

ASSEMBLY, No. 1125

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

Assemblymen Benson and S.Kean

SYNOPSIS

Provides for transfer and sale of inactive liquor licenses for use in qualifying smart growth municipalities.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the transfer of alcoholic beverage licenses to
2 qualifying smart growth municipalities, supplementing Title 33
3 of the Revised Statutes, and amending and repealing parts of
4 P.L.2007, c.351.

5

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

8

9 1. (New section) The Legislature finds and declares that:

10 a. Smart growth is an innovative approach to land use planning
11 that directs the State's resources and funding to projects that
12 enhance the quality of life for New Jersey residents;

13 b. Smart growth encourages the development of distinctive,
14 attractive communities with mixed use development, walkable town
15 centers and neighborhoods, a range of housing options, and a
16 variety of transportation modes;

17 c. Small businesses, including restaurants and other
18 establishments that serve alcoholic beverages, enhance the
19 economic viability of a smart growth community and the quality of
20 life for residents and visitors;

21 d. Under current law, a municipality may not issue a new
22 plenary retail consumption license unless and until the combined
23 total number of such licenses existing in the municipality is fewer
24 than one for each 3,000 of its population according to the most
25 recent estimates issued by the U.S. Bureau of the Census, and liquor
26 licenses issued in one municipality may not be transferred to
27 another municipality;

28 e. As a result of these restrictions, there is an insufficient
29 number or complete lack of available plenary retail consumption
30 licenses in many smart growth communities where real estate
31 development projects including restaurants have been proposed; at
32 the same time, there are numerous other municipalities that have a
33 surplus of inactive plenary retail consumption licenses in excess of
34 any foreseeable demand for those licenses.

35 f. In order to foster and encourage development in smart
36 growth communities in which there is an insufficient number or
37 complete lack of available plenary retail consumption licenses, it is
38 appropriate to create a method for the sale and transfer of inactive
39 plenary retail consumption licenses existing in those communities
40 having a surplus of inactive licenses to purchasers who will activate
41 and utilize such licenses in smart growth communities, and to
42 provide financial compensation to the municipalities from which
43 such licenses are transferred.

44

45 2. (New section) a. As used in this act:

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 “Green building conversion redevelopment project” means any
2 redevelopment project that includes the conversion of not less than
3 150,000 square feet of existing office or other commercial premises,
4 that is vacant or functionally obsolete and at least 35 years old, into
5 Class A office or other commercial premises satisfying the
6 requirements for the Leadership in Energy and Environmental
7 Design Green Building Rating System as adopted by the United
8 States Green Building Council.

9 “Inactive license” means a plenary retail consumption license
10 that has been renewed as authorized by the provisions of R.S.33:1-
11 12.39 for more than three license terms and for which the holder of
12 the license certifies that he has not received any viable, reasonable,
13 or acceptable offers to purchase and no location at which to activate
14 the license within the issuing municipality.

15 “Qualifying smart growth municipality” means a municipality
16 that:

- 17 (1) is located in a smart growth area; and
- 18 (2) is not authorized to issue any new plenary retail consumption
19 licenses because of the limitation on the number of plenary retail
20 consumption licenses in section 2 of P.L.1947, c.94 (C33:1-12.14),
21 excluding plenary retail consumption licenses transferred pursuant
22 to this act; or
- 23 (3) is unable to issue a sufficient number of new plenary retail
24 consumption licenses to satisfy the anticipated demand for plenary
25 retail consumption licenses to be utilized within a real estate
26 development project, as determined by the director pursuant to
27 subsection c. of this section.

28 “Real estate development project” means any building or
29 complex of buildings, whether or not under common ownership or
30 control, which is the subject of a common redevelopment plan, site
31 plan, general development plan, or other land use plan approved by
32 the qualifying smart growth municipality in which it is located.

33 “Sending municipality” means a municipality that has one or
34 more inactive plenary retail consumption licenses.

