



CB Title

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Date: February 1, 2005

To: Clients and Friends

From: Cliff Bernstein

Re: Revisions to Affidavit of Consideration for Use by Buyer – Form RFT-1EE

TITLE INSURANCE BULLETIN –NEW JERSEY

Please note, revisions to the Mansion Tax have become effective today. The Division of Taxation has revised the Affidavit of Consideration for Use by Buyer (Form RFT-1EE with a revision date of 2/2005) in order to attempt to accommodate the changes to the statute, and use of the new form is effective today. The form is required only in cases where:

- The consideration for transfer of the property is in excess of \$1,000,000
- The entire consideration is not recited in the deed or acknowledgement
- The grantee claims an exemption from payment of the Mansion Tax

The major change to the form is the necessity of obtaining the official property classification for the property involved, which is available as part of the Official Tax List. As the requirements to pay or not pay the tax is based upon the classification, grantees must pay the Mansion Tax if the property is classified as one of the following:

- Class 2 – Residential (4 families or less)
- Class 3A – Farm Property and any other real property transferred to the same grantee in conjunction with the transfer of Class 3A property
- Class 4C – Residential Cooperative Unit

A copy of the form is attached. You can print the form from the Division of Taxation website at www.state.nj.us/treasury/taxation/lpt/localtax.htm.

Please call our office if you have any questions.

This bulletin is sent courtesy of CB Title Group, LLC and Stewart Title Guaranty Company

STATE OF NEW JERSEY

AFFIDAVIT OF CONSIDERATION FOR USE BY BUYER

(Chapter 49, P.L. 1968, as amended through Chapter 19, P.L. 2005)

To be recorded with deed pursuant to Chapter 49, P.L. 1968, as amended by Chapter 308, P.L. 1991 (N.J.S.A. 46:15-5 et seq.)
BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.

STATE OF NEW JERSEY

} ss.

COUNTY OF _____

FOR RECORDER'S USE ONLYConsideration \$ _____
RTF paid by buyer \$ _____
Date _____ By _____(1) **PARTY OR LEGAL REPRESENTATIVE** (See Instructions # 3 and #4 on reverse side)Deponent, _____, being duly sworn according to law upon his/her oath,
(Name)deposes and says that he/she is the _____ in a deed dated _____ transferring
(Grantor, Grantee, Legal Representative, Corporate Officer, Officer of Title Co., Lending Institution, etc.)real property identified as Block number _____ Lot number _____ located at

(Street Address, Municipality, County) and annexed thereto.(2) **CONSIDERATION** \$ _____ (See Instructions #1 and #5 on reverse side)

Entire consideration is in excess of \$1,000,000:

PROPERTY CLASSIFICATION CHECKED BELOW SHOULD BE TAKEN FROM THE OFFICIAL TAX LIST (WHICH IS A PUBLIC RECORD) OF THE MUNICIPALITY WHERE THE PROPERTY IS LOCATED IN THE YEAR THAT THE TRANSFER IS MADE.

(A) When Grantee pays:

- ☐ Class 2 - Residential (4 Families or less) ☐ Class 4C - Residential Cooperative Unit
- ☐ Class 3A - Farm property (Regular) and any other real property transferred to same grantee in conjunction with transfer of Class 3A property.

(B) When Grantee does not have to pay, fill out below:

- ☐ Property class. Circle applicable class(es): 1 4A 4B 4C 15
- ☐ Exempt Organization Pursuant to Federal Internal Revenue Code of 1986

Property classes: 1-Vacant Land, 4A-Commercial, 4B-Industrial, 4C-Apartment (other than residential cooperative unit), 15-Public Property

(3) **FULL EXEMPTION FROM FEE** (See Instruction #6 on reverse side)

Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by C. 49, P.L. 1968, as amended through Chapter 66, P.L. 2004, for the following reason(s). Mere reference to exemption symbol is insufficient. Explain in detail.

Deponent makes this Affidavit to induce county clerk or register of deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of Chapter 49, P.L. 1968, as amended through Chapter 19, P.L. 2005.

Subscribed and sworn to before me
this _____ day of _____, 20_________
Signature of Deponent_____
Grantee Name_____
Deponent Address_____
Grantee Address at Time of Sale_____
Name/Company of Settlement Officer**FOR OFFICIAL USE ONLY**Instrument Number _____ County _____
Deed Number _____ Book _____ Page _____
Deed Dated _____ Date Recorded _____

