

[First Reprint]

## **ASSEMBLY, No. 283**

# **STATE OF NEW JERSEY**

## **219th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman VINCENT MAZZEO**

**District 2 (Atlantic)**

### **SYNOPSIS**

Establishes "Atlantic City Growth Tax Credit Program" to grant tax credits to promote the development of non-rental housing in Atlantic City.

### **CURRENT VERSION OF TEXT**

As reported by the Assembly Community Development and Affairs Committee on November 15, 2021, with amendments.



1   **AN ACT** concerning incentives to build new housing in Atlantic  
2       City and supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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  
8 "Atlantic City Growth Tax Credit Program."

9

10      2. The Legislature finds and declares:

11      a. The City of Atlantic City was recognized as a unique area in  
12 New Jersey when casino gaming was authorized by a Statewide  
13 public question approved in 1976.

14      b. For several decades casino gaming flourished in Atlantic  
15 City and supported much of the city's economy and property tax  
16 base.

17      c. With the development of casino gaming competition from  
18 every nearby state, the revenues from Atlantic City casino gaming  
19 began falling in 2007, resulting in a rapid devaluation of casino  
20 gaming property.

21      d. The devaluation of casino properties resulted in lower  
22 assessments for property tax purposes, thereby shifting the  
23 municipal property tax burden onto other Atlantic City property  
24 taxpayers and the county property tax burden onto other Atlantic  
25 County municipalities.

26      e. Nearly three-quarters of the residents of Atlantic City are  
27 tenants, meaning that the population of homeowners is relatively  
28 small.

29      f. The shifting of the property tax burden from the gaming and  
30 other commercial sector onto the residential sector causes a  
31 substantial hardship especially for homeowners.

32      g. One way to ameliorate the burden of rapidly rising property  
33 taxes on homeowners is to expand the pool of residential property  
34 taxpayers.

35      h. Atlantic City is plagued by an abundance of abandoned and  
36 vacant properties on which little or no property taxes are collected.

37      i. It is a worthwhile goal to increase home ownership in  
38 Atlantic City to a level where at least half of residents are  
39 homeowners.

40      j. The New Jersey Housing and Mortgage Finance Agency,  
41 under subsection t. of section 5 of P.L.1983, c.530 (C.55:14K-5)  
42 has been specifically charged with assessing and addressing the  
43 housing needs in Atlantic City when planning its programs.

**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:

<sup>1</sup>Assembly ACD committee amendments adopted November 15, 2021.

1 k. It is in the public interest to reverse the erosion of Atlantic  
2 City's residential property tax base by providing incentives to  
3 private developers in order to encourage the construction of housing  
4 that will attract new homeowners to Atlantic City and thereby  
5 increase its residential property tax base.

6  
7 3. As used in P.L. , c. (C. ) (pending before the  
8 Legislature as this bill):

9 "Agency" means the New Jersey Housing and Mortgage Finance  
10 Agency.

11 "Allowed costs" means eligible developers' costs for land  
12 acquisition, demolition, and capital improvements to build an  
13 eligible project in the City of Atlantic City, as reviewed and  
14 approved by the agency.

15 "Credit" means the tax credit against business or income taxes  
16 permitted under the "Atlantic City Growth Tax Credit Program."

17 "Director" means the Director of the Division of Taxation in the  
18 Department of the Treasury.

19 "Eligible developer" means a developer intending to build an  
20 eligible project within the boundaries of the City of Atlantic City.

21 "Eligible project" means a project to be located within a single  
22 neighborhood within the boundaries of the City of Atlantic City and  
23 (1) consisting of, or including at least, eight newly constructed  
24 units, contiguous or otherwise, of residential housing, which may be  
25 single-family homes, townhouses, condominiums, duplexes, or any  
26 combination thereof; (2) that is at least 80 percent owner-occupied  
27 with no more than 20 percent of the housing units leased as market-  
28 rate rental housing; (3) that is no more than eight stories in height;  
29 and (4) for which an eligible developer controls, or has contracted  
30 to control, all of the property within the project prior to applying for  
31 a tax credit under section 4 of P.L. , c. (C. ) (pending before  
32 the Legislature as this bill).

33  
34 4. a. The New Jersey Housing and Mortgage Finance Agency,  
35 in cooperation with the Director of the Division of Taxation in the  
36 Department of the Treasury, shall establish the "Atlantic City  
37 Growth Tax Credit Program" for the purpose of providing eligible  
38 developers with a tax credit equal to 50 percent of the eligible  
39 developer's allowed costs for land acquisition, demolition, and  
40 capital improvements to build eligible projects in the City of  
41 Atlantic City.

42 b. (1) An eligible developer shall apply for a tax credit for  
43 allowed costs related to an eligible project on forms promulgated by  
44 the agency.

45 (2) The agency shall review an application and shall approve it  
46 if it finds that the developer and project are eligible under  
47 P.L. , c. (C. ) (pending before the Legislature as this bill).

1 The agency may require an eligible developer to submit additional  
2 information that it deems necessary for its determination.

3 c. (1) (a) Upon the completion of an eligible project, an  
4 eligible developer shall be allowed a credit against the tax imposed  
5 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or the "New  
6 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., as applicable  
7 in an amount equal to 50 percent of the eligible developer's allowed  
8 costs paid or incurred for land acquisition, demolition, and capital  
9 improvements to build eligible projects in the City of Atlantic City  
10 during the privilege period or taxable year. Any unused credit may be  
11 carried forward for use in any of the next five privilege periods or  
12 taxable years following the privilege period or taxable year for which  
13 the credit is initially allowed. Credits shall be transferable in  
14 accordance with regulations adopted by the Division of Taxation in  
15 the Department of the Treasury pursuant to section 5 of  
16 P.L. , c. (C. ) (pending before the Legislature as this bill)  
17 provided, however, that no credits shall be sold or transferred until  
18 a project is completed.

19 (b) The total tax credits awarded to an eligible developer under  
20 this section shall be in an amount equal to 50 percent of the eligible  
21 developer's allowed costs paid or incurred for land acquisition,  
22 demolition and, capital improvements to build eligible projects in  
23 the City of Atlantic City during the privilege period or taxable year.  
24 Any unused credit may be carried forward for use in any of the next  
25 five privilege periods or taxable years following the privilege  
26 period or taxable year for which the credit is initially allowed.

27 (c) Except as otherwise provided in this section, the order of  
28 priority of the application of the credit allowed pursuant to this  
29 subsection and any other credits allowed by law shall be as  
30 prescribed by the director.

31 (2) (a) An eligible developer that is classified as a partnership  
32 for federal income tax purposes shall not be allowed a credit under  
33 this section directly, but the amount of credit of a taxpayer with  
34 respect to a distributive share of entity income shall be determined  
35 by allocating to the taxpayer that proportion of the credit acquired  
36 by the eligible developer entity that is equal to the taxpayer's share,  
37 whether or not distributed, of the total distributive income or gain  
38 of the entity for its taxable year ending within or with the taxpayer's  
39 taxable year.

40 (b) A New Jersey S Corporation shall not be allowed a credit  
41 under this section directly, but the amount of credit of a taxpayer  
42 with respect to a pro rata share of S Corporation income shall be  
43 determined by allocating to the taxpayer that proportion of the  
44 credit acquired by the New Jersey S Corporation that is equal to the  
45 taxpayer's share, whether or not distributed, of the total pro rata  
46 share of S Corporation income of the New Jersey S Corporation for  
47 its privilege period ending within or with the taxpayer's taxable  
48 year.

1 d. The agency may revoke tax credits awarded pursuant to this  
2 section if it finds that a developer no longer meets the requirements  
3 of being an eligible developer.

4 e. The agency shall not accept applications for eligibility under  
5 the program after January 1, <sup>1</sup>~~2020~~ 2027, or after the date upon  
6 which the agency determines that the percent proportion of rental  
7 units to all housing units in the City of Atlantic City has declined to  
8 at least 50 percent, whichever date occurs first.

9 f. A decision on any application permits or approvals required  
10 under the "Coastal Area Facility Review Act," P.L.1973, c.185  
11 (C.13:19-1 et seq.) for eligible projects under this section shall be  
12 considered by the reviewing authority within 30 days of the receipt  
13 of the application.

14 g. The agency shall provide low interest mortgage  
15 opportunities to the buyer of a unit developed under the "Atlantic  
16 City Growth Tax Credit Program" in a manner consistent with  
17 regulations adopted pursuant to section 5 of P.L. , c. (C. )  
18 (pending before the Legislature as this bill).

19  
20 5. No more than 180 days from the date of the enactment of  
21 P.L. , c. (C. ) (pending before the Legislature as this bill), the  
22 New Jersey Housing and Mortgage Finance Agency, in consultation  
23 with the Division of Taxation in the Department of the Treasury  
24 shall adopt, pursuant to the "Administrative Procedure Act,"  
25 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as may  
26 be necessary for the implementation of P.L. , c. (C. ) (pending  
27 before the Legislature as this bill). The division shall also adopt,  
28 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
29 (C.52:14B-1 et seq.), rules and regulations concerning the  
30 transferability of tax credits pursuant to subparagraph (a) of  
31 paragraph (1) of subsection c. of section 4 of P.L. , c. (C. )  
32 (pending before the Legislature as this bill).

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34 6. On or before June 1, <sup>1</sup>~~2020~~ 2027, the New Jersey  
35 Housing and Mortgage Finance Agency, in consultation with the  
36 Director of the Division of Taxation in the Department of the  
37 Treasury, in accordance with section 2 of P.L.1991, c.164 (C.52:14-  
38 19.1), shall deliver a report to the Legislature concerning the results  
39 of the Atlantic City Growth Tax Credit Program established  
40 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
41 this bill). The report provided to the Legislature shall include a  
42 description of all credit awards made under the program and the  
43 current status of each project. The report shall also include  
44 recommendations concerning the continuation or dissolution of the  
45 "Atlantic City Growth Tax Credit Program."

46  
47 7. This act shall take effect immediately and shall expire on the  
48 first day of the 61st month next following enactment, except that

1 unused tax credits may continue to be carried over to future  
2 privilege periods or taxable years as permitted under subparagraph  
3 (b) of section c. of section 4 of P.L. , c. (C. ) (pending before  
4 the Legislature as this bill).