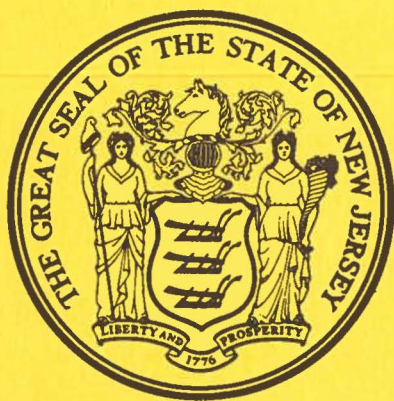


NEW JERSEY STATE LIBRARY



3 3009 00558 1550

REGULATIONS GOVERNING ADMINISTRATION OF THE  
"REALTY TRANSFER FEE"  
CHAPTER 49, LAWS OF 1968  
(N.J.S.A. 46:15-5 et seq.)



NJ/KAS  
T7/R21  
1968

copy 2

JULY 3, 1968

STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY

DIVISION OF TAXATION  
LOCAL PROPERTY TAX BUREAU,

• • •

LOCAL PROPERTY TAX BUREAU  
REALTY TRANSFER FEE SECTION  
314 EAST STATE STREET, TRENTON, NEW JERSEY 08625

AMENDMENTS TO REGULATIONS GOVERNING ADMINISTRATION OF THE

"REALTY TRANSFER FEE"

CHAPTER 49, LAWS OF 1968

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

The Director, Division of Taxation in the Department of the Treasury, hereby promulgates the following amended regulations to implement the imposition of a realty transfer fee under P.L. 1968, c.49 (N.J.S.A. 46:15-5 et seq.)

1. REG. 16:12-11.210 CONSIDERATION RECITED IN DEED

Every deed shall recite the dollar amount, comprising 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 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 represented by the deed. The dollar amount may be written out or in figures or a combination of the two.

Example 1. Where the consideration paid or to be paid is \$10,000, the recital in the deed may read: (a) "in consideration of the sum of TEN THOUSAND DOLLARS"; or (b) "in consideration of the sum of \$10,000"; or (c) "in consideration of the sum of TEN THOUSAND DOLLARS (\$10,000)".

Example 2. A deed which states "one dollar and other good and valuable consideration" may not be recorded unless there is annexed thereto an Affidavit of Consideration setting forth the actual and full consideration paid or to be paid for the transfer.

2. REG. 16:12-11.230 AFFIDAVIT OF CONSIDERATION-WHEN REQUIRED

If the consideration is not stated in the deed and in the acknowledgement or proof of execution thereof in the manner set forth in Regs. 11.210 and 11.220, respectively, there must be annexed to the deed, for recording therewith, an affidavit (in the form prescribed in the Appendix included herewith) by one or more of the parties named in the deed or by a legal representative, declaring the actual and full consideration for the deed. The execution of the Affidavit shall constitute an affirmation of the truth of the facts stated and shall be based on personal knowledge of the deponent and not on hearsay.

3. REG. 16:12-11.240 EXEMPTION-HOW CLAIMED

If exemption from the fee is claimed pursuant to N.J.S.A. 46:15-10 (b) to (h) inclusive, a clear statement of the basis for such exemption must be recited in the deed or in any accompanying affidavit, either in the form prescribed in the Appendix or in any other form which clearly sets forth the basis for the exemption, which affidavit shall be recorded with the deed. However, no affidavit is necessary where it clearly appears in the deed that the deed was given for one of the following reasons:

- (1) By or to the United States of America, the State of New Jersey or any instrumentality, agency, or subdivision thereof;
- (2) Solely in order to provide or release security for a debt or obligation;
- (3) Which confirms or corrects a deed previously recorded;
- (4) On a sale for delinquent taxes or assessments;

- (5) On partition;
- (6) Pursuant to mergers of corporations;
- (7) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock.

Cross Reference \_\_\_ See Reg. 11.250 in the case where exemption from the fee is claimed by reason of the fact that the consideration is under \$100.

4. REG. 16:12-11.250 EXEMPTION WHERE CONSIDERATION IS LESS THAN \$100

If a deed is claimed to be exempt from the fee on the ground that the consideration therefor is less than \$100, the amount of consideration to be recited in the deed and acknowledgement or the affidavit of consideration, 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. Where it appears to the satisfaction of the recording officer that the deed and acknowledgement or proof of the execution thereof properly show that the consideration for the deed was less than \$100, no affidavit of consideration shall be required to accompany the deed.

