

46:15-7.2

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 19

NJSA: 46:15-7.2 (Revises 1% fee on transfer of residential property for more than \$1 million)

BILL NO: A3302 (Substituted for S2057)

SPONSOR(S): Greenwald and others

DATE INTRODUCED: September 27, 2004

COMMITTEE: **ASSEMBLY:** Appropriations
SENATE: Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** December 13, 2004

SENATE: December 13, 2004

DATE OF APPROVAL: January 19, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) 2nd reprint enacted

A3302

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

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

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes [11-10-2004](#)
[12-30-2004](#)

S2057

[SPONSOR'S STATEMENT:](#) (Begins on 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

IS 2/26/07

P.L. 2005, CHAPTER 19, *approved January 19, 2005*

Assembly, No. 3302 (*Second Reprint*)

1 AN ACT concerning the fee imposed upon the grantee of a deed for
2 the transfer of certain real property, amending ²and supplementing²
3 P.L.2004, c.66.

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

7
8 ²[1. Section 8 of P.L.2004, c.66 (C.46:15-7.2) is amended to read
9 as follows:

10 8. a. For the purposes of this section:

11 "Hotel" means any building, including but not limited to any related
12 structure, accessory building, and land appurtenant thereto, and any
13 part thereof, which contains 10 or more units of dwelling space or has
14 sleeping facilities for 25 or more persons and is kept, used, maintained,
15 advertised as, or held out to be, a place where sleeping or dwelling
16 accommodations are available to transient or permanent guests. The
17 term shall be deemed to include any building commonly regarded as a
18 hotel, motor hotel, motel or established guesthouse in the community
19 in which it is located;

20 "Multiple dwelling" means any building or structure of one or more
21 stories and any land appurtenant thereto, and any portion thereof, in
22 which three or more units of dwelling space are occupied, or are
23 intended to be occupied, by three or more persons who live
24 independently of each other. A dwelling unit, the ownership of which
25 takes the form of a condominium as defined in section 3 of P.L.1969,
26 c.257 (C.46:8B-3), or the right of occupancy of which is held through
27 a cooperative as defined in section 3 of P.L.1987, c.381 (C.46:8D-3),
28 shall not be considered as being, or as being part of, a "multiple
29 dwelling" for purposes of the exclusion applicable to such dwellings
30 under subsection b. of this section.

31 b. In addition to all other fees imposed under P.L.1968, c.49
32 (C.46:15-5 et seq.), there is imposed upon the grantee of a deed for
33 the transfer of ¹[improved]¹ real property ¹[zoned for residential
34 use] upon which there is a building or structure intended or suited for
35 residential use ¹, [whether improved or not] excluding real property
36 comprising a rooming house or boarding house as defined in the
37 "Rooming and Boarding House Act of 1979," P.L.1979, c.496
38 (C.55:13B-1 et al.) or a hotel or multiple dwelling ¹or a health care
39 facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)¹, for

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:

¹ Assembly AAP committee amendments adopted October 21, 2004.

² Senate SBA committee amendments adopted December 6, 2004.

1 consideration in excess of \$1,000,000 recited in the deed, a fee in an
2 amount equal to 1 percent of the entire amount of such consideration,
3 which fee shall be collected by the county recording officer at the time
4 the deed is offered for recording and remitted to the State Treasurer
5 not later than the 10th day of the month following the month of
6 collection for deposit into the General Fund.

7 (cf: P.L.2004, c.66,]²

8
9 ²1. Section 8 of P.L.2004, c.66 (C.46:15-7.2) is amended to read
10 as follows:

11 8. a. In addition to all other fees imposed under P.L.1968, c.49
12 (C.46:15-5 et seq.), there is imposed a fee upon the grantee of a deed
13 for the transfer of real property [zoned for residential use, whether
14 improved or not,] :

15 (1) that is classified pursuant to the requirements of N.J.A.C.18:12-
16 2.2 as Class 2 "residential";

