

ASSEMBLY, No. 2246

STATE OF NEW JERSEY 220th LEGISLATURE

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Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Co-Sponsored by:

Assemblywomen McKnight, Jimenez and Reynolds-Jackson

SYNOPSIS

Establishes New Jersey Homebuyer Tax Credit Program under gross income tax for certain home purchases during qualified periods by first-time homebuyers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/14/2022)

1 AN ACT establishing a New Jersey Homebuyer Tax Credit Program
2 under the gross income tax for certain home purchases during
3 qualified periods, supplementing chapter 4 of Title 54A of the
4 New Jersey Statutes.

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

8
9 1. a. A first-time homebuyer taxpayer shall be allowed a credit
10 against the tax otherwise due under the "New Jersey Gross Income
11 Tax Act," N.J.S.54A:1-1 et seq., for a qualified home purchase, in
12 an amount equal to five percent of the price paid for the purchase or
13 \$15,000, whichever is less, and subject to the further limitations
14 imposed by this section; provided, however, that the taxpayer
15 intends to use the home as the taxpayer's principal residence for 36
16 consecutive months next following the date of the qualified home
17 purchase.

18 b. The amount of all credits allowed pursuant to this section
19 shall not exceed \$100,000,000, to be allocated over four terms as
20 follows:

21 (1) up to \$25,000,000 for contracts of sale executed on or before
22 the 365th day next following the effective date of
23 P.L. , c. (C.) (pending before the Legislature as this bill);
24 and

25 (2) up to \$25,000,000 for contracts of sale executed after the
26 365th, but before the 730th, day next following the effective date of
27 P.L. , c. (C.) (pending before the Legislature as this bill).

28 (3) Upon a joint resolution adopted by the Senate and General
29 Assembly and signed by the Governor that extends the tax credit
30 program, as prescribed by subsection g. of this section, the balance
31 of credits allowed pursuant to an extension of the tax credit
32 program shall be allocated as follows:

33 (a) up to \$25,000,000 for contracts of sale executed on or before
34 the 365th day next following the date the Governor signs the joint
35 resolution; and

36 (b) up to \$25,000,000 for contracts of sale executed after the
37 365th, but before the 730th, day next following the date the
38 Governor signs the joint resolution.

39 (4) For each term in which credits are allowed pursuant to this
40 subsection, up to \$18,750,000 shall be allowed for qualified home
41 purchases of new qualified residential properties, and up to
42 \$6,250,000 shall be allowed for qualified home purchases of
43 qualified residential properties previously occupied as a residence.

44 c. The director shall establish a convenient method, which may
45 include an Internet or other electronic format, for first-time
46 homebuyer taxpayers to apply for a determination of their
47 preliminary eligibility to claim a credit, which determination shall
48 be provided by the director to the taxpayer before the taxpayer's

1 intended purchase date. Notice of the director's determination of
2 preliminary eligibility or denial of preliminary eligibility to claim a
3 credit shall be provided to applicants in the order in which the
4 director receives the applications, and the limits provided in this
5 subsection shall be allocated to applications in the order in which
6 they are received and approved by the director. No credit shall be
7 allowed under this section for a home purchase if a determination of
8 preliminary eligibility of that home purchase is not provided by the
9 director. The application shall include such information as the
10 director determines is necessary to make a prompt determination of
11 preliminary eligibility and shall include, but may not be limited to:
12 (1) the taxpayer's certification of intention to use the home as the
13 taxpayer's principal residence for 36 consecutive months after the
14 qualified home purchase; and (2) in the case of a qualified home
15 purchase of a new qualified residential property, the home seller's
16 certification that the new qualified residential property has never
17 been occupied as a principal residence.

18 d. (1) A first-time homebuyer taxpayer completing a
19 qualified home purchase of a qualified residential property
20 previously occupied as a residence within 365 days following the
21 date of the execution of the contract of sale may claim a credit
22 allowed pursuant to this section. To reserve a credit, the taxpayer
23 and seller shall jointly sign and submit to the director a certification
24 that they have entered into a fully executed contract of sale. Upon
25 receipt of the certification, the director shall notify the taxpayer that
26 the division has reserved the credit for the taxpayer, pending the
27 director's receipt from the taxpayer, within 14 calendar days of
28 settlement, of the Closing Disclosure for the qualified home
29 purchase of a qualified residential property previously occupied as a
30 residence.

