

ASSEMBLY, No. 2703

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Assemblyman JOHN ARMATO

District 2 (Atlantic)

SYNOPSIS

Provides credits against corporation business and gross income taxes for qualified farmers that develop housing for their agricultural workforce.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** providing credits against corporation business and gross
2 income taxes for qualified farmers in the State that develop
3 housing for their agricultural workforce, supplementing
4 P.L.1945, c.162 (C.54:10A-1 et seq.) and Title 54A of the New
5 Jersey 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 January 1,
11 2018, a taxpayer that is a qualified farmer shall be allowed a credit
12 against the tax due pursuant to section 5 of P.L.1945, c.162
13 (C.54:10A-5) in an amount equal to 50 percent of the qualified
14 costs paid or incurred by the taxpayer to construct, install, acquire,
15 or rehabilitate agricultural workforce housing in the State, provided,
16 however, that the qualified costs paid or incurred by the taxpayer do
17 not exceed the estimate of qualified costs approved by the
18 Commissioner of Labor and Workforce Development, in
19 consultation with the Director of the Division of Taxation in the
20 Department of the Treasury.

21 b. To be eligible for a tax credit pursuant to this section, a
22 taxpayer shall submit an application, in writing, prior to completion
23 of the agricultural workforce housing, to the Commissioner of
24 Labor and Workforce Development for review and approval of the
25 estimate of qualified costs of the agricultural workforce housing.
26 The commissioner shall review the application, and shall approve or
27 deny the estimate of qualified costs on a timely basis.

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

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

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

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

7 f. As used in this section:

8 “Agricultural worker” means any person who, for compensation,
9 performs temporary or permanent labor for a qualified farmer in the
10 production, processing, planting, cultivating, handling, or
11 harvesting of agricultural or horticultural crops or products.

12 “Agricultural workforce housing” means housing that is
13 occupied, on a seasonal or permanent basis, exclusively by
14 agricultural workers or farm employees and their immediate
15 families, whether or not rent is paid, and is in compliance with all
16 applicable laws, regulations, requirements, and standards.

17 “Qualified costs” mean costs of acquisition, finance,
18 construction, installation, materials, permits, and capital
19 expenditures for rehabilitation, but exclude costs of purchasing the
20 land on which the housing is situated, routine maintenance
21 expenses, and reserves.

22 “Qualified farmer” means a taxpayer that owns or operates a
23 “commercial farm” as that term is defined by section 3 of
24 P.L.1983, c.31 (C.4:1C-3).

25 g. The commissioner, in consultation with the director, shall
26 adopt rules in accordance with the “Administrative Procedure Act,”
27 P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate
28 the provisions of P.L. , c. (C.) (pending before the
29 Legislature as this bill).

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31 2. a. For taxable years beginning on or after January 1, 2018, a
32 taxpayer that is a qualified farmer shall be allowed a credit against
33 the New Jersey gross income tax due pursuant to N.J.S.54A:1-1 et
34 seq. in an amount equal to 50 percent of the qualified costs paid or
35 incurred by the taxpayer to construct, install, acquire, or rehabilitate
36 agricultural workforce housing in the State, provided, however, that
37 the qualified costs paid or incurred by the taxpayer do not exceed
38 the estimate of qualified costs approved by the Commissioner of
39 Labor and Workforce Development, in consultation with the
40 Director of the Division of Taxation in the Department of the
41 Treasury.

42 b. To be eligible for a tax credit pursuant to this section, a
43 taxpayer shall submit an application, in writing, prior to completion
44 of the agricultural workforce housing, to the Commissioner of
45 Labor and Workforce Development for review and approval of the
46 estimate of qualified costs of the agricultural workforce housing.
47 The commissioner shall review the application, and shall approve or
48 deny the estimate of qualified costs on a timely basis.

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

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

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

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

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

41 g. As used in this section:

42 "Agricultural worker" means any person who, for compensation,
43 performs temporary or permanent labor for a qualified farmer in the
44 production, processing, planting, cultivating, handling, or
45 harvesting of agricultural or horticultural crops or products.

46 "Agricultural workforce housing" means housing that is
47 occupied, on a seasonal or permanent basis, exclusively by
48 agricultural workers or farm employees and their immediate

1 families, whether or not rent is paid, and is in compliance with all
2 applicable laws, regulations, requirements, and standards.

3 “Qualified costs” mean costs of acquisition, finance,
4 construction, installation, materials, permits, and capital
5 expenditures for rehabilitation, but exclude costs of purchasing the
6 land on which the housing is situated, routine maintenance
7 expenses, and reserves.

8 “Qualified farmer” means a taxpayer that owns or operates a
9 “commercial farm” as that term is defined by section 3 of
10 P.L.1983, c.31 (C.4:1C-3).

11 h. The commissioner, in consultation with the director, shall
12 adopt rules in accordance with the “Administrative Procedure Act,”
13 P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate
14 the provisions of P.L. , c. (C.) (pending before the
15 Legislature as this bill).

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17 3. This act shall take effect immediately.
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20 STATEMENT

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22 This bill establishes credits against the corporation business and
23 gross income taxes for qualified farmers that develop housing for
24 their agricultural workforce in the State. The amount of the
25 available credit is 50 percent of the approved qualified costs
26 incurred and paid by the taxpayer to construct, install, acquire, or
27 rehabilitate the housing.

28 A taxpayer intending to claim the credit must apply in advance
29 of completion of the housing to the Commissioner of Labor and
30 Workforce Development. Following approval of an estimate of
31 qualified costs by the commissioner, a taxpayer may claim a portion
32 of the available credit for the taxable year or privilege period in
33 which the housing is completed, and in any of the nine subsequent
34 taxable years or privilege periods, subject to the provisions of the
35 bill. No more than 20 percent of the total credit may be claimed in
36 any one taxable year or privilege period. The agricultural
37 workforce housing must continue to be used as agricultural
38 workforce housing during any taxable year or privilege period for
39 which the credit is claimed.

40 The bill defines agricultural workforce housing as housing that is
41 exclusively occupied either seasonally or permanently by
42 agricultural workers or farm employees and their immediate
43 families, whether or not rent is paid, and that complies with all
44 applicable laws, regulations, requirements, and standards.

45 Agricultural workers are defined as those who, for compensation,
46 work on a temporary or permanent basis, in the production,
47 processing, planting, cultivating, handling, or harvesting of
48 agricultural or horticultural crops or products. Under the bill,

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1 qualified costs include the costs of acquisition, finance,
2 construction, installation, materials, permits, and capital
3 expenditures for rehabilitation but do not include costs for the
4 purchase of land on which the housing is located, routine
5 maintenance expenses, and reserves.

6 The bill also contains provisions aimed at preventing misuse of
7 the credit and provides for disallowance, or recapture of a credit
8 previously allowed, in certain circumstances.