

2019 -- H 5397

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO TAXATION -- REAL ESTATE CONVEYANCE TAX

Introduced By: Representatives Kazarian, Slater, O'Brien, Casimiro, and Alzate

Date Introduced: February 14, 2019

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-25-1 of the General Laws in Chapter 44-25 entitled "Real Estate
2 Conveyance Tax" is hereby amended to read as follows:

3 **44-25-1. Tax imposed -- Payment -- Burden.**

4 (a) There is imposed:

5 (1) ~~on~~ On each deed, instrument, or writing by which any lands, tenements, or other
6 realty sold is granted, assigned, transferred, or conveyed to, or vested in, the purchaser or
7 purchasers; or

8 (2) ~~any~~ Any other person or persons, by his or her or their direction, or on any grant,
9 assignment, transfer, or conveyance or such vesting, by such persons which has the effect of
10 making any real estate company an acquired real estate company, when the consideration paid
11 exceeds one hundred dollars (\$100), a tax at the rate of two dollars and thirty cents (\$2.30) for
12 each five hundred dollars (\$500) or fractional part of it which is paid for the purchase of property
13 or the interest in an acquired real estate company (inclusive of the value of any lien or
14 encumbrance remaining at the time of the sale, grant, assignment, transfer or conveyance or
15 vesting occurs, or in the case of an interest in an acquired real estate company, a percentage of the
16 value of such lien or encumbrance equivalent to the percentage interest in the acquired real estate
17 company being granted, assigned, transferred, conveyed or vested), which tax is payable at the
18 time of making, the execution, delivery, acceptance or presentation for recording of any
19 instrument affecting such transfer grant, assignment, transfer, conveyance or vesting. In the

1 absence of an agreement to the contrary, the tax shall be paid by the grantor, assignor, transferor
2 or person making the conveyance or vesting.

3 (3) Nothing in this subsection shall be construed to impose a tax under subsection (a)(2)
4 of this section:

5 (i) Upon any grant, assignment, transfer, conveyance or vesting of any interest, direct or
6 indirect, by or among owners, members or partners in any real estate company that owns, either
7 directly or indirectly through another real estate company, a housing development financed in
8 whole or in part with federal low income tax credits pursuant to §42 of the Internal Revenue
9 Code; or

10 (ii) Upon any grant, assignment, transfer, conveyance or vesting of any interest, direct or
11 indirect, by or among owners, members or partners in any real estate company, in which at least
12 one of the owners, members or partners is a Rhode Island nonprofit corporation or an entity
13 exempt from tax under § 501(c)(3) of the Internal Revenue Code or is owned by a Rhode Island
14 nonprofit corporation or an entity that is exempt from tax under § 501(c)(3) of the Internal
15 Revenue Code, that owns, either directly or indirectly through another real estate company, a
16 housing development that is subject to a recorded deed restriction or declaration of land use
17 restrictive covenants in favor of the Rhode Island housing and mortgage finance corporation, the
18 state of Rhode Island housing resources commission, the federal home loan bank or any of its
19 members, or any other state or local government instrumentality under an affordable housing
20 program. No such real estate company shall be an acquired real estate company under this
21 section.

22 (b) In the event no consideration is actually paid for the lands, tenements, or realty, the
23 instrument or interest in an acquired real estate company of conveyance shall contain a statement
24 to the effect that the consideration is such that no documentary stamps are required.

25 (c) The tax administrator shall contribute to the distressed community relief program the
26 sum of thirty cents (\$.30) per two dollars and thirty cents (\$2.30) of the face value of the stamps
27 to be distributed pursuant to § 45-13-12, and to the housing resources commission restricted
28 receipts account the sum of thirty cents (\$.30) per two dollars and thirty cents (\$2.30) of the face
29 value of the stamps. Funds will be administered by the office of housing and community
30 development, through the housing resources commission. The state shall retain sixty cents (\$.60)
31 for state use. The balance of the tax shall be retained by the municipality collecting the tax.
32 Notwithstanding the above, in the case of the tax on the grant, transfer, assignment or conveyance
33 or vesting with respect to an acquired real estate company, the tax shall be collected by the tax
34 administrator and shall be distributed to the municipality where the real estate owned by the

