

SENATE, No. 2248

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Senator JAMES W. HOLZAPFEL

District 10 (Ocean)

SYNOPSIS

Requires installation of emergency power supply systems to certain common areas of new planned real estate developments; provides related tax incentives.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the provision of emergency power supply
2 systems to certain common areas of new planned real estate
3 developments and supplementing various parts of the statutory
4 law.

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

8
9 1. a. The Commissioner of Community Affairs shall revise the
10 State Uniform Construction Code to require the installation of an
11 emergency power supply system for each common recreation or
12 community facility, commonly referred to as a clubhouse or
13 community room, of a planned real estate development. The code
14 revision shall set forth criteria to ensure that an emergency power
15 supply system installed in accordance with this section provides a
16 source of electrical power of required capacity, reliability, and
17 quality to a common recreation or community facility so that the
18 facility can serve as a shelter for residents of the development in
19 case of extended power outages. The code revision shall cover
20 installation, maintenance, operation, and testing requirements as
21 they pertain to the performance of an emergency power supply
22 system. The code revision shall be consistent with performance
23 requirements for emergency and standby power systems specified in
24 the National Fire Protection Association Standard 110 (NFPA-110),
25 or successor code or standard adopted by reference in the electrical
26 subcode of the State Uniform Construction Code, however, the
27 commissioner, after consultation with the code advisory board, may
28 include provisions in the code revision that clarify, modify, or
29 deviate from NFPA-110 in order to further the purposes of this act.

30 b. A common recreation or community facility that is equipped
31 with an emergency power supply system shall provide public
32 charging stations for residents of the development and shall be
33 equipped with sufficient outlets for residents to charge portable
34 electronic devices and electronic equipment necessary for the health
35 and safety of the residents.

36 c. For the purposes of this section:

37 “Emergency power supply system” means a power system
38 providing an alternate source of electrical power in the event that
39 the primary power source fails, consistent with performance
40 requirements for emergency and standby power systems specified in
41 the National Fire Protection Association Standard 110 (NFPA-110),
42 or successor code or standard adopted by reference in the electrical
43 subcode of the State Uniform Construction Code. Power systems
44 covered include power sources, transfer equipment, controls,
45 supervisory equipment, and all related electrical and mechanical
46 auxiliary and accessory equipment needed to supply electrical
47 power to the load terminals of the transfer equipment.

1 “Planned real estate development” means “planned real estate
2 development” as defined in section 3 of P.L.1977, c.419 (C.45:22A-
3 23).

4
5 2. a. The agency shall not enter an order registering a planned
6 real estate development proposed to provide a common recreation
7 or community facility, commonly referred to as a clubhouse or
8 community room, unless the approval is conditioned upon
9 installation of an emergency power supply system in accordance
10 with section 1 of P.L. , c. (C.) (pending before the
11 Legislature as this bill).

12 b. Notwithstanding any provision of law to the contrary, if an
13 application for registration of a development proposed to provide a
14 common recreation or community facility was initially submitted
15 after the effective date of P.L. , c. (C.) (pending before the
16 Legislature as this bill) and deemed registered pursuant to
17 subsection a. of section 10 of P.L.1977, c.419 (C.45:22A-30), the
18 developer shall install an emergency power supply system in
19 accordance with section 1 of P.L. , c. (C.) (pending before
20 the Legislature as this bill).

21
22 3. a. Notwithstanding the provisions of subsection (k) of
23 section 4 of P.L.1945, c.162 (C.54:10A-4), a taxpayer may elect to
24 treat the cost of an emergency power supply system required to be
25 installed in a planned real estate development pursuant to P.L. ,
26 c. (C.) (pending before the Legislature as this bill), not to
27 exceed \$10,000, as an expense which is not chargeable to capital
28 account. A cost treated as an expense shall be allowed as a
29 deduction for the privilege period in which the emergency power
30 supply system is placed in service.

31 b. (1) An election under this section for any privilege period
32 shall:

33 (a) specify the items of property comprising an emergency
34 power supply system, to which the election applies, and the portion
35 of the cost of each of those items which is to be taken into account
36 under subsection a. of this section, and

37 (b) be made on the taxpayer's return for the tax imposed by
38 section 5 of P.L.1945, c.162 (C.54:10A-5) for the privilege period.

39 (2) The election shall be made in the manner as the director
40 may by regulation prescribe.

41 (3) An election or specification with respect to a privilege
42 period may be revoked by the taxpayer with respect to any property,
43 and the revocation, once made, shall be irrevocable.

44 c. The director shall prescribe the rules and regulations
45 necessary to carry out the provisions of this section, including,
46 among others, those for determining the adjusted basis of the
47 emergency power supply system property for the purposes of the

1 "Corporation Business Tax Act (1945)," P.L.1945, c.162
2 (C.54:10A-1 et seq.).

3 d. For the purposes of this section:

4 "Emergency power supply system" means an "emergency power
5 supply system" as defined in section 1 of P.L. , c. (C.)
6 (pending before the Legislature as this bill).

7
8 4. a. Receipts from sales of property comprising an emergency
9 power supply system required to be installed in a planned real estate
10 development pursuant to P.L. , c. (C.) (pending before the
11 Legislature as this bill) are, subject to the conditions and limitations
12 of this section, exempt from the tax imposed under the "Sales and
13 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

14 b. Notwithstanding the provisions of subsection a. of this
15 section, the seller shall charge and collect the tax imposed pursuant
16 to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et
17 seq.), from the purchaser on sales of property comprising an
18 emergency power supply system at the rate then in effect, and the
19 tax shall be returned as a rebate to the purchaser by the filing of a
20 claim with the director for a rebate of the tax paid.

