

18:16-2.7 Exemption from the \$1.25 portion of the \$1.75 fee

(a) If a deed is claimed to be exempt from the \$1.25 portion of the \$1.75 fee on the ground that it is a conveyance by a senior citizen, blind or disabled person or that the conveyance entails new construction, the following conditions shall apply:

1. Claimants shall complete form RTF-1 (Rev. 9/1/75) "Affidavit of Consideration or Exemption or Partial Exemption" setting forth the reason for which the claim is made and attesting to the verity of the claim;

2. Where claim for exemption is based upon the sale of property upon which there is new construction, claimant should be able to offer proof that the new construction bears a reasonable relationship to the highest and best use of the real property upon which it is erected.

Amended by emergency adoption R.1975 d.242, effective September 1, 1975.
See: 7 N.J.R. 443(a).

18:16-2.8 Exemption where consideration is less than \$100.00

(a) If a deed is claimed to be exempt from the fee on the ground that the consideration is less than \$100.00, the amount of consideration to be recited in the deed and acknowledgment of the affidavit of consideration or exemption or partial exemption, as the case may be, shall include, in addition to all other consideration passing between the parties, the remaining amount of any prior mortgage to which the transfer is subject or which is to be assumed and agreed to be paid by the grantee and any other lien or encumbrance thereon not paid, satisfied or removed in connection with the transfer of title.

(b) Where it appears to the satisfaction of the recording officer that the deed and acknowledgment or proof of the execution thereof properly show that the consideration for the deed was less than \$100.00, no affidavit of consideration or exemption or partial exemption shall be required to accompany the deed.

(c) Failure to include any prior existing mortgage or lien or any other element of compensation in the statement of consideration recited in the deed or acknowledgment or in an affidavit of consideration or exemption or partial exemption constitutes a false recital of the consideration in violation of the law.

Amended by emergency adoption R.1975 d.242, effective September 1, 1975.
See: 7 N.J.R. 443(a).

Statutory References

As to a person who falsifies consideration being a disorderly person, see N.J.S.A. 46:15-9.

As to which deeds are exempt from the recording fee, see N.J.S.A. 46:15-10.

SUBCHAPTER 3. LIABILITY FOR FEE**18:16-3.1 Imposition of fee at time of recording deed**

The Act imposes a fee for recording any deed defined as an instrument or writing by which title to any lands, tenements or other realty sold shall be granted, assigned, transferred or otherwise conveyed, except such deeds as may be exempt.

Amended by emergency adoption R.1975 d.242, effective September 1, 1975.
See: 7 N.J.R. 443(a).

Cross References

As to which deeds are exempt from the realty transfer fee, see N.J.A.C. 18:16-5.1 and 5.2.

Statutory References

As to the meaning of "deed", see N.J.S.A. 46:15-5(a).

As to the imposition of additional fees, see N.J.S.A. 46:15-7.

18:16-3.2 Payment of realty transfer fee

When applicable, the realty transfer fee is payable to the county recording officer at the time the deed is first presented for recording.

Statutory References

As to time of payment, see N.J.S.A. 46:15-7.

18:16-3.3 (Reserved)

Repealed by R.1975 d.84, effective March 31, 1975.
See: 7 N.J.R. 119(a), 7 N.J.R. 240(b).

18:16-3.4 Fee payable by grantor

(a) The law provides that the fee is imposed upon the grantor.

(b) This language operates only to establish the liability for the fee as between the grantor and grantee.

(c) The recording officer is not permitted to record the deed unless the applicable fee is paid at the time of the presentment of the deed for recording.

Statutory References

As to the requirement that the recording officer collect the fee at the time of recording, see N.J.S.A. 46:15-7.

18:16-3.5 Fee payable on realty located partially out of State

(a) Where a deed covers realty which is located partially out of this State, the fee shall be based on the full consideration, unless proof is furnished by affidavit establishing the portion of the consideration allocated to the property located outside New Jersey.

(b) Upon such proof, the amount of the fee shall be calculated on the basis of the consideration paid with respect to the property located in New Jersey.

Statutory References

As to the imposition for realty transfer fee, see N.J.S.A. 46:15-7.

As to the power of the Director to promulgate rules and regulations, see N.J.S.A. 46:15-11.

