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An Act To Clarify the Application of the Real Estate Transfer Tax with Regard to Partial Sales of Corporations That Own Real Estate

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §4641, sub-§3, as amended by PL 2001, c. 559, Pt. I, §2 and affected by §15, is further amended to read:

3. Value. "Value" means the amount of the actual consideration for real property, except that in the case of a gift, or a contract or deed with nominal consideration or without stated consideration, or in the case of the transfer of a controlling interest in an entity with a fee interest in real property when the consideration for the real property cannot be determined, "value" is to be based on the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

"Value" does not include the amount of consideration attributable to vacation exchange rights, vacation services or club memberships or the costs associated with those rights, services or memberships. Upon request of a municipal assessor or the State Tax Assessor, a developer of a time-share estate, as defined in Title 33, section 591, subsection 7, or an association of time-share estate owners shall provide an itemized schedule of fees included in the sales price of a time-share estate.

With respect to the transfer of a controlling interest, "value" means the same percentage of real property value as the percentage of the entity that was sold or otherwise transferred during the 12 months preceeding the sale of the real property.

SUMMARY

This bill changes the basis upon which the value of real estate is determined for real estate transfer tax purposes. It specifies that when a portion of an entity is sold, but the entity retains ownership in real estate, the value of the real estate subject to the real estate transfer tax is based only on the percentage of the entity that was transferred during the 12-month period preceding the real estate transaction.