1 acquired real estate company is located provided, however, in the case of any such tax collected
2 by the tax administrator, if the acquired real estate company owns property located in more than
3 one municipality, the proceeds of the tax shall be allocated amongst said municipalities in the
4 proportion the assessed value of said real estate in each such municipality bears to the total of the
5 assessed values of all of the real estate owned by the acquired real estate company in Rhode
6 Island. Provided, however, in fiscal years 2004 and 2005, from the proceeds of this tax, the tax
7 administrator shall deposit as general revenues the sum of ninety cents (\$.90) per two dollars and
8 thirty cents (\$2.30) of the face value of the stamps. The balance of the tax on the purchase of
9 property shall be retained by the municipality collecting the tax. The balance of the tax on the
10 transfer with respect to an acquired real estate company, shall be collected by the tax
11 administrator and shall be distributed to the municipality where the property for which interest is
12 sold is physically located. Provided, however, that in the case of any tax collected by the tax
13 administrator with respect to an acquired real estate company where the acquired real estate
14 company owns property located in more than one municipality, the proceeds of the tax shall be
15 allocated amongst the municipalities in proportion that the assessed value in any such
16 municipality bears to the assessed values of all of the real estate owned by the acquired real estate
17 company in Rhode Island.

18 (d) For purposes of this section, the term "acquired real estate company" means a real
19 estate company that has undergone a change in ownership interest if (i) such change does not
20 affect the continuity of the operations of the company; and (ii) the change, whether alone or
21 together with prior changes has the effect of granting, transferring, assigning or conveying or
22 vesting, transferring directly or indirectly, 50% or more of the total ownership in the company
23 within a period of three (3) years. For purposes of the foregoing subsection (ii) hereof, a grant,
24 transfer, assignment or conveyance or vesting, shall be deemed to have occurred within a period
25 of three (3) years of another grant(s), transfer(s), assignment(s) or conveyance(s) or vesting(s) if
26 during the period the granting, transferring, assigning or conveying or party provides the
27 receiving party a legally binding document granting, transferring, assigning or conveying or
28 vesting said realty or a commitment or option enforceable at a future date to execute the grant,
29 transfer, assignment or conveyance or vesting.

30 (e) A real estate company is a corporation, limited liability company, partnership or other
31 legal entity which meets any of the following:

32 (i) Is primarily engaged in the business of holding, selling or leasing real estate, where
33 90% or more of the ownership of said real estate is held by 35 or fewer persons and which
34 company either (a) derives 60% or more of its annual gross receipts from the ownership or

1 disposition of real estate; or (b) owns real estate the value of which comprises 90% or more of the
2 value of the entity's entire tangible asset holdings exclusive of tangible assets which are fairly
3 transferrable and actively traded on an established market; or

4 (ii) 90% or more of the ownership interest in such entity is held by 35 or fewer persons
5 and the entity owns as 90% or more of the fair market value of its assets a direct or indirect
6 interest in a real estate company. An indirect ownership interest is an interest in an entity 90% or
7 more of which is held by 35 or fewer persons and the purpose of the entity is the ownership of a
8 real estate company.

9 (f) In the case of a grant, assignment, transfer or conveyance or vesting which results in a
10 real estate company becoming an acquired real estate company, the grantor, assignor, transferor,
11 or person making the conveyance or causing the vesting, shall file or cause to be filed with the
12 division of taxation, at least five (5) days prior to the grant, transfer, assignment or conveyance or
13 vesting, notification of the proposed grant, transfer, assignment, or conveyance or vesting, the
14 price, terms and conditions of thereof, and the character and location of all of the real estate assets
15 held by real estate company and shall remit the tax imposed and owed pursuant to subsection (a)
16 hereof. Any such grant, transfer, assignment or conveyance or vesting which results in a real
17 estate company becoming an acquired real estate company shall be fraudulent and void as against
18 the state unless the entity notifies the tax administrator in writing of the grant, transfer,
19 assignment or conveyance or vesting as herein required in subsection (f) hereof and has paid the
20 tax as required in subsection (a) hereof. Upon the payment of the tax by the transferor, the tax
21 administrator shall issue a certificate of the payment of the tax which certificate shall be
22 recordable in the land evidence records in each municipality in which such real estate company
23 owns real estate. Where the real estate company has assets other than interests in real estate
24 located in Rhode Island, the tax shall be based upon the assessed value of each parcel of property
25 located in each municipality in the state of Rhode Island.

26 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO TAXATION -- REAL ESTATE CONVEYANCE TAX

1 This act would exempt a housing development financed in whole or in part with federal
2 low income tax credits pursuant to § 42 of the Internal Revenue Code, as well as Rhode Island
3 nonprofit corporations or entities which are tax exempt pursuant to § 501(c)(3) of the Internal
4 Revenue Code and own real estate under an affordable housing program, from real estate
5 conveyance tax.

6 This act would take effect upon passage.

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