

46:15-5

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS OF: 2004 **CHAPTER:** 66

NJSA: 46:15-5 (Imposes a "general purpose fee" on certain realty transfers)

BILL NO: A3115 (Substituted for S1713)

SPONSOR(S): Cryan

DATE INTRODUCED: June 21, 2004

COMMITTEE: **ASSEMBLY:** Budget

SENATE: ----

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 24, 2004

SENATE: June 24, 2004

DATE OF APPROVAL: June 30, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

A3115

[SPONSOR'S STATEMENT](#): (Begins on page 9 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S1713

[SPONSOR'S STATEMENT](#): (Begins on page 10 of original bill) [Yes](#)

Bill and Sponsors Statement identical to A3115

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

P.L. 2004, CHAPTER 66, *approved June 30, 2004*

Assembly, No. 3115

1 **AN ACT** imposing a "general purpose fee" on certain realty transfers
2 and a fee upon grantees under certain deeds conveying residential
3 property and clarifying the law with respect to realty transfer fees
4 generally, amending and supplementing P.L.1968, c.49, and
5 amending P.L.1975, c.176 and P.L.1992, c.148.

6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9

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

12 1. As used in this act:

13 (a) "Deed" means a written instrument entitled to be recorded in
14 the office of a county recording officer which purports to convey or
15 transfer title to a freehold interest in any lands, tenements or other
16 realty in this State by way of grant or bargain and sale thereof from the
17 named grantor to the named grantee. A leasehold interest for 99 years
18 or more or a proprietary lease of a cooperative unit and any
19 assignment of a proprietary lease of a cooperative unit, shall be treated
20 as a "freehold" for the purpose of this act. Instruments providing for
21 common driveways, for exchanges of easements or rights-of-way, for
22 revocable licenses to use, to adjust or to clear defects of or clouds on
23 title, to provide for utility service lines such as drainage, sewerage,
24 water, electric, telephone or other such service lines, or to quitclaim
25 possible outstanding interests, shall not be "deeds" for the purposes of
26 this act.

27 (b) The terms "county recording officer" and "office of the county
28 recording officer" mean the register of deeds and mortgages in
29 counties having such an officer and office, and the county clerk and his
30 office in the other counties.

31 (c) "Consideration" means in the case of any deed, the actual
32 amount of money and the monetary value of any other thing of value
33 constituting the entire compensation paid or to be paid for the transfer
34 of title to the lands, tenements or other realty, including the remaining
35 amount of any prior mortgage to which the transfer is subject or which
36 is to be assumed and agreed to be paid by the grantee and any other
37 lien or encumbrance thereon not paid, satisfied or removed in
38 connection with the transfer of title. The amount of liens for real
39 property taxes, water or sewerage charges for the current or any
40 subsequent year, or by way of added assessment or other adjustment,

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 as well as of other like liens or encumbrances of a current and
2 continuing nature ordinarily adjusted between the parties according to
3 the period of ownership shall be excluded as an element in determining
4 the consideration, notwithstanding that such amount is to be paid by
5 the grantee.

6 In the case of a leasehold interest for 99 years or more as defined
7 in subsection (a) of this section, the consideration shall be in the
8 amount of the assessed value of the property at the date of the
9 transaction for the purpose of levying local real property taxes
10 adjusted to reflect the true value in accordance with the county
11 percentage level established for the current year.

12 In the case of a proprietary lease of a cooperative unit or
13 assignment thereof as defined in subsection (a) of this section, the
14 consideration is the total price paid for the ownership interest held in
15 conjunction with a cooperative unit, including the pro rata amount of
16 any underlying mortgage or other obligation of the cooperative.

17 (d) "Blind person" means a person whose vision in his better eye
18 with proper correction does not exceed 20/200 as measured by the
19 Snellen chart or a person who has a field defect in his better eye with
20 proper correction in which the peripheral field has contracted to such
21 an extent that the widest diameter of visual field subtends an angular
22 distance no greater than 20E.

23 (e) "Disabled person" means any resident of this State who is
24 permanently and totally disabled, unable to engage in gainful
25 employment, and receiving disability benefits or any other
26 compensation under any federal or State law.

27 (f) "Senior citizen" means any resident of this State of the age of
28 62 years or over.

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

32 (h) "Low and moderate income housing" means any residential
33 premises, or part thereof, affordable according to federal Department
34 of Housing and Urban Development or other recognized standards for
35 home ownership and rental costs and occupied or reserved for
36 occupancy by households with a gross income equal to 80% or less of
37 the median gross household income for households of the same size
38 within the housing region in which the housing is located, but shall
39 include only those residential premises subject to resale controls
40 pursuant to contractual guarantees.

41 (i) "Basic fee" means the fee established by paragraph (1) of
42 subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7), which fee
43 shall consist of a State portion and a county portion as prescribed
44 under that paragraph.

45 (j) "Additional fee" means the fee established by paragraph (2) of
46 subsection a. of section 3 of P.L.1968, c.49.

1 (k) "General purpose fee" means the fee established by paragraph
2 (3) of subsection a. of section 3 of P.L.1968, c.49.

3 (l) "Supplemental fee" means the fee established by subsection a.
4 of section 2 of P.L.2003, c.113 (C.46:15-7.1).

5 (cf: P.L.1987, c.381, s.13)

6
7 2. Section 2 of P.L.1968, c.49 (C.46:15-6) is amended to read as
8 follows:

9 2. In addition to other prerequisites for recording, no deed
10 evidencing transfer of title to real property shall be recorded in the
11 office of any county recording officer unless it satisfies [one of] the
12 following requirements:

13 a. If the transfer is subject to [the additional] any fee [as provided
14 in] established under section 3 of P.L.1968, c.49 (C.46:15-7) or [to
15 the supplemental fee as provided in] section 2 of P.L.2003, c.113
16 (C.46:15-7.1), a statement of the true consideration for the transfer
17 [is] shall be contained in [(1)] the deed, [or (2)] the
18 acknowledgment, [or (3)] the proof of the execution, or [(4)] an
19 appended affidavit by one of the parties to the deed or that party's
20 legal representative.

21 b. If the transfer is exempt from [the additional] any fee [required
22 by] established under section 3 of P.L.1968, c.49 (C.46:15-7)[,] or
23 [from the supplemental fee as provided in] section 2 of P.L.2003,
24 c.113 (C.46:15-7.1), an affidavit stating the basis for the exemption
25 [is] shall be appended to the deed.

26 c. If the transfer is of real property upon which there is new
27 construction, the words "NEW CONSTRUCTION" in upper case
28 lettering shall be printed clearly at the top of the first page of the deed,
29 and an affidavit by the grantor stating that the transfer is of property
30 upon which there is new construction shall be appended to the deed.
31 (cf: P.L.2003, c.113, s.1)

32
33 3. Section 3 of P.L.1968, c.49 (C.46:15-7) is amended to read as
34 follows:

35 3. a. In addition to the recording fees imposed by section 2 of
36 P.L.1965, c.123 (C.22A:4-4.1), a grantor shall pay to the county
37 recording officer at the time the deed is offered for recording the
38 following fees:

39 (1) A basic fee [is imposed upon grantors], which basic fee shall
40 consist of (a) a State portion at the rate of [\$1.75] \$1.25 for each
41 \$500.00 of consideration or fractional part thereof recited in the deed,
42 and (b) a county portion at the rate of \$0.50 for each \$500.00 of
43 consideration or fractional part thereof so recited; provided however,
44 that on and after the tenth day following a certification by the Director
45 of the Division of Budget and Accounting in the Department of the

