

54: 4-3.140

LEGISLATIVE HISTORY CHECKLIST
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(Five year tax abatement)

NJSA: 54:4-3.140

LAWS OF: 1991 CHAPTER: 469

BILL NO: S3690

SPONSOR(S): Lipman

DATE INTRODUCED: September 26, 1991

COMMITTEE: ASSEMBLY: Housing

SENATE: County and Municipal

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
by asterisks

DATE OF PASSAGE: ASSEMBLY: January 13, 1992

SENATE: December 12, 1991

DATE OF APPROVAL: January 18, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG/pp

[FIRST REPRINT]
SENATE, No. 3690

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 26, 1991

By Senator LIPMAN

1 AN ACT concerning taxes otherwise due in the sixth and
2 subsequent years for certain residential structures granted a
3 five-year tax abatement and amending P.L.1989, c.207.

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

7 1. Section 2 of P.L.1989, c.207 (C.54:4-3.140) is amended to
8 read as follows:

9 2. As used in this act:

10 [a.] "Abatement" means an exemption from real property
11 taxes provided for the purposes of encouraging residential
12 construction, conversion, improvement and redevelopment
13 pursuant to this act;

14 [b.] "Assessor" means the municipal tax assessor appointed
15 pursuant to the provisions of chapter 9 of Title 40A of the New
16 Jersey Statutes;

17 "Average ratio" means the certified average ratio, used for
18 determining the common level range for each taxing district
19 pursuant to P.L.1973, c.123 (C.54:1-35a et seq.) as prepared by
20 the Director of the Division of Taxation for the preceding tax
21 year;

22 [c.] "Completed," with respect to a parcel of qualified
23 property, or the "completion" of that property, means
24 substantially ready for the use for which it is intended and its
25 occupancy as a principal residence;

26 [d.] "Condominium" means the form of real property
27 ownership provided for under the "Condominium Act," P.L.1969,
28 c.257 (C.46:8B-1 et seq.);

29 [e.] "Cooperative" means a housing corporation or association,
30 wherein the holder of a share or membership interest thereof is
31 entitled to possess and occupy for dwelling purposes a house,
32 apartment, or other unit of housing owned by the corporation or
33 association, or to purchase a unit of housing constructed or
34 erected by the corporation or association;

35 [f.] "Cost," when used with respect to construction, or to an
36 improvement or conversion alteration, means only the cost or fair
37 market value of labor and materials used in constructing or
38 improving qualified residential property, or in converting another
39 building or structure to qualified residential property, including

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:

¹ Senate SCM committee amendments adopted December 5, 1991.

1 any architectural, engineering, and contractors' fees associated
2 with the construction, improvement or conversion, as the owner
3 of the property shall cause to be certified to the governing body
4 by an independent and qualified architect, following the
5 completion of the project;

6 "Equalized taxes otherwise due" means the tax amount derived
7 by levying on ¹[an abated] a¹ structure ¹for which a five-year tax
8 abatement has been granted¹, ¹[where any previous owner of that
9 property was the recipient of a five-year tax abatement,]¹ a
10 property tax imposed in the same manner as other property taxes
11 are levied pursuant to chapter 4 of Title 54 of the Revised
12 Statutes, except that for all tax years subsequent to the last tax
13 abatement year including and ending in the tax year prior to a
14 municipal-wide revaluation, the total property tax prior to any
15 tax deduction shall be equalized by the tax collector by
16 multiplying that amount times the average ratio of the taxing
17 district¹, but in no event shall the payment for equalized taxes
18 otherwise due be less than the total property tax payment on the
19 structure prior to any tax deduction due and payable during the
20 third tax year following completion of construction,
21 improvements or conversion alterations pursuant to section 7 of
22 P.L.1989, c.207 (C.54:4-3.145)¹. ¹No appeal shall be taken by the
23 property owner from the determination by the tax collector of
24 equalized taxes otherwise due, except for mathematical or
25 typographical errors.¹

26 [g.] "Horizontal property regime" means the form of real
27 property ownership provided for under the "Horizontal Property
28 Act," P.L.1963, c.168 (C.46:8A-1 et seq.);

29 [h.] "Qualified municipality" means a municipality in which an
30 urban enterprise zone or part of an urban enterprise zone has
31 been designated pursuant to the "New Jersey Urban Enterprise
32 Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), and shall
33 include the entire area within the corporate boundaries of that
34 municipality, whether or not that area is included within an urban
35 enterprise zone; and

36 [i.] "Qualified residential property" means any building used or
37 to be used or held for use as a home or residence, including
38 accessory buildings located on the same premises and including
39 condominiums, cooperatives and horizontal property regimes. No
40 building shall be considered a qualified residential property if the
41 certificate of occupancy for the construction, conversion,
42 rehabilitation or renovation was issued on or before the date
43 falling 30 months prior to the effective date of this act.

