

# ASSEMBLY, No. 283

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman VINCENT MAZZEO**

**District 2 (Atlantic)**

**SYNOPSIS**

Establishes "Atlantic City Growth Tax Credit Program" to grant tax credits to promote the development of non-rental housing in Atlantic City.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning incentives to build new housing in Atlantic  
2 City and supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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

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7 1. This act shall be known and may be referred to as the  
8 "Atlantic City Growth Tax Credit Program."

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10 2. The Legislature finds and declares:

11 a. The City of Atlantic City was recognized as a unique area in  
12 New Jersey when casino gaming was authorized by a Statewide  
13 public question approved in 1976.

14 b. For several decades casino gaming flourished in Atlantic  
15 City and supported much of the city's economy and property tax  
16 base.

17 c. With the development of casino gaming competition from  
18 every nearby state, the revenues from Atlantic City casino gaming  
19 began falling in 2007, resulting in a rapid devaluation of casino  
20 gaming property.

21 d. The devaluation of casino properties resulted in lower  
22 assessments for property tax purposes, thereby shifting the  
23 municipal property tax burden onto other Atlantic City property  
24 taxpayers and the county property tax burden onto other Atlantic  
25 County municipalities.

26 e. Nearly three-quarters of the residents of Atlantic City are  
27 tenants, meaning that the population of homeowners is relatively  
28 small.

29 f. The shifting of the property tax burden from the gaming and  
30 other commercial sector onto the residential sector causes a  
31 substantial hardship especially for homeowners.

32 g. One way to ameliorate the burden of rapidly rising property  
33 taxes on homeowners is to expand the pool of residential property  
34 taxpayers.

35 h. Atlantic City is plagued by an abundance of abandoned and  
36 vacant properties on which little or no property taxes are collected.

37 i. It is a worthwhile goal to increase home ownership in  
38 Atlantic City to a level where at least half of residents are  
39 homeowners.

40 j. The New Jersey Housing and Mortgage Finance Agency,  
41 under subsection t. of section 5 of P.L.1983, c.530 (C.55:14K-5)  
42 has been specifically charged with assessing and addressing the  
43 housing needs in Atlantic City when planning its programs.

44 k. It is in the public interest to reverse the erosion of Atlantic  
45 City's residential property tax base by providing incentives to  
46 private developers in order to encourage the construction of housing  
47 that will attract new homeowners to Atlantic City and thereby  
48 increase its residential property tax base.

1 3. As used in P.L. , c. (C. ) (pending before the  
2 Legislature as this bill):

3 "Agency" means the New Jersey Housing and Mortgage Finance  
4 Agency.

5 "Allowed costs" means eligible developers' costs for land  
6 acquisition, demolition, and capital improvements to build an  
7 eligible project in the City of Atlantic City, as reviewed and  
8 approved by the agency.

9 "Credit" means the tax credit against business or income taxes  
10 permitted under the "Atlantic City Growth Tax Credit Program."

11 "Director" means the Director of the Division of Taxation in the  
12 Department of the Treasury.

13 "Eligible developer" means a developer intending to build an  
14 eligible project within the boundaries of the City of Atlantic City.

15 "Eligible project" means a project to be located within a single  
16 neighborhood within the boundaries of the City of Atlantic City and  
17 (1) consisting of, or including at least, eight newly constructed  
18 units, contiguous or otherwise, of residential housing, which may be  
19 single-family homes, townhouses, condominiums, duplexes, or any  
20 combination thereof; (2) that is at least 80 percent owner-occupied  
21 with no more than 20 percent of the housing units leased as market-  
22 rate rental housing; (3) that is no more than eight stories in height;  
23 and (4) for which an eligible developer controls, or has contracted  
24 to control, all of the property within the project prior to applying for  
25 a tax credit under section 4 of P.L. , c. (C. ) (pending before  
26 the Legislature as this bill).

