

CHAPTER 56  
FORMERLY  
HOUSE BILL NO. 279

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO REALTY TRANSFER TAX.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend § 5402, Title 30 of the Delaware Code by making deletions as shown by the strike through and insertions as shown by underline as follows:

§ 5402 Rate of tax; when payable; exception.

(a) Every person who makes, executes, delivers, accepts or presents for recording any document, except as defined or described in § 5401(4) of this title, or in whose behalf any document is made, executed, delivered, accepted or presented for recording shall be subject to pay for and in respect to the transaction, or any part thereof, a realty transfer tax at the rate of 23 percent of the value of the property represented by such document, unless the municipality or county where the property is located has enacted the full 1 1/2 percent realty transfer tax authorized by § 1601 of Title 22 or § 8102 of Title 9, in which case ~~4~~ 1/2 percent, which tax shall be payable at the time of making, execution, delivery, acceptance or presenting of such document for recording. Said tax is to be apportioned equally between grantor and grantee.

(b) No tax shall be imposed on conveyances when the actual value of the property being transferred is less than \$100.

(c) Notwithstanding subsection (a) of this section, where a valid written contract is entered into prior to August 1, 1971, the tax for such a transfer shall be at the rate imposed prior to August 1, 1971.

(d) Every person who makes, executes, delivers, accepts or presents for recording any document defined or described in § 5401(4) of this title, or in whose behalf any such document is made, executed, delivered, accepted or presented for recording shall be subject to pay for and in respect to the transaction, or in any part thereof, a realty transfer tax at the rate of 23 percent of the value of the property represented by such document, unless the municipality or county where the property is located has enacted the full 1 1/2 percent realty transfer tax authorized by § 1601 of Title 22 or § 8102 of Title 9, in which case ~~4~~ 1/2 percent, which tax shall be payable as follows:

(1) The tax on the consideration attributed to the first year of the term shall be payable at the time of making, execution, delivery, acceptance or presenting of such document for recording;

(2) The tax on the consideration attributed to each successive year of the term thereafter shall be paid annually to the Division of Revenue.

(e) There shall be no tax imposed on any document described in § 5401(4) of this title entered into prior to July 7, 1973.

(f) Notwithstanding subsection (a) of this section, the rate of tax on documents described in § 5401(8) of this title shall be 4 percent on amounts exceeding \$10,000, which shall be borne by the owner of the building whose construction is made subject to tax under § 5401(8).

Section 2. This Act shall take effect on August 1, 2017. The modifications to the realty transfer tax made by this Act shall not apply to the transfer of real estate pursuant to contracts for the sale of real estate entered into before August 1, 2017.

Approved July 3, 2017