

ASSEMBLY, No. 5101

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED DECEMBER 10, 2020

Sponsored by:

Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

Assemblyman HAROLD "HAL" J. WIRTHS

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Prohibits exemption of school purposes property taxes under “Long Term Tax Exemption Law.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning financial agreements for certain property tax
2 exemptions and amending P.L.1991, c.431.

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

6
7 1. Section 9 of P.L.1991, c.431 (C.40A:20-9) is amended to
8 read as follows:

9 9. Every approved project shall be evidenced by a financial
10 agreement between the municipality and the urban renewal entity.
11 The agreement shall be prepared by the entity and submitted as a
12 separate part of its application for project approval. The agreement
13 shall not take effect until approved by ordinance of the
14 municipality. Any amendments or modifications of the agreement
15 made thereafter shall be by mutual consent of the municipality and
16 the urban renewal entity, and shall be subject to approval by
17 ordinance of the municipal governing body upon recommendation
18 of the mayor or other chief executive officer of the municipality
19 prior to taking effect.

20 The financial agreement shall be in the form of a contract
21 requiring full performance within 30 years from the date of
22 completion of the project, and shall include the following:

23 a. That the profits of or dividends payable by the urban
24 renewal entity shall be limited according to terms appropriate for
25 the type of entity in conformance with the provisions of
26 P.L.1991, c.431 (C.40A:20-1 et seq.).

27 b. That **【all】** improvements and land, to the extent authorized
28 pursuant to section 12 of P.L.1991, c.431 (C.40A:20-12), in the
29 project to be constructed or acquired by the urban renewal entity
30 shall be exempt from taxation **【as provided】** to the extent
31 authorized in section 12 of P.L.1991, c.431 **【(C.40A:20-1 et seq.)】**
32 **【(C.40A:20-12).】**

33 c. That the urban renewal entity shall make payments for
34 municipal services as provided in P.L.1991, c.431 (C.40A:20-1 et
35 seq.).

36 d. That the urban renewal entity shall submit annually, within
37 90 days after the close of its fiscal year, its auditor's reports to the
38 mayor and governing body of the municipality.

39 e. That the urban renewal entity shall, upon request, permit
40 inspection of property, equipment, buildings and other facilities of
41 the entity, and also permit examination and audit of its books,
42 contracts, records, documents and papers by authorized
43 representatives of the municipality or the State.

44 f. That in the event of any dispute between the parties matters
45 in controversy shall be resolved by arbitration in the manner
46 provided in the financial agreement.

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 g. That operation under the financial agreement shall be
2 terminable by the urban renewal entity in the manner provided by
3 P.L.1991, c.431 (C.40A:20-1 et seq.).

4 h. That the urban renewal entity shall at all times prior to the
5 expiration or other termination of the financial agreement remain
6 bound by the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.).

7 The financial agreement shall contain detailed representations
8 and covenants by the urban renewal entity as to the manner in
9 which it proposes to use, manage or operate the project. The
10 financial agreement shall further set forth the method for computing
11 gross revenue for the urban renewal entity, the method of
12 determining insurance, operating and maintenance expenses paid by
13 a tenant which are ordinarily paid by a landlord, the plans for
14 financing the project, including the estimated total project cost, the
15 amortization rate on the total project cost, the source of funds, the
16 interest rates to be paid on the construction financing, the source
17 and amount of paid-in capital, the terms of mortgage amortization
18 or payment of principal on any mortgage, a good faith projection of
19 initial sales prices of any condominium units and expenses to be
20 incurred in promoting and consummating such sales, and the rental
21 schedules and lease terms to be used in the project. Any financial
22 agreement may allow the municipality to levy an annual
23 administrative fee, not to exceed two percent of the annual service
24 charge.

25 (cf: P.L.2015, c.95, s.28)

26
27 2. Section 11 of P.L.1991, c.431 (C.40A:20-11) is amended to
28 read as follows:

29 11. A financial agreement approved pursuant to this act shall
30 include findings by the municipality, approved by the municipal
31 governing body, setting forth appropriate tax exemption provisions
32 and an appropriate annual service charge schedule which shall be
33 based upon the provisions of section 12 of **[this act]**
34 P.L.1991, c.431 (C.40A:20-12) and the municipality's
35 determinations as to:

36 a. The relative benefits of the project to the redevelopment of
37 the redevelopment area when compared to the costs, if any,
38 associated with the tax exemption;

39 b. An assessment of the importance of the tax exemption to be
40 granted in obtaining the development of the project and in
41 influencing the locational decisions of probable occupants of the
42 project or units of the project.