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28 4. a. The New Jersey Housing and Mortgage Finance Agency,  
29 in cooperation with the Director of the Division of Taxation in the  
30 Department of the Treasury, shall establish the "Atlantic City  
31 Growth Tax Credit Program" for the purpose of providing eligible  
32 developers with a tax credit equal to 50 percent of the eligible  
33 developer's allowed costs for land acquisition, demolition, and  
34 capital improvements to build eligible projects in the City of  
35 Atlantic City.

36 b. (1) An eligible developer shall apply for a tax credit for  
37 allowed costs related to an eligible project on forms promulgated by  
38 the agency.

39 (2) The agency shall review an application and shall approve it  
40 if it finds that the developer and project are eligible under P.L. ,  
41 c. (C. ) (pending before the Legislature as this bill). The  
42 agency may require an eligible developer to submit additional  
43 information that it deems necessary for its determination.

44 c. (1) (a) Upon the completion of an eligible project, an  
45 eligible developer shall be allowed a credit against the tax imposed  
46 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or the "New  
47 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., as applicable  
48 in an amount equal to 50 percent of the eligible developer's allowed

1 costs paid or incurred for land acquisition, demolition, and capital  
2 improvements to build eligible projects in the City of Atlantic City  
3 during the privilege period or taxable year. Any unused credit may be  
4 carried forward for use in any of the next five privilege periods or  
5 taxable years following the privilege period or taxable year for which  
6 the credit is initially allowed. Credits shall be transferable in  
7 accordance with regulations adopted by the Division of Taxation in  
8 the Department of the Treasury pursuant to section 5 of P.L. , c.  
9 (C. ) (pending before the Legislature as this bill) provided,  
10 however, that no credits shall be sold or transferred until a project is  
11 completed.

12 (b) The total tax credits awarded to an eligible developer under  
13 this section shall be in an amount equal to 50 percent of the eligible  
14 developer's allowed costs paid or incurred for land acquisition,  
15 demolition and, capital improvements to build eligible projects in  
16 the City of Atlantic City during the privilege period or taxable year.  
17 Any unused credit may be carried forward for use in any of the next  
18 five privilege periods or taxable years following the privilege  
19 period or taxable year for which the credit is initially allowed.

20 (c) Except as otherwise provided in this section, the order of  
21 priority of the application of the credit allowed pursuant to this  
22 subsection and any other credits allowed by law shall be as  
23 prescribed by the director.

24 (2) (a) An eligible developer that is classified as a partnership  
25 for federal income tax purposes shall not be allowed a credit under  
26 this section directly, but the amount of credit of a taxpayer with  
27 respect to a distributive share of entity income shall be determined  
28 by allocating to the taxpayer that proportion of the credit acquired  
29 by the eligible developer entity that is equal to the taxpayer's share,  
30 whether or not distributed, of the total distributive income or gain  
31 of the entity for its taxable year ending within or with the taxpayer's  
32 taxable year.

33 (b) A New Jersey S Corporation shall not be allowed a credit  
34 under this section directly, but the amount of credit of a taxpayer  
35 with respect to a pro rata share of S Corporation income shall be  
36 determined by allocating to the taxpayer that proportion of the  
37 credit acquired by the New Jersey S Corporation that is equal to the  
38 taxpayer's share, whether or not distributed, of the total pro rata  
39 share of S Corporation income of the New Jersey S Corporation for  
40 its privilege period ending within or with the taxpayer's taxable  
41 year.

42 d. The agency may revoke tax credits awarded pursuant to this  
43 section if it finds that a developer no longer meets the requirements  
44 of being an eligible developer.

45 e. The agency shall not accept applications for eligibility under  
46 the program after January 1, 2020, or after the date upon which the  
47 agency determines that the percent proportion of rental units to all

1 housing units in the City of Atlantic City has declined to at least 50  
2 percent, whichever date occurs first.

