

SENATE, No. 2218

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED MAY 23, 2016

Sponsored by:

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Provides credits against corporation business and gross income taxes for urban area employers that rehabilitate urban housing for employees.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT providing credits against corporation business and gross
2 income taxes for urban area employers that rehabilitate urban
3 housing for their employees, supplementing P.L.1945,
4 c.162 (C.54:10A-1 et seq.) and Title 54A of the New Jersey
5 Statutes.

6

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

9

10 1. a. For privilege periods beginning on or after the effective
11 date of this act, a taxpayer that is a qualified urban area employer
12 shall be allowed a credit against the tax due pursuant to section 5 of
13 P.L.1945, c.162 (C.54:10A-5) in an amount equal to 50 percent of
14 the qualified costs paid or incurred by the taxpayer to acquire,
15 construct, and install rehabilitated urban area housing in a qualified
16 urban area in the State for at least five percent of the employees of
17 the taxpayer, provided, however, that the qualified costs paid or
18 incurred by the taxpayer do not exceed the estimate of qualified
19 costs approved by the Executive Director of the New Jersey
20 Housing and Mortgage Finance Agency, in consultation with the
21 Director of the Division of Taxation in the Department of the
22 Treasury.

23 b. To be eligible for a tax credit pursuant to this section, a
24 taxpayer shall submit an application, in writing, prior to completion
25 of the rehabilitated urban area housing, to the Executive Director of
26 the New Jersey Housing and Mortgage Finance Agency for review
27 and approval of the estimate of qualified costs of the rehabilitated
28 urban area housing. The executive director shall review the
29 application, and shall approve or deny the estimate of qualified
30 costs on a timely basis.

31 c. Following approval of the estimate of qualified costs for the
32 rehabilitated urban housing, a taxpayer may claim a portion of the
33 available credit for the privilege period in which the construction,
34 installation, acquisition, or rehabilitation of the rehabilitated urban
35 area housing is completed, provided, however, that no more than 20
36 percent of the total credit shall be claimed in any one privilege
37 period. Unused credit may be carried forward if necessary to any of
38 the nine following privilege periods, provided that the rehabilitated
39 urban housing continues to operate as such during the privilege
40 period for which the credit is claimed.

41 d. The order of priority of the application of the credit allowed
42 pursuant to this section and any other credits allowed against the tax
43 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for
44 a privilege period shall be as prescribed by the director.

45 The amount of the credit applied pursuant to this section against
46 the tax imposed pursuant to section 5 of P.L.1945,
47 c.162 (C.54:10A-5), shall not reduce a taxpayer's tax liability for a
48 privilege period to an amount less than the statutory minimum

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1 provided in subsection (e) of section 5 of P.L.1945,
2 c.162 (C.54:10A-5).

3 e. If the director determines that a taxpayer has obtained a
4 credit pursuant to this section by fraud or misrepresentation or has
5 failed to comply with the provisions of this section, the director
6 shall deny the taxpayer the credit and shall issue a tax assessment
7 for the recapture of credit previously allowed to the taxpayer
8 pursuant to this section.

9 f. As used in this section:

10 "Completed," with respect to a parcel of rehabilitated urban area
11 housing means property that is substantially ready for the use for
12 which it is intended and its occupancy as a principal residence;

13 "Condominium" means the form of real property ownership
14 provided for under the "Condominium Act," P.L.1969,
15 c.257 (C.46:8B-1 et seq.);

16 "Cooperative" means a housing corporation or association,
17 wherein the holder of a share or membership interest thereof is
18 entitled to possess and occupy for dwelling purposes a house,
19 apartment, or other unit of housing owned by the corporation or
20 association, or to purchase a unit of housing constructed or erected
21 by the corporation or association;

22 "Qualified costs" means costs of acquisition and finance, and
23 with respect to construction, improvement, conversion, alteration or
24 rehabilitation, means the cost or fair market value of labor,
25 materials, and capital improvements for constructing, improving,
26 altering or rehabilitating rehabilitated urban area housing, or in
27 converting another building or structure to rehabilitated urban area
28 housing, including any architectural, engineering, and contractors
29 permit fees associated with the construction, improvement,
30 conversion or rehabilitation, as the taxpayer shall cause to be
31 certified to the executive director by an independent and qualified
32 architect, following the completion of the rehabilitated urban area
33 housing property;

