ASSEMBLY, No. 3967

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 1, 2020

Sponsored by:
Assemblyman JOE DANIELSEN
District 17 (Middlesex and Somerset)

SYNOPSIS

Clarifies notice required to be provided to property taxpayers of a change in interest rate on delinquent property taxes; permits municipality to extend grace period in certain circumstances.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning interest on overdue property taxes and amending R.S.54:4-67

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

1. R.S.54:4-67 is amended to read as follows:

54:4-67. a. (1) The governing body of each municipality may by resolution fix the rate of discount to be allowed for the payment of taxes or assessments previous to the date on which they would become delinquent. The rate so fixed shall not exceed 6% per annum, shall be allowed only in case of payment made on or before the thirtieth day previous to the date on which the taxes or assessments would become delinquent, after subtracting the amount of applicable property tax credit as defined in section 1 of P.L.2018, c.11 (C.54:4-66.6). No such discount shall apply to the purchaser of a total property tax levy pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5). The governing body may also fix the rate of interest to be charged for the nonpayment of taxes, assessments, or other municipal liens or charges, unless otherwise provided by law, on or before the date when they would become delinquent, and may provide that no interest shall be charged if payment of any installment is made within the tenth calendar day following the date upon which the same became payable. <u>The governing body, by resolution, may extend this interest-free period up to a maximum of 30 days during a period in which a public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), or a state of emergency, pursuant to P.L.1942, c.251 (C.app.A.9-33 et seq.), or both, has been declared by the Governor and is in effect.</u> The rate so fixed shall not exceed 8% per annum on the first $1,500.00 of the delinquency and 18% per annum on any amount in excess of $1,500.00, to be calculated from the date the tax was payable until the date that actual payment to the tax collector is made.

(2) Notwithstanding the provisions of paragraph (1) of this subsection regarding delinquent payments, in the case of a municipality that has experienced a flood, hurricane, superstorm, tornado, or other natural disaster, interest shall not be charged by the municipality to a delinquent taxpayer if:

(a) a state of emergency has been declared as a result thereof by the Governor less than 30 days prior to the date upon which a property tax installment payment is payable pursuant to R.S.54:4-66 or section 2 of P.L.1994, c.72 (C.54:4-66.1), as appropriate, and

(b) the governing body of the municipality adopts a resolution providing that interest shall not be charged to a delinquent taxpayer

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 <u>thus</u> is new matter.

if payment of the property tax installment, plus any available property tax credit as defined in section 1 of P.L.2018, c.11 (C.54:4-66.6), is made on or before the first day of the next calendar month from the date upon which it became payable.

(3) The municipal clerk shall notify the Director of the Division of Local Government Services in the Department of Community Affairs of its adoption of a resolution effectuating the provisions of paragraph (2) of this subsection not later than the third business day next following the municipal governing body's adoption of the resolution. If the municipality is under State supervision pursuant to the provisions of Article 4 of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-54 et seq.), is subject to the provisions of the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or is otherwise subject to a memorandum of understanding or similar agreement with the division as a condition of receiving supplemental State aid, the resolution shall not be effective unless it is approved by the director.

(4) (a) As used in this paragraph:

"Eligible resident" means either:

(i) an employee of a federal government agency who is furloughed because of a shutdown and receives unemployment benefits during the shutdown or who works during a shutdown but is not paid because of the shutdown; or

(ii) a contractor whose pay is received through a contract with a federal government agency but whose payment is delayed or diminished because of a shutdown, provided that the contractor receives unemployment benefits during the shutdown.

"Shutdown" means any period in which there is more than a 24-hour lapse in appropriations for any federal government agency as a result of a failure to enact a regular appropriations bill or continuing resolution due to an impasse between the President and the Congress of the United States or between the two Houses of Congress.

(b) Notwithstanding the provisions of paragraph (1) of this subsection regarding delinquent payments, a municipality shall not charge interest to a delinquent taxpayer who is an eligible resident or who resides with a spouse, partner in a civil union, or domestic partner who is an eligible resident, if:

(i) a shutdown remains in effect for more than 21 days and either ends less than 14 days prior to the date upon which a property tax installment payment is payable pursuant to R.S.54:4-66 or section 2 of P.L.1994, c.72 (C.54:4-66.1), as appropriate, or remains in effect on the date that the property tax installment payment is due and payable; and

(ii) the governing body of the municipality in which the delinquent taxpayer resides adopts a resolution providing that interest shall not be charged to such a delinquent taxpayer if

payment of the property tax installment, less any available property tax credit as defined in section 1 of P.L.2018, c.11 (C.54:4-66.6), is made on or before the date upon which the next property tax installment payment is payable.

(c) Interest shall not be charged pursuant to this paragraph only if a delinquent property taxpayer provides to the municipality proof that the delinquent property taxpayer's pay, or the pay of the delinquent property taxpayer's spouse, partner in a civil union, or domestic partner, is derived from a federal government agency that is affected by a shutdown. In the case of a federal employee, that proof shall be demonstrated by a pay stub showing employment by a federal government agency that is affected by a shutdown. In the case of a contractor, the resolution adopted by the governing body of the municipality pursuant to subparagraph (b) of this paragraph shall establish the criteria necessary to verify the that the contractor's pay is received through a contract with a federal agency that is affected by a shutdown.