3 f. A decision on any application permits or approvals required  
4 under the "Coastal Area Facility Review Act," P.L.1973, c.185  
5 (C.13:19-1 et seq.) for eligible projects under this section shall be  
6 considered by the reviewing authority within 30 days of the receipt  
7 of the application.

8 g. The agency shall provide low interest mortgage  
9 opportunities to the buyer of a unit developed under the "Atlantic  
10 City Growth Tax Credit Program" in a manner consistent with  
11 regulations adopted pursuant to section 5 of P.L. , c. (C. )  
12 (pending before the Legislature as this bill).

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14 5. No more than 180 days from the date of the enactment of  
15 P.L. , c. (C. ) (pending before the Legislature as this bill), the  
16 New Jersey Housing and Mortgage Finance Agency, in consultation  
17 with the Division of Taxation in the Department of the Treasury  
18 shall adopt, pursuant to the "Administrative Procedure Act,"  
19 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as may  
20 be necessary for the implementation of P.L. , c. (C. ) (pending  
21 before the Legislature as this bill). The division shall also adopt,  
22 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
23 (C.52:14B-1 et seq.), rules and regulations concerning the  
24 transferability of tax credits pursuant to subparagraph (a) of  
25 paragraph (1) of subsection c. of section 4 of P.L. , c. (C. )  
26 (pending before the Legislature as this bill).

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28 6. On or before June 1, 2020, the New Jersey Housing and  
29 Mortgage Finance Agency, in consultation with the Director of the  
30 Division of Taxation in the Department of the Treasury, in  
31 accordance with section 2 of P.L.1991, c.164 (C.52:14-19.1), shall  
32 deliver a report to the Legislature concerning the results of the  
33 Atlantic City Growth Tax Credit Program established pursuant to  
34 P.L. , c. (C. ) (pending before the Legislature as this bill). The  
35 report provided to the Legislature shall include a description of all  
36 credit awards made under the program and the current status of each  
37 project. The report shall also include recommendations concerning  
38 the continuation or dissolution of the "Atlantic City Growth Tax  
39 Credit Program."

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41 7. This act shall take effect immediately and shall expire on the  
42 first day of the 61st month next following enactment, except that  
43 unused tax credits may continue to be carried over to future  
44 privilege periods or taxable years as permitted under subparagraph  
45 (b) of section c. of section 4 of P.L. , c. (C. ) (pending before  
46 the Legislature as this bill).

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STATEMENT

This bill establishes the “Atlantic City Growth Tax Credit Program” (program) in the New Jersey Housing and Mortgage Finance Agency (HMFA). It is in the public interest to reverse the erosion of Atlantic City's residential property tax base by providing incentives to private developers in order to encourage the construction of housing that will attract new homeowners to Atlantic City and thereby increase its residential property tax base.

The program grants eligible developers corporate and gross income tax credits equal to 50 percent of the eligible developer’s costs for land acquisition, demolition, and capital improvements for the purpose of providing non-rental housing in the City of Atlantic City. The bill limits the program to an eligible residential project and defines that as a project to be located within a single neighborhood within the boundaries of the City of Atlantic City, including at least eight newly constructed units of residential housing, and that is to be at least 80 percent owner-occupied with no more than 20 percent of the housing units leased as market-rate rental housing. The bill requires that an eligible developer control all of the property within the project prior to applying for a tax credit, and the project can be no more than eight stories in height.

The bill does not allow the HMFA to accept applications for eligibility under the program after January 1, 2020 or after the date the HMFA determines that the percent proportion of rental units to all housing units in Atlantic City has declined to at least 50 percent, whichever date occurs first. The bill directs the HMFA, in consultation with the Division of Taxation in the Department of the Treasury (division), to adopt rules and regulations to implement the program. The bill also requires the division to adopt rules and regulations concerning the transferability of tax credits. The bill directs the HMFA to provide a report to the Legislature, on or before June 1, 2020, describing the programs results and making recommendations.