1 Treasury pursuant to subsection b. of section 2 of P.L.1992, c.148
2 (C.46:15-10.2), the State portion of the basic fee shall not be imposed
3 [shall be \$0.50 for each \$500.00 of consideration or fractional part
4 thereof recited in the deed, which fee shall be collected by the county
5 recording officer at the time the deed is offered for recording.];

6 [For] (2) An additional fee at the rate of \$0.75 for each \$500.00
7 of consideration or fractional part thereof recited in the deed in excess
8 of \$150,000.00 [an additional fee is imposed of \$0.75]; provided
9 however, that on and after the tenth day following a certification by
10 the Director of the Division of Budget and Accounting in the
11 Department of the Treasury pursuant to subsection b. of section 2 of
12 P.L.1992, c.148 (C.46:15-10.2), [no such] the additional fee shall not
13 be imposed; and

14 (3) A general purpose fee at the rate of:

15 (a) \$0.90 for each \$500.00 of consideration or fractional part
16 thereof recited in the deed that is not in excess of \$550,000.00, except
17 that in the case of a conveyance or transfer of property for which the
18 total consideration recited in the deed does not exceed \$350,000.00,
19 no general purpose fee shall be imposed;

20 (b) \$1.40 for each \$500.00 of consideration or fractional part
21 thereof in excess of \$550,000.00 but not in excess of \$850,000.00
22 recited in the deed;

23 (c) \$1.90 for each \$500.00 of consideration or fractional part
24 thereof in excess of \$850,000.00 but not in excess of \$1,000,000.00
25 recited in the deed; and

26 (d) \$2.15 for each \$500.00 of consideration or fractional part
27 thereof in excess of \$1,000,000.00 recited in the deed;

28 [Every] b. A deed subject to any of the [additional fee required]
29 fees established by this [act] section, which is in fact recorded, shall
30 be [conclusively] deemed to have been entitled to recording,
31 notwithstanding that the amount of the consideration shall have been
32 incorrectly stated[,] or that the correct amount of such [additional]
33 fee [, if any,] shall not have been paid[, and no]. No such defect shall
34 in any way affect or impair the validity of the title conveyed or render
35 the same unmarketable; but the person or persons required to pay said
36 additional fee at the time of recording shall be and remain liable to the
37 county recording officer for the payment of the proper amount thereof.
38 (cf: P.L.1992, c.148, s.3)

39

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

42 4. a. The proceeds of the fees collected by the county recording
43 officer, as authorized by P.L.1968, c.49 (C.46:15-5 et seq.), shall be
44 accounted for and remitted to the county treasurer.

45 b. (1) [An amount equal to 28.6% of the proceeds from the first

1 \$1.75 for each \$500.00 of consideration or fractional part thereof
2 recited in the deed] The county portion of the basic fee collected
3 pursuant to paragraph (1) of subsection a. of section 3 of P.L.1968,
4 c.49 (C.46:15-7) shall be retained by the county treasurer for the use
5 of the county [and the balance].

6 (2) The State portion of the basic fee, the additional fee, and the
7 general purpose fee shall be paid to the State Treasurer for the use of
8 the State[; provided however, that on and after the tenth day
9 following a certification by the Director of the Division of Budget and
10 Accounting in the Department of the Treasury pursuant to subsection
11 b. of section 2 of P.L.1992, c.148 (C.46:15-10.2), 100.0% of the
12 proceeds from the first \$0.50 for each \$500.00 of consideration or
13 fractional part thereof recited in the deed so collected shall be retained
14 by the county treasurer for the use of the county and no amount shall
15 be paid to the State Treasurer for the use of the State]. Payments
16 shall be made to the State Treasurer on the tenth day of each month
17 following the month of collection.

18 c. (1) Amounts, not in excess of \$25,000,000, paid during the
19 State fiscal year to the State Treasurer from the payment of [fees
20 collected by the county recording officer other than the additional fee
21 of \$0.75 for each \$500.00 of consideration or fractional part thereof
22 recited in the deed in excess of \$150,000.00 collected pursuant to
23 section 3 of P.L.1968, c.49 (C.46:15-7)] the State portion of the basic
24 fee shall be credited to the "Shore Protection Fund" created pursuant
25 to section 1 of P.L.1992, c.148 (C.13:19-16.1), in the manner
26 established under that section.

27 (2) All amounts paid to the State Treasurer [in] from the payment
28 of the additional fee [of \$0.75 for each \$500.00 of consideration or
29 fractional part thereof recited in the deed in excess of \$150,000.00
30 collected pursuant to section 3 of P.L.1968, c.49 (C.46:15-7)] shall
31 be credited to the Neighborhood Preservation Nonlapsing Revolving
32 Fund established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.),
33 in the manner established under section 20 thereof (C.52:27D-320).
34 (cf: P.L.2003, c.113, s.3)

35
36 5. Section 5 of P.L.1991, c.49 (C.46:15-9) is amended to read as
37 follows:

38 5. a. Any person who knowingly falsifies the consideration recited
39 in a deed or in the proof or acknowledgment of the execution of a
40 deed or in an affidavit annexed to a deed declaring the consideration
41 therefor or a declaration in an affidavit that a transfer is exempt from
42 recording fee is guilty of a crime of the fourth degree.

43 b. Any grantor conveying title to real property upon which there
44 is new construction who fails to subscribe and append to the deed an
45 affidavit to that effect in accordance with the provisions of subsection

1 c. of section 2 of P.L.1968, c.49 (C.46:15-6) is guilty of a disorderly
2 persons offense.

3 (cf: P.L.1991, c.308, s.4)

4

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

7 4. a. The following transfers of title to real property shall be
8 exempt from payment of [\$1.25 per \$500.00 of consideration or
9 fractional part thereof of] the State portion of the basic fee [imposed
10 upon grantors by section 3 of P.L.1968, c.49 (C.46:15-7)]:

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

18 (2) The sale of low and moderate income housing.

19 b. Transfers of title to real property upon which there is new
20 construction shall be exempt from payment [of \$1.00 for each \$500.00
21 of], with respect to all consideration [or fractional part thereof not in
22 excess of] therefor up to \$150,000.00, of 80% of the State portion of
23 the basic fee [imposed upon grantors by section 3 of P.L.1968, c.49
24 (C.46:15-7)].

25 c. (1) The director shall promulgate rules, regulations and forms
26 of certification or otherwise necessary to carry out the provisions of
27 this section.

28 (2) No transfer shall be eligible for more than one exemption under
29 this section. [All fees imposed pursuant to section 3 of P.L.1968, c.49
30 (C.46:15-7) collected on transfers subject to exemption under
31 subsection a. of this section shall be retained by the county treasurer
32 for the use of the county. An amount equal to 66 2/3% of the
33 proceeds from the fee imposed pursuant to section 3 of P.L.1968, c.49
34 (C.46:15-7) upon the consideration not in excess of \$150,000.00 for
35 transfers of real property upon which there is new construction, and
36 an amount equal to 20% of the proceeds of the \$2.50 total fees
37 imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) upon
38 each \$500.00 of consideration or fractional part thereof in excess of
39 \$150,000.00 for transfers of real property upon which there is new
40 construction shall be retained by the county treasurer for the use of the
41 county.]

42 d. The balance of the [fees] State portion of the basic fee and the
43 additional fee collected on transfers subject to exemption under
44 subsection b. of this section shall be remitted to the State Treasurer
45 and shall be credited to the Neighborhood Preservation Nonlapsing

1 Revolving Fund established pursuant to P.L.1985, c.222 (C.52:27D-
2 301 et al.), to be spent in the manner established under section 20
3 thereof (C.52:27D-320).