43 (cf: P.L.1991, c.431, s.11)

44
45 3. Section 12 of P.L.1991, c.431 (C.40A:20-12) is amended to
46 read as follows:

47 12. The rehabilitation or improvements made in the development
48 or redevelopment of a redevelopment area or area appurtenant

1 thereto or for a redevelopment relocation housing project, pursuant
2 to P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from
3 taxation for a limited period as hereinafter provided. However,
4 with respect to any project for which a long term tax exemption is
5 sought by an urban renewal entity after the effective date of
6 P.L. , c. (C.) (pending before the Legislature as this bill),
7 the rehabilitation or improvements shall not be exempt from
8 property taxes for school purposes.

9 When housing is to be constructed, acquired or rehabilitated by
10 an urban renewal entity, the land upon which that housing is
11 situated shall be exempt from taxation, except for property taxes for
12 school purposes, as set forth in this section for a limited period as
13 hereinafter provided. The exemption shall be allowed when the
14 clerk of the municipality wherein the property is situated shall
15 certify to the municipal tax assessor that a financial agreement with
16 an urban renewal entity for the development or the redevelopment
17 of the property, or the provision of a redevelopment relocation
18 housing project, or the provision of a low and moderate income
19 housing project has been entered into and is in effect as required by
20 P.L.1991, c.431 (C.40A:20-1 et seq.).

21 Delivery by the municipal clerk to the municipal tax assessor of
22 a certified copy of the ordinance of the governing body approving
23 the tax exemption and financial agreement with the urban renewal
24 entity shall constitute the required certification. For each
25 exemption granted pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et
26 al.), upon certification as required hereunder, the tax assessor shall
27 implement the exemption and continue to enforce that exemption
28 without further certification by the clerk until the expiration of the
29 entitlement to exemption by the terms of the financial agreement or
30 until the tax assessor has been duly notified by the clerk that the
31 exemption has been terminated.

32 Within 10 calendar days following the later of the effective date
33 of an ordinance following its final adoption by the governing body
34 approving the tax exemption or the execution of the financial
35 agreement by the urban renewal entity, the municipal clerk shall
36 transmit a certified copy of the ordinance and financial agreement
37 to the chief financial officer of the county and to the county counsel
38 for informational purposes.

39 Whenever an exemption status changes during a tax year, the
40 procedure for the apportionment of the taxes for the year shall be
41 the same as in the case of other changes in tax exemption status
42 during the tax year. Tax exemptions granted pursuant to
43 P.L.2003, c.125 (C.40A:12A-4.1 et al.) represent long term
44 financial agreements between the municipality and the urban
45 renewal entity and as such constitute a single continuing exemption
46 from local property taxation to the extent permitted in this section
47 for the duration of the financial agreement. The validity of a
48 financial agreement or any exemption granted pursuant thereto may

1 be challenged only by filing an action in lieu of prerogative writ
2 within 20 days from the publication of a notice of the adoption of
3 an ordinance by the governing body granting the exemption and
4 approving the financial agreement. Such notice shall be published
5 in a newspaper of general circulation in the municipality and in a
6 newspaper of general circulation in the county if different from the
7 municipal newspaper.

8 a. The financial agreement shall specify the duration of the
9 exemption for urban renewal entities in accordance with the
10 parameters of either paragraph (1) or paragraph (2) of this
11 subsection:

12 (1) the financial agreement may specify a duration of not more
13 than 30 years from the completion of the entire project, or unit of
14 the project if the project is undertaken in units, or not more than 35
15 years from the execution of the financial agreement between the
16 municipality and the urban renewal entity; or

17 (2) for each project undertaken pursuant to a redevelopment
18 agreement which allows the redeveloper to undertake two or more
19 projects sequentially, the financial agreement may specify a
20 duration of not more than 30 years from the completion of a project,
21 or unit of the project if the project is undertaken in units, or not
22 more than 50 years from the execution of the first financial
23 agreement implementing a project under the redevelopment
24 agreement. As used in this subsection, "redevelopment agreement"
25 means an agreement entered into pursuant to subsection f. of section
26 8 of P.L.1992, c.79 (C.40A:12A-8) between a municipality or
27 redevelopment entity and a redeveloper.

28 A financial agreement may provide for an exemption period of
29 less than 30 years from the completion of the entire project, less
30 than 35 years from the execution of the financial agreement, or less
31 than 50 years from the execution of the first financial agreement
32 implementing a project under the redevelopment agreement.
33 Nothing in this subsection shall be construed as requiring a
34 financial agreement for a project undertaken pursuant to a
35 redevelopment agreement which allows the redeveloper to
36 undertake two or more projects sequentially to specify a duration
37 within the parameters of paragraph (2) of this subsection.