31 (2) A first-time homebuyer taxpayer completing a qualified
32 home purchase of a new qualified residential property within 545
33 days following the date of the execution of the contract of sale may
34 claim a credit allowed pursuant to this section. To reserve a credit,
35 the taxpayer and seller shall jointly sign and submit to the director a
36 certification that they have entered into a fully executed contract of
37 sale. Upon receipt of the certification, the director shall notify the
38 taxpayer that the division has reserved the credit for the taxpayer,
39 pending the director's receipt from the taxpayer, within 14 calendar
40 days of settlement, of the Closing Disclosure for the qualified home
41 purchase of a new qualified residential property.

42 e. The total amount of the credit allowed shall be divided and
43 applied in equal amounts for three consecutive taxable years,
44 beginning in the taxable year of the purchase and continuing in the
45 next two taxable years. The amount of the credit allowed shall be
46 applied against the tax otherwise due under N.J.S.54A:1-1 et seq. in
47 each taxable year after all other credits and payments allowed in the
48 taxable year. If the credit allowed reduces the tax liability

1 otherwise due to zero, any amount of the credit remaining shall be
2 paid to the taxpayer as a refund of an overpayment of tax pursuant
3 to N.J.S.54A:9-7, provided however, subsection (f) of that section,
4 concerning the allowance of interest, shall not apply. The director
5 shall determine the form and manner by which a first-time
6 homebuyer taxpayer shall apply for and be eligible to receive a
7 refund of an overpayment pursuant this section.

8 f. (1) A taxpayer shall be required to repay the amount of all
9 credits applied upon a determination by the director that a credit
10 applied for and claimed against tax otherwise due, or for which a
11 refund of tax is paid, does not meet the requirements of this section,
12 including but not limited to:

13 (a) the failure of a first-time homebuyer taxpayer to use the
14 home as the taxpayer's principal residence for 36 consecutive
15 months after the home purchase; or

16 (b) the use of an agent to conceal the identity of the true
17 purchaser of the home for purposes of claiming more than one
18 credit pursuant to this section.

19 (2) In the event of the death of a first-time homebuyer taxpayer
20 occurring on or before the 36th consecutive month next following
21 the date of the qualified home purchase, any heir of the taxpayer to
22 whom the home is devised shall:

23 (a) meet the definition of "first-time homebuyer taxpayer"
24 pursuant to subsection h. of this section; and

25 (b) use the home as the principal residence of the devisee for the
26 balance of the 36 consecutive months next following the date of the
27 qualified home purchase.

28 If a devisee fails to meet any qualification required pursuant to
29 this paragraph, then the balance of the credit shall be disallowed for
30 all taxable years next following the taxable year in which the death
31 of the taxpayer occurs.

32 g. (1) No later than the 1,095th day next following the
33 effective date of P.L. , c. (C.) (pending before the
34 Legislature as this bill), the Office of Revenue and Economic
35 Analysis in the Department of the Treasury shall prepare and submit
36 a report to the Governor and, pursuant to section 2 of P.L.1991,
37 c.164 (C.52:14-19.1), to the Legislature. The report shall analyze
38 the costs and benefits of the tax credit program provided by this
39 section, including but not limited to:

40 (a) the impact of the tax credit program on State revenues;

41 (b) the extent to which home purchases by first-time
42 homebuyers, including but not limited to purchases of new qualified
43 residential property, increased during the terms the tax credit was
44 available, as compared with historical trends and comparable
45 housing markets outside of New Jersey;

46 (c) whether the data suggests that a two year extension of the
47 tax credit program may have a material, positive impact on the

1 State's construction, real estate, and any other sectors of the State
2 economy;

3 (d) whether the fiscal condition and outlook of the State has
4 materially changed such as to materially affect the purpose
5 underlying the program to promote home ownership and strengthen
6 key sectors of the State's economy; and

7 (e) any other information determined by the Office of Revenue
8 and Economic Analysis to be relevant to the costs and benefits of
9 the tax credit program to the State.

