

[First Reprint]

ASSEMBLY, No. 1996

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MAY 4, 1998

Sponsored by:

Assemblyman PAUL DIGAETANO

District 36 (Bergen, Essex and Passaic)

Assemblyman RICHARD H. BAGGER

District 22 (Middlesex, Morris, Somerset and Union)

Co-Sponsored by:

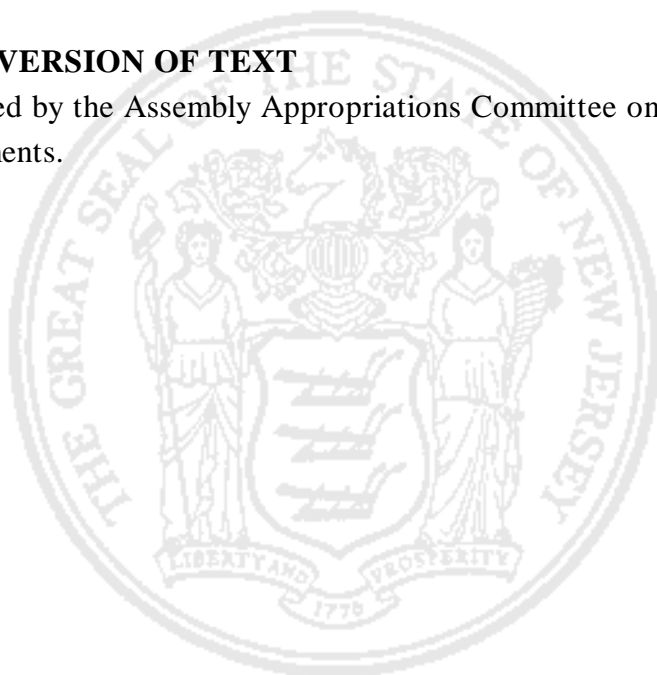
Senators Kavanaugh and Inverso

SYNOPSIS

Authorizes State Treasurer to sell State tax indebtedness.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on June 4, 1998,
with amendments.



(Sponsorship Updated As Of: 6/30/1998)

A1996 [1R] DIGAETANO, BAGGER

2

1 AN ACT authorizing the sale, assignment and transfer of State tax
2 ¹**[and motor vehicle surcharge]**¹ indebtedness and lien,
3 supplementing chapter 50 of Title 54 of the Revised Statutes ¹**[and**
4 **amending P.L.1983, c.65]**¹.

5

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

8

9 1. a. The State Treasurer shall have the authority to sell, transfer
10 or assign all right, title and interest in any State tax indebtedness and
11 lien represented by any certificate of debt including any statutory fee
12 for the cost of collection imposed pursuant to section 8 of P.L.1987,
13 c.76 (C.54:49-12.1), issued pursuant to R.S.54:49-12 to any person
14 for a fair, adequate and reasonable consideration; provided however,
15 that the underlying State tax indebtedness and lien represented by the
16 certificate is fixed and constitutes a final determination of the Director
17 of the Division of Taxation not subject to protest or appeal pursuant
18 to the provisions of the State Tax Uniform Procedure Law, R.S.54:48-
19 1 et seq.

20 b. After a sale pursuant to this section and for the purpose of the
21 proper administration of this section and to prevent untimely protests
22 or appeals of the underlying tax indebtedness, it shall be presumed that
23 the tax indebtedness is fixed and constitutes a final determination of
24 the director not subject to protest or appeal unless the taxpayer or the
25 taxpayer's authorized representative can establish by clear and
26 convincing evidence that the contrary is true. If the taxpayer contests
27 the underlying tax indebtedness after the sale, transfer or assignment
28 of the State tax indebtedness and lien represented by any certificate of
29 debt, then the taxpayer shall first file a protest with the director
30 pursuant to R.S.54:49-18 before bringing an appeal to the tax court
31 pursuant to chapter 51A of Title 54 of the Revised Statutes; provided
32 however, that the director shall be joined as the primary party in
33 interest with the person to whom the State tax indebtedness and lien
34 has been sold, transferred or assigned in any action or proceeding
35 brought to challenge the underlying tax indebtedness. The director
36 shall advise by written notice the clerk of the court which has entered
37 the certificate on its record of docketed judgments that the sale,
38 transfer or assignment has been made in the name and address of the
39 purchaser. Thereupon, the clerk shall, without cost, enter a notation
40 of the sale and the name and address of the purchaser in the record of

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted June 4, 1998.

1 docketed judgments. This written notice shall also be given by the
2 director to the taxpayer in accordance with R.S.54:50-6.

