

54:4-3.95 to 54:4-3.112

LEGISLATIVE HISTORY CHECKLIST

RISA 54:4-3.95 to 54:4-3.112 (Tax abatement on improvements to commercial property)

LAWS OF 1977 CHAPTER 12

Bill No. S355 & A1902

Sponsor(s) Merlino

Date Introduced Pre-filed

Committee: Assembly -----

Senate Revenue, Finance & Appropriations

Amended during passage Yes Senate Comm. Substitute Enacted -- Amendments during passage denoted by asterisks. S355 and A1902 enclosed.

Date of Passage: Assembly Nov. 23, 1976

Senate Nov. 8, 1976

Date of approval February 10, 1977

Following statements are attached if available:

Sponsor statement	Yes	<input checked="" type="checkbox"/>	Statements on S355 & A1902; none on the SCS.
Committee Statement: Assembly	Yes	<input type="checkbox"/>	No
Senate	Yes	<input checked="" type="checkbox"/>	
Fiscal Note	Yes	<input type="checkbox"/>	No
Veto Message	Yes	<input type="checkbox"/>	No
Message on signing	Yes	<input type="checkbox"/>	No
Following were printed:			
Reports	Yes	<input type="checkbox"/>	No
Hearings	Yes	<input type="checkbox"/>	No

Background:

Hearings during 1974-75 session (cited in Senate Committee Statement).

974.90 N.J. Legislature. Senate. Revenue, Finance and Appropriations Committee.

T235 and Appropriations Committee.

1975j Public hearing on S935 and S1144 (Farmland assessment) and S3349 (Deferred assessment on commercial and industrial properties), held 11/25/75. Trenton.

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1976

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SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 355 and ASSEMBLY, No. 1902

STATE OF NEW JERSEY

ADOPTED SEPTEMBER 30, 1976

AN ACT to provide for exemptions and abatements on commercial and industrial structures in areas in need of rehabilitation 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. The Legislature finds that:

2 a. The downward transition of many New Jersey communities
3 from sound and stable neighborhoods to blighted areas directly
4 reflects the changing economic base of those communities.

5 b. Deterioration of residential neighborhoods is inseparably
6 related to the decline in the commercial and industrial life of those
7 communities.

8 c. Property taxation in such communities is commonly at rates
9 so high that it becomes more feasible for investors, small business
10 and industry to abandon an urban facility, rather than improve
11 it and be faced with paying what is effectively a substantial tax
12 penalty for such improvements.

13 d. The impact of the migration of economic enterprise from
14 urban centers results not only in the health and safety hazards
15 that are common with abandoned structures, but also in increased
16 unemployment, diminished incomes, consequent family and social
17 problems, and residential decay and abandonment.

18 e. The construction and rehabilitation of commercial and in-
19 dustrial buildings and structures in this State to increase oppor-
20 tunities for employment, and ultimately to broaden State and local
21 tax bases, is in the public interest.

22 f. The availability of property tax exemptions and abatements
23 can help induce the construction and rehabilitation of industrial

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

24 and commercial facilities in areas threatened with economic and
25 social decline.

1 2. As used in this act:

2 a. "Area in need of rehabilitation" means an area which, in the
3 determination of the Commissioner of the Department of Com-
4 munity Affairs, upon application of the governing body of the
5 affected municipality, *[(1) conforms to the conditions of a blighted
6 area, as defined in section 1 of P. L. 1949, c. 187 (C. 40:55-21.1),
7 without a finding thereof by said governing body; or (2)]* is zoned
8 for industrial, commercial or residential uses, or any mix thereof,
9 and is certified by the commissioner to be endangered by blight
10 and in need of rehabilitation as measured by: the physical deterio-
11 ration of building maintenance in the area, age of building stock
12 and other structures, and arrearage in real property taxes due on
13 buildings, structures or lands in the area. *Any area which conforms
13A to the conditions of a blighted area, as defined in P. L. 1949, c. 187,
13B s. 1 (C. 40:55-21.1), shall also be deemed an area in need of rehabili-
13C tation if included by the governing body in its application to the
14 commissioner.* Where these indices show widespread deteriora-
14A tion, the commissioner may *if so requested by the governing body
15 of the affected municipality* designate the entire municipality an
16 "area in need of rehabilitation" for purposes of this act.