4 e. Subsections a. through d. of this section shall be without effect
5 on and after the tenth day following a certification by the Director of
6 the Division of Budget and Accounting in the Department of the
7 Treasury pursuant to subsection b. of section 2 of P.L.1992, c.148
8 (C.46:15-10.2).
9 (cf: P.L.2003, c.113, s.4)

10

11 7. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to read
12 as follows:

13 2. a. The annual appropriations act for each State fiscal year shall,
14 without other conditions, limitations or restrictions on the following:

15 (1) credit amounts paid to the State Treasurer, if any, in payment
16 of fees collected pursuant to paragraph (1) or paragraph (2) of
17 subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7)[,] to the
18 "Shore Protection Fund" created pursuant to section 1 of P.L.1992,
19 c.148 (C.13:19-16.1), and the Neighborhood Preservation Nonlapsing
20 Revolving Fund established pursuant to section 20 of P.L.1985, c.222
21 (C.52:27D-320), pursuant to the requirements of section 4 of
22 P.L.1968, c.49 (C.46:15-8);

23 (2) appropriate the balance of the "Shore Protection Fund" created
24 pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), for the
25 purposes of that fund; and

26 (3) appropriate the balance of the Neighborhood Preservation
27 Nonlapsing Revolving Fund established pursuant to section 20 of
28 P.L.1985, c.222 (C.52:27D-320), for the purposes of that fund.

29 b. If the requirements of subsection a. of this section are not met
30 on the effective date of an annual appropriations act for the State fiscal
31 year, or if an amendment or supplement to an annual appropriations
32 act for the State fiscal year should violate any of the requirements of
33 subsection a. of this section, the Director of the Division of Budget
34 and Accounting in the Department of the Treasury shall, not later than
35 five days after the enactment of the annual appropriations act, or an
36 amendment or supplement thereto, that violates any of the
37 requirements of subsection a. of this section, certify to the Director of
38 the Division of Taxation that the requirements of subsection a. of this
39 section have not been met.

40 (cf: P.L.1992, c.148, s.2)

41

42 8. (New section) In addition to all other fees imposed under
43 P.L.1968, c.49 (C.46:15-5 et seq.), there is imposed upon the grantee
44 of a deed for the transfer of real property zoned for residential use,
45 whether improved or not, for consideration in excess of \$1,000,000
46 recited in the deed a fee in an amount equal to 1 percent of the entire

1 amount of such consideration, which fee shall be collected by the
2 county recording officer at the time the deed is offered for recording
3 and remitted to the State Treasurer not later than the 10th day of the
4 month following the month of collection for deposit into the General
5 Fund.

6
7 9. This act shall take effect immediately and apply to transfers of
8 real property occurring on or after August 1, 2004.

9
10
11 STATEMENT

12
13 Current law provides for three realty transfer fees, which this bill
14 identifies as a "basic fee," an "additional fee" and a "supplemental fee."
15 This bill imposes an additional fee, a "general purpose fee," on
16 grantors of property whose value, as recited in the deed of transfer, is
17 more than \$350,000. The "general purpose fee" applies to the full
18 amount of the sale of the property. The revenue generated by the
19 "general purpose fee" will be used for general State purposes.

20 The "general purpose fee" is structured as follows: \$0.90 for each
21 \$500 on the first \$550,000 of the value recited in the deed of transfer;
22 \$1.40 on each \$500 of the value between \$550,000 and \$850,000;
23 \$1.90 on each \$500 of the value between \$850,000 and \$1,000,000;
24 and \$2.15 for each \$500 of the value over \$1,000,000.

25 In addition, the bill imposes upon the grantee (buyer) of real
26 property zoned residential, whether improved or not, for consideration
27 in excess of \$1 million, a separate fee equal to 1 percent of the full
28 amount of the consideration. The revenue generated by this fee will
29 also be used for general State purposes.

30 Finally, the bill makes a number of editorial revisions in the text of
31 the realty transfer fee statute for purposes of clarifying its provisions.

32
33
34 _____
35
36 Imposes "general purpose fee" on certain realty transfers and fee on
37 purchase of residential property for over \$1 million; generally clarifies
38 realty transfer fee law.

ASSEMBLY, No. 3115

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 21, 2004

Sponsored by:

Assemblyman JOSEPH CRYAN

District 20 (Union)

Co-Sponsored by:

Senator Kenny

SYNOPSIS

Imposes "general purpose fee" on certain realty transfers and fee on purchase of residential property for over \$1 million; generally clarifies realty transfer fee law.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/25/2004)

A3115 CRYAN

2

1 AN ACT imposing a "general purpose fee" on certain realty transfers
2 and a fee upon grantees under certain deeds conveying residential
3 property and clarifying the law with respect to realty transfer fees
4 generally, amending and supplementing P.L.1968, c.49, and
5 amending P.L.1975, c.176 and P.L.1992, c.148.

6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9

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

12 1. As used in this act:

13 (a) "Deed" means a written instrument entitled to be recorded in
14 the office of a county recording officer which purports to convey or
15 transfer title to a freehold interest in any lands, tenements or other
16 realty in this State by way of grant or bargain and sale thereof from the
17 named grantor to the named grantee. A leasehold interest for 99 years
18 or more or a proprietary lease of a cooperative unit and any
19 assignment of a proprietary lease of a cooperative unit, shall be treated
20 as a "freehold" for the purpose of this act. Instruments providing for
21 common driveways, for exchanges of easements or rights-of-way, for
22 revocable licenses to use, to adjust or to clear defects of or clouds on
23 title, to provide for utility service lines such as drainage, sewerage,
24 water, electric, telephone or other such service lines, or to quitclaim
25 possible outstanding interests, shall not be "deeds" for the purposes of
26 this act.

27 (b) The terms "county recording officer" and "office of the county
28 recording officer" mean the register of deeds and mortgages in
29 counties having such an officer and office, and the county clerk and his
30 office in the other counties.

31 (c) "Consideration" means in the case of any deed, the actual
32 amount of money and the monetary value of any other thing of value
33 constituting the entire compensation paid or to be paid for the transfer
34 of title to the lands, tenements or other realty, including the remaining
35 amount of any prior mortgage to which the transfer is subject or which
36 is to be assumed and agreed to be paid by the grantee and any other
37 lien or encumbrance thereon not paid, satisfied or removed in
38 connection with the transfer of title. The amount of liens for real
39 property taxes, water or sewerage charges for the current or any
40 subsequent year, or by way of added assessment or other adjustment,
41 as well as of other like liens or encumbrances of a current and
42 continuing nature ordinarily adjusted between the parties according to
43 the period of ownership shall be excluded as an element in determining

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 the consideration, notwithstanding that such amount is to be paid by
2 the grantee.

3 In the case of a leasehold interest for 99 years or more as defined
4 in subsection (a) of this section, the consideration shall be in the
5 amount of the assessed value of the property at the date of the
6 transaction for the purpose of levying local real property taxes
7 adjusted to reflect the true value in accordance with the county
8 percentage level established for the current year.

9 In the case of a proprietary lease of a cooperative unit or
10 assignment thereof as defined in subsection (a) of this section, the
11 consideration is the total price paid for the ownership interest held in
12 conjunction with a cooperative unit, including the pro rata amount of
13 any underlying mortgage or other obligation of the cooperative.

14 (d) "Blind person" means a person whose vision in his better eye
15 with proper correction does not exceed 20/200 as measured by the
16 Snellen chart or a person who has a field defect in his better eye with
17 proper correction in which the peripheral field has contracted to such
18 an extent that the widest diameter of visual field subtends an angular
19 distance no greater than 20E.

20 (e) "Disabled person" means any resident of this State who is
21 permanently and totally disabled, unable to engage in gainful
22 employment, and receiving disability benefits or any other
23 compensation under any federal or State law.

24 (f) "Senior citizen" means any resident of this State of the age of
25 62 years or over.