3
4 2. All sales, transfers or assignments of indebtedness and lien
5 represented by certificates of debt shall be ¹[on such terms and
6 conditions as the State Treasurer may determine appropriate. In
7 setting these terms, conditions and the fair, adequate and reasonable
8 consideration, the State Treasurer shall consider] to the highest bidder
9 after public advertisement for bids therefor. Specifications and
10 invitations for bids shall permit such full and free competition as is
11 consistent with¹ what will be most advantageous to the State based
12 upon a present value analysis taking into account the likelihood of the
13 State collecting the indebtedness within a reasonable time and other
14 factors as the State Treasurer may determine. ¹Notice for bids shall
15 be in such manner selected by the State Treasurer as will best give
16 notice thereof to bidders and shall be sufficiently in advance of the
17 sales, transfers or assignment to promote competitive bidding. Any or
18 all bids may be rejected if the State Treasurer determines that it is in
19 the public interest to do so.¹

20
21 3. The purchaser, transferee or assignee of any State tax
22 indebtedness and lien represented by a certificate of debt shall be
23 entitled to exercise all the remedies and may take all of the
24 proceedings for the collection of the indebtedness represented by the
25 certificate that are available pursuant to the laws of this State to any
26 judgment creditor, and shall be entitled to the same priority as the
27 State may have respecting the certificate and underlying indebtedness
28 and lien. Interest shall accrue at the rate provided by R.S.54:49-3.

29
30 4. Notwithstanding the provisions of subsection a. of R.S.54:50-8
31 to the contrary, the Director of the Division of Taxation may provide
32 the purchaser, transferee or assignee of the indebtedness and lien
33 represented by the certificate of debt such taxpayer information as is
34 necessary for the purchaser to collect the indebtedness represented by
35 the certificate, provided that such disclosure is not contrary to the
36 provisions of subsection (a) of section 26 of the federal Internal
37 Revenue Code of 1986, 26 U.S.C. §6103 or other State or federal law.
38 Such purchaser, transferee or assignee and its employees shall be
39 specifically subject to the confidentiality provisions of R.S.54:50-8;
40 and the purchaser shall furnish the director with the affidavit of each
41 of its principals and employees in which each such principal and
42 employee shall acknowledge receipt of a copy of the confidentiality
43 provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et
44 seq., understanding of the obligation to maintain, and agreement to
45 maintain, the confidentiality of taxpayer information, and awareness
46 that violation of the confidentiality provisions is punishable by law.

1 5. The purchaser, transferee or assignee of the indebtedness and
2 lien represented by the certificate of debt shall promptly file any
3 warrant of satisfaction with the clerk, and such warrant of satisfaction
4 shall be recorded in the office of any recording officer in which such
5 certificate has been filed.

6
7 6. All proceeds received by the State Treasurer from the sale,
8 transfer or assignment of State tax indebtedness and lien represented
9 by certificates of debt pursuant to sections 1 through 5 of P.L. ,
10 c. (C.)(now pending before the Legislature as this bill) shall
11 be deposited in the designated fund, if any, as may be provided by law
12 for deposit of the proceeds collected pursuant to the State tax under
13 which the indebtedness arises, including but not limited to the
14 indebtedness pursuant to the "New Jersey Gross Income Tax Act,"
15 N.J.S.54A:1-1 et seq., the proceeds of which sale, transfer or
16 assignment of indebtedness and lien shall be deposited to the Property
17 Tax Relief Fund established pursuant to N.J.S.54A:9-25.

18
19 7. The Director of the Division of Taxation is authorized to
20 promulgate regulations and take other necessary or useful measures
21 for the purpose of efficiently administering sections 1 through 6 of this
22 act, securing the largest possible revenue for the State, ensuring the
23 integrity of the collection program and assuring fairness to taxpayers.

24
25 8. Under no circumstances shall any purchaser, transferee, or
26 designee have any legal recourse against the State or its officers or
27 employees for any damages of any sort whatsoever that might arise on
28 account of or in connection with any sale, transfer or assignment made
29 or proposed to be made pursuant to the provisions of sections 1
30 through 7 of P.L. , c. (C.)(now pending before the
31 Legislature as this bill).

32
33 ¹[9. Section 6 of P.L.1983, c.65, (C.17:29A-35) is amended to
34 read as follows:

35 6. a. (Deleted by amendment, P.L.1997, c.151.)