17 b. "Assessor" means the assessor, board of assessors or any
18 other official or body of a taxing district charged with the duty
19 of assessing real property for the purpose of general taxation.

20 c. "Commercial or industrial structure" means any structure or
21 part thereof used for manufacturing, processing, assembling, re-
22 search, office, industrial, commercial, retail, recreational, hotel or
23 warehousing purposes.

24 d. "Improvement" means the modernization, rehabilitation,
25 renovation, alteration or repair of a commercial or industrial
26 structure that does not increase the volume of the structure by
27 more than 30%.

28 e. "Project" means the construction of a new facility or facilities
29 to be used or occupied by any person for the manufacturing,
30 processing, or assembly of material or manufactured products or
31 for research, office, industrial, commercial, retail, recreational, or
32 hotel or motel facilities or warehousing, or for any combination
33 thereof, and which the governing body determines will tend to
34 maintain or provide gainful employment within the municipality,
35 assist in the economic development of the municipality, maintain
36 or increase the tax base of the municipality and maintain or

37 diversify and expand commerce within the municipality. "Project"
 38 shall also mean an enlargement of the volume of an existing struc-
 39 ture by more than 30%.

40 f. "Qualified municipality" means any municipality which has
 41 qualified for State aid under P. L. 1971, c. 64, as supplemented, or
 42 a municipality certified by the Commissioner of Community Affairs
 43 to qualify under such law in every respect except population.

1 3. A qualified municipality, by passage of a general ordinance,
 2 may indicate its intention to utilize the tax abatement and exemp-
 3 tion provisions authorized by Article VIII, Section I, paragraph
 4 6 of the State Constitution for improvements and projects, as such
 5 are defined in section 2 above, in areas in need of rehabilitation.
 6 Such ordinance shall provide for the exemption from real property
 7 taxation of improvements for a period of 5 years, and shall set
 8 forth procedures for entering into agreements for the abatement
 9 of real property taxes for projects, in accordance with the pro-
 10 visions of this act.

1 4. a. In providing for tax exemptions for improvements in areas
 2 in need of rehabilitation, the ordinance may (1) grant exemptions
 3 for all such improvements, to be approved by the assessor upon
 4 proper application; or (2) define categories of improvements
 5 which shall be approved by the assessor upon proper application,
 6 and other categories of improvements which may only be exempted
 7 after review, evaluation and approval by the governing body of
 8 each individual application; or (3) authorize exemption for im-
 9 provements on an individual basis after review, evaluation and
 10 approval of each application by the governing body. For applica-
 11 tions requiring review and approval by the governing body, the
 12 municipality may in its ordinance require the applicant to submit
 13 such information as it deems appropriate, but in no event shall the
 14 ordinance require the submission of information more detailed than
 15 that required for a tax abatement pursuant to section 6 of this act.

16 b. In municipalities adopting the provisions of this act, the
 17 assessor's full and true value of improvements in areas in need of
 18 rehabilitation, after approval for exemption, shall not be regarded
 19 as increasing the value of such property for a period of 5 years
 20 after their completion, notwithstanding that the value of the com-
 21 mercial or industrial structure is increased thereby***]**, provided
 22 however that during said period the assessment on such land and
 23 structure shall in no case, except that of damage sufficient to
 24 warrant a reduction, be less than the assessment applicable thereto
 25 immediately prior to such improvements**]*** *. *In no event shall the*
 25A *tax obligations for said property be less than the property taxes*

25B *payable during the 12-month period immediately preceding the*
 25C *commencement of said improvements, provided that the validity of*
 25D *the prior assessment may be contested utilizing such remedies as*
 25E *may be provided by law.**

26 c. No exemption authorized pursuant to the provisions of this
 27 section shall be granted or allowed except upon written application
 28 therefor filed with and approved by the assessor of the taxing
 29 district wherein the improvement is made. Every such application
 30 shall be on a form prescribed by the Director of the Division of
 31 Local Government Services and provided for the use of claimants
 32 by the governing body of the municipality constituting the taxing
 33 district, and shall be filed with the assessor not later than 60 days,
 34 including Saturdays and Sundays, following the completion of the
 35 improvement. Every properly completed application for exemption
 36 of one or more improvements which is filed within the time specified
 37 shall be approved and allowed by the assessor, or reviewed and
 38 decided by the governing body, as required by ordinance, not later
 39 than within 60 days of its filing. The granting of any such exemp-
 40 tion shall be recorded and made a permanent part of the official
 41 tax records of the taxing district which record shall contain a
 42 notice of the termination date of the exemption and the conse-
 43 quences of transfer of title.

