

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2839 (1R).

This bill clarifies the type of home and seasonal rental sales that are exempt from the bulk sale notification requirements.

The bulk sale notification requirements are imposed by current law and were designed to aid in the collection of State taxes. To help assure that an individual or business pays all of its State taxes due prior to the sale of business assets, the law requires the Director of the Division of Taxation in the Department of the Treasury to be notified of the sale of the assets by the purchaser at least 10 days before the sale is made. If the notification requirements are not met, the purchaser may become liable for any delinquent or deficient State taxes owed by the seller.

Currently, the law allows limited exemptions from these requirements for the sale of certain types of real property. The law provides that the sale of a simple dwelling house and the sale of a seasonal rental unit are exempt from the bulk sale notification requirements *if* the seller of the property is an “individual,” “trust,” or “estate” as those terms are used for purposes of the New Jersey gross income tax.

The division has previously informed purchasers of business assets that for gross income tax purposes an “individual” is interpreted to mean a “single person, married or civil union couple, spouse or civil union partner.” As a result, an individual or business purchasing a simple dwelling house or a seasonal rental unit from unmarried co-owners must notify the director and place in escrow the determined amount of any unpaid State tax or risk the assumption of the seller’s tax liabilities because the seller is not an “individual” and, therefore, the transaction is not exempt from current notification requirements.

According to a 2016 review of the bulk sale notification requirements by the New Jersey Law Revision Commission, this limitation of the exemption to an “individual” as interpreted by the division has created confusion within the legal and real estate communities in determining the types of sales that are subject to the notification requirements. Moreover, the limitation of the exemption to an “individual” has created a gap in the law that currently allows for

sales of simple dwelling houses and seasonal rental units by married co-owners to be treated differently than sales of similarly situated unmarried co-owners who may hold properties in joint tenancy or as tenants in common without a clear rational justifying the differential treatment.

This bill alleviates this confusion and provides for a more equitable treatment of sales involving these types of real property by married and unmarried individuals by amending current law to clarify that sales involving individual co-tenancies are exempt from the bulk sale notification requirements. Under the bill, the sale of a simple dwelling house and a seasonal rental unit are exempt from the notification requirements if the seller of the property is an “individual,” “trust,” or “estate” *or* if the seller is any combination thereof owning the simple dwelling house or the seasonal rental unit as joint tenants, tenants in common, or tenancy by the entirety.

The bill’s changes to the bulk sale notification requirements do not affect the current treatment of sales by business entities. The requirement that the sale of property, including a simple dwelling house and a seasonal rental unit, owned by a business entity is subject to the bulk sale notification requirements remains intact.

The bill takes effect immediately upon enactment and applies retroactively to sales, transfers, and assignments on or after August 1, 2007, the date on which the bulk sale notification requirements first took effect.

**FISCAL IMPACT:**

The Office of Legislative Services (OLS) expects there may be an annual revenue loss to the State as a result of the bill, but lacks sufficient information to quantify the potential loss. It is not currently known how many sales of simple dwelling houses and seasonal rental units will be newly exempt from the bulk sale notification requirements, or the potential State tax obligations that may have been collected in connection with those sales in the future if the current exemption was not amended to clarify that sales involving individual co-tenancies are similarly exempt from the notification requirements.

The OLS does not expect the provisions of the bill which make the changes retroactive to August 1, 2007 will have a measurable fiscal impact to the State, since State tax obligations previously collected due to legitimate taxpayer liabilities are unlikely to be refunded.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 2839**

# **STATE OF NEW JERSEY**

DATED: DECEMBER 18, 2017

The Assembly Appropriations Committee reports favorably Senate Bill No. 2839 (1R).

This bill clarifies the type of home and seasonal rental sales that are exempt from the bulk sale notification requirements.

The bulk sale notification requirements are imposed by current law and were designed to aid in the collection of State taxes. To help assure that an individual or business pays all of its State taxes due prior to the sale of business assets, the law requires the Director of the Division of Taxation in the Department of the Treasury to be notified of the sale of the assets by the purchaser at least 10 days before the sale is made. If the notification requirements are not met, the purchaser may become liable for any delinquent or deficient State taxes owed by the seller.

