

**CHAPTER 16
REALTY TRANSFER FEE**

Authority

N.J.S.A. 46:15-11.

Source and Effective Date

R.2006 d.310, effective September 5, 2006.
See: 38 N.J.R. 2084(a), 38 N.J.R. 3658(b).

Chapter Expiration Date

Chapter 16, Realty Transfer Fee, expires on September 5, 2011.

Chapter Historical Note

Chapter 8, Realty Transfer Fee, was filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 16 was readopted as R.1983 d.355, effective August 12, 1983. See: 15 N.J.R. 1082(a), 15 N.J.R. 1487(b).

Pursuant to Executive Order No. 66(1978), Chapter 16, Realty Transfer Fee, was readopted as R.1988 d.408, effective July 29, 1988. See: 20 N.J.R. 1066(a), 20 N.J.R. 2319(a). Pursuant to Executive Order No. 66(1978), Chapter 16 expired on July 29, 1993.

Chapter 16, Realty Transfer Fee, was adopted as new rules by R.1993 d.481, effective October 4, 1993. See: 25 N.J.R. 2653(a), 25 N.J.R. 4604(b).

Pursuant to Executive Order No. 66(1978), Chapter 16, Realty Transfer Fee, was readopted as R.1998 d.421, effective July 21, 1998. See: 30 N.J.R. 1922(a), 30 N.J.R. 3066(b). Chapter 16, Realty Transfer Fee, expired on July 21, 2003.

Chapter 16, Realty Transfer Fee, was adopted as new rules by R.2006 d.310, effective September 5, 2006. See: Source and Effective Date.

Subchapter 8, County Recording Officers' Duties, was renamed County Recording Officers' Duties, Protests and Refund Procedures by R.2007 d.219, effective July 16, 2007. See: 39 N.J.R. 1244(a), 39 N.J.R. 2654(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. DEFINITIONS

18:16-1.1 Words and phrases defined

SUBCHAPTER 2. PREREQUISITES FOR RECORDING

18:16-2.1 Requirements for recording of deed; exemptions; incorrectly recited or unpaid consideration
18:16-2.2 Consideration recited in deed
18:16-2.3 Consideration recited in acknowledgement
18:16-2.4 Deeds with more than one acknowledgment
18:16-2.5 Affidavits of Consideration; when required; exemptions
18:16-2.6 Exemption from any portion of the realty transfer fee
18:16-2.7 Exemption where consideration is less than \$100.00

SUBCHAPTER 3. LIABILITY FOR REALTY TRANSFER FEE

18:16-3.1 Imposition of fee at time of recording deed
18:16-3.2 Payment of realty transfer fee
18:16-3.3 Effective date for implementation of rate changes
18:16-3.4 Fees payable by grantor and grantee
18:16-3.5 Fee payable on realty located partially out-of-State
18:16-3.6 Fee payable on realty located in two or more counties

SUBCHAPTER 4. CALCULATION OF FEE

18:16-4.1 Fee in addition to usual recording fees
18:16-4.2 Fee schedule
18:16-4.3 Fee calculation for realty conveyed subject to mortgage
18:16-4.4 Calculation of fee on recording deed including realty and personalty
18:16-4.5 Calculation of fee on deed on exchange of properties or where the consideration is indeterminable
18:16-4.6 Calculation of fee on sheriff's deed
18:16-4.7 Calculation of fee where the transfer is subject to a construction mortgage
18:16-4.8 Calculation of realty transfer fee where taxpayer underestimates the consideration or underpays the realty transfer fee
18:16-4.9 Calculation of fee and deed notation on transfers of new construction
18:16-4.10 Multiple grantee transactions

SUBCHAPTER 5. DEEDS EXEMPT FROM FEE

18:16-5.1 Recording without payment of fee
18:16-5.2 Exemption from payment of any portion of \$1.75 fee
18:16-5.3 Deed from mortgagor to Secretary of Housing and Urban Development
18:16-5.4 Deed by trustee in bankruptcy
18:16-5.5 Deed to a municipal housing authority
18:16-5.6 Conveyance to execute mortgage on property
18:16-5.7 Deed correcting name of party; corrective deeds
18:16-5.8 Deed of trust
18:16-5.9 Deed by liquidating corporation or partnership to stockholder or partner
18:16-5.10 Deeds of confirmation not transferring title
18:16-5.11 Transfer of property to trustee for exclusive benefit of grantor
18:16-5.12 Sale of residence owned as joint tenants by senior citizen, blind person, disabled person

SUBCHAPTER 6. DEEDS NOT WITHIN EXEMPT PROVISIONS

18:16-6.1 Conveyance from one legal entity to another legal entity
18:16-6.2 Conveyance by former spouse of undivided interest in property
18:16-6.3 Deed by individual to wholly-owned corporation or partnership
18:16-6.4 Deeds by executors, administrators and trustees to third parties

