

CHAPTER 124

AN ACT exempting sales of certain homes and seasonal rentals from the bulk sale notification requirements, amending P.L.2007, c.100.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 5 of P.L.2007, c.100 (C.54:50-38) is amended to read as follows:

C.54:50-38 Notification to director of proposed sale, transfer, assignment of business assets; claim for State taxes; exemptions.

5. a. (1) Whenever a person shall make a sale, transfer, or assignment in bulk of any part or the whole of the person's business assets except as provided by paragraph (2) of this subsection, otherwise than in the ordinary course of business, the purchaser, transferee or assignee shall, at least 10 days before taking possession of the subject of the sale, transfer or assignment, or paying therefor, notify the director by registered mail, or other such method as the director may prescribe, of the proposed sale and of the price, terms and conditions thereof whether or not the seller, transferrer or assignor has represented to, or informed the purchaser, transferee or assignee that the seller, transferrer or assignor owes any State tax and whether or not the purchaser, transferee, or assignee has knowledge that such taxes are owing, and whether any such taxes are in fact owing. Within 10 days of receiving such notice, the director shall notify the purchaser, transferee or assignee by such means as the director may prescribe that a possible claim for State taxes exists and include the amount of the State's claim.

(2) (a) Paragraph (1) of this subsection shall not apply to the sale, transfer or assignment of a simple dwelling house if the seller, transferrer or assignor is an "individual," "estate," or "trust" as those terms are used for the purposes of the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; paragraph (1) shall apply to the sale, transfer or assignment of a simple dwelling house if the seller, transferrer or assignor 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," P.L.1963, c.168 (C.46:8A-1 et seq.), a unit in a housing cooperative as defined under "The Cooperative Recording Act of New Jersey," P.L.1987, c.381 (C.46:8D-1 et seq.), or a unit of a condominium property established pursuant to the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.), 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.

(b) Paragraph (1) of this subsection shall not apply to the sale, transfer or assignment of a seasonal rental unit or the sale, transfer or assignment of a lease for the seasonal use or rental of real property if the seller, transferrer or assignor is an "individual," "estate," or "trust" as those terms are used for the purposes of the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; paragraph (1) shall apply to the sale, transfer or assignment of a seasonal rental unit or the sale, transfer or assignment of a lease for the seasonal use or rental of real property if the seller, transferrer or assignor is a business entity, including but not limited to a corporation or a partnership.

For the purposes of this paragraph:

"seasonal rental unit" means

(i) a “timeshare estate” as that term is defined by section 2 of P.L.2006, c.63 (C.45:15-16.51); and

(ii) a dwelling unit rented for a term of not more than 125 consecutive days for residential purposes by a person having a permanent residence elsewhere; and

“lease for the seasonal use or rental of real property” means

(i) a “timeshare use” as that term is defined by section 2 of P.L.2006, c.63 (C.45:15-16.51); and

(ii) the use or rental for a term of not more than 125 consecutive days for residential purposes by a person having a permanent place of residence elsewhere.

b. If, upon receiving timely notice of a sale, transfer or assignment from a purchaser, transferee or assignee, the director fails to provide timely notice to the purchaser, transferee or assignee that a possible claim for such State tax or taxes exists, the purchaser, transferee or assignee may transfer over to the seller, transferrer or assignor any sums of money, property or choses in action, or other consideration to the extent of the amount of the State's claim. The purchaser, transferee or assignee shall not be subject to the liabilities and remedies imposed under the provisions of the uniform commercial code, Title 12A of the New Jersey Statutes, and shall not 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, transferrer or assignor.

c. If the purchaser, transferee or assignee shall fail to give notice to the director as required by the preceding paragraph, or if the director shall inform the purchaser, transferee or assignee that a possible claim for such State tax or taxes exists, any sums of money, property or choses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferrer or assignor shall be subject to a first priority right and lien for any such State taxes theretofore or thereafter determined to be due from the seller, transferrer or assignor to the State, and the purchaser, transferee or assignee is forbidden to transfer to the seller, transferrer or assignor any such sums of money, property or choses in action to the extent of the amount of the State's claim. For failure to comply with the provisions of this section the purchaser, transferee or assignee, in addition to being subject to the liabilities and remedies imposed under the provisions of the uniform commercial code, Title 12A of the New Jersey Statutes, 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, transferrer or assignor, and such liability may be assessed and enforced in the same manner as the liability for any State tax under the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

2. This act shall take effect immediately, and shall apply retroactively to sales, transfers and assignments on or after August 1, 2007.

Approved September 14, 2011.