Currently, the law allows limited exemptions from these requirements for the sale of certain types of real property. The law provides that the sale of a simple dwelling house and the sale of a seasonal rental unit are exempt from the bulk sale notification requirements *if* the seller of the property is an “individual,” “trust,” or “estate” as those terms are used for purposes of the New Jersey gross income tax.

The division has previously informed purchasers of business assets that for gross income tax purposes an “individual” is interpreted to mean a “single person, married or civil union couple, spouse or civil union partner.” As a result, an individual or business purchasing a simple dwelling house or a seasonal rental unit from unmarried co-owners must notify the director and place in escrow the determined amount of any unpaid State tax or risk the assumption of the seller’s tax liabilities because the seller is not an “individual” and, therefore, the transaction is not exempt from current notification requirements.

According to a 2016 review of the bulk sale notification requirements by the New Jersey Law Revision Commission, this limitation of the exemption to an “individual” as interpreted by the division has created confusion within the legal and real estate communities in determining the types of sales that are subject to the notification requirements. Moreover, the limitation of the exemption to an “individual” has created a gap in the law that currently allows for

sales of simple dwelling houses and seasonal rental units by married co-owners to be treated differently than sales of similarly situated unmarried co-owners who may hold properties in joint tenancy or as tenants in common without a clear rational justifying the differential treatment.

This bill alleviates this confusion and provides for a more equitable treatment of sales involving these types of real property by married and unmarried individuals by amending current law to clarify that sales involving individual co-tenancies are exempt from the bulk sale notification requirements. Under the bill, the sale of a simple dwelling house and a seasonal rental unit are exempt from the notification requirements if the seller of the property is an “individual,” “trust,” or “estate” *or* if the seller is any combination thereof owning the simple dwelling house or the seasonal rental unit as joint tenants, tenants in common, or tenancy by the entirety.

The bill’s changes to the bulk sale notification requirements do not affect the current treatment of sales by business entities. The requirement that the sale of property, including a simple dwelling house and a seasonal rental unit, owned by a business entity is subject to the bulk sale notification requirements remains intact.

As reported, this bill is identical to Assembly Bill No.4562, as reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) expects there may be an annual revenue loss to the State as a result of the bill, but lacks sufficient information to quantify the potential loss. It is not currently known how many sales of simple dwelling houses and seasonal rental units will be newly exempt from the bulk sale notification requirements, or the potential State tax obligations that may have been collected in connection with those sales in the future if the current exemption was not amended to clarify that sales involving individual co-tenancies are similarly exempt from the notification requirements.

The OLS does not expect the provisions of the bill which make the changes retroactive to August 1, 2007 will have a measurable fiscal impact to the State, since State tax obligations previously collected due to legitimate taxpayer liabilities are unlikely to be refunded.



# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2839

## STATE OF NEW JERSEY 217th LEGISLATURE

DATED: NOVEMBER 27, 2017

### SUMMARY

- Synopsis:** Clarifying ownership requirements for certain homes and seasonal rentals exempt from bulk sale notification requirements, amending P.L.2007, c.100.
- Type of Impact:** Annual State revenue loss to the Property Tax Relief Fund and the General Fund.
- Agencies Affected:** Department of the Treasury.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Revenue Loss</b>	Indeterminate – See comments below.

- The Office of Legislative Services (OLS) notes that there may be an annual revenue loss to the State Property Tax Relief Fund and General Fund under this bill as a result of exempting from the bulk sale notification requirement simple dwelling houses and seasonal rental units which are *jointly* owned by more than one individual, trust or estate.

### BILL DESCRIPTION

Senate Bill No. 2839 (1R) of 2016 clarifies that the existing “bulk sale” notification exemption provided for the sale, transfer or assignment of a simple dwelling house or seasonal rental unit if the seller, transferrer or assignor is an individual, estate or trust also includes the sale, transfer or assignment of such an asset if it is jointly owned by more than one individual, estate or trust.

The bill is retroactive to August 1, 2007, the date on which the bulk sale notification requirements first took effect.

### FISCAL ANALYSIS

#### EXECUTIVE BRANCH

None received.

**OFFICE OF LEGISLATIVE SERVICES**

The OLS notes that there may be an annual revenue loss to the State Property Tax Relief Fund and General Fund under this bill as a result of exempting from the bulk sale notification requirement simple dwelling houses and seasonal rental units which are *jointly* owned by more than one individual, trust or estate.

