

54:4-1.10

LEGISLATIVE HISTORY CHECKLIST

NJSA: 54:4-1.10

(Federal land-property tax-allow taxation if land is used for private-purposes)

LAWS OF: 1984

CHAPTER: 176

Bill No: A883

Sponsor(s): Hollenbeck and Visotcky

Date Introduced: January 23, 1984

Committee: Assembly: /////

Senate: Revenue, Finance & Appropriations

Amended during passage: No

Date of Passage: Assembly: February 27, 1984

Senate: September 13, 1984

Date of Approval: November 2, 1984

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: ~~No~~ yes

Following were printed:

Reports: No

Hearings: No

Veto to A3849 (1983)--attached

DO NOT WRITE IN THESE SPACES

ASSEMBLY, No. 883
STATE OF NEW JERSEY

INTRODUCED JANUARY 23, 1984

By Assemblymen HOLLENBECK and VISOTCKY

AN ACT concerning the taxation of exempt real estate in certain cases and supplementing chapter 4 of Title 54 of the Revised Statutes.

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

1 1. When real property which is exempt from taxation is used by
2 a private party in connection with an activity conducted for profit,
3 and the use does not render the real property taxable pursuant to
4 section 1 of P. L. 1949, c. 177 (C. 54:4-2.3) or otherwise, the real
5 property shall be assessed and taxed as real property of the private
6 party. The private party is subject to liability for taxation to the
7 same extent as though he owned the property or any portion thereof,
8 unless the owner consents to the taxation thereof. For purposes of
9 this act "use" means the right or license, express or implied, to
10 possess and enjoy the benefits from any real property, whether or
11 not that right or license is actually exercised.

1 2. The assessment, collection, apportionment, and payment of the
2 real property tax imposed by section 1, the attachment of the lien
3 for such taxes, the right of appeal, the entitlement to a propor-
4 tionate cancellation of the assessment, and the authority granted to
5 municipalities to anticipate taxes to be collected shall be governed
6 by the procedures provided for the administration of leasehold
7 estates owned by tax-exempt entities under sections 2 through 8
8 of P. L. 1949, c. 177 (C. 54:4-2.4 through C. 54:4-2.10).

1 3. This act shall take effect immediately and shall be applicable
2 with regard to assessments and taxes for the tax year 1984 and
3 thereafter.

STATEMENT

This bill provides for the assessment and taxation of real property which is exempt if it is used by a private party in connection with an activity conducted for profit. The private party is subject to taxation to the same extent as though he owned the property or any portion of it. Currently, exempt property leased to another who is not exempt from real property taxation is subject to taxation, but where the real property is used under an agreement other than a lease, the property is not taxable. This bill changes this inconsistency. This bill conforms with the Governor's recommended amendments to Assembly Bill No. 3849 of 1983 as outlined in his conditional veto dated January 9, 1984.

STATEMENT

This bill provides for the assessment and taxation of real property which is exempt if it is used by a private party in connection with an activity conducted for profit. The private party is subject to taxation to the same extent as though he owned the property or any portion of it. Currently, exempt property leased to another who is not exempt from real property taxation is subject to taxation, but where the real property is used under an agreement other than a lease, the property is not taxable. This bill changes this inconsistency. This bill conforms with the Governor's recommended amendments to Assembly Bill No. 3849 of 1983 as outlined in his conditional veto dated January 9, 1984.

A883 (1984)

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 883

STATE OF NEW JERSEY

DATED: APRIL 30, 1984

Assembly Bill No. 883 provides for the assessment and taxation of real property which is otherwise exempt, if it is used by a private party in connection with an activity conducted for profit. The private party is subject to taxation as though he owned the property or a portion of it.

Currently, exempt property leased to a non-exempt party is subject to taxation but if the property is used under a non-lease agreement, it remains non-taxable. This bill changes this inconsistency.

The bill conforms with the Governor's recommendations in his conditional veto of Assembly Bill No. 3849 of 1983.

The Governor also signed the following bills:

A-883, sponsored by Assemblyman Robert P. Hollenbeck, D-Bergen, which provides for the assessment and taxation of real property that is exempt from taxation but used by a private party in connection with an activity conducted for profit.

A-2461, sponsored by Assemblyman Delores G. Cooper, R-Atlantic, which extends for six years the extra protections granted to tenants who are threatened with displacement from their homes in Atlantic City through the conversion or demolition of their buildings. The law providing protection was originally passed in 1978 with a life of three years. It was extended in 1981 for an additional three years. This bill provides an additional six year extension.

S-1284, sponsored by State Senator Matthew Feldman, D-Bergen, which permits a county or municipal utilities authority to loan money to a private developer for the construction and operation of a solid waste system, sewerage treatment system in wastewater treatment or collection system.

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ASSEMBLY BILL NO. 3849

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14 of the Constitution, I herewith return Assembly Bill No. 3849 with my recommendations for reconsideration.

Assembly Bill No. 3849 would authorize local government units to assess and tax real property used by private businesses where the property is currently tax-exempt because the federal government owns it.

Under existing State law, namely, the "Leasehold Taxing Act," local government units unquestionably have authority to tax private users for premises leased to them by the federal government. The problem is that our taxing statutes, unlike those of some other states, fail to provide for the taxation of private users of federal property when that use derives from some arrangement other than a lease. The bill explains that non-leasing "users" would include any party that has a right to possess and benefit from federally-owned real property.

I fully agree with the concept of this bill. Nevertheless, I have been advised that the bill's reference, specifically, to federally-owned real estate, as opposed to any other tax-exempt real estate, could be interpreted as discriminatory against the federal government. This may violate the Equal Protection clause of the United States Constitution and the State constitutional requirement that property shall be assessed for taxation under general laws and uniform rules.

I therefore propose to amend the bill to eliminate references to the federal government, so that the bill's provisions will apply to all tax exempt property. The amendments would conform with parallel language in our statute which authorizes local government units to tax leasehold interests. I also propose several technical amendments which will clarify the intention of the bill and thereby prevent possible misapplication of the law.

Accordingly, I herewith return Assembly Bill No. 3849 and recommend that it be amended as follows:

Page 1, Section 1, line 1: Omit "owned by the federal government and"

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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Page 1, Section 1, lines 2 and 3: Omit "another whose property is not exempt, for a private purpose" insert "a private party in connection with an activity conducted for profit"

Page 1, Section 1, lines 6 and 7: Omit "The real property shall be listed and assessed as the real property of the user" insert "The private party is subject to taxation to the same extent as though he owned the property or any portion thereof,"

Page 1, Section 1, lines 7 and 8: Omit "federal government" insert "owner"

Page 1, Section 2: Omit in entirety. Insert:

"The assessment, collection, apportionment, and payment of the real property tax imposed by section one, the attachment of the lien for such taxes, the right of appeal, the entitlement to a proportionate cancellation of the assessment, and the authority granted to municipalities to anticipate taxes to be collected shall be governed by the procedures provided for the administration of leasehold estates owned by tax-exempt entities under chapter 177 of the laws of 1949, sections 2-8 (C.54:4-2.4 through 54:4-2.10)."

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

(seal)

Attest:

/s/ W. Cary Edwards
Chief Counsel

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

2

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