

40:55C-58.1

LEGISLATIVE HISTORY CHECKLIST

NJSA 40:55C-58.1

(Taxation-"Fox Lance.. exemption-
condominium unit owner residency
requirement)

LAWS OF: 1987

CHAPTER 443

Bill No. S1953

Sponsor (s) O'Connor

Date Introduced March 10, 1986

Committee: Assembly Housing; Appropriation

Senate County and Municipal Governemnt

Amendment during passage:

Yes

Amendment
during passage
denoted by
asterisks

Date of Passage:

Assembly: January 11, 1988

Senate: June 30, 1986

Date of approval: January 15, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly Yes

6-18-87
& 11-
30-87

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

[OFFICIAL COPY REPRINT]
SENATE, No. 1953

STATE OF NEW JERSEY

INTRODUCED MARCH 10, 1986

By Senator O'CONNOR

Referred to Committee on County and Municipal Government

AN ACT concerning certain property tax exemptions and amending
P. L. 1978, c. 93.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 1 of P. L. 1978, c. 93 (C. 40:55C-58.1) is amended to
2 read as follows:

3 1. **a.** Notwithstanding anything to the contrary contained in
4 P. L. 1961, c. 40 (C. 40:55C-40 et seq.), when an urban renewal cor-
5 poration or an urban renewal association, being a party to a finan-
6 cial agreement prepared in compliance with sections 20 to 25, inclu-
7 sive, of said act (C. 40:55C-59 to 40:55C-64), files a master deed
8 pursuant to P. L. 1969, c. 257 (C. 46:8B-1 et seq.) creating a condo-
9 minium, whether residential or commercial, as to all or a portion of a
10 project which has been approved for tax exemption under section
11 19 of said act (C. 40:55C-58) **and, if appropriate, subsection b. of*
12 *this section**, each unit of the condominium whether owned by the
13 urban renewal corporation, urban renewal association or a suc-
13A cessor unit purchaser of either, shall continue to be subject
14 to the provisions of said act, as modified in this section, and the
15 tax exemption previously approved under the provisions of said
16 act with respect to the property converted to condominium owner-
17 ship shall be unaffected by the recording of the master deed or
18 any subsequent deed conveying the condominium unit and its
19 appurtenant interest in the common elements. ***[In]*** **Subject to*
20 *the provisions and exceptions of subsections b. and c., as appropri-*
21 *ate, of this section, in** an instance of housing, a tax exemption

**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 printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Senate committee amendments adopted June 19, 1986.**

22 granted pursuant to this act to any single condominium unit shall
 23 continue in effect [only during that time that an] *regardless of*
 24 *of whether or not the* owner of such unit, [not] including an urban
 25 renewal corporation or association, personally resides therein. A
 26 tax exemption shall continue as to the condominium unit and its ap-
 26A purtenant undivided interest in the common elements subject to
 26B all of the following:

27 ***[a.]*** **(1)** For the purpose of determining the annual service
 28 charge pursuant to section 26 of P. L. 1961, c. 40 (C. 40:55C-65)
 29 when used with respect to any condominium project, "annual gross
 30 revenue" shall mean the amount equal to the annual aggregate con-
 31 stant payments to principal and interest, assuming a purchase
 32 money mortgage encumbering the condominium unit to have been in
 33 an original amount equal to the initial value of the unit with its ap-
 34 purtenant interest in the common elements as stated in the master
 35 deed, if unsold by the urban renewal corporation or association, or,
 36 if the unit is held by a unit purchaser, from time to time, the most re-
 37 cent true consideration paid for a deed to the condominium unit in a
 38 bona fide arm's length sale transaction, but not less than the initial
 39 assessed valuation of the condominium unit assessed at 100% of
 40 true value, plus the total amount of common expenses charged to
 41 the unit pursuant to the bylaws of the condominium association.
 42 The constant payments to principal and interest shall be calculated
 43 by assuming a loan amount as aforesaid at the [maximum] *pre-*
 44 *vailing* lawful interest rate [under R. S. 31:1-1] *for mortgage fi-*
 45 *nancing on comparable properties within the municipality* as of
 46 the date of recording of the unit deed, for a term equal to the full
 47 term of the exemption from taxation stipulated in the financial
 48 agreement.