17 (2) (a) that includes property classified pursuant to the requirements
18 of N.J.A.C.18:12-2.2 as Class 3A: "farm property (regular)" but only
19 if the property includes a building or structure intended or suited for
20 residential use, and

21 (b) any other real property, regardless of class, that is effectively
22 transferred to the same grantee in conjunction with the property
23 described in subparagraph (a) of this paragraph; or

24 (3) that is a cooperative unit as defined in section 3 of P.L.1987,
25 c.381 (C.46:8D-3)

26 that is transferred for consideration in excess of \$1,000,000 recited in
27 the deed [a] , which fee [in] shall be an amount equal to 1 percent of
28 the entire amount of such consideration, which fee shall be collected
29 by the county recording officer at the time the deed is offered for
30 recording and remitted to the State Treasurer not later than the 10th
31 day of the month following the month of collection for deposit into the
32 General Fund.

33 b. The fee imposed by subsection a. of this section shall not apply
34 to a deed if the grantee of the deed for the transfer of real property is
35 an organization determined by the federal Internal Revenue Service to
36 be exempt from federal income taxation pursuant to paragraph (3) of
37 subsection (c) of section 501 of the federal Internal Revenue Code of
38 1986, 26 U.S.C. s.501.

39 c. The fee imposed by subsection a. of this section shall be subject
40 to the provisions of the State Uniform Tax Procedure Law, R.S.54:48-
41 1 et seq.; provided however, that notwithstanding the provisions of
42 subsection a. of R.S.54:49-14, a taxpayer may file a claim under oath
43 for refund at any time within 90 days after the payment of any original
44 fee and that subsection b. of R.S.54:49-14 shall not apply to any
45 additional fee assessed.²

46 (cf: P.L.2004, c.66, s.8)

1 ²2. (New section) Notwithstanding the provisions of any other
2 law, if any, to the contrary, a grantee who paid the fee under section
3 8 of P.L.2004, c.66 (C.46:15-7.2) for a transaction occurring on or
4 after August 1, 2004 but before February 1, 2005 and who would not
5 be required to pay the fee under section 8 of P.L.2004, c.66 as
6 amended by section 1 of P.L. , c. (now pending before the
7 Legislature as this bill) if the transaction had occurred on or after
8 February 1, 2005, shall be allowed a refund pursuant to this section of
9 the amounts previously paid pursuant to section 8 of P.L.2004, c.66.
10 A grantee who paid the fee shall, on or after February 1, 2005 but
11 before May 1, 2005, file with the Director of the Division of Taxation
12 in the Department of the Treasury a claim under oath for refund, in the
13 form as the director may prescribe, stating the grounds therefor.²

14

15 ²[2.] 3.² This act shall take effect ²[immediately] February 1,
16 2005² and ²section 1 shall² apply ²[retroactively]² to transfers of
17 property occurring on or after ²[August 1, 2004] that date².

18

19

20

21

22 Revises 1% fee on transfer of residential property for more than \$1
23 million, exempts certain transfers, and provides for refunds of certain
24 fees paid.

ASSEMBLY, No. 3302

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED SEPTEMBER 27, 2004

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Camden)

Assemblyman JOSEPH CRYAN

District 20 (Union)

SYNOPSIS

Exempts purchases of unimproved property and certain multiple dwellings from 1% fee on transfer of residentially zoned realty for more than \$1 million.

CURRENT VERSION OF TEXT

As introduced.



A3302 GREENWALD, CRYAN

2

1 AN ACT concerning the fee imposed upon the grantee of a deed for
2 the transfer of certain real property, amending P.L.2004, c.66.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 8 of P.L.2004, c.66 (C.46:15-7.2) is amended to read as
8 follows:

9 8. a. For the purposes of this section:

10 "Hotel" means any building, including but not limited to any related
11 structure, accessory building, and land appurtenant thereto, and any
12 part thereof, which contains 10 or more units of dwelling space or has
13 sleeping facilities for 25 or more persons and is kept, used, maintained,
14 advertised as, or held out to be, a place where sleeping or dwelling
15 accommodations are available to transient or permanent guests. The
16 term shall be deemed to include any building commonly regarded as a
17 hotel, motor hotel, motel or established guesthouse in the community
18 in which it is located;

