Rep. Almy, Graf. 13
Rep. Bershtein, Rock. 2
Rep. Gomarlo, Ches. 12
March 7, 2019
2019-0887h
10/04

Amendment to HB 600-FN

Amend the title of the bill by replacing it with the following:

AN ACT adding an exception to the real estate transfer tax for transfers of interest in certain low-income housing.

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Real Estate Transfer Tax; Exception Added; Federally Rent Restricted Properties. Amend RSA 78-B:2 by inserting after paragraph XXII the following new paragraphs:

XXIII.(a) To a direct or indirect transfer of an interest in real property, provided that the real estate transfer tax was paid by the buyer or seller, or an affiliate of either, when the real property title was acquired, unless otherwise exempt pursuant to this section, and the transfer is made in connection with the commencement, syndication, development, re-syndication, or conclusion of investment financing related to any of the following:

(1)(A)(i) A federal low-income housing tax credit project, as defined in Section 42 of the Internal Revenue Code of 1986, as amended; or

(ii) A project funded with federal grants made to states for low-income housing projects in lieu of low-income housing tax credits under Section 1602 of the American Recovery and Reinvestment Act of 2009;

(B) Provided that the project under subparagraph (A)(i) or (A)(ii) remains subject to an extended low-income housing commitment in accordance with the provisions of Section 42(h)(6) of the Internal Revenue Code of 1986, as amended.

(2) A Rental Assistance Demonstration (RAD) public housing conversion under the federal Consolidated and Further Continuing Appropriations Act of 2012, as amended.

(3) Such other federal, state, or local financing program requiring that the real estate remains subject to land use restriction and rental housing affordability covenants which limit allowable rents charged to individuals or families, consistent with (i) RSA 674:58, IV, pertaining to workforce housing; or (ii) as otherwise required under the applicable federal, state, or local program.

(b) For purposes of this paragraph, "affiliate" means any entity which controls or is controlled by, or is under common control with, another entity. For purposes of this definition, an entity controls another entity when the first entity possesses or exercises directly, or indirectly through one or more other affiliates or related entities, the power to direct the management and policies of the other entity, whether through the ownership of voting rights, membership, or the power to appoint members, trustees, or directors, by contract or otherwise.

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AMENDED ANALYSIS

This bill excepts from the real estate transfer tax certain transfers of interest in low-income housing subject to federal restrictions or other requirements where the property remains subject to land use restriction and affordability covenants.