18:16-3.6 Fee payable on realty located in two or more counties

(a) If the realty is situated in two or more counties in this State, the total fee shall be paid to the recording officer of the county in which the deed is first recorded.

(b) Upon satisfactory proof of the total fee upon the first recording, no fee shall be payable to the recording officer of any other county to whom the deed may be subsequently presented for further recording.

Cross References

As to procedure where the total fee was not paid upon the first recording, see N.J.A.C. 18:16-8.7.

Statutory References

As to the requirement of realty transfer fee, see N.J.S.A. 46:15-7.

As to the power of the Director to promulgate rules and regulations, see N.J.S.A. 46:15-11.

18:16-3.7 through 18:16-3.8 (Reserved)

SUBCHAPTER 4. CALCULATION OF FEE

18:16-4.1 Fee in addition to usual recording fees

The fee imposed under P.L. 1968, c.49, as amended and supplemented, is in addition to the usual recording fees imposed under P.L. 1965, c.123, Section 2 (N.J.S.A. 22A:4-4.1).

Statutory References

As to the requirement of realty transfer fee, see N.J.S.A. 46:15-7.

18:16-4.2 Fee schedule

(a) The fee imposed by the Act is at the rate of \$1.75 for each \$500.00 of consideration or fractional part thereof.

(b) The realty transfer tax guide is as follows:

REALTY TRANSFER TAX GUIDE *

| Consideration | | Tax |
|---------------|---------|--------|
| over | to | |
| \$ 0. | \$ 99. | \$ 0 |
| 100. | 500. | 1.75 |
| 500. | 1,000. | 3.50 |
| 1,000. | 1,500. | 5.25 |
| 1,500. | 2,000. | 7.00 |
| 2,000. | 2,500. | 8.75 |
| 2,500. | 3,000. | 10.50 |
| 3,000. | 3,500. | 12.25 |
| 3,500. | 4,000. | 14.00 |
| 4,000. | 4,500. | 15.75 |
| 4,500. | 5,000. | 17.50 |
| 5,000. | 5,500. | 19.25 |
| 5,500. | 6,000. | 21.00 |
| 6,000. | 6,500. | 22.75 |
| 6,500. | 7,000. | 24.50 |
| 7,000. | 7,500. | 26.25 |
| 7,500. | 8,000. | 28.00 |
| 8,000. | 8,500. | 29.75 |
| 8,500. | 9,000. | 31.50 |
| 9,000. | 9,500. | 33.25 |
| 9,500. | 10,000. | 35.00 |
| 10,000. | 10,500. | 36.75 |
| 10,500. | 11,000. | 38.50 |
| 11,000. | 11,500. | 40.25 |
| 11,500. | 12,000. | 42.00 |
| 12,000. | 12,500. | 43.75 |
| 12,500. | 13,000. | 45.50 |
| 13,000. | 13,500. | 47.25 |
| 13,500. | 14,000. | 49.00 |
| 14,000. | 14,500. | 50.75 |
| 14,500. | 15,000. | 52.50 |
| 15,000. | 15,500. | 54.25 |
| 15,500. | 16,000. | 56.00 |
| 16,000. | 16,500. | 57.75 |
| 16,500. | 17,000. | 59.50 |
| 17,000. | 17,500. | 61.25 |
| 17,500. | 18,000. | 63.00 |
| 18,000. | 18,500. | 64.75 |
| 18,500. | 19,000. | 66.50 |
| 19,000. | 19,500. | 68.25 |
| 19,500. | 20,000. | 70.00 |
| 20,000. | 20,500. | 71.75 |
| 20,500. | 21,000. | 73.50 |
| 21,000. | 21,500. | 75.25 |
| 21,500. | 22,000. | 77.00 |
| 22,000. | 22,500. | 78.75 |
| 22,500. | 23,000. | 80.50 |
| 23,000. | 23,500. | 82.25 |
| 23,500. | 24,000. | 84.00 |
| 24,000. | 24,500. | 85.75 |
| 24,500. | 25,000. | 87.50 |
| 25,000. | 25,500. | 89.25 |
| 25,500. | 26,000. | 91.00 |
| 26,000. | 26,500. | 92.75 |
| 26,500. | 27,000. | 94.50 |
| 27,000. | 27,500. | 96.25 |
| 27,500. | 28,000. | 98.00 |
| 28,000. | 28,500. | 99.75 |
| 28,500. | 29,000. | 101.50 |
| 29,000. | 29,500. | 103.25 |
| 29,500. | 30,000. | 105.00 |
| 30,000. | 30,500. | 106.75 |
| 30,500. | 31,000. | 108.50 |
| 31,000. | 31,500. | 110.25 |
| 31,500. | 32,000. | 112.00 |
| 32,000. | 32,500. | 113.75 |
| 32,500. | 33,000. | 115.50 |
| 33,000. | 33,500. | 117.25 |
| 33,500. | 34,000. | 119.00 |
| 34,000. | 34,500. | 120.75 |
| 34,500. | 35,000. | 122.50 |
| 35,000. | 35,500. | 124.25 |