34 "Employee" or "employees" means one or more individual or
35 individuals residing and domiciled in this State, employed by the
36 taxpayer to fill a position or a job in this State in the taxpayer's
37 business enterprise in this State in a qualified urban area provided
38 that the individual's duties in connection with the operation of the
39 business enterprise are on a regular, full-time and permanent basis
40 and are performed substantially within the qualified urban area, but
41 shall not include a related individual as defined in subsection (i) of
42 section 51 of the federal Internal Revenue Code of 1986, 26 U.S.C.
43 s.51, or an individual who owns 10% or more of the business with
44 such ownership interest to be determined under the rules set forth in
45 section 267 of the federal Internal Revenue Code of 1986,
46 26 U.S.C. s.267;

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1 "Horizontal property regime" means the form of real property
2 ownership provided for under the "Horizontal Property Act,"
3 P.L.1963, c.168 (C.46:8A-1 et seq.);

4 "Qualified urban area" means a municipality in which an urban
5 enterprise zone or part of an urban enterprise zone has been
6 designated pursuant to the "New Jersey Urban Enterprise Zones
7 Act," P.L.1983, c.303 (C.52:27H-60 et seq.), and shall include the
8 entire area within the corporate boundaries of that municipality,
9 whether or not that area is included within an urban enterprise zone;

10 "Qualified urban area employer" means a taxpayer that owns or
11 operates a business enterprise in this State in a qualified urban area;

12 "Rehabilitated urban area housing " means any building used or
13 to be used or held for use as a home or residence, occupied, on a
14 permanent basis, predominantly by employees and their immediate
15 families, as a principal residence, located in the qualified urban area
16 in which the employees are employed, including accessory
17 buildings located on the same premises and including
18 condominiums, cooperatives and horizontal property regimes,
19 provided that the building is in compliance with all applicable laws,
20 regulations, requirements, and standards.. No building shall be
21 considered rehabilitated urban area housing if the certificate of
22 occupancy for the construction, conversion, rehabilitation or
23 renovation was issued on or before the effective date of this act.

24 g. The Executive Director of the New Jersey Housing and
25 Mortgage Finance Agency, in consultation with the Director of the
26 Division of Taxation, shall adopt rules in accordance with the
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
28 seq.), as are necessary to effectuate the provisions of P.L. ,
29 c. (C.) (pending before the Legislature as this bill).

30
31 2. a. For taxable years beginning on or after the effective date
32 of this act, a taxpayer that is a qualified urban area employer shall
33 be allowed a credit against the New Jersey gross income tax due
34 pursuant to N.J.S.54A:1-1 et seq. in an amount equal to 50 percent
35 of the qualified costs paid or incurred by the taxpayer to acquire,
36 construct, and install rehabilitated urban area housing in a qualified
37 urban area in the State for at least five percent of the employees of
38 the taxpayer, provided, however, that the qualified costs paid or
39 incurred by the taxpayer do not exceed the estimate of qualified
40 costs approved by the Executive Director of the New Jersey
41 Housing and Mortgage Finance Agency, in consultation with the
42 Director of the Division of Taxation in the Department of the
43 Treasury.

44 b. To be eligible for a tax credit pursuant to this section, a
45 taxpayer shall submit an application, in writing, prior to completion
46 of the rehabilitated urban area housing, to the Executive Director of
47 the New Jersey Housing and Mortgage Finance Agency for review
48 and approval of the estimate of qualified costs of the rehabilitated

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1 urban area housing. The executive director shall review the
2 application, and shall approve or deny the estimate of qualified
3 costs on a timely basis.

