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HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 36

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 § 5402, Title 30 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline and redesignate accordingly as follows:

3 § 5402. Rate of tax; when payable; exception [For application of this section, see 81 Del. Laws, c. 56, § 2 and 81
4 Del. C. 384, § 3].

5 (a) Every person who makes, executes, delivers, accepts or presents for recording any document, except as defined
6 or described in § 5401(5) of this title, or in whose behalf any document is made, executed, delivered, accepted or presented
7 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
8 of ~~3 percent~~ 2% of the value of the property represented by such document, unless the municipality or county where the
9 property is located has enacted the full 1½ percent realty transfer tax authorized by § 1601 of Title 22 or § 8102 of Title 9,
10 in which case ~~2½ percent~~, 1½%, which tax shall be payable at the time of making, execution, delivery, acceptance or
11 presenting of such document for recording. Said tax is to be apportioned equally between grantor and grantee.

12 (b) No tax shall be imposed on conveyances when the actual value of the property being transferred is less than \$
13 ~~400~~ \$100.

14 (c) Notwithstanding subsection (a) of this section, for any first-time home buyer who enters into a transaction, on
15 or after August 1, 2017, who would otherwise be subject to the rate of tax set forth in subsection (a) of this section, that
16 portion of the realty transfer tax payable by the first-time home buyer shall be reduced by an amount equal to ½ percent
17 multiplied by the lesser of the value of the property or \$400,000. The first-time home buyer reduction set forth in this
18 subsection shall apply to the grantee's portion of the realty transfer tax as defined in subsection (a) and shall not relieve the
19 grantor from payment of the grantor's portion of the realty transfer tax as defined in subsection (a).

20 (d) Every person who makes, executes, delivers, accepts or presents for recording any document defined or
21 described in § 5401(5) of this title, or in whose behalf any such document is made, executed, delivered, accepted or

22 presented for recording shall be subject to pay for and in respect to the transaction, or in any part thereof, a realty transfer
23 tax at the rate of ~~3 percent~~ 2% of the value of the property represented by such document, unless the municipality or county
24 where the property is located has enacted the full 1½ percent realty transfer tax authorized by § 1601 of Title 22 or § 8102
25 of Title 9, in which case ~~2½ percent~~, 1 ½%, which tax shall be payable as follows:

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

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

30 (e) ~~There shall be no tax imposed on any document described in § 5401(5) of this title entered into prior to July 7,~~
31 ~~1973. [Repealed.]~~

32 (f) Notwithstanding subsection (a) of this section, the rate of tax on documents described in § 5401(9) of this title
33 shall be ~~2 percent~~ 1% on amounts exceeding \$10,000, which shall be borne by the owner of the building whose
34 construction is made subject to tax under § 5401(9) of this title.

35 Section 2. This Act applies to any document recorded after [the effective date of this Act] and for subsection §
36 5402(f) of Title 30, to building permits applied for after [the effective date of this Act].

SYNOPSIS

This Act decreases by 1% the rate of the realty transfer tax to be received by the State, thereby returning it to the rate that was applicable prior to August 1, 2017. The Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual. This Act will apply to documents recorded and permits applied for after the effective date of the Act.