

ASSEMBLY, No. 602

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman LUSTBADER

1 AN ACT providing for the exemption of certain activities from taxation
2 under certain tax laws of the State of New Jersey, amending
3 P.L.1945, c.163, and supplementing P.L.1946, c.174 (C.54:10B-1
4 et seq.) and Title 54A of the New Jersey Statutes.

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

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9 1. Section 3 of P.L.1945, c.163 (C.54:10A-3) is amended to read
10 as follows:

11 3. The following corporations shall be exempt from the tax
12 imposed by this act:

13 (a) Corporations subject to a tax [assessed upon the basis of gross
14 receipts, or] on insurance premiums collected;

15 (b) Corporations which operate regular route autobus service
16 within this State under operating authority conferred pursuant to
17 R.S.48:4-3, provided, however, that such corporations shall not be
18 exempt from the tax on net income imposed by section 5(c) of
19 P.L.1945, c.162 (C.54:10A-5);

20 (c) Railroad, canal corporations, savings banks, production credit
21 associations organized under the Farm Credit Act of 1933, agricultural
22 cooperative associations incorporated or domesticated under or
23 subject to chapter 13 of Title 4 of the Revised Statutes and exempt
24 under Subtitle A, Chapter 1F, Part IV, Section 521 of the federal
25 Internal Revenue Code (26 U.S.C.§521), or building and loan or
26 savings and loan associations;

27 (d) Cemetery corporations not conducted for pecuniary profit or
28 any private shareholder or individual;

29 (e) Nonprofit corporations, associations or organizations
30 established, organized or chartered, without capital stock, under the
31 provisions of Title 15, 16 or 17 of the Revised Statutes, Title 15A of
32 the New Jersey Statutes or under a special charter or under any similar

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 general or special law of this or any other State, and not conducted for
2 pecuniary profit of any private shareholders or individual;

3 (f) Corporations subject to a tax under the provisions of P.L.1940,
4 c.4 (C.54:30A-16 et seq.), P.L.1940, c.5 (C.54:30A-49 et seq.), or
5 P.L.1991, c.184 (C.54:30A-18.6 et al.) or any statute or law imposing
6 a similar tax or taxes;

7 (g) Nonstock corporations organized under the laws of this State
8 or of any other state of the United States to provide mutual ownership
9 housing under federal law by tenants, provided, however, that the
10 exemption hereunder shall continue only so long as the corporations
11 remain subject to rules and regulations of the Federal Housing
12 [Authority] Administration and the [Commissioner of the] Federal
13 Housing [Authority] Commissioner holds membership certificates in
14 the corporations and the corporate property is encumbered by a
15 mortgage deed or deed of trust insured under the National Housing
16 Act (48 Stat. 1246) as amended by subsequent Acts of Congress. In
17 order to be exempted under this subsection, corporations shall
18 annually file a report on or before August 15 with the commissioner,
19 in the form required by the commissioner, to claim such exemption,
20 and shall pay a filing fee of \$25.00;

21 (h) Corporations not for profit organized under any law of this
22 State where the primary purpose thereof is to provide for its
23 shareholders or members housing in a retirement community as same
24 as defined under the provisions of the "Retirement Community Full
25 Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et seq.); [and]

26 (i) Corporations which are licensed as insurance companies under
27 the laws of another state, including corporations which are surplus
28 lines insurers declared eligible by the Commissioner of Insurance
29 pursuant to section 11 of P.L.1960, c.32 (C.17:22-6.45) to insure risks
30 within this State;

31 (j) A corporation or other entity which qualifies as a grantor trust
32 under sections 671 et seq. of the Internal Revenue Code of 1986, 26
33 U.S.C. §671 et seq., or any corresponding provision of any subsequent
34 law or code, that holds mortgages, mortgage-backed securities, or any
35 combination of mortgages and mortgaged-backed securities; and

36 (k) A corporation or other entity which qualifies as a Real Estate
37 Mortgage Investment Conduit (REMIC) under sections 860A et seq.
38 of the Internal Revenue Code of 1986, 26 U.S.C. §860A et seq., or any
39 corresponding provision of any subsequent Internal Revenue law or
40 code.

41 (cf: P.L.1993, c.338, s.1)

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43 2. (New section) a. A trust or other entity which qualifies as a
44 grantor trust under sections 671 et seq. of the Internal Revenue Code
45 of 1986, 26 U.S.C. §671 et seq., or any corresponding provision of any
46 subsequent Internal Revenue law or code, that holds mortgages,

1 mortgage-backed securities, or any combination of mortgages and
2 mortgage-backed securities, shall not be subject to any tax under the
3 "Financial Business Tax Law (1946)," P.L.1946, c.174 (C.54:10B-1
4 et seq.).

5 b. A Real Estate Mortgage Investment Conduit (REMIC) under
6 sections 860A et seq. of the Internal Revenue Code of 1986, 26
7 U.S.C. §860A et seq., or any corresponding provision of any
8 subsequent Internal Revenue law or code, shall not be subject to any
9 tax under the "Financial Business Tax Law (1946)," P.L.1946, c.174
10 (C.54:10B-1 et seq.).

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12 3. (New section) a. A trust or other entity which qualifies as a
13 grantor trust under sections 671 et seq. of the Internal Revenue Code
14 of 1986, 26 U.S.C. §671 et seq., or any corresponding provision of any
15 subsequent Internal Revenue law or code, that holds mortgages,
16 mortgage-backed securities, or any combination of mortgages and
17 mortgage-backed securities, shall not be subject to any tax under the
18 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

19 b. A Real Estate Mortgage Investment Conduit (REMIC) under
20 sections 860A et seq. of the Internal Revenue Code of 1986, 26
21 U.S.C. §860A et seq., or any corresponding provision of any
22 subsequent Internal Revenue law or code, shall not be subject to any
23 tax under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
24 seq.

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26 4. This act shall take effect immediately.
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29 STATEMENT

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31 This bill provides grantor trusts which qualify under Internal
32 Revenue Code sections 671 et seq. and Real Estate Mortgage
33 Investment Conduits (REMICs) which qualify under Internal Revenue
34 Code sections 860A et seq. exemption from taxation under the
35 Corporation Business Tax Act (1945), the "Financial Business Tax
36 Law (1946)," and the "New Jersey Gross Income Tax Act."

37 Financial institutions and other organizations in New Jersey have
38 been reluctant to establish trusts or REMICs in New Jersey, the assets
39 of which consist of pools of mortgages and mortgage-backed
40 securities, because the trusts and REMICs, under current laws, may be
41 subject to taxation. Other states, including New York, have enacted
42 legislation which exempts grantor trusts and REMICs from taxation.
43 As a result, these trusts and REMICs have been established in those
44 states.

45 The legislation is not intended to adversely impact in any way the
46 current law in New Jersey with respect to the taxability of grantor

1 trusts or to alter the tax consequences to holders of interests in
2 REMICs or grantor trusts, including those trusts that hold mortgages
3 and mortgage-backed securities.

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8 Exempts certain entities from taxation under certain tax laws of New
9 Jersey.