4 c. Following approval of the estimate of qualified costs for the
5 rehabilitated urban housing, a taxpayer may claim a portion of the
6 available credit for the taxable year in which the construction,
7 installation, acquisition, or rehabilitation of the rehabilitated urban
8 area housing is completed, provided, however, that no more than 20
9 percent of the total credit shall be claimed in any one taxable year.
10 Unused credit may be carried forward if necessary to any of the
11 nine following taxable years, provided that the rehabilitated urban
12 housing continues to operate as such during the taxable year for
13 which the credit is claimed.

14 d. The order of priority of the application of the credit allowed
15 pursuant to this section and any other credits allowed against the
16 New Jersey gross income tax due pursuant to N.J.S.54A:1-1 et seq.
17 in a taxable year shall be as prescribed by the director. A credit
18 allowed pursuant to this section shall not reduce the tax liability
19 otherwise due pursuant to N.J.S.54A:1-1 et seq., for a taxable year
20 to an amount less than zero.

21 e. A business entity that is classified as a partnership for
22 federal income tax purposes shall not be allowed a credit directly,
23 but the amount of credit of a taxpayer in respect of a distributive
24 share of entity income, shall be determined by allocating to the
25 taxpayer that proportion of the credit acquired by the entity that is
26 equal to the taxpayer's share, whether or not distributed, of the total
27 distributive income or gain of the entity for its taxable year ending
28 within or with the taxpayer's taxable year.

29 A New Jersey S Corporation shall not be allowed a credit
30 directly under the gross income tax, but the amount of credit of a
31 taxpayer in respect of a pro rata share of S Corporation income,
32 shall be determined by allocating to the taxpayer that proportion of
33 the credit acquired by the New Jersey S Corporation that is equal to
34 the taxpayer's share, whether or not distributed, of the total pro rata
35 share of S Corporation income of the New Jersey S Corporation for
36 its privilege period ending within or with the taxpayer's taxable
37 year.

38 f. If the director determines that a taxpayer has obtained a
39 credit pursuant to this section by fraud or misrepresentation or has
40 failed to comply with the provisions of this section, the director
41 shall deny the taxpayer the credit and shall issue a tax assessment
42 for the recapture of credit previously allowed to the taxpayer
43 pursuant to this section.

44 g. As used in this section:

45 "Completed," with respect to a parcel of rehabilitated urban area
46 housing means property that is substantially ready for the use for
47 which it is intended and its occupancy as a principal residence;

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1 "Condominium" means the form of real property ownership
2 provided for under the "Condominium Act," P.L.1969,
3 c.257 (C.46:8B-1 et seq.);

4 "Cooperative" means a housing corporation or association,
5 wherein the holder of a share or membership interest thereof is
6 entitled to possess and occupy for dwelling purposes a house,
7 apartment, or other unit of housing owned by the corporation or
8 association, or to purchase a unit of housing constructed or erected
9 by the corporation or association;

10 "Qualified costs" means costs of acquisition and finance, and
11 with respect to construction, improvement, conversion, alteration or
12 rehabilitation, means the cost or fair market value of labor,
13 materials, and capital improvements for constructing, improving,
14 altering or rehabilitating rehabilitated urban area housing, or in
15 converting another building or structure to rehabilitated urban area
16 housing, including any architectural, engineering, and contractors
17 permit fees associated with the construction, improvement,
18 conversion or rehabilitation, as the taxpayer shall cause to be
19 certified to the executive director by an independent and qualified
20 architect, following the completion of the rehabilitated urban area
21 housing property;

22 "Employee" or "employees" means one or more individual or
23 individuals residing and domiciled in this State, employed by the
24 taxpayer to fill a position or a job in this State in the taxpayer's
25 business enterprise in this State in a qualified urban area provided
26 that the individual's duties in connection with the operation of the
27 business enterprise are on a regular, full-time and permanent basis
28 and are performed substantially within the qualified urban area, but
29 shall not include a related individual as defined in subsection (i) of
30 section 51 of the federal Internal Revenue Code of 1986, 26 U.S.C.
31 s.51, or an individual who owns 10% or more of the business with
32 such ownership interest to be determined under the rules set forth in
33 section 267 of the federal Internal Revenue Code of 1986,
34 26 U.S.C. s.267;

