

**ASSEMBLY, No. 2405**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED FEBRUARY 3, 2020

**Sponsored by:**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Assemblyman WILLIAM W. SPEARMAN**

**District 5 (Camden and Gloucester)**

**Assemblywoman BRITNEE N. TIMBERLAKE**

**District 34 (Essex and Passaic)**

**Co-Sponsored by:**

**Assemblyman Calabrese**

**SYNOPSIS**

Grants credit against business income taxes to developer of rental housing reserved for occupancy by veterans.

**CURRENT VERSION OF TEXT**

As introduced.



1   **AN ACT** granting a tax credit to developers of certain housing for  
2       veterans and supplementing Title 52 of the Revised Statutes.

3  
4       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7       1. The Legislature finds and declares that:

8       a. It is estimated that more than 630,000 veterans live in New  
9       Jersey, and more than 500,000 of these personnel are civilian  
10       veterans.

11       b. Repeated and extended deployments in the ongoing conflicts  
12       in Iraq and Afghanistan have made it especially difficult for  
13       military personnel serving since September 11, 2001 to find  
14       housing suited to their unique situations.

15       c. Veterans have served our country in times of war and peace,  
16       sharing a common belief in a cause higher than self.

17       d. Veterans are valuable members of communities across New  
18       Jersey, and their experience serving their country has endowed them  
19       with unique and valuable experience.

20       e. The State and the nation owe much to those who have  
21       chosen to serve in the Armed Forces.

22       f. It is essential to the public good to encourage the  
23       development of stable, decent housing for New Jersey's veterans.

24  
25       2. As used in this act:

26       "Approved costs" means the expenditures by a developer for the  
27       production of qualified housing for veterans, and may include  
28       amounts paid or incurred for: the purchase of land or any  
29       remediation costs; construction or rehabilitation; commissioning  
30       costs; interest paid during the construction or rehabilitation period;  
31       legal, architectural, engineering, and professional fees allocable to  
32       construction or rehabilitation; closing costs for construction or  
33       mortgage loans; recording taxes and filing fees incurred with  
34       respect to construction or rehabilitation; site costs, such as  
35       temporary electrical wiring, scaffolding, demolition costs, and  
36       fencing and security facilities; and costs of carpeting, partitions,  
37       walls and wall coverings, ceilings, lighting, plumbing, electrical  
38       wiring, and ventilation, provided that such costs shall not include  
39       the cost of telephone systems and computers other than electrical  
40       wiring costs in a project.

41       "Commissioner" means the Commissioner of Community  
42       Affairs.

43       "Department" means the Department of Community Affairs.

44       "Developer" means a person or entity, including but not limited  
45       to a partnership or corporation, engaging development of a  
46       property.

47       "Development" means construction, reconstruction, conversion,  
48       structural alteration, relocation, rehabilitation or enlargement of any

1 building or other structure, site remediation, and any use or change  
2 in the use of any building or other structure, or land or extension of  
3 use of land, for which permission may be required pursuant to the  
4 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

5 "Qualified Housing for Veterans" means any new project to  
6 construct, reconstruct or rehabilitate residential rental property in  
7 which all of the units are occupied or reserved for occupancy by a  
8 veteran. Any property shall not be treated as failing to be  
9 residential rental property merely because part of the building is  
10 used for purposes other than residential purposes.

11 "Veteran" means a person who served on federal active duty in  
12 the United States Armed Forces, National Guard, or a reserve  
13 component thereof, and who was discharged or released therefrom  
14 under conditions other than dishonorable.

15  
16 3. a. A developer shall be granted a tax credit for its approved  
17 costs in creating qualified housing for veterans.

18 b. The amount of the credit shall be 10 percent of the approved  
19 costs in the building or project.

20 c. The developer receiving the credit shall be allowed a credit  
21 against the tax liability imposed pursuant to the provisions of the  
22 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or the  
23 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1  
24 et seq.).

25 d. The credit allowed to a developer under this section may not  
26 exceed the total amount of tax otherwise payable by the developer  
27 for the developer's tax accounting period.

28 e. A credit shall not be allowed for activities for which the  
29 developer is receiving credit under any other provision against any  
30 State tax on business-related income.

31 f. Credits granted to developers pursuant to this section, in the  
32 aggregate, shall not exceed \$5 million in any fiscal year.

33 g. The amount of credit granted under this act to a New Jersey  
34 S corporation or an entity classified as a partnership for federal tax  
35 purposes shall be passed through to the partners, members,  
36 shareholders, or owners respectively, either in proportion to their  
37 ownership interest in the equity or as the partners, members,  
38 shareholders, or owners mutually agree as provided in an executed  
39 document detailing the alternate distribution method. The developer  
40 shall notify the department and the Division of Taxation of the  
41 relevant ownership interests and the intended distribution method in  
42 the developer's application for the tax credit.

43  
44 4. In order for a developer to be eligible to receive a tax credit  
45 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
46 this bill), as soon as practicable, the developer of the project shall  
47 submit a proposed plan for the housing to the department. If the  
48 project is not a new residential property, the developer shall submit

1 an affidavit certifying occupancy by veterans and any other  
2 information required by the department, pursuant to section 6 of  
3 P.L. , c. (C. ) (pending before the Legislature as this bill) for  
4 the tax credit year.

