

LEGISLATIVE HISTORY CHECKLIST

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LAWS of 1999

CHAPTER: 42

NJSA: 54:50-8

(Tax records -- nonofficial examination -- penalties)

BILL NO: A1631

SPONSOR(S): Cohen and Bateman

DATE INTRODUCED: February 10, 1998

COMMITTEE:

ASSEMBLY: State Government

SENATE: State Government, Banking

AMENDED DURING PASSAGE: Yes

DATES OF PASSAGE:

ASSEMBLY: January 28, 1998

SENATE: December 10, 1998

DATE OF APPROVAL: March 12, 1999

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: *YES*^{2nd} Reprint

(Amendments during passage denoted by superscript numbers)

A1631

SPONSORS STATEMENT: *Yes* (Begins on page 3 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

SENATE: *Yes*

FLOOR AMENDMENT STATEMENTS: *Yes*

LEGISLATIVE FISCAL ESTIMATE: *No*

GOVERNOR'S ACTIONS

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

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REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

P.L. 1999, CHAPTER 42, *approved March 12, 1999*

Assembly, No. 1631 (*Second Reprint*)

1 AN ACT¹ [to make the nonofficial] concerning the¹ examination of
2 State tax records or files ¹[a crime of the fourth degree,] and¹
3 amending R.S.54:50-8.

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

7
8 1. R.S.54:50-8 is amended to read as follows:

9 54:50-8. a. The records and files of the director respecting the
10 administration of the State Tax Uniform Procedure Law or of any
11 State tax law shall be considered confidential and privileged and
12 neither the director nor any employee engaged in the administration
13 thereof or charged with the custody of any such records or files, nor
14 any former officer or employee, nor any person who may have secured
15 information therefrom under subsection d., e., f., or g. of R.S.54:50-9
16 or any other provision of State law, shall divulge, disclose [or], use
17 for their own personal advantage, or examine for any reason other than
18 a reason necessitated by the performance of official duties any
19 information obtained from the said records or files or from any
20 examination or inspection of the premises or property of any person.
21 Neither the director nor any employee engaged in such administration
22 or charged with the custody of any such records or files shall be
23 required to produce any of them for the inspection of any person or for
24 use in any action or proceeding except when the records or files or the
25 facts shown thereby are directly involved in an action or proceeding
26 under the provisions of the State Tax Uniform Procedure Law or of
27 the State tax law affected, or where the determination of the action or
28 proceeding will affect the validity or amount of the claim of the State
29 under some State tax law, or in any lawful proceeding for the
30 investigation and prosecution of any violation of the criminal
31 provisions of the State Tax Uniform Procedure Law or of any State
32 tax law.

33 b. The prohibitions of this section, against unauthorized disclosure
34 ¹[or],¹ use ¹or examination¹ by any present or former officer or
35 employee of this State or any other individual having custody of such
36 information obtained pursuant to the explicit authority of State law,
37 shall specifically include, without limitation, violations involving the
38 divulgence ¹or examination¹ of any information from or any copy of
39 a federal return or federal return information required by New Jersey

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 Assembly floor amendments adopted May 18, 1998.

² Senate SGB committee amendments adopted October 15, 1998.

1 law to be attached to or included in any New Jersey return. Any
2 person violating this section ¹by divulging, disclosing or using
3 information¹ shall be guilty of a crime of the fourth degree. ¹Any
4 person violating this section by examining records or files for any
5 reason other than a reason necessitated by the performance of official
6 duties shall be guilty of a disorderly persons offense.¹

7 ²c. Whenever records and files are used in connection with the
8 prosecution of any person for violating the provisions of this section
9 by divulging, disclosing or using records or files or examining records
10 and files for any reason other than a reason necessitated by the
11 performance of official duties, the defendant shall be given access to
12 those records and files. The court shall review such records and files
13 in camera, and that portion of the court record containing the records
14 and files shall be sealed by the court.²

15 (cf: P.L.1987, c.76, s.13)

16

17 2. This act shall take effect immediately.

18

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21

22 _____
23 Makes nonofficial examination of State tax records or files disorderly
persons offense.