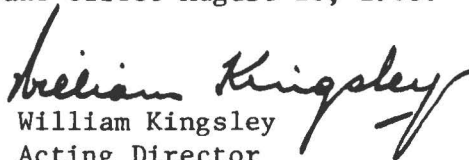
Failure to include any prior existing mortgage or lien or any other element of compensation in the statement of consideration recited in the deed or acknowledgement or in an affidavit of consideration constitutes a false recital of the consideration in violation of the law. (See N.J.S.A. 46:15-9)

5. REG. 16:12-11.720 RECORDING DEED EXEMPT FROM FEE

The recording officer receiving the deed for first recording shall note on the deed the granting of the exemption by writing "Exempt" on the line captioned "Realty Transfer Fee" of the endorsement imprint prescribed in Reg. 11.710. If the deed is accompanied by an Affidavit of Consideration or any other Affidavit in support of the claim for exemption, he shall also note the granting of the exemption on such Affidavit by writing "Exempt" on the line captioned "Realty Transfer Fee" in the block on the Affidavit designated "FOR RECORDER'S USE ONLY."

6. REG. 16:12-11.510 is voided.

These regulations shall take effect August 20, 1968.

  
William Kingsley  
Acting Director  
Division of Taxation

NJ  
T7  
19

tr

64

STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY  
DIVISION OF TAXATION LOCAL PROPERTY TAX BUREAU  
REGULATIONS GOVERNING ADMINISTRATION OF THE  
"REALTY TRANSFER FEE"  
[P.L. 1968, Chapter 49 (N.J.S.A. 46:15-5 et seq.)]

TABLE OF CONTENTS

FOREWORD ..... iii

PART I—DEFINITIONS

Reg. 16:12-11.100 Definitions ..... 1

PART II—PREREQUISITES FOR RECORDING

Reg. 16:12-11.200 Prerequisites for Recording — General .... 2  
11.210 Consideration Recited in Deed ..... 2  
11.220 Consideration Recited in Acknowledgment .. 3  
11.230 Separate Affidavit Stating Consideration ... 3  
11.240 Contents of Affidavit of Consideration ..... 3  
11.250 Affidavit of Consideration Must Accompany  
Deeds Exempt from Fee ..... 3

PART III—LIABILITY FOR FEE

Reg. 16:12-11.300 Liability for Imposition of Fee at Time of  
Recording Deed ..... 4  
11.310 Recording Fee — When Payable ..... 4  
11.320 Fee Payable Upon Presentment for Record-  
ing on and after July 3, 1968 ..... 4  
11.330 Fee Payable by Grantor ..... 4  
11.340 Fee Payable on Realty Located Partially  
Out of State ..... 4  
11.350 Fee Payable on Realty Located in Two or  
More Counties ..... 5

PART IV—CALCULATION OF THE FEE

Reg. 16:12-11.400 Fee Is in Addition to Usual Recording Fees ... 5  
11.410 Fee Schedule ..... 5

NJ  
T7  
19

tr

NJ  
T7  
19

tr  
fe

D

td

**PART V—DEEDS EXEMPT FROM FEE**

Reg. 16:12-11.500 Recording Without Payment of Fee .....	5
11.510 Affidavit of Consideration Must Accompany Deeds Exempt from Fee .....	6

**PART VI—PENALTY FOR FALSE STATEMENT OF CONSIDERATION**

Reg. 16:12-11.600 Penalty for False Statement of Consideration .....	6
--	---

**PART VII—COUNTY RECORDING OFFICERS—DUTIES**

Reg. 16:12-11.700 Prerequisites for Recording — General .....	6
11.710 Endorsement of Payment of Fee .....	7
11.720 Recording Deed Exempt from Fee .....	7
11.730 Endorsement of Fee Paid or Exemption Before Recording .....	7
11.740 Deed Including More Than One Parcel .....	8
11.750 Second or Subsequent Recording of Deed ..	8
11.760 Re-Recording of Deed Where Fee Not Fully Paid on First Recording .....	8
11.770 Reproduction of Endorsements .....	8
11.780 Deposit of Tentative Fee in Case of Dispute ..	8
11.790 Copy of Abstract of Deed Together with Copy of Affidavit of Consideration, if any, to be Transmitted to County Board of Taxation .....	9
11.795 Disposition of Realty Transfer Fees .....	9

**APPENDIX**

Realty Transfer Fee—P.L. 1968, c. 49 .....	11
Affidavit of Consideration—Form RTF-1 .....	13

**STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY**

**DIVISION OF TAXATION                      LOCAL PROPERTY TAX BUREAU**

**REGULATIONS GOVERNING ADMINISTRATION OF THE  
"REALTY TRANSFER FEE"**

[P.L. 1968, Chapter 49 (N.J.S.A. 46:15-5 et seq.)]