5  
6 5. a. To be eligible for a tax credit pursuant to this act, a  
7 developer or housing sponsor shall submit an application, in  
8 writing, to the department for a credit eligibility certificate. The  
9 application shall contain a showing of the following by the  
10 developer:

11 (1) the developer is likely, within a reasonable time, to obtain a  
12 certificate of occupancy for the housing for veterans;

13 (2) the developer's estimated allowable costs; and

14 (3) the housing for veterans meets the criteria listed in  
15 subsection b. of this section.

16 b. (1) Each unit of the rental housing for veterans shall be  
17 reserved for occupancy or occupied by veterans for not less than 15  
18 years; and

19 (2) each unit of rental housing meets any other requirements  
20 promulgated by the department, pursuant to section b. of section 6  
21 of P.L. , c. (C. ) (pending before the Legislature as this bill) ,  
22 and intended to further the purposes of this act.

23  
24 6. a. The department shall issue a credit eligibility certificate  
25 based upon a project to a developer if the developer provides all  
26 information the department deems necessary to effectuate the intent  
27 of P.L. , c. (C. ) (pending before the Legislature as this bill).  
28 The department shall determine whether housing for veterans is  
29 qualified housing pursuant to P.L. , c. (C. ) (pending before the  
30 Legislature as this bill). The certificate shall include sufficient  
31 information to identify individual buildings and projects that are the  
32 qualified housing for veterans.

33 b. The department, in consultation with the Department of the  
34 Treasury, the director of the Division of Taxation, and the  
35 Department of Military and Veterans Affairs, shall develop,  
36 promulgate and publish any necessary forms, procedures, or rules to  
37 effectuate this act, in accordance with the "Administrative  
38 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The  
39 regulations shall establish a reasonable schedule for the submission  
40 of applications and specific criteria, designed to discourage tax  
41 fraud, for allowable costs. The department shall design the rules to  
42 encourage use of the tax credit and to make the tax credit simple to  
43 apply for and simple to use.

44 c. Annually, the department, in consultation with the Division  
45 of Taxation, shall prepare a written report regarding the purpose  
46 and effectiveness of the credit. The report shall include the number  
47 and amount of tax credits granted and any recommendations that the  
48 Division of Taxation, Department of Military and Veterans Affairs

1 and the department deem appropriate. The report shall be submitted  
2 to the Governor and, pursuant to section 2 of P.L.1991, c.164  
3 (C.52:14-19.1), to the Legislature.

4  
5 7. a. When filing a return that includes a claim for a credit  
6 pursuant to this act, the developer or housing sponsor shall include  
7 a copy of the eligibility certificate obtained pursuant to section 6 of  
8 P.L. , c. (C. ) (pending before the Legislature as this bill).

9 b. If a credit is owed to an owner of a qualified project and the  
10 property, or an interest therein, is sold, the credit for the period after  
11 the sale which would have been allowed under this act to the prior  
12 owner had the property not been sold shall be allowed to the  
13 successor owner if that right is specified in the deed transferring the  
14 property and the Department of Community Affairs and the  
15 Division of Taxation in the Department of the Treasury are notified  
16 of the transaction and intended distribution of the credit. If the  
17 credit is not transferred pursuant to this subsection, then the  
18 remaining credit shall remain with the prior building owner.

19  
20 8. In order to promote the provision of qualified housing for  
21 veterans, the New Jersey Housing and Mortgage Finance Agency  
22 shall designate a person or persons to provide information about  
23 financial assistance available from the New Jersey Housing and  
24 Mortgage Finance Agency for the development of qualified housing  
25 for veterans and to coordinate and advise an interested developer  
26 about applying for or otherwise securing available financial  
27 assistance.

28  
29 9. This act shall take effect on the July 1 next following its date  
30 of enactment, and apply to tax periods beginning on or after that  
31 date.

#### 32 33 34 STATEMENT

35  
36 This bill would establish a tax credit for New Jersey housing  
37 developers who construct homes for New Jersey veterans. This  
38 legislation would provide a credit against an entity's business taxes.

39 The bill permits a developer to receive a non-refundable credit  
40 against New Jersey business taxes. The credit amount is calculated  
41 based on the developer's expenditures to create rental housing  
42 restricted to occupancy by veterans. The bill provides that  
43 expenditures for a wide array of construction and real estate  
44 development activities are "allowable costs" that qualify for a  
45 credit. The credit amount may be up to 10 percent of the  
46 developer's allowable costs for developing veterans' housing.

47 To receive a credit, the developer must submit both a project  
48 plan and an application to the Department of Community Affairs.

1 The Department of Community Affairs will issue a certificate of  
2 eligibility, which the developer will file with the developer's tax  
3 return to obtain the credit. The Commissioner of the Department of  
4 Community Affairs will develop regulations to administer the credit  
5 program in conjunction with the Division of Taxation and the  
6 Department of Military and Veteran's Affairs.