

[First Reprint]

ASSEMBLY, No. 1678

STATE OF NEW JERSEY

214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

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SYNOPSIS

Establishes a New Jersey Homebuyer Tax Credit Program under the New Jersey gross income tax for home purchases during a qualified period.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on May 13, 2010, with amendments.

(Sponsorship Updated As Of: 10/1/2010)

1 AN ACT establishing a New Jersey Homebuyer Tax Credit Program
2 under the New Jersey gross income tax for home purchases
3 during ¹**calendar year 2010** a qualified period¹, supplementing
4 Title 54A of the New Jersey Statutes.

5

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

8

9 1. a. A taxpayer shall be allowed a credit against the tax
10 otherwise due under the "New Jersey Gross Income Tax Act,"
11 N.J.S.54A:1-1 et seq., for a qualified home purchase ¹**during the**
12 **taxable year that begins in calendar year 2010,** for a contract of
13 sale executed within 365 days following the date of enactment of
14 P.L. 2010, c (C.) (pending before the Legislature as this
15 bill)¹ in an amount equal to five percent of the price paid for the
16 purchase or \$15,000, whichever is less, provided that the home is
17 intended to be used as the taxpayer's principle residence for 36
18 consecutive months after the ¹**qualified** home purchase, and subject
19 to the further limitations provided in this section.

20 b. ¹(1) A taxpayer completing a qualified home purchase of a
21 qualified residential property previously occupied as a residence
22 within 365 days following the date of the execution of the contract
23 of sale may claim a credit allowed pursuant to this section. To
24 reserve a credit, the taxpayer and seller shall jointly sign and submit
25 to the Director of the Division of Taxation in the Department of the
26 Treasury a certification that they have entered into a fully executed
27 contract of sale. Upon receipt of the certification, the director shall
28 notify the taxpayer that the division has reserved the credit for the
29 taxpayer, pending the director's receipt from the taxpayer, within
30 14 calendar days of settlement, of the HUD-1 Settlement Statement
31 for the qualified home purchase of a qualified residential property
32 previously occupied as a residence.

33 ²(2) A taxpayer completing a qualified home purchase of a new
34 qualified residential property within 545 days following the date of
35 the execution of the contract of sale may claim a credit allowed
36 pursuant to this section. To reserve a credit, the taxpayer and seller
37 shall jointly sign and submit to the director a certification that they
38 have entered into a fully executed contract of sale. Upon receipt of
39 the certification, the director shall notify the taxpayer that the
40 division has reserved the credit for the taxpayer, pending the
41 director's receipt from the taxpayer, within 14 calendar days of
42 settlement, of the HUD-1 Settlement Statement for the qualified
43 home purchase of a new qualified residential property.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted May 13, 2010.

1 c.¹ The total amount of the credit allowed shall be divided and
2 applied in equal amounts for three consecutive taxable years,
3 beginning in the taxable year of the purchase and continuing in the
4 next two taxable years. The amount of the credit allowed shall be
5 applied against the tax otherwise due under N.J.S.54A:1-1 et seq. in
6 each taxable year after all other credits and payments allowed in the
7 taxable year. If the credit allowed reduces the tax liability
8 otherwise due to zero, any amount of the credit remaining shall be
9 paid to the taxpayer as a refund of an overpayment of tax pursuant
10 to N.J.S.54A:9-7, provided however, subsection (f) of that section,
11 concerning the allowance of interest, shall not apply. The director
12 shall determine the form and manner by which a taxpayer shall
13 apply for and be eligible to receive a refund of an overpayment
14 pursuant this section.

15 'c.] d.¹ The amount of all credits allowed under this section
16 shall not exceed a cumulative total of \$100,000,000, of which up to
17 \$75,000,000 shall 'be¹ allowed '[be]¹ for '[new] qualified¹ home
18 purchases 'of new qualified residential properties¹ and up to
19 \$25,000,000 shall be allowed for '[purchases] the qualified home
20 purchases¹ of '[homes] qualified residential properties¹ previously
21 occupied as a residence. The Director of the Division of Taxation
22 in the Department of the Treasury, shall establish, as soon as may
23 be practicable, a convenient method, that may include an Internet or
24 other electronic format, for taxpayers to apply for a determination
25 of their preliminary eligibility to claim a credit, which
26 determination shall be provided by the director to the taxpayer
27 before the taxpayer's intended purchase date. Notice of the
28 director's determination of preliminary eligibility or denial of
29 preliminary eligibility to claim a credit shall be provided to
30 applicants in the order in which the director receives the
31 applications, and the limits provided in this subsection shall be
32 allocated to applications in the order in which they are received and
33 approved by the director. No credit shall be allowed under this
34 section for a home purchase if a determination of preliminary
35 eligibility of that home purchase is not provided by the director.
36 The application shall include such information as the director
37 determines is necessary to make a prompt determination of
38 preliminary eligibility and shall include but may not be limited to:
39 (1) the taxpayer's certification of intention to use the home as the
40 taxpayer's principle residence for 36 consecutive months after the
41 'qualified¹ home purchase and (2) the home seller's certification in
42 the case of a '[new] qualified¹ home 'purchase of a new qualified
43 residential property¹ that the '[home] new qualified residential
44 property¹ has never been occupied as a principle residence.

45 '[d.] e.¹ If the director determines that a credit applied for and
46 claimed against tax otherwise due, or for which a refund of tax is

1 paid, does not meet the requirements of this section, including but
2 not limited to the use of the home as the taxpayer's principle
3 residence for 36 consecutive months after the home purchase, the
4 taxpayer shall be required to repay the amount of the credit applied.

5 **'[e.] f.'** As used in this section:

6 "New **'[home]**" or "new**']'** qualified residential property" means
7 a dwelling unit not previously occupied as a residence.

8 "Qualified residential property" means a dwelling house, a
9 condominium unit under the form of real property ownership
10 provided for under the "Condominium Act," P.L.1969, c.257
11 (C.46:8B-1 et seq.), a unit in a cooperative or mutual housing
12 corporation, a unit in a horizontal property regime under the form of
13 real property ownership provided under the "Horizontal Property
14 Act," P.L.1963, c.168 (C.46:8A-1 et seq.), a unit in a continuing
15 care retirement community, or a manufactured home that is taxable
16 as real property or that is installed in a mobile home park.

17 "Qualified home purchase" means the acquisition, by sale, of a
18 qualified residential property which is occupied as the taxpayer's
19 principal residence or the construction of a new qualified residential
20 property paid for by the taxpayer and occupied as the taxpayer's
21 principal residence.

22 "Principal residence" means a qualified residential property
23 actually and continually occupied by **'the'** taxpayer as the
24 taxpayer's permanent residence, as distinguished from a vacation
25 home, property owned and rented or offered for rent by the
26 taxpayer, and other secondary real property holdings.

27 **'[f.] g.'** Notwithstanding any provision of P.L.1968, c.410
28 (C.52:14B-1 et seq.) to the contrary, the director may adopt
29 immediately upon filing with the Office of Administrative Law
30 such regulations as the director deems necessary to implement the
31 provisions of this act, which shall be effective for a period not to
32 exceed 180 days following **'the date of'** enactment of P.L. , c.
33 (C.) (pending before the Legislature as this bill) and may
34 thereafter be amended, adopted or readopted by the director in
35 accordance with the requirements of P.L.1968, c.410. The
36 regulations may include examples of circumstances in which
37 repayment of credit amounts are required, manner and terms of
38 repayment, and circumstances in which a waiver of repayment
39 maybe granted in the discretion of the director.

40

41 2. This act shall take effect immediately.