21 c. The filing of a claim for a rebate of the tax paid in
22 accordance with this section shall be made by the purchaser on
23 forms furnished by the director, and shall be accompanied by such
24 information and documentation as may be determined to be
25 necessary by the director to verify the tax paid on property
26 comprising an emergency power supply system. The claim shall be
27 filed within 360 days of the date that the property comprising an
28 emergency power supply system is placed in service.

29 d. The director shall review or cause to be reviewed each
30 complete claim filed for a rebate of the tax paid in accordance with
31 this section, and shall determine or cause to be determined the
32 amount to be returned as a rebate for the tax paid in connection with
33 purchases of property comprising an emergency power supply
34 system based on the tax separately stated on the sales slip, invoice,
35 receipt, or other statement or memorandum given to the purchaser
36 at the time of purchase; provided, however, that the director shall
37 determine the amount to be returned as a rebate for the tax paid in
38 connection with eligible purchases of property comprising an
39 emergency power supply system made by a contractor on behalf of
40 a purchaser based upon the separately stated cost of the property
41 comprising an emergency power supply system, or, if the cost for
42 property comprising an emergency power supply system is not
43 separately stated on the contract, bill, or invoice given to the
44 purchaser by the contractor, the amount to be returned as a rebate
45 shall be based on 50 percent of the total amount of the sales price
46 paid.

47 e. The director shall return or cause to be returned to each
48 purchaser that has filed a complete claim for a rebate of the tax paid

1 in accordance with this section the amount determined to be
2 returned as a rebate within six months of the date the complete
3 claim is filed.

4 f. The director shall pay or cause to be paid to a purchaser
5 interest on any amount determined to be returned as a rebate that is
6 not returned within six months of the date the complete claim is
7 filed, as is allowed and paid on overpayments of tax pursuant to
8 section 7 of P.L.1992, c.175 (C.54:49-15.1).

9 g. Notwithstanding any provisions of the "Administrative
10 Procedure Act" P.L.1968, c.410 (C.52:14B-1 et seq.) to the
11 contrary, the director may adopt, immediately upon filing with the
12 Office of Administrative Law, such regulations, including, but not
13 limited to, terms and conditions governing application for and
14 payment of refunds, as the director deems necessary to implement
15 the provisions of this section, which regulations shall be effective
16 for a period not to exceed 180 days from the date of filing. Such
17 regulations may thereafter be amended, adopted, or readopted by
18 the director as the director deems necessary in accordance with the
19 requirements of P.L.1968, c.410.

20

21 5. a. Notwithstanding the provisions of N.J.S.54A:5-1 and
22 section 26 of P.L.2004, c.65 (C.54A:5-1.2), a taxpayer may elect to
23 treat the cost of property comprising an emergency power supply
24 system, not to exceed \$10,000, as an expense which is not
25 chargeable to capital account. A cost treated as an expense shall be
26 allowed as a deduction for the taxable year in which the emergency
27 power supply system is placed in service.

28 b. (1) An election under this section for any taxable year shall:

29 (a) specify the items of property comprising an emergency
30 power supply system to which the election applies and the portion
31 of the cost of each of those items which is to be taken into account
32 under subsection a. of this section, and

33 (b) be made on the taxpayer's return for the tax imposed by the
34 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. for the
35 taxable year.

36 (2) The election shall be made in the manner as the director
37 may by regulation prescribe.

38 (3) An election or specification with respect to a privilege
39 period may be revoked by the taxpayer with respect to any property,
40 and the revocation, once made, shall be irrevocable.

41 (4) The election under this section shall be made by the
42 business entity of a taxpayer, and shall apply to each owner of the
43 business entity.

44 c. The director shall prescribe the rules and regulations
45 necessary to carry out the provisions of this section, including,
46 among others, those for determining the adjusted basis of the
47 acquired property for the purposes of the "New Jersey Gross
48 Income Tax Act," N.J.S.54A:1-1 et seq.

1 d. For the purposes of this section:

2 “Emergency power supply system” means “emergency power
3 supply system” as defined in section 1 of P.L. , c. (C.)
4 (pending before the Legislature as this bill).

5
6 6. This act shall take effect the first day of the fourth month
7 next following enactment and be applicable to applications for
8 construction permits and applications for registration that are not
9 complete on that date, however, the Commissioner of Community
10 Affairs shall immediately take all actions necessary to ensure that
11 this act takes effect on the effective date.

12
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14 STATEMENT

15
16 This bill would require the installation of an emergency power
17 supply system to supply standby power to each clubhouse or
18 community room in a new common interest community. Hurricane
19 Sandy resulted in prolonged power outages throughout the State of
20 New Jersey and surrounding areas. While Hurricane Sandy is the
21 most recent and prominent example of extended power outages
22 caused by extraordinary weather conditions, it was not an isolated
23 occurrence with regard to extended power outages.

24 Many parts of New Jersey have been developed as common
25 interest communities. Although these planned communities may
26 isolate residential dwellings from public and commercial buildings,
27 these communities often contain clubhouses or other facilities that
28 could be used as a shelter during times of emergency.

29 By requiring new common interest communities to equip
30 clubhouses and community rooms with an alternate source of
31 electrical power, the bill will provide residents of these
32 communities with a centrally-located, well-powered shelter to better
33 wait-out future power outages. While this bill would not require
34 existing common interest communities to retrofit their clubhouses
35 and community rooms with emergency power supply systems, the
36 sponsors recommend and encourage these communities to do so.

37 In recognition of the quasi-public purpose of this initiative, the
38 bill provides a corporation business tax deduction and gross income
39 tax deduction (not to exceed \$10,000 in either case), and a sales tax
40 exemption, for the purchase of equipment necessary for the
41 installation of emergency power supply systems by developers of
42 new common interest communities as required under the bill.