49 ***[b.]*** **(2)** There is expressly excluded from calculation of an-
 50 nual gross revenue as defined in section 12 of P. L. 1961, c. 40 (C.
 51 40:55C-51) and from net profit as defined in section 11 of P. L. 1961,
 52 c. 40 (C. 40:55C-50) for the purpose of determining compliance with
 53 section 27 of P. L. 1961, c. 40 (C. 40:55C-66) any gain realized by the
 54 urban renewal corporation or urban renewal association on the sale
 55 of any condominium unit, whether or not taxable under applicable
 56 federal or State laws.

57 ***[c.]*** **(3)** The conveyance of a condominium unit which is sub-
 58 ject to the provisions of a financial agreement to a bona fide unit
 59 purchaser grantee shall not require consent or approval of the mu-
 60 nicipality, and the grantee shall, by virtue hereof, acquire title to the
 61 unit subject to the requirement for payment of the annual service

62 charge and other provisions thereof expressly applicable to con-
 63 dominium unit purchasers under the provisions of said act, and
 64 the exemption from taxation as to such condominium unit shall
 65 continue unaffected by such transfer, [but,] in an instance of hous-
 66 ing, *subject to the provisions and exceptions of subsections b. and
 67 c., as appropriate, of this section,* [only during such time as a] re-
 68 gardless of whether or not the unit owner personally resides
 69 therein.

70 *b. Any application approved by resolution pursuant to section
 71 19 of P. L. 1961, c. 40 (C. 40:55C-58) for a tax exemption for resi-
 72 dential condominium units shall not take effect until approved by
 73 the chief executive officer of the municipality.

74 c. The governing body of a municipality may, by resolution sub-
 75 ject to the provisions of subsection b. of this section, determine to:

76 (1) Only grant a tax exemption for residential condominium units
 77 to those units in which the owners personally reside; or

78 (2) Increase the annual service charge paid in lieu of taxes by a
 79 condominium unit owner who does not reside within the unit owned,
 80 by 1% over that permitted pursuant to section 26 of P. L. 1961, c. 40
 81 (C. 40:55C-65).*

1 2. This act shall take effect immediately.

TAXATION — PROPERTY

Removes requirement, under certain circumstances, that a con-
 dominium unit owner must reside in the unit in order for a “Fox-
 Lance” tax exemption to remain in effect.

STATEMENT

Under current law, tax exemptions afforded condominium properties pursuant to the provisions of the "Urban Renewal Corporation and Association Law of 1961," P. L. 1961, c. 40 (C. 40:55C-40 et seq.), or as it is commonly known, the "Fox-Lance" Law, remain in effect only if the owner personally resides in the condominium unit. This bill would remove the requirement that the owner must personally reside in the unit in order for the tax exemption to remain in effect.

The bill also removes the reference to the "maximum lawful interest rate under R. S. 31:1-1" from the subsection setting forth the method of determining the "annual gross revenue" for a condominium project and substitutes the phrase "prevailing lawful interest rate for mortgage financing on comparable properties within the municipality."

TAXATION—PROPERTY

Removes requirement that a condominium unit owner must personally reside in the unit in order for a "Fox-Lance" tax exemption to remain in effect.

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ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

SENATE, No. 1953

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STATE OF NEW JERSEY

DATED: JUNE 18, 1987

The Assembly Housing Committee favorably reports Senate Bill No. 1953 (OCR), without amendment.

This bill provides that under certain circumstances the owner of a residential condominium unit need not personally reside in the unit in order for a tax exemption granted pursuant to the "Urban Renewal Corporation and Association Law of 1961," P. L. 1961, c. 40 (C. 40:55C-40 et seq.), to remain in effect.

Under that act, commonly known as the "Fox-Lance Law," the granting of tax exemption, together with provision for payments to the municipality in lieu of taxation, is a part of the project approval process. The exemption follows as a result of approval of the project application by the municipal governing body. The statute further provides, however, that in the case of condominium housing the exemption for any single unit continues only so long as the owner "personally resides therein."

