

CHAPTER 288
HB 1656-FN - FINAL VERSION

05/05/2016 1466s
05/05/2016 1637s
1June2016... 2019CofC

2016 SESSION

16-2461
09/10

HOUSE BILL **1656-FN**

AN ACT relative to exceptions to the real estate transfer tax.

SPONSORS: Rep. D. McGuire, Merr. 21; Rep. Lovejoy, Rock. 36; Rep. Abrami, Rock. 19;
Sen. Sanborn, Dist 9

COMMITTEE: Ways and Means

AMENDED ANALYSIS

This bill establishes exceptions from the real estate transfer tax for certain transfers of title related to changes in form of organization or made between the owners and the entity for no consideration.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Sixteen

AN ACT relative to exceptions to the real estate transfer tax.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 288:1 Purpose. The purpose of RSA 78-B:2, XXII as inserted by this act is to clarify existing
2 law.

3 288:2 New Paragraphs; Exceptions to Real Estate Transfer Tax. Amend RSA 78-B:2 by
4 inserting after paragraph XX the following new paragraphs:

5 XXI.(a) To a transfer of title provided that:

6 (1) The transfer of title, where no consideration is exchanged, is coincidental to a
7 change in the transferor's form of organization to that of the transferee;

8 (2) As a result of the change in the transferor's form of organization, the assets and
9 liabilities of the transferor immediately preceding the change in form of organization and the assets
10 and liabilities of the transferee immediately following the change in form of organization are the
11 same; and

12 (3) At the time of the transfer of title, the owner or owners of the transferor and the
13 owner or owners of the transferee, and the respective ownership percentages of each, are identical.

14 (b) For the purpose of this paragraph, a beneficial interest in a trust shall be considered
15 an ownership interest in such trust.

16 XXII. To a transfer of title from the owners of an entity to the entity, or from the entity to
17 the owners of the entity; provided that:

18 (a) No consideration is exchanged for the transfer of the real estate; and

19 (b) The direct or indirect owners of the parties to the transfer remain the same before
20 and after the transfer of the real estate, the respective ownership percentages of each are identical,
21 and the combined assets and liabilities of the transferor and transferee remain the same except
22 with respect to the real estate.

23 288:3 Real Estate Transfer Tax; Definition; Price or Consideration. Amend RSA 78-B:1-a, IV to
24 read as follows:

25 IV. "Price or consideration", in a contractual transfer, means the amount of money, or other
26 property and services, or property or services valued in money which is given in exchange for real
27 estate, and measured at a time immediately after the transfer of the real estate. The value of such
28 consideration in contractual transfers where the property exchanged includes the surrender of
29 rights or choses-in-action by the transferee, including the surrender of shareholder or beneficial

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1 interest holder rights in liquidation of a corporation or other entity, the forgiveness of an obligation
2 owed to the transferee, or the assumption of an obligation by the transferee, shall be no less than
3 the fair market value of the real estate or interest in such real estate as determined by the
4 department pursuant to RSA 78-B:9, III; except that in the case of a deed given in lieu of a
5 foreclosure, the value of such consideration shall be the amount by which the debt of the obligor
6 secured by the real estate or interest in the real estate is reduced plus the amount of such debt
7 which is assumed by the transferee in exchange for the real estate, if any. *Transfers made solely*
8 *to obtain financing or refinancing, as required by a lending institution, and that*
9 *accomplish no other business purposes shall not be considered sufficient consideration to*
10 *make a transfer a contractual transfer. The recitation of nominal consideration of \$10 or*
11 *other valuable consideration for purposes of satisfying the statute of frauds is not*
12 *consideration for purposes of this chapter.*

13 288:4 Applicability. This act shall apply to transfers occurring on and after the effective date of
14 this act.

15 288:5 Effective Date. This act shall take effect upon its passage.

16 Approved: June 21, 2016

17 Effective Date: June 21, 2016

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