

**SENATE, No. 2108**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

INTRODUCED MARCH 16, 2020

**Sponsored by:**  
**Senator JOSEPH F. VITALE**  
**District 19 (Middlesex)**

**SYNOPSIS**

Provides for transfer and sale of inactive liquor licenses for use in qualifying smart growth municipalities.

**CURRENT VERSION OF TEXT**

As introduced.



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2

1 AN ACT concerning the transfer of alcoholic beverage licenses to  
2 qualifying smart growth municipalities, supplementing Title 33  
3 of the Revised Statutes, and amending and repealing parts of  
4 P.L.2007, c.351.

5

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

8

9 1. (New section) The Legislature finds and declares that:

10 a. Smart growth is an innovative approach to land use planning  
11 that directs the State's resources and funding to projects that  
12 enhance the quality of life for New Jersey residents;

13 b. Smart growth encourages the development of distinctive,  
14 attractive communities with mixed use development, walkable town  
15 centers and neighborhoods, a range of housing options, and a  
16 variety of transportation modes;

17 c. Small businesses, including restaurants and other  
18 establishments that serve alcoholic beverages, enhance the  
19 economic viability of a smart growth community and the quality of  
20 life for residents and visitors;

21 d. Under current law, a municipality may not issue a new  
22 plenary retail consumption license unless and until the combined  
23 total number of such licenses existing in the municipality is fewer  
24 than one for each 3,000 of its population according to the most  
25 recent estimates issued by the U.S. Bureau of the Census, and liquor  
26 licenses issued in one municipality may not be transferred to  
27 another municipality;

28 e. As a result of these restrictions, there is an insufficient  
29 number or complete lack of available plenary retail consumption  
30 licenses in many smart growth communities where real estate  
31 development projects including restaurants have been proposed; at  
32 the same time, there are numerous other municipalities that have a  
33 surplus of inactive plenary retail consumption licenses in excess of  
34 any foreseeable demand for those licenses; and

35 f. In order to foster and encourage development in smart  
36 growth communities in which there is an insufficient number or  
37 complete lack of available plenary retail consumption licenses, it is  
38 appropriate to create a method for the sale and transfer of inactive  
39 plenary retail consumption licenses existing in those communities  
40 having a surplus of inactive licenses to purchasers who will activate  
41 and utilize such licenses in smart growth communities, and to  
42 provide financial compensation to the municipalities from which  
43 such licenses are transferred.

44

45 2. (New section) a. As used in this act:

46 "Green building conversion redevelopment project" means any  
47 redevelopment project that includes the conversion of not less than

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

**Matter underlined thus is new matter.**

1 150,000 square feet of existing office or other commercial premises,  
2 that is vacant or functionally obsolete and at least 35 years old, into  
3 Class A office or other commercial premises satisfying the  
4 requirements for the Leadership in Energy and Environmental  
5 Design Green Building Rating System as adopted by the United  
6 States Green Building Council.

7 “Inactive license” means a plenary retail consumption license  
8 that has been renewed as authorized by the provisions of R.S.33:1-  
9 12.39 for more than three license terms and for which the holder of  
10 the license certifies that he has not received any viable, reasonable,  
11 or acceptable offers to purchase and no location at which to activate  
12 the license within the issuing municipality.

13 “Qualifying smart growth municipality” means a municipality  
14 that:

15 (1) is located in a smart growth area; and

16 (2) is not authorized to issue any new plenary retail  
17 consumption licenses because of the limitation on the number of  
18 plenary retail consumption licenses in section 2 of P.L.1947, c.94  
19 (C33:1-12.14), excluding plenary retail consumption licenses  
20 transferred pursuant to this act; or

21 (3) is unable to issue a sufficient number of new plenary retail  
22 consumption licenses to satisfy the anticipated demand for plenary  
23 retail consumption licenses to be utilized within a real estate  
24 development project, as determined by the director pursuant to  
25 subsection c. of this section.

26 “Real estate development project” means any building or  
27 complex of buildings, whether or not under common ownership or  
28 control, which is the subject of a common redevelopment plan, site  
29 plan, general development plan or other land use plan approved by  
30 the qualifying smart growth municipality in which it is located.