36 b. There is created a New Jersey Merit Rating Plan which shall
37 apply to all drivers and shall include, but not be limited to, the
38 following provisions:

39 (1) (a) Plan surcharges shall be levied, beginning on or after
40 January 1, 1984, by the Division of Motor Vehicles on any driver who
41 has accumulated, with the immediately preceding three year period,
42 beginning on or after February 10, 1983, six or more motor vehicle
43 points, as provided in Title 39 of the Revised Statutes, exclusive of
44 any points for convictions for which surcharges are levied under
45 paragraph (2) of this subsection; except that the allowance for a
46 reduction of points in Title 39 of the Revised Statutes shall not apply

1 for the purpose of determining surcharges under this paragraph.
2 Surcharges shall be levied for each year in which the driver possesses
3 six or more points. Surcharges assessed pursuant to this paragraph
4 shall be ~~[\$100.00]~~ \$100 for six points, and ~~[\$25.00]~~ \$25 for each
5 additional point.

6 (b) (Deleted by amendment, P.L.1984, c.1.)

7 (2) Plan surcharges shall be levied for convictions (a) under
8 R.S.39:4-50 for violations occurring on or after February 10, 1983,
9 and (b) under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for
10 offenses committed in other jurisdictions of a substantially similar
11 nature to those under R.S.39:4-50 or section 2 of P.L.1981, c.512
12 (C.39:4-50.4a), for violations occurring on or after January 26, 1984.
13 Except as hereinafter provided, surcharges under this paragraph shall
14 be levied annually for a three year period, and shall be ~~[\$1,000.00]~~
15 \$1,000 per year for each of the first two convictions, for a total
16 surcharge of \$3,000 for each conviction, and ~~[\$1,500.00]~~ \$1,500 per
17 year for the third conviction occurring within a three year period, for
18 a total surcharge of \$4,500 for the third conviction. If a driver is
19 convicted under both R.S.39:4-50 and section 2 of P.L.1981, c.512
20 (C.39:4-50.4a) for offenses arising out of the same incident, the driver
21 shall be assessed only one surcharge for the two offenses.

22 If, upon written notification from the Division of Motor Vehicles,
23 mailed to the last address of record with the division, a driver fails to
24 pay a surcharge levied under this subsection, the license of the driver
25 shall be suspended forthwith until the surcharge is paid to the Division
26 of Motor Vehicles; except that the Division of Motor Vehicles may
27 authorize payment of the surcharge on an installment basis over a
28 period not to exceed 12 months. If a driver fails to pay the surcharge
29 or any installments on the surcharge, the total surcharge shall become
30 due immediately.

31 The director may authorize any person to pay the surcharge levied
32 under this section by use of a credit card, and the director is
33 authorized to require the person to pay all costs incurred by the
34 division in connection with the acceptance of the credit card.

35 In addition to any other remedy provided by law, the director is
36 authorized to utilize the provisions of the SOIL (Setoff of Individual
37 Liability) program established pursuant to P.L.1981, c.239 (C.54A:9-
38 8.1 et seq.) to collect any surcharge levied under this section that is
39 unpaid on or after the effective date of this act. As an additional
40 remedy, the director may issue a certificate to the Clerk of the
41 Superior Court stating that the person identified in the certificate is
42 indebted under this surcharge law in such amount as shall be stated in
43 the certificate. The certificate shall reference the statute under which
44 the indebtedness arises. Thereupon the clerk to whom such certificate
45 shall have been issued shall immediately enter upon the record of
46 docketed judgments the name of such person as debtor; the State as

1 creditor; the address of such person, if shown in the certificate; the
2 amount of the debt so certified; a reference to the statute under which
3 the surcharge is assessed; and the date of making such entries. The
4 docketing of the entries shall have the same force and effect as a civil
5 judgment docketed in the Superior Court, and the director shall have
6 all the remedies and may take all of the proceedings for the collection
7 thereof which may be had or taken upon the recovery of a judgment
8 in an action, but without prejudice to any right of appeal. Upon entry
9 by the clerk of the certificate in the record of docketed judgments in
10 accordance with this provision, interest in the amount specified by the
11 court rules for post-judgment interest shall accrue from the date of the
12 docketing of the certificate, however payment of the interest may be
13 waived by the director. In the event that the surcharge remains unpaid
14 following the issuance of the certificate of debt and the director takes
15 any further collection action including referral of the matter to the
16 Attorney General or his designee, the fee imposed, in lieu of the actual
17 cost of collection, may be 20 percent of the surcharge or \$200,
18 whichever is greater. The director shall provide written notification
19 to a driver of the proposed filing of the certificate of debt 10 days
20 prior to the proposed filing; such notice shall be mailed to the driver's
21 last address of record with the division.

