

CHAPTER 282

AN ACT concerning urban enterprise zones, amending P.L.1983, c.303 and P.L.2021, c.197.

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

1. Section 21 of P.L.1983, c.303 (C.52:27H-80) is amended to read as follows:

C.52:27H-80 Sales tax exemption for retail sales.

21. a. (1) Receipts of retail sales, made by a seller located in an eligible block group, as defined in subsection a. of section 12 of P.L.2021, c.197 (C.52:27H-99) and provided a UZ-2 certification by the authority from a place of business owned or leased and regularly operated by the seller for the purpose of making retail sales, and located in a designated enterprise zone established pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or a UEZ-impacted business district established prior to the effective date of P.L.2021, c.197 pursuant to section 3 of P.L.2001, c.347 (C.52:27H-66.2), shall be exempt to the extent of 50 percent of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

(2) As used in this section, the term "retail sales" means all retail sales except retail sales of:

(1) motor vehicles;

(2) alcoholic beverages as defined in the "Alcoholic beverage tax law," R.S.54:41-1 et seq.;

(3) cigarettes as defined in the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.);

(4) manufacturing machinery, equipment or apparatus;

(5) energy;

(6) medical cannabis and cannabis products sold under the "Jake Honig Compassionate Use Medical Cannabis Act," P.L.2009, c.307 (C.24:6I-1 et seq.); and

(7) recreational cannabis and cannabis products sold under the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act," P.L.2021, c.16 (C.24:6I-31 et seq.).

b. Any seller, which is a qualified business having a place of business located in a designated enterprise zone or in a designated UEZ-impacted business district, may apply to the UEZ Authority for a UZ-2 certification pursuant to this section provided the seller is located in an eligible block group, as defined in subsection a. of section 12 of P.L.2021, c.197 (C.52:27H-99). The UEZ Authority shall certify a seller if the UEZ Authority shall find that the seller owns or leases and regularly operates a place of business located in the designated enterprise zone or in the designated UEZ-impacted business district for the purpose of making retail sales, that items are regularly exhibited and offered for retail sale at that location, and that the place of business is not utilized primarily for the purpose of catalogue or mail order sales. The certification under this section shall remain in effect during the time the business retains its status as a qualified business meeting the eligibility criteria of section 27 of P.L.1983, c.303 (C.52:27H-86). However, the UEZ Authority may at any time revoke a certification granted pursuant to this section if the UEZ Authority shall determine that the seller no longer complies with the provisions of this section. The Department of the Treasury shall provide to a qualified business a certificate evidencing its UZ-2 certification, which certificate shall indicate the location at which the sales tax exemption provided for in this section is available.

c. Notwithstanding the provisions of P.L.1983, c.303 (C.52:27H-60 et seq.) to the contrary, except as may otherwise be provided by section 7 of P.L.1983, c.303 (C.52:27H-66), the authority may, in its discretion, determine if the provisions of this section shall apply to any enterprise zone designated after the effective date of P.L.1985, c.142 (C.52:27H-66 et al.);

provided, however, that the authority may make such a determination only where the authority finds that the award of an exemption of 50 percent of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) will not have any adverse economic impact upon any other urban enterprise zone.

d. Notwithstanding any other provision of law to the contrary, the gross amount of all revenues received from the taxation of retail sales to which the exemption under this section applies, except for amounts credited to the Property Tax Reform Account in the Property Tax Relief Fund pursuant to paragraph 7 of Section I of Article VIII of the New Jersey Constitution, shall be deposited immediately upon collection by the Department of the Treasury into the enterprise zone assistance fund created pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88); provided, however, tax collected at the site of a redevelopment project which is the subject of a redevelopment agreement with the State pursuant to section 3 of P.L.1996, c.124 (C.13:1E-116.3) shall be credited to the Municipal Landfill Closure and Remediation Fund pursuant to subsection b. of section 6 of P.L.1996, c.124 (C.13:1E-116.6) and tax revenues on retail sales of cannabis items shall be credited to the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund and the Underage Deterrence and Prevention Account pursuant to subsection a. of section 41 of P.L.2021, c.16 (C.24:6I-50).