35 “Smart growth area” means a Planning Area 1 (Metropolitan),
36 Planning Area 2 (Suburban), or a designated center or designated
37 growth center in an endorsed plan; a smart growth area and
38 planning area designated in a master plan adopted by the New
39 Jersey Meadowlands Commission pursuant to subsection (i) of
40 section 6 of P.L.1968, c.404 (C.13:17-6); a growth area designated
41 in the comprehensive management plan adopted pursuant to section
42 7 of the “Pinelands Protection Act,” P.L.1979, c.111 (C.13:18A-8);
43 any area designated for growth in the Highlands regional master
44 plan adopted by the Highlands Water Protection and Planning
45 Council pursuant to P.L.2004, c.120 (C.13:20-1 et al.); a transit
46 village; an urban enterprise zone designated pursuant to P.L.1983,
47 c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et
48 al.); an area determined to be in need of redevelopment or

1 rehabilitation pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.) and
2 as approved by the Department of Community Affairs; any area on
3 which a green building conversion redevelopment project is located;
4 and federally owned land approved for closure under a federal Base
5 Realignment Closing Commission action.

6 b. An inactive license which has been issued by a sending
7 municipality may, in accordance with the procedures established in
8 this act, be purchased by:

9 (1) a corporation or other legal entity operating or intending to
10 operate a restaurant or other establishment that serves alcoholic
11 beverages in a qualifying smart growth municipality; or

12 (2) the owner of a real estate development project in a
13 qualifying smart growth municipality, provided that such inactive
14 license shall subsequently be transferred to an entity operating or
15 intending to operate a restaurant or other establishment that serves
16 alcoholic beverages in the real estate development project.

17 c. The director shall determine whether an inactive license may
18 be transferred pursuant to the provisions of this act to a qualifying
19 smart growth municipality. The director shall approve the transfer
20 if the director determines that a municipality is unable to issue a
21 sufficient number of new plenary retail consumption licenses to
22 satisfy the anticipated demand for licenses to be utilized within a
23 real estate development project because of the limitation on the
24 number of plenary retail consumption licenses in section 2 of
25 P.L.1947, c.94 (C.33:1-12.14), excluding plenary retail
26 consumption licenses transferred pursuant to this act.

27 d. The purchaser and the holder of the inactive license shall
28 enter into a contract for the sale of the license, which shall be a
29 private transaction. Upon the signing of a contract to purchase an
30 inactive license and utilize the license as authorized under the
31 provisions of this act, the seller of the inactive license shall obtain
32 resolutions adopted by the issuing authorities of the sending
33 municipality and the qualifying smart growth municipality. The
34 resolution adopted by the sending municipality shall consent to the
35 transfer of the license to the qualifying smart growth municipality.
36 The resolution adopted by the issuing authority of the qualifying
37 smart growth municipality shall state that the municipality wishes
38 to acquire the license and that the municipality resolves to
39 administer the license in the same manner as a plenary retail
40 consumption license issued by the qualifying smart growth
41 municipality and in accordance with all applicable ordinances of
42 that municipality.

43 e. Prior to the transfer of a license pursuant to the provisions of
44 this act, the purchaser of the inactive license shall pay to the
45 sending municipality a fee in an amount equal to twenty times the
46 annual renewal fee for a plenary retail consumption license as
47 established by the sending municipality pursuant to R.S.33:1-12,
48 which shall be distributed by the sending municipality in

1 accordance with the provisions of subsection j. of this section. The
2 purchaser shall pay to the qualifying smart growth municipality the
3 fee or fees required for the transfer of a plenary retail consumption
4 license and the annual renewal fee established by the municipality
5 which shall be prorated to the following June 30th.

6 f. The transfer of an inactive license pursuant to this section
7 shall be approved by the qualifying smart growth municipality in
8 accordance with all applicable requirements for person-to-person
9 and place-to-place transfers of plenary retail consumption licenses.

10 g. No person who would fail to qualify as a licensee under Title
11 33 of the Revised Statutes shall be permitted to hold an interest in a
12 license transferred under the provisions of this section.

13 h. Licenses transferred pursuant to the provisions of this
14 section shall be subject to all the provisions of Title 33 of the
15 Revised Statutes, rules and regulations promulgated by the director
16 and municipal ordinances.

17 i. No license transferred pursuant to this section shall
18 thereafter be transferred to any premises other than a premises
19 located within the same real estate development project. A license
20 may be transferred to a corporation or other legal entity operating or
21 intending to operate a restaurant or other establishment that serves
22 alcoholic beverages in the same real estate development project or
23 to the owner of the real estate development project. The director
24 shall, after the initial transfer of a license pursuant to this section,
25 assign a distinctive designation for the license number in order to
26 identify the license as being subject to the provisions of this
27 subsection.

28 j. The transfer fee shall be distributed in the following manner:

29 (1) twenty-five percent shall be paid to the sending
30 municipality;

31 (2) twenty-five percent shall be paid to the director; and

32 (3) fifty percent shall be divided equally among and paid to the
33 holders of plenary retail consumption licenses in the qualifying
34 smart growth municipality on the date of the transfer.

35 k. Notwithstanding the provisions of R.S.33:1-42, the director
36 shall not issue a special concessionaire permit for any location or
37 premises which is eligible to obtain a license to serve alcoholic
38 beverages under the provisions of this act.

39 l. Pursuant to the "Administrative Procedure Act," P.L.1968,
40 c.410 (C.52:14B-1 et seq.), the director may adopt rules and
41 regulations to effectuate the purposes of this act.

42

43 3. Section 3 of P.L.2007, c.351 (C.33:1-24.3) is amended to
44 read as follows:

45 3. a. Notwithstanding the provisions of section 1 of P.L.1977,
46 c.246 (C.33:1-12.39), a municipality in which is located an urban
47 enterprise zone as designated pursuant to P.L.1983, c.303
48 (C.52:27H-60 et al.) or any supplement thereto, and a Planning

1 Area 1 (Metropolitan), as designated pursuant to the "State Planning
2 Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et
3 seq.), may acquire by purchase any existing plenary retail
4 consumption licenses within the municipality that are inactive for
5 more than three years and retain any such licenses in an inactive
6 status for a period of up to five years notwithstanding that the
7 director has not issued a special ruling pursuant to R.S.33:1-12.39
8 and the license holder has not paid the annual renewal fees for the
9 license.

10 b. A municipality subject to the provisions of subsection a. of
11 this section may issue at public sale one or more of any such
12 inactive plenary retail consumption licenses in a manner consistent
13 with the provisions of P.L.1975, c.275 (C.33:1-19.1 et seq.), to no
14 more than one corporation or legal entity for each such plenary
15 retail consumption license for use only at a licensed premises that
16 shall be located in a real estate development project within a smart
17 growth area, as defined in section 1 of P.L.2004, c.89 (C.52:27D-
18 10.2), in the municipality or that shall be located in a qualifying
19 smart growth municipality pursuant to P.L. , c. (C.)
20 (pending before Legislature as this bill). The use of any such
21 plenary retail consumption license shall be in a manner consistent
22 with the provisions of Title 33 of the Revised Statutes and any
23 regulations promulgated thereunder by the director.
24 (cf: P.L.2007, c.351, s.3)

25
26 4. Sections 1 and 2 of P.L.2007, c.351 (C.33:1-24.1 and 33:1-
27 24.2) are hereby repealed.

28
29 5. This act shall take effect on the first day of the third month
30 after enactment; provided however, the director may take such
31 anticipatory action in advance thereof as needed for the act's timely
32 implementation.

33
34
35 STATEMENT

36
37 Under the provisions of this bill, an inactive plenary retail
38 consumption license may be purchased by: (1) a corporation or
39 other legal entity operating or intending to operate a restaurant or
40 bar in a qualifying smart growth municipality; or (2) the owner of a
41 real estate development project in a qualifying smart growth
42 municipality, provided that the inactive license would be transferred
43 to a restaurant or bar in the real estate development project. The
44 bill repeals sections 1 and 2 of P.L.2007, c.351 (C.33:1-24.1 and
45 33:1-24.2) which permit the Director of the Division of Alcoholic
46 Beverage Control (ABC) to issue special permits for the service of
47 alcoholic beverages in smart growth development projects.

1 The bill first requires the Director of the ABC to determine
2 whether an inactive license may be transferred to a qualifying smart
3 growth municipality. The director is required to approve the
4 transfer if the municipality is unable to issue a sufficient number of
5 new plenary retail consumption licenses to satisfy the anticipated
6 demand for such licenses in a real estate development project
7 because of the statutory limitation on the number of plenary retail
8 consumption licenses (currently one for every 3,000 members of the
9 population).

10 After a contract for the sale of a license has been signed, the
11 seller is required to obtain resolutions adopted by the issuing
12 authorities of the sending municipality and the qualifying smart
13 growth municipality. The resolution adopted by the sending
14 municipality must consent to the transfer of the license to the
15 qualifying smart growth municipality. The resolution adopted by
16 the issuing authority of the qualifying smart growth municipality
17 must state that the municipality wishes to acquire the license and
18 that it will be administered in the same manner as other plenary
19 retail consumption licenses and in accordance with all applicable
20 municipal ordinances.

21 The bill requires the purchaser to pay to the sending municipality
22 prior to the transfer of the license a fee equal to twenty times the
23 annual renewal fee for a plenary retail consumption license in the
24 sending municipality. The fee is to be distributed in the following
25 manner: (1) twenty-five percent is to be paid to the sending
26 municipality; (2) twenty-five percent is to be paid to the director;
27 and (3) fifty percent is to be divided equally among and paid to the
28 holders of plenary retail consumption licensees in the qualifying
29 smart growth municipality. The bill requires the purchaser to pay
30 the qualifying smart growth municipality the fee or fees required for
31 the transfer of a plenary retail consumption license as well as the
32 annual renewal fee, prorated to the next June 30, the annual date of
33 renewal for all retail licenses.

34 A license purchased pursuant to the provisions of the bill may
35 only be transferred to a premises located within the same real estate
36 development project. A license may be transferred to a corporation
37 or other legal entity that operates a bar or restaurant in the same real
38 estate development project or to the owner of the real estate
39 development project. The bill requires the Director of the ABC to
40 assign a distinctive designation for the license number, after the
41 initial transfer of the license, in order to identify the license as
42 being restricted and subject to the provisions of this bill.

43 The bill prohibits the director from issuing a special
44 concessionaire permit for any location or premises which is eligible
45 to obtain a license to serve alcoholic beverages under this bill.

46 Finally, the bill amends section 3 of P.L.2007, c.351 (C.33:1-
47 24.3) which provides that a municipality containing an urban
48 enterprise zone or a Planning Area 1 (Metropolitan) may acquire by

A1125 COUGHLIN, JOHNSON

8

1 purchase any existing plenary retail consumption licenses within the
2 municipality that are inactive and retain them for up to five years.
3 Under this bill, the municipality must acquire the license by
4 purchase and the license must be inactive for more than three years.
5 The bill also clarifies that the municipality may retain the inactive
6 licenses notwithstanding that the Director of ABC has not issued a
7 special ruling and the license holder has not paid the annual license
8 renewal fees. The bill further amends current law to provide that a
9 municipality may have a public sale of an inactive plenary retail
10 consumption license for use only at a licensed premises in a real
11 estate development project within a qualifying smart growth
12 municipality as defined in the bill.