1 5. The municipal governing body, after adoption of a general
 2 ordinance pursuant to section 3 of this act, may enter into agree-
 3 ments for tax abatement for projects which are or will be located
 4 in areas designated in need of rehabilitation.

1 6. Applicants for tax abatement as provided herein shall provide
 2 the governing body with an application setting forth:

3 a. A general description of a project for which abatement is
 4 sought;

5 b. A legal description of all real estate necessary for the project;

6 c. Plans, drawings and other documents as may be required by
 7 the governing body to demonstrate the structure and design of the
 8 project;

9 d. A description of the number, classes and type of employees to
 10 be employed at the project site within 2 years of completion of the
 11 project;

12 e. A statement of the reasons for seeking tax abatement on the
 13 project, and a description of the benefits to be realized by the
 14 applicant if tax abatement is granted;

15 f. Estimates of the cost of completing such project;

16 g. A statement showing (1) the real property taxes currently
17 being assessed at the project site; (2) estimated tax payments that
18 would be made annually by the applicant on the project during the
19 period of tax abatement, and (3) estimated tax payments that
20 would be made by the applicant on the project during the first full
21 year following the termination of the tax abatement agreement;

22 h. A description of any lease agreements between the applicant
23 and proposed users of the project, and a history and description of
24 the users' businesses; and

25 i. Such other pertinent information as the governing body may
26 require.

1 7. Upon approval of an ordinance authorizing an agreement for
2 tax abatement for a particular project, the governing body may
3 enter into a written agreement with the applicant for the abatement
4 of local real property taxes. The agreement shall provide for the
5 applicant to pay to the municipality in lieu of full property tax
6 payments an amount annually to be computed by one, but in no case
7 a combination, of the following formulas:

8 a. Cost basis: the agreement may provide for the applicant to
9 pay to the municipality in lieu of full property tax payments an
10 amount annually equal to 2% of the cost of the project. For the
11 purposes of the agreement, "the cost of the project" means only
12 the cost or fair market value of direct labor and all materials used
13 in the construction, expansion, or rehabilitation of all buildings,
14 structure, and facilities at the project site, including the costs
15 (if any) of land acquisition and land preparation, provision of
16 access roads, utilities, drainage facilities, and parking facilities,
17 together with architectural, engineering, legal, surveying, testing,
18 and contractors' fees associated with the project; provided that
19 the applicant shall cause such costs to be certified and verified to
20 the governing body by an independent and qualified architect,
21 following the completion of the project.

22 b. Gross revenue basis: the agreement may provide for the
23 applicant to pay to the municipality in lieu of full property tax
24 payments an amount annually equal to 15% of the annual gross
25 revenues from the project. For the purposes of the agreement,
26 "annual gross revenues" means the total annual gross rental and
27 other income payable to the owner of the project from the project.
28 If in any leasing, any real estate taxes or assessments on property
29 included in the project, any premiums for fire or other insurance
30 on or concerning property included in the project, or any operating
31 or maintenance expenses ordinarily paid by landlord, are to be paid

32 by the tenant, then such payments shall be computed and deemed
33 to be part of the rent and shall be included in the annual gross
34 revenue. The tax abatement agreement shall establish the method
35 of computing such revenues and may establish a method of arbitra-
36 tion by which either the landlord or tenant may dispute the amount
37 of such payments so included in the annual gross revenue.

38 c. Tax phase-in: the agreement may provide for the applicant to
39 pay to the municipality in lieu of full property tax payments an
40 amount equal to a percentage of taxes otherwise due, according to
41 the following schedule:

42 (1) In the first full calendar year after completion, no pay-
43 ment in lieu of taxes otherwise due;

44 (2) In the second calendar year, an amount not less than
45 20% of taxes otherwise due;

46 (3) In the third calendar year, an amount not less than
47 40% of taxes otherwise due;

48 (4) In the fourth calendar year, an amount not less than
49 60% of taxes otherwise due;

50 (5) In the fifth calendar year, an amount not less than
51 80% of taxes otherwise due.