2. Section 29 of P.L.1983, c.303 (C.52:27H-88) is amended to read as follows:

C.52:27H-88 Enterprise zone assistance fund.

29. a. (1) There is created an enterprise zone assistance fund to be held by the State Treasurer, which shall be the repository for all moneys required to be deposited therein under section 21 of P.L.1983, c.303 (C.52:27H-80), as amended by this act, P.L.2023, c.282, and moneys appropriated annually to the fund. All moneys in the fund shall be held and disbursed in accordance with this section and section 11 of P.L.2021, c.197 (C.52:27H-98) as necessary to fulfill the purposes of this section and subject to the requirements hereinafter prescribed. The State Treasurer may invest and reinvest any moneys in the fund, or any portion thereof, to strengthen capital structures, leverage additional debt capital, and increase lending and investing in economically disadvantaged communities, and in any other manner that advances the goals of the Urban Enterprise Zone program, including, but not limited to, legal obligations of the United States or of the State or of any political subdivision thereof or government-sponsored enterprises. Any income from, interest on, or increment to moneys so invested or reinvested shall be included in the fund.

The amount in the enterprise zone assistance fund, which shall be available to fulfill the purposes of this section, shall be as follows:

(a) In the first five State fiscal years next following the effective date of P.L.2021, c.197, 100 percent of the amount determined pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be available to fulfill the purposes of this section;

(b) In the sixth State fiscal year next following the effective date of P.L.2021, c.197, 95 percent of the amount determined pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be available to fulfill the purposes of this section and five percent of such amount shall be deposited in the General Fund;

(c) In the seventh State fiscal year next following the effective date of P.L.2021, c.197, 90 percent of the amount determined pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be available to fulfill the purposes of this section and 10 percent of such amount shall be deposited in the General Fund;

(d) In the eighth State fiscal year next following the effective date of P.L.2021, c.197, 85 percent of the amount determined pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be available to fulfill the purposes of this section and 15 percent of such amount shall be deposited in the General Fund;

(e) In the ninth State fiscal year next following the effective date of P.L.2021, c.197, 80 percent of the amount determined pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be available to fulfill the purposes of this section and 20 percent of such amount shall be deposited in the General Fund; and

(f) In the 10th State fiscal year next following the effective date of P.L.2021, c.197, 75 percent of the amount determined pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be available to fulfill the purposes of this section and 25 percent of such amount shall be deposited in the General Fund.

(2) The State Treasurer shall maintain separate accounts for each enterprise zone designated under P.L.1983, c.303 (C.52:27H-60 et seq.) that is in good standing with the UEZ Authority in accordance with rules adopted by the UEZ Authority, and one in the authority's name for the administration of the Urban Enterprise Zone program, and for providing grants, including planning grants, investments, loans, or other guaranties related to qualified assistance fund expenses. The State Treasurer shall credit to each account an amount of the moneys deposited in the fund and available to fulfill the purposes of this section, which amount shall be determined by a weighted formula that applies 50 percent weight to a zone municipality's number of commercial and industrial parcels as recorded by the municipal tax assessor, its Municipal Revitalization Index Distress Score, as determined by the Department of Community Affairs, and the average number of unemployed persons in the municipality according to data provided by the New Jersey Department of Labor and Workforce Development, and 50 percent weight to the gross taxable sales in the municipality subject to reduced sales tax pursuant to section 21 of P.L.1983, c.303 (C.52:27H-80), as determined by the State Treasurer. The data used in the formula, developed under this section, shall be the most recent data that has been made available by the Department of Community Affairs, the Department of Labor and Workforce Development, and the State Treasurer. When funds are received by a qualifying municipality pursuant to this subsection, the funds shall be placed in a new trust or, for a qualifying municipality that has a trust for an enterprise zone on the effective date of P.L.2021, c.197, in the existing trust. The Division of Local Government Services in the Department of Community Affairs shall promulgate regulations, policies, or procedures as necessary to implement the provisions of this section.

(3) Beginning in State Fiscal Year 2022, \$2,500,000 shall be appropriated annually from the account in the authority's name for the administration of the Urban Enterprise Zone program, and for providing grants, investments, loans, or other guaranties related to qualified assistance fund expenses. This amount shall be adjusted annually by the percentage change in the 12-month Consumer Price Index from June 30 to July 1.