38 b. During the term of any exemption, in lieu of **any** taxes,
39 other than school purposes property taxes, to be paid on the buildings
40 and improvements of the project and, to the extent authorized
41 pursuant to this section, on the land, the urban renewal entity shall
42 make payment to the municipality of an annual service charge,
43 which shall remit a portion of that revenue to the county as
44 provided hereinafter. In addition, the municipality may assess an
45 administrative fee, not to exceed two percent of the annual service
46 charge, for the processing of the application. The annual service
47 charge for municipal services supplied to the project to be paid by

1 the urban renewal entity for any period of exemption, shall be
2 determined as follows:

3 (1) An annual amount equal to a percentage determined
4 pursuant to this subsection and section 11 of P.L.1991, c.431
5 (C.40A:20-11), of the annual gross revenue from each unit of the
6 project, if the project is undertaken in units, or from the total
7 project, if the project is not undertaken in units. The percentage of
8 the annual gross revenue shall not be more than 15% in the case of
9 a low and moderate income housing project, nor less than 10% in
10 the case of all other projects.

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

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

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

40 (b) For the second stage of the exemption period, which shall
41 not be less than one year nor more than six years, as specified in the
42 financial agreement, an amount equal to either the amount
43 determined pursuant to paragraph (1) of this subsection and section
44 11 of P.L.1991, c.431 (C.40A:20-11), or 20% of the amount of
45 taxes otherwise due on the value of the land and improvements,
46 whichever shall be greater;

47 (c) For the third stage of the exemption period, which shall not
48 be less than one year nor more than six years, as specified in the

1 financial agreement, an amount equal to either the amount
2 determined pursuant to paragraph (1) of this subsection and section
3 11 of P.L.1991, c.431 (C.40A:20-11), or 40% of the amount of
4 taxes otherwise due on the value of the land and improvements,
5 whichever shall be greater;

6 (d) For the fourth stage of the exemption period, which shall not
7 be less than one year nor more than six years, as specified in the
8 financial agreement, an amount equal to either the amount
9 determined pursuant to paragraph (1) of this subsection and section
10 11 of P.L.1991, c.431 (C.40A:20-11), or 60% of the amount of
11 taxes otherwise due on the value of the land and improvements,
12 whichever shall be greater; and

13 (e) For the final stage of the exemption period, the duration of
14 which shall not be less than one year and shall be specified in the
15 financial agreement, an amount equal to either the amount
16 determined pursuant to paragraph (1) of this subsection and section
17 11 of P.L.1991, c.431 (C.40A:20-11), or 80% of the amount of
18 taxes otherwise due on the value of the land and improvements,
19 whichever shall be greater.

20 If the financial agreement provides for an exemption period of
21 less than 30 years from the completion of the entire project, less
22 than 35 years from the execution of the financial agreement, or less
23 than 50 years from the execution of the first financial agreement
24 implementing a project under the redevelopment agreement, the
25 financial agreement shall set forth a schedule of annual service
26 charges for the exemption period which shall be based upon the
27 minimum service charges and staged adjustments set forth in this
28 section.

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

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

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

41 Notwithstanding the provisions of this section or of the financial
42 agreement, the minimum annual service charge shall be the amount
43 of the total taxes levied against all real property in the area covered
44 by the project in the last full tax year in which the area was subject
45 to taxation, and the minimum annual service charge shall be paid in
46 each year in which the annual service charge calculated pursuant to
47 this section or the financial agreement would be less than the
48 minimum annual service charge.

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

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

12 (cf: P.L.2018, c.97, s.17)
13

14 4. This act shall take effect immediately and shall apply to
15 every financial agreement entered into after the effective date of
16 this act.
17

18

19 STATEMENT

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21 This bill would amend the “Long Term Tax Exemption Law,”
22 P.L.1991, c.431 (C.40A:20-1 et seq.) to prohibit the exemption of
23 property taxes for school purposes for any project for which a long
24 term tax exemption is sought by an urban renewal entity after the
25 effective date of the bill.

26 The exemption of property taxes for school purposes on real
27 property subject to a long term property tax exemption under the
28 “Long Term Tax Exemption Law” requires that the property tax
29 levy for school purposes be allocated among all property taxpayers
30 whose property is not subject to such a property tax exemption,
31 thereby increasing their property tax burden. The purpose of this
32 bill is to prevent these circumstances from occurring as the result of
33 property tax exemptions granted after the effective date of the bill.