

ASSEMBLY, No. 1095

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman CORODEMUS

1 AN ACT revising the criteria for urban enterprise zone sales tax  
2 exemptions and disallowing such exemption for sales of lumber and  
3 millwork, amending P.L.1983, c.303.

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

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8 1. Section 3 of P.L.1983, c.303 (C.52:27H-62) is amended to read  
9 as follows:

10 3. As used in this act:

11 a. "Enterprise zone" or "zone" means an urban enterprise zone  
12 designated by the authority pursuant to this act;

13 b. "Authority" means the New Jersey Urban Enterprise Zone  
14 Authority created by this act;

15 c. "Qualified business" means any entity authorized to do business  
16 in the State of New Jersey which, at the time of designation as an  
17 enterprise zone, is engaged in the active conduct of a trade or business  
18 in that zone; or an entity which, after that designation but during the  
19 designation period, becomes newly engaged in the active conduct of  
20 a trade or business in that zone and has at least 25% of its full-time  
21 employees employed at a business location in the zone, meeting one or  
22 more of the following criteria:

23 (1) Residents within the zone, within another zone or within a  
24 qualifying municipality; or

25 (2) Unemployed for at least six months prior to being hired and  
26 residing in New Jersey, and recipients of New Jersey public assistance  
27 programs for at least six months prior to being hired, or either of the  
28 aforesaid; or

29 (3) Determined to be economically disadvantaged pursuant to the  
30 Jobs Training Partnership Act, Pub.L.97-300 (29 U.S.C. 1501 et seq.);

31 d. "Qualifying municipality" means any municipality in which there  
32 was, in the last full calendar year immediately preceding the year in

**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 which application for enterprise zone designation is submitted pursuant  
2 to section 14 of P.L.1983, c.303 (C.52:27H-73), an annual average of  
3 at least 2,000 unemployed persons, and in which the municipal average  
4 annual unemployment rate for that year exceeded the State average  
5 annual unemployment rate; except that any municipality which  
6 qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et  
7 seq.) shall qualify if its municipal average annual unemployment rate  
8 for that year exceeded the State average annual unemployment rate.  
9 The annual average of unemployed persons and the average annual  
10 unemployment rates shall be estimated for the relevant calendar year  
11 by the Office of Labor Statistics, Division of Planning and Research of  
12 the State Department of Labor. For purposes of P.L.1983, c.303  
13 (C.52:27H-60 et seq.), the seven municipalities in which the six  
14 enterprise zones are to be designated pursuant to criteria according  
15 priority consideration for designation of these zones pursuant to  
16 section 7 of P.L.1983, c.303 (C.52:27H-66), shall be deemed  
17 qualifying municipalities;

18 e. "Public assistance" means income maintenance funds  
19 administered by the Department of Human Services or by a county  
20 welfare agency;

21 f. "Zone development corporation" means a nonprofit corporation  
22 or association created or designated by the governing body of a  
23 qualifying municipality to formulate and propose a preliminary zone  
24 development plan pursuant to section 9 of P.L.1983, c.303  
25 (C.52:27H-68) and to prepare, monitor, administer and implement the  
26 zone development plan;

27 g. "Zone development plan" means a plan adopted by the  
28 governing body of a qualifying municipality for the development of an  
29 enterprise zone therein, and for the direction and coordination of  
30 activities of the municipality, zone businesses and community  
31 organizations within the enterprise zone toward the economic  
32 betterment of the residents of the zone and the municipality;

33 h. "Zone neighborhood association" means a corporation or  
34 association of persons who either are residents of, or have their  
35 principal place of employment in, a municipality in which an enterprise  
36 zone has been designated pursuant to this act; which is organized  
37 under the provisions of Title 15 of the Revised Statutes or Title 15A  
38 of the New Jersey Statutes; and which has for its principal purpose the  
39 encouragement and support of community activities within, or on  
40 behalf of, the zone so as to (1) stimulate economic activity, (2)  
41 increase or preserve residential amenities, or (3) otherwise encourage  
42 community cooperation in achieving the goals of the zone  
43 development plan; [and]

44 i. "Enterprise zone assistance fund" or "assistance fund" means the  
45 fund created by section 29 of P.L.1983, c.303 (C.52:27H-88);

46 j. "Lumber" means rough, dressed, and finished wood; and

1     k. "Millwork" means wood or metal moldings, door frames and  
2 entrances, sash and window units, doors, staircases, or kitchen  
3 cabinets.