This bill would allow the exemption to continue regardless of whether the unit owner continues personal residence, but requires that the municipality's chief executive officer, as well as the governing body, approve a residential condominium project's application for tax exemption. It would also, however, allow the municipal governing body to determine by resolution that it will approve tax exemption only for those units in which the owners personally reside. Alternatively, the governing body could determine to allow the exemption but increase the nonresident owner's in-lieu-of-tax payment by 1% above the amount otherwise chargeable under the payment schedule set forth in P. L. 1961, c. 40 § 26 (C. 40:55-65).

The bill also changes the method of determining a condominium project's "annual gross revenue," on which in-lieu-of-tax payments are based. The statute now provides that the gross revenue figure be equal to mortgage payments (principal and interest), assuming the mortgage principal on each unit to be equal to its initial value and

the interest rate to be the "maximum lawful interest rate" as fixed by the Commissioner of Banking pursuant to R. S. 31:1-1. The bill would amend this by making the assumed interest rate equal to "the maximum prevailing lawful interest rate for mortgage financing on comparable properties within the municipality."

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ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO
SENATE, No. 1953

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STATE OF NEW JERSEY

DATED: NOVEMBER 30, 1987

The Assembly Appropriations Committee favorably reports Senate Bill No. 1953 OCR.

Senate Bill No. 1953 OCR provides that under certain circumstances a residential condominium owner need not personally reside in the owner's condominium unit in order for a tax exemption granted pursuant to the provisions of the "Urban Renewal Corporation and Association Law of 1961," P. L. 1961, c. 40 (C. 40:55C-40 et seq.), to remain in effect.

Currently, a tax exemption afforded a residential condominium unit created by an urban renewal corporation or association under that law, commonly known as the "Fox-Lance Law," remain in effect only if the owner personally resides therein.

This bill permits the tax exemption to continue regardless of whether or not the owner resides in the unit subject to the following provisions and exceptions. First, any tax exemption application approved by resolution of the governing body, shall not take effect until approved by the chief executive officer of the municipality. Second, the governing body may determine to: a. limit the exemption only to those residential condominium units in which the owners personally reside or b. increase the annual service charge paid in lieu of taxes by an owner who does not reside in the unit by 1%.

The bill also changes the method of determining a condominium project's "annual gross revenue," on which in-lieu-of-tax payments are based. The statute now provides that the gross revenue figure be equal to mortgage payments (principal and interest), assuming the mortgage principal on each unit to be equal to its initial value and the interest rate to be the "maximum lawful interest rate" as fixed by the Commissioner of Banking pursuant to R. S. 31:-1. The bill would amend this by making the assumed interest rate equal to "the maximum prevailing lawful interest rate for mortgage financing on comparable properties within the municipality."

FISCAL IMPACT:

This bill has no fiscal impact on the State. The impact on municipal revenues is difficult to determine. Certain condominium units that are a part of a Fox-Lance project and were previously subject to property taxation may now be exempt from property taxation. These units would be required to make payments in lieu of taxes however.

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SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 1953

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 16, 1986

The Senate County and Municipal Government Committee reports favorably and with committee amendments Senate Bill No. 1953.

Senate Bill No. 1953 Sca provides that under certain circumstances a residential condominium owner need not personally reside in the owner's condominium unit in order for a tax exemption granted pursuant to the provisions of the "Urban Renewal Corporation and Association Law of 1961," P. L. 1961, c. 40 (C. 40:55C-40 et seq.), to remain in effect.

Currently, a tax exemption afforded a residential condominium unit created by an urban renewal corporation or association under that law, commonly known as the "Fox-Lance Law," remains in effect only if the owner personally resides therein.

This bill, as amended, permits the tax exemption to continue regardless of whether or not the owner resides in the unit subject to the following provisions and exceptions. First, the application approved by resolution for the tax exemption shall not take effect until approved by the chief executive officer of the municipality. Second, the governing body may determine to: a. limit the exemption only to those residential condominium units in which the owners personally reside or b. increase the annual service charge paid in lieu of taxes by an owner who does not reside in the unit by 1%.

The bill also changes the method of determining the "annual gross revenue" for a condominium project by requiring the payments to principal and interest to be calculated by assuming a loan amount at the prevailing lawful interest rate for mortgage financing on comparable properties within the municipality rather than the rate on mortgages, and interest thereon, on dwellings and other loans established pursuant to R. S. 31:1-1.