19 "Multiple dwelling" means any building or structure of one or more
20 stories and any land appurtenant thereto, and any portion thereof, in
21 which three or more units of dwelling space are occupied, or are
22 intended to be occupied, by three or more persons who live
23 independently of each other. A dwelling unit, the ownership of which
24 takes the form of a condominium as defined in section 3 of P.L.1969,
25 c.257 (C.46:8B-3), or the right of occupancy of which is held through
26 a cooperative as defined in section 3 of P.L.1987, c.381 (C.46:8D-3),
27 shall not be considered as being, or as being part of, a "multiple
28 dwelling" for purposes of the exclusion applicable to such dwellings
29 under subsection b. of this section.

30 b. In addition to all other fees imposed under P.L.1968, c.49
31 (C.46:15-5 et seq.), there is imposed upon the grantee of a deed for
32 the transfer of improved real property zoned for residential use,
33 **[whether improved or not]** excluding real property comprising a
34 rooming house or boarding house as defined in the "Rooming and
35 Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) or
36 a hotel or multiple dwelling, for consideration in excess of \$1,000,000
37 recited in the deed, a fee in an amount equal to 1 percent of the entire
38 amount of such consideration, which fee shall be collected by the
39 county recording officer at the time the deed is offered for recording
40 and remitted to the State Treasurer not later than the 10th day of the
41 month following the month of collection for deposit into the General
42 Fund.

43 (cf: P.L.2004, c.66, s.8)

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.

A3302 GREENWALD, CRYAN

3

1 2. This act shall take effect immediately and apply retroactively to
2 transfers of property occurring on or after August 1, 2004.

3

4

5

STATEMENT

6

7 This bill revises the statute imposing a 1% fee on the buyer of
8 residentially zoned real property for more than \$1,000,000 to clarify
9 that the fee does not apply to purchases of unimproved land, or of any
10 hotel, apartment building, or other form of multiple dwelling generally
11 occupied under a lease or other short-term basis. The exemption does
12 not apply to the sale of condominium or cooperative apartment units.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3302

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 21, 2004

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3302, with committee amendments.

Assembly Bill No. 3302, as amended, revises the statute imposing a 1% fee on the buyer of residential real property purchased for more than \$1,000,000.

Under current law, a fee is imposed on the buyer of real property zoned for residential use, whether improved or not, if the total consideration is in excess of \$1,000,000. The fee is equal to 1% of the entire amount of consideration.

This bill narrows the class of property on which the fee is imposed, limiting it to land upon which there is a building or structure intended or suited for residential use. The bill exempts from the fee purchases of a hotel, an apartment building, or other form of multiple dwelling generally occupied under a lease or other short-term basis and purchases of licensed health care facilities. The exemption does not apply to the sale of condominium or cooperative apartment units.

The bill applies retroactively to transfers of property occurring on or after August 1, 2004.

FISCAL IMPACT:

Although the precise fiscal impact of the bill cannot be determined from the information currently available, the revisions to the imposition of the fee reflect the original objectives of imposing the fee, and as such the impact of the bill will be to eliminate unanticipated revenues.

COMMITTEE AMENDMENTS:

The amendments change the revision of the imposition of the fee. The fee is currently imposed on transfers of all real property *zoned for residential use, improved or not*, for which the consideration is in excess of \$1,000,000.

Prior to amendment, the bill would have revised the imposition of the fee to transfers of *improved* real property *zoned for residential use* for which the consideration is in excess of \$1,000,000. As amended, the bill revises the imposition of the fee to transfers of real property

upon which there is a building or structure intended or suited for residential use for which the consideration is in excess of \$1,000,000.

The amendments add the exemption for licensed health care facilities.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3302

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 6, 2004

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 3302 (1R).

This bill revises the statute imposing a 1% fee on the buyer of residential real property purchased for more than \$1,000,000.

Under current law, the fee is imposed on the transfer of real property zoned for residential use, whether improved or not.

