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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO TAXATION -- REAL ESTATE CONVEYANCE TAX

Introduced By: Senators Goldin, Goodwin, and Ruggerio

Date Introduced: February 25, 2016

Referred To: Senate Judiciary

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.** -- (a) There is imposed, on each deed,
4 instrument, or writing by which any lands, tenements, or other realty sold is granted, assigned,
5 transferred, or conveyed to, or vested in, the purchaser or purchasers, or any other person or
6 persons, by his or her or their direction, or on any grant, assignment, transfer, or conveyance or
7 such vesting, by such persons which has the effect of making any real estate company an acquired
8 real estate company, when the consideration paid exceeds one hundred dollars (\$100), a tax at the
9 rate of two dollars and thirty cents (\$2.30) for each five hundred dollars (\$500) or fractional part
10 of it which is paid for the purchase of property or the interest in an acquired real estate company
11 (inclusive of the value of any lien or encumbrance remaining at the time of the sale, grant,
12 assignment, transfer or conveyance or vesting occurs, or in the case of an interest in an acquired
13 real estate company, a percentage of the value of such lien or encumbrance equivalent to the
14 percentage interest in the acquired real estate company being granted, assigned, transferred,
15 conveyed or vested); Nothing in this subsection shall be construed to impose a real estate
16 conveyance tax upon any transfer of partnership interest, direct or indirect, among partners or
17 members in a business organization owning a housing development financed in whole or in part
18 with federal low income housing tax credits pursuant to Section 42 of the Internal Revenue Code,
19 which tax is payable at the time of making, the execution, delivery, acceptance or presentation for

1 recording of any instrument affecting such transfer grant, assignment, transfer, conveyance or
2 vesting. In the absence of an agreement to the contrary, the tax shall be paid by the grantor,
3 assignor, transferor or person making the conveyance or vesting.

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

7 (c) The tax administrator shall contribute to the distressed community relief program the
8 sum of thirty cents (\$.30) per two dollars and thirty cents (\$2.30) of the face value of the stamps
9 to be distributed pursuant to § 45-13-12, and to the housing resources commission restricted
10 receipts account the sum of thirty cents (\$.30) per two dollars and thirty cents (\$2.30) of the face
11 value of the stamps. Funds will be administered by the office of housing and community
12 development, through the housing resources commission. The state shall retain sixty cents (\$.60)
13 for state use. The balance of the tax shall be retained by the municipality collecting the tax.
14 Notwithstanding the above, in the case of the tax on the grant, transfer, assignment or conveyance
15 or vesting with respect to an acquired real estate company, the tax shall be collected by the tax
16 administrator and shall be distributed to the municipality where the real estate owned by the
17 acquired real estate company is located provided, however, in the case of any such tax collected
18 by the tax administrator, if the acquired real estate company owns property located in more than
19 one municipality, the proceeds of the tax shall be allocated amongst said municipalities in the
20 proportion the assessed value of said real estate in each such municipality bears to the total of the
21 assessed values of all of the real estate owned by the acquired real estate company in Rhode
22 Island. Provided, however, in fiscal years 2004 and 2005, from the proceeds of this tax, the tax
23 administrator shall deposit as general revenues the sum of ninety cents (\$.90) per two dollars and
24 thirty cents (\$2.30) of the face value of the stamps. The balance of the tax on the purchase of
25 property shall be retained by the municipality collecting the tax. The balance of the tax on the
26 transfer with respect to an acquired real estate company, shall be collected by the tax
27 administrator and shall be distributed to the municipality where the property for which interest is
28 sold is physically located. Provided, however, that in the case of any tax collected by the tax
29 administrator with respect to an acquired real estate company where the acquired real estate
30 company owns property located in more than one municipality, the proceeds of the tax shall be
31 allocated amongst the municipalities in proportion that the assessed value in any such
32 municipality bears to the assessed values of all of the real estate owned by the acquired real estate
33 company in Rhode Island.

34 (d) For purposes of this Section, the term "acquired real estate company" means a real

1 estate company that has undergone a change in ownership interest if (i) such change does not
2 affect the continuity of the operations of the company; and (ii) the change, whether alone or
3 together with prior changes has the effect of granting, transferring, assigning or conveying or
4 vesting, transferring directly or indirectly, 50% or more of the total ownership in the company
5 within a period of three (3) years. For purposes of the foregoing subsection (ii) hereof, a grant,
6 transfer, assignment or conveyance or vesting, shall be deemed to have occurred within a period
7 of three (3) years of another grant(s), transfer(s), assignment(s) or conveyance(s) or vesting(s) if
8 during the period the granting, transferring, assigning or conveying or party provides the
9 receiving party a legally binding document granting, transferring, assigning or conveying or
10 vesting said realty or a commitment or option enforceable at a future date to execute the grant,
11 transfer, assignment or conveyance or vesting.

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

14 (i) Is primarily engaged in the business of holding, selling or leasing real estate, where
15 90% or more of the ownership of said real estate is held by 35 or fewer persons and which
16 company either (a) derives 60% or more of its annual gross receipts from the ownership or
17 disposition of real estate; or (b) owns real estate the value of which comprises 90% or more of the
18 value of the entity's entire tangible asset holdings exclusive of tangible assets which are fairly
19 transferrable and actively traded on an established market; or

20 (ii) 90% or more of the ownership interest in such entity is held by 35 or fewer persons
21 and the entity owns as 90% or more of the fair market value of its assets a direct or indirect
22 interest in a real estate company. An indirect ownership interest is an interest in an entity 90% or
23 more of which is held by 35 or fewer persons and the purpose of the entity is the ownership of a
24 real estate company.

25 (f) In the case of a grant, assignment, transfer or conveyance or vesting which results in a
26 real estate company becoming an acquired real estate company, the grantor, assignor, transferor,
27 or person making the conveyance or causing the vesting, shall file or cause to be filed with the
28 division of taxation, at least five (5) days prior to the grant, transfer, assignment or conveyance or
29 vesting, notification of the proposed grant, transfer, assignment, or conveyance or vesting, the
30 price, terms and conditions of thereof, and the character and location of all of the real estate assets
31 held by real estate company and shall remit the tax imposed and owed pursuant to subsection (a)
32 hereof. Any such grant, transfer, assignment or conveyance or vesting which results in a real
33 estate company becoming an acquired real estate company shall be fraudulent and void as against
34 the state unless the entity notifies the tax administrator in writing of the grant, transfer,

1 assignment or conveyance or vesting as herein required in subsection (f) hereof and has paid the
2 tax as required in subsection (a) hereof. Upon the payment of the tax by the transferor, the tax
3 administrator shall issue a certificate of the payment of the tax which certificate shall be
4 recordable in the land evidence records in each municipality in which such real estate company
5 owns real estate. Where the real estate company has assets other than interests in real estate
6 located in Rhode Island, the tax shall be based upon the assessed value of each parcel of property
7 located in each municipality in the state of Rhode Island.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TAXATION -- REAL ESTATE CONVEYANCE TAX

1 This act would exclude the transfer of any interest, in housing development's financed in
2 whole or in part with federal low income housing tax credits, amongst partners or members of
3 certain business organizations, from real estate conveyance taxes.

4 This act would take effect upon passage.

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