44 (cf: P.L.1989, c.207, s.2)

45 2. Section 7 of P.L.1989, c.207 (C.54:4-3.145) is amended to
46 read as follows:

47 7. a. Each approved abatement shall be evidenced by a
48 financial agreement between the qualified municipality and the
49 applicant. The agreement shall be prepared by the applicant and

1 shall contain the representations that are required by the
2 enabling ordinance. The agreement shall provide for the
3 applicant to annually pay to the municipality an amount in lieu of
4 real property taxes, to be computed according to either
5 subsection b. or c. of this section, as provided for in the enabling
6 ordinance.

7 b. Payments in lieu of taxes may be computed as two percent
8 of the cost of the improvements or conversion alterations, as
9 appropriate for five years following such completion and in the
10 sixth and all subsequent tax years following completion, 100% of
11 the equalized taxes otherwise due; or

12 c. Payments in lieu of taxes may be computed as a portion of
13 the real property taxes otherwise due, according to the following
14 schedule:

15 (1) In the first tax year following completion, no payment in
16 lieu of taxes otherwise due;

17 (2) In the second tax year following completion, an amount not
18 less than 20% of taxes otherwise due;

19 (3) In the third tax year following completion, an amount not
20 less than 40% of taxes otherwise due;

21 (4) In the fourth tax year following completion, an amount not
22 less than 60% of taxes otherwise due;

23 (5) In the fifth tax year following completion, an amount not
24 less than 80% of taxes otherwise due;

25 (6) In the sixth and all subsequent tax years following
26 completion, 100% of the equalized taxes otherwise due.

27 d. For the purposes of this section, the amount of "taxes
28 otherwise due" (not to be confused with "equalized taxes
29 otherwise due") shall be determined by including the appropriate
30 percentage of the assessed valuation of the abated structure,
31 improvement or conversion alteration, as the case may be, on the
32 assessment list of the municipality as taxable property, and
33 levying taxes thereon in the same manner as other taxes are
34 levied pursuant to chapter 4 of Title 54 of the Revised Statutes;
35 provided, however, that no value for a property subject to the
36 provisions of this act shall be included in the calculation of the
37 "net valuation on which county taxes are apportioned" until the
38 [sixth, eleventh or sixteenth year, as appropriate] first tax year
39 for which a municipal-wide revaluation is implemented.

40 (cf: P.L.1989, c.207, s.7)

41 3. This act shall take effect immediately and shall apply to
42 any five-year tax abatement agreement entered into under
43 P.L.1989, c.207 (C.54:4-3.139 et seq.).

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46

LOCAL TAXATION

47

48 Provides uniform tax treatment in sixth and subsequent years for
49 certain residential structures previously granted five-year tax
50 abatement.

1 c. Payments in lieu of taxes may be computed as a portion of
2 the real property taxes otherwise due, according to the following
3 schedule:

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5 lieu of taxes otherwise due;

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8 (3) In the third tax year following completion, an amount not
9 less than 40% of taxes otherwise due;

10 (4) In the fourth tax year following completion, an amount not
11 less than 60% of taxes otherwise due;

12 (5) In the fifth tax year following completion, an amount not
13 less than 80% of taxes otherwise due;

14 (6) In the sixth and all subsequent tax years following
15 completion, 100% of the equalized taxes otherwise due.

16 d. For the purposes of this section, the amount of "taxes
17 otherwise due" (not to be confused with "equalized taxes
18 otherwise due") shall be determined by including the appropriate
19 percentage of the assessed valuation of the abated structure,
20 improvement or conversion alteration, as the case may be, on the
21 assessment list of the municipality as taxable property, and
22 levying taxes thereon in the same manner as other taxes are
23 levied pursuant to chapter 4 of Title 54 of the Revised Statutes;
24 provided, however, that no value for a property subject to the
25 provisions of this act shall be included in the calculation of the
26 "net valuation on which county taxes are apportioned" until the
27 [sixth, eleventh or sixteenth year, as appropriate] first tax year
28 for which a municipal-wide revaluation is implemented.

29 (cf: P.L.1989, c.207, s.7)

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31 any five-year tax abatement agreement entered into under
32 P.L.1989, c.207 (C.54:4-3.139 et seq.).

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SPONSOR'S STATEMENT

36

37 This bill provides uniform tax treatment for certain residential
38 structures in urban areas previously granted a five-year tax
39 abatement.

40 Specifically, this bill would provide recipients of five-year tax
41 abatements under P.L.1989, c.207 (C.54:4-3.139 et seq.) with
42 uniform tax treatment on their tax abated structures in the sixth
43 and subsequent tax years.