22 All moneys collectible under this subsection b. shall be billed and
23 collected by the Division of Motor Vehicles except as provided in
24 P.L.1997, c.280 (C.2B:19-10 et al.) for the collection of unpaid
25 surcharges. Of the moneys collected: 10% or the actual cost of
26 administering the collection of the surcharge, whichever is less, shall
27 be retained by the Division of Motor Vehicles until August 31, 1996;
28 five percent, or the actual cost of administering the cancellation
29 notification system established pursuant to section 50 of P.L.1990, c.8
30 (C.17:33B-41), whichever is less, shall be retained by the Division of
31 Motor Vehicles until August 31, 1996; and prior to October 1, 1991,
32 the remainder shall be remitted to the New Jersey Automobile Full
33 Insurance Underwriting Association and on or after October 1, 1991
34 until August 31, 1996, the remainder shall be remitted to the New
35 Jersey Automobile Insurance Guaranty Fund created pursuant to
36 section 23 of P.L.1990, c.8 (C.17:33B-5). Commencing on
37 September 1, 1996, or such earlier time as the Commissioner of
38 Banking and Insurance shall certify to the State Treasurer that
39 amounts on deposit in the New Jersey Automobile Insurance Guaranty
40 Fund are sufficient to satisfy the current and anticipated financial
41 obligations of the New Jersey Automobile Full Insurance Underwriting
42 Association, all plan surcharges collected by the Division of Motor
43 Vehicles under this subsection b. shall be remitted to the Division of
44 Motor Vehicles Surcharge Fund for transfer to the Market Transition
45 Facility Revenue Fund, as provided in section 12 of P.L.1994, c.57
46 (C.34:1B-21.12), for the purposes of section 4 of P.L.1994, c.57

1 (C.34:1B-21.4) until such a time as all the Market Transition Facility
2 bonds, notes and obligations issued pursuant to that section 4 of that
3 act and the costs thereof are discharged and no longer outstanding.
4 From the date of certification by the Commissioner of Banking and
5 Insurance that the moneys collectible under this subsection are no
6 longer needed to fund the association or at such a time as all Market
7 Transition Facility bonds, notes and obligations issued pursuant to
8 section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are
9 discharged and no longer outstanding moneys collectible under this
10 subsection shall, subject to appropriation, be remitted to the New
11 Jersey Property-Liability Insurance Guaranty Association created
12 pursuant to section 6 of P.L.1974, c.17 (C.17:30A-6) to be used for
13 payment of any loans made by that association to the New Jersey
14 Automobile Insurance Guaranty Fund pursuant to paragraph (10) of
15 subsection a. of section 8 of P.L.1974, c.17 (C.17:30A-8); provided
16 that all such payments shall be subject to and dependent upon
17 appropriation by the State Legislature.

18 (3) In addition to any other authority provided in P.L.1983, c.65
19 (C.17:29A-33 et al.), the commissioner, after consultation with the
20 Director of the Division of Motor Vehicles, is specifically authorized
21 (a) (Deleted by amendment, P.L.1994, c.64), (b) to impose, in
22 accordance with paragraph (1)(a) of this subsection, surcharges for
23 motor vehicle violations or convictions for which motor vehicle points
24 are not assessed under Title 39 of the Revised Statutes, or (c) to
25 reduce the number of points for which surcharges may be assessed
26 below the level provided in paragraph (1) (a) of this subsection, except
27 that the dollar amount of all surcharges levied under the New Jersey
28 Merit Rating Plan shall be uniform on a Statewide basis for each filer,
29 without regard to classification or territory. Surcharges adopted by
30 the commissioner on or after January 1, 1984 for motor vehicle
31 violations or convictions for which motor vehicle points are not
32 assessable under Title 39 of the Revised Statutes shall not be
33 retroactively applied but shall take effect on the date of the New
34 Jersey Register in which notice of an adoption appears or the effective
35 date set forth in that notice, whichever is later.

36 c. No motor vehicle violation surcharges shall be levied on an
37 automobile insurance policy issued or renewed on or after January 1,
38 1984, except in accordance with the New Jersey Merit Rating Plan,
39 and all surcharges levied thereunder shall be assessed, collected and
40 distributed in accordance with subsection b. of this section.

41 d. (Deleted by amendment, P.L.1990, c.8).

42 e. The Commissioner of Banking and Insurance and the Director
43 of the Division of Motor Vehicles as may be appropriate, shall adopt
44 any rules and regulations necessary or appropriate to effectuate the
45 purposes of subsections a. through e. of this section.

