

30:4C-26.10 to 30:4C-26.19

LEGISLATIVE HISTORY CHECKLIST
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"Long Term Foster Care
Custody Act"

NJSA: 30:4C-26.10 to 30:4C-26.19

LAWS OF: 1992 CHAPTER: 139

BILL NO: A355

SPONSOR(S) Felice

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Senior Citizens
SENATE: Womens Issues

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: ASSEMBLY: June 29, 1992
SENATE: October 29, 1992

DATE OF APPROVAL: November 16, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

ASSEMBLY, No. 355

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblyman FELICE

1 AN ACT concerning the exemption from taxation of the increase
2 in valuation of certain property due to improvements designed
3 to facilitate the use of property by disabled persons and
4 supplementing chapter 4 of Title 54 of the Revised Statutes.

5

6 BE IT ENACTED by the Senate and General Assembly of the
7 State of New Jersey:

8 1. For the purposes of this act: "Exemption" means all or any
9 portion of the assessed value of an improvement not increasing
10 the assessed value of a property due to the approval by the
11 assessor of an application filed pursuant to section 5 of this act;

12 "Improvement" means a physical change in an existing dwelling
13 house and connecting accessways, other than ordinary painting,
14 repairs and replacement of maintenance items, which is designed
15 to facilitate the use and accessibility of the dwelling house by a
16 permanently and totally disabled person pursuant to the
17 provisions of this act;

18 "Permanently and totally disabled" means total and permanent
19 inability to engage in any substantial gainful activity by reason of
20 any medically determinable physical impairment, pursuant to the
21 provisions of the federal Social Security Act. For purposes of
22 this act, "permanently and totally disabled" also includes
23 "blindness." "Blindness" means central visual acuity of 20/200 or
24 less in the better eye with the use of a correcting lens. An eye
25 which is accompanied by a limitation in the fields of vision such
26 that the widest diameter of the visual field subtends an angle no
27 greater than 20 degrees shall be considered as having a central
28 visual acuity of 20/200 or less.

29 "Pretax year" means the calendar year immediately preceding
30 the "tax year";

31 "Qualified resident" means a resident: who is permanently and
32 totally disabled and an owner of real property upon which a
33 dwelling house is located in which he resides, or who is an owner
34 of real property upon which a dwelling house is located in which
35 he resides and has a permanently and totally disabled member of
36 his household residing therein who is a spouse or qualified
37 dependent for federal income tax purposes;

38 "Resident" means one legally domiciled within the State of
39 New Jersey for a period of one year immediately preceding
40 October 1 of the pretax year. Mere seasonal or temporary
41 residence within the State, of whatever duration, shall not
42 constitute domicile within the State for the purposes of this act.
43 Absence from this State for a period of 12 months shall be prima
44 facie evidence of abandonment of domicile in this State. The
45 burden of establishing legal domicile within the State shall be

1 upon the claimant; and

2 "Tax year" means the calendar year in which the general
3 property tax is due and payable.

4 2. Any qualified resident shall be entitled annually, on proper
5 application being made therefor, to an exemption from taxation
6 of the increase in the valuation of real property upon which a
7 dwelling house is located which results from improvements
8 thereto designed to facilitate the use and accessibility of the
9 dwelling house by a permanently and totally disabled person who
10 is the owner and resident of the house or who is a member of the
11 owner's household and resides therein who is a spouse or qualified
12 dependent for federal income tax purposes.

13 3. The transference of the title to the property for which an
14 exemption has been approved pursuant to this act to the surviving
15 spouse of a deceased qualified resident or to any other person
16 shall not affect the continuance of the exemption so long as the
17 permanently and totally disabled person shall remain a resident of
18 the dwelling house.

19 4. No exemption, as provided herein, shall be allowed except
20 upon written application therefor, which application shall be on a
21 form prescribed by the Director of the Division of Taxation in the
22 Department of the Treasury and provided for the use of qualified
23 residents hereunder by the governing body of the municipality
24 constituting the taxing district in which the application is to be
25 filed and approved pursuant to this act.