44 After the fifth tax year, home owners granted a five-year tax
45 abatement face severe intra-municipal assessment discrepancies
46 in urban municipalities that have not kept their assessments
47 current. In such municipalities older residential properties often
48 remain assessed at a fraction of market value, while the newly
49 constructed residential properties after the five-year tax
50 abatement grant is terminated are forced to pay substantially

1 higher property taxes than the owners of the older residential
2 properties.

3 Providing uniform tax treatment for new residential structures
4 in urban areas that had received a five-year tax abatement will
5 assure current and prospective owners of those properties that
6 their property tax payments will be similar to the property tax
7 payments of older homes, thus removing the fear of
8 disproportionately high tax burdens being placed on those new
9 residential structures.

10 This bill accomplishes such uniform tax treatment by directing
11 that annual tax payments of such structures be computed in the
12 sixth and subsequent tax years by multiplying the certified
13 average ratio, used for determining the common level range for
14 each taxing district pursuant to P.L.1973, c.123 (C.54:1-35b) as
15 prepared by the Director of the Division of Taxation for the
16 preceding tax year, times the taxes otherwise due on that
17 structure. This annual tax equalization procedure will continue
18 through the tax year before a municipal wide revaluation is
19 implemented, then in the revaluation tax year and thereafter the
20 tax abated structure will be valued and taxed like all other
21 similar residential structures in the municipality.

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LOCAL TAXATION

25

26 Provides uniform tax treatment in sixth and subsequent years for
27 certain residential structures previously granted five-year tax
28 abatement.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 3690

STATE OF NEW JERSEY

DATED: JANUARY 10, 1992

The Assembly Housing Committee reports Senate Bill No. 3690 (1R) favorably, without amendment.

The purpose of this bill is to assure that the incentives provided by five-year tax abatements are authorized under P.L.1989, c.207 (C.54:4-3.139 et seq.) for construction or rehabilitation of residential structures in certain qualified urban areas shall not be undermined by unequal tax treatment of such new or rehabilitated structures after the expiration of the abatement. Such unequal treatment may arise in municipalities where assessments have not been kept up to date, if the new or rehabilitated structures are taxed upon full value of the improvements made to the property.

This bill assures equal and uniform treatment of such properties by providing that, after the expiration of the five-year abatement, their taxes shall be fully assessed in the manner provided by law, but their actual payments shall be that fraction of the full-value levy which the average assessment ratio in the municipality bears to true value.

The "average ratio" of a municipality is defined in the bill as "the certified average ratio, used for determining the common level range for each taxing district . . . as prepared by the Director of the Division of Taxation for the preceding tax year."

In no case, however, would a property's post-abatement tax be lower than what would be due in the third year after completion of the improvement: 40 percent of tax assessed at full value. (Over the term of such an abatement, taxes are phased in from zero in the first year to 100 percent after the fifth year, in increments of 20 per cent per year.)

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 3690

with Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 5, 1991

The Senate County and Municipal Government Committee reports favorably Senate Bill No. 3690 with Senate committee amendments.

Senate Bill No. 3690, as amended by the committee, provides uniform tax treatment for certain residential structures in urban areas which have been granted a five-year tax abatement.

Specifically, this bill would provide recipients of five-year tax abatements under P.L.1989, c.207 (C.54:4-3.139 et seq.) with uniform tax treatment on their tax abated structures in the sixth and subsequent tax years.

After the fifth tax year, home owners granted a five-year tax abatement face severe intra-municipal assessment discrepancies in urban municipalities that have not kept their assessments current. In such municipalities older residential properties often remain assessed at a fraction of market value, while the newly constructed residential properties after the five-year tax abatement grant is terminated are forced to pay substantially higher property taxes than the owners of the older residential properties.

Providing uniform tax treatment for new residential structures in urban areas that had received a five-year tax abatement will assure current and prospective owners of those properties that their property tax payments will be similar to the property tax payments of older homes, thus removing the fear of disproportionately high tax burdens being placed on those new residential structures.

This bill accomplishes such uniform tax treatment by directing that annual tax payments of such structures be computed in the sixth and subsequent tax years by multiplying the certified average ratio, used for determining the common level range for each taxing district pursuant to P.L.1973, c.123 (C.54:1-35b) as prepared by the Director of the Division of Taxation for the preceding tax year, times the taxes otherwise due on that structure. This annual tax equalization procedure will continue through the tax year before a municipal wide revaluation is implemented. In the revaluation tax year and thereafter the tax abated structure will be valued and taxed like all other similar residential structures in the municipality.

The committee amended the bill to clarify the definition of "equalized taxes otherwise due" and provide that no appeal shall be taken by the property owner from the determination by the tax collector of equalized taxes otherwise due, except for mathematical or typographical errors. Additionally, the committee

amended the bill to establish as a floor for the "equalized taxes otherwise due" the total property tax payment on the structure prior to any tax deduction payment due and payable during the third tax year following completion of construction, improvements or conversion alterations pursuant to section 7 of P.L.1989, c.207 (C.54:4-3.145).