**FOREWORD**

The regulations which follow are prescribed pursuant to authority granted under P.L. 1968, c. 49, section 7.

**HISTORICAL NOTE**

With the expiration of the Federal Documentary Tax on real estate transfers on January 1, 1968, the principal basis for developing average assessment ratios for each of the 567 municipalities in the State was placed in jeopardy. These ratios are essential for many purposes mandated by law, chief among which are: the State Table of Equalized Valuations which is the basis for distributing State school aid to local districts presently amounting to more than \$200 million annually; the County Equalization Tables used to apportion county costs of government presently amounting to more than \$300 million annually; establishment of debt limits for municipalities, counties and school districts; and as a basis for providing taxpayer relief from discriminatory local property tax assessments.

The Advisory Commission on Intergovernmental Relations recommended enactment of realty transfer fee laws at the State levels to replace the expiring Federal law both for revenue purposes and to preserve the basis for State, county and municipal equalization processes. To date, approximately 33 states have enacted this type of legislation.

**THE NEW JERSEY REALTY TRANSFER FEE**

By enactment of P.L. 1968, c. 49 (N.J.S.A. 46:15-5), New Jersey has joined the 33 other states which have imposed a State realty transfer fee. The new law goes into effect on July 3, 1968.

On and after July 3, 1968, no county recording officer will be authorized to record any deed evidencing transfer of title to real property unless (a) the consideration paid or to be paid therefor is recited therein and in the acknowledgment or proof of the execution thereof, or (b) an affidavit by one or more of the parties named therein or by a legal representative declaring the consideration therefor is annexed thereto for recording with the deed, and (c) a fee at the rate of \$0.50 for each \$500.00 of consideration or fractional part thereof [which fee shall be in addition to the recording fees imposed by P.L. 1965, chapter 123, section 2 (C. 22A:4-4.1)] shall be paid to the county recording officer at the time the deed is offered for recording.

For the general practitioner in realty title work, it will be helpful to note that the New Jersey law differs in three important respects from its expired Federal counterpart.

First, the New Jersey fee, when applicable, must be paid as a prerequisite for recording the deed. This is in contrast to the option, under the Federal law, to affix the Federal Documentary Stamps at some time subsequent to recording.

Second, the New Jersey fee is 50¢ for each \$500 of consideration as compared to 55¢ per \$500 under the Federal law.

Third, the New Jersey "consideration" base includes the amount of any prior existing mortgage, lien or encumbrance not paid, satisfied or removed in connection with the transfer of title. The Federal base did not include such amount.

The law provides that the fee is imposed upon the grantor. This language operates only to establish the liability for the fee as between the grantor and grantee. So far as the recording officer is concerned, he is not permitted to record the deed unless the applicable fee is paid at the time of the presentment of the deed for recording.

For effective and uniform administration of the new law in 21 county recording offices, it is necessary to require adherence, so far as possible, to prescribed procedures and forms. The inescapable fact is that in view of the essentially ministerial role of the recording function, it would be unrealistic to expect the county recording officer to render individual and discretionary evaluation of a wide variety of individually devised forms. Stable and familiar format is essential to minimize confusion, delay and controversy at the recording counter. At the same time, and because the infinite variety of circumstances surrounding individual transactions makes it impossible to anticipate every specific situation, it is necessary to insure that consummation of title transactions will not be unreasonably obstructed. Accordingly, a deposit procedure has been provided to facilitate prompt recording in advance of final resolution of stubborn problems which may arise.

The regulations which follow represent the initial promulgation by the Division of Taxation of "such rules and regulations as it may deem necessary to carry out the purposes of" P.L. 1968, c. 49. Drafted in the midst of a busy legislative session generating many competing demands upon the Division's staff, it is hoped, nevertheless, that the great majority of administrative and compliance problems under the new law have been adequately covered. From time to time, when deemed appropriate in the interest of sound administration, there will be promulgated additional general regulations for the interpretation and application of the act as well as rulings to cover specific situations.

Enactment of this law in New Jersey assures the continued flow of vital information essential to preserve the basis for State, county and municipal equalization processes. It is important, also, to note that the Realty Transfer Fee revenues are solely for county use. The State does not share in the proceeds.

