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DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 87

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 5401, Title 30 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 5401. Definitions.

4 As used in this subchapter, except where the context clearly indicates a different meaning:

5 (1) "Document" means any deed, instrument or writing whereby any real estate within this State, or any
6 interest therein, shall be quitclaimed, granted, bargained, sold, or otherwise conveyed to the grantee, but shall not
7 include the following:

8 v. Any conveyance to or from an organization exempt from tax under § 501(c)(3) of the federal Internal
9 Revenue Code when the purpose of said conveyance is to provide owner-occupied housing to low and moderate
10 income households by doing any of the following:

11 1. rehabilitating Rehabilitating residential properties and reselling said properties without profit;

12 2. Constructing residences on properties and reselling the properties without profit;

13 x. Any conveyance to or from a land bank formed under Chapter 47 of Title ~~34~~ 31;

14 y.1. Any portion of a conveyance that meets all of the following:

15 A. The grantee's intent and obligation is to construct affordable housing units;

16 B. The conveyance is financed using funding provided by the federal government, this State, or a
17 county or municipality of this State for the purpose of constructing affordable housing units;

18 2. For purposes of this paragraph (1)y., "affordable housing units" means a residential dwelling for a
19 household whose income does not exceed 80% of the median income for the area as defined by the United
20 States Department of Housing and Urban Development;

21 z. Any portion of a conveyance financed through the federal Low Income Housing Tax Credit program.

22 (2) "First-time home buyer" means any 1 of the following:

23 a. A natural person who has at no time held any direct legal interest in residential real estate, wherever
24 located, and who intends to do one of the following:

25 1. ~~occupy~~ Occupy the property being conveyed as ~~his or her~~ the natural person's principal residence
26 within 90 days following the transaction.

27 2. Occupy the property being conveyed as the natural person's principal residence after the
28 construction of a residence on the property within 90 days of securing the certificate of occupancy.

29 b. Spouses purchasing as joint tenants or tenants by the entirety, when neither spouse has ever held any
30 direct legal interest in residential real estate, wherever located, and both of whom intend to do one of the
31 following:

32 1. ~~occupy~~ Occupy the property being conveyed as their principal residence within 90 days following
33 the transaction.

34 2. Occupy the property being conveyed as their principal residence after the construction of a
35 residence on the property within 90 days of securing the certificate of occupancy.

36 c. Individuals purchasing as joint tenants or cotenants, when ~~none~~ neither of the individuals has ever held
37 any direct legal interest in residential real estate, wherever located, and both of whom intend to do one of the
38 following:

39 1. ~~occupy~~ Occupy the property being conveyed as their principal residence within 90 days following
40 the transaction.

41 2. Occupy the property being conveyed as their principal residence after the construction of a
42 residence on the property within 90 days of securing the certificate of occupancy.

SYNOPSIS

This Act makes the following changes to the realty transfer tax:

(1) Clarifies that the exemption from the realty transfer tax for conveyances to or from an organization exempt from tax under § 501(c)(3) of the federal Internal Revenue Code when the purpose of the conveyance is to provide owner-occupied housing to low and moderate income households applies to rehabilitating residential properties and reselling the properties without profit and to constructing residences on properties and reselling the properties without profit.

(2) Exempts any portion of a conveyance in which it is the grantee's intent to construct affordable housing units and the conveyances are financed using funding provided by the federal government, this State, or a county or municipality of this State for the purpose of constructing affordable housing units, defined as a residential dwelling for a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development.

(3) Exempts any portion of a conveyance financed through the federal Low Income Housing Tax Credit program.

(4) Clarifies that individuals are first-time homebuyers if they intend to occupy the property being conveyed as their principal residence after the construction of a residence on the property to include circumstances where the residence cannot be built within 90 days after the property is purchased.

This Act corrects the first-time homebuyer definition related to individuals purchasing as joint tenants or cotenants to replace “none” with “neither” to conform the number of joint tenants or cotenants indicated by the indefinite pronoun to the number indicated by the use of “both” later in the sentence.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Huxtable