City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

Legislation Text

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Amending Chapter 19-1400 of The Philadelphia Code, entitled "Realty Transfer Tax," to clarify the definition of "Value," under certain terms and conditions.

WHEREAS, in Bill No. 160810 (approved Dec. 20, 2016), Council closed a loophole to provide that transfer tax would be paid on the actual value of the real estate held by an acquired real estate company;

WHEREAS, certain taxpayers have contended that Council intended, instead, to *expand* such loophole and to allow transfer tax to be paid on a fraction of the actual value of the real estate, in cases where the real estate is acquired subject to a lien;

WHEREAS, the clear intent of the acquired real estate company provisions of the transfer tax law, as well as of Bill No. 160810, is to put taxpayers who sell real estate by means of an acquired real estate company on the same footing as ordinary citizens who sell real estate without such devices; and not to provide such taxpayers a tax advantage that is not available to ordinary citizens;

WHEREAS, Council now wishes to eliminate any manufactured disputes and to clarify its intent; now, therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-1400 of The Philadelphia Code is amended to read as follows:

CHAPTER 19-1400. REALTY TRANSFER TAX

* * *

§ 19-1402. Definitions.

* * *

(14) Value.

(a) In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be [paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate:] *paid;* Provided, that where such documents to be recorded shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth

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in or actual consideration for the contract of sale;

* * *

(d) The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principal of the grantor or a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(e) In the case of the real estate of an acquired real estate company other than a family farm corporation, the monetary value of the real estate directly or indirectly held by the company. Where the change in ownership is part of a bona fide arm's length sale, there shall be a rebuttable presumption that the monetary value is the actual consideration paid for the company, provided that the taxpayer may rebut that presumption by alternative proof of the actual value of the included real estate.

(f) As used in this subsection (14) ("Value"), the term "actual consideration" shall include any liens or other encumbrances on the real estate existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate.

SECTION 2. This Ordinance shall be effective immediately.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.

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