10 (2) Upon receipt of the report pursuant to this subsection, the
11 Legislature may adopt and the Governor may sign a joint resolution
12 that extends the tax credit, pursuant to paragraph (3) of subsection
13 b. of this section, for an additional two years, except as otherwise
14 provided in this section.

15 h. As used in this section:

16 "First-time homebuyer taxpayer" means a taxpayer:

17 (1) who is a State resident and a natural person;

18 (2) who has not previously owned qualified residential property;
19 and

20 (3) whose most-recently reported New Jersey gross income,
21 combined with the most-recently reported New Jersey gross income
22 of all other individuals expected by the taxpayer to be permanent
23 residents of the qualified residential property for more than 180
24 days of the next succeeding taxable year, including but not limited
25 to the taxpayer's spouse or domestic partner, shall not exceed at the
26 time the contract of sale is executed:

27 (a) \$118,000 for households with no more than two persons, or

28 (b) \$135,000 for households with three or more persons.

29 "New qualified residential property" means a dwelling unit not
30 previously occupied as a residence.

31 "Qualified residential property" means a dwelling house, a
32 condominium unit under the form of real property ownership
33 provided for under the "Condominium Act," P.L.1969, c.257
34 (C.46:8B-1 et seq.), a unit in a cooperative or mutual housing
35 corporation, a unit in a horizontal property regime under the form of
36 real property ownership provided under the "Horizontal Property
37 Act," P.L.1963, c.168 (C.46:8A-1 et seq.), a unit in a continuing
38 care retirement community, or a manufactured home that is taxable
39 as real property or that is installed in a mobile home park.

40 "Qualified home purchase" means the acquisition, by sale, of a
41 qualified residential property that is occupied as a first-time
42 homebuyer taxpayer's principal residence or the construction of a
43 new qualified residential property paid for by the taxpayer and
44 occupied as the taxpayer's principal residence; provided, however,
45 that the value of the qualified residential property does not exceed
46 \$560,000 at the time the contract of sale is executed.

47 "Principal residence" means a qualified residential property
48 actually and continually occupied by a first-time homebuyer

- 1 taxpayer as the taxpayer's permanent residence, as distinguished
2 from a vacation home, property owned and rented or offered for
3 rent by the taxpayer, and other secondary real property holdings.
- 4 i. Notwithstanding any provision of P.L.1968, c.410
5 (C.52:14B-1 et seq.) to the contrary, the director may adopt
6 immediately upon filing with the Office of Administrative Law
7 such regulations as the director deems necessary to implement the
8 provisions of this act, which shall be effective for a period not to
9 exceed 180 days following the date of enactment of
10 P.L. , c. (C.) (pending before the Legislature as this bill)
11 and may thereafter be amended, adopted, or readopted by the
12 director in accordance with the requirements of P.L.1968, c.410.
13 The regulations may include examples of circumstances in which
14 repayment of credit amounts are required, manner and terms of
15 repayment, and circumstances in which a waiver of repayment
16 maybe granted in the discretion of the director.
- 17
- 18 2. This act shall take effect on the first day of the sixth month
19 next following the date of enactment.
- 20
- 21

22 STATEMENT

23

- 24 This bill establishes the New Jersey Homebuyer Tax Credit
25 Program under the gross income tax.
- 26 To qualify for the credit, a taxpayer is required to: (1) be a first-
27 time homebuyer; and (2) enter into a contract of sale on a qualified
28 home purchase within certain prescribed dates. For qualifying new
29 home purchases, a taxpayer has 18 months from the contract of sale
30 in which to complete the purchase. For qualifying previously
31 occupied homes, a taxpayer has 12 months from the contract of sale
32 in which to complete the purchase. The taxpayer is also required to
33 occupy the property as her or his principal residence for at least
34 three consecutive years after the date of the purchase.
- 35 The tax credit provided by the bill is refundable and is allowed
36 for up to \$15,000 or five percent of the purchase price, whichever is
37 less. The total credits available are capped at \$100 million, with up
38 to \$25 million allocated for qualified home purchases made
39 between the effective date of the bill and up to one year thereafter;
40 and up to \$25 million allocated for qualified home purchases made
41 after one year, but before two years, after the effective date of the
42 bill. If the tax credit program is renewed, up to \$25 million is
43 available for qualified home purchases made up to one year after
44 the renewal date; and up to \$25 million is available for qualified
45 purchases made between one year, but before two years, after the
46 date the program is renewed. For each year the program is in effect,
47 up to \$18.75 million is allocated for purchases of newly constructed