William Kingsley  
Acting Director  
Division of Taxation

DATED: July 3, 1968

NJ  
T7  
19

tr

NJ  
T7  
19

tr  
fe

D

67

## REGULATIONS

The Director, Division of Taxation in the Department of the Treasury, hereby promulgates the following regulations to implement the imposition of a realty transfer fee under P.L. 1968, c. 49 (N.J.S.A. 46:15-5 et seq.).

### PART I — DEFINITIONS

#### REG. 16:12-11.100 DEFINITIONS

For the purpose of these regulations, unless the context requires a different meaning:

- (a) "Act" or "Law" means P.L. 1968, c. 49 (N.J.S.A. 46:15-5 et seq.).
- (b) "Consideration" means 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 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.** Whenever the term "consideration" is used in these Regulations, it shall be understood to mean **consideration paid or to be paid.**
- (c) "County recording officer" means the register of deeds and mortgages in counties having such officer and the county clerk in the other counties.
- (d) "Deed" means an instrument or writing by which title to any lands, tenements or other realty sold shall be granted, assigned, transferred or otherwise conveyed. Deed shall include but not be limited to transfers by way of grant of right of way, perpetual easement, life estate, 99 year lease, etc.
- (e) "Fee" or "Realty Transfer Fee" means the fee imposed by the Act.
- (f) "Grantor" means the person who executes the deed or instrument by which title to any lands, tenements or other realty sold is granted, assigned, transferred or otherwise conveyed.
- (g) "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: an attorney representing one of the parties; a closing officer of a title company or lending institution participating in the transaction; a holder of power of attorney from grantor or grantee.
- (h) "Person" means a natural person, association, corporation, and any other legal entity.
- (i) "Realty Transfer Fee Act" or "Realty Transfer Fee Law" means P.L. 1968, c. 49, (N.J.S.A. 46:15-5 et seq.).

PART II — PREREQUISITES FOR RECORDING

REG. 16:12-11.200 PREREQUISITES FOR RECORDING — GENERAL

No county recording officer shall record any deed evidencing transfer of title to real property unless (a) the consideration paid or to be paid therefor is recited therein and in the acknowledgment or proof of the execution thereof, or (b) an affidavit by one or more of the parties named therein or by a legal representative declaring the consideration paid or to be paid therefor is annexed thereto for recording with the deed, and (c) a fee at the rate of \$0.50 for each \$500 of consideration or fractional part thereof [which fee shall be in addition to the recording fees imposed by P.L. 1965, chapter 123, section 2 (C. 22A:4-4.1)] shall be paid to the county recording officer at the time the deed is offered for recording. (Law-Sec. 2).

**Cross Reference** — See Reg. 11.100(b) for definition of "consideration."

**Cross Reference** — See Reg. 11.720 pertaining to recording deed exempt from fee.

REG. 16:12-11.210 CONSIDERATION RECITED IN DEED

Every deed shall recite the dollar amount, written out and in figures, comprising 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 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 represented by the deed.

**Example 1.** Where the consideration paid or to be paid is \$10,000, the recital in the deed will read: "in consideration of the sum of TEN THOUSAND DOLLARS (\$10,000)."

**Example 2.** A deed which states "one dollar and other good and valuable consideration" may not be recorded unless there is annexed thereto an Affidavit of Consideration setting forth the actual and full consideration paid or to be paid for the transfer.

**Cross Reference** — See Alternative Recital of Consideration by Affidavit of Consideration — Reg. 11.230.

REG. 16:12-11.220 CONSIDERATION RECITED IN ACKNOWLEDGMENT

Every acknowledgment or proof of execution of the deed shall contain, in addition to the usual language of acknowledgment, a statement in the following language:

"the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by the within deed, as such consideration is defined in P.L. 1968, c. 49, Sec. 1(c), is \$ . . . . ."

**Cross Reference** — See Alternative Recital of Consideration by Affidavit of Consideration — Reg. 11.230.

REG. 16:12-11.230 SEPARATE AFFIDAVIT STATING CONSIDERATION

If the consideration is not stated in the deed and in the acknowledgment or proof of execution thereof in the manner set forth in Regs. 11.210 and 11.220, respectively, there must be annexed to the deed, for recording therewith, an affidavit by one or more of the parties named in the deed or by a legal representative, declaring the actual and full consideration for the deed. [Law-Sec. 2(b)].