31 “Sending municipality” means a municipality that has one or  
32 more inactive plenary retail consumption licenses.

33 “Smart growth area” means a Planning Area 1 (Metropolitan),  
34 Planning Area 2 (Suburban), or a designated center or designated  
35 growth center in an endorsed plan; a smart growth area and  
36 planning area designated in a master plan adopted by the New  
37 Jersey Meadowlands Commission pursuant to subsection (i) of  
38 section 6 of P.L.1968, c.404 (C.13:17-6); a growth area designated  
39 in the comprehensive management plan adopted pursuant to section  
40 7 of the “Pinelands Protection Act,” P.L.1979, c.111 (C.13:18A-8);  
41 any area designated for growth in the Highlands regional master  
42 plan adopted by the Highlands Water Protection and Planning  
43 Council pursuant to P.L.2004, c.120 (C.13:20-1 et al.); a transit  
44 village; an urban enterprise zone designated pursuant to P.L.1983,  
45 c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-  
46 66.2 et al.); an area determined to be in need of redevelopment or  
47 rehabilitation pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.) and

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1 as approved by the Department of Community Affairs; any area on  
2 which a green building conversion redevelopment project is located;  
3 and federally owned land approved for closure under a federal Base  
4 Realignment Closing Commission action.

5 b. An inactive license which has been issued by a sending  
6 municipality may, in accordance with the procedures established in  
7 this act, be purchased by:

8 (1) a corporation or other legal entity operating or intending to  
9 operate a restaurant or other establishment that serves alcoholic  
10 beverages in a qualifying smart growth municipality; or

11 (2) the owner of a real estate development project in a  
12 qualifying smart growth municipality, provided that such inactive  
13 license shall subsequently be transferred to an entity operating or  
14 intending to operate a restaurant or other establishment that serves  
15 alcoholic beverages in the real estate development project.

16 c. The director shall determine whether an inactive license may  
17 be transferred pursuant to the provisions of this act to a qualifying  
18 smart growth municipality. The director shall approve the transfer  
19 if the director determines that a municipality is unable to issue a  
20 sufficient number of new plenary retail consumption licenses to  
21 satisfy the anticipated demand for licenses to be utilized within a  
22 real estate development project because of the limitation on the  
23 number of plenary retail consumption licenses in section 2 of  
24 P.L.1947, c.94 (C.33:1-12.14), excluding plenary retail  
25 consumption licenses transferred pursuant to this act.

26 d. The purchaser and the holder of the inactive license shall  
27 enter into a contract for the sale of the license, which shall be a  
28 private transaction. Upon the signing of a contract to purchase an  
29 inactive license and utilize the license as authorized under the  
30 provisions of this act, the seller of the inactive license shall obtain  
31 resolutions adopted by the issuing authorities of the sending  
32 municipality and the qualifying smart growth municipality. The  
33 resolution adopted by the sending municipality shall consent to the  
34 transfer of the license to the qualifying smart growth municipality.  
35 The resolution adopted by the issuing authority of the qualifying  
36 smart growth municipality shall state that the municipality wishes  
37 to acquire the license and that the municipality resolves to  
38 administer the license in the same manner as a plenary retail  
39 consumption license issued by the qualifying smart growth  
40 municipality and in accordance with all applicable ordinances of  
41 that municipality.

42 e. Prior to the transfer of a license pursuant to the provisions of  
43 this act, the purchaser of the inactive license shall pay to the  
44 sending municipality a fee in an amount equal to 20 times the  
45 annual renewal fee for a plenary retail consumption license as  
46 established by the sending municipality pursuant to R.S.33:1-12,  
47 which shall be distributed by the sending municipality in

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1 accordance with the provisions of subsection j. of this section. The  
2 purchaser shall pay to the qualifying smart growth municipality the  
3 fee or fees required for the transfer of a plenary retail consumption  
4 license and the annual renewal fee established by the municipality  
5 which shall be prorated to the following June 30th.