1 8. All tax abatement agreements entered into by municipalities
2 pursuant to the terms of this law shall be in effect for a period of
3 not more than 5 years starting with the date of completion of
4 the project.

1 9. All projects subject to agreements for tax abatement as pro-
2 vided herein shall be subject to all applicable Federal, State and
3 local laws and regulations on pollution control, worker safety,
4 discrimination in employment, zoning, planning and building code
5 requirements.

1 10. That percentage which the payment in lieu of taxes for a
2 tax-abated property bears to the property tax which would have
3 been paid had an abatement not been granted for said property
4 under this act shall be applied to the valuation of the property
5 to determine the reduced valuation of the property to be included
6 in the valuation of the municipality for determining equalization
7 for county tax apportionment and school aid during the term of the
8 tax abatement agreements covering such properties, and at the
9 termination of such an agreement for a property the reduced
10 valuation procedure required under this section shall no longer
11 apply.

1 11. The abatement of real property taxes provided by munici-
2 palities pursuant to this act shall apply to property taxes levied

3 for municipal purposes, school purposes, county government pur-
4 poses and for the purposes of funding any other property tax
5 exemptions or abatements.

1 12. Within 30 days after the execution of a property tax abate-
2 ment agreement as provided hereunder, a municipality shall for-
3 ward a copy of such agreement to the Director of the Division of
4 Local Government Services and to the Commissioner of the
5 Department of Labor and Industry.

1 13. If during any year prior to the termination of the abatement
2 agreement, the property owner ceases to operate or disposes of the
3 property, or fails to meet the conditions for qualifying for abate-
4 ment, then the tax which would have otherwise been payable for
5 each year shall become due and payable from such property owner
6 as if no abatement had been granted. The governing body of the
7 municipality shall notify the property owner and tax collector
8 forthwith and the tax collector shall within 15 days thereof notify
9 the owner of the property of the amount of taxes due.

10 However, with respect to the disposal of the property, where it
11 is determined that the new owner of the property will continue
12 to use the property pursuant to the conditions which qualified the
13 property for abatement, no tax shall be due, the abatement shall
14 continue, and the agreement shall remain in effect.

1 14. At the termination of an agreement for tax abatement autho-
2 rized pursuant to this act, a project shall be subject to all applicable
3 real property taxes as provided by State laws and regulations and
4 local ordinances; provided that nothing herein shall be deemed to
5 prohibit a project, at the termination of an agreement for tax
6 abatement, from qualifying for and receiving the full benefits of
7 any other tax preferences provided by law, including, but not
8 limited to, the benefits provided by chapter 40, P. L. of 1961
9 (C. 40:55C-40 et seq.) as amended and supplemented.

1 15. The foregoing sections of this act shall be deemed to provide
2 a complete method for the accomplishment of the purposes therein
3 specified and authorized thereby and shall be regarded as not in
4 conflict with, or as restrictive of, powers conferred by any other
5 laws.

1 ***16. Notwithstanding any other provision of this act, no exemp-*
2 *tion or abatement shall be allowed with respect to any facility*
3 *containing a licensed gambling casino. The issuance of a casino*
4 *license shall operate to invalidate any existing exemption or abate-*
5 *ment agreement, and all unpaid taxes otherwise due, were such*
6 *exemption or abatement not granted, on the full and true value of*
7 *the property shall become immediately due and payable.***

1 **16.** If any section, part, phrase, or provision of this
2 act or the application thereof to any person, project or circum-
3 stances, be adjudged invalid by any court of competent jurisdiction,
4 such judgment shall be confined in its operation to the section, part,
5 phrase, provision or application directly involved in the controversy
6 in which such judgment shall have been rendered and shall not
7 affect or impair the validity of the remainder of this act or the
8 application thereof to other persons, projects or circumstances.

1 **17.** The Director of the Division of Local Govern-
2 ment Services shall promulgate and prescribe such forms as may be
3 necessary to carry out the provisions of this act.

1 **18.** This act shall take effect immediately.