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

29 (h) "Low and moderate income housing" means any residential
30 premises, or part thereof, affordable according to federal Department
31 of Housing and Urban Development or other recognized standards for
32 home ownership and rental costs and occupied or reserved for
33 occupancy by households with a gross income equal to 80% or less of
34 the median gross household income for households of the same size
35 within the housing region in which the housing is located, but shall
36 include only those residential premises subject to resale controls
37 pursuant to contractual guarantees.

38 (i) "Basic fee" means the fee established by paragraph (1) of
39 subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7), which fee
40 shall consist of a State portion and a county portion as prescribed
41 under that paragraph.

42 (j) "Additional fee" means the fee established by paragraph (2) of
43 subsection a. of section 3 of P.L.1968, c.49.

44 (k) "General purpose fee" means the fee established by paragraph
45 (3) of subsection a. of section 3 of P.L.1968, c.49.

46 (l) "Supplemental fee" means the fee established by subsection a.

1 of section 2 of P.L.2003, c.113 (C.46:15-7.1).

2 (cf: P.L.1987, c.381, s.13)

3

4 2. Section 2 of P.L.1968, c.49 (C.46:15-6) is amended to read as
5 follows:

6 2. In addition to other prerequisites for recording, no deed
7 evidencing transfer of title to real property shall be recorded in the
8 office of any county recording officer unless it satisfies [one of] the
9 following requirements:

10 a. If the transfer is subject to [the additional] any fee [as provided
11 in] established under section 3 of P.L.1968, c.49 (C.46:15-7) or [to
12 the supplemental fee as provided in] section 2 of P.L.2003, c.113
13 (C.46:15-7.1), a statement of the true consideration for the transfer
14 [is] shall be contained in [(1)] the deed, [or (2)] the
15 acknowledgment, [or (3)] the proof of the execution, or [(4)] an
16 appended affidavit by one of the parties to the deed or that party's
17 legal representative.

18 b. If the transfer is exempt from [the additional] any fee [required
19 by] established under section 3 of P.L.1968, c.49 (C.46:15-7)[,] or
20 [from the supplemental fee as provided in] section 2 of P.L.2003,
21 c.113 (C.46:15-7.1), an affidavit stating the basis for the exemption
22 [is] shall be appended to the deed.

23 c. If the transfer is of real property upon which there is new
24 construction, the words "NEW CONSTRUCTION" in upper case
25 lettering shall be printed clearly at the top of the first page of the deed,
26 and an affidavit by the grantor stating that the transfer is of property
27 upon which there is new construction shall be appended to the deed.
28 (cf: P.L.2003, c.113, s.1)

29

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

32 3. a. In addition to the recording fees imposed by section 2 of
33 P.L.1965, c.123 (C.22A:4-4.1), a grantor shall pay to the county
34 recording officer at the time the deed is offered for recording the
35 following fees:

36 (1) A basic fee [is imposed upon grantors], which basic fee shall
37 consist of (a) a State portion at the rate of [\$1.75] \$1.25 for each
38 \$500.00 of consideration or fractional part thereof recited in the deed,
39 and (b) a county portion at the rate of \$0.50 for each \$500.00 of
40 consideration or fractional part thereof so recited; provided however,
41 that on and after the tenth day following a certification by the Director
42 of the Division of Budget and Accounting in the Department of the
43 Treasury pursuant to subsection b. of section 2 of P.L.1992, c.148
44 (C.46:15-10.2), the State portion of the basic fee shall not be imposed
45 [shall be \$0.50 for each \$500.00 of consideration or fractional part

1 thereof recited in the deed, which fee shall be collected by the county
2 recording officer at the time the deed is offered for recording.];

3 [For] (2) An additional fee at the rate of \$0.75 for each \$500.00
4 of consideration or fractional part thereof recited in the deed in excess
5 of \$150,000.00 [an additional fee is imposed of \$0.75]; provided
6 however, that on and after the tenth day following a certification by
7 the Director of the Division of Budget and Accounting in the
8 Department of the Treasury pursuant to subsection b. of section 2 of
9 P.L.1992, c.148 (C.46:15-10.2), [no such] the additional fee shall not
10 be imposed; and

11 (3) A general purpose fee at the rate of:

12 (a) \$0.90 for each \$500.00 of consideration or fractional part
13 thereof recited in the deed that is not in excess of \$550,000.00, except
14 that in the case of a conveyance or transfer of property for which the
15 total consideration recited in the deed does not exceed \$350,000.00,
16 no general purpose fee shall be imposed;

17 (b) \$1.40 for each \$500.00 of consideration or fractional part
18 thereof in excess of \$550,000.00 but not in excess of \$850,000.00
19 recited in the deed;

20 (c) \$1.90 for each \$500.00 of consideration or fractional part
21 thereof in excess of \$850,000.00 but not in excess of \$1,000,000.00
22 recited in the deed; and

23 (d) \$2.15 for each \$500.00 of consideration or fractional part
24 thereof in excess of \$1,000,000.00 recited in the deed;

25 [Every] b. A deed subject to any of the [additional fee required]
26 fees established by this [act] section, which is in fact recorded, shall
27 be [conclusively] deemed to have been entitled to recording,
28 notwithstanding that the amount of the consideration shall have been
29 incorrectly stated[,], or that the correct amount of such [additional]
30 fee [, if any,] shall not have been paid[, and no]. No such defect shall
31 in any way affect or impair the validity of the title conveyed or render
32 the same unmarketable; but the person or persons required to pay said
33 additional fee at the time of recording shall be and remain liable to the
34 county recording officer for the payment of the proper amount thereof.
35 (cf: P.L.1992, c.148, s.3)

36

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

39 4. a. The proceeds of the fees collected by the county recording
40 officer, as authorized by P.L.1968, c.49 (C.46:15-5 et seq.), shall be
41 accounted for and remitted to the county treasurer.

42 b. (1) [An amount equal to 28.6% of the proceeds from the first
43 \$1.75 for each \$500.00 of consideration or fractional part thereof
44 recited in the deed] The county portion of the basic fee collected
45 pursuant to paragraph (1) of subsection a. of section 3 of P.L.1968,

1 c.49 (C.46:15-7) shall be retained by the county treasurer for the use
2 of the county [and the balance].

3 (2) The State portion of the basic fee, the additional fee, and the
4 general purpose fee shall be paid to the State Treasurer for the use of
5 the State[]; provided however, that on and after the tenth day
6 following a certification by the Director of the Division of Budget and
7 Accounting in the Department of the Treasury pursuant to subsection
8 b. of section 2 of P.L.1992, c.148 (C.46:15-10.2), 100.0% of the
9 proceeds from the first \$0.50 for each \$500.00 of consideration or
10 fractional part thereof recited in the deed so collected shall be retained
11 by the county treasurer for the use of the county and no amount shall
12 be paid to the State Treasurer for the use of the State]. Payments
13 shall be made to the State Treasurer on the tenth day of each month
14 following the month of collection.

15 c. (1) Amounts, not in excess of \$25,000,000, paid during the
16 State fiscal year to the State Treasurer from the payment of [fees
17 collected by the county recording officer other than the additional fee
18 of \$0.75 for each \$500.00 of consideration or fractional part thereof
19 recited in the deed in excess of \$150,000.00 collected pursuant to
20 section 3 of P.L.1968, c.49 (C.46:15-7)] the State portion of the basic
21 fee shall be credited to the "Shore Protection Fund" created pursuant
22 to section 1 of P.L.1992, c.148 (C.13:19-16.1), in the manner
23 established under that section.