Bulk sale notifications are intended to aid in the collection of State taxes. To help assure that a business pays all of its State taxes due prior to the sale of business assets, the purchaser of those business assets is required to notify the Division of Taxation in the Department of the Treasury of the sale at least 10 days before the transfer of goods or payment. If the division notifies the purchaser that the seller owes State taxes, the purchaser must hold back from the seller any sums owed to the State. If the purchaser fails to notify the division, the purchaser can be held liable for any taxes of the seller.

Prior to the enactment of P.L.2011, c.124, which established the bulk sale notification requirement exemption for the sale, transfer or assignment of a simple dwelling house or seasonal rental unit if the seller, transferrer or assignor is an individual, estate or trust, the Division of Taxation indicated, through a formal fiscal note, that the bulk sale notification requirement exemption would result in a potentially significant annual revenue loss, primarily through forgone gross income tax revenue (Property Tax Relief Fund), because the law governing bulk sales allowed the State to increase tax enforcement collections from taxpayers who had unpaid tax liabilities.

The bill's expansion of the existing exemption to include sales, transfers or assignments of simple dwelling houses or seasonal rental units which are *jointly* owned by more than one individual, estate or trust may further reduce the State's ability to collect unpaid tax liabilities from taxpayers who would otherwise be subject to the bulk sale notification requirement, absent the bill's changes, resulting in additional forgone revenue to the State. However, the amount of revenue which might be forgone cannot be estimated due to the lack of data regarding the tax liabilities of taxpayers who would now be exempt from the bulk sale notification requirement.

The OLS does not believe the retroactivity of the bill, to August 1, 2007, would have a measurable fiscal impact, since State tax enforcement revenues previously collected due to legitimate taxpayer liabilities are unlikely to be refunded.

*Section: Revenue, Finance and Appropriations*

*Analyst: Jordan M. DiGiovanni  
Associate Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# ASSEMBLY, No. 4562

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 13, 2017

**Sponsored by:**

**Assemblywoman MARLENE CARIDE**

**District 36 (Bergen and Passaic)**

**SYNOPSIS**

Clarifying ownership requirements for certain homes and seasonal rentals exempt from bulk sale notification requirements, amending P.L.2007, c.100.

**CURRENT VERSION OF TEXT**

As introduced.



A4562 CARIDE

2

1 AN ACT clarifying the ownership requirements for certain homes  
2 and seasonal rentals exempt from the bulk sale notification  
3 requirements, amending P.L.2007, c.100.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 5 of P.L.2007, c.100 (C.54:50-38) is amended to  
9 read as follows:

10 5. a. (1) Whenever a person shall make a sale, transfer, or  
11 assignment in bulk of any part or the whole of the person's business  
12 assets except as provided by paragraph (2) of this subsection,  
13 otherwise than in the ordinary course of business, the purchaser,  
14 transferee or assignee shall, at least 10 days before taking  
15 possession of the subject of the sale, transfer or assignment, or  
16 paying therefor, notify the director by registered mail, or other such  
17 method as the director may prescribe, of the proposed sale and of  
18 the price, terms and conditions thereof whether or not the seller,  
19 transferrer or assignor has represented to, or informed the  
20 purchaser, transferee or assignee that the seller, transferrer or  
21 assignor owes any State tax and whether or not the purchaser,  
22 transferee, or assignee has knowledge that such taxes are owing,  
23 and whether any such taxes are in fact owing. Within 10 days of  
24 receiving such notice, the director shall notify the purchaser,  
25 transferee or assignee by such means as the director may prescribe  
26 that a possible claim for State taxes exists and include the amount  
27 of the State's claim.