6 f. The transfer of an inactive license pursuant to this section  
7 shall be approved by the qualifying smart growth municipality in  
8 accordance with all applicable requirements for person-to-person  
9 and place-to-place transfers of plenary retail consumption licenses.

10 g. No person who would fail to qualify as a licensee under Title  
11 33 of the Revised Statutes shall be permitted to hold an interest in a  
12 license transferred under the provisions of this section.

13 h. Licenses transferred pursuant to the provisions of this  
14 section shall be subject to all the provisions of Title 33 of the  
15 Revised Statutes, rules and regulations promulgated by the director  
16 and municipal ordinances.

17 i. No license transferred pursuant to this section shall  
18 thereafter be transferred to any premises other than a premises  
19 located within the same real estate development project. A license  
20 may be transferred to a corporation or other legal entity operating or  
21 intending to operate a restaurant or other establishment that serves  
22 alcoholic beverages in the same real estate development project or  
23 to the owner of the real estate development project. The director  
24 shall, after the initial transfer of a license pursuant to this section,  
25 assign a distinctive designation for the license number in order to  
26 identify the license as being subject to the provisions of this  
27 subsection.

28 j. The transfer fee shall be distributed in the following manner:

29 (1) twenty-five percent shall be paid to the sending  
30 municipality;

31 (2) twenty-five percent shall be paid to the director; and

32 (3) fifty percent shall be divided equally among and paid to the  
33 holders of plenary retail consumption licenses in the qualifying  
34 smart growth municipality on the date of the transfer.

35 k. Notwithstanding the provisions of R.S.33:1-42, the director  
36 shall not issue a special concessionaire permit for any location or  
37 premises which is eligible to obtain a license to serve alcoholic  
38 beverages under the provisions of this act.

39 l. Pursuant to the "Administrative Procedure Act," P.L.1968,  
40 c.410 (C.52:14B-1 et seq.), the director may adopt rules and  
41 regulations to effectuate the purposes of this act.

42

43 3. Section 3 of P.L.2007, c.351 (C.33:1-24.3) is amended to  
44 read as follows:

45 3. a. Notwithstanding the provisions of section 1 of P.L.1977,  
46 c.246 (C.33:1-12.39), a municipality in which is located an urban  
47 enterprise zone as designated pursuant to P.L.1983, c.303

1 (C.52:27H-60 et al.) or any supplement thereto, and a Planning  
2 Area 1 (Metropolitan), as designated pursuant to the "State Planning  
3 Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-  
4 196 et seq.), may acquire by purchase any existing plenary retail  
5 consumption licenses within the municipality that are inactive for  
6 more than three years and retain any such licenses in an inactive  
7 status for a period of up to five years notwithstanding that the  
8 director has not issued a special ruling pursuant to R.S.33:1-12.39  
9 and the license holder has not paid the annual renewal fees for the  
10 license.

11 b. A municipality subject to the provisions of subsection a. of  
12 this section may issue at public sale one or more of any such  
13 inactive plenary retail consumption licenses in a manner consistent  
14 with the provisions of P.L.1975, c.275 (C.33:1-19.1 et seq.), to no  
15 more than one corporation or legal entity for each such plenary  
16 retail consumption license for use only at a licensed premises that  
17 shall be located in a real estate development project within a smart  
18 growth area, as defined in section 1 of P.L.2004, c.89 (C.52:27D-  
19 10.2), in the municipality or that shall be located in a qualifying  
20 smart growth municipality pursuant to P.L. , c. (C. )  
21 (pending before Legislature as this bill). The use of any such  
22 plenary retail consumption license shall be in a manner consistent  
23 with the provisions of Title 33 of the Revised Statutes and any  
24 regulations promulgated thereunder by the director.  
25 (cf: P.L.2007, c.351, s.3)

26

27 4. Sections 1 and 2 of P.L.2007, c.351 (C.33:1-24.1 and 33:1-  
28 24.2) are hereby repealed.

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30 5. This act shall take effect on the first day of the third month  
31 after enactment; provided however, the director may take such  
32 anticipatory action in advance thereof as needed for the act's timely  
33 implementation.