35 "Horizontal property regime" means the form of real property
36 ownership provided for under the "Horizontal Property Act,"
37 P.L.1963, c.168 (C.46:8A-1 et seq.);

38 "Qualified urban area" means a municipality in which an urban
39 enterprise zone or part of an urban enterprise zone has been
40 designated pursuant to the "New Jersey Urban Enterprise Zones
41 Act," P.L.1983, c.303 (C.52:27H-60 et seq.), and shall include the
42 entire area within the corporate boundaries of that municipality,
43 whether or not that area is included within an urban enterprise zone;

44 "Qualified urban area employer" means a taxpayer that owns or
45 operates a business enterprise in this State in a qualified urban area;

46 "Rehabilitated urban area housing " means any building used or
47 to be used or held for use as a home or residence, occupied, on a
48 permanent basis, predominantly by employees and their immediate

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1 families, as a principal residence, located in the qualified urban area
2 in which the employees are employed, including accessory
3 buildings located on the same premises and including
4 condominiums, cooperatives and horizontal property regimes,
5 provided that the building is in compliance with all applicable laws,
6 regulations, requirements, and standards.. No building shall be
7 considered rehabilitated urban area housing if the certificate of
8 occupancy for the construction, conversion, rehabilitation or
9 renovation was issued on or before the effective date of this act.

10 h. The Executive Director of the New Jersey Housing and
11 Mortgage Finance Agency, in consultation with the Director of the
12 Division of Taxation, shall adopt rules in accordance with the
13 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
14 seq.), as are necessary to effectuate the provisions of P.L. ,
15 c. (C.) (pending before the Legislature as this bill).

16

17 3. This act shall take effect immediately.

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STATEMENT

21

22 This bill establishes credits against the corporation business and
23 gross income taxes for qualified urban area employers that
24 rehabilitate housing in these areas to be used as the principal
25 residences of a portion of their urban workforce. The amount of the
26 available credit is 50 percent of the approved qualified costs
27 incurred and paid by the taxpayer to acquire, finance, construct,
28 improve, convert to, alter or rehabilitate urban housing.

29 A taxpayer intending to claim the credit must apply in advance
30 of completion of the housing to the Executive Director of the New
31 Jersey Housing and Mortgage Finance Agency. Following approval
32 of an estimate of qualified costs by the executive director, a
33 taxpayer may claim a portion of the available credit for the taxable
34 year or privilege period in which the housing is completed, and in
35 any of the nine subsequent taxable years or privilege periods,
36 subject to the provisions of the bill. No more than 20 percent of the
37 total credit may be claimed in any one taxable year or privilege
38 period. The rehabilitated urban area housing must continue to be
39 used as such housing during any taxable year or privilege period for
40 which the credit is claimed.

41 The bill defines rehabilitated urban area housing as any building
42 used or to be used or held for use as a home or residence, occupied,
43 on a permanent basis, predominantly by employees and their
44 immediate families, as a principal residence located in the qualified
45 urban area in which the employees are employed. No residence will
46 be considered rehabilitated urban area housing if the certificate of
47 occupancy for the construction, conversion, rehabilitation or
48 renovation was issued on or before the enactment of the bill.

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1 Employees eligible for the employer established housing are
2 required to be domiciled in this State, employed by the taxpayer to
3 work on a regular, full-time and permanent basis in this State in the
4 taxpayer's business enterprise in a qualified urban area provided
5 that the individual's duties in connection with the operation of the
6 business enterprise are performed substantially within the qualified
7 urban area. A qualified urban area is defined as a municipality in
8 which an urban enterprise zone or part of an urban enterprise zone
9 has been designated and includes the entire area within the
10 corporate boundaries of the municipality, whether or not that area is
11 included within an urban enterprise zone. The bill also contains
12 provisions aimed at preventing misuse of the credit and provides for
13 disallowance, or recapture of a credit previously allowed, in certain
14 circumstances.

15 Tax paying for-profit businesses can be incentivized through
16 these credits to assist in repairing the urban communities in which
17 they operate, while strengthening the local private sector economy,
18 and laying a foundation for a workforce located in revitalized
19 housing provided in nearby neighborhoods.