24 (2) All amounts paid to the State Treasurer [in] from the payment
25 of the additional fee [of \$0.75 for each \$500.00 of consideration or
26 fractional part thereof recited in the deed in excess of \$150,000.00
27 collected pursuant to section 3 of P.L.1968, c.49 (C.46:15-7)] shall
28 be credited to the Neighborhood Preservation Nonlapsing Revolving
29 Fund established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.),
30 in the manner established under section 20 thereof (C.52:27D-320).
31 (cf: P.L.2003, c.113, s.3)

32

33 5. Section 5 of P.L.1991, c.49 (C.46:15-9) is amended to read as
34 follows:

35 5. a. Any person who knowingly falsifies the consideration recited
36 in a deed or in the proof or acknowledgment of the execution of a
37 deed or in an affidavit annexed to a deed declaring the consideration
38 therefor or a declaration in an affidavit that a transfer is exempt from
39 recording fee is guilty of a crime of the fourth degree.

40 b. Any grantor conveying title to real property upon which there
41 is new construction who fails to subscribe and append to the deed an
42 affidavit to that effect in accordance with the provisions of subsection
43 c. of section 2 of P.L.1968, c.49 (C.46:15-6) is guilty of a disorderly
44 persons offense.

45 (cf: P.L.1991, c.308, s.4)

1 6. Section 4 of P.L.1975, c.176 (C.46:15-10.1) is amended to read
2 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
5 fractional part thereof of] the State portion of the basic fee [imposed
6 upon grantors by section 3 of P.L.1968, c.49 (C.46:15-7)]:

7 (1) The sale of any one- or two-family residential premises which
8 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 owned
12 and one or more of the owners is not a senior citizen, blind person[,]
13 or disabled person.

14 (2) The sale of low and moderate income housing.

15 b. Transfers of title to real property upon which there is new
16 construction shall be exempt from payment [of \$1.00 for each \$500.00
17 of], with respect to all consideration [or fractional part thereof not in
18 excess of] therefor up to \$150,000.00, of 80% of the State portion
19 of the basic fee [imposed upon grantors by section 3 of P.L.1968, c.49
20 (C.46:15-7)].

21 c. (1) The director shall promulgate rules, regulations and forms
22 of certification or otherwise necessary to carry out the provisions of
23 this section.

24 (2) No transfer shall be eligible for more than one exemption under
25 this section. [All fees imposed pursuant to section 3 of P.L.1968, c.49
26 (C.46:15-7) collected on transfers subject to exemption under
27 subsection a. of this section shall be retained by the county treasurer
28 for the use of the county. An amount equal to 66 2/3% of the
29 proceeds from the fee imposed pursuant to section 3 of P.L.1968, c.49
30 (C.46:15-7) upon the consideration not in excess of \$150,000.00 for
31 transfers of real property upon which there is new construction, and
32 an amount equal to 20% of the proceeds of the \$2.50 total fees
33 imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) upon
34 each \$500.00 of consideration or fractional part thereof in excess of
35 \$150,000.00 for transfers of real property upon which there is new
36 construction shall be retained by the county treasurer for the use of the
37 county.]

38 d. The balance of the [fees] State portion of the basic fee and the
39 additional fee collected on transfers subject to exemption under
40 subsection b. of this section shall be remitted to the State Treasurer
41 and shall be credited to the Neighborhood Preservation Nonlapsing
42 Revolving Fund established pursuant to P.L.1985, c.222 (C.52:27D-
43 301 et al.), to be spent in the manner established under section 20
44 thereof (C.52:27D-320).

45 e. Subsections a. through d. of this section shall be without effect

1 on and after the tenth day following a certification by the Director of
2 the Division of Budget and Accounting in the Department of the
3 Treasury pursuant to subsection b. of section 2 of P.L.1992, c.148
4 (C.46:15-10.2).

5 (cf: P.L.2003, c.113, s.4)

6
7 7. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to read
8 as follows:

9 2. a. The annual appropriations act for each State fiscal year shall,
10 without other conditions, limitations or restrictions on the following:

11 (1) credit amounts paid to the State Treasurer, if any, in payment
12 of fees collected pursuant to paragraph (1) or paragraph (2) of
13 subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7)[,] to the
14 "Shore Protection Fund" created pursuant to section 1 of P.L.1992,
15 c.148 (C.13:19-16.1), and the Neighborhood Preservation Nonlapsing
16 Revolving Fund established pursuant to section 20 of P.L.1985, c.222
17 (C.52:27D-320), pursuant to the requirements of section 4 of
18 P.L.1968, c.49 (C.46:15-8);

19 (2) appropriate the balance of the "Shore Protection Fund" created
20 pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), for the
21 purposes of that fund; and

22 (3) appropriate the balance of the Neighborhood Preservation
23 Nonlapsing Revolving Fund established pursuant to section 20 of
24 P.L.1985, c.222 (C.52:27D-320), for the purposes of that fund.

25 b. If the requirements of subsection a. of this section are not met
26 on the effective date of an annual appropriations act for the State fiscal
27 year, or if an amendment or supplement to an annual appropriations
28 act for the State fiscal year should violate any of the requirements of
29 subsection a. of this section, the Director of the Division of Budget
30 and Accounting in the Department of the Treasury shall, not later than
31 five days after the enactment of the annual appropriations act, or an
32 amendment or supplement thereto, that violates any of the
33 requirements of subsection a. of this section, certify to the Director of
34 the Division of Taxation that the requirements of subsection a. of this
35 section have not been met.

36 (cf: P.L.1992, c.148, s.2)

37
38 8. (New section) In addition to all other fees imposed under
39 P.L.1968, c.49 (C.46:15-5 et seq.), there is imposed upon the grantee
40 of a deed for the transfer of real property zoned for residential use,
41 whether improved or not, for consideration in excess of \$1,000,000
42 recited in the deed a fee in an amount equal to 1 percent of the entire
43 amount of such consideration, which fee shall be collected by the
44 county recording officer at the time the deed is offered for recording
45 and remitted to the State Treasurer not later than the 10th day of the
46 month following the month of collection for deposit into the General

1 Fund.

2

3 9. This act shall take effect immediately and apply to transfers of
4 real property occurring on or after August 1, 2004.

5

6

7

STATEMENT

8

9 Current law provides for three realty transfer fees, which this bill
10 identifies as a "basic fee," an "additional fee" and a "supplemental fee."
11 This bill imposes an additional fee, a "general purpose fee," on
12 grantors of property whose value, as recited in the deed of transfer, is
13 more than \$350,000. The "general purpose fee" applies to the full
14 amount of the sale of the property. The revenue generated by the
15 "general purpose fee" will be used for general State purposes.

16 The "general purpose fee" is structured as follows: \$0.90 for each
17 \$500 on the first \$550,000 of the value recited in the deed of transfer;
18 \$1.40 on each \$500 of the value between \$550,000 and \$850,000;
19 \$1.90 on each \$500 of the value between \$850,000 and \$1,000,000;
20 and \$2.15 for each \$500 of the value over \$1,000,000.

21 In addition, the bill imposes upon the grantee (buyer) of real
22 property zoned residential, whether improved or not, for consideration
23 in excess of \$1 million, a separate fee equal to 1 percent of the full
24 amount of the consideration. The revenue generated by this fee will
25 also be used for general State purposes.

26 Finally, the bill makes a number of editorial revisions in the text of
27 the realty transfer fee statute for purposes of clarifying its provisions.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3115

STATE OF NEW JERSEY

DATED: JUNE 22, 2004

The Assembly Budget Committee reports favorably Assembly Bill No. 3115.

Assembly Bill No. 3115 imposes "general purpose fee" on certain realty transfers and a fee on the purchaser of residential property for over \$1 million.