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#### STATEMENT

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38 Under the provisions of this bill, an inactive plenary retail  
39 consumption license may be purchased by (1) a corporation or other  
40 legal entity operating or intending to operate a restaurant or bar in a  
41 qualifying smart growth municipality; or (2) the owner of a real  
42 estate development project in a qualifying smart growth  
43 municipality, provided that the inactive license would be transferred  
44 to a restaurant or bar in the real estate development project. The  
45 bill repeals sections 1 and 2 of P.L.2007, c.351 (C.33:1-24.1 and  
46 33:1-24.2) which permit the Director of the Division of Alcoholic

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1 Beverage Control (ABC) to issue special permits for the service of  
2 alcoholic beverages in smart growth development projects.

3 The bill first requires the Director of the ABC to determine  
4 whether an inactive license may be transferred to a qualifying smart  
5 growth municipality. The director is required to approve the  
6 transfer if the municipality is unable to issue a sufficient number of  
7 new plenary retail consumption licenses to satisfy the anticipated  
8 demand for such licenses in a real estate development project  
9 because of the statutory limitation on the number of plenary retail  
10 consumption licenses (currently one for each 3,000 of the  
11 population).

12 After a contract for the sale of a license has been signed, the  
13 seller is required to obtain resolutions adopted by the issuing  
14 authorities of the sending municipality and the qualifying smart  
15 growth municipality. The resolution adopted by the sending  
16 municipality must consent to the transfer of the license to the  
17 qualifying smart growth municipality. The resolution adopted by  
18 the issuing authority of the qualifying smart growth municipality  
19 must state that the municipality wishes to acquire the license and  
20 that it will be administered in the same manner as other plenary  
21 retail consumption licenses and in accordance with all applicable  
22 municipal ordinances.

23 The bill requires the purchaser to pay to the sending municipality  
24 prior to the transfer of the license a fee equal to 20 times the annual  
25 renewal fee for a plenary retail consumption license in the sending  
26 municipality. The fee is to be distributed in the following manner:  
27 (1) twenty-five percent is to be paid to the sending municipality; (2)  
28 twenty-five percent is to be paid to the director; and (3) fifty  
29 percent is to be divided equally among and paid to the holders of  
30 plenary retail consumption licensees in the qualifying smart growth  
31 municipality. The bill requires the purchaser to pay the qualifying  
32 smart growth municipality any fees required for the transfer of a  
33 plenary retail consumption license as well as the annual renewal  
34 fee, prorated to the next June 30, the annual date of renewal for all  
35 retail licenses.

36 A license purchased pursuant to the provisions of the bill may  
37 only be transferred to a premises located within the same real estate  
38 development project. A license may be transferred to a corporation  
39 or other legal entity that operates a bar or restaurant in the same real  
40 estate development project or to the owner of the real estate  
41 development project. The bill requires the Director of the ABC to  
42 assign a distinctive designation for the license number, after the  
43 initial transfer of the license, in order to identify the license as  
44 being restricted and subject to the provisions of this bill.

45 The bill prohibits the director from issuing a special  
46 concessionaire permit for any location or premises which is eligible  
47 to obtain a license to serve alcoholic beverages under this bill.

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1       Finally, the bill amends section 3 of P.L.2007, c.351 (C.33:1-  
2 24.3) which provides that a municipality containing an urban  
3 enterprise zone or a Planning Area 1 (Metropolitan) may acquire by  
4 purchase any existing plenary retail consumption licenses within the  
5 municipality that are inactive and retain them for up to five years.  
6 Under this bill, the municipality must acquire the license by  
7 purchase and the license must be inactive for more than three years.  
8 The bill also clarifies that the municipality may retain the inactive  
9 licenses notwithstanding that the Director of ABC has not issued a  
10 special ruling and the license holder has not paid the annual license  
11 renewal fees. The bill further amends current law to provide that a  
12 municipality may have a public sale of an inactive plenary retail  
13 consumption license for use only at a licensed premises in a real  
14 estate development project within a qualifying smart growth  
15 municipality as defined in the bill.