

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 771 Session of 2003

INTRODUCED BY SCHWARTZ, JUNE 6, 2003

REFERRED TO FINANCE, JUNE 6, 2003

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," further providing for the realty transfer tax.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The definition of "real estate company" in
14 section 1101-C of the act of March 4, 1971 (P.L.6, No.2), known
15 as the Tax Reform Code of 1971, amended July 2, 1986 (P.L.318,
16 No.77), is amended to read:

17 Section 1101-C. Definitions.--The following words when used
18 in this article shall have the meanings ascribed to them in this
19 section:

20 * * *

21 "Real estate company." (a) A corporation or association

1 which is primarily engaged in the business of holding, selling
2 or leasing real estate ninety per cent or more of the ownership
3 interest in which is held by thirty-five or fewer persons and
4 which:

5 (1) derives sixty per cent or more of its annual gross
6 receipts from the ownership or disposition of real estate; or

7 (2) holds real estate, the value of which comprises [ninety]
8 fifty per cent or more of the value of its entire tangible asset
9 holdings exclusive of tangible assets which are freely
10 transferable and actively traded on an established market.

11 (b) A corporation or association which holds, directly or
12 indirectly, as ninety per cent or more of the values of its
13 assets, an interest in a real estate company.

14 * * *

15 Section 2. Sections 1102-C, 1102-C.3(16) and 1102-C.5
16 heading, (a) and (c) of the act, amended or added July 2, 1986
17 (P.L.318, No.77), are amended to read:

18 Section 1102-C. Imposition of Tax.--Every person who
19 transfers ownership of real estate situate within this
20 Commonwealth or who makes, executes, delivers, accepts or
21 presents for recording any document or in whose behalf any
22 document is made, executed, delivered, accepted or presented for
23 recording, or who accepts ownership of real estate situate
24 within this Commonwealth shall be subject to pay for and in
25 respect to the transaction or any part thereof, or for or in
26 respect of the vellum parchment or paper upon which such
27 document is written or printed, a State tax at the rate of one
28 per cent of the value of the real estate represented by such
29 document, which State tax shall be payable at the earlier of the
30 time the document is presented for recording or within thirty

1 days of acceptance of such document or within thirty days of
2 becoming an acquired real estate company or family farm
3 corporation.

4 Section 1102-C.3. Excluded Transactions.--The tax imposed by
5 section 1102-C shall not be imposed upon:

6 * * *

7 (16) A transfer between two natural persons by a mortgagor
8 to the [holder of a bona fide mortgage in default in lieu of a
9 foreclosure or a transfer pursuant to a judicial sale in which
10 the successful bidder is the bona fide holder of a mortgage,
11 unless the holder assigns the bid to another person.] original
12 grantor holding the purchase money mortgage whether such a
13 transfer is pursuant to a deed in lieu of a foreclosure or a
14 transfer pursuant to a judicial sale.

15 * * *

16 Section 1102-C.5. Acquired Real Estate Company.--(a) A real
17 estate company is an acquired company upon a change in the
18 ownership interest in the company, however effected, if the
19 change:

20 (1) does not affect the continuity of the company; and

21 (2) of itself or together with prior changes has the effect
22 of transferring, directly or indirectly, ninety per cent or more
23 of the total ownership interest in the company within a period
24 of three years. A transfer shall be considered to have occurred
25 within a period of three years of another transfer or transfers,
26 if a legally binding commitment to execute that transfer was
27 made within that period.

28 * * *

29 (c) Within thirty days after becoming an acquired company or
30 family farm corporation, the company shall present a declaration

1 of acquisition with the recorder of each county in which it
2 holds real estate for the affixation of documentary stamps and
3 recording. Such declaration shall set forth the value of real
4 estate holdings of the acquired company in such county.

5 Section 3. This act shall take effect in 60 days.