The bill removes vacant land and apartment buildings from coverage of the transfer fee and eliminates zoning status as the basis for determining which residential property is subject to the fee. As amended, it provides instead that such property shall be limited to:

(1) Real property classified for assessment purposes as Class 2 "residential";

(2) (a) Real property that includes property classified for assessment purposes as Class 3A "farm property (regular)", but only if the property includes a building or structure intended or suited for residential use, and (b) any other real property, regardless of class, that is effectively transferred to the same grantee in conjunction with the property described in (a); or

(3) A cooperative unit as defined in the cooperative recording law.

The property described in item (2) is property not subject to the transfer fee under current law.

The bill exempts from the fee any transfer to a charitable organization that is exempt from federal income tax under section 501(c)(3) of the federal Internal Revenue Code.

The bill is to take effect on February 1, 2005, but apply retroactively to transfers of property occurring on or after August 1, 2004, the effective date of the statute that initially imposed the fee. It provides for refund to any transferee who has paid the fee, but upon whom the fee would not have been imposed if the transfer had occurred on or after February 1, 2005, of the amount paid.

The provisions of this bill, as amended, are identical to those of Senate Bill No. 2057 Sca, which the committee also reports this day.

COMMITTEE AMENDMENTS

Committee amendments to the bill: (1) substitute the "assessment classification" basis for defining real property, transfer of which is subject to the fee, for the "zoning status" basis prescribed in the original law and retained in modified form under the bill as referred to the committee; (2) add the exemption for transferees that are federally tax-exempt organizations; and (3) establish February 1, 2005 as the date on which the legislation shall take effect and incorporate the provision for refund, which is structured explicitly to reflect that effective date.

FISCAL IMPACT

Although the precise fiscal impact of the bill cannot be determined from the information currently available, the bill's revised definition of the real property subject to the transfer fee reflects the contemplation of the Legislature in its original enactment of the fee statute, so that the impact of the bill will be simply to eliminate unanticipated revenues. The Office of Legislative Services estimates that the removal of vacant land sales from coverage of the fee will reduce fee revenue to the General Fund by about \$2 million.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3302

STATE OF NEW JERSEY

211th LEGISLATURE

DATED: NOVEMBER 10, 2004

SUMMARY

Synopsis: Revises 1 percent fee on transfer of residential property for more than \$1 million and exempts certain multiple dwellings and health care facilities.

Type of Impact: Annual foregone revenue to the State General Fund.

Agencies Affected: Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007
State Cost	at least \$2 million	at least \$2 million	at least \$2 million

- ! The Office of Legislative Services (OLS) estimate is a minimum cost, reflective only of the cost of the exemption of vacant land sales. An indeterminate cost has to be added to that figure for the cost of the exemption of apartment building sales and sales of some health care facilities, hotels, and multiple dwellings.
- ! The revenue lost through this bill will not impact the \$24 million of revenue anticipated from the fee in the fiscal year 2005 budget. The \$24 million forecast made at the time of the law's enactment only considered sales of residential properties sold for at least \$1 million. The forecast did not include anticipated proceeds from other properties sold for at least \$1 million.

BILL DESCRIPTION

Assembly Bill No. 3302 (1R) of 2004 exempts purchases of vacant land from the one percent realty transfer fee imposed on the buyer of residentially zoned real property whose transaction price is at least \$1 million. The bill also exempts purchases of apartment buildings, health care facilities, hotels, and multiple dwelling houses from the fee. The exemptions apply retroactively to all transfers of title to above properties having occurred or occurring on or after August 1, 2004. The exemption does not cover the sale of condominium or cooperative apartment units.

FISCAL ANALYSIS

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) expects this bill to decrease potential State realty transfer fee collections to be deposited into the State General Fund by at least \$2 million per fiscal year. This figure considers only the vacant land sales exemption from the one percent fee imposed on the buyer of residentially zoned real property whose transaction price is at least \$1 million. The OLS estimate thus constitutes a cost floor, as it excludes the indeterminate cost of the exemption of apartment building sales and of sales of some health care facilities, hotels, and multiple dwelling houses.

