

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

Consideration	to	Tax
over 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
35,500.	36,000.	126.00
36,000.	36,500.	127.75
36,500.	37,000.	129.50
37,000.	37,500.	131.25

Consideration over	to	Tax
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?