Current law provides for three realty transfer fees, which this bill identifies as a "basic fee," an "additional fee" and a "supplemental fee." This bill imposes a new "general purpose fee" on grantors of property whose value, as recited in the deed of transfer, is more than \$350,000. The "general purpose fee" applies to the full amount of the sale of the property. The revenue generated by the "general purpose fee" will be used for general State purposes.

The "general purpose fee" is structured as follows: \$0.90 for each \$500 on the first \$550,000 of the value recited in the deed of transfer; \$1.40 on each \$500 of the value between \$550,000 and \$850,000; \$1.90 on each \$500 of the value between \$850,000 and \$1,000,000; and \$2.15 for each \$500 of the value over \$1,000,000.

In addition, the bill imposes upon the grantee (buyer) of real property zoned residential, whether improved or not, for consideration in excess of \$1 million, a separate fee equal to 1 percent of the full amount of the consideration. The revenue generated by this fee will also be used for general State purposes.

Finally, the bill makes a number of editorial revisions in the text of the realty transfer fee statute for purposes of clarifying its provisions.

FISCAL IMPACT

On the basis of realty transfers in New Jersey during calendar year 2003, the Executive Branch projects that the increase in the realty transfer fee will yield increased annual revenue in the amount of roughly \$70 million, and that the new fee on transfers of residential property for more than \$1 million will yield increased revenue in the amount of about \$28.5 million. Since the fee increases will be imposed for only 11 months' worth of sales in FY2005, the yield from the two fees for that fiscal year are estimated to be about \$65 million and \$24 million, respectively, for a total of \$89 million.

SENATE, No. 1713

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JUNE 14, 2004

Sponsored by:

Senator BERNARD F. KENNY, JR.

District 33 (Hudson)

SYNOPSIS

Imposes "general purpose fee" on certain realty transfers and fee on purchase of residential property for over \$1 million; generally clarifies realty transfer fee law.

CURRENT VERSION OF TEXT

As introduced.



S1713 KENNY

2

1 AN ACT imposing a "general purpose fee" on certain realty transfers
2 and a fee upon grantees under certain deeds conveying residential
3 property and clarifying the law with respect to realty transfer fees
4 generally, amending and supplementing P.L.1968, c.49, and
5 amending P.L.1975, c.176, P.L.1991, c.308, and P.L.1992, c.148.

6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9

10 1. Section 2 of P.L.1991, c.308 (C.46:15-1.1) is amended to read
11 as follows:

12 2. a. Any instrument affecting title to or interest in real estate or
13 containing any agreement in relation to real estate in this State shall be
14 recorded on presentation to the recording officer of any county in
15 which all or part of the real estate is located, if it appears that:

16 (1) the instrument is in English or accompanied by a translation
17 into English;

18 (2) the instrument bears a signature;

19 (3) the instrument is acknowledged or proved in the manner
20 provided by this title;

21 (4) the names appear typed, printed or stamped beneath the
22 signatures of any parties to the instrument and the officer before whom
23 it was acknowledged or proved;

24 (5) any required recordation fee is paid; and

25 (6) if the instrument is a deed conveying real property, (a) it fulfills
26 the requirements of P.L.1968, c.49, s.2 (C.46:15-6), (b) it includes the
27 name and signature of its preparer on its first page and (c) it includes
28 a reference to the lot and block number of the property conveyed as
29 designated on the tax map of the municipality at the time of the
30 conveyance or the account number of the property. If the property has
31 been subdivided, the reference shall be preceded by the words "part
32 of." If no lot and block or account number has been assigned to the
33 property, the deed shall state that fact.

34 b. An instrument, to be entitled to recordation, whether made by
35 an individual or by a corporation or other entity, is not required to be
36 executed under seal, or to contain words referring to execution under
37 seal.

38 c. No deed shall be recorded by the county recording officer with
39 respect to every non-resident seller or transferor who is an individual,
40 estate, or trust unless the recording officer has received (1)
41 certification by the Director of the Division of Taxation in the
42 Department of the Treasury that the individual, estate or trust has filed
43 and paid the estimated tax due, or (2) certification by the individual,

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.

S1713 KENNY

1 estate or trust, in such form and in accordance with such instructions
2 as the director may require, that no such tax is due in connection with
3 the sale or transfer.

4 (cf: P.L.1991, c.308, s.2)

5

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

8 1. As used in this act:

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

23 (b) The terms "county recording officer" and "office of the county
24 recording officer" mean the register of deeds and mortgages in
25 counties having such an officer and office, and the county clerk and his
26 office in the other counties.

27 (c) "Consideration" means in the case of any deed, the actual
28 amount of money and the monetary value of any other thing of value
29 constituting the entire compensation paid or to be paid for the transfer
30 of title to the lands, tenements or other realty, including the remaining
31 amount of any prior mortgage to which the transfer is subject or which
32 is to be assumed and agreed to be paid by the grantee and any other
33 lien or encumbrance thereon not paid, satisfied or removed in
34 connection with the transfer of title. The amount of liens for real
35 property taxes, water or sewerage charges for the current or any
36 subsequent year, or by way of added assessment or other adjustment,
37 as well as of other like liens or encumbrances of a current and
38 continuing nature ordinarily adjusted between the parties according to
39 the period of ownership shall be excluded as an element in determining
40 the consideration, notwithstanding that such amount is to be paid by
41 the grantee.

42 In the case of a leasehold interest for 99 years or more as defined
43 in subsection (a) of this section, the consideration shall be in the
44 amount of the assessed value of the property at the date of the
45 transaction for the purpose of levying local real property taxes
46 adjusted to reflect the true value in accordance with the county

S1713 KENNY

1 percentage level established for the current year.

2 In the case of a proprietary lease of a cooperative unit or
3 assignment thereof as defined in subsection (a) of this section, the
4 consideration is the total price paid for the ownership interest held in
5 conjunction with a cooperative unit, including the pro rata amount of
6 any underlying mortgage or other obligation of the cooperative.

7 (d) "Blind person" means a person whose vision in his better eye
8 with proper correction does not exceed 20/200 as measured by the
9 Snellen chart or a person who has a field defect in his better eye with
10 proper correction in which the peripheral field has contracted to such
11 an extent that the widest diameter of visual field subtends an angular
12 distance no greater than 20E.

13 (e) "Disabled person" means any resident of this State who is
14 permanently and totally disabled, unable to engage in gainful
15 employment, and receiving disability benefits or any other
16 compensation under any federal or State law.

17 (f) "Senior citizen" means any resident of this State of the age of
18 62 years or over.

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

22 (h) "Low and moderate income housing" means any residential
23 premises, or part thereof, affordable according to federal Department
24 of Housing and Urban Development or other recognized standards for
25 home ownership and rental costs and occupied or reserved for
26 occupancy by households with a gross income equal to 80% or less of
27 the median gross household income for households of the same size
28 within the housing region in which the housing is located, but shall
29 include only those residential premises subject to resale controls
30 pursuant to contractual guarantees.

31 (i) "Basic fee" means the fee established by paragraph (1) of
32 subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7), which fee
33 shall consist of a State portion and a county portion as prescribed
34 under that paragraph.

35 (j) "Additional fee" means the fee established by paragraph (2) of
36 subsection a. of section 3 of P.L.1968, c.49.

37 (k) "General purpose fee" means the fee established by paragraph
38 (3) of subsection a. of section 3 of P.L.1968, c.49.

39 (l) "Supplemental fee" means the fee established by subsection a.
40 of section 2 of P.L.2003, c.113 (C.46:15-7.1).