28 (2) (a) Paragraph (1) of this subsection shall not apply to the  
29 sale, transfer or assignment of a simple dwelling house if the seller,  
30 transferrer or assignor is an "individual," "estate," or "trust" as  
31 those terms are used for the purposes of the "New Jersey Gross  
32 Income Tax Act," N.J.S.54A:1-1 et seq. or any combination thereof  
33 owning the simple dwelling house as joint tenants, tenants in  
34 common or tenancy by the entirety; paragraph (1) shall apply to the  
35 sale, transfer or assignment of a simple dwelling house if the seller,  
36 transferrer or assignor is a business entity, including but not limited  
37 to a corporation or a partnership. "Simple dwelling house" means a  
38 dwelling unit, attached or detached, and land appurtenant thereto,  
39 including but not limited to a one-family or two-family building or  
40 structure, a unit of a horizontal property regime established  
41 pursuant to the "Horizontal Property Act," P.L.1963,  
42 c.168 (C.46:8A-1 et seq.), a unit in a housing cooperative as defined  
43 under "The Cooperative Recording Act of New Jersey," P.L.1987,  
44 c.381 (C.46:8D-1 et seq.), or a unit of a condominium property  
45 established pursuant to the "Condominium Act," P.L.1969,  
46 c.257 (C.46:8B-1 et seq.), but does not include a structure or

**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 underlined thus is new matter.

1 structures containing more than two units of dwelling space or  
2 containing, according to the records of the municipal property tax  
3 assessor, commercial property including, or in addition to, the units  
4 of dwelling space.

5 (b) Paragraph (1) of this subsection shall not apply to the sale,  
6 transfer or assignment of a seasonal rental unit or the sale, transfer  
7 or assignment of a lease for the seasonal use or rental of real  
8 property if the seller, transferrer or assignor is an "individual,"  
9 "estate," or "trust" as those terms are used for the purposes of the  
10 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or any  
11 combination thereof owning the season rental unit or lease for the  
12 seasonal use or rental of real property as joint tenants, tenants in  
13 common or tenancy by the entirety; paragraph (1) shall apply to the  
14 sale, transfer or assignment of a seasonal rental unit or the sale,  
15 transfer or assignment of a lease for the seasonal use or rental of  
16 real property if the seller, transferrer or assignor is a business entity,  
17 including but not limited to a corporation or a partnership.

18 For the purposes of this paragraph:

19 "seasonal rental unit" means

20 (i) a "timeshare estate" as that term is defined by section 2 of  
21 P.L.2006, c.63 (C.45:15-16.51); and

22 (ii) a dwelling unit rented for a term of not more than 125  
23 consecutive days for residential purposes by a person having a  
24 permanent residence elsewhere; and

25 "lease for the seasonal use or rental of real property" means

26 (i) a "timeshare use" as that term is defined by section 2 of  
27 P.L.2006, c.63 (C.45:15-16.51); and

28 (ii) the use or rental for a term of not more than 125 consecutive  
29 days for residential purposes by a person having a permanent place  
30 of residence elsewhere.

31 b. If, upon receiving timely notice of a sale, transfer or  
32 assignment from a purchaser, transferee or assignee, the director  
33 fails to provide timely notice to the purchaser, transferee or  
34 assignee that a possible claim for such State tax or taxes exists, the  
35 purchaser, transferee or assignee may transfer over to the seller,  
36 transferrer or assignor any sums of money, property or choses in  
37 action, or other consideration to the extent of the amount of the  
38 State's claim. The purchaser, transferee or assignee shall not be  
39 subject to the liabilities and remedies imposed under the provisions  
40 of the uniform commercial code, Title 12A of the New Jersey  
41 Statutes, and shall not be personally liable for the payment to the  
42 State of any such taxes theretofore or thereafter determined to be  
43 due to the State from the seller, transferrer or assignor.

44 c. If the purchaser, transferee or assignee shall fail to give  
45 notice to the director as required by the preceding paragraph, or if  
46 the director shall inform the purchaser, transferee or assignee that a  
47 possible claim for such State tax or taxes exists, any sums of  
48 money, property or choses in action, or other consideration, which

1 the purchaser, transferee or assignee is required to transfer over to  
2 the seller, transferrer or assignor shall be subject to a first priority  
3 right and lien for any such State taxes theretofore or thereafter  
4 determined to be due from the seller, transferrer or assignor to the  
5 State, and the purchaser, transferee or assignee is forbidden to  
6 transfer to the seller, transferrer or assignor any such sums of  
7 money, property or choses in action to the extent of the amount of  
8 the State's claim. For failure to comply with the provisions of this  
9 section the purchaser, transferee or assignee, in addition to being  
10 subject to the liabilities and remedies imposed under the provisions  
11 of the uniform commercial code, Title 12A of the New Jersey  
12 Statutes, shall be personally liable for the payment to the State of  
13 any such taxes theretofore or thereafter determined to be due to the  
14 State from the seller, transferrer or assignor, and such liability may  
15 be assessed and enforced in the same manner as the liability for any  
16 State tax under the State Uniform Tax Procedure Law, R.S.54:48-1  
17 et seq.

