

ASSEMBLY, No. 397

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman EDWARD H. THOMSON
District 30 (Monmouth and Ocean)

Co-Sponsored by:

Assemblymen Space and Wirths

SYNOPSIS

Limits long term tax exemptions in municipalities with school districts receiving certain State school aid.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning financial agreements for certain property tax
2 exemptions and amending P.L.1991, c.431.

3

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

6

7 1. Section 12 of P.L.1991, c.431 (C.40A:20-12) is amended to
8 read as follows:

9 12. The rehabilitation or improvements made in the development
10 or redevelopment of a redevelopment area or area appurtenant
11 thereto or for a redevelopment relocation housing project, pursuant
12 to P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from
13 taxation for a limited period as hereinafter provided; except that
14 with respect to any financial agreement for a project located in a
15 municipality having a school district that is an SDA district, as that
16 term is defined in section 3 of P.L.2000, c.72 (C.18A:7G-3), that is
17 executed on or after the effective date of P.L. , c. (C.)
18 (pending before the Legislature as this bill), the rehabilitation or
19 improvements shall not be exempt from property taxes for school
20 purposes.

21 When housing is to be constructed, acquired or rehabilitated by
22 an urban renewal entity, the land upon which that housing is
23 situated shall be exempt from taxation, except for property taxes for
24 school purposes, as set forth in this section for a limited period as
25 hereinafter provided. The exemption shall be allowed when the
26 clerk of the municipality wherein the property is situated shall
27 certify to the municipal tax assessor that a financial agreement with
28 an urban renewal entity for the development or the redevelopment
29 of the property, or the provision of a redevelopment relocation
30 housing project, or the provision of a low and moderate income
31 housing project has been entered into and is in effect as required by
32 P.L.1991, c.431 (C.40A:20-1 et seq.).

33 Delivery by the municipal clerk to the municipal tax assessor of
34 a certified copy of the ordinance of the governing body approving
35 the tax exemption and financial agreement with the urban renewal
36 entity shall constitute the required certification. For each
37 exemption granted pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et
38 al.), upon certification as required hereunder, the tax assessor shall
39 implement the exemption and continue to enforce that exemption
40 without further certification by the clerk until the expiration of the
41 entitlement to exemption by the terms of the financial agreement or
42 until the tax assessor has been duly notified by the clerk that the
43 exemption has been terminated.

44 Within 10 calendar days following the later of the effective date
45 of an ordinance following its final adoption by the governing body

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.

1 approving the tax exemption or the execution of the financial
2 agreement by the urban renewal entity, the municipal clerk shall
3 transmit a certified copy of the ordinance and financial agreement
4 to the chief financial officer of the county and to the county counsel
5 for informational purposes.

6 Whenever an exemption status changes during a tax year, the
7 procedure for the apportionment of the taxes for the year shall be
8 the same as in the case of other changes in tax exemption status
9 during the tax year. Tax exemptions granted pursuant to P.L.2003,
10 c.125 (C.40A:12A-4.1 et al.) represent long term financial
11 agreements between the municipality and the urban renewal entity
12 and as such constitute a single continuing exemption from local
13 property taxation to the extent permitted in this section for the
14 duration of the financial agreement. The validity of a financial
15 agreement or any exemption granted pursuant thereto may be
16 challenged only by filing an action in lieu of prerogative writ within
17 20 days from the publication of a notice of the adoption of an
18 ordinance by the governing body granting the exemption and
19 approving the financial agreement. Such notice shall be published
20 in a newspaper of general circulation in the municipality and in a
21 newspaper of general circulation in the county if different from the
22 municipal newspaper.

23 a. The duration of the exemption for urban renewal entities
24 shall be as follows: for all projects, a term of not more than 30 years
25 from the completion of the entire project, or unit of the project if
26 the project is undertaken in units, or not more than 35 years from
27 the execution of the financial agreement between the municipality
28 and the urban renewal entity.

29 b. During the term of any exemption, in lieu of any taxes
30 exempted under this section to be paid on the buildings and
31 improvements of the project and, to the extent authorized pursuant
32 to this section, on the land, the urban renewal entity shall make
33 payment to the municipality of an annual service charge, which
34 shall remit a portion of that revenue to the county as provided
35 hereinafter. In addition, the municipality may assess an
36 administrative fee, not to exceed two percent of the annual service
37 charge, for the processing of the application. The annual service
38 charge for municipal services supplied to the project to be paid by
39 the urban renewal entity for any period of exemption, shall be
40 determined as follows:

41 (1) An annual amount equal to a percentage determined
42 pursuant to this subsection and section 11 of P.L.1991, c.431
43 (C.40A:20-11), of the annual gross revenue from each unit of the
44 project, if the project is undertaken in units, or from the total
45 project, if the project is not undertaken in units. The percentage of
46 the annual gross revenue shall not be more than **【15%】** 15 percent

1 in the case of a low and moderate income housing project, nor less
2 than **【10%】** 10 percent in the case of all other projects.

3 At the option of the municipality, or where because of the nature
4 of the development, ownership, use or occupancy of the project or
5 any unit thereof, if the project is to be undertaken in units, the total
6 annual gross rental or gross shelter rent or annual gross revenue
7 cannot be reasonably ascertained, the governing body shall provide
8 in the financial agreement that the annual service charge shall be a
9 sum equal to a percentage determined pursuant to this subsection
10 and section 11 of P.L.1991, c.431 (C.40A:20-11), of the total
11 project cost or total project unit cost determined pursuant to
12 P.L.1991, c.431 (C.40A:20-1 et seq.) calculated from the first day
13 of the month following the substantial completion of the project or
14 any unit thereof, if the project is undertaken in units. The
15 percentage of the total project cost or total project unit cost shall not
16 be more than **【2%】** two percent in the case of a low and moderate
17 income housing project, and shall not be less than **【2%】** two
18 percent in the case of all other projects.