26 5. An application for an exemption hereunder shall be filed
27 with the assessor of the taxing district on or before October 1 of
28 the pretax year. If the assessor determines that the improvement
29 or improvements are designed and necessary to facilitate the use
30 and accessibility of the real property by the permanently and
31 totally disabled resident, the assessor may approve the
32 application for exemption. If the assessor determines that one or
33 more of the improvements are not necessary in facilitating the
34 use and accessibility of the property by the disabled resident, the
35 assessor may approve the application for exemption for only
36 those improvements the assessor determines as necessary in
37 facilitating that use and accessibility. The assessor shall
38 determine the assessed value of the improvements approved in
39 the application and shall subtract that value from the total
40 assessed valuation of the qualified resident's real property.

41 6. In addition to any information required on the application
42 form by the Director of the Division of Taxation, the qualified
43 resident, in the application, shall establish that every fact
44 essential to support a claim for an exemption hereunder exists on
45 October 1 of the pretax year and that the applicant is:

- 46 a. A citizen and resident of this State;
47 b. The owner of the dwelling house; and
48 c. A resident of the dwelling house. In the case that the
49 disabled person is a member of the resident's household and not
50 the owner, the owner shall establish that the owner and the
51 disabled household member are residents of the dwelling house.
52 In addition, the qualified resident shall include a physician's
53 certificate or the Social Security Administration's certificate
54 verifying the permanent and total disability.

1 7. A claim having been filed with and approved by the assessor
2 on and after the effective date of this act shall continue in force
3 from year to year thereafter without the necessity for further
4 claim so long as the qualified resident shall be entitled to an
5 exemption hereunder. The assessor may, at any time, require the
6 filing of a new application or any proof, as the assessor may deem
7 necessary, to establish the right of the qualified resident to
8 continuance of the exemption. It shall be the duty of every
9 qualified resident to inform the assessor of a change in status or
10 property which may affect the right to continuance of the
11 exemption.

12 8. The Director of the Division of Taxation may promulgate
13 rules and regulations and prescribe forms necessary to implement
14 this act.

15 9. A person aggrieved by an action of the assessor may appeal
16 to the county board of taxation or the tax court, as appropriate.

17 10. This act shall take effect upon approval of Assembly
18 Concurrent Resolution No. 27 of 1990, now pending before the
19 Legislature, by the voters of this State and shall be applicable for
20 the first full tax year occurring at least 90 days after that
21 approval and to each tax year thereafter.

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STATEMENT

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26 This bill authorizes a tax exemption for improvements to
27 dwelling houses which are designed to facilitate the use and
28 accessibility of the house for permanently and totally disabled
29 persons residing on the property.

30 The homeowner must file an application for exemption by
31 October 1 of the pretax year and, if approved, the municipal
32 assessor is directed to determine the assessed value of the
33 improvements and subtract it from the total assessed value of the
34 property. Once established, the eligibility for the exemption will
35 remain in force for as long as the disabled person continues to
36 reside in the dwelling and the dwelling is owned by a "qualified"
37 permanent resident of the State.

38 The bill shall not go into effect unless and until a constitutional
39 amendment, now pending as Assembly Concurrent Resolution
40 No. 27 of 1990, is approved by the voters. The constitutional
41 amendment amends Title VIII, Section 1 of the Constitution to
42 authorize the granting of the property tax exemption.

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47 Provides for a tax exemption on certain improvements to
48 dwelling houses to facilitate their use by disabled persons.

1 the armed forces, application for a motor vehicle operator's
2 license, application for admission into college and any other
3 activity requiring written parental consent. The long-term foster
4 parent shall inform the division of any written parental consent
5 that the long-term foster parent gives.

6 b. The long-term foster parent is not authorized to consent to
7 the foster child's adoption or to a name change for the child.

8 8. A child placed in long-term foster care custody on petition
9 by the division is eligible to receive the same services and rate of
10 maintenance as any other child in foster care pursuant to section
11 27 of P.L.1951, c.138 (C.30:4C-27).

12 9. The transfer of custody to a long-term foster parent shall
13 neither create nor terminate any legal responsibility for the
14 support of the child by the parent, nor shall anything in this act
15 be construed to terminate or limit any rights or benefits of the
16 child, derived from the child's parent, including, but not limited
17 to, rights relating to inheritance, social security and insurance.
18 The transfer of custody to a long-term foster parent shall not
19 terminate the parental rights of the parent.

20 10. The Commissioner of Human Services shall promulgate
21 rules and regulations pursuant to the "Administrative Procedure
22 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to
23 effectuate the purposes of this act.

24 11. This act shall take effect immediately.

