

54:4-3.6



LEGISLATIVE HISTORY CHECKLIST

NJSA: 54:4-3.6 (Non-profit Corporations--permit leasing out of office space without loss of tax exempt status)

LAWS OF: 1985 CHAPTER: 395

BILL NO: A2246

Sponsor(s): Doyle and Ford

Date Introduced: June 25, 1984

Committee: Assembly: Commerce and Industry

Senate: Revenue, Finance and Appropriations

Amended during passage: Yes No Amendments denoted by asterisks according to Governor's Recommendations

Date of Passage: Assembly: January 28, 1985 Re-enacted 11-18-85

Senate: June 17, 1985 Re-enacted 12-12-85

Date of Approval: December 20, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: Yes

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

395
12-20-85
85

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 2246

STATE OF NEW JERSEY

INTRODUCED JUNE 25, 1984

By Assemblyman DOYLE and Assemblywoman FORD

AN ACT concerning the exemption of certain property from
taxation and amending R. S. 54:4-3.6.

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

1 1. R. S. 54:4-3.6 is amended to read as follows:

2 54:4-3.6. The following property shall be exempt from taxation
3 under this chapter: All buildings actually used for colleges,
4 schools, academies or seminaries, provided that if any portion of
5 such buildings are leased to profit-making organizations or other-
6 wise used for purposes which are not themselves exempt from
7 taxation, said portion shall be subject to taxation and the remaining
8 portion only shall be exempt; all buildings actually used for
9 historical societies, associations or exhibitions, when owned by the
10 State, county or any political subdivision thereof or when located
11 on land owned by an educational institution which derives its
12 primary support from State revenue; all buildings actually and ex-
13 clusively used for public libraries, religious worship or asylum or
14 schools for feebleminded or idiotic persons and children; all build-
15 ings used exclusively by any association or corporation formed for
16 the purpose and actually engaged in the work of preventing cruelty
17 to animals; all buildings actually and exclusively used and owned
18 by volunteer first-aid squads, which squads are or shall be in-
19 corporated as associations not for pecuniary profit; all buildings
20 actually [and exclusively] used in the work of associations and
21 corporations organized exclusively for the moral and mental im-
22 provement of men, women and children, [or] **[including]**
23 **provided that if* any portion of a building used for that purpose

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:

*—Assembly committee amendments adopted October 18, 1984.

**—Assembly amendment adopted in accordance with Governor's recommenda-
tions November 18, 1985.

24 ***[which]*** is leased to profit-making organizations or is other-
25 wise used for purposes which are not themselves exempt from
26 taxation, ***[if the entire income from that portion, less ex-**
26A **penses, is dedicated solely for the use of the association or**
27 **corporation, including that portion of any building owned by a**
28 **corporation organized for the exclusive purpose of holding title to**
29 **property, collecting income therefrom, and turning over the entire**
30 **amount of that income, less expenses, to that association or corpora-**
31 **tion, which holding corporation is exempt from federal income tax**
32 **under paragraph (2) of subsection (c) of section 501 of the Internal**
33 **Revenue Code (26 U. S. C. § 501)]*** *that portion shall be subject to
34 taxation and the remaining portion only shall be exempt*; all
35 buildings actually and exclusively used in the work of associa-
36 tions and corporations organized exclusively for religious or
37 charitable purposes**[, or for one or more such purposes]**; all
38 buildings actually used in the work of associations and
38A corporations organized exclusively for hospital purposes, pro-
38B vided that if any portion of a building used for hospital purposes
39 is leased to profit-making organizations or otherwise used for pur-
40 poses which are not themselves exempt from taxation, that portion
41 shall be subject to taxation and the remaining portion only shall be
42 exempt; all buildings owned or held by an association or corporation
43 created for the purpose of holding the title to such buildings as are
44 actually and exclusively used in the work of two or more associations
45 or corporations organized exclusively for the moral and mental im-
46 provement of men, women and children; all buildings owned by a
47 corporation created under or otherwise subject to the provisions of
48 Title 15 of the Revised Statutes or Title 15A of the New Jersey
49 Statutes and actually and exclusively used in the work of one or
50 more associations or corporations organized exclusively for chari-
51 table or religious purposes, which associations or corporations may
52 or may not pay rent for the use of the premises or the portions of
53 the premises used by them; the buildings, not exceeding two, actually
54 occupied as a parsonage by the officiating clergymen of any religious
55 corporation of this State, together with the accessory buildings
56 located on the same premises; the land whereon any of the buildings
57 hereinbefore mentioned are erected, and which may be necessary
58 for the fair enjoyment thereof, and which is devoted to the
59 purposes above mentioned and to no other purpose and does not
60 exceed five acres in extent; the furniture and personal property
61 in said buildings if used in and devoted to the purposes above
62 mentioned; all property owned and used by any nonprofit corpora-

63 tion in connection with its curriculum, work, care, treatment and
64 study of feebleminded, mentally retarded, or idiotic men, women,
65 or children shall also be exempt from taxation, provided that
66 such corporation conducts and maintains research or professional
67 training facilities for the care and training of feebleminded,
68 mentally retarded, or idiotic men, women, or children; provided,
69 in case of all the foregoing, the buildings, or the lands on which
70 they stand, or the associations, corporations or institutions using
71 and occupying them as aforesaid, are not conducted for profit,
72 except that the exemption of the buildings and lands used for chari-
73 table, benevolent or religious purposes shall extend to cases where
74 the charitable, benevolent or religious work therein carried on is
75 supported partly by fees and charges received from or on behalf
76 of beneficiaries using or occupying the buildings; provided, the
77 building is wholly controlled by and the entire income therefrom is
78 used for said charitable, benevolent or religious purposes. The
79 foregoing exemption shall apply only where the association, corpo-
80 ration or institution claiming the exemption owns the property in
81 question and is incorporated or organized under the laws of this
82 State and authorized to carry out the purposes on account of which
83 the exemption is claimed or where an educational institution, as
84 provided herein, has leased said property to a historical society, or
85 association or to a corporation organized for such purposes and
86 created under or otherwise subject to the provisions of Title 15 of
87 the Revised Statutes *or Title 15A of the New Jersey Statutes*.