18 (cf: P.L.2011, c.124, s.1)

19

20 2. This act shall take effect immediately, and shall apply  
21 retroactively to sales, transfers, and assignments on or after August  
22 1, 2007.

23

24

#### STATEMENT

25

26 This bill is intended to clarify the type of sellers exempt from the  
27 bulk sale notification requirements.

28 The bulk sale notification requirement is intended to aid in the  
29 collection of State taxes. To help assure that a business pays all of  
30 its State taxes due prior to the sale of business assets, the Director  
31 of the Division of Taxation must be notified of the sale at least 10  
32 days before the transfer of goods. If the notification requirements  
33 are not met, the seller may become liable for the taxes owed by the  
34 seller.

35 While the bulk sale notification requirements are necessary for  
36 the transfer of business assets, the notification requirements merely  
37 add an unnecessary and unduly burdensome requirement to home  
38 sales. Currently, the sale of certain property is exempt from the  
39 bulk sale notification requirements when the owner of the property  
40 is an individual, trust, or estate. This bill is intended to clarify that  
41 when more than one individual, trust, or estate jointly own a home,  
42 the sale of such home is exempt from the bulk sale notification  
43 requirements. A home is defined as a one- or two-family home and  
44 single noncommercial dwelling units, whether those units are  
45 detached homes, condominiums or coops.

46 The exemption from bulk sale notifications also extends to the  
47 sale of seasonal rental units and the leases for the seasonal use or  
48 rental of units owned, either jointly or individually, by an

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1 individual, trust, or estate. Seasonal rental unit and seasonal lease  
2 are defined either in parallel with existing statutory definitions or  
3 as a dwelling unit rented for a period of no more than 125  
4 consecutive days by a person having a permanent residence  
5 elsewhere.

6 The requirement that the sale of property, including homes,  
7 seasonal rental units and leases for the seasonal use or rental of  
8 units, owned by a business entity is subject to the bulk sale  
9 notification requirement remains intact.

10 The bill is retroactive to August 1, 2007, the date on which the  
11 bulk sale notification requirements first took effect.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4562

with committee amendments

# STATE OF NEW JERSEY

DATED: DECEMBER 18, 2017

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4562, with committee amendments.

As amended, this bill clarifies the type of home and seasonal rental sales that are exempt from the bulk sale notification requirements.

The bulk sale notification requirements are imposed by current law and were designed to aid in the collection of State taxes. To help assure that an individual or business pays all of its State taxes due prior to the sale of business assets, the law requires the Director of the Division of Taxation in the Department of the Treasury to be notified of the sale of the assets by the purchaser at least 10 days before the sale is made. If the notification requirements are not met, the purchaser may become liable for any delinquent or deficient State taxes owed by the seller.

Currently, the law allows limited exemptions from these requirements for the sale of certain types of real property. The law provides that the sale of a simple dwelling house and the sale of a seasonal rental unit are exempt from the bulk sale notification requirements *if* the seller of the property is an “individual,” “trust,” or “estate” as those terms are used for purposes of the New Jersey gross income tax.

The division has previously informed purchasers of business assets that for gross income tax purposes an “individual” is interpreted to mean a “single person, married or civil union couple, spouse or civil union partner.” As a result, an individual or business purchasing a simple dwelling house or a seasonal rental unit from unmarried co-owners must notify the director and place in escrow the determined amount of any unpaid State tax or risk the assumption of the seller’s tax liabilities because the seller is not an “individual” and, therefore, the transaction is not exempt from current notification requirements.

According to a 2016 review of the bulk sale notification requirements by the New Jersey Law Revision Commission, this limitation of the exemption to an “individual” as interpreted by the division has created confusion within the legal and real estate communities in determining the types of sales that are subject to the notification requirements. Moreover, the limitation of the exemption to an “individual” has created a gap in the law that currently allows for



sales of simple dwelling houses and seasonal rental units by married co-owners to be treated differently than sales of similarly situated unmarried co-owners who may hold properties in joint tenancy or as tenants in common without a clear rational justifying the differential treatment.