SUBCHAPTER 7. PENALTY FOR FALSE STATEMENT OF CONSIDERATION

18:16-7.1 Crime of the fourth degree

SUBCHAPTER 8. COUNTY RECORDING OFFICERS' DUTIES, PROTESTS AND REFUND PROCEDURES

18:16-8.1 General prerequisites for recording
18:16-8.2 Endorsement of fee payment on deed or computer generated recording data page
18:16-8.3 Notation of exemption on deed and Affidavit of Consideration
18:16-8.4 Endorsement of fee payment or exemption before recording
18:16-8.5 Endorsement of consideration on deed including more than one parcel
18:16-8.6 Second or subsequent recording of deed
18:16-8.7 Re-recording of deed where fee not fully paid on first recording
18:16-8.8 Reproduction of endorsements
18:16-8.9 Deposit of tentative fee in case of dispute
18:16-8.10 Processing disputes with the county recording officer as to payment of realty transfer fee; refund applications

- 18:16-8.11 Enforcement of realty transfer fee deficiencies and delinquencies by the Division of Taxation
 18:16-8.12 Transmittal of deed abstract and all Affidavits of Consideration to county board of taxation
 18:16-8.13 Transmittal of payments to Revenue Accounting Division of Treasury
 18:16-8.14 Disposition of realty transfer fees

SUBCHAPTER 1. DEFINITIONS

18:16-1.1 Words and phrases defined

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

“Act” or “law” means P.L. 1968, c. 49 (N.J.S.A. 46:15-5 et seq.) as amended and supplemented.

“Additional fee” means the part of the realty transfer fee established by section 3a(2) of P.L. 1968, c. 49 (N.J.S.A. 46:15-7).

“Basic fee” means the part of the realty transfer fee established by section 3a(1) of P.L. 1968, c. 49 (N.J.S.A. 46:15-7).

“Blind person” means a person whose vision in his better eye with proper correction does not exceed 20/200 as measured by the Snellen chart or a person who has a field defect in his better eye with proper correction in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees.

“Consideration” means, in the case of any deed, the actual amount of money and the monetary value of any other thing of value constituting the entire compensation paid or to be paid for the transfer of title to the lands, tenements or other realty, including:

1. 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;

2. Any other lien or encumbrance not paid, satisfied or removed in connection with the transfer of title. The amount of liens for real property taxes, water or sewerage charges for the current or any subsequent year, or by way of added assessment or other adjustment, as well as of other like liens or encumbrances of a current and continuing nature ordinarily adjusted between the parties according to the period of ownership shall be excluded as an element in determining the consideration, notwithstanding that such amount is to be paid by the grantee. In the case of a leasehold interest as defined in the Act, the consideration shall be in the amount of the assessed value of the property at the date of the transaction for the purpose of levying local real property taxes adjusted to reflect the true value in accordance with the county percentage level established for the current year; and

3. The entire purchase price of both land and real property improvements including real property upgrades on all new construction.

“Corrective deed” means a deed that is given by a grantor to correct a mistake made in a former deed of the same property conveyed by him, and may correct a defective acknowledgement or the name of a party, the description of the premises or any other error in the former deed.

“County recording officer” means the register of deeds and mortgages in counties having such officer and the county clerk in the other counties.

“Deed” means a written instrument entitled to be recorded in the office of a county recording officer which purports to convey or transfer title to a freehold interest in any lands, tenements or other realty in this State by way of grant or bargain and sale thereof from the named grantor to the named grantee. A leasehold interest for 99 years or more shall be treated as a “freehold” for the purpose of this chapter. Instruments providing for common driveways, for exchanges of easements or rights-of-way, for revocable licenses to use, to adjust or to clear defects of or clouds on title, to provide for utility service lines such as drainage, sewerage, water, electric, telephone or other such service lines, or to quitclaim possible outstanding interests shall not be “deeds” for the purposes of this chapter.

“Disabled person” means any resident of this State who is permanently and totally disabled, unable to engage in gainful employment, and receiving disability benefits or any other compensation under any Federal or State law.

“Fee” or “realty transfer fee” means all fees imposed by the Act, as amended and supplemented.

“General purpose fee” means the part of the realty transfer fee established by section 3a(3) of P.L. 2004, c. 66 (N.J.S.A. 46:15-7).

“Grantor” means the person or persons who executed the deed or instrument by which title to any lands, tenements or other realty is transferred or otherwise conveyed. The term is interchangeable with the term “seller” or “sellers.”

“Grantee” means the person or persons named in the deed or instrument to whom title to any lands, tenements or other realty is transferred or otherwise conveyed. The term is interchangeable with the term “buyer” or “buyers.”

“Joint tenancy” means ownership of real property by two or more persons with the right of survivorship. When there is joint tenancy ownership, all grantors must qualify for the partial exemption or the full exemption or the entire fee should be paid.

“Legal representative” is to be interpreted broadly to include any person actively and responsibly participating in the deed transaction, such as, but not limited to: