

ASSEMBLY, No. 1862

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)

SYNOPSIS

Limits amount of real property that may be exempt from property taxation under “Long Term Tax Exemption Law.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** limiting the amount of real property that may be exempt
 2 from property taxation under the “Long Term Tax Exemption
 3 Law,” and amending P.L.1991, c.431(C.40A:20-1 et seq.).
 4

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

8 1. Section 2 of P.L.1991, c.431 (C.40A:20-2) is amended to
 9 read as follows:

10 2. The Legislature finds that in the past a number of laws have
 11 been enacted to provide for the clearance, replanning, development,
 12 and redevelopment of blighted areas pursuant to Article VIII,
 13 Section III, paragraph 1 of the New Jersey Constitution. These laws
 14 had as their public purpose the restoration of deteriorated or
 15 neglected properties to a use resulting in the elimination of the
 16 blighted condition, and sought to encourage private capital and
 17 participation by private enterprise to contribute toward this purpose
 18 through the use of special financial arrangements, including the
 19 granting of property tax exemptions with respect to land and the
 20 buildings, structures, infrastructure and other valuable additions to
 21 and amelioration of land, provided that the construction or
 22 rehabilitation of buildings, structures, infrastructure and other
 23 valuable additions to and amelioration of land constitute
 24 improvements to blighted conditions.

25 The Legislature finds that these laws, separately enacted, contain
 26 redundant and unnecessary provisions, or provisions which have
 27 outlived their usefulness, and that it is necessary to revise,
 28 consolidate and clarify the law in this area in order to preserve and
 29 improve the usefulness of the law in promoting the original public
 30 purpose.

31 The Legislature declares that the provisions of this act are one
 32 means of accomplishing the redevelopment and rehabilitation
 33 purposes of the "Local Redevelopment and Housing Law,"
 34 P.L.1992, c.79 (C.40A:12A-1 et al.) through the use of private
 35 entities and financial arrangements pertaining thereto, and that this
 36 act should be construed in conjunction with that act.

37 The Legislature also finds that the unrestrained use of long term
 38 property tax exemptions by a municipality may place an
 39 unreasonable burden on the State when it results in understating a
 40 substantial amount of that municipality's property wealth, which is
 41 used to calculate State school aid. The effect of understating a
 42 municipality's property wealth potentially increases the allocation
 43 of State school aid to that municipality's school district, at the
 44 expense of all other school districts. This subsidization of a portion
 45 of the school tax burden, that otherwise would be paid by the

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 exempted properties, by other school districts that had no role in
2 granting the tax exemption is unfair as a form of taxation without
3 representation.

4 (cf: P.L.2003, c.125, s.6)

5
6 2. Section 4 of P.L.1991, c.431 (C.40A:20-4) is amended to
7 read as follows:

8 4. a. **【The】** Except as provided in subsection b. of this section
9 the governing body of a municipality which has adopted a
10 redevelopment plan pursuant to the "Local Redevelopment and
11 Housing Law," P.L.1992, c.79 (C.40A:12A-11 et al.) may enter into
12 a financial agreement with an urban renewal entity for the
13 undertaking of a project set forth in a redevelopment plan adopted
14 by the governing body pursuant to the "Local Redevelopment and
15 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.) or a project
16 necessary, useful, or convenient for the relocation of residents
17 displaced or to be displaced by the redevelopment of all or any part
18 of one or more redevelopment areas, or a low and moderate income
19 housing project. The financial agreement shall include, but not be
20 limited to, those provisions set forth in sections 8, 9, 10 and 11 of
21 P.L.1991, c.431 (C.40A:20-8 through 40A:20-11), and shall be
22 subject to review and approval as required by section 8 of P.L.1991,
23 c.431 (C.40A:20-8) prior to execution. The municipality which
24 enters into the agreement shall retain all necessary authority and
25 control for the redevelopment of the redevelopment area set forth in
26 the plan, and the undertaking of a project by an urban renewal
27 entity pursuant to that plan and P.L.1991, c.431 (C.40A:20-1 et
28 seq.) shall be deemed a delegation of the powers of the municipality
29 to undertake the project, which delegation shall be limited by the
30 terms of the agreement and the provisions of P.L.1991, c.431
31 (C.40A:20-1 et seq.).

32 An urban renewal entity pursuant to an agreement may
33 undertake a project, and when so authorized by the financial
34 agreement, acquire by purchase or lease for not less than the term of
35 the tax exemption, plan, develop, construct, alter, maintain or
36 operate housing, senior citizen housing, business, industrial,
37 commercial, administrative, community, health, recreational,
38 educational, cultural, or welfare projects, or any combination of two
39 or more of these types of improvement in a single project . The
40 conditions of use, ownership, management and control of the
41 improvements in a project shall be regulated by this act and the
42 terms of the financial agreement.

43 b. The governing body of a municipality in which the long term
44 tax exemption threshold is greater than 5 percent shall not enter into
45 any further financial agreements while that threshold remains above
46 5 percent. The long term tax exemption threshold shall be
47 calculated by dividing the value of property already subject to a
48 financial agreement, pursuant to this section, by the sum of the

1 value of property already subject to a financial agreement pursuant
2 to this section plus the net valuation taxable, and multiplying that
3 quotient by 100.

4 If a tax exemption under the “Long Term Tax Exemption is
5 denied because the municipality’s long term tax exemption
6 threshold is greater than 5 percent, but in a later year, the
7 municipality’s long term tax exemption threshold becomes lower
8 than 5 percent, the municipality may at its sole discretion permit the
9 tax exemption upon reapplication to the extent that the tax
10 exemption does not increase the municipality’s long term tax
11 exemption threshold past the 5 percent limit established in this
12 subsection.

13 (cf: P.L.1992, c.79, s.55)

14
15 3. Section 12 of P.L.1991, c.431 (C.40A:20-12) is amended to
16 read as follows:

17 12. The rehabilitation or improvements made in the development
18 or redevelopment of a redevelopment area or area appurtenant
19 thereto or for a redevelopment relocation housing project, pursuant
20 to P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from
21 taxation for a limited period as hereinafter provided, except that the
22 rehabilitation or improvements made in a redevelopment area
23 located in a municipality that exceeds the threshold for exempted
24 property, as calculated pursuant to subsection b. of section 4 of
25 P.L.1991, c.431 (C.40A:20-4), shall not be exempt from taxation.
26 When housing is to be constructed, acquired or rehabilitated by an
27 urban renewal entity, the land upon which that housing is situated
28 shall be exempt from taxation for a limited period as hereinafter
29 provided. The exemption shall be allowed when the clerk of the
30 municipality wherein the property is situated shall certify to the
31 municipal tax assessor that a financial agreement with an urban
32 renewal entity for the development or the redevelopment of the
33 property, or the provision of a redevelopment relocation housing
34 project, or the provision of a low and moderate income housing
35 project has been entered into and is in effect as required by
36 P.L.1991, c.431 (C.40A:20-1 et seq.).

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

1 Within 10 calendar days following the later of the effective date
2 of an ordinance following its final adoption by the governing body
3 approving the tax exemption or the execution of the financial
4 agreement by the urban renewal entity, the municipal clerk shall
5 transmit a certified copy of the ordinance and financial agreement
6 to the chief financial officer of the county and to the county counsel
7 for informational purposes.

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

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

30 b. During the term of any exemption, in lieu of any taxes to be
31 paid on the buildings and improvements of the project and, to the
32 extent authorized pursuant to this section, on the land, the urban
33 renewal entity shall make payment to the municipality of an annual
34 service charge, which shall remit a portion of that revenue to the
35 county as provided hereinafter. In addition, the municipality may
36 assess an administrative fee, not to exceed two percent of the annual
37 service charge, for the processing of the application. The annual
38 service charge for municipal services supplied to the project to be
39 paid by the urban renewal entity for any period of exemption, shall
40 be 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% in the case of
47 a low and moderate income housing project, nor less than 10% in
48 the case of all other projects.

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

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

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

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

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

44 (d) For the fourth stage of the exemption period, which shall not
45 be less than one year nor more than six years, as specified in the
46 financial agreement, an amount equal to either the amount
47 determined pursuant to paragraph (1) of this subsection and section
48 11 of P.L.1991, c.431 (C.40A:20-11), or 60% of the amount of

1 taxes otherwise due on the value of the land and improvements,
2 whichever shall be greater; and

3 (e) For the final stage of the exemption period, the duration of
4 which shall not be less than one year and shall be specified in the
5 financial agreement, an amount equal to either the amount
6 determined pursuant to paragraph (1) of this subsection and section
7 11 of P.L.1991, c.431 (C.40A:20-11), or 80% of the amount of
8 taxes otherwise due on the value of the land and improvements,
9 whichever shall be greater.

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

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

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

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

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

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

40 Upon the termination of the exemption granted pursuant to the
41 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.), the project, all
42 affected parcels, land and all improvements made thereto shall be
43 assessed and subject to taxation as are other taxable properties in
44 the municipality. After the date of termination, all restrictions and
45 limitations upon the urban renewal entity shall terminate and be at
46 an end upon the entity's rendering its final accounting to and with
47 the municipality.

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

1 4. This act shall take effect immediately.

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STATEMENT

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6 This bill would limit the amount of real property that can be
7 property tax exempt under the “Long Term Tax Exemption Law.”

8 The bill would require that the governing body of a municipality
9 in which the long term tax exemption threshold is greater than 5
10 percent of the sum of the municipality’s net valuation taxable and
11 the value of properties already exempted under the “Long Term Tax
12 Exemption Law,” shall not enter into any further financial
13 agreements while that threshold remains above 5 percent. The long
14 term tax exemption threshold is calculated by dividing the value of
15 property already subject to a financial agreement, by the sum of the
16 value of property already subject to a financial agreement plus the
17 net valuation taxable, and that quotient multiplied by 100.

18 If a tax exemption under the “Long Term Tax Exemption is
19 denied because the municipality’s long term tax exemption
20 threshold is greater than 5 percent, but in a later year, the
21 municipality’s long term tax exemption threshold becomes lower
22 than 5 percent, the municipality may at its sole discretion permit the
23 tax exemption upon reapplication to the extent that the tax
24 exemption does not increase the municipality’s long term tax
25 exemption threshold past the 5 percent limit.