**Cross Reference** — See Form RTF-1, "Affidavit of Consideration" — in Appendix.

**Cross Reference** — See Reg. 11.100(b) for definition of "consideration."

REG. 16:12-11.240 CONTENTS OF AFFIDAVIT OF CONSIDERATION

The Affidavit of Consideration, when required, shall be annexed to the deed for recording therewith and shall be in the form prescribed as shown in the Appendix included herewith. If exemption from the fee is claimed, a statement showing the basis for such exemption shall be included in the Affidavit. The execution of the Affidavit shall constitute an affirmation of the truth of the facts stated and shall be based upon personal knowledge of the deponent and not on hearsay.

REG. 16:12-11.250 AFFIDAVIT OF CONSIDERATION MUST ACCOMPANY DEEDS EXEMPT FROM FEE

If it is claimed that a deed is exempt from the fee imposed by the Act, an Affidavit of Consideration supporting the claim of exemption must be completed and annexed to the deed for recording therewith even though the consideration is fully stated in the deed and in the acknowledgment or proof of execution. However, where the United States of America, the State of New Jersey, or any instrumentality, agency, or subdivision thereof, is a party to the deed, the affidavit may be omitted if the consideration is duly stated in the deed and in the acknowledgment.

### PART III — LIABILITY FOR FEE

#### REG. 16:12-11.300 LIABILITY FOR IMPOSITION OF FEE AT TIME OF RECORDING DEED

The act imposes a fee for recording any deed, i.e., 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.

**Cross Reference** — See Reg. 11.500 pertaining to exempt deeds.

#### REG. 16:12-11.310 RECORDING FEE — WHEN PAYABLE

When applicable, the realty transfer fee is payable to the county recording officer at the time the deed is first presented for recording. (Law — Sec. 3).

#### REG. 16:12-11.320 FEE PAYABLE UPON PRESENTMENT FOR RECORDING ON AND AFTER JULY 3, 1968

The fee imposed by the Act is payable if the deed is presented for recording on and after July 3, 1968 even if it bears a date and acknowledgment prior to such date.

**Example.** A deed dated September 10, 1967 and bearing Federal Documentary Stamps is presented for recording on July 10, 1968. The fee is required to be paid as a prerequisite for recording.

**Cross Reference** — See Reg. 11.750 pertaining to re-recording of deed previously recorded.

#### REG. 16:12-11.330 FEE PAYABLE BY GRANTOR

The law provides that the fee is imposed upon the grantor. This language operates only to establish the liability for the fee as between the grantor and grantee. So far as the recording officer is concerned, he is not permitted to record the deed unless the applicable fee is paid at the time of the presentment of the deed for recording.

#### REG. 16:12-11.340 FEE PAYABLE ON REALTY LOCATED PARTIALLY OUT OF STATE

Where a deed covers realty which is located partially out of 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. 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.

#### REG. 16:12-11.350 FEE PAYABLE ON REALTY LOCATED IN TWO OR MORE COUNTIES

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. Upon satisfactory proof of payment 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 Reference** — See Reg. 11.760 pertaining to fee not fully paid on first recording.

### PART IV — CALCULATION OF THE FEE

#### REG. 16:12-11.400 FEE IS IN ADDITION TO USUAL RECORDING FEES

The fee imposed under P.L. 1968, c. 49, is in addition to the usual recording fees imposed under P.L. 1965, c. 123, Sec. 2 (C. 22A:4-4.1).

#### REG. 16:12-11.410 FEE SCHEDULE

The fee imposed by the act is at the rate of 50¢ for each \$500.00 of consideration or fractional part thereof.

**Example 1.** The full consideration is \$20,000. The fee to be paid at the time of recording is \$20.00.

**Example 2.** The full consideration is \$24,500. The fee to be paid at the time of recording is \$24.50.

**Example 3.** The full consideration is \$25,330. The fee to be paid at the time of recording is \$25.50.

**Example 4.** The full consideration is \$80. No fee is payable. [See Reg. 11.500(a)].

**Cross Reference** — See Reg. 11.100(b) for definition of "consideration."

### PART V — DEEDS EXEMPT FROM FEE

#### REG. 16:12-11.500 RECORDING WITHOUT PAYMENT OF FEE

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:

(a) For a consideration of less than \$100.00;

NJ  
T7  
19

tr

- (b) By or to the United States of America, the State of New Jersey, or any instrumentality, agency, or subdivision thereof;
- (c) Solely in order to provide or release security for a debt or obligation;
- (d) Which confirms or corrects a deed previously recorded;
- (e) On a sale for delinquent taxes or assessments;
- (f) On partition;
- (g) Pursuant to mergers of corporations;
- (h) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;
- (i) Previously recorded in another county and full realty transfer fee paid or accounted for (specify county, book, page and date of prior recording, and amount of realty transfer fee previously paid).