This bill alleviates this confusion and provides for a more equitable treatment of sales involving these types of real property by married and unmarried individuals by amending current law to clarify that sales involving individual co-tenancies are exempt from the bulk sale notification requirements. Under the bill, the sale of a simple dwelling house and a seasonal rental unit are exempt from the notification requirements if the seller of the property is an “individual,” “trust,” or “estate” *or* if the seller is any combination thereof owning the simple dwelling house or the seasonal rental unit as joint tenants, tenants in common, or tenancy by the entirety.

The bill’s changes to the bulk sale notification requirements do not affect the current treatment of sales by business entities. The requirement that the sale of property, including a simple dwelling house and a seasonal rental unit, owned by a business entity is subject to the bulk sale notification requirements remains intact.

The bill takes effect immediately upon enactment and applies retroactively to sales, transfers, and assignments on or after August 1, 2007, the date on which the bulk sale notification requirements first took effect.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) expects there may be an annual revenue loss to the State as a result of the bill, but lacks sufficient information to quantify the potential loss. It is not currently known how many sales of simple dwelling houses and seasonal rental units will be newly exempt from the bulk sale notification requirements, or the potential State tax obligations that may have been collected in connection with those sales in the future if the current exemption was not amended to clarify that sales involving individual co-tenancies are similarly exempt from the notification requirements.

The OLS does not expect the provisions of the bill which make the changes retroactive to August 1, 2007 will have a measurable fiscal impact to the State, since State tax obligations previously collected due to legitimate taxpayer liabilities are unlikely to be refunded.

#### COMMITTEE AMENDMENTS:

The committee amendments make a technical change to reflect the current version of the law.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 4562**  
**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

DATED: DECEMBER 7, 2017

**SUMMARY**

**Synopsis:** Clarifying ownership requirements for certain homes and seasonal rentals exempt from bulk sale notification requirements, amending P.L.2007, c.100.

**Type of Impact:** Annual State revenue loss to the Property Tax Relief Fund and the General Fund.

**Agencies Affected:** Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Annual</b></u>
<b>State Revenue Loss</b>	Indeterminate – See comments below.

- The Office of Legislative Services (OLS) notes that there may be an annual revenue loss to the State Property Tax Relief Fund and General Fund under this bill as a result of exempting from the bulk sale notification requirement simple dwelling houses and seasonal rental units which are *jointly* owned by more than one individual, trust or estate.

**BILL DESCRIPTION**

Assembly Bill No. 4562 of 2017 clarifies that the existing “bulk sale” notification exemption provided for the sale, transfer or assignment of a simple dwelling house or seasonal rental unit if the seller, transferrer or assignor is an individual, estate or trust also includes the sale, transfer or assignment of such an asset if it is jointly owned by more than one individual, estate or trust.

The bill is retroactive to August 1, 2007, the date on which the bulk sale notification requirements first took effect.

**FISCAL ANALYSIS**

***EXECUTIVE BRANCH***

None received.

**OFFICE OF LEGISLATIVE SERVICES**

The OLS notes that there may be an annual revenue loss to the State Property Tax Relief Fund and General Fund under this bill as a result of exempting from the bulk sale notification requirement simple dwelling houses and seasonal rental units which are *jointly* owned by more than one individual, trust or estate.

Bulk sale notifications are intended to aid in the collection of State taxes. To help assure that a business pays all of its State taxes due prior to the sale of business assets, the purchaser of those business assets is required to notify the Division of Taxation in the Department of the Treasury of the sale at least 10 days before the transfer of goods or payment. If the division notifies the purchaser that the seller owes State taxes, the purchaser must hold back from the seller any sums owed to the State. If the purchaser fails to notify the division, the purchaser can be held liable for any taxes of the seller.

Prior to the enactment of P.L.2011, c.124, which established the bulk sale notification requirement exemption for the sale, transfer or assignment of a simple dwelling house or seasonal rental unit if the seller, transferrer or assignor is an individual, estate or trust, the Division of Taxation indicated, through a formal fiscal note, that the bulk sale notification requirement exemption would result in a potentially significant annual revenue loss, primarily through forgone gross income tax revenue (Property Tax Relief Fund), because the law governing bulk sales allowed the State to increase tax enforcement collections from taxpayers who had unpaid tax liabilities.

The bill's expansion of the existing exemption to include sales, transfers or assignments of simple dwelling houses or seasonal rental units which are *jointly* owned by more than one individual, estate or trust may further reduce the State's ability to collect unpaid tax liabilities from taxpayers who would otherwise be subject to the bulk sale notification requirement, absent the bill's changes, resulting in additional forgone revenue to the State. However, the amount of revenue which might be forgone cannot be estimated due to the lack of data regarding the tax liabilities of taxpayers who would now be exempt from the bulk sale notification requirement.

The OLS does not believe the retroactivity of the bill, to August 1, 2007, would have a measurable fiscal impact, since State tax enforcement revenues previously collected due to legitimate taxpayer liabilities are unlikely to be refunded.

*Section: Revenue, Finance and Appropriations*

*Analyst: Jordan M. DiGiovanni  
Associate Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY, No. 4562

### STATE OF NEW JERSEY 217th LEGISLATURE

DATED: JANUARY 9, 2018

#### SUMMARY

- Synopsis:** Clarifying ownership requirements for certain homes and seasonal rentals exempt from bulk sale notification requirements, amending P.L.2007, c.100.
- Type of Impact:** Annual State revenue loss to the Property Tax Relief Fund and the General Fund.
- Agencies Affected:** Department of the Treasury.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Revenue Loss</b>	Indeterminate – See comments below.

- The Office of Legislative Services (OLS) notes that there may be an indeterminate annual revenue loss to the State Property Tax Relief Fund and General Fund under this bill as a result of exempting from the bulk sale notification requirement simple dwelling houses and seasonal rental units which are *jointly* owned by more than one individual, trust or estate.

#### BILL DESCRIPTION

This bill clarifies that the existing “bulk sale” notification exemption provided for the sale, transfer or assignment of a simple dwelling house or seasonal rental unit if the seller, transferrer or assignor is an individual, estate or trust also includes the sale, transfer or assignment of such an asset if it is jointly owned by more than one individual, estate or trust.

The bill is retroactive to August 1, 2007, the date on which the bulk sale notification requirements first took effect.

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

None received.

### *OFFICE OF LEGISLATIVE SERVICES*

The OLS notes that there may be an indeterminate annual revenue loss to the State Property Tax Relief Fund and General Fund under this bill as a result of exempting from the bulk sale notification requirement simple dwelling houses and seasonal rental units which are *jointly* owned by more than one individual, trust or estate.

Bulk sale notifications are intended to aid in the collection of State taxes. To help assure that a business pays all of its State taxes due prior to the sale of business assets, the purchaser of those business assets is required to notify the Division of Taxation in the Department of the Treasury of the sale at least 10 days before the transfer of goods or payment. If the division notifies the purchaser that the seller owes State taxes, the purchaser must hold back from the seller any sums owed to the State. If the purchaser fails to notify the division, the purchaser can be held liable for any taxes of the seller.

Prior to the enactment of P.L.2011, c.124, which established the bulk sale notification requirement exemption for the sale, transfer or assignment of a simple dwelling house or seasonal rental unit if the seller, transferrer or assignor is an individual, estate or trust, the Division of Taxation indicated, through a formal fiscal note, that the bulk sale notification requirement exemption would result in a potentially significant annual revenue loss, primarily through forgone gross income tax revenue (Property Tax Relief Fund), because the law governing bulk sales allowed the State to increase tax enforcement collections from taxpayers who had unpaid tax liabilities.

The bill's expansion of the existing exemption to include sales, transfers or assignments of simple dwelling houses or seasonal rental units which are *jointly* owned by more than one individual, estate or trust may further reduce the State's ability to collect unpaid tax liabilities from taxpayers who would otherwise be subject to the bulk sale notification requirement, absent the bill's changes, resulting in additional forgone revenue to the State. However, the amount of revenue which might be forgone cannot be estimated due to the lack of data regarding the tax liabilities of taxpayers who would now be exempt from the bulk sale notification requirement.

The OLS does not believe the retroactivity of the bill, to August 1, 2007, would have a measurable fiscal impact, since State tax enforcement revenues previously collected due to legitimate taxpayer liabilities are unlikely to be refunded.

*Section: Revenue, Finance and Appropriations*

*Analyst: Jordan M. DiGiovanni  
Associate Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).