4 (cf: P.L.1993, c.367, s.1)

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6     2. Section 21 of P.L.1983, c.303 (C.52:27H-80) is amended to  
7 read as follows:

8     21. Receipts of retail sales, except retail sales of motor vehicles, of  
9 alcoholic beverages as defined in the "Alcoholic Beverage Tax Law,"  
10 R.S.54:41-1 et seq., cigarettes as defined in the "Cigarette Tax Act,"  
11 P.L.1948, c.65 (C.54:40A-1 et seq.) [and], of manufacturing  
12 machinery, equipment or apparatus, and of lumber and millwork, made  
13 by a certified vendor from a place of business owned or leased and  
14 regularly operated by the vendor for the purpose of making retail  
15 sales, and located in a designated enterprise zone established pursuant  
16 to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303  
17 (C.52:27H-60 et al.), are exempt to the extent of 50% of the tax  
18 imposed under the "Sales and Use Tax Act," P.L.1966, c.30  
19 (C.54:32B-1 et seq.). Only receipts from sales which originate and are  
20 completed by the purchaser in person at the vendor's place of business  
21 within an enterprise zone qualify for the reduced sales tax; provided  
22 however, that after a sale has been completed within an enterprise  
23 zone, the vendor may deliver the tangible personal property to the  
24 purchaser at a location outside the enterprise zone. The receipts from  
25 the sale of an item of tangible personal property qualifies for the  
26 reduced sales tax only if that item is regularly exhibited and offered for  
27 retail sale at the certified vendor's place of business in the designated  
28 enterprise zone. Any single retail sale in excess of \$1,000, or any  
29 retail sale to a person, as defined pursuant to section 1 of P.L.1966,  
30 c.30 (C.54:32B-2), whose prior cumulative purchases during the  
31 calendar year from that certified vendor exceed \$10,000, shall not  
32 qualify for the reduced sales tax.

33     Any vendor, which is a qualified business having a place of business  
34 located in a designated enterprise zone, may apply to the Director of  
35 the Division of Taxation in the Department of the Treasury for  
36 certification pursuant to this section. The director shall certify a  
37 vendor if he shall find that the vendor owns or leases and regularly  
38 operates a place of business located in the designated enterprise zone  
39 for the purpose of making retail sales, that items are regularly  
40 exhibited and offered for retail sale at that location, and that the place  
41 of business is not utilized primarily for the purpose of catalogue sales,  
42 [or] mail order sales, or any other method of sales or course of  
43 conduct of business which does not entail sales which originate and are  
44 completed by the purchaser in person at the vendor's place of business  
45 located in the enterprise zone. The certification under this section  
46 shall remain in effect [during the time the business retains its status as

1 a qualified business meeting] for a period not to exceed one year. The  
2 Director shall renew a certification upon application of the vendor if  
3 the vendor continues to meet the eligibility criteria of section 27 of  
4 P.L.1983, c.303 (C.52:27H-86) and the certification requirements of  
5 this section. However, the director may at any time revoke a  
6 certification granted pursuant to this section if he shall determine that  
7 the vendor no longer complies with the provisions of this section.

8 Notwithstanding the provisions of this act to the contrary, except  
9 as may otherwise be provided by section 7 of P.L.1983, c.303  
10 (C.52:27H-66), the authority may, in its discretion, determine whether  
11 or not the provisions of this section shall apply to any enterprise zone  
12 designated after the effective date of P.L.1985, c.142 (C.52:27H-66  
13 et al.); provided, however, that the authority may make such a  
14 determination only where the authority finds that the award of an  
15 exemption of 50 percent of the tax imposed under the "Sales and Use  
16 Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) will not have any  
17 adverse economic impact upon any other urban enterprise zone.