**Cross Reference** — But see Reg. 11.510 for requirement that Affidavit of Consideration must accompany exempt deeds.

**REG. 16:12-11.510 AFFIDAVIT OF CONSIDERATION MUST ACCOMPANY DEEDS EXEMPT FROM FEE**

If it is claimed that a deed is exempt from the fee imposed by the Act, an Affidavit of Consideration supporting the claim of exemption must be completed and annexed to the deed for recording therewith even though the consideration is fully stated in the deed and in the acknowledgment or proof of execution. However, where the United States of America, the State of New Jersey, or any instrumentality, agency, or subdivision thereof, is a party to the deed, the affidavit may be omitted if the consideration is duly stated in the deed and in the acknowledgment.

**PART VI — PENALTY FOR FALSE STATEMENT OF CONSIDERATION**

**REG. 16:12-11.600 PENALTY FOR FALSE STATEMENT OF CONSIDERATION**

Any person who shall willfully falsify the consideration recited in a deed or in the proof or acknowledgment of the execution of a deed or in an Affidavit of Consideration annexed to a deed shall be adjudged a disorderly person and shall be subject to the penalties provided by law. (Law-Sec. 5).

**PART VII — COUNTY RECORDING OFFICERS — DUTIES**

**REG. 16:12-11.700 PREREQUISITES FOR RECORDING — GENERAL**

No county recording officer shall record any deed evidencing transfer of title to real property unless (a) the consideration therefor is recited

therein and in the acknowledgment or proof of the execution thereof, or (b) an affidavit by one or more of the parties named therein or by a legal representative declaring the consideration therefor is annexed thereto for recording with the deed, and (c) a fee at the rate of \$0.50 for each \$500.00 of consideration or fractional part thereof [which fee shall be in addition to the recording fees imposed by P.L. 1965, chapter 123, section 2 (C. 22A:4-4.1)] shall be paid to the county recording officer at the time the deed is offered for recording. (Law-Sec. 2).

**Cross Reference** — See Reg. 11.100(b) for definition of "consideration."

**REG. 16:12-11.710 ENDORSEMENT OF PAYMENT OF FEE**

Upon receiving payment of the recording fee, the county recording officer shall imprint upon the front page of the deed, and prior to the recording thereof, the following rubber stamp impression in jet black ink:

COUNTY OF .....
CONSIDERATION .....
REALTY TRANSFER FEE .....
DATE ..... BY .....

**REG. 16:12-11.720 RECORDING DEED EXEMPT FROM FEE**

If it is claimed that a deed is exempt from the fee imposed by the Act, an Affidavit of Consideration supporting the claim of exemption must be completed and annexed to the deed for recording therewith even though the consideration is fully stated in the deed and in the acknowledgment or proof of execution. However, where the United States of America, the State of New Jersey, or any instrumentality, agency, or subdivision thereof, is a party to the deed, the affidavit may be omitted if the consideration is duly stated in the deed and in the acknowledgment. The recording officer receiving the deed for first recording shall note on the deed the granting of the exemption by writing "Exempt" on the line captioned "Realty Transfer Fee" of the endorsement imprint prescribed in Reg. 11.710. He shall also note the granting of the exemption on the Affidavit of Consideration by writing "Exempt" on the line captioned "Realty Transfer Fee" in the block on the Affidavit designated "FOR RECORDER'S USE ONLY."

**REG. 16:12-11.730 ENDORSEMENT OF PAYMENT OF FEE OR EXEMPTION BEFORE RECORDING**

No recording officer shall record any deed unless there shall have been duly endorsed thereon the amount of the "Realty Transfer Fee" payment in the manner prescribed in Reg. 11.710, or the granting of the exemption in the manner prescribed in Reg. 11.720, whichever is applicable.

NJ  
T7  
19

tz

tdr

**REG. 16:12-11.740 DEED INCLUDING MORE THAN ONE PARCEL**

Where a deed includes more than one parcel and the consideration is separately shown for each individual parcel, the endorsement must show the total amount of consideration on the basis of which the fee was calculated.