1 2. This act shall take effect immediately and shall be applicable
2 to real property taxes levied or payable for the calendar year
3 ****[1984]** **1986**** and thereafter.

66 such corporation conducts and maintains research or professional
 67 training facilities for the care and training of feebleminded,
 68 mentally retarded, or idiotic men, women, or children; provided,
 69 in case of all the foregoing, the buildings, or the lands on which
 70 they stand, or the associations, corporations or institutions using
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 80 ration or institution claiming the exemption owns the property in
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 84 provided herein, has leased said property to a historical society, or
 85 association or to a corporation organized for such purposes and
 86 created under or otherwise subject to the provisions of Title 15 of
 87 the Revised Statutes or *Title 15A of the New Jersey Statutes*.

1 2. This act shall take effect immediately and shall be applicable
 2 to real property taxes levied or payable for the calendar year 1984
 3 and thereafter.

STATEMENT

This bill permits nonprofit corporations organized for the moral and mental improvement of men, women and children to lease, for profit, space within a building which the corporation owns and uses in its work and retain its tax-exempt status, or to form a real estate holding company to hold title to the property, so long as the entire income from its profit-making activities, less expenses, are used for the purposes of the nonprofit corporation.

A2246 (1985) L. 1985 C. 305

ASSEMBLY COMMERCE AND INDUSTRY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2246

STATE OF NEW JERSEY

DATED: OCTOBER 18, 1984

This bill, as amended by the Assembly Commerce and Industry Committee, would permit an association or corporation which is organized exclusively for the moral and mental improvement of men, women and children, to retain a tax exemption on its property if a portion of the property is leased to a profit-making enterprise. As amended, the bill permits an exemption on that portion of the property actually used by the association or corporation; the remainder of the property, if leased to a profit-making entity, would be subject to taxation.

This bill gives this type of association the same type of exemption now available to colleges, academies or seminaries. As the law governing exemptions for associations and corporations organized for the moral and mental improvement of men, women, and children now reads, a tax exemption is available under R. S. 54:4-2.6 only in cases in which the property in question is actually and exclusively used for the moral and mental improvement of men, women, and children.

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 2246

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: MAY 6, 1985

This bill amends R. S. 54:4-3.6, a section of the property tax statutes treating tax-exempt real property. Under current law, a tax exemption is granted on buildings owned by "associations and corporations organized exclusively for the moral and mental improvement of men, women and children" if the buildings are "actually and exclusively" used for such purpose. This bill would permit an organization of this type to lease a portion of its building to a profit-making enterprise and retain a tax exemption on remaining property actually used in the manner prescribed above. The leased portion would be subject to taxation.

This type of partial exemption is already available to colleges, schools, academies, seminaries and hospitals.

FISCAL IMPACT:

A fiscal note is not available however, the number of these lease arrangements on qualifying property is believed to be small. Such arrangements could be interpreted to represent an opportunity for municipalities to collect some tax revenue from a property that might otherwise remain exempt from taxation.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

August 28, 1985

ASSEMBLY BILL NO. 2246 (OCR)

To the General Assembly:

Pursuant to Article V, Section 1, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 2246 (OCR) with my recommendations for reconsideration.

The purpose of this bill is to allow associations for the moral and mental improvement of men, women and children to receive a partial real property tax exemption for buildings partially used for their own charitable purposes and partially used for non-exempt purposes or leased to profit-making tenants. Under current law, each separately assessed structure must be exclusively used for exempt purposes for the exemption to apply. This bill would allow an exemption to apply to that portion of any building actually used in connection with tax-exempt functions. Similar treatment has been provided for hospitals (P. L. 1983, c. 224) and educational institutions (P. L. 1977, c. 370). This bill would be effective immediately for taxes levied or payable for the calendar year 1984 and thereafter.

As laudable as the goals of this legislation may be, I am nonetheless concerned with both the practical and policy implications of the bill's effective date.

As a general principle, real property tax exemptions should be effective on a purely prospective basis. Both of the laws referred to above were approved within the tax year for which they were effective and could be implemented under regular procedures for tax administration. A change in the taxable status of real property relating back to a previous tax year involves undue administrative and fiscal hardship to municipalities.

Accordingly, I return Assembly Bill No. 2246 (OCR) and recommend that it be amended as follows:

Page 3, Section 2, Line 2: Omit "1984" and insert "1986"

Respectfully,
/s/ Thomas H. Kean
GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards
Chief Counsel

66 such corporation conducts and maintains research or professional
 67 training facilities for the care and training of feebleminded,
 68 mentally retarded, or idiotic men, women, or children; provided,
 69 in case of all the foregoing, the buildings, or the lands on which
 70 they stand, or the associations, corporations or institutions using
 71 and occupying them as aforesaid, are not conducted for profit,
 72 except that the exemption of the buildings and lands used for chari-
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 74 the charitable, benevolent or religious work therein carried on is
 75 supported partly by fees and charges received from or on behalf
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 77 building is wholly controlled by and the entire income therefrom is
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 79 foregoing exemption shall apply only where the association, corpo-
 80 ration or institution claiming the exemption owns the property in
 81 question and is incorporated or organized under the laws of this
 82 State and authorized to carry out the purposes on account of which
 83 the exemption is claimed or where an educational institution, as
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