ASSEMBLY, No. 1631

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED FEBRUARY 10, 1998

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

SYNOPSIS

Makes nonofficial examination of State tax records or files crime of the fourth degree.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT to make the nonofficial examination of State tax records or
2 files a crime of the fourth degree, amending R.S.54:50-8.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. R.S.54:50-8 is amended to read as follows:

8 54:50-8. a. The records and files of the director respecting the
9 administration of the State Tax Uniform Procedure Law or of any
10 State tax law shall be considered confidential and privileged and
11 neither the director nor any employee engaged in the administration
12 thereof or charged with the custody of any such records or files, nor
13 any former officer or employee, nor any person who may have secured
14 information therefrom under subsection d., e., f., or g. of R.S. 54:50-9
15 or any other provision of State law, shall divulge, disclose **[or]** use
16 for their own personal advantage , or examine for any reason other
17 than a reason necessitated by the performance of official duties any
18 information obtained from the said records or files or from any
19 examination or inspection of the premises or property of any person.
20 Neither the director nor any employee engaged in such administration
21 or charged with the custody of any such records or files shall be
22 required to produce any of them for the inspection of any person or for
23 use in any action or proceeding except when the records or files or the
24 facts shown thereby are directly involved in an action or proceeding
25 under the provisions of the State Tax Uniform Procedure Law or of
26 the State tax law affected, or where the determination of the action or
27 proceeding will affect the validity or amount of the claim of the State
28 under some State tax law, or in any lawful proceeding for the
29 investigation and prosecution of any violation of the criminal
30 provisions of the State Tax Uniform Procedure Law or of any State
31 tax law.

32 b. The prohibitions of this section, against unauthorized disclosure
33 or use by any present or former officer or employee of this State or
34 any other individual having custody of such information obtained
35 pursuant to the explicit authority of State law, shall specifically
36 include, without limitation, violations involving the divulgence of any
37 information from or any copy of a federal return or federal return
38 information required by New Jersey law to be attached to or included
39 in any New Jersey return. Any person violating this section shall be
40 guilty of a crime of the fourth degree.

41 (cf: P.L.1987, c.76, s.13)

42

43 2. This act shall take effect immediately.

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.

1 STATEMENT

2

3 This bill would make it a crime of the fourth degree for a person
4 who has access to State tax records and files held by the Director of
5 the Division of Taxation in the Department of Treasury to examine
6 those records or files for any reason other than a reason necessitated
7 by the performance of official duties.

8 The State tax records and files held by the Director of the Division
9 of Taxation are confidential and privileged under current law
10 (R.S.54:50-8), and a person with access to State tax records or files
11 commits a crime of the fourth degree if that person divulges, discloses
12 or uses for a personal advantage such tax information. This bill would
13 serve as a deterrent to those who would want to browse such
14 information for reasons of personal curiosity or pleasure, or as a
15 penalty for those who could not control the impulse to do so.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1631

STATE OF NEW JERSEY

DATED: FEBRUARY 26, 1998

The Assembly State Government Committee reports favorably Assembly Bill No. 1631.

This bill would make it a crime of the fourth degree for a person who has access to State tax records and files held by the Director of the Division of Taxation in the Department of Treasury to examine those records or files for any reason other than a reason necessitated by the performance of official duties.

State tax records and files held by the Director of the Division of Taxation are confidential and privileged under current law (R.S.54:50-8), and a person with access to State tax records or files commits a crime of the fourth degree if that person divulges, discloses or uses for a personal advantage such tax information.

Under the bill, a person who has access to State tax records and who is not performing official duties but who browses such information for reasons of personal curiosity or pleasure, for example, would be guilty of a crime of the fourth degree.

SENATE STATE GOVERNMENT, BANKING AND FINANCIAL
INSTITUTIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1631

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 15, 1998

The Senate State Government, Banking and Financial Institutions Committee reports favorably and with committee amendments Assembly, No. 1631 (1R).

Under current law, it is a crime of the fourth degree for a person who has access to State tax records or files held by the Director of the Division of Taxation to divulge, disclose or use such information. Under this bill, any person examining records or files for any reason other than a reason necessitated by the performance of official duties would be guilty of a disorderly person offense.

A crime of the fourth degree is punishable by up to 18 months in jail and up to a \$10,000 fine; a disorderly person offense is punishable by up to six months in jail and up to a \$1,000 fine.

The committee amended the bill to provide that whenever records and files are used in connection with the prosecution of any person for violating the provisions of this act by divulging, disclosing or using records or files or examining records and files for any reason other than a reason necessitated by the performance of official duties, the defendant shall be given access to those records and files. The court will review those records and files in camera, and that portion of the court record containing the records and files will be sealed by the court.

