

ASSEMBLY, No. 840

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

Enhances benefit provided under New Jersey earned income tax credit program by treating a qualifying relative as a qualifying child.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** enhancing the benefit provided under the New Jersey
2 earned income tax credit program, amending P.L.2000, c.80.

3

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

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7 1. Section 2 of P.L.2000, c.80 (C.54A:4-7) is amended to read
8 as follows:

9 2. There is established the New Jersey Earned Income Tax
10 Credit program in the Division of Taxation in the Department of the
11 Treasury.

12 a. (1) A resident individual who is eligible for a credit under
13 section 32 of the federal Internal Revenue Code of
14 1986 (26 U.S.C. s.32) shall be allowed a credit for the taxable year
15 equal to a percentage, as provided in paragraph (2) of this
16 subsection, of the federal earned income tax credit that would be
17 allowed to the individual or the married individuals filing a joint
18 return under section 32 of the federal Internal Revenue Code of
19 1986 (26 U.S.C. s.32) for the same taxable year for which a credit is
20 claimed pursuant to this section, subject to the restrictions of this
21 subsection and subsections b., c., d. and e. of this section and the
22 modifications of paragraph (4) of this subsection.

23 (2) For the purposes of the calculation of the New Jersey earned
24 income tax credit, the percentage of the federal earned income tax
25 credit referred to in paragraph (1) of this subsection shall be:

26 (a) 10% for the taxable year beginning on or after January 1,
27 2000, but before January 1, 2001;

28 (b) 15% for the taxable year beginning on or after January 1,
29 2001, but before January 1, 2002;

30 (c) 17.5% for the taxable year beginning on or after January 1,
31 2002, but before January 1, 2003;

32 (d) 20% for taxable years beginning on or after January 1, 2003,
33 but before January 1, 2008;

34 (e) 22.5% for taxable years beginning on or after January 1,
35 2008 but before January 1, 2009;

36 (f) 25% for taxable years beginning on or after January 1, 2009
37 but before January 1, 2010;

38 (g) 20% for taxable years beginning on or after January 1, 2010,
39 but before January 1, 2015;

40 (h) 30% for taxable years beginning on or after January 1, 2015,
41 but before January 1, 2016;

42 (i) 35% for taxable years beginning on or after January 1, 2016,
43 but before January 1, 2018;

44 (j) 37% for the taxable year beginning on or after January 1,
45 2018, but before January 1, 2019;

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 (k) 39% for the taxable year beginning on or after January 1,
2 2019, but before January 1, 2020; and

3 (l) 40% for taxable years beginning on or after January 1, 2020.

4 (3) To qualify for the New Jersey earned income tax credit, if
5 the claimant is married, except for a claimant who files as a head of
6 household or surviving spouse for federal income tax purposes for
7 the taxable year, the claimant shall file a joint return or claim for
8 the credit.

9 (4) A qualifying relative as defined in section 152 of the federal
10 Internal Revenue Code of 1986 (26 U.S.C. s.152) shall be treated as
11 a qualifying child for purposes of determining the amount of the
12 federal earned income tax credit that shall serve as the basis for
13 calculating the New Jersey earned income tax credit.

14 b. In the case of a part-year resident claimant, the amount of
15 the credit allowed pursuant to this section shall be pro-rated, based
16 upon that proportion which the total number of months of the
17 claimant's residency in the taxable year bears to 12 in that period.
18 For this purpose, 15 days or more shall constitute a month.

19 c. The amount of the credit allowed pursuant to this section
20 shall be applied against the tax otherwise due under N.J.S.54A:1-1
21 et seq., after all other credits and payments. If the credit exceeds the
22 amount of tax otherwise due, that amount of excess shall be an
23 overpayment for the purposes of N.J.S.54A:9-7; provided however,
24 that subsection (f) of N.J.S.54A:9-7 shall not apply. The credit
25 provided under this section as a credit against the tax otherwise due
26 and the amount of the credit treated as an overpayment shall be
27 treated as a credit towards or overpayment of gross income tax,
28 subject to all provisions of N.J.S.54A:1-1 et seq., except as may be
29 otherwise specifically provided in P.L.2000, c.80 (C.54A:4-6 et al.).

30 d. The Director of the Division of Taxation in the Department
31 of the Treasury shall establish a program for the distribution of
32 earned income tax credits pursuant to the provisions of this section.

33 e. Any earned income tax credit pursuant to this section shall
34 not be taken into account as income or receipts for purposes of
35 determining the eligibility of an individual for benefits or assistance
36 or the amount or extent of benefits or assistance under any State
37 program and, to the extent permitted by federal law, under any State
38 program financed in whole or in part with federal funds.

39 (cf: P.L.2018, c.45, s.4)

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41 2. This act shall take effect immediately.

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44 STATEMENT

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46 This bill enhances the benefit provided under the New Jersey
47 earned income tax credit program by treating a qualifying relative
48 as a qualifying child for purposes of determining the federal earned

1 income tax credit amount that the New Jersey earned income tax
2 credit would be based on. Currently, the federal earned income tax
3 credit program only allows taxpayers to claim a qualifying child,
4 but not a qualifying relative. Typically, the credit amount increases
5 for each qualifying child claimed by the taxpayer, up to three
6 qualifying children. The bill allows a taxpayer who can claim a
7 qualifying relative to receive an enhanced benefit amount based on
8 a modified calculation of the federal earned income tax credit which
9 considers the qualifying relative as a qualifying child.

10 As defined in the federal Internal Revenue Code, a “qualifying
11 child” bears a relationship to the taxpayer (a child, brother, sister,
12 stepbrother, or stepsister of the taxpayer), has the same principal
13 residence as the taxpayer for more than half of the taxable year,
14 meets certain age requirements, and has not provided over one-half
15 of the individual’s own support during the year. A “qualifying
16 relative” includes those relationships mentioned for qualifying
17 child, but also includes, but is not limited to, a father, mother, or an
18 ancestor of either, stepfather, stepmother, a child of a brother or
19 sister, and in-laws. A taxpayer must provide similar support to a
20 qualifying relative, but the qualifying relative must have gross
21 income less than the exemption amount.