



**Title Insurance Services
New York New Jersey Nationwide**

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Date: July 13, 2006

To: All Clients and Friends

From: Cliff Bernstein

Re: Commercial “Mansion Tax” Signed into Law

TITLE INSURANCE BULLETIN – NEW JERSEY

The commercial “Mansion Tax” (A4701 / S1982) amending N.J.S.A. 46:15-7.2 was signed by Governor Corzine on July 8, 2006. The new law imposes a one percent (1%) fee on the purchaser of Class 4A commercial property for over \$1 Million. Class 4A properties are all commercial properties other than industrial properties or apartments. Property classes are defined in the New Jersey Administrative Code at §18:12-2.2, a copy of which is annexed hereto.

The new law applies to transfers of commercial property on or after August 1, 2006, however, deeds recorded on or before November 15, 2006 under a contract entered into before July 1, 2006 will get special treatment. While the 1% fee must still be paid upon recording, the fee will be refunded upon submission of a proper claim to the Division of Taxation.

The law also applies to non-deed transfers of a controlling interest (over 50%) in an entity that owns Class 4A property where the total consideration for transfer is in excess of \$1 million. This provision is intended to prevent the avoidance of the new transfer tax by a sale of a company owning Class 4A property rather than a sale of the property itself.

The New Jersey Division of Taxation will be issuing an amended RTF-1EE Affidavit of Consideration form reflecting the change to include Class 4A commercial property together with Class 2 Residential, Class 3A Farm property and Class 4C Cooperative apartment transfers for over \$1 million as requiring the additional 1% fee. You are reminded that every deed for over \$1 million regardless of property class must be accompanied by a completed RTF-1EE form.

Copies of both A4701 and S1982 are available at: <http://www.njleg.state.nj.us/> .

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

N.J.A.C. §18:12-2.2. Property classification with definitions

- (a) Class 1: "Vacant Land" means land itself above and under water in its original, indestructible, immobile state. Vacant land is idle land, not actively used for agricultural or any other purpose; unused acreage; and is land in an approved subdivision actively on the market for sale or being held for sale.
- (b) Class 2: "Residential" means property described generally as a dwelling house including the lot or parcel of land on which the dwelling house is situated. The dwelling is functionally designed for use and enjoyment by not more than four families. This class includes residential condominiums. A dwelling functionally designed for use and enjoyment by more than four families should be designated Class 4C.
- (c) Class 3A: "Farm property (Regular)" means land being used for agricultural or horticultural purposes, including its use for the breeding, pasturing and production of livestock and animal products. Farm property also includes land, together with improvements, where the use of the land and function of the buildings thereon are for agricultural or horticultural purposes, as well as farm houses and the lots or parcels of land on which they are situated. For definitions of agricultural use and horticultural use, see N.J.A.C. 18:15-1.1, adopted under the "Farmland Assessment Act of 1964", N.J.S.A. 54:4-23.1 et seq.
- (d) Class 3B: "Farm property (Qualified)" means land which has qualified and is assessed under the Farmland Assessment Act, P.L. 1964, c. 48.
- (e) Class 4A: "Commercial properties" means any other type of income-producing property other than property in classes 1, 2, 3A, 3B and those properties included in classes 4B and 4C below.
- (f) Class 4B: "Industrial properties" means land or land and improvements adaptable for industrial use; ideally, a combination of land, improvements, and machinery which has been integrated into a functioning unit intended for the assembling, processing, and manufacturing of finished or partially finished products from raw materials or fabricated parts, such as factories; or a similar combination intended for rendering service, such as laundries, dry cleaners or storage warehouses.
- (g) Class 4C: "Apartments" designed for the use and enjoyment of five families or more. This class includes residential co-operatives and mutual housing corporations.