| Consideration over | to | Tax |
|-----------------------|-----------|----------|
| \$35,500. | \$36,000. | \$126.00 |
| 36,000. | 36,500. | 127.75 |
| 36,500. | 37,000. | 129.50 |
| 37,000. | 37,500. | 131.25 |
| 37,500. | 38,000. | 133.00 |
| 38,000. | 38,500. | 134.75 |
| 38,500. | 39,000. | 136.50 |
| 39,000. | 39,500. | 138.25 |
| 39,500. | 40,000. | 140.00 |
| 40,000. | 40,500. | 141.75 |
| 40,500. | 41,000. | 143.50 |
| 41,000. | 41,500. | 145.25 |
| 41,500. | 42,000. | 147.00 |
| 42,000. | 42,500. | 148.75 |
| 42,500. | 43,000. | 150.50 |
| 43,000. | 43,500. | 152.25 |
| 43,500. | 44,000. | 154.00 |
| 44,000. | 44,500. | 155.75 |
| 44,500. | 45,000. | 157.50 |
| 45,000. | 45,500. | 159.25 |
| 45,500. | 46,000. | 161.00 |
| 46,000. | 46,500. | 162.75 |
| 46,500. | 47,000. | 164.50 |
| 47,000. | 47,500. | 166.25 |
| 47,500. | 48,000. | 168.00 |
| 48,000. | 48,500. | 169.75 |
| 48,500. | 49,000. | 171.50 |
| 49,000. | 49,500. | 173.25 |
| 49,500. | 50,000. | 175.00 |

* Based on \$3.50 per \$1,000 of consideration

1. Example (1): The full consideration is \$20,000. The fee to be paid at the time of recording is \$70.00.
2. Example (2): The full consideration is \$24,500. The fee to be paid at the time of recording is \$85.75.
3. Example (3): The full consideration is \$25,330. The fee to be paid at the time of recording is \$89.25.
4. Example (4): The full consideration is \$80.00. No fee is payable (see N.J.A.C. 18:16-5.1).

Amended by emergency adoption R.1975 d.242, effective September 1, 1975.
See: 7 N.J.R. 443(a).
Amended by emergency adoption R.1975 d.286, effective September 25, 1975.
See: 7 N.J.R. 490(c).

Cross References

As to the meaning of "consideration", see N.J.A.C. 18:16-1.1.

Statutory References

As to the amount of the fee, see N.J.S.A. 46:15-7.

18:16-4.3 Fee calculation for realty conveyed subject to mortgage

In the case of a deed conveying real property which is subject to a mortgage, the consideration base upon which the realty transfer fee shall be computed shall include, in addition to any cash consideration, the unpaid balance on any mortgage to which the property is subject.

Statutory References

N.J.S.A. 46:15-5(c).

Case Notes

Realty transfer fee must be paid when liquidating partnership transfers property subject to existing mortgage; transfer of realty from father-son partnership to son did not qualify for parent-child exemption from realty transfer fees. *Zimmerman v. Clayton*, 7 N.J.Tax 15 (Tax Ct.1984).

18:16-4.4 Calculation of fee on recording deed including realty and personalty

Where the consideration recited in a deed covers the sale of both real and personal property, the realty transfer fee need only be computed on the portion of the consideration which is allocated to the real estate, provided the recital of consideration breaks down the value of the property by classification.