The OLS projection seeks to quantify the portion of the fee revenue the State has been collecting inadvertently. When enacted, the State intended the fee to apply only to residences sold for \$1 million or higher, but the enabling legislation implicitly made sales of vacant land zoned residential, apartment buildings, and some health care facilities, hotels, and multiple dwelling houses subject to the fee. This bill brings the statute in line with its original intent.

In its fiscal year 2005 budget, the State anticipates obtaining \$24 million in fee revenue. That figure excludes revenue from vacant land, apartment building, health care facility, hotel, and multiple dwelling house sales. The revenue the State would forgo with this bill would thus not lower the anticipated \$24 million. The bill would merely eliminate the unanticipated revenue the State stands to collect from the inadvertently overextensive reach of the existing statute.

To estimate the cost of the exemption of residentially zoned vacant land sales from the one percent fee, the OLS consulted data from the most recent Farmland Preservation Program funding round approved by the State Agriculture Development Committee. In that round, the average appraised value per acre of farmland acquired was slightly below \$14,000. Since much farmland is zoned residential and in demand by developers, the OLS used that number for its projection.

An analysis of the Farmland Preservation Program funding round data indicated that about 70 percent of its farm acquisitions exceeded the acreage needed to bring the farm value at the average per acre price above \$1 million. The New Jersey Department of Environmental Protection indicated that the State loses about 50 acres per day to sprawl, or about 18,250 acres per year. When the OLS applied the one percent tax rate to 70 percent of 18,250 acres at the average per acre price of \$14,000, it obtained a loss in fiscal year 2005 realty transfer fee revenues of roughly \$2 million. This number includes the potential revenue loss from land purchases by conservation groups, of which the vast majority does not reach the \$1 million threshold for the imposition of the fee.

The OLS was unsuccessful in retrieving data that would have allowed it to estimate the cost of the fee exemption for apartment building sales. All the state and national association contacted either had no relevant data or were unwilling to share them.

Section: *Revenue, Finance and Appropriations*

Analyst: *Thomas Koenig*
Assistant Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

SENATE, No. 2057

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED NOVEMBER 8, 2004

Sponsored by:

Senator BERNARD F. KENNY, JR.

District 33 (Hudson)

SYNOPSIS

Revises 1% fee on transfer of residential property for more than \$1 million and exempts certain multiple dwellings and health care facilities.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the fee imposed upon the grantee of a deed for
2 the transfer of certain real property, amending P.L.2004, c.66.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 8 of P.L.2004, c.66 (C.46:15-7.2) is amended to read as
8 follows:

9 8. a. For the purposes of this section:

10 "Hotel" means any building, including but not limited to any related
11 structure, accessory building, and land appurtenant thereto, and any
12 part thereof, which contains 10 or more units of dwelling space or has
13 sleeping facilities for 25 or more persons and is kept, used, maintained,
14 advertised as, or held out to be, a place where sleeping or dwelling
15 accommodations are available to transient or permanent guests. The
16 term shall be deemed to include any building commonly regarded as a
17 hotel, motor hotel, motel or established guesthouse in the community
18 in which it is located;

19 "Multiple dwelling" means any building or structure of one or more
20 stories and any land appurtenant thereto, and any portion thereof, in
21 which three or more units of dwelling space are occupied, or are
22 intended to be occupied, by three or more persons who live
23 independently of each other. A dwelling unit, the ownership of which
24 takes the form of a condominium as defined in section 3 of P.L.1969,
25 c.257 (C.46:8B-3), or the right of occupancy of which is held through
26 a cooperative as defined in section 3 of P.L.1987, c.381 (C.46:8D-3),
27 shall not be considered as being, or as being part of, a "multiple
28 dwelling" for purposes of the exclusion applicable to such dwellings
29 under subsection b. of this section.