**REG. 16:12-11.750 SECOND OR SUBSEQUENT RECORDING OF DEED**

A county recording officer may not record a deed in a second or subsequent recording without payment of the fee unless there appears on the deed and on the Affidavit of Consideration, if any, accompanying the same, an endorsement showing amount of "Realty Transfer Fee" previously paid or exemption therefrom, made by the recording officer of the county in which the deed was previously recorded. Where the deed bears an endorsement that it was first recorded prior to July 3, 1968, such endorsement shall be equivalent to an endorsement that the deed is exempt from the tax.

**Cross Reference** — See Reg. 11.760 for additional fee where original payment was not based upon total consideration.

**REG. 16:12-11.760 RE-RECORDING OF DEED WHERE FEE NOT FULLY PAID ON FIRST RECORDING**

Where a deed which has been previously recorded in another county is presented for a subsequent recording, and said deed includes more than one parcel or tract of land, and it appears that the realty transfer fee paid at the time of the prior recording or recordings did not include the fee payable upon the portion of consideration paid or to be paid for the realty located in the county of such subsequent recording, the recording officer of the county of subsequent recording shall exact a fee based upon the consideration paid or to be paid for the parcel(s) or tract(s) located in his county.

**REG. 16:12-11.770 REPRODUCTION OF ENDORSEMENTS**

Every county recording officer shall cause the contents of any endorsement upon a deed or Affidavit of Consideration, if any, accompanying the same, showing the amount of fee received or exemption therefrom to appear on each reproduction of said document in the public records of the county.

**REG. 16:12-11.780 DEPOSIT OF TENTATIVE FEE IN CASE OF DISPUTE**

In order to facilitate prompt recording in advance of final resolution of stubborn problems which may arise, the county recording officer is authorized to determine an estimated amount, according to his best judgment, of realty transfer fee to be paid as a prerequisite for record-

ing. Such payment when made and accepted shall be without prejudice to the right of the county recording officer to fix and receive an additional fee or to the right of the person making the payment to receive refund of any excess fee paid, as the case may be, when the actual amount of realty transfer fee liability is finally determined.

Acknowledgment of the deposit shall be in writing in substantially the following form:

"Received from  
the sum of \_\_\_\_\_ on account of the presently  
undetermined realty transfer fee liability under P.L. 1968,  
c. 49, as a prerequisite for recording Deed No. \_\_\_\_\_,  
Book \_\_\_\_\_, Page \_\_\_\_\_. This payment is  
accepted in advance of the final determination of the amount  
of the fee for the purpose of facilitating the prompt recording  
of the deed.  
Date \_\_\_\_\_"  
Signature of Recording Officer

No county recording officer shall record any deed evidencing transfer of title to realty for which he has issued written acknowledgment of tentative deposit payment in accordance with the within regulation, unless such written acknowledgment of tentative deposit payment shall be recorded simultaneously with the deed.

**REG. 16:12-11.790 COPY OF ABSTRACT OF DEED TOGETHER WITH COPY OF AFFIDAVIT OF CONSIDERATION, IF ANY, TO BE TRANSMITTED TO COUNTY BOARD OF TAXATION**

Every county recording officer shall as soon as practicable forward to the County Board of Taxation an abstract of every deed recorded in his office together with a copy of the Affidavit of Consideration, if any, accompanying the same. If not sooner forwarded, he shall, no later than the first and fifteenth day of each month, forward the deeds and affidavits recorded more than 10 days prior to such dates.

**REG. 16:12-11.795 DISPOSITION OF REALTY TRANSFER FEES**

Realty Transfer Fees collected by a county recording officer shall be accounted for and remitted to the Treasurer of the County in which his office is located in the same manner as other fees collected for the use of the county. (See Law-Sec. 4.) A report of the fees collected shall be submitted to the County Treasurer in such form and within such time as the County Treasurer may prescribe.

NJ  
T7  
19

tr

ADDRESS ALL COMMUNICATIONS RELATING TO THESE  
REGULATIONS TO

**LOCAL PROPERTY TAX BUREAU  
REALTY TRANSFER FEE SECTION  
314 EAST STATE STREET  
TRENTON, NEW JERSEY 08625**

**APPENDIX**

**STATE OF NEW JERSEY  
"REALTY TRANSFER FEE"  
(c. 49, P.L. 1968 (N.J.S.A. 46:15-5 et seq.))**

AN ACT fixing fees to be imposed upon the recording of deeds transferring title to real property and providing penalties for the violations thereof.

**46:15-5. Definitions.** As used in this act [R. S. Cum. Supp. 46:15-5 et seq.]:

(a) "Deed" means an instrument or writing by which title to any lands, tenements or other realty sold shall be granted, assigned, transferred or otherwise conveyed.