INSTRUCTIONS FOR FILING FORM RTF-1EE, AFFIDAVIT OF CONSIDERATION FOR USE BY BUYER

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

No county recording officer shall record any deed evidencing transfer of title to real property unless (a) the consideration is recited in the deed, or (b) an Affidavit for Use by Buyer by one or more of the parties named in the deed or by their legal representatives declaring the consideration is annexed for recording with the deed, and (c) for conveyances and transfers of property for which the total consideration recited in the deed is not in excess of \$350,000, a fee is remitted at the rate of \$2.00/\$500 of consideration or fractional part thereof not in excess of \$150,000; \$3.35/\$500 of consideration or fractional part thereof in excess of \$150,000 but not in excess of \$200,000; and \$3.90/\$500 of consideration or fractional part thereof in excess of \$200,000. For transfers of property for which the total consideration recited in the deed is in excess of \$350,000, a fee is remitted at the rate of \$2.90/\$500 of consideration or fractional part not in excess of \$150,000; \$4.25/\$500 of consideration or fractional part thereof in excess of \$150,000 but not in excess of \$200,000; \$4.80/\$500 of consideration or fractional part thereof in excess of \$200,000 but not in excess of \$550,000; \$5.30/\$500 of consideration or fractional part thereof in excess of \$550,000 but not in excess of \$850,000; \$5.80/\$500 of consideration or fractional part thereof in excess of \$850,000 but not in \$1,000,000; and \$6.05/\$500 of consideration or fractional part thereof in excess of \$1,000,000, which fee shall be paid in addition to the recording fees imposed by Chapter 123, P.L. 1965, Section 2 (C. 22A:4-4.1) as amended by Chapter 370, P.L. 2001, through Chapter 66, P.L. 2004, which fee shall be paid to the county recording officer at the time the deed is offered for recording/transfer. Of these fees, \$.75/\$500 of consideration or fractional part in excess of \$150,000 paid to the State Treasurer is credited to the Neighborhood Preservation Nonlapsing Revolving Fund.

In addition to all other fees imposed under Chapter 49, P.L. 1968 (C. 46:15-5 et seq.) as amended through Chapter 19, P.L. 2005, a fee is imposed upon the grantee of a deed for the transfer of real property for consideration in excess of \$1,000,000:

- A. that is classified pursuant to the requirements of N.J.A.C. 18:12-2.2 as Class 2 "residential";
- B. that includes property classified pursuant to N.J.A.C. 18:12-2.2 as Class 3A: "farm property (regular)" but only if the property includes a building or structure intended or suited for residential use, and; any other real property, regardless of class, that is effectively transferred to the same grantee in conjunction with farm property as described above; or
- C. that is a cooperative unit as defined in section 3 of P.L. 1987, c. 381 (C.46:8D-3).

The 1% fee is not imposed on an organization determined by the federal Internal Revenue Service to be exempt from federal income taxation pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986, 26 U.S.C. s. 501 that is the grantee in a deed for consideration in excess of \$1,000,000.

2. WHEN AFFIDAVIT FOR USE BY BUYER MUST BE ANNEXED TO DEED

- Recorded with the deed when the entire consideration is in excess of \$1,000,000;
- When grantee claims an exemption from payment of the fee;
- When the entire consideration is not recited in the deed or the acknowledgement or proof of the execution.

Exemptions from the RTF are found in N.J.S.A. 46:15-10.

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/OFFICER OF TITLE COMPANY OR LENDING INSTITUTION

Where a deponent is an officer of corporate grantor or grantee, state the name of corporation and officer's title or where a deponent is a closing officer of a title company or lending institution participating in the transaction, state the name of the company or institution and officer's title.

5. 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 assumed and agreed to be paid by the grantee and any other lien or encumbrance not paid, satisfied or removed in connection with the transfer of title. (C. 49, P.L. 1968, Section 1, as amended.)

6. FULL EXEMPTION FROM THE REALTY TRANSFER FEE (GRANTOR/GRAZTEE)

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

- (a) For consideration of less than \$100; (b) By or to the United States of America, this State, or any instrumentality, agency or subdivision; (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) By a receiver, trustee in bankruptcy or liquidation, or assignee for the benefit of creditors; (h) Eligible to be recorded as an "ancient deed" pursuant to R.S. 46:16-7; (i) Acknowledged or proved on or before July 3, 1968; (j) Between husband and wife, or parent and child; (k) Conveying a cemetery lot or plot; (l) In specific performance of a final judgment; (m) Releasing a right of reversion; (n) Previously recorded in another county and full Realty Transfer Fee paid or accounted for as evidenced by written instrument, attested to 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; (o) 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; (p) Recorded within 90 days following the entry of a divorce decree which dissolves the marriage between the grantor and grantee; (q) Issued by a cooperative corporation, as part of a conversion of all of the assets of the cooperative corporation into a condominium, to a shareholder upon the surrender by the shareholder of all of the shareholder's stock in the cooperative corporation and the proprietary lease entitling the shareholder to exclusive occupancy of a portion of the property owned by the corporation.

7. REALTY TRANSFER FEE IS A FEE IN ADDITION TO OTHER RECORDING FEES

The fee imposed under Chapter 49, P.L. 1968, as amended, is in addition to the usual recording fees imposed under Chapter 123, P.L. 1965, Section 2 (C. 22A: 4-4.1). The county recording officer is required to collect the Realty Transfer Fee at the time the deed is offered for recording/transfer.

8. PENALTY FOR WILLFUL FALSIFICATION OF CONSIDERATION AND TRANSFERS OF NEW CONSTRUCTION

Any person who knowingly falsifies the consideration recited in a deed or in the proof or acknowledgement of the execution of a deed or in an affidavit annexed to a deed declaring the consideration therefor or a declaration in an affidavit that a transfer is exempt from recording fee is guilty of a crime of the fourth degree (Chapter 308, P.L. 1991, effective June 1, 1992). The Division of Taxation is entitled to review the Fees collected pursuant to the State Uniform Procedure Law. The Director of the Division of Taxation is authorized to make deficiency assessments to taxpayers who have, intentionally or mistakenly, underestimated the consideration or sales price of properties on the Affidavit of Consideration for Use by Buyer attached to deeds and upon which the Realty Transfer Fee is based.