STATEMENT TO
ASSEMBLY, No. 1631

with Assembly Floor Amendments
(Proposed By Assemblyman COHEN)

ADOPTED: MAY 18, 1998

Assembly, No. 1631 would make it a crime of the fourth degree for a person who has access to State tax records or files held by the Director of the Division of Taxation to examine those records or files for any reason other than a reason necessitated by the performance of official duties.

The purpose of this amendment is to make such an examination of the records or files a disorderly persons offense, rather than a crime of the fourth degree.

The amendment will not change the provision of current law (R.S.54:50-8) under which State tax records and files are confidential and privileged, and a person with access to them commits a crime of the fourth degree if that person divulges, discloses or uses for a personal advantage such tax information.

In addition, the amendment clarifies that the prohibition against examination of tax records and files includes any nonofficial examination of federal information contained in those records or files.

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

CONTACT: Gene Herman
609-777-2600

RELEASE: March 12, 1999

Gov. Christie Whitman today signed the following pieces of legislation:

A-161, sponsored by Assembly Members Christopher "Kip" Bateman (R-Morris/Somerset) and Neil M. Cohen (D-Union) and Senators Peter A. Inverso (R-Mercer/Middlesex) and Wayne R. Bryant (D-Camden/Gloucester), provides an alternative method of canceling residential mortgages of record after they have been paid off. If a mortgage has been paid in full and the lender has not submitted the mortgage to the county clerk to be canceled of record, an attorney licensed in New Jersey or a licensed title insurance producer may record a discharge of mortgage or a "satisfaction piece." The discharge or satisfaction piece must be accompanied by an affidavit setting forth circumstances of payment. The bill sets forth a sample affidavit. If the attorney or title producer has not received a notice of mortgage cancellation within 30 days after the payment was made, the attorney may send a notice to the lender. If another 15 days elapse without a response from the lender, the affidavit may be filed with the county clerk. This bill does not apply to real property with more than four dwelling units if the debtor or the debtor's family member occupies one of these units. The bill applies to all residential mortgages, whether executed or not, that use real property in New Jersey as security.

A-928, sponsored by Assembly Members Richard H. Bagger (R-Middlesex/Morris/ Somerset/ Union) and Alan M. Augustine (R-Middlesex/Morris/Somerset/Union) and Senators John O. Bennett (R-Monmouth) and Anthony R. Bucco (R-Morris), amends the criminal code to prohibit the operation of sexually-oriented businesses within 1,000 feet of a hospital or child care center. The Criminal Code defines a sexually-oriented business as a commercial establishment that, as one of its principal business purposes: (1) offers for sale, rental or display printed materials, photographs, movies or other visual representations that depict or describe a "specified sexual activity" or "specified anatomical area;" or (2) offers for sale, rental or display instruments, devices or paraphernalia that are designed for use in connection with specific sexual activity; or (3) is a commercial establishment that regularly features live performances characterized by the exposure of a "specified anatomical area" or by a "specified sexual activity," or that regularly shows movies or other similar photographic representations. Violation of the prohibitions is punishable as a crime of the fourth degree.

A-1631, sponsored by Assembly Members Neil M. Cohen (D-Union) and Christopher "Kip" Bateman (R-Morris/Somerset), makes it a disorderly persons offense for Division of Taxation employees to examine tax returns and records outside of the performance of their official duties or to permit another to do so. State law provides that the records of and files of the Division of Taxation are confidential and privileged. A disorderly person offense is punishable by a term of imprisonment of not more than six months.

A-1692, sponsored by Assembly Member Wilfredo Caraballo (D-Essex) and John S. Wisniewski (D-Middlesex), requires a cable television company to notify all subscribers in service areas when either the Board of Public Utilities or the Federal Communications Commission orders the company to provide a

rate reduction or refund. Such notice must occur within the next billing cycle following the approval of the order. The purpose of the bill is to allow customers of the same cable company in different towns to petition for the same rate decrease.

