§2 - Note

Assembly, No. 3038

AN ACT concerning exemption from property taxation and amending

R.S. 54:4-3.6.

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

1. R.S. 54:4-3.6 is amended to read as follows:

54:4-3.6. The following property shall be exempt from taxation
under this chapter: all buildings actually used for colleges, schools,
academies or seminaries, provided that if any portion of such buildings
are leased to profit-making organizations or otherwise used for
purposes which are not themselves exempt from taxation, said portion
shall be subject to taxation and the remaining portion only shall be
exempt; all buildings actually used for historical societies, associations
or exhibitions, when owned by the State, county or any political
subdivision thereof or when located on land owned by an educational
institution which derives its primary support from State revenue; all
buildings actually and exclusively used for public libraries, [religious
worship or] asylum or schools for feebleminded or idiotic persons and
children; all buildings used exclusively by any association or
corporation formed for the purpose and actually engaged in the work
of preventing cruelty to animals; all buildings actually and exclusively
used and owned by volunteer first-aid squads, which squads are or
shall be incorporated as associations not for pecuniary profit; all
buildings actually used in the work of associations and corporations
organized exclusively for the moral and mental improvement of men,
women and children, provided that if any portion of a building used for
that purpose is leased to profit-making organizations or is otherwise
used for purposes which are not themselves exempt from taxation, that
portion shall be subject to taxation and the remaining portion only
shall be exempt; all buildings actually [and exclusively] used in the
work of associations and corporations organized exclusively for
religious purposes, including religious worship or charitable purposes,
provided that if any portion of a building used for that purpose is
leased to a profit-making organization or is otherwise used for
purposes which are not themselves exempt from taxation, that portion
shall be subject to taxation and the remaining portion shall be exempt
from taxation, and provided further that if any portion of a building is
used for a different exempt use by an exempt entity, that portion shall
also be exempt from taxation; all buildings actually used in the work
of associations and corporations organized exclusively for hospital

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.
pursposes, provided that if any portion of a building used for hospital 
for purposes which are not themselves exempt from taxation, that 
portion shall be subject to taxation and the remaining portion only 
shall be exempt; all buildings owned or held by an association or 
corporation created for the purpose of holding the title to such 
buildings as are actually and exclusively used in the work of two or 
more associations or corporations organized exclusively for the moral 
and mental improvement of men, women and children; all buildings 
owned by a corporation created under or otherwise subject to the 
provisions of Title 15 of the Revised Statutes or Title 15A of the New 
Jersey Statutes and actually and exclusively used in the work of one or 
more associations or corporations organized exclusively for charitable 
or religious purposes, which associations or corporations may or may 
not pay rent for the use of the premises or the portions of the premises 
used by them; the buildings, not exceeding two, actually occupied as 
a parsonage by the officiating clergymen of any religious corporation 
of this State, together with the accessory buildings located on the same 
premises; the land whereon any of the buildings hereinbefore 
mentioned are erected, and which may be necessary for the fair 
enjoyment thereof, and which is devoted to the purposes above 
mentioned and to no other purpose and does not exceed five acres in 
extent; the furniture and personal property in said buildings if used in 
and devoted to the purposes above mentioned; all property owned and 
used by any nonprofit corporation in connection with its curriculum, 
work, care, treatment and study of feebleminded, mentally retarded, 
or idiotic men, women, or children; such corporation conducts and maintains research or 
professional training facilities for the care and training of 
feebleminded, mentally retarded, or idiotic men, women, or children; 
provided, in case of all the foregoing, the buildings, or the lands on 
which they stand, or the associations, corporations or institutions 
using and occupying them as aforesaid, are not conducted for profit, 
except that the exemption of the buildings and lands used for 
charitable, benevolent or religious purposes shall extend to cases 
where the charitable, benevolent or religious work therein carried on 
is supported partly by fees and charges received from or on behalf of 
beneficiaries using or occupying the buildings; provided the building 
is wholly controlled by and the entire income therefrom is used for said 
charitable, benevolent or religious purposes. The foregoing exemption 
shall apply only where the association, corporation or institution 
claiming the exemption owns the property in question and is 
incorporated or organized under the laws of this State and authorized 
to carry out the purposes on account of which the exemption is 
claimed or where an educational institution, as provided herein, has 
leased said property to a historical society or association or to a
corporation organized for such purposes and created under or otherwise subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes.

As used in this section "hospital purposes" includes health care facilities for the elderly, such as nursing homes; residential health care facilities; assisted living residences; facilities with a Class C license pursuant to P.L.1979, c.496 (C.55:13B-1 et al.), the "Rooming and Boarding House Act of 1979"; similar facilities that provide medical, nursing or personal care services to their residents; and that portion of the central administrative or service facility of a continuing care retirement community that is reasonably allocable as a health care facility for the elderly.

(cf: P.L.1993, c.166)

2. This act shall take effect immediately and section 1 shall be retroactive to September 30, 1999.

STATEMENT

This bill would permit a religious or charitable organization to lease a portion of a building to another exempt entity for use as a different exempt use without risking the loss of its property tax exemption as is the case under current law. This bill is in direct response to Roman Catholic Archdiocese of Newark v. City of East Orange, 17 N.J.Tax 298 (Tax Court, May 27, 1998), aff'd 18 N.J.Tax 649 (App. Div., March 21, 2000) which, at page 316, held that "a religious or charitable organization which leases its property to an educational organization loses its tax exemption under N.J.S.A.54:4-3.6." This case leads to the result that public boards of education, which are themselves tax exempt entities, are required to pay real property taxes if they lease property from a religious or charitable organization.

Under the bill, so long as the religious or charitable organization leases property to an otherwise exempt entity for a tax exempt use, there will be no change to the property's tax exempt status. The bill would also allow a religious or charitable organization to lease out a portion of a building to a for-profit organization and retain a partial tax exemption on the remaining portion of the building.

The language of the bill tracks the language of other partial exemptions that have been enacted by the Legislature. Over the past 20 years, the statute in question has been amended three times to allow educational institutions, hospitals and institutions for the mental and moral improvement of men, women and children to lease a portion of a building to a profit-making organization without losing the exemption for the remaining portion of the building.

The bill would take effect immediately and be retroactive to September 30, 1999.
1 Permits religious or charitable organization to lease property to other
tax-exempt entities without loss of property tax exemption.