

ASSEMBLY, No. 2567

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

SYNOPSIS

Exempts from real property taxation during construction any building, or portion thereof, to be used for a property tax-exempt purpose.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the exemption from taxation of certain real
2 property and amending R.S.54:4-3.6.

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

6
7 1. R.S.54:4-3.6 is amended to read as follows:

8 54:4-3.6. a. **【The】** Except as provided in subsection b. of this
9 section, the following property shall be exempt from taxation under
10 this chapter: all buildings actually used for colleges, schools,
11 academies or seminaries, provided that if any portion of such
12 buildings are leased to profit-making organizations or otherwise
13 used for purposes which are not themselves exempt from taxation,
14 said portion shall be subject to taxation and the remaining portion
15 only shall be exempt; all buildings actually used for historical
16 societies, associations or exhibitions, when owned by the State,
17 county or any political subdivision thereof or when located on land
18 owned by an educational institution which derives its primary
19 support from State revenue; all buildings actually and exclusively
20 used for public libraries, asylum or schools for adults and children
21 with intellectual disabilities; all buildings used exclusively by any
22 association or corporation formed for the purpose and actually
23 engaged in the work of preventing cruelty to animals; all buildings
24 actually and exclusively used and owned by volunteer first-aid
25 squads, which squads are or shall be incorporated as associations
26 not for pecuniary profit; all buildings actually used in the work of
27 associations and corporations organized exclusively for the moral
28 and mental improvement of men, women and children, provided
29 that if any portion of a building used for that purpose is leased to
30 profit-making organizations or is otherwise used for purposes which
31 are not themselves exempt from taxation, that portion shall be
32 subject to taxation and the remaining portion only shall be exempt;
33 all buildings actually used in the work of associations and
34 corporations organized exclusively for religious purposes, including
35 religious worship, or charitable purposes, provided that if any
36 portion of a building used for that purpose is leased to a profit-
37 making organization or is otherwise used for purposes which are not
38 themselves exempt from taxation, that portion shall be subject to
39 taxation and the remaining portion shall be exempt from taxation,
40 and provided further that if any portion of a building is used for a
41 different exempt use by an exempt entity, that portion shall also be
42 exempt from taxation; all buildings actually used in the work of
43 associations and corporations organized exclusively for hospital
44 purposes, provided that if any portion of a building used for hospital
45 purposes is leased to profit-making organizations or otherwise used

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 for purposes which are not themselves exempt from taxation, that
2 portion shall be subject to taxation and the remaining portion only
3 shall be exempt; all buildings owned or held by an association or
4 corporation created for the purpose of holding the title to such
5 buildings as are actually and exclusively used in the work of two or
6 more associations or corporations organized exclusively for the
7 moral and mental improvement of men, women and children; all
8 buildings owned by a corporation created under or otherwise
9 subject to the provisions of Title 15 of the Revised Statutes or Title
10 15A of the New Jersey Statutes and actually and exclusively used in
11 the work of one or more associations or corporations organized
12 exclusively for charitable or religious purposes, which associations
13 or corporations may or may not pay rent for the use of the premises
14 or the portions of the premises used by them; the buildings, not
15 exceeding two, actually occupied as a parsonage by the officiating
16 clergymen of any religious corporation of this State, together with
17 the accessory buildings located on the same premises; the land
18 whereon any of the buildings hereinbefore mentioned are erected,
19 and which may be necessary for the fair enjoyment thereof, and
20 which is devoted to the purposes above mentioned and to no other
21 purpose and does not exceed five acres in extent; the furniture and
22 personal property in said buildings if used in and devoted to the
23 purposes above mentioned; all property owned and used by any
24 nonprofit corporation in connection with its curriculum, work, care,
25 treatment and study of men, women, or children with intellectual
26 disabilities shall also be exempt from taxation, provided that such
27 corporation conducts and maintains research or professional
28 training facilities for the care and training of men, women, or
29 children with intellectual disabilities; provided, in case of all the
30 foregoing, the buildings, or the lands on which they stand, or the
31 associations, corporations or institutions using and occupying them
32 as aforesaid, are not conducted for profit, except that the exemption
33 of the buildings and lands used for charitable, benevolent or
34 religious purposes shall extend to cases where the charitable,
35 benevolent or religious work therein carried on is supported partly
36 by fees and charges received from or on behalf of beneficiaries
37 using or occupying the buildings; provided the building is wholly
38 controlled by and the entire income therefrom is used for said
39 charitable, benevolent or religious purposes; and any tract of land
40 purchased pursuant to subsection (n) of section 21 of P.L.1971,
41 c.199 (C.40A:12-21), and located within a municipality, actually
42 used for the cultivation and sale of fresh fruits and vegetables and
43 owned by a duly incorporated nonprofit organization or association
44 which includes among its principal purposes the cultivation and sale
45 of fresh fruits and vegetables, other than a political, partisan,
46 sectarian, denominational or religious organization or association.
47 The foregoing exemption shall apply only where the association,
48 corporation or institution claiming the exemption owns the property

1 in question and is incorporated or organized under the laws of this
2 State and authorized to carry out the purposes on account of which
3 the exemption is claimed or where an educational institution, as
4 provided herein, has leased said property to a historical society or
5 association or to a corporation organized for such purposes and
6 created under or otherwise subject to the provisions of Title 15 of
7 the Revised Statutes or Title 15A of the New Jersey Statutes.