A-1931, sponsored by Assembly Members Joel M. Weingarten (R- Essex/Union) and Senator Peter A. Inverso (R-Mercer/Middlesex), regulates the purchase of collateral protection insurance by lenders. Collateral protection insurance is insurance purchased by a creditor to protect its interest in secured property when a debtor fails to maintain insurance on the secured property. The creditor is named as the loss payee or beneficiary on the policy. The legislation seeks to regulate the amount the creditor may bill the debtor for such insurance as well as other aspects of the transaction. If the term of the credit agreement requires the debtor to purchase collateral protection insurance and the debtor does not obtain the insurance, the creditor may purchase it on behalf of the debtor. Once the creditor purchases such insurance, it is allowed to bill the debtor for the insurance premiums and add these costs to the loan balance. If the debtor demonstrates that it already had collateral protection insurance coverage in place, the creditor must cancel its policy and refund the billed premiums to the debtor. The bill also permits the lender to obtain collateral protection insurance if the borrower does not comply with the borrower's obligations regarding the purchase of insurance. The bill requires the lender to inform the borrower that even if the lender purchases collateral protection insurance, it may not cover the value of the property, possibly resulting in the borrower being underinsured. The bill further provides that if the purchase of collateral protection insurance is due to the error of the lender, the borrower will not be liable to the lender for the cost of collateral protection insurance.

S-946, sponsored by Senators John O. Bennett (R-Monmouth) and Robert W. Singer (R-Burlington/Monmouth/Ocean), requires local contracting units to provide two additional documents with all plans, specifications and bid proposal documents for construction contracts which exceed the bid threshold amount which is currently \$12,300. The documents are: (1) a document for the bidder to acknowledge receipt of any notice or revisions to the advertisement or bid documents; and (2) a form listing those documents that the contracting agent requires each bidder to submit with the bid. Bidders are also subject to additional statutory requirements under the bill. The legislation requires bidders of construction contracts for more than \$100,000 to submit to the local contracting unit a bid guarantee and a certificate of surety. With regard to any other contracts, including construction contracts for \$100,000 or less and all non- construction contracts, it will remain within the discretion of the local contracting unit to determine whether to require a bid guarantee or a certificate of surety. The bill also clarifies which defects will render a bid unresponsive and incapable of being cured. The bill makes this clarification by listing five documents which are considered mandatory. These documents include a bid guarantee, a certificate of surety, a statement of corporate ownership, a listing of subcontractors and a document acknowledging the bidders receipt of any notice or revisions to the advertisement or bid documents. These documents will be considered mandatory only if the bid plans and specifications require their submission.

A-2217, sponsored by Assembly Members David W. Wolfe (R-Monmouth/Ocean) and Joseph V. Doria, Jr. (D-Hudson) and Senators Peter A. Inverso (R-Mercer/Middlesex) and John O. Bennett (R-Monmouth), consolidates higher education student assistance entities into one new authority. The bill consolidates the various student assistance functions of the Office of Student Assistance, the Student Assistance Board and the Higher Education Assistance Authority into one, new authority to be known

as the Higher Education Student Assistance Authority. The authority will be located in but not of the Department of State, consistent with the location of the Commission on Higher Education. The chief executive and administrative officer of the authority, which will administer, coordinate and implement student aid assistance in the state, will be the executive director who will be appointed by the Governor. The authority will have a board consisting of 18 members: the State Treasurer; chair of the Commission on Higher Education; the chair of the Board of Directors of the Educational Opportunity Fund; five representatives from state higher education institutions; two students from different collegiate institutional sectors; seven public members and the executive director of the authority. The seven public members will be appointed by the Governor with the advice and consent of the Senate. The institutional representatives shall be nominated by the institutions or sector associations and appointed by the Governor with the advice and consent of the Senate. The bill enlarges the membership on the Commission on Higher Education from nine to eleven members, adding a faculty member from an institution of higher education to be appointed by the Governor with the advice and consent of the Senate, and the chairperson of the Board of the Higher Education Student Assistance Authority, ex officio, or a designee from the public members on the authority. Regarding state colleges and universities, the bill changes the name of the New Jersey State College Governing Boards Association to the New Jersey Association of State Colleges and Universities to reflect the change in status of some of the state colleges.

In connection with county colleges, the bill clarifies that the board of trustees of a county college may not employ officers, agents and employees unless the president of the respective county college nominates such individuals. Under the bill, the University of Medicine and Dentistry of New Jersey may use income from the operation of faculty practice plans and income from overhead grant fund recovery as permitted by federal law. With respect to the New Jersey Educational Facilities Authority, the bill provides that the authority need not obtain same-day approval of bond authorizations or sales from the Governor. The authority will still be subject to other requirement of obtaining approval upon the Governor's receipt of the board minutes.