46 f. The State Treasurer shall have the authority to sell, transfer or

1 assign all rights, title and interest in any State indebtedness and lien
2 represented by any certificate of debt issued pursuant to subsection b.
3 of this section, including any statutory fee for the cost of collection
4 imposed pursuant to subsection b. of this section, to any person for a
5 fair, adequate and reasonable consideration; provided however, that
6 the underlying indebtedness represented by the certificate is fixed and
7 constitutes a final determination of the director not subject to protest
8 or appeal pursuant to the provisions of this section. After a sale as
9 provided in this section and for the purpose of the proper
10 administration of this section and to prevent untimely protests or
11 appeals of the underlying indebtedness, it shall be presumed that the
12 indebtedness is fixed and constitutes a final determination of the
13 director not subject to protest or appeal unless the driver can establish
14 by clear and convincing evidence that the contrary is true. If the driver
15 contests the underlying indebtedness after the sale, transfer or
16 assignment of the State indebtedness and lien represented by any
17 certificate of debt, then the driver shall first file a protest with the
18 director; provided however, that the director shall be joined as the
19 primary party in interest with the person to whom the indebtedness and
20 lien has been sold, transferred or assigned, in any action or proceeding
21 brought to challenge the underlying indebtedness. The director shall
22 advise by written notice the clerk of the court which has entered the
23 certificate on its record of docketed judgements, that the sale, transfer
24 or assignment has been made and the name and address of the
25 purchaser. Thereupon, the clerk shall, without cost, enter a notation
26 of such sale and the name and address of the purchaser in the record
27 of docketed judgments. This written notice shall also be sent by the
28 director by regular mail to the driver to the last address of the driver
29 on file with the director.

30 g. All sales, transfers or assignments of the indebtedness and lien
31 represented by certificates of debt shall be on such terms and
32 conditions as the State Treasurer may determine appropriate. In
33 setting these terms, conditions and the fair, adequate and reasonable
34 consideration, the State Treasurer shall consider what will be most
35 advantageous to the State based upon a present value analysis taking
36 into account the likelihood of the State collecting the indebtedness
37 within a reasonable time and other factors as the State Treasurer may
38 determine.

39 h. The purchaser, transferee or assignee of any indebtedness and
40 lien represented by a certificate of debt shall be entitled to exercise all
41 the remedies and may take all of the proceedings for the collection of
42 the indebtedness represented by the certificate that are available
43 pursuant to the laws of this State to any judgment creditor, and shall
44 be entitled to the same priority as the State may have respecting the
45 certificate and underlying indebtedness. Interest shall accrue at the
46 rate provided by the Rules Governing the Courts of the State of New

1 Jersey.

2 i. The director may provide the purchaser, transferee or assignee
3 of the indebtedness and lien represented by the certificate of debt such
4 driver information as is necessary for the purchaser to collect the
5 indebtedness represented by the certificate, provided that such
6 disclosure is not contrary to the provisions of other State or federal
7 law.

8 j. The purchaser, transferee or assignee of the indebtedness and lien
9 shall promptly file any warrant of satisfaction with the clerk, and such
10 warrant of satisfaction shall be recorded in the office of any recording
11 officer in which such certificate has been filed.

12 k. All proceeds received by the State Treasurer from the sale,
13 transfer or assignment of State indebtedness and lien represented by
14 certificates of debt pursuant to this section shall be deposited in such
15 fund as may be provided by law, including P.L.1994, c.57 (C.34:1B-
16 21.1 et al.), for deposit of such proceeds; provided however, that
17 those proceeds shall be used only to provide for the redemption or
18 retirement of any existing Market Transition Facility bonds, notes and
19 obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-
20 21.4), in accordance with, and to the extent permitted by, the terms
21 and conditions of those Market Transition Facility bonds, notes and
22 obligations and thereafter, subject to appropriation, as provided
23 pursuant to subsection b. of this section.

24 l. The Commissioner of Banking and Insurance or the State
25 Treasurer, as appropriate, shall adopt regulations and take other
26 necessary or useful measures for the purpose of efficiently
27 administering subsections f. through m. of this section, securing the
28 largest possible revenue for the State, ensuring the integrity of the
29 collection program and assuring fairness to drivers.

30 m. Under no circumstances shall any purchaser, transferee, or
31 designee have any legal recourse against the State or its officers or
32 employees for any damages of any sort whatsoever that might arise on
33 account of or in connection with any sale, transfer or assignment made
34 or proposed to be made pursuant to the provisions of subsections f.
35 through l. of this section.

36 (cf: P.L.1997, c.280, s.30)]¹

37

38 ¹[10.] 9.¹ This act shall take effect immediately.