30 b. In addition to all other fees imposed under P.L.1968, c.49
31 (C.46:15-5 et seq.), there is imposed upon the grantee of a deed for
32 the transfer of real property [zoned for residential use] upon which
33 there is a building or structure intended or suited for residential use
34 , [whether improved or not] excluding real property comprising a
35 rooming house or boarding house as defined in the "Rooming and
36 Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) or
37 a hotel or multiple dwelling or a health care facility licensed pursuant
38 to P.L.1971, c.136 (C.26:2H-1 et seq.) , for consideration in excess of
39 \$1,000,000 recited in the deed, a fee in an amount equal to 1 percent
40 of the entire amount of such consideration, which fee shall be collected
41 by the county recording officer at the time the deed is offered for
42 recording and remitted to the State Treasurer not later than the 10th
43 day of the month following the month of collection for deposit into the

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

Matter underlined thus is new matter.

1 General Fund.
2 (cf: P.L.2004, c.66, s.8)

3

4 2. This act shall take effect immediately and apply retroactively to
5 transfers of property occurring on or after August 1, 2004.

6

7

8

STATEMENT

9

10 This bill revises the statute imposing a 1% fee on the buyer of
11 residential real property purchased for more than \$1,000,000.

12 Under current law, a fee is imposed on the buyer of real property
13 zoned for residential use, whether improved or not, if the total
14 consideration is in excess of \$1,000,000. The fee is equal to 1% of the
15 entire amount of consideration.

16 This bill narrows the class of property on which the fee is imposed,
17 limiting it to land upon which there is a building or structure intended
18 or suited for residential use. The bill exempts from the fee purchases
19 of a hotel, an apartment building, or other form of multiple dwelling
20 generally occupied under a lease or other short-term basis and
21 purchases of licensed health care facilities. The exemption does not
22 apply to the sale of condominium or cooperative apartment units.

23 The bill applies retroactively to transfers of property occurring on
24 or after August 1, 2004.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 3302

STATE OF NEW JERSEY

211th LEGISLATURE

DATED: DECEMBER 30, 2004

SUMMARY

- Synopsis:** Revises one percent fee on transfer of residential property for more than \$1 million, exempts certain transfers, and provides refunds of certain fees paid.
- Type of Impact:** Annual foregone revenue to the State General Fund.
- Agencies Affected:** Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007
State Cost	at least \$2 million	at least \$2 million	at least \$2 million

- ! The Office of Legislative Services (OLS) estimate is a minimal cost, reflective only of the cost of the exemption of vacant land purchases. An indeterminate amount has to be added to that figure for the cost of the exemption of real property acquisitions by charitable organizations and of purchases of apartment buildings and some health care facilities, hotels, and multiple dwelling houses.
- ! The revenue lost through this bill will not impact the \$24 million in fee revenue anticipated in the fiscal year 2005 budget. The forecast made at the time of the law's enactment only considered residential property acquired for at least \$1 million. It did not anticipate proceeds from acquisitions of other property types.

BILL DESCRIPTION

Assembly Bill No. 3302 (2R) of 2004 clarifies that the one percent realty transfer fee currently imposed on the buyer of residentially zoned real property whose transaction price is at least \$1 million applies only to transfers of real property that is either a) a cooperative unit, or b) classified as "residential", or c) classified as "farm property (regular)" while including a building or structure intended or suited for residential use. In so doing, the bill implicitly exempts purchases of vacant land, apartment buildings, and certain other types of real property

from the fee. It also explicitly exempts property purchases by charitable organizations and provides for a refund of fee payments made on property transactions exempted by the bill that have occurred or occur on or after August 1, 2004.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS expects this bill to decrease potential State realty transfer fee collections to be deposited into the State General Fund by at least \$2 million per fiscal year. This figure considers only the vacant land sales exemption from the one percent fee imposed on the buyer of residentially zoned real property whose transaction price is at least \$1 million. The OLS estimate thus constitutes a cost floor, as it excludes the indeterminate cost of the exemption of real property purchases by charitable organizations and of purchases of apartment buildings and some health care facilities, hotels, and multiple dwelling houses.

