

[Second Reprint]

SENATE, No. 3305

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 7, 2021

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Senators O'Scanlon, Singleton and Holzapfel

SYNOPSIS

Allows tax credits for nonresidential and multifamily building improvement expenses to reduce spread of COVID-19.

CURRENT VERSION OF TEXT

As reported by the Assembly Commerce and Economic Development Committee on March 8, 2021, with amendments.



(Sponsorship Updated As Of: 1/28/2021)

1 AN ACT allowing ¹**[a gross income tax credit]** tax credits¹ for
 2 ²**[nonresidential]**² building improvement expenses to reduce the
 3 spread of COVID-19, supplementing Title 54A of the New Jersey
 4 Statutes ¹and P.L.1945, c.162 (C.54:10A-1 et seq.)¹.

5
 6 **BE IT ENACTED** by the Senate and General Assembly of the State
 7 of New Jersey:

8
 9 1. a. For taxable years 2020, 2021, and 2022, a taxpayer shall be
 10 allowed a credit against the tax otherwise due under the New Jersey
 11 Gross Income Tax Act in an amount determined pursuant to subsection
 12 b. of this section, for the taxpayer's expenditures during the taxable
 13 year for ²**[nonresidential building]**² improvements to ²nonresidential
 14 and multifamily buildings made to² reduce the spread of COVID-19.
 15 Taxpayer expenditures includable in the calculation of the credit are
 16 expenditures for:

17 (1) bi-polar ionization and ultraviolet lighting to disinfect indoor
 18 air and surfaces, including in elevators and work areas;

19 (2) infrared thermometers for screening visitors in common areas;

20 (3) transparent sneeze guards or shields;

21 (4) touchless entryway and security to reduce the spread of
 22 COVID-19;

23 (5) ventilation improvements to reduce the spread of COVID-19;
 24 and

25 (6) other ¹materials, supplies, and¹ equipment to reduce the
 26 spread of COVID-19 and necessary to create a safe environment for
 27 ²**[employers and employees to return to their work spaces]** occupants
 28 of the building².

29 b. The amount of credit allowed pursuant to subsection a. of this
 30 section shall be equal to:

31 75 percent of the taxpayer's expenditures for a ²**[work]**² location
 32 of less than 30,000 square feet, but the credit for such expenditures
 33 shall not exceed \$100,000 per location; and

34 50 percent of the taxpayer's expenditures for a ²**[work]**² location
 35 of 30,000 square feet or more, but the credit for such expenditures
 36 shall not exceed \$250,000 per location.

37 ¹c. A taxpayer that claims a credit pursuant to this section shall
 38 add back to gross income the amount of any deducted expenditures
 39 includable in the calculation of the credit.¹

40 ¹**[c.] d.**¹ The order of priority of the application of the credit
 41 allowed pursuant to this section and any other credits allowed pursuant
 42 to the New Jersey Gross Income Tax Act for a taxable year shall be as
 43 prescribed by the director. The amount of the credit applied under this
 44 section against the tax imposed for a taxable year, together with any
 45 other credits allowed by law, shall not reduce the tax liability to an

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted January 21, 2021.

²Assembly ACE committee amendments adopted March 8, 2021.

amount less than zero. ¹Any remaining credit shall not be carried forward to another taxable year. The amount of the tax credit otherwise allowed under this section that cannot be applied for the taxable year may be carried forward, if necessary, to the seven taxable years following the taxable year for which the tax credit was first allowed.¹

¹[d.] e.¹ A business entity that is classified as a partnership for federal income tax purposes shall not be allowed the credit directly, but the amount of credit of a taxpayer in respect of a distributive share of partnership income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the partnership that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the partnership for its taxable year ending within or with the taxpayer's taxable year.

A taxpayer that is a New Jersey S corporation shall not be allowed the credit directly, but the amount of credit of a taxpayer in respect of a pro rata share of S corporation income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the New Jersey S corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro-rata share of S corporation income of the New Jersey S corporation for its privilege period ending within or with the taxpayer's taxable year.

¹[e.] f.¹ Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director is authorized to adopt immediately upon filing with the Office of Administrative Law such rules and regulations ²as are necessary to effectuate the provisions of this section, which² shall be effective for a period not to exceed ¹[360 days] 18 months¹ following the date of filing and may thereafter be amended, adopted, or readopted by the director in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

¹2. a. For privilege periods ending in calendar year 2020, 2021, and 2022, a taxpayer shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount determined pursuant to subsection b. of this section, for the taxpayer's expenditures during the privilege period for ²[nonresidential building]² improvements to ²nonresidential and multifamily buildings made to² reduce the spread of COVID-19. Taxpayer expenditures includable in the calculation of the credit are expenditures for:

- (1) bi-polar ionization and ultraviolet lighting to disinfect indoor air and surfaces, including in elevators and work areas;
- (2) infrared thermometers for screening visitors in common areas;
- (3) transparent sneeze guards or shields;
- (4) touchless entryway and security to reduce the spread of COVID-19;

1 (5) ventilation improvements to reduce the spread of COVID-19;
2 and

3 (6) other materials, supplies, and equipment to reduce the spread
4 of COVID-19 and necessary to create a safe environment for
5 ²【employers and employees to return to their work spaces】 occupants
6 of the building².

7 b. The amount of credit allowed pursuant to subsection a. of this
8 section shall be equal to:

9 75 percent of the taxpayer's expenditures for a ²【work】² location
10 of less than 30,000 square feet, but the credit for such expenditures
11 shall not exceed \$100,000 per location; and

12 50 percent of the taxpayer's expenditures for a ²【work】² location
13 of 30,000 square feet or more, but the credit for such expenditures
14 shall not exceed \$250,000 per location.

15 c. A taxpayer that claims a credit pursuant to this section shall
16 add back to entire net income the amount of any deducted expenditure
17 includable in the calculation of the credit.

18 d. The director shall prescribe the order of priority of the
19 application of the credit allowed under this section and any other
20 credits allowed by law against the tax imposed under section 5 of
21 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied under
22 this section against the tax imposed pursuant to section 5 of P.L.1945,
23 c.162 (C.54:10A-5) for a privilege period, together with any other
24 credits allowed by law, shall not reduce the tax liability to an amount
25 less than the statutory minimum provided in subsection (e) of section 5
26 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit
27 otherwise allowed under this section that cannot be applied for the
28 privilege period may be carried forward, if necessary, to the seven
29 privilege periods following the privilege period for which the tax
30 credit was first allowed.

31 e. Notwithstanding any provision of the "Administrative
32 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
33 the director is authorized to adopt immediately upon filing with the
34 Office of Administrative Law such rules and regulations ²as are
35 necessary to effectuate the provisions of this section, which² shall be
36 effective for a period not to exceed 18 months following the date of
37 filing and may thereafter be amended, adopted, or readopted by the
38 director in accordance with the requirements of P.L.1968, c.410
39 (C.52:14B-1 et seq.).¹

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41 ¹【2.】 3.¹ This act shall take effect immediately and apply to
42 expenditures made after March 9, 2020 and before January 1, 2023.