12 municipality adopting the provisions of this act, as defined by this
13 act, and which is filed within the time specified, shall be approved
14 and allowed by the assessor. The granting of any such exemption
15 shall be recorded and made a permanent part of the official tax
16 records of the taxing district which record shall contain a notice of
17 the termination date of the exemption and the consequences of
18 transfer of title.

1 5. This act shall take effect immediately.

STATEMENT

This bill would authorize those municipalities qualified to adopt a delayed-assessment ordinance under P. L. 1975, c. 104, to grant 5-year tax abatements on improvements to commercial and industrial properties. The determination to grant an abatement is left up to the municipality.

The need for such tax abatement is clearly expressed in section 1 of the bill.

- 6 c. In the third calendar year of operation, not to exceed 60% ;
7 d. In the fourth calendar year of operation, not to exceed 40% ;
8 e. In the fifth calendar year of operation, not to exceed 20% .
- 1 17. Properties on which abatement of local property taxes has
2 been granted under this act shall be included in the valuations of
3 the municipality in direct proportion to the percentage of abate-
4 ment in the equalization for county tax apportionment and State
5 school aid, and for such other county or State equalization pur-
6 poses as may be appropriate.
- 1 18. This act shall take effect immediately and be applicable to
2 the tax year 1977 and thereafter.

STATEMENT

The purpose of this bill is to implement that part of the Constitutional Amendment approved by the voters in November 1975, having to do with municipal tax abatement.

SENATE REVENUE, FINANCE AND
APPROPRIATIONS COMMITTEE

STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 355 and ASSEMBLY, No. 1902

—◆—
STATE OF NEW JERSEY
—◆—

DATED: SEPTEMBER 30, 1976

This bill is substituted for Senate Bill No. 355, a bill introduced by Senator Merlino to permit tax exemptions for improvements to existing commercial and industrial structures in areas endangered by blight, and for Assembly Bill No. 1902, a bill introduced by Assemblyman Perskie authorizing tax abatements on business property in blighted areas. Originally introduced as Senate Bill No. 3349 in the 1975 session, the Senate bill was the object of public hearings by the Revenue, Finance and Appropriations Committee in November, 1975. This committee substitute draws on that original bill, on the comments made on it at those hearings, on the Perskie legislation passed by the Assembly, and on draft legislative recommendations of the Department of Labor and Industry.

The legislation implements a provision of the constitutional amendment approved by the voters in 1975, authorizing "exemptions or abatements from taxation on buildings and structures in areas declared in need of rehabilitation." This substitute bill allows exemptions for improvements to aging, existing commercial and industrial structures, and abatements for the construction of new commercial and industrial buildings. (Residential improvements were authorized by P. L. 1975, c. 104.)

"Areas in need of rehabilitation" are defined as both those that have already been declared blighted, and those that the Commissioner of the Department of Community Affairs (after application by a municipal governing body) determines are "endangered by blight" after review of several specified indices. Municipalities eligible to adopt the abatement ordinance are those that meet all the criteria but population for purposes of receiving aid under P. L. 1971, c. 64.

Municipalities are given three options on the granting of exemptions on the value of improvements to older business property: (1) They may declare that all such improvements in eligible areas are automatically exempt; the assessor simply processes the application form

and grants the exemption. (2) They may announce by ordinance their willingness to grant exemptions for improvements in eligible areas only on a case-by-case-by-case basis, in which event the governing body must review and evaluate every application individually. (3) They may distinguish in their ordinance between kinds of improvements, allowing certain categories to be exempted automatically and requiring individual review by the governing body for other categories of improvements.

The exemption in effect grants a 5-year stay of taxation on eligible improvements. It is expected to be most used by small business entrepreneurs.

The abatement provision applies to construction in areas (in need of rehabilitation) of new commercial or industrial structures, which are expected to be undertaken by larger scale enterprises. Every application for an abatement must be reviewed and evaluated by the governing body, and specific, detailed information is required as part of each application by section 6. If the municipality is favorable to the application, it may enter into a tax abatement agreement. The abatement relieves the new structure of property tax assessment and liability for up to 5 years, but during that period payments in lieu of taxes are required. These payments are calculated on the same bases of (cost or gross revenue) as the in-lieu payments under the Fox Lance Act.

The problems the substitute bill addresses are identified in section 1.