

**CHAPTER 16**  
**REALTY TRANSFER FEE**

**Authority**

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

**Source and Effective Date**

R.1993 d.481, effective October 4, 1993.  
See: 25 N.J.R. 2653(a), 25 N.J.R. 4604(b).

**Executive Order No. 66(1978) Expiration Date**

Chapter 16, Realty Transfer Fee, expires on October 4, 1998.

**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 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 was adopted as new rules by R.1993 d.481. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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**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.

“Blind person” means a person whose vision in his better eye with proper correction does not exceed 20/200 as measured by the Snellan 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.

“Corrective deed” means a deed which 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 Act. 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 Act.

“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 the fee imposed by the Act.

“Grantor” means the person who executed the deed or instrument by which title to any lands, tenements or other realty is transferred or otherwise conveyed.

“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:

1. An attorney representing one of the parties;
2. A closing officer of a title company or lending institution participating in the transaction;
3. A holder of power of attorney from grantor or grantee.

“Person” means a natural person, association, corporation and any other legal entity.

“New construction” means any conveyance or transfer of property upon which there is an entirely new improvement not previously occupied or used for any purpose.

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

“Senior citizen” means any resident of this State of the age of 62 years or over.

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).

#### Statutory References

As to the meanings of “deed”, “county recording officer”, and “consideration”, see N.J.S.A. 46:15-5 as amended.

#### Case Notes

Statute exempting portion of realty transfer fee for sale of property on which there was new construction applicable only to “entirely new” construction; taxpayer not entitled to exemption for construction work built upon remains of former apartment building gutted by fire. *Grand Chester Associates v. Taxation Div. Director*, 6 N.J.Tax 336 (Tax Ct.1984).

## SUBCHAPTER 2. PREREQUISITES FOR RECORDING

### 18:16-2.1 Conditions for recording of deed

(a) No county recording officer shall record any deed evidencing transfer of title to real property unless: