SENATE, No. 3869

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 3, 2021

Sponsored by:
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)
Senator NELLIE POU
District 35 (Bergen and Passaic)

Co-Sponsored by:
Senator Brown

SYNOPSIS

Modifies Garden State Growth Zone tax exemption program.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/30/2021)

AN ACT concerning Garden State Growth Zones and amending P.L.2013, c.161.

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

1. Section 23 of P.L.2013, c.161 (C.52:27D-489r) is amended to read as follows:

23. As used in section 24 of P.L.2013, c.161 (C.52:27D-489s):

"Aviation district" means all areas within the boundaries of the "Atlantic City International Airport," established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation Administration William J. Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the "Atlantic City International Airport" and the Federal Aviation Administration William J. Hughes Technical Center.

"Director" means the Director of the Division of Taxation.

"Division of Codes and Standards" means the Division of Codes and Standards located in the Department of Community Affairs.

"Eligible person" means any individual purchasing or renting an eligible residential residence within a growth zone after the enactment of P.L.2013, c.161 (C.52:27D-489p et al.). For the purpose of this definition, an eligible person is limited to those who establish a permanent residency at the eligible residential residence, are subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and are current with all State and local tax obligations.

"Eligible property" means any residential, commercial, industrial, or other business property, located in a Garden State Growth Zone, that receives a Certificate of Occupancy or is transferred in a legal sale on or after July 1, 2013. Purchasers of newly constructed homes are not the applicant.

"Exemption" means that portion of the assessor's full and true value of any improvement, conversion, alteration, redevelopment, rehabilitation, or construction not regarded as increasing the taxable value of a property pursuant to P.L.2013, c.161 (C.52:27D-489p et al.) for the purposes of encouraging the construction, conversion, improvement, and redevelopment of real property conducted by eligible businesses or residents within a growth zone pursuant to P.L.2013, c.161 (C.52:27D-489p et al.).

"Garden State Growth Zone" or "growth zone" means the four New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the US Census, (Table 708. Household, Family, and Per Capita Income and Individuals, and Families Below Poverty Level by City: 2009); a municipality

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.

which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority; **[**or**]** an aviation district; or a government-restricted municipality.

"Garden State Growth Zone Development Entity" means a private corporation incorporated pursuant to Title 14A of the New Jersey Statutes, or established pursuant to Title 42 of the Revised Statutes, for which the profits of the entity are limited as follows. The allowable net profits of the entity shall be determined by applying the allowable profit rate to the total project cost, and all capital costs, determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits, for the period commencing on the date on which the construction of the project is completed, and terminating at the close of the fiscal year of the entity preceding the date on which the computation is made, where:

"Allowable profit rate" means the greater of 12 percent or the percentage per annum arrived at by adding one and 1/4 percent to the annual interest percentage rate payable on the entity's initial permanent mortgage financing. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge, if payable on a per annum basis, shall be considered as interest for this purpose. If there is no permanent mortgage financing the allowable profit rate shall be the greater of 12 percent or the percentage per annum arrived at by adding one and 1/4 percent per annum to the interest rate per annum which the municipality determines to be the prevailing rate on mortgage financing on comparable improvements in the county.

"Government-restricted municipality" means a municipality in this State that has:

(1) a municipal revitalization index distress score of at least 75;

(2) met the criteria for designation as an urban aid municipality in the 2019 State fiscal year; and

(3) on the effective date of P.L. , c. (pending before the Legislature as this bill) is either:

(a) subject to financial restrictions imposed pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or

(b) restricted in its ability to levy property taxes on property in that municipality as a result of:

(i) the State of New Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality, or

(ii) the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which land area is dedicated as a national natural landmark.

"Improvements" means any repair, construction, or reconstruction, including alterations and additions, having the effect of rehabilitating a deteriorated property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity, or is brought into compliance with laws, ordinances or regulations governing such standards. Ordinary upkeep and maintenance shall not be deemed an improvement.
(cf: P.L.2018, c.120, s.7)

2. Section 24 of P.L.2013, c.161 (C.52:27D-489s) is amended to read as follows:

24. a. A Garden State Growth Zone Development Entity is authorized to undertake clearance, re-planning, development, or redevelopment of property within a Garden State Growth Zone.

b. (1) Notwithstanding any other law to the contrary, every Garden State Growth Zone Development Entity that owns real property, or leases real property for a period of not less than 30 years, within a Garden State Growth Zone and that undertakes the clearance, re-planning, development, or redevelopment of such property is hereby granted an exemption on improvements to such eligible property for any new construction, improvements, or substantial rehabilitation of structures on real property for a period of 20 years from receiving a final Certificate of Occupancy, provided however, that a municipality located within the Garden State Growth Zone shall, by ordinance, opt-in to such program within 90 calendar days of the enactment of P.L.2013, c.161 (C.52:27D-489p et al.). The exemption allowed by this **[**subsection**]** paragraph shall be dependent upon: **[**(1)**]** (a) the owner, or lessee, of the real property making improvements to the real property after the enactment of P.L.2013, c.161 (C.52:27D-489p et al.); and **[**(2)**]** (b) the Division of Codes and Standards, in consultation with the eligible municipality, issuing a final Certificate of Occupancy within 15 years of the date of enactment of P.L.2013, c.161 (C.52:27D-489p et al.) in the case of real property that is located in a government-restricted municipality, and within 10 years of the date of enactment of P.L.2013, c.161 (C.52:27D-489p et al.) in the case of real property that is not located in a government-restricted municipality.

(2) If a government-restricted municipality located within a Garden State Growth Zone did not opt-in to the program within 90 calendar days of the enactment of P.L.2013, c.161 (C.52:27D-489p et al.) pursuant to paragraph (1) of this subsection, then the government-restricted municipality located within a Garden State Growth Zone may, by ordinance, opt-in to such program within 90 calendar days of the enactment of P.L. , c. (pending before the Legislature as this bill). A Garden State Growth Zone Development Entity that owns real property, or leases real property for a period of not less than 30 years, within a government-restricted municipality

that adopts an ordinance to opt-in pursuant to this paragraph, and that undertakes the clearance, re-planning, development, or redevelopment of such property is hereby granted an exemption on improvements to such eligible property for any new construction, improvements, or substantial rehabilitation of structures on real property for a period of 30 years from receiving a final Certificate of Occupancy. The exemption allowed by this paragraph shall be dependent upon: (a) the owner, or lessee, of the real property making improvements to the real property after the enactment of P.L.2013, c.161 (C.52:27D-489p et al.); and (b) the Division of Codes and Standards, in consultation with the eligible municipality, issuing a final Certificate of Occupancy within 15 years of the date of enactment of P.L.2013, c.161 (C.52:27D-489p et al.).

(3) Notwithstanding any other law to the contrary, the municipal assessor of a government-restricted municipality may extend the exemption period authorized pursuant to paragraph (1) of this subsection so that such exemption is granted for a period of 30 years from receiving a final Certificate of Occupancy. The extension allowed by this paragraph shall be dependent upon: (a) the government-restricted municipality having adopted an ordinance to opt-in to the program within 90 calendar days of the enactment of P.L.2013, c.161 (C.52:27D-489p et al.) pursuant to paragraph (1) of this subsection; (b) the municipal assessor authorizing an extension of the existing exemption to a period of 30 years as provided for in this paragraph; and (c) the Division of Codes and Standards, in consultation with the eligible municipality, issuing a final Certificate of Occupancy within 15 years of the date of enactment of P.L.2013, c.161 (C.52:27D-489p et al.). Upon authorization of an extension by the municipal assessor pursuant to this paragraph, the exemption schedule set forth in subsection d. of this section shall apply.

(4) For purposes of this section, a lessee of real property shall include a Garden State Growth Zone Development Entity that is a lessee that is subject to a statutory obligation to make a payment in lieu of taxes on the improvements equal to the taxes on real and personal property.

c. The exemption granted by paragraph (1) of subsection b. of this section shall be for a period of 20 years. For the first 10 years immediately subsequent to the issuance of a Certificate of Occupancy, the Garden State Growth Zone Development Entity shall be exempt from the payment of taxes on the improvements to the eligible property. Thereafter, the Garden State Growth Zone Development Entity shall pay to the municipality in lieu of full property tax payments an amount equal to a percentage of taxes otherwise due, according to the following schedule:

(1) In the eleventh year after completion, 10 percent of taxes otherwise due;

(2) In the twelfth year after completion, 20 percent of taxes otherwise due;

(3) In the thirteenth year after completion, 30 percent of taxes otherwise due;

(4) In the fourteenth year after completion, 40 percent of taxes otherwise due;

(5) In the fifteenth year after completion, 50 percent of taxes otherwise due;

(6) In the sixteenth year after completion, 60 percent of taxes otherwise due;

(7) In the seventeenth year after completion, 70 percent of taxes otherwise due;

(8) In the eighteenth year after completion, 80 percent of taxes otherwise due;

(9) In the nineteenth full year after completion, 90 percent of taxes otherwise due;

(10) In the twentieth year after completion, and each year thereafter, 100 percent of taxes.

d. The exemption granted by paragraph (2) of subsection b. of this section and an extended exemption period authorized by the municipal assessor of a government-restricted municipality pursuant to paragraph (3) of subsection b. of this section shall be for a period of 30 years. For the first 10 years immediately subsequent to the issuance of a Certificate of Occupancy, the Garden State Growth Zone Development Entity shall be exempt from the payment of taxes on the improvements to the eligible property. Thereafter, the Garden State Growth Zone Development Entity shall pay to the municipality in lieu of full property tax payments an amount equal to a percentage of taxes otherwise due, according to the following schedule:

(1) In the eleventh year after completion, five percent of taxes otherwise due;

(2) In the twelfth year after completion, 10 percent of taxes otherwise due;

(3) In the thirteenth year after completion, 15 percent of taxes otherwise due;

(4) In the fourteenth year after completion, 20 percent of taxes otherwise due;

(5) In the fifteenth year after completion, 25 percent of taxes otherwise due;

(6) In the sixteenth year after completion, 30 percent of taxes otherwise due;

(7) In the seventeenth year after completion, 35 percent of taxes otherwise due;

(8) In the eighteenth year after completion, 40 percent of taxes otherwise due;

(9) In the nineteenth year after completion, 45 percent of taxes otherwise due;

(10) In the twentieth year after completion, and each year thereafter, 50 percent of taxes.

(11) In the twenty-first year after completion, 55 percent of taxes otherwise due;

(12) In the twenty-second year after completion, 60 percent of taxes otherwise due;

(13) In the twenty-third year after completion, 65 percent of taxes otherwise due;

(14) In the twenty-fourth year after completion, 70 percent of taxes otherwise due;

(15) In the twenty-fifth year after completion, 75 percent of taxes otherwise due;

(16) In the twenty-sixth year after completion, 80 percent of taxes otherwise due;

(17) In the twenty-seventh year after completion, 85 percent of taxes otherwise due;

(18) In the twenty-eighth year after completion, 90 percent of taxes otherwise due;

(19) In the twenty-ninth year after completion, 95 percent of taxes otherwise due;

(20) In the thirtieth after completion, and each year thereafter, 100 percent of taxes.

e. An amount not less than five percent of all payments pursuant to ⟦this subsection⟧ subsections c. and d. of this section shall be paid to the county in which the municipality is located.

⟦d.⟧ f. Upon the termination of the exemption granted pursuant to ⟦subsection⟧ subsections c. and d. of this section, the project, all affected parcels, land, and all improvements made thereto shall be assessed and subject to taxation as are other taxable properties in the municipality. After the date of termination, all restrictions and limitations upon the Garden State Growth Zone Development Entity shall terminate and be at an end upon the entity's rendering its final accounting to and with the municipality.

⟦e.⟧ g. Notwithstanding subsection b. of this section, the owner of any property located within a Garden State Growth Zone, that does not qualify as a Garden State Growth Zone Development Entity, that performs any new construction, improvements, or substantial rehabilitation improvements to property, shall be entitled to an exemption from taxation regarding such improvements as provided herein. For purposes of such exemption, the municipality shall consider the assessor's full and true value of the improvements as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements are made is increased thereby.

⟦f.⟧ h. Any exemption obtained under this section shall be fully transferable upon the sale of real property, as long as the new owner meets all requirements for exemption set forth pursuant to this

section, or, for the sale of a residential unit, as long as the new owner occupies the unit as a primary residence.

[g.**]** i. A Garden State Growth Zone Development Entity shall not be required to purchase pinelands development credits under the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive management plan, or any other rule or regulation adopted pursuant to that act, in connection with any approval or relief obtained related to property located in an aviation district on or after the effective date of P.L.2018, c.120, except if seeking to develop in permanently protected open space pursuant to the Pinelands Protection Act. The provisions of this subsection shall not apply to an eligible property that is residential property.

(cf: P.L.2018, c.120, s.8)

3. This act shall take effect immediately.

STATEMENT

This bill would modify the Garden State Growth Zone (GSGZ) property tax exemption program. Under current law, a Garden State Growth Zone Development Entity may redevelop property within a GSGZ and be granted a 20-year property tax exemption on improvements to the redeveloped property if the applicable GSGZ municipality opted into the program within 90 calendar days of the enactment of P.L.2013, c.161 (C.52:27D-489p et al.). Under current law, this property tax exemption is dependent upon:

(1) the owner of the property making improvements to the property after the date of enactment of P.L.2013, c.161; and

(2) the issuance of a final certificate of occupancy within 10 years of the date of enactment of P.L.2013, c.161.

The bill would enable certain municipalities to newly opt into the GSGZ property tax exemption program within 90 days of this bill's effective date. The bill would amend the definition of the term "Garden State Growth Zone" to include a "government-restricted municipality." The bill defines "government-restricted municipality" as a New Jersey municipality:

(1) with a Municipal Revitalization Index distress score of at least 75;

(2) which met the criteria for designation as an urban aid municipality in the 2019 State fiscal year; and

(3) which, on the bill's effective date, is either:

(a) subject to financial restrictions imposed pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or

(b) restricted in its ability to levy property taxes on property in that municipality as a result of:

(i) the State of New Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality, or

(ii) the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which land area is dedicated as a national natural landmark.

Under the bill, a "government-restricted municipality" that did not opt into the GSGZ exemption program within 90 calendar days of the enactment of P.L.2013, c.161 (C.52:27D-489p et al.) may, by ordinance, opt into the program within 90 calendar days of the enactment of this bill. An exemption under this provision would be granted on improvements made to the property for a period of 30 years from receiving a final certificate of occupancy. The exemption would apply to property improvements made after the enactment of P.L.2013, c.161 (C.52:27D-489p et al.) and which were issued a final certificate of occupancy within 15 years of the date of enactment of P.L.2013, c.161 (C.52:27D-489p et al.).

Additionally, the bill authorizes the municipal assessor of a government-restricted municipality to extend the prior-existing 20-year exemption period to a period of 30 years. This extension would be allowed if the government-restricted municipality had opted into the program within 90 calendar days of the enactment of P.L.2013, c.161 (C.52:27D-489p et al.), and a final certificate of occupancy is issued within 15 years of the date of enactment of P.L.2013, c.161 (C.52:27D-489p et al.).