(4) The State Treasurer shall promulgate the rules and regulations necessary to govern the administration of the fund for the purposes of this section, which shall include, but not be limited to, regulations requiring the establishment of separate bank accounts for funds credited to the enterprise zone account of each municipality from the enterprise zone assistance fund, commonly known as "first generation funds," and funds generated from the repayments of loans to individuals and businesses from the enterprise zone account of each municipality and the proceeds from the sale of properties and equipment acquired through the enterprise zone program, commonly known as "second generation funds," and the review, compilation, and monitoring of second generation fund quarterly reports submitted by each enterprise zone.

Any individual, including an individual who is not directly employed by a municipality, with the authority to administer, allocate or approve the use of zone assistance funds is subject to the "Local Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1 et seq.), unless the individual is a State employee or a special State officer.

b. The enterprise zone assistance fund shall be used for the purpose of assisting qualifying municipalities in which enterprise zones are designated in undertaking economic development projects in designated enterprise zones by funding qualified assistance fund expenses. However, a municipality shall not appropriate or expend: more than 25 percent of the amount annually credited to its enterprise zone assistance fund for public safety purposes, as described in paragraph (4) of subsection m. of section 3 of P.L.1983, c.303 (C.52:27H-62); or more than 10 percent of the amount annually credited to its enterprise zone assistance fund for administrative expenses.

c. The governing body of a qualifying municipality in which an enterprise zone is designated and the zone development corporation created or designated by the municipality for that enterprise zone may, by resolution jointly adopted after public hearing, propose to undertake an economic development project in the enterprise zone, and to fund that project from moneys deposited in the enterprise zone assistance fund and credited to the account maintained by the State Treasurer for the enterprise zone.

The proposal so adopted shall set forth a plan for the project and shall include:

- (1) A description of the proposed project;
- (2) An estimate of the total project costs, and an estimate of the amounts of funding necessary annually from the enterprise zone account;
- (3) A statement of any other revenue sources to be used to finance the project;
- (4) A statement of the time necessary to complete the project;
- (5) A statement of the manner in which the proposed project furthers the municipality's policy and intentions for addressing economic development in the enterprise zone as set forth in the zone development plan approved by the authority; and
- (6) A description of the financial and programmatic controls and reporting mechanisms to be used to guarantee that the funds will be spent in accordance with the plan and that the project will accomplish its purpose.

As used in this section, "project" means an activity that satisfies the requirements of a qualified assistance fund expense, as that term is defined in subsection m. of section 3 of P.L.1983, c.303 (C.52:27H-62), and which will lead to the creation of new jobs and increased economic activity within the zone.

- d. (Deleted by amendment, P.L.2021, c.197)
- e. (Deleted by amendment, P.L.2021, c.197)
- f. (Deleted by amendment, P.L.2021, c.197)
- g. (Deleted by amendment, P.L.2021, c.197)

h. At the end of a State fiscal year, if a municipality has not encumbered a portion of its allocation, such amount may be carried forward to the next State fiscal year and the State fiscal year thereafter. If at the end of the third State fiscal year any of those unencumbered funds remain, then the funds shall be transferred to the UEZ Authority's account in the enterprise zone assistance fund.

i. At the end of a State fiscal year, if a municipality has not expended or otherwise committed a portion of its encumbered funds, then such amount may be carried forward to the next three succeeding State fiscal years. If at the end of the third State fiscal year any unexpended funds remain, then the funds shall be transferred to the UEZ Authority's account in the enterprise zone assistance fund.

j. At the end of a State fiscal year, the Department of Community Affairs shall review an enterprise zone's expenditures of funds received from the zone assistance fund. If the department finds that an enterprise zone expended such funds in a manner inconsistent with the provisions of P.L.1983, c.303 (C.52:27H-60 et seq.) and P.L.2021, c.197, then the enterprise zone shall repay such funds to the department through the forfeiture of future zone assistance fund disbursements. The department shall withhold future funding from the enterprise zone until the enterprise zone enters into and complies with a corrective action plan developed by the department.

k. If in a State fiscal year the amount allocated to the enterprise zone assistance fund is less than the amount required to be allocated to fulfill the purposes of this section pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) and paragraph (1) of subsection a. of this section, the Legislature shall appropriate to the enterprise zone assistance fund the amount that was not allocated in such State fiscal year in a succeeding State fiscal year along with the funds required to be allocated in that State fiscal year.