Statutory References

As to the power of the Director to promulgate rules and regulations, see N.J.S.A. 46:15-11.

18:16-4.5 Calculation of fee on deed on exchange of properties

In the case of an exchange of two properties, the deeds transferring title to each are subject to a realty transfer fee, and in such case, consideration shall be computed on the assessed valuation at the date of the transaction, adjusted to reflect the true value in accordance with the county percentage level established for the current year.

Amended by R.1975 d.84, effective March 31, 1975.
See: 7 N.J.R. 119(a), 7 N.J.R. 240(b).

Statutory References

As to the power of the Director to promulgate rules and regulations, see N.J.S.A. 46:15-11.

18:16-4.6 Calculation of fee on a sheriff's deed

(a) As a general rule, in the case of a sheriff's deed confirming a sheriff's sale, the amount of the realty transfer fee shall be computed upon the amount of the accepted bid for the property sold.

1. Where, however, the sale is for delinquent taxes or assessments, no fee is imposed;
2. Where a deed to real estate is executed by a sheriff to a mortgagee who bids in property at a foreclosure sale to satisfy a mortgage lien, the realty transfer fee will be computed upon the amount bid for the property, plus the remaining amount of any superior mortgage liens.

Statutory References

As to the power of the Director to promulgate rules and regulations, see N.J.S.A. 46:15-11.

18:16-4.7 Calculation of fee where the transfer is subject to a construction mortgage

In determining the amount of consideration based upon which the realty transfer fee shall be computed in the case of a deed conveying real estate, which is subject to a prior existing construction mortgage executed by the grantor, the amount due on the mortgage at the time the deed is recorded is measured by the sum total of advances which have been made on the mortgage prior to the date of the transfer.

Amended by R.1973 d.109, effective April 25, 1973.
See: 5 N.J.R. 125(a), 5 N.J.R. 171(a).

Statutory References

As to the power of the Director to promulgate rules and regulations, see N.J.S.A. 46:15-11.

18:16-4.8 through 18:16-4.10 (Reserved)**SUBCHAPTER 5. DEEDS EXEMPT FROM FEE****18:16-5.1 Recording without payment of fee**

(a) No fee is required to be paid where it is established to the satisfaction of the recording officer that the deed was given for one of the following reasons:

1. For consideration, as defined in this Act, of less than \$100.00;
2. By or to the United States of America, this State, or any instrumentality, agency or subdivision thereof;
3. Solely in order to provide or release security for a debt or obligation;
4. Which confirms or corrects a deed previously recorded;
5. On a sale for delinquent taxes or assessments;
6. On partition;
7. By a receiver, trustee in bankruptcy or liquidation, or assignee for the benefit of creditors;
8. Eligible to be recorded as an "ancient deed" pursuant to N.J.S.A. 46:16-7;
9. Acknowledged or proved on or before July 3, 1968;
10. Between husband and wife, or parent and child;
11. Conveying a cemetery lot or plot;
12. In specific performance of a final judgment;
13. Releasing a right of reversion;

14. Previously recorded in another county and full realty transfer fee paid or accounted for, as evidenced by written instrument, attested by the grantee and acknowledged by the county recording officer of the county of such prior recording, specifying the county, book, page, date of prior recording, and amount of realty transfer fee previously paid.

15. By an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this State.

16. Recorded within 90 days following the entry of a divorce decree which dissolves the marriage between the grantor and grantee.

Amended by R.1975 d.84, effective March 31, 1975.
See: 7 N.J.R. 119(a), 7 N.J.R. 240(b).
Amended by R.1993 d.481, effective October 4, 1993.
See: 25 N.J.R. 2653(a), 25 N.J.R. 4604(b).

Cross References

As to the procedure for claiming exemption, see N.J.A.C. 18:16-2.6.

Statutory References

As to which deeds are exempt from the realty transfer fee, see N.J.S.A. 46:15-10.

18:16-5.2 Exemption from payment of \$1.25 portion of \$1.75 fee

(a) A conveyance of a one or two-family residence is not subject to payment of the \$1.25 portion of the \$1.75 fee when the grantor qualifies under one or more of the following categories:

1. "Senior citizen";
2. "Blind person";
3. "Disabled person"; or
4. "Low and moderate income housing."

