

First Jersey Title Reports

a periodic newsletter from *First Jersey*
to keep you up to date with the changes in *Title Services*.

September 2011

Certain Residential Sales Exempted from the Bulk Sales Notification Requirement

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Date Issued: **September 28, 2011**

In 2007 the New Jersey Legislature adopted the following law to promote the collection of unpaid state taxes:

Whenever a person shall make a sale ... in bulk of any part or the whole of the person's business assets, otherwise than in the ordinary course of business, the purchaser ... shall, at least 10 days before taking possession of the subject of the sale ... or paying therefore, notify the director [of taxation] ... of the proposed sale NJSA 54:50-38.a.

The penalty under the 2007 legislation for a non-complying purchaser is severe:

If the purchaser ... shall fail to give notice to the director as required by the preceding paragraph, or if the director shall inform the purchaser ... that a possible claim for such State tax or taxes exists, ... the purchaser ... shall be personally liable for the payment to the State of any such taxes theretofore or thereafter determined to be due to the State from the seller NJSA54:50-38.c. [Emphasis added]

The State of New Jersey recently amended the cited law to provide certain limited relief, retroactive to August 1, 2007. The statute now provides expressly that the above-quoted tax-collection mechanism:

...shall not apply to the sale, transfer or assignment of a simple dwelling house if the seller ... is an "individual," "estate," or "trust" ... ; [the notification requirement] shall apply to the sale ... of a simple dwelling house if the seller ... is a business entity, including but not limited to a corporation or a partnership. "Simple dwelling house" means a dwelling unit, attached or detached, and land appurtenant thereto, including but not limited to a one-family or two-family building or structure, a unit of a horizontal property regime established pursuant to the "Horizontal Property Act," ... a unit in a housing cooperative ... or a unit of a condominium property ..., but does not include a structure or structures containing more than two units of dwelling space or containing, according to the records of the municipal property tax assessor, commercial property including, or in addition to, the units of dwelling space. P.L.2011, C. 124, Assembly Bill No. A2748. [Emphasis added.]

The same amendment also offers relief from the notification requirement for the new concept of “seasonal rentals,” declaring that the tax-collection statute:

...shall not apply to the sale, transfer or assignment of a seasonal rental unit ... of real property if the seller ... is an “individual,” “estate,” or “trust” ...; [the notification requirement] shall apply to the sale ... of a seasonal rental unit ... of real property if the seller ... is a business entity, including but not limited to a corporation or a partnership. [Emphasis added]

For purposes of this law, “seasonal rental unit” means a term of not more than 125 consecutive days for residential purposes by a person having a permanent residence elsewhere.

As was the case under the 2007 original version of the law, the amended bulk sales notification statute:

- (1) does not create any liens against the insured title,
- (2) does not expose any recorded title instrument to the risk of being set aside, and
- (3) does not impose any liability on the closer of the real property title transaction to the State of New Jersey because of the purchaser’s failure to comply with any notification obligation imposed by the statute on the purchaser.

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