(d) The municipal clerk shall notify the Director of the Division of Local Government Services in the Department of Community Affairs of the municipality's adoption of a resolution effectuating the provisions of part (ii) of subparagraph (b) of this paragraph not later than the third business day next following the adoption of the resolution. If the municipality is under State supervision pursuant to the provisions of Article 4 of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-54 et seq.), is subject to the provisions of the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or is otherwise subject to a memorandum of understanding or similar agreement with the division as a condition of receiving supplemental State aid, the resolution shall not be effective unless it is approved by the director.

b. In any year when the governing body changes the rate of interest to be charged for delinquent taxes, assessments or other municipal charges, or to be charged for the end of the year penalty, the governing body, after adoption of a resolution changing the rate of interest, shall provide a notice to all taxpayers, prior to the date taxes are next due or with the tax bill, stating the new rate or rates to be charged **[**and**]**, the date that the new rate or rates take effect, and, if the new rate or rates of interest are not to be effective for the remainder of the tax year, the property tax quarter or quarters for which the change in the rate or rates shall apply. The notice may be separate from the tax bill. No change in the rate of interest or the end of year penalty shall take effect until the required notice has been provided in accordance with this subsection. To satisfy the notice requirement in this subsection, the governing body may use regular mail, or may use two of the following alternatives: electronic mail, text messaging system, telephonic system, or any

other digital platform used by the municipality to disseminate information to municipal residents electronically.

c. In municipalities that have sold their property tax levy pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5), the rate of interest to be charged for the nonpayment of taxes, assessments or other municipal liens or charges shall be the same interest or delinquency rate or rates otherwise charged by the municipality, to be calculated from the date the tax was payable until the date of actual payment to the tax collector. The purchaser of the total property tax levy shall be paid only those amounts attributable to properties included in the total property tax levy purchase and actually collected by the tax collector and which amounts shall not include any delinquent interest collected by the municipal tax collector prior to the time that the total property tax levy purchaser makes the levy payment to the municipality.

d. Whenever the time period for a property tax installment payment has been extended pursuant to the provisions of subsection a. of this section, the Director of the Division of Local Government Services in the Department of Community Affairs may, by temporary order, extend the dates for payment of taxes by a municipality due to a county pursuant to R.S.54:4-74, any school district pursuant to R.S.54:4-75, and any other taxing district as provided by law.

"Delinquency" means the sum of all taxes and municipal charges due on a specific real property, less the amount of applicable property tax credit as defined in section 1 of P.L.2018, c.11 (C.54:4-66.6), covering any number of quarters or years. The property shall remain delinquent, as defined herein, until such time as all unpaid taxes, including subsequent taxes and liens, together with interest thereon shall have been fully paid and satisfied and all applicable property tax credit, as defined in section 1 of P.L.2018, c.11 (C.54:4-66.6), has been credited. The delinquency shall remain notwithstanding the issuance of a certificate of sale pursuant to R.S.54:5-32 and R.S.54:5-46, the payment of delinquent tax by the purchaser of the total property tax levy pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5) and for the purposes of satisfying the requirements for filing any tax appeal with the county board of taxation or the State tax court. The governing body may also fix a penalty to be charged to a taxpayer with a delinquency in excess of $10,000 who fails to pay that delinquency as billed, less the amount of applicable property tax credit as defined in section 1 of P.L.2018, c.11 (C.54:4-66.6), prior to the end of the fiscal year. If any fiscal year delinquency in excess of $10,000 is paid by the holder of an outstanding tax sale certificate or a total property tax levy purchaser, the holder or purchaser, as appropriate, shall be entitled to receive the amount of the penalty as part of the amount required to redeem such certificate of sale providing the payment is made by the tax lien holder or tax levy purchaser prior to the end of the fiscal

year. If the holder of the outstanding tax sale certificate or the levy purchaser, as appropriate, does not make the payment in full prior to the end of the fiscal year, then the holder or purchaser shall be entitled to a pro rata share of the delinquency penalty upon redemption, and the balance of the penalty shall inure to the benefit of the municipality. The penalty so fixed shall not exceed 6% of the amount of the delinquency with respect to each most recent fiscal year only.

(cf: P.L.2019, c.491, s.1)

2. This act shall take effect immediately.

STATEMENT

This bill would clarify the form and content of the notice required to be provided to property taxpayers when a municipality changes the rate of interest to be charged on delinquent property taxes.

Under R.S.54:4-67, in any year when the governing body of a municipality changes the rate of interest to be charged for delinquent taxes, assessments or other municipal charges, or for the end of the year penalty, the governing body is required to provide a notice to all taxpayers, prior to the date taxes are next due or with the tax bill, of the new rate or rates to be charged and the date that the new rate or rates are to take effect.

This bill would clarify the content of that notice requirement. Under the bill, in addition to the new rate or rates of interest to be charged and the effective date of the change in the rate or rates, if the new rate or rates of interest will not be effective for the rest of the property tax year, the notice must specify the property tax quarter or quarters for which the change in the rate or rates shall apply.

The bill would also clarify the format of the required notice. The bill requires the governing body of a municipality to satisfy the notice requirement by using either regular mail, or two of the following alternatives: electronic mail, a text messaging system, a telephonic system, or any other digital platform used by the municipality to disseminate information to municipal residents electronically.

The bill would also permit the governing body of a municipality, by resolution, to extend the 10-day grace period in which property taxes may be paid without accruing interest to a maximum of 30 days during a period in which a state of emergency has been declared by the Governor and is in effect.