1 homes not previously occupied, and up to \$6.25 million is allocated
2 for purchases of previously occupied homes.

3 The credit is only available to taxpayers who are New Jersey
4 residents, are natural persons, and have not previously owned
5 qualified residential property. Moreover, the New Jersey reported
6 gross income of the taxpayer, combined with the New Jersey
7 reported gross income of other individuals expected to be
8 permanent residents of the property (domiciled for more than 180
9 days of the year), cannot exceed: (1) \$118,000 for households with
10 up to two persons; and (2) \$135,000 for households with three or
11 more persons. The value of the qualified residential property
12 likewise cannot exceed \$560,000.

13 The credit is provided on a first-come, first-serve basis, and the
14 claiming of the credit for personal income tax filing purposes will
15 be divided into three equal credit amounts claimed over three
16 taxable years. The terms of the credit require that the home
17 continue to be occupied as the taxpayer's principal residence for
18 three years.

19 If the taxpayer fails to use the home as his or her principal
20 residence for at least 36 months next following the date of the
21 qualified home purchase, then the taxpayer must pay back the full
22 amount of the credit received. Likewise, if the Director of the
23 Division of Taxation in the Department of the Treasury determines
24 that a taxpayer has used a strawman to make more than one
25 qualified home purchase, in order to "flip houses" and claim
26 multiple credits pursuant to the bill, then the taxpayer is required to
27 pay back the full amount of all credits received; this prohibition is
28 not intended to preclude the use of a real estate agent or broker in
29 facilitating a qualified home purchase. In the event the taxpayer
30 dies during the 36 months the qualified residential property is
31 required to be used as the taxpayer's principal residence, then any
32 heirs to whom the property has been bequeathed are required to: (1)
33 meet the definition of "first-time homebuyer taxpayer"; and (2) use
34 the property as that heir's or heirs' principal residence for the
35 balance of the 36 months; otherwise, the credit is disallowed for all
36 tax years beginning after the death of the original
37 purchaser/taxpayer.

38 After the end of the second year in which this program is
39 operational, the Office of Revenue and Economic Analysis in the
40 Department of the Treasury is required to prepare and submit a
41 report to the Governor and Legislature to study the efficacy of the
42 tax credit program. This report, at a minimum, is required to
43 include: (1) the impact of the tax credit program on State revenue;
44 (2) the extent to which home purchases by first time homebuyers
45 (including purchases of new qualified residential property)
46 increased during the period the tax credits were available; (3)
47 whether the data suggests that a two year extension of the tax credit
48 program may have a material, positive impact on the State's

1 construction, real estate, and any other sectors of the State
2 economy; and (4) whether the fiscal condition and outlook of the
3 State has materially changed in way that materially affect the
4 purpose underlying the program to promote home ownership and
5 strengthen key sectors of the State's economy. Upon receipt of this
6 report, the Legislature may adopt, and the Governor may sign, a
7 joint resolution that extends the program for two additional years.

8 The effective date of this bill is the first day of the sixth month
9 next following the date of enactment.

10 The bill is intended to create a substantial and immediate
11 incentive for potential homebuyers. Recognizing that much direct
12 and indirect economic activity is generated through new home
13 construction and home resales, this incentive is expected not only to
14 strengthen homebuilding industry in this State, but also to stimulate
15 economic growth through indirect related spending, including
16 boosting State and local government revenue collections generated
17 by this activity.