41 (cf: P.L.1987, c.381, s.13)

42

43 3. Section 2 of P.L.1968, c.49 (C.46:15-6) is amended to read as
44 follows:

45 2. In addition to other prerequisites for recording, no deed
46 evidencing transfer of title to real property shall be recorded in the

S1713 KENNY

1 office of any county recording officer unless it satisfies [one of] the
2 following requirements:

3 a. If the transfer is subject to [the additional] any fee [as provided
4 in] established under section 3 of P.L.1968, c.49 (C.46:15-7) or [to
5 the supplemental fee as provided in] section 2 of P.L.2003, c.113
6 (C.46:15-7.1), a statement of the true consideration for the transfer
7 [is] shall be contained in [(1)] the deed, [or (2)] the
8 acknowledgment, [or (3)] the proof of the execution, or [(4)] an
9 appended affidavit by one of the parties to the deed or that party's
10 legal representative.

11 b. If the transfer is exempt from [the additional] any fee [required
12 by] established under section 3 of P.L.1968, c.49 (C.46:15-7)[,] or
13 [from the supplemental fee as provided in] section 2 of P.L.2003,
14 c.113 (C.46:15-7.1), an affidavit stating the basis for the exemption
15 [is] shall be appended to the deed.

16 c. If the transfer is of real property upon which there is new
17 construction, the words "NEW CONSTRUCTION" in upper case
18 lettering shall be printed clearly at the top of the first page of the deed,
19 and an affidavit by the grantor stating that the transfer is of property
20 upon which there is new construction shall be appended to the deed.
21 (cf: P.L.2003, c.113, s.1)

22
23 4. Section 3 of P.L.1968, c.49 (C.46:15-7) is amended to read as
24 follows:

25 3. a. In addition to the recording fees imposed by section 2 of
26 P.L.1965, c.123 (C.22A:4-4.1), a grantor shall pay to the county
27 recording officer at the time the deed is offered for recording the
28 following fees:

29 (1) A basic fee [is imposed upon grantors], which shall consist of
30 (a) a State portion at the rate of [\\$1.75] \$1.25 for each \$500.00 of
31 consideration or fractional part thereof recited in the deed, and (b) a
32 county portion at the rate of \$0.50 for each \$500.00 of consideration
33 or fractional part thereof so recited; provided however, that on and
34 after the tenth day following a certification by the Director of the
35 Division of Budget and Accounting in the Department of the Treasury
36 pursuant to subsection b. of section 2 of P.L.1992, c.148
37 (C.46:15-10.2), the State portion of the basic fee shall not be imposed
38 [shall be \$0.50 for each \$500.00 of consideration or fractional part
39 thereof recited in the deed, which fee shall be collected by the county
40 recording officer at the time the deed is offered for recording.];

41 [For] (2) An additional fee at the rate of \$0.75 for each \$500.00
42 of consideration or fractional part thereof recited in the deed in excess
43 of \$150,000.00 [an additional fee is imposed of \$0.75]; provided
44 however, that on and after the tenth day following a certification by
45 the Director of the Division of Budget and Accounting in the

S1713 KENNY

6

1 Department of the Treasury pursuant to subsection b. of section 2 of
2 P.L.1992, c.148 (C.46:15-10.2), [no such] the additional fee shall not
3 be imposed; and

4 (3) A general purpose fee at the rate of:

5 (a) \$0.90 for each \$500.00 of consideration or fractional part
6 thereof recited in the deed that is not in excess of \$550,000.00, except
7 that in the case of a conveyance or transfer of property for which the
8 total consideration recited in the deed does not exceed \$350,000.00,
9 no general purpose fee shall be imposed;

10 (b) \$1.40 for each \$500.00 of consideration or fractional part
11 thereof in excess of \$550,000.00 but not in excess of \$850,000.00
12 recited in the deed;

13 (c) \$1.90 for each \$500.00 of consideration or fractional part
14 thereof in excess of \$850,000.00 but not in excess of \$1,000,000.00
15 recited in the deed; and

16 (d) \$2.15 for each \$500.00 of consideration or fractional part
17 thereof in excess of \$1,000,000.00 recited in the deed;

18 [Every] b. A deed subject to any of the [additional fee required]
19 fees established by this [act] section, which is in fact recorded, shall
20 be [conclusively] deemed to have been entitled to recording,
21 notwithstanding that the amount of the consideration shall have been
22 incorrectly stated[,] or that the correct amount of such [additional]
23 fee [, if any,] shall not have been paid[, and no]. No such defect shall
24 in any way affect or impair the validity of the title conveyed or render
25 the same unmarketable; but the person or persons required to pay said
26 additional fee at the time of recording shall be and remain liable to the
27 county recording officer for the payment of the proper amount thereof.
28 (cf: P.L.1992, c.148, s.3)

29

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

32 4. a. The proceeds of the fees collected by the county recording
33 officer, as authorized by P.L.1968, c.49 (C.46:15-5 et seq.), shall be
34 accounted for and remitted to the county treasurer.

35 b. (1) [An amount equal to 28.6% of the proceeds from the first
36 \$1.75 for each \$500.00 of consideration or fractional part thereof
37 recited in the deed] The county portion of the basic fee collected
38 pursuant to paragraph (1) of subsection a. of section 3 of P.L.1968,
39 c.49 (C.46:15-7) shall be retained by the county treasurer for the use
40 of the county [and the balance].

41 (2) The State portion of the basic fee, the additional fee, and the
42 general purpose fee shall be paid to the State Treasurer for the use of
43 the State[; provided however, that on and after the tenth day
44 following a certification by the Director of the Division of Budget and
45 Accounting in the Department of the Treasury pursuant to subsection

1 b. of section 2 of P.L.1992, c.148 (C.46:15-10.2), 100.0% of the
2 proceeds from the first \$0.50 for each \$500.00 of consideration or
3 fractional part thereof recited in the deed so collected shall be retained
4 by the county treasurer for the use of the county and no amount shall
5 be paid to the State Treasurer for the use of the State]. Payments
6 shall be made to the State Treasurer on the tenth day of each month
7 following the month of collection.

8 c. (1) Amounts, not in excess of \$25,000,000, paid during the
9 State fiscal year to the State Treasurer from the payment of [fees
10 collected by the county recording officer other than the additional fee
11 of \$0.75 for each \$500.00 of consideration or fractional part thereof
12 recited in the deed in excess of \$150,000.00 collected pursuant to
13 section 3 of P.L.1968, c.49 (C.46:15-7)] the State portion of the basic
14 fee shall be credited to the "Shore Protection Fund" created pursuant
15 to section 1 of P.L.1992, c.148 (C.13:19-16.1), in the manner
16 established under that section.

17 (2) All amounts paid to the State Treasurer [in] from the payment
18 of the additional fee [of \$0.75 for each \$500.00 of consideration or
19 fractional part thereof recited in the deed in excess of \$150,000.00
20 collected pursuant to section 3 of P.L.1968, c.49 (C.46:15-7)] shall
21 be credited to the Neighborhood Preservation Nonlapsing Revolving
22 Fund established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.),
23 in the manner established under section 20 thereof (C.52:27D-320).
24 (cf: P.L.2003, c.113, s.3)

25
26 6. Section 5 of P.L.1991, c.49 (C.46:15-9) is amended to read as
27 follows:

28 5. a. Any person who knowingly falsifies the consideration recited
29 in a deed or in the proof or acknowledgment of the execution of a
30 deed or in an affidavit annexed to a deed declaring the consideration
31 therefor or a declaration in an affidavit that a transfer is exempt from
32 recording fee is guilty of a crime of the fourth degree.

33 b. Any grantor conveying title to real property upon which there
34 is new construction who fails to subscribe and append to the deed an
35 affidavit to that effect in accordance with the provisions of subsection
36 c. of section 2 of P.L.1968, c.49 (C.46:15-6) is guilty of a disorderly
37 persons offense.