19 (2) In either case, the financial agreement shall establish a
20 schedule of annual service charges to be paid over the term of the
21 exemption period, which shall be in stages as follows:

22 (a) For the first stage of the exemption period, which shall
23 commence with the date of completion of the unit or of the project,
24 as the case may be, and continue for a time of not less than six years
25 nor more than 15 years, as specified in the financial agreement, the
26 urban renewal entity shall pay the municipality an annual service
27 charge for municipal services supplied to the project in an annual
28 amount equal to the amount determined pursuant to paragraph (1) of
29 this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11).
30 For the remainder of the period of the exemption, if any, the annual
31 service charge shall be determined as follows:

32 (b) For the second stage of the exemption period, which shall
33 not be less than one year nor more than six years, as specified in the
34 financial agreement, an amount equal to either the amount
35 determined pursuant to paragraph (1) of this subsection and section
36 11 of P.L.1991, c.431 (C.40A:20-11), or **【20%】** 20 percent of the
37 amount of taxes otherwise due on the value of the land and
38 improvements, whichever shall be greater;

39 (c) For the third stage of the exemption period, which shall not
40 be less than one year nor more than six years, as specified in the
41 financial agreement, an amount equal to either the amount
42 determined pursuant to paragraph (1) of this subsection and section
43 11 of P.L.1991, c.431 (C.40A:20-11), or **【40%】** 40 percent of the
44 amount of taxes otherwise due on the value of the land and
45 improvements, whichever shall be greater;

1 (d) For the fourth stage of the exemption period, which shall not
2 be less than one year nor more than six years, as specified in the
3 financial agreement, an amount equal to either the amount
4 determined pursuant to paragraph (1) of this subsection and section
5 11 of P.L.1991, c.431 (C.40A:20-11), or ~~【60%】~~ 60 percent of the
6 amount of taxes otherwise due on the value of the land and
7 improvements, whichever shall be greater; and

8 (e) For the final stage of the exemption period, the duration of
9 which shall not be less than one year and shall be specified in the
10 financial agreement, an amount equal to either the amount
11 determined pursuant to paragraph (1) of this subsection and section
12 11 of P.L.1991, c.431 (C.40A:20-11), or ~~【80%】~~ 80 percent of the
13 amount of taxes otherwise due on the value of the land and
14 improvements, whichever shall be greater.

15 If the financial agreement provides for an exemption period of
16 less than 30 years from the completion of the entire project, or less
17 than 35 years from the execution of the financial agreement, the
18 financial agreement shall set forth a schedule of annual service
19 charges for the exemption period which shall be based upon the
20 minimum service charges and staged adjustments set forth in this
21 section.

22 The annual service charge shall be paid to the municipality on a
23 quarterly basis in a manner consistent with the municipality's tax
24 collection schedule.

25 Each municipality which enters into a financial agreement on or
26 after the effective date of P.L.2003, c.125 (C.40A:12A-4.1 et al.)
27 shall remit 5 percent of the annual service charge collected by the
28 municipality to the county in accordance with the provisions of
29 R.S.54:4-74.

30 Against the annual service charge the urban renewal entity shall
31 be entitled to credit for the amount, without interest, of the real
32 estate taxes on land paid by it in the last four preceding quarterly
33 installments.

34 Notwithstanding the provisions of this section or of the financial
35 agreement, the minimum annual service charge shall be the amount
36 of the total taxes levied against all real property in the area covered
37 by the project in the last full tax year in which the area was subject
38 to taxation, and the minimum annual service charge shall be paid in
39 each year in which the annual service charge calculated pursuant to
40 this section or the financial agreement would be less than the
41 minimum annual service charge.

42 c. All exemptions granted pursuant to the provisions of
43 P.L.1991, c.431 (C.40A:20-1 et seq.) shall terminate at the time
44 prescribed in the financial agreement.

45 Upon the termination of the exemption granted pursuant to the
46 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.), the project, all
47 affected parcels, land and all improvements made thereto shall be

1 assessed and subject to taxation as are other taxable properties in
2 the municipality. After the date of termination, all restrictions and
3 limitations upon the urban renewal entity shall terminate and be at
4 an end upon the entity's rendering its final accounting to and with
5 the municipality.

6 (cf: P.L.2015, c.247, s.1)

7
8 2. This act shall take effect immediately and shall apply to
9 every financial agreement entered into on or after the effective date
10 of this act.

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13 STATEMENT
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15 This bill would amend the "Long Term Tax Exemption Law,"
16 P.L.1991, c.431 (C.40A:20-1 et seq.) to prohibit the exemption of
17 property taxes for school purposes for any financial agreement for a
18 project located in a municipality having a school district that is an
19 SDA district on or after the effective date of the bill.

20 The term "SDA district" is defined in section 3 of P.L.2000, c.72
21 as a school district that received education opportunity aid or
22 preschool expansion in in the 2007-2008 school year. Effectively,
23 the provisions of this bill would be limited to the school districts
24 formerly known as "Abbott districts," which were affected by the
25 New Jersey Supreme Court decisions in the line of Abbott v. Burke
26 cases.