The OLS projection seeks to quantify the portion of the fee revenue the State may be collecting inadvertently. When enacted, the State intended the fee to apply only to residences sold for \$1 million or higher, but the enabling legislation implicitly made property purchases by charitable organizations and purchases of vacant land zoned residential, apartment buildings, and some health care facilities, hotels, and multiple dwelling houses subject to the fee. This bill brings the statute in line with its original intent.

In its fiscal year 2005 budget, the State anticipates obtaining \$24 million in fee revenue. That figure excludes revenue from property acquisitions by charitable organizations and vacant land, apartment building, health care facility, hotel, and multiple dwelling house purchases. The revenue the State would forgo with this bill would thus not lower the anticipated \$24 million. The bill would merely eliminate the unanticipated revenue the State stands to collect from the inadvertently overextensive reach of the existing statute.

To estimate the cost of the exemption of residentially zoned vacant land sales from the one percent fee, the OLS consults data from the most recent Farmland Preservation Program funding round approved by the State Agriculture Development Committee. In that round, the average appraised value per acre of farmland acquired was slightly below \$14,000. Since much farmland is zoned residential and in demand by developers, the OLS uses that number for its projection.

An analysis of the Farmland Preservation Program funding round data indicates that about 70 percent of its farm acquisitions exceeded the acreage needed to bring the farm value at the average per acre price above \$1 million. The New Jersey Department of Environmental Protection states that the State loses about 50 acres per day to sprawl, or about 18,250 acres per year. When the OLS applies the one percent tax rate to 70 percent of 18,250 acres at the average per acre price of \$14,000, it obtains a loss in fiscal year 2005 realty transfer fee revenues of roughly \$2 million. This number includes the potential revenue loss from land purchases by conservation groups, of which the vast majority does not reach the \$1 million threshold for the imposition of the fee.

The OLS was unsuccessful in retrieving data that would have allowed it to estimate the cost

of the fee exemption for apartment building sales. All the state and national association contacted either had no relevant data or were unwilling to share them.

Section: *Revenue, Finance and Appropriations*

Analyst: *Thomas Koenig*
Assistant Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2057

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 6, 2004

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2057.

This bill revises the statute imposing a 1% fee on the buyer of residential real property purchased for more than \$1,000,000.

Under current law, the fee is imposed on the transfer of real property zoned for residential use, whether improved or not.

The bill removes vacant land and apartment buildings from coverage of the transfer fee and eliminates zoning status as the basis for determining which residential property is subject to the fee. As amended, it provides instead that such property shall be limited to:

(1) Real property classified for assessment purposes as Class 2 "residential";

(2) (a) Real property that includes property classified for assessment purposes as Class 3A "farm property (regular)", but only if the property includes a building or structure intended or suited for residential use, and (b) any other real property, regardless of class, that is effectively transferred to the same grantee in conjunction with the property described in (a); or

(3) A cooperative unit as defined in the cooperative recording law.

The property described in item (2) is property not subject to the transfer fee under current law.

The bill exempts from the fee any transfer to a charitable organization that is exempt from federal income tax under section 501(c)(3) of the federal Internal Revenue Code.

The bill is to take effect on February 1, 2005, but apply retroactively to transfers of property occurring on or after August 1, 2004, the effective date of the statute that initially imposed the fee. It provides for refund to any transferee who has paid the fee, but upon whom the fee would not have been imposed if the transfer had occurred on or after February 1, 2005, of the amount paid.

The provisions of this bill, as amended, are identical to those of Assembly Bill No. 3302 (1R) Sca, which the committee also reports this day.

COMMITTEE AMENDMENTS

Committee amendments to the bill: (1) substitute the "assessment classification" basis for defining real property, transfer of which is subject to the fee, for the "zoning status" basis prescribed in the original law and retained in modified form under the bill as referred to the committee; (2) add the exemption for transferees that are federally tax-exempt organizations; and (3) establish February 1, 2005 as the date on which the legislation shall take effect and incorporate the provision for refund, which is structured explicitly to reflect that effective date.