8 As used in this section "hospital purposes" includes health care
9 facilities for the elderly, such as nursing homes; residential health
10 care facilities; assisted living residences; facilities with a Class C
11 license pursuant to P.L.1979, c.496 (C.55:13B-1 et al.), the
12 "Rooming and Boarding House Act of 1979"; similar facilities that
13 provide medical, nursing or personal care services to their residents;
14 and that portion of the central administrative or service facility of a
15 continuing care retirement community that is reasonably allocable
16 as a health care facility for the elderly.

17 b. On and after January 1, 2017, any building, or any part of a
18 building, to be used for any purpose set forth in subsection a. of this
19 section shall be exempt from taxation as real property during the
20 construction thereof.

21 For each tax year during the construction of any such building,
22 the tax assessor of the municipality in which the building under
23 construction is situate shall assess the building that is under
24 construction as of October 1 of the pretax year, and shall list that
25 assessment as a partial assessment on the exempt list.

26 If, at the time of its occupancy, the building, or any part of the
27 building, is not used for a purpose set forth in subsection a. of this
28 section, the building, or any part of the building, shall be subject to
29 taxation for the current tax year and thereafter, and for each
30 previous tax year, not to exceed three tax years, for which there was
31 a partial assessment on the property. The property taxes due and
32 owing for the previous tax years shall be calculated by multiplying
33 the partial assessment attributable to the building, or any part
34 thereof, that is not used for any purpose set forth in subsection a. of
35 this section for each of the tax years by the total tax rate of the
36 municipality in which the building is situate for those tax years.

37 (cf: P.L.2011, c.171, s.4)

38
39 2. This act shall take effect immediately.
40
41

42 STATEMENT

43
44 This bill would require that, on and after January 1, 2017, any
45 building to be used for any property tax-exempt purpose must be
46 exempt from taxation as real property during the construction
47 thereof.

1 Under the provisions of the bill, for each tax year during the
2 construction of any such building, the tax assessor of the
3 municipality in which the building under construction is situate
4 must assess the building that is under construction as of October 1
5 of the pretax year, and must list that assessment as a partial
6 assessment on the municipality's exempt list. If, at the time of its
7 occupancy, the building, or any part of the building, is not used for
8 a property tax-exempt purpose, the building, or the relevant portion
9 of the building, would then be subject to taxation for the current tax
10 year and thereafter, and also for the previous tax years, not to
11 exceed three tax years, during which it was under construction.

12 The bill requires that property taxes due and owing for the
13 previous tax years, not to exceed three tax years, during which the
14 building was under construction would be calculated by multiplying
15 the partial assessment for each of those tax years, by the total tax
16 rate of the municipality for each of those tax years.

17 The provisions of this bill address an issue that has recently
18 raised concerns within the non-profit and charitable communities.
19 Under the language of N.J.S.A.54:4-3.6, the buildings and land
20 exempt from property taxation under the statute must be *actually*
21 *used* for the tax-exempt purpose; a building under construction,
22 because it is unfinished, cannot be used for such a purpose.
23 Effectively, this statutory language authorizes municipalities to
24 assess and levy property taxes against the value of the building
25 under construction until such time as the construction is completed
26 and the building is used for the non-profit or charitable use. For
27 many years, municipalities, realizing that these buildings would be
28 taxable as real property for only brief periods of time (during the
29 construction process only), did not assess property taxes against
30 these unfinished buildings.

31 However, efforts have been made by a municipality to assess
32 property taxes against the value of a major hospital undergoing
33 construction in central New Jersey, although, to date, no such taxes
34 have been paid by the hospital. This municipality's effort is
35 supported by New Jersey Tax Court decisions.

36 In Hillcrest Health Service System, Inc. v. Hackensack City, 18
37 N.J. Tax 38, (1998) where a subsidiary of the plaintiff operated a
38 hospital in Hackensack, the New Jersey Tax Court determined that
39 a property tax exemption, available to a new building constructed
40 for a property tax-exempt use, would *not* be available to the owner
41 of that building *until the building was actually used* for the tax-
42 exempt purpose: “. . . exemption requires an *actual* use of
43 property for exempt purposes and not merely an intended or
44 projected use. Even where the character of the building under
45 construction and its adaptation to an exempt use are evident, an
46 exemption does not attach until actual use commences.” Id. at 47.

47 These efforts to tax as real property those buildings being
48 constructed for a property tax-exempt purpose have raised concerns

1 and alarm in non-profit and charitable circles, because an
2 unforeseen property tax assessment would represent an additional
3 cost to the non-profit or charitable entity constructing the building.
4 The taxation of partially constructed buildings under these
5 circumstances also would be a temporary measure, because as soon
6 as the construction is completed and the building is occupied by the
7 tax-exempt entity for the tax-exempt purpose, the building would be
8 tax-exempt, and no property taxes could be collected thereon.

9 It is the intent of the sponsor that the provisions of this bill will
10 provide certainty to the non-profit and charitable community by
11 exempting from taxation as real property buildings under
12 construction by those entities that are intended to be used for the
13 tax-exempt purposes of those entities, while offering municipalities
14 the ability to recoup back property taxes if in fact, after construction
15 is completed, such a building is used for a non-tax exempt purpose,
16 or is leased or sold to a non tax-exempt entity for its own use.