(b) A conveyance of property upon which there is "new construction" is not subject to payment of the \$1.25 portion of the \$1.75 fee.

(c) Examples include the following:

1. Example (1): A husband and wife sell their dwelling house which they own as tenants by the entirety for a total consideration of \$30,000. The husband is 63 years old; his wife is 55. Would the recording of the deed transferring this property be subject to the increased amount of the realty transfer fee?

The realty transfer fee to be collected upon recording of the deed is \$30.00. Chapter 176, Laws of 1975, provides for an exemption of \$1.25 of the \$1.75 fee where either the husband or wife as owners of the property being sold is a senior citizen (62 years or over, for purposes of this Act).

2. Example (2): Three individuals, not related, own and occupy a residential property which they are selling. One of the sellers is blind, another is disabled. The third individual is not a senior citizen, or blind, or disabled. Are they subject to the increased realty transfer fee upon recording of the deed transferring the property?

Yes, because one of the owners of the jointly owned property is not a senior citizen, blind person, or disabled person; the exception to which would apply only to a husband or wife.

3. Example (3): A husband and wife are selling a residential property which they have owned for 20 years and in which they resided for the first 15 years. However, the home has been rented to another party for the past five years. The husband is blind. Are they subject to the increased realty transfer fee upon recording of the deed transferring the property?

Yes. Although the husband is blind, the couple does not meet the requirement of occupancy of the property at the time of sale.

4. Example (4): Two brothers, one of whom is blind and the other disabled, own a one-story structure consisting of a store, which they rent to another party, and a small apartment behind the store in which they reside. They are selling the property, which is listed on the tax rolls as a commercial property. Are they subject to payment of the increased realty transfer fee upon recording of the deed transferring the property?

Yes, because one of the stipulations for exemption from the increased fee is that the property be a "residential premise".

5. Example (5): The last home to be sold in a new development is the one which had been used as a model home. Would the recording of the deed on the transfer of this home be subject to the increased realty transfer fee?

Yes, because in order to qualify for exemption as "new construction", the property must be "an entirely new improvement not previously occupied or used for any purpose".

Amended by emergency adoption R.1975 d.242, effective September 1, 1975.

See: 7 N.J.R. 443(a).

Amended by R.1993 d.481, effective October 4, 1993.

See: 25 N.J.R. 2653(a), 25 N.J.R. 4604(b).

Cross References

For exceptions respecting exemptions accorded "senior citizens", "blind" or "disabled" persons or "new construction", see N.J.A.C. 18:16-6.1.

18:16-5.3 Deed from mortgagor to Secretary of Housing and Urban Development

A deed from a mortgagor to the Secretary of Housing and Urban Development given in lieu of foreclosure is exempt from the application of the Realty Transfer Fee law as a deed to an agency of the United States of America.

Amended by emergency adoption R.1975 d.242, effective September 1, 1975.

See: 7 N.J.R. 443(a).

Statutory References

As to the exemption for deeds to agencies of the United States of America, see N.J.S.A. 46:15-10.

18:16-5.4 Deed by trustee in bankruptcy

The recording of a deed where the grantor is a trustee in bankruptcy is not subject to the Realty Transfer Fee law, since the grantor is a court appointed officer liquidating the assets of a bankrupt and is performing the function of a Federal governmental instrumentality.

Amended by emergency adoption R.1975 d.242, effective September 1, 1975.

See: 7 N.J.R. 443(a).

Statutory References

As to the exemption for deeds by instrumentalities of the United States of America, see N.J.S.A. 46:15-10.

18:16-5.5 Deed to a municipal housing authority

(a) A deed to a municipal housing authority is not subject to the realty transfer fee.

(b) A housing authority, though not a subdivision of the State, comes within the exemption accorded a subdivision of the State since the housing authority performs an essential public purpose for the municipality.

Amended by emergency adoption R.1975 d.242, effective September 1, 1975.

See: 7 N.J.R. 443(a).

Statutory References

As to the exemption for deeds to subdivisions of the State, see N.J.S.A. 46:15-10.