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

(c) "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 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.

Source. L. 1968, c. 49, §1. Approved June 3, 1968, effective July 3, 1968.

**46:15-6 Additional prerequisites for recording.** In addition to other prerequisites for recording, no deed evidencing transfer of title to real property shall be recorded in the office of any county recording officer unless (a) the consideration therefor is recited therein and in the acknowledgment or proof of the execution thereof, or (b) an affidavit by one or more of the parties named therein or by their legal representatives declaring the consideration therefor is annexed thereto for recording with the deed.

Source. L. 1968, c. 49, §2. Approved June 3, 1968, effective July 3, 1968.

**46:15-7. Fee imposed on grantors.** In addition to the recording fees imposed by P.L. 1965, chapter 123, section 2 (C. 22A:4-4.1) a fee is imposed upon grantors, at the rate of \$0.50 for each \$500 of consideration or fractional part thereof recited in the deed, which fee shall



## INSTRUCTIONS

### 1. STATEMENT OF CONSIDERATION AND PAYMENT OF REALTY TRANSFER FEE ARE PREREQUISITES FOR RECORDING OF DEED

On and after July 3, 1968, no county recording officer shall record any deed evidencing transfer of title to real property unless (a) the consideration therefor is recited therein and in the acknowledgment or proof of the execution thereof, or (b) an affidavit by one or more of the parties named therein or by their legal representatives declaring the consideration therefor is annexed thereto for recording with the deed, and (c) a fee at the rate of \$0.50 for each \$500.00 of consideration or fractional part thereof [which fee shall be in addition to the recording fees imposed by P.L. 1965, chapter 123, section 2 (C. 22A:4-4.1)] shall be paid to the county recording officer at the time the deed is offered for recording.

### 2. WHEN AFFIDAVIT MUST BE ANNEXED TO DEED

(a) This affidavit must be annexed to and recorded with the deed in the event that the full consideration is not recited in both the deed and in the acknowledgment or proof of the execution thereof.

(b) This affidavit must also be annexed to and recorded with the deed where exemption from the fee is claimed, except where the exemption is claimed with respect to a deed by or to the United States of America, the State of New Jersey, or any instrumentality, agency or subdivision thereof.

### 3. LEGAL REPRESENTATIVE

"Legal representative" is to be interpreted broadly to include any person actively and responsibly participating in the transaction, such as but not limited to: an attorney representing one of the parties; a closing officer of a title company or lending institution participating in the transaction; a holder of power of attorney from grantor or grantee.

### 4. OFFICER OF CORPORATE GRANTOR OR CORPORATE GRANTEE

Item #2 must be executed only if deponent is an officer of corporate grantor or corporate grantee.

### 5. OFFICER OF TITLE COMPANY OR LENDING INSTITUTION

Item #3 must be executed only if deponent is a closing officer of a title company or lending institution participating in the transaction.

### 6. CONSIDERATION

"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 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. (P.L. 1968, c. 49, Sec. 1 (b)).

### 7. EXEMPTIONS FROM THE FEE

The fee imposed by this Act shall not apply to a deed:

- (a) For a consideration of less than \$100.00;
- (b) By or to the United States of America, this State, or any instrumentality, agency or subdivision thereof;
- (c) Solely in order to provide or release security for a debt or obligation;
- (d) Which confirms or corrects a deed previously recorded;
- (e) On a sale for delinquent taxes or assessments;
- (f) On partition;
- (g) Pursuant to mergers of corporations;
- (h) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;
- (i) Previously recorded in another county and full realty transfer fee paid or accounted for (specify County, Book, Page, Date of prior recording, and amount of realty transfer fee previously paid).

### 8. "REALTY TRANSFER FEE" IS A FEE IN ADDITION TO OTHER RECORDING FEES

The fee imposed under P.L. 1968, c. 49, is in addition to the usual recording fees imposed under P.L. 1965, c. 123, Sec. 2 (C. 22A:4-4.1). The "Realty Transfer Fee" is imposed upon grantors at the rate of 50¢ for each \$500.00 of consideration or fractional part thereof, which fee is required to be collected by the county recording officer at the time the deed is offered for recording.

### 9. PENALTY FOR WILLFUL FALSIFICATION OF CONSIDERATION

Any person who shall willfully falsify the consideration recited in a deed or in the proof or acknowledgment of the execution of a deed or in an affidavit declaring the consideration therefor annexed to a deed shall be adjudged a disorderly person. (P.L. 1968, c. 49, Sec. 5).