18 Notwithstanding any other provisions of law to the contrary, after  
19 first depositing 10 percent of the gross amount of all revenues received  
20 from the taxation of retail sales made by certified vendors from  
21 business locations in designated enterprise zones to which this  
22 exemption shall apply into the account created in the name of the  
23 authority in the enterprise zone assistance fund pursuant to section 29  
24 of P.L.1983, c.303 (C.52:27H-88), the remaining 90 percent shall be  
25 deposited immediately upon collection by the Department of the  
26 Treasury, as follows:

27 a. In the first five year period during which the State shall have  
28 collected reduced rate revenues within an enterprise zone, all such  
29 revenues shall be deposited in the enterprise zone assistance fund  
30 created pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88);

31 b. In the second five year period during which the State shall have  
32 collected reduced rate revenues within an enterprise zone, 66 2/3% of  
33 all those revenues shall be deposited in the enterprise zone assistance  
34 fund, and 33 1/3% shall be deposited in the General Fund;

35 c. In the third five year period during which the State shall have  
36 collected reduced rate revenues within an enterprise zone, 33 1/3% of  
37 all those revenues shall be deposited in the enterprise zone assistance  
38 fund, and 66 2/3% shall be deposited in the General Fund;

39 d. In the final five year period during which the State shall have  
40 collected reduced rate revenues within an enterprise zone, but not to  
41 exceed the life of the enterprise zone, all those revenues shall be  
42 deposited in the General Fund.

43 Commencing on the effective date of P.L.1993, c.144, all revenues  
44 in any enterprise zone to which the provisions of this section have  
45 been extended prior to the enactment of P.L.1993, c.144 shall be  
46 deposited into the enterprise zone assistance fund until there shall have

1 been deposited all revenues into that fund for a total of five full years,  
2 as set forth in subsection a. of this section. The State Treasurer then  
3 shall proceed to deposit funds into the enterprise zone assistance fund  
4 according to the schedule set forth in subsections b. through d. of this  
5 section, beginning at the point where the enterprise zone was located  
6 on that schedule on the effective date of P.L.1993, c.144. No  
7 enterprise zone shall receive the deposit benefit granted by any one  
8 subsection of this section for more than five cumulative years.

9 The revenues required to be deposited in the enterprise zone  
10 assistance fund under this section shall be used for the purposes of that  
11 fund and for the uses prescribed in section 29 of P.L.1983, c.303  
12 (C.52:27H-88), subject to annual appropriations being made for those  
13 purposes and uses.

14 (cf: P.L.1993, c.367, s.6)

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16 3. This act shall take effect immediately, but remain inoperative  
17 until the first day of the second month following enactment.

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#### STATEMENT

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22 This bill revises the criteria under which vendors in urban enterprise  
23 zones are permitted to charge a reduced rate of sales tax. The purpose  
24 of the reduced sales tax rate is to encourage economic activity in the  
25 urban enterprise zone in fair competition with business operating  
26 outside the zones. To ensure that the reduced rate actually creates  
27 economic activity in the zones, this bill clarifies existing language that  
28 sales must be made from the place of business in the zone and that  
29 business must not consist of "mail order or catalogue sales." To  
30 ensure that the economic activity created is in fair competition with  
31 business outside the enterprise zones, the bill mandates that only  
32 receipts from items regularly exhibited for sale within the enterprise  
33 zone can receive the reduced sales tax rate. Additionally, any single  
34 retail sale valued over \$1000, or any combination of retail sales from  
35 a single vendor in a given calendar year valued over \$10,000 are  
36 ineligible for the reduced sales tax rate.

37 To reduce the possibility that vendors operating within an urban  
38 enterprise zone can gain an unfair advantage, this bill limits the  
39 duration of certification for vendors to make reduced rate sales.  
40 Under this bill, certification would be valid for a year, after which  
41 vendors must reapply and certify that they continue to meet the  
42 requirements to make sales at the reduced rate. This annual review  
43 would improve the oversight of vendor sales, promote fair competition  
44 and ensure that only vendors meeting the qualifications be permitted  
45 to make sales at the reduced rate.

46 Current law excludes items such as cigarettes, alcohol, automobiles

1 and manufacturing machinery from the reduced sales tax rate because  
2 it would provide enterprise zone vendors with an unfair advantage. To  
3 prevent this unfair competition, these price sensitive items are  
4 specifically excluded from the reduced rate. At present, lumber and  
5 millwork vendors located outside urban enterprise zones are placed at  
6 a similar competitive disadvantage due to the differential tax rates  
7 charged by enterprise zone vendors. Therefore, this legislation adds  
8 lumber and millwork products to the list of products which are  
9 excluded from the reduced sales tax rate in Urban Enterprise Zones.

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14 Revises criteria for urban enterprise zone sales tax exemption and  
15 disallows exemption for sales of lumber and millwork.