

First Jersey Title Reports

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

May 2009

GIT/REP-4 Waiver Applicable to Short Sales



— Division of Taxation —

Notice to Real Estate Closing Attorneys/Settlement Agents on Short Sales: GIT/REP-4 Waiver May 20, 2009

The recent increase in mortgage defaults in New Jersey and across the country has brought on real estate transactions commonly known as “short sales.” In a short sale transaction, the defaulting seller (mortgagor) works out an agreement with the lender to avoid the need for a foreclosure action. Instead of signing over a deed to the lender (which means the lender then has to sell the property to try to recoup all or part of the outstanding mortgage debt plus costs), the seller and the lender agree that in return for the lender not pursuing a foreclosure action, the seller will sell the property (at a loss or no income gain) and the lender will agree to take the proceeds from the sale with no proceeds going to the seller. Therefore, a real estate sale by a non-resident seller/grantor that is subject to a short sale, is, in effect, very similar to a deed in lieu situation which does not require the collection at closing of a minimum of 2% of the consideration representing income tax withholding on estimated gain from the real property transfer.

However, this needs to be confirmed by the Division before the deed may be recorded by the county recording officer. Accordingly, when a seller is claiming that his/her real property is being sold as a short sale, the seller or settlement agent must send the Division a copy of the proposed deed, HUD-1 statement, a statement from the lender that this is a short sale and that all proceeds from the sale will go to the lender with the seller receiving no proceeds, and a GIT/REP-4 waiver form. If the documentation supports the seller's request for a waiver, the GIT/REP-4 will be stamped with the Division's raised seal and returned to the seller or settlement agent for filing with the deed.

Important: All inquiries concerning short sales should be directed to: New Jersey Division of Taxation, Regulatory Services Branch, 50 Barrack Street, P.O. Box 269, Trenton, New Jersey 08695-0269 or by fax at (609) 989-0113.

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First Jersey Title Services Inc.
P.O. Box 2525
Fair Lawn, NJ 07410
201-791-4200 fax 201-791-9050
www.firstjerseytitle.com