25 26 27 STATEMENT

28
29 This bill permits the Division of Youth and Family Services
30 (DYFS) in the Department of Human Services to file a petition in
31 the family part of the Chancery Division of the Superior Court to
32 transfer a foster child to long-term foster care custody under the
33 following conditions:

34 a. The child is at least 12 years old, or there are unique
35 circumstances which make the child's age irrelevant;

36 b. DYFS has, for at least one year, unsuccessfully made
37 documented efforts to reunite the child with the biological family;

38 c. DYFS has, for at least one year, unsuccessfully made
39 documented efforts to place the child for adoption, or has
40 determined that adoption is not in the child's best interest; and

41 d. The child has resided as a foster child in the home of the
42 persons seeking long-term foster care custody for at least one
43 year and wishes to remain there.

44 The bill further provides that:

45 a. Long-term foster care custody shall begin upon order of the
46 court and remain in effect until the child's 18th birthday;

47 b. The court shall have continuing jurisdiction to modify or
48 revoke an order for long-term foster care custody;

49 c. A foster parent who is granted long-term foster care
50 custody has the authority to consent to any activity requiring
51 parental consent and shall inform DYFS of any written parental
52 consent given;

53 d. The long-term foster parent is not authorized to consent to
54 the foster child's adoption or to a name change for the child; and

ASSEMBLY SENIOR CITIZENS
AND SOCIAL SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 355

STATE OF NEW JERSEY

DATED: MAY 4, 1992

The Assembly Senior Citizens and Social Services Committee favorably reports Assembly Bill No. 355.

This bill permits the Division of Youth and Family Services (DYFS) in the Department of Human Services to file a petition in the family part of the Chancery Division of the Superior Court to transfer a foster child to long-term foster care custody under the following conditions:

- a. The child is at least 12 years old, or there are unique circumstances which make the child's age irrelevant;
- b. DYFS has, for at least one year, unsuccessfully made documented efforts to reunite the child with the biological family;
- c. DYFS has, for at least one year, unsuccessfully made documented efforts to place the child for adoption, or has determined that adoption is not in the child's best interest; and
- d. The child has resided as a foster child in the home of the persons seeking long-term foster care custody for at least one year and wishes to remain there.

The bill further provides that:

- a. Long-term foster care custody shall begin upon order of the court and remain in effect until the child's 18th birthday;
- b. The court shall have continuing jurisdiction to modify or revoke an order for long-term foster care custody;
- c. A foster parent who is granted long-term foster care custody has the authority to consent to any activity requiring parental consent and shall inform DYFS of any written parental consent given;
- d. The long-term foster parent is not authorized to consent to the foster child's adoption or to a name change for the child; and
- e. The transfer of custody to a long-term foster parent does not create or terminate any legal responsibility for the child's support by the biological parent, nor does it terminate the biological parent's parental rights.

This bill was pre-filed for introduction in the 1992 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE WOMEN'S ISSUES, CHILDREN
AND FAMILY SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 355

STATE OF NEW JERSEY

DATED: OCTOBER 1, 1992

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The Senate Women's Issues, Children and Family Services Committee favorably reports Assembly Bill No. 355.

This bill permits the Division of Youth and Family Services (DYFS) to file a petition in the family part of the Chancery Division of the Superior Court to transfer a foster child to long-term foster care custody under the following conditions:

- a. The child is at least 12 years old, or there are unique circumstances which make the child's age irrelevant;
- b. DYFS has, for at least one year, unsuccessfully made documented efforts to reunite the child with the biological family;
- c. DYFS has, for at least one year, unsuccessfully made documented efforts to place the child for adoption, or has determined that adoption is not in the child's best interest; and
- d. The child has resided as a foster child in the home of the persons seeking long-term foster care custody for at least one year and wishes to remain there.

The bill further provides that:

- a. Long-term foster care custody shall begin upon order of the court and remain in effect until the child's 18th birthday;
- b. The court shall have continuing jurisdiction to modify or revoke an order for long-term foster care custody;
- c. A foster parent who is granted long-term foster care custody has the authority to consent to any activity requiring parental consent and shall inform DYFS of any written parental consent given;
- d. The long-term foster parent is not authorized to consent to the foster child's adoption or to a name change for the child; and
- e. The transfer of custody to a long-term foster parent does not create or terminate any legal responsibility for the child's support by the biological parent, nor does it terminate the biological parent's parental rights.