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HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 358

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO DECREASING 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 strikethrough and
2 insertions as shown by underline as follows:

3 § 5402. Rate of tax; when payable; exception

4 (a) Every person who makes, executes, delivers, accepts or presents for recording any document, except as defined
5 or described in § 5401(5) of this title, or in whose behalf any document is made, executed, delivered, accepted or presented
6 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
7 of ~~3%~~ 2% of the value of the property represented by such document, unless the municipality or county where the property
8 is located has enacted the full 1 1/2 % realty transfer tax authorized by § 1601 of Title 22 or § 8102 of Title 9, in which case
9 ~~2-1/2 %~~ 1 1/2%, which tax shall be payable at the time of making, execution, delivery, acceptance or presenting of such
10 document for recording. Said tax is to be apportioned equally between grantor and grantee.

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

13 ~~(c) Notwithstanding subsection (a) of this section, for any first time home buyer who enters into a transaction, on~~
14 ~~or after August 1, 2017, who would otherwise be subject to the rate of tax set forth in subsection (a) of this section, that~~
15 ~~portion of the realty transfer tax payable by the first time home buyer shall be reduced by an amount equal to 1/2 percent~~
16 ~~multiplied by the lesser of the value of the property or \$400,000. The first time home buyer reduction set forth in this~~
17 ~~subsection shall apply to the grantee's portion of the realty transfer tax as defined in subsection (a) and shall not relieve the~~
18 ~~grantor from payment of the grantor's portion of the realty transfer tax as defined in subsection (a). [Repealed.]~~

19 (d) Every person who makes, executes, delivers, accepts or presents for recording any document defined or
20 described in § 5401(5) of this title, or in whose behalf any such document is made, executed, delivered, accepted or
21 presented for recording shall be subject to pay for and in respect to the transaction, or in any part thereof, a realty transfer
22 tax at the rate of ~~3%~~ 2% of the value of the property represented by such document, unless the municipality or county
23 where the property is located has enacted the full 1 1/2 % realty transfer tax authorized by § 1601 of Title 22 or § 8102 of
24 Title 9, in which case ~~2-1/2%~~ 1 1/2 %, which tax shall be payable as follows:

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

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

29 ~~(e) There shall be no tax imposed on any document described in § 5401(4) of this title entered into prior to July 7,~~
30 ~~1973. [Repealed.]~~

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

34 Section 2. This Act shall apply to any documents recorded after July 1, 2022 and for subsection (f) for building
35 permits applied for after July 1, 2022.

SYNOPSIS

This Act decreases by 1% the rate of realty transfer tax to be received by the State, thereby returning to the rate that was applicable prior to August 1, 2017. This will be effective for documents recorded after July 1, 2022.