FISCAL IMPACT

Although the precise fiscal impact of the bill cannot be determined from the information currently available, the bill's revised definition of the real property subject to the transfer fee reflects the contemplation of the Legislature in its original enactment of the fee statute, so that the impact of the bill will be simply to eliminate unanticipated revenues. The Office of Legislative Services estimates that the removal of vacant land sales from coverage of the fee will reduce fee revenue to the General Fund by about \$2 million.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2057

STATE OF NEW JERSEY

211th LEGISLATURE

DATED: DECEMBER 16, 2004

SUMMARY

Synopsis: Revises 1 percent fee on transfer of residential property for more than \$1 million, exempts certain transfers, and provides refunds of certain fees paid.

Type of Impact: Annual foregone revenue to the State General Fund.

Agencies Affected: Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007
State Cost	at least \$2 million	at least \$2 million	at least \$2 million

- ! The Office of Legislative Services (OLS) estimate represents the low end of the range, reflective only of the cost of the exemption of vacant land purchases. An indeterminate amount has to be added to that figure for the cost of the exemption of real property acquisitions by charitable organizations and of purchases of apartment buildings and some health care facilities, hotels, and multiple dwelling houses.
- ! The revenue lost through this bill will not impact the \$24 million in fee revenue anticipated in the fiscal year 2005 budget. The forecast made at the time of the law's enactment only considered residential property acquired for at least \$1 million. It did not anticipate proceeds from acquisitions of other property types.

BILL DESCRIPTION

Senate Bill No. 2057 (1R) of 2004 clarifies that the one percent realty transfer fee currently imposed on the buyer of residentially zoned real property whose transaction price is at least \$1 million applies only to transfers of real property that is either a) a cooperative unit, or b) classified as "residential", or c) classified as "farm property (regular)" while including a building or structure intended or suited for residential use. In so doing, the bill implicitly exempts purchases of vacant land, apartment buildings, and certain other types of real property from the fee. It also explicitly exempts property purchases by charitable organizations and provides for a refund of fee payments made on property transactions exempted by the bill that have occurred

or occur on or after August 1, 2004.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS expects this bill to decrease potential State realty transfer fee collections to be deposited into the State General Fund by at least \$2 million per fiscal year. This figure considers only the vacant land sales exemption from the one percent fee imposed on the buyer of residentially zoned real property whose transaction price is at least \$1 million. The OLS estimate thus constitutes a cost floor, as it excludes the indeterminate cost of the exemption of real property purchases by charitable organizations and of purchases of apartment buildings and some health care facilities, hotels, and multiple dwelling houses.

The OLS projection seeks to quantify the portion of the fee revenue the State may be collecting inadvertently. When enacted, the State intended the fee to apply only to residences sold for \$1 million or higher, but the enabling legislation implicitly made property purchases by charitable organizations and purchases of vacant land zoned residential, apartment buildings, and some health care facilities, hotels, and multiple dwelling houses subject to the fee. This bill brings the statute in line with its original intent.

In its fiscal year 2005 budget, the State anticipates obtaining \$24 million in fee revenue. That figure excludes revenue from property acquisitions by charitable organizations and vacant land, apartment building, health care facility, hotel, and multiple dwelling house purchases. The revenue the State would forgo with this bill would thus not lower the anticipated \$24 million. The bill would merely eliminate the unanticipated revenue the State stands to collect from the inadvertently overextensive reach of the existing statute.

To estimate the cost of the exemption of residentially zoned vacant land sales from the one percent fee, the OLS consults data from the most recent Farmland Preservation Program funding round approved by the State Agriculture Development Committee. In that round, the average appraised value per acre of farmland acquired was slightly below \$14,000. Since much farmland is zoned residential and in demand by developers, the OLS uses that number for its projection.

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The OLS was unsuccessful in retrieving data that would have allowed it to estimate the cost of the fee exemption for apartment building sales. All the state and national association contacted either had no relevant data or were unwilling to share them.

Section: *Revenue, Finance and Appropriations*

Analyst: *Thomas Koenig*
Assistant Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.