

ASSEMBLY, No. 307

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman BODINE

1 AN ACT concerning certain tax exempt property and amending various
2 sections of statutory law.

3

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

6

7 1. This act shall be known and may be referred to as the "Host
8 Community Fair Share Act."

9

10 2. Section 1 of P.L.1951, c.135 (C.54:4-4.4) is amended to read as
11 follows:

12 1. a. Every municipal tax assessor shall, on or before October 1,
13 1951, obtain from each owner of real property in his taxing district, for
14 which a tax exemption is claimed, an initial statement under oath in
15 such form as shall be prescribed by the Director of the Division of
16 Taxation, showing the right to the exemption claimed. Thereafter, and
17 on or before November 1 of each year, subject to the provisions of
18 subsection b. of this section, said assessor shall obtain an initial
19 statement from each owner of real estate in his taxing district,
20 including but not limited to an owner that is a governmental entity
21 such as the State, a county, a municipality, a school district, or any
22 agency, authority or instrumentality thereof, if one has not theretofore
23 been filed. When an initial statement has theretofore been filed, then
24 not later than November 1, 1954, and thereafter not later than
25 November 1 of every third succeeding year, said assessor shall obtain
26 a further statement under oath from each owner of real property for
27 which tax exemption is claimed, provided, however, that nothing
28 herein contained shall require a further statement to be filed in the
29 same year in which an initial statement shall have been filed, but that
30 the further statement shall thereafter be filed at the time and in the
31 years hereinabove required for the filing of further statements. Each
32 assessor may at any time inquire into the right of a claimant to the

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.

1 continuance of an exemption hereunder and for that purpose he may
2 require the filing of a further statement or the submission of such proof
3 as he shall deem necessary to determine the right of the claimant to
4 continuance of the exemption. Such further statement shall be in such
5 form as shall be prescribed by the director and shall set forth

6 [(a)](1) Whether there has been any change of use of any of such
7 property initially determined as being entitled to exemption during any
8 three-year period as aforesaid which would defeat the right of
9 exemption therein, and

10 [(b)](2) Whether any new or additional property has been acquired
11 for which a tax exemption is claimed and showing initially as to such
12 new or additional property, the right to the exemption claimed.

13 The municipal tax assessor shall obtain the aforesaid statements in
14 duplicate from the property owner, and the assessor shall file the
15 duplicate copy thereof with the county board of taxation with his list
16 of property exempt from taxation, on or before January 10 following.

17 The provisions of this section shall not apply to any claim for tax
18 exemption under Article VIII, Section I, paragraph 3, of the
19 Constitution, or under any law enacted pursuant thereto, for the
20 benefit of veterans, disabled veterans and the surviving spouses of
21 those citizens and residents of this State who have met or may
22 hereafter meet their deaths while on active duty in time of war in any
23 branch of the Armed Forces of the United States, or to any claim for
24 tax exemption for property that is used exclusively for religious
25 worship purposes.

26 b. (1) The tax assessor shall not obtain or accept for filing an initial
27 statement supporting a claim for an exemption from property taxation
28 from a claimant for the current tax year when the municipality is listed
29 as 10% or greater in the "municipal tax exempt percentage records,"
30 prepared by the county board of taxation pursuant to subsection b. of
31 R.S.54:4-27 unless the application is approved by the municipal
32 governing body after notice to the claimant and opportunity to be
33 heard. This paragraph shall not be applicable to claims for additional
34 exemptions for improvements or additions on property that is currently
35 listed by the assessor as tax exempt.

36 (2) The municipal governing body shall approve a claim for tax
37 exempt status only if either the claimant demonstrates that the benefit
38 to the local community outweighs the burden of the tax exempt
39 property on the local taxpayers, or the municipal governing body
40 enters into an agreement for payments in lieu of taxes with the
41 claimant reasonably calculated to reimburse the municipality for the
42 cost of maintaining public safety services available to the property.

43 (cf: P.L.1985, c.515, s.5)

44
45 3. Section 2 of P.L.1971, c.370 (C.54:4-3.3b) is amended to read
46 as follows:

1 2. **[Where]** Except as provided in subsection b. of P.L.1951, c.135
2 (C.54:4-4.4), when real property is acquired by the State or by a State
3 agency, or by an authority created by the State, by purchase,
4 condemnation or otherwise, such property shall become tax exempt on
5 January 1 of the calendar year next following the date of acquisition,
6 provided that the tax assessor of the municipality in which such
7 property is located is given written notice of the acquisition by
8 certified mail on or before January 10 of said calendar year next
9 following; provided further that if real property is acquired between
10 January 1 and January 10 inclusive and the prescribed notice is given
11 on or before January 10, such real property shall become tax exempt
12 as of the date of acquisition.

13 (cf: P.L.1971, c.370, s.2)

14

15 4. R.S.54:4-3.4 is amended to read as follows:

16 54:4-3.4. **[All]** Except as provided in subsection b. of P.L.1951,
17 c.135 (C.54:4-4.4), all real and personal property acquired by the
18 Passaic valley sewerage commissioners, under the authority of chapter
19 14 of the title Waters and Water Supply (R.S.58:14-1 et seq.) for use
20 as part of or in connection with a main intercepting or trunk sewer, its
21 branches or appurtenances, contracted by the Passaic valley sewerage
22 commissioners to be constructed for two or more of the municipalities
23 lying within the Passaic valley sewerage district, shall be exempt from
24 all taxes levied by the municipality or taxing district in which such
25 property is located.

26 (cf: R.S.54:4-3.4)

27

28 5. R.S.54:4-3.5 is amended to read as follows:

29 54:4-3.5. **[Real]** Except as provided in subsection b. of P.L.1951,
30 c.135 (C.54:4-4.4), real estate or personal property owned and used
31 for military purposes by any organization under the jurisdiction of this
32 State, shall be exempt from taxation under this chapter on condition
33 that all income derived from the property above the expense of its
34 maintenance and repair shall be used exclusively for such military
35 purposes; and any building, real estate or personal property used by an
36 organization composed entirely of veterans of any war of the United
37 States shall be exempt from taxation under this chapter.

38 (cf: P.L.1944, c.24, s.2)

39

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

41 54:4-3.6. **[The]** Except as provided in subsection b. of P.L.1951,
42 c.135 (C.54:4-4.4), the following property shall be exempt from
43 taxation under this chapter: all buildings actually used for colleges,
44 schools, academies or seminaries, provided that if any portion of such
45 buildings are leased to profit-making organizations or otherwise used
46 for purposes which are not themselves exempt from taxation, said

1 portion shall be subject to taxation and the remaining portion only
2 shall be exempt; all buildings actually used for historical societies,
3 associations or exhibitions, when owned by the State, county or any
4 political subdivision thereof or when located on land owned by an
5 educational institution which derives its primary support from State
6 revenue; all buildings actually and exclusively used for public libraries,
7 religious worship or asylum or schools for feebleminded or idiotic
8 persons and children; all buildings used exclusively by any association
9 or corporation formed for the purpose and actually engaged in the
10 work of preventing cruelty to animals; all buildings actually and
11 exclusively used and owned by volunteer first-aid squads, which
12 squads are or shall be incorporated as associations not for pecuniary
13 profit; all buildings actually used in the work of associations and
14 corporations organized exclusively for the moral and mental
15 improvement of men, women and children, provided that if any portion
16 of a building used for that purpose is leased to profit-making
17 organizations or is otherwise used for purposes which are not
18 themselves exempt from taxation, that portion shall be subject to
19 taxation and the remaining portion only shall be exempt; all buildings
20 actually and exclusively used in the work of associations and
21 corporations organized exclusively for religious or charitable
22 purposes; all buildings actually used in the work of associations and
23 corporations organized exclusively for hospital purposes, provided
24 that if any portion of a building used for hospital purposes is leased to
25 profit-making organizations or otherwise used for purposes which are
26 not themselves exempt from taxation, that portion shall be subject to
27 taxation and the remaining portion only shall be exempt; all buildings
28 owned or held by an association or corporation created for the
29 purpose of holding the title to such buildings as are actually and
30 exclusively used in the work of two or more associations or
31 corporations organized exclusively for the moral and mental
32 improvement of men, women and children; all buildings owned by a
33 corporation created under or otherwise subject to the provisions of
34 Title 15 of the Revised Statutes or Title 15A of the New Jersey
35 Statutes and actually and exclusively used in the work of one or more
36 associations or corporations organized exclusively for charitable or
37 religious purposes, which associations or corporations may or may not
38 pay rent for the use of the premises or the portions of the premises
39 used by them; the buildings, not exceeding two, actually occupied as
40 a parsonage by the officiating clergymen of any religious corporation
41 of this State, together with the accessory buildings located on the same
42 premises; the land whereon any of the buildings hereinbefore
43 mentioned are erected, and which may be necessary for the fair
44 enjoyment thereof, and which is devoted to the purposes above
45 mentioned and to no other purpose and does not exceed five acres in
46 extent; the furniture and personal property in said buildings if used in

1 and devoted to the purposes above mentioned; all property owned and
2 used by any nonprofit corporation in connection with its curriculum,
3 work, care, treatment and study of feeble-minded, mentally retarded,
4 or idiotic men, women, or children shall also be exempt from taxation,
5 provided that such corporation conducts and maintains research or
6 professional training facilities for the care and training of
7 feeble-minded, mentally retarded, or idiotic men, women, or children;
8 provided, in case of all the foregoing, the buildings, or the lands on
9 which they stand, or the associations, corporations or institutions
10 using and occupying them as aforesaid, are not conducted for profit,
11 except that the exemption of the buildings and lands used for
12 charitable, benevolent or religious purposes shall extend to cases
13 where the charitable, benevolent or religious work therein carried on
14 is supported partly by fees and charges received from or on behalf of
15 beneficiaries using or occupying the buildings; provided the building
16 is wholly controlled by and the entire income therefrom is used for said
17 charitable, benevolent or religious purposes. The foregoing exemption
18 shall apply only where the association, corporation or institution
19 claiming the exemption owns the property in question and is
20 incorporated or organized under the laws of this State and authorized
21 to carry out the purposes on account of which the exemption is
22 claimed or where an educational institution, as provided herein, has
23 leased said property to a historical society or association or to a
24 corporation organized for such purposes and created under or
25 otherwise subject to the provisions of Title 15 of the Revised Statutes
26 or Title 15A of the New Jersey Statutes.

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

36 (cf: P.L.1993, c.166, s.1)

37

38 7. Section 1 of P.L.1967, c.24 (C.54:4-3.6a) is amended to read as
39 follows:

40 1. In addition to the exemptions from taxation authorized by
41 Revised Statutes 54:4-3.6 and except as provided in subsection b. of
42 P.L.1951, c.135 (C.54:4-4.4), the following property shall be exempt
43 from taxation under the chapter to which this act is a supplement:

44 All buildings and structures located in this State and used
45 exclusively by a nonprofit association or corporation organized under
46 the laws of this or another state for the production and broadcasting

1 of educational television or educational radio programs; the land
2 whereon the buildings and structures are erected and which may be
3 necessary for the fair enjoyment thereof, and which is devoted to the
4 foregoing purpose, and no other purpose, and does not exceed 30
5 acres in extent; the furniture, equipment and personal property in said
6 buildings and structures if used and devoted to the foregoing purpose.
7 The foregoing exemption shall apply only where the association or
8 corporation owns the property in question and is authorized to carry
9 out the purpose on account of which the exemption is claimed.

10 (cf: P.L.1979, c.50 s. 2)

11

12 8. Section 1 of P.L.1979, c.454 (C.54:4-3.6b) is amended to read
13 as follows:

14 1. [Wherever] Except as provided in subsection b. of P.L.1951,
15 c.135 (C.54:4-4.4), whenever an owner of real property, who has been
16 granted an exemption from taxation pursuant to R.S.54:4-3.6 or
17 R.S.54:4-3.26 shall make subsequent application for an exemption
18 from taxation for property newly acquired by him, such application
19 shall be deemed timely filed notwithstanding that the acquisition may
20 have been made subsequent to October 1 of the pretax year, and the
21 exemption shall be extended, provided:

22 a. The applicant and subject property meet all other requirements
23 for exemption; and

24 b. The subject property was exempt from taxation under this article
25 when acquired by the applicant.

26 (cf: P.L.1979, c.454, s.1)

27

28 9. R.S.54:4-3.24 is amended to read as follows:

29 54:4-3.24. [All] Except as provided in subsection b. of P.L.1951,
30 c.135 (C.54:4-4.4), all real and personal property used for the
31 purposes and in the work of 1 or more of the associations known as
32 Young Men's Christian Associations, Young Women's Christian
33 Associations, Young Men's and Young Women's Christian
34 Associations, Young Men's Hebrew Associations, Young Women's
35 Hebrew Associations or Young Men's and Young Women's Hebrew
36 Associations or of the Boy Scouts of America or Girl Scouts of the
37 United States of America in this State, whether incorporated or
38 unincorporated, shall be exempt from taxation under this chapter if the
39 legal or equitable ownership of such property is in 1 or more of said
40 associations using said property and the land so exempt does not
41 exceed 5 acres in extent or, in the case of improved land, the acreage
42 limitation under section 54:4-3.6 of this Title. Any real property upon
43 which construction of a building or other improvement has been begun
44 for the purpose of putting the same to use for the work of such
45 association shall be within the said exemption. The foregoing

1 exemption shall not apply to any property or part thereof used for the
2 purposes of pecuniary profit.

3 (cf: P.L.1959, c.3, s.1)

4

5 10. R.S.54:4-3.26 is amended to read as follows:

6 54:4-3.26. [All] Except as provided in subsection b. of P.L.1951,
7 c.135 (C.54:4-4.4), all real and personal property used in the work and
8 for the purposes of one or more fraternal organizations or lodges, or
9 any association or society organized on the lodge plan, or affiliated
10 associations, whether incorporated or unincorporated, shall be exempt
11 from taxation under this chapter, if the legal or beneficial ownership
12 of such property is in one or more of said organizations, lodges,
13 associations or societies, and no part of such property is used for
14 pecuniary profit, provided that each such organization, lodge,
15 association or society is also organized and operated in substantial part
16 for charitable or educational purposes and demonstrates these aims in
17 its programs and activities.

18 (cf: P.L.1971, c.320, s.1)

19

20 11. Section 1 of P.L.1971, c.339 (C.54:4-3.26a) is amended to
21 read as follows:

22 1. [The] Except as provided in subsection b. of P.L.1951, c.135
23 (C.54:4-4.4), the exemption provided in the act to which this act is a
24 supplement shall apply to the tax year 1972 and thereafter.

25 (cf: P.L.1971, c.339, s.1)

26

27 12. Section 3 of P.L.1962, c.87 (C.54:4-3.50) is amended to read
28 as follows:

29 3. [Initial] Except as provided in subsection b. of P.L.1951, c.135
30 (C.54:4-4.4), initial application for a tax exemption under this act shall
31 be filed by the taxpayer with the assessor of the taxing district on or
32 before October 1 of the pretax year on a form to be prescribed by the
33 Director of the Division of Taxation and supplied by the assessor. The
34 application shall contain an authorization to the assessor, or his
35 authorized representative, to enter upon the premises to make periodic
36 inspection of the blast or radiation fallout shelter.

37 (cf: P.L.1962, c.87, s.3)

38

39 13. Section 3 of P.L.1967, c.260 (C.54:4-3.61) is amended to read
40 as follows:

41 3. [Initial] Except as provided in subsection b. of P.L.1951, c.135
42 (C.54:4-4.4), initial application for a tax exemption pursuant to this
43 section shall be filed by the taxpayer with the assessor of the taxing
44 district on or before October 1 of the pretax year on a form to be
45 prescribed by the Director of the Division of Taxation and supplied by
46 the assessor. The application shall contain an authorization to the

1 assessor, or to his authorized representative, to enter upon the
2 premises to make periodic inspection of the improvement.

3 (cf: P.L.1967, c.260, s.3)

4

5 14. Section 2 of P.L.1974, c.167 (C.54:4-3.64) is amended to read
6 as follows:

7 2. [All] Except as provided in subsection b. of P.L.1951, c.135
8 (C.54:4-4.4), all lands and the improvements thereon actually and
9 exclusively used for conservation or recreation purposes, owned and
10 maintained or operated for the benefit of the public by a nonprofit
11 corporation or organization organized under the laws of this or any
12 State of the United States authorized to carry out the purposes on
13 account of which the exemption is claimed and which is qualified for
14 exemption from Federal Income Tax under Section 501(c)(3) of the
15 Internal Revenue Code shall be exempt from taxation; provided,
16 however, that the Commissioner of the Department of Environmental
17 Protection certifies that the real property and the property owner are
18 qualified under the terms of this act.

19 (cf: P.L.1974, c.167, s.2)

20

21 15. Section 3 of P.L.1974, c.167 (C.54:4-3.65) is amended to read
22 as follows:

23 3. [Each] Except as provided in subsection b. of P.L.1951, c.135
24 (C.54:4-4.4), each owner of real property claiming the tax exemption
25 provided by this act shall file the original and one copy of its initial
26 application for certification with the Commissioner of the Department
27 of Environmental Protection on or before August 1 of the pretax year
28 on such forms as the commissioner shall prescribe. Such application
29 shall include, but not be limited to, the following information: the
30 taxing district in which the real property is located, the block and lot
31 number of the property, a physical description of the land and
32 improvements, a plan for the use and preservation of the property, a
33 statement of the uses which may be made of the property by the
34 public, and a statement of the terms under which the public may gain
35 access to and enjoy the use of such lands. The application shall be
36 accompanied by documentation to establish the organization and
37 purposes of the property owner and its entitlement to exemption from
38 Federal income tax under Section 501(c)(3) of the Internal Revenue
39 Code.

40 (cf: P.L.1974, c.167, s.3)

41

42 16. Section 4 of P.L.1974, c.167 (C.54:4-3.66) is amended to read
43 as follows:

44 4. [The] Except as provided in subsection b. of P.L.1951, c.135
45 (C.54:4-4.4), the Commissioner of the Department of Environmental
46 Protection may certify that the real property is maintained or operated

1 for the benefit of the public only if he finds, after a public hearing on
2 the application has been held, that the real property for which an
3 application for tax exemption is made is open to all on an equal basis
4 and that a tax exemption for such property would be in the public
5 interest. Restrictions on the use of such real property by the public
6 may be permitted if the commissioner finds that they are necessary for
7 proper maintenance and improvement of the property or that
8 significant natural features of the land may be adversely affected by
9 unrestricted access. The commissioner may authorize that reasonable
10 charges may be made for entrance onto or use of such real property.
11 The commissioner may consult with the Natural Areas Council in
12 making a determination as to whether the granting of a certificate for
13 the real property covered by the application would serve the public
14 interest.

15 (cf: P.L.1974, c.167, s.4)

16

17 17. Section 3 of P.L.1983, c.309 (C.54:4-3.132) is amended to
18 read as follows:

19 3 [The] Except as provided in subsection b. of P.L.1951, c.135
20 (C.54:4-4.4), the enforcing agency shall grant a certification pursuant
21 to section 2 of [this act] P.L.1983, c.309 (C.54:4-3.131) upon receipt
22 of a written application made under oath on a form prescribed by the
23 Director of the Division of Taxation in the Department of the
24 Treasury. The form shall be made available to claimants by the
25 enforcing agency. The enforcing agency may at any time inquire into
26 the right of a claimant to the exemption and for that purpose may
27 require the filing of a new application or the submission of any proof
28 necessary to determine the right of the claimant to the continuation of
29 the exemption. The enforcing agency shall have the right to make an
30 inspection of the premises which are the subject of the claim for
31 exemption under [this act] P.L.1983, c.309 (C.54:4-3.130 et seq.).

32 (cf: P.L.1983, c.309, s.3)

33

34 18. Section 9 of P.L.1985, c.401 (C.54:4-3.138) is amended to
35 read as follows:

36 9. [A] Except as provided in subsection b. of P.L.1951, c.135
37 (C.54:4-4.4), a pet cemetery which is dedicated to pet cemetery
38 purposes pursuant to the provisions of section 3 of [this act] P.L.1985,
39 c.401 (C.4:22A-3) and which is organized as a nonprofit corporation
40 pursuant to Title 15A of the New Jersey Statutes is exempt from
41 taxation as real property under chapter 4 of Title 54 of the Revised
42 Statutes, for as long as the dedication remains in effect. This
43 exemption shall apply to land, disposal sites, structures, facilities and
44 buildings which are the subjects of the dedication and are used for pet
45 cemetery purposes.

46 (cf: P.L.1985, c.401, s.9)

1 19. R.S.54:4-27 is amended to read as follows:

2 54:4-27. a. The assessor shall enter in a separate list a description
3 of all cemeteries, churches, public buildings and other real property
4 exempt from taxation, and all exempt personal property, with the name
5 of the owner, and shall value such land and buildings and personal
6 property at the amount which would be the [taxable] current assessed
7 value if the same were not exempt from taxation in the same manner
8 as other real and personal property, and in each case he shall state the
9 ground of exemption. The assessor shall also include on the list the
10 acreage of the exempt real property.

11 b. The clerk of every county, at the expense of the county, shall
12 record in an appropriate book in his office to be designated "municipal
13 tax exempt percentage records," an annual listing, to be prepared by
14 the county board of taxation, of the names of the municipalities in the
15 county along with the ratio of the assessed valuation of the exempt
16 properties in each such municipality to the total assessed valuation of
17 all taxable and exempt properties situate within each such municipality
18 for the previous tax year, expressed as a percentage with two decimal
19 places.

20 (cf: P.L.1960, c.51, s.28)

21

22 20. This act shall take effect immediately but subsection b. of
23 section 2 shall not become operative until January 1 of the year next
24 following enactment.

25

26

27

STATEMENT

28

29 This bill prohibits a municipal tax assessor from accepting a claim
30 for tax exempt status from a claimant who does not already have tax
31 exempt status in any year that the municipality has 10% or more of the
32 value of all property in the municipality listed as tax exempt for the
33 previous year, unless the claim is approved by the municipal governing
34 body after notice to the claimant and after opportunity to be heard.
35 The restriction does not apply to property used solely for religious
36 worship purposes. A municipal governing body could approve a claim
37 for tax exemption either upon a showing that the benefit to the
38 municipality of the tax exempt use of the property outweighs the
39 burden on the other municipal property taxpayers of subsidizing the
40 proposed tax exempt use or upon the claimant entering into an
41 agreement with the municipality to make payments in lieu of tax
42 reasonably calculated to reimburse the municipality for the cost of
43 maintaining public safety services available to the property.

44 This bill also requires municipal tax assessors to report annually to
45 the county tax board the current assessed value of property listed as
46 tax exempt along with the acreage of that property. The county clerk

1 is required to record in an appropriate book in the clerk's office, to be
2 designated "municipal tax exempt percentage records," an annual
3 listing, prepared by the county board of taxation, of the names of the
4 municipalities in the county along with the ratio of the assessed
5 valuation of the exempt properties in the municipality to the total
6 assessed valuation of all properties situate within the municipality for
7 the previous tax year, expressed as a percentage, in order to give the
8 public notice of those municipalities that have reached the 10%
9 threshold.

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13 "Host Community Fair Share Act."