18:16-5.6 Conveyance to execute mortgage on property

Where real property is transferred by the owner to a corporation for the purpose of executing a mortgage and then reconveyed to the owner, the transfer to the corporation is not subject to a realty transfer fee if the transfer is solely to provide security for a debt or obligation; provided, however, the conveyance by the corporation back to the beneficial owners is subject to a realty transfer fee which

shall be computed on the full and actual consideration as consideration is defined in the Act.

Amended by emergency adoption R.1975 d.242, effective September 1, 1975.
See: 7 N.J.R. 443(a).

Statutory References

As to the exemption for deeds given solely to provide security for a debt or obligation, see N.J.S.A. 46:15-10.

18:16-5.7 Deed correcting name of party

A conveyance by two single persons to themselves in their married name or by a woman to herself from her maiden name to her married name does not involve a transfer, but is in the nature of a corrective deed, and accordingly, is exempt from the application of the Realty Transfer Fee law.

Amended by R.1975 d.84, effective March 31, 1975.
See: 7 N.J.R. 119(a), 7 N.J.R. 240(b).
Amended by emergency adoption R.1975 d.242, effective September 1, 1975.
See: 7 N.J.R. 443(a).

Cross References

As to the meaning of "corrective deed", see N.J.A.C. 18:16-1.1(b).

Statutory References

As to the exemption for corrective deeds, see N.J.S.A. 46:15-10.

18:16-5.8 Deed extinguishing dower or curtesy

A deed from a husband or wife to his or her spouse extinguishing dower or curtesy in property owned by the grantee is not subject to a realty transfer fee as it does not transfer a present interest in property but merely extinguishes rights personal to the grantor.

Amended by emergency adoption R.1975 d.242, effective September 1, 1975.
See: 7 N.J.R. 443(a).

Statutory References

As to the power of the Director to promulgate rules and regulations, see N.J.S.A. 46:15-11.

18:16-5.9 Deed of trust

A deed of trust comes within the exemption accorded deeds given "solely in order to provide or release security for a debt or obligation," and accordingly the recording of a deed of trust is exempt from application of the Realty Transfer Fee law.

Amended by emergency adoption R.1975 d.242, effective September 1, 1975.
See: 7 N.J.R. 443(a).

Statutory References

As to the exemption for deeds given "solely in order to provide or release security for a debt or obligation," see N.J.S.A. 46:15-10(c).

18:16-5.10 Deed by liquidating corporation or partnership to stockholder or partner

(a) In the case of a transfer of real estate to stockholder(s) by a corporation in liquidation, or to partner(s) by a partnership firm in liquidation, no attempt will be made to project value on the basis of consideration passing between grantor and grantee, since such a transaction, in general, represents a return of capital.

(b) The transfer is not subject to the transfer fee if there is no other "consideration" as defined in the law.

(c) In the event there are no mortgages, liens or other encumbrances on the property, no realty transfer fee will be required to be paid.

Amended by emergency adoption R.1975 d.242, effective September 1, 1975.
See: 7 N.J.R. 443(a).

Statutory References

As to the exemption for deeds given for a consideration of less than \$100.00, see N.J.S.A. 46:15-10.

Case Notes

Realty transfer fee must be paid when liquidating partnership transfers property subject to existing mortgage; transfer of realty from father-son partnership to son did not qualify for parent-child exemption from realty transfer fees. *Zimmerman v. Clayton*, 7 N.J.Tax 15 (Tax Ct.1984).

18:16-5.11 Deeds of confirmation not transferring title

Where title to property has been transferred by operation of law, a confirmatory deed of the premises upon which title has already passed may be recorded without the payment of a realty transfer fee.

Amended by emergency adoption R.1975 d.242, effective September 1, 1975.
See: 7 N.J.R. 443(a).

Cross References

As to the requirement of payment of the fees upon transfer from an executor, executrix, administrator, administratrix or trustee, see N.J.A.C. 18:16-6.6.

Statutory References

As to the exemption for deeds of confirmation, see N.J.S.A. 46:15-10.

18:16-5.12 Transfer of property to trustee for exclusive benefit of grantor

(a) A transfer of realty to a grantee in trust to hold the property for the exclusive use and benefit of the grantor is not subject to a realty transfer fee, since the rights of ownership are still completely enjoyed by the grantor as beneficial owner.