3. Section 11 of P.L.2021, c.197 (C.52:27H-98) is amended to read as follows:

C.52:27H-98 Tax expenditures for State fiscal years.

11. a. The combined State tax expenditures in State Fiscal Year 2022 for the Urban Enterprise Zone Special Sales Tax Rate and Urban Enterprise Zone Exempt Business Purchases, as expressed in the Fiscal Year 2022 State of New Jersey Tax Expenditure Report, shall be the "ZAF base fund amount."

In State Fiscal Year 2023, the amount to be appropriated to the enterprise zone assistance fund and made available to fulfill the purposes set forth in section 29 of P.L.1983, c.303 (C.52:27H-88) shall be determined as follows: The State Treasurer, in consultation with the UEZ Authority, shall determine the combined State tax expenditures for the Urban Enterprise Zone Special Sales Tax Rate and Urban Enterprise Zone Exempt Business Purchases in the six-month period beginning January 1, 2022 and ending June 30, 2022. The combined State tax expenditures for the Urban Enterprise Zone Special Sales Tax Rate and Urban Enterprise Zone Exempt Business Purchases for the six-month period beginning January 1, 2022 and ending June 30, 2022, shall be multiplied by two and then subtracted from the ZAF base fund amount. The difference shall be the amount to be appropriated to the enterprise zone assistance fund and made available to fulfill the purposes set forth in section 29 of P.L.1983, c.303 (C.52:27H-88) in State Fiscal Year 2023.

Beginning in State Fiscal Year 2024, and in each State fiscal year thereafter, the amount to be appropriated to the enterprise zone assistance fund and made available to fulfill the purposes set forth in section 29 of P.L.1983, c.303 (C.52:27H-88) shall be determined as follows: After January 1 but prior to June 30, the State Treasurer, in consultation with the UEZ Authority, shall develop a methodology to compare the combined State tax expenditures for the Urban Enterprise Zone Special Sales Tax Rate and Urban Enterprise Zone Exempt Business Purchases in the prior State fiscal year with the ZAF base fund amount to calculate the savings achieved by P.L.2021, c.197. The savings determined shall be the amount appropriated to the enterprise zone assistance fund to fulfill the purposes set forth in section 29 of P.L.1983, c.303 (C.52:27H-88) for the State fiscal year.

b. Notwithstanding the provisions of subsection a. of this section, for State Fiscal Year 2023 and thereafter, the amount appropriated to the enterprise zone assistance fund and made available to fulfill the purposes set forth in section 29 of P.L.1983, c.303 (C.52:27H-88) shall not exceed \$82,500,000, and in Fiscal Year 2024, and in each year thereafter, \$82,500,000 as

adjusted annually based on the percentage change in the 12-month Consumer Price Index from June 30 to July 1 of each year, and shall be no less than \$60,000,000. Should the balance of the enterprise zone assistance fund be in excess of the amount appropriated annually to fulfill the purposes set forth in section 29 of P.L.1983, c.303 (C.52:27H-88), such excess amount shall be deposited in the General Fund. If the application of the formulas set forth in subsection a. of this section will result in an appropriation to the enterprise zone assistance fund that is less than \$60,000,000 and made available to fulfill the purposes set forth in section 29 of P.L.1983, c.303 (C.52:27H-88) in any State fiscal year, then the State Treasurer, in consultation with the UEZ Authority, shall impose a limit on the receipts from retail sales of tangible personal property and sales of services to a qualified business that are exempt from the sales and use tax pursuant to section 20 of P.L.1983, c.303 (C.52:27H-79); provided, however, that no less than the receipts from the first \$50,000 of retail sales of tangible personal property and sales of services to a qualified business shall be exempt from the sales and use tax in accordance with section 20 of P.L.1983, c.303 (C.52:27H-79).

4. This act shall take effect at the beginning of the next reporting period following 30 days after enactment.

Approved January 16, 2024.