38 (cf: P.L.1991, c.308, s.4)

39

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

42 4. a. The following transfers of title to real property shall be
43 exempt from payment of [\$1.25 per \$500.00 of consideration or
44 fractional part thereof of] the State portion of the basic fee [imposed
45 upon grantors by section 3 of P.L.1968, c.49 (C.46:15-7)]:

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

8 (2) The sale of low and moderate income housing.

9 b. Transfers of title to real property upon which there is new
10 construction shall be exempt from payment [of \$1.00 for each \$500.00
11 of], with respect to all consideration [or fractional part thereof not in
12 excess of] therefor up to \$150,000.00, of 80% of the State portion of
13 the basic fee [imposed upon grantors by section 3 of P.L.1968, c.49
14 (C.46:15-7)].

15 c. (1) The director shall promulgate rules, regulations and forms
16 of certification or otherwise necessary to carry out the provisions of
17 this section.

18 (2) No transfer shall be eligible for more than one exemption under
19 this section. [All fees imposed pursuant to section 3 of P.L.1968, c.49
20 (C.46:15-7) collected on transfers subject to exemption under
21 subsection a. of this section shall be retained by the county treasurer
22 for the use of the county. An amount equal to 66 2/3% of the
23 proceeds from the fee imposed pursuant to section 3 of P.L.1968, c.49
24 (C.46:15-7) upon the consideration not in excess of \$150,000.00 for
25 transfers of real property upon which there is new construction, and
26 an amount equal to 20% of the proceeds of the \$2.50 total fees
27 imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) upon
28 each \$500.00 of consideration or fractional part thereof in excess of
29 \$150,000.00 for transfers of real property upon which there is new
30 construction shall be retained by the county treasurer for the use of the
31 county.]

32 d. The balance of the [fees] State portion of the basic fee and the
33 additional fee collected on transfers subject to exemption under
34 subsection b. of this section shall be remitted to the State Treasurer
35 and shall be credited to the Neighborhood Preservation Nonlapsing
36 Revolving Fund established pursuant to P.L.1985, c.222 (C.52:27D-
37 301 et al.), to be spent in the manner established under section 20
38 thereof (C.52:27D-320).

39 e. Subsections a. through d. of this section shall be without effect
40 on and after the tenth day following a certification by the Director of
41 the Division of Budget and Accounting in the Department of the
42 Treasury pursuant to subsection b. of section 2 of P.L.1992, c.148
43 (C.46:15-10.2).

44 (cf: P.L.2003, c.113, s.4)

1 8. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to read
2 as follows:

3 2. a. The annual appropriations act for each State fiscal year shall,
4 without other conditions, limitations or restrictions on the following:

5 (1) credit amounts paid to the State Treasurer, if any, in payment
6 of fees collected pursuant to paragraph (1) or paragraph (2) of
7 subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7)[,] to the
8 "Shore Protection Fund" created pursuant to section 1 of P.L.1992,
9 c.148 (C.13:19-16.1), and the Neighborhood Preservation Nonlapsing
10 Revolving Fund established pursuant to section 20 of P.L.1985, c.222
11 (C.52:27D-320), pursuant to the requirements of section 4 of
12 P.L.1968, c.49 (C.46:15-8);

13 (2) appropriate the balance of the "Shore Protection Fund" created
14 pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), for the
15 purposes of that fund; and

16 (3) appropriate the balance of the Neighborhood Preservation
17 Nonlapsing Revolving Fund established pursuant to section 20 of
18 P.L.1985, c.222 (C.52:27D-320), for the purposes of that fund.

19 b. If the requirements of subsection a. of this section are not met
20 on the effective date of an annual appropriations act for the State fiscal
21 year, or if an amendment or supplement to an annual appropriations
22 act for the State fiscal year should violate any of the requirements of
23 subsection a. of this section, the Director of the Division of Budget
24 and Accounting in the Department of the Treasury shall, not later than
25 five days after the enactment of the annual appropriations act, or an
26 amendment or supplement thereto, that violates any of the
27 requirements of subsection a. of this section, certify to the Director of
28 the Division of Taxation that the requirements of subsection a. of this
29 section have not been met.

30 (cf: P.L.1992, c.148, s.2)

31

32 9. (New section) In addition to all other fees imposed under
33 P.L.1968, c.49 (C.46:15-5 et seq.), there is imposed upon the grantee
34 of a deed for the transfer of real property zoned for residential use,
35 whether improved or not, for consideration in excess of \$1,000,000
36 recited in the deed a fee in an amount equal to 1 percent of the entire
37 amount of such consideration, which fee shall be collected by the
38 county recording officer at the time the deed is offered for recording
39 and remitted to the State Treasurer not later than the 10th day of the
40 month following the month of collection for deposit into the General
41 Fund.

42

43 10. This act shall take effect immediately and apply to transfers of
44 real property occurring on or after August 1, 2004.

STATEMENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

Current law provides for three realty transfer fees, which this bill identifies as a "basic fee," an "additional fee" and a "supplemental fee." This bill imposes an additional fee, a "general purpose fee," on grantors of property whose value, as recited in the deed of transfer, is more than \$350,000. The "general purpose fee" applies to the full amount of the sale of the property. The revenue generated by the "general purpose fee" will be used for general State purposes.

The "general purpose fee" is structured as follows: \$0.90 for each \$500 on the first \$550,000 of the value recited in the deed of transfer; \$1.40 on each \$500 of the value between \$550,000 and \$850,000; \$1.90 on each \$500 of the value between \$850,000 and \$1,000,000; and \$2.15 for each \$500 of the value over \$1,000,000.

In addition, the bill imposes upon the grantee (buyer) of real property zoned residential, whether improved or not, for consideration in excess of \$1 million, a separate fee equal to 1 percent of the full amount of the consideration. The revenue generated by this fee will also be used for general State purposes.

Finally, the bill makes a number of editorial revisions in the text of the realty transfer fee statute for purposes of clarifying its provisions.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1713

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 18, 2004

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1713 with committee amendments.

Current law provides for three realty transfer fees, which this bill identifies as a "basic fee," an "additional fee" and a "supplemental fee." This bill imposes a new "general purpose fee" on grantors of property whose value, as recited in the deed of transfer, is more than \$350,000. The "general purpose fee" applies to the full amount of the sale of the property. The revenue generated by the "general purpose fee" will be used for general State purposes.

The "general purpose fee" is structured as follows: \$0.90 for each \$500 on the first \$550,000 of the value recited in the deed of transfer; \$1.40 on each \$500 of the value between \$550,000 and \$850,000; \$1.90 on each \$500 of the value between \$850,000 and \$1,000,000; and \$2.15 for each \$500 of the value over \$1,000,000.

In addition, the bill imposes upon the grantee (buyer) of real property zoned residential, whether improved or not, for consideration in excess of \$1 million, a separate fee equal to 1 percent of the full amount of the consideration. The revenue generated by this fee will also be used for general State purposes.

Finally, the bill makes a number of editorial revisions in the text of the realty transfer fee statute for purposes of clarifying its provisions.

COMMITTEE AMENDMENTS

Committee amendments to this bill remove a section included in the introduced version of the bill by drafting error.

FISCAL IMPACT

On the basis of realty transfers in New Jersey during calendar year 2003, the Executive Branch projects that the increase in the realty transfer fee will yield increased annual revenue in the amount of roughly \$70 million, and that the new fee on transfers of residential property for more than \$1 million will yield increased revenue in the amount of about \$28.5 million. Since the fee increases will be imposed for only 11 months' worth of sales in FY2005, the yield from the two fees for that fiscal year are estimated to be about \$65 million and \$24 million, respectively, for a total of \$89 million.