[Second Reprint]

SENATE, No. 1422

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:
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District 36 (Bergen and Passaic)

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SYNOPSIS

Allows taxpayers to utilize alternative method of depreciation of certain expenditures in connection with construction of new affordable housing developments.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on March 11, 2024, with amendments.

(Sponsorship Updated As Of: 3/18/2024)

AN ACT allowing taxpayers to utilize alternative method of depreciation for certain expenditures under corporation business and gross income taxes, supplementing P.L.1945, c.162 (C.54:10A-1 et seq.) and Title 54A of the New Jersey Statutes.

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

1. a. Notwithstanding paragraph (12) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), for purposes of calculating the depreciation deduction allowed pursuant to the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), a taxpayer shall be allowed to depreciate a percentage of eligible property expenditures, as that percentage is determined and computed pursuant to subsection b. of this section, over a [1]**[**ten-year**]** 10-year[1] period.

b. For purposes of calculating the percentage of eligible property expenditures depreciated by a taxpayer pursuant to subsection a. of this section, the taxpayer shall apply the following formula: 2 x (the number of affordable housing units in the development / the [1]total[1] number of [1]**[**non-affordable**]**[1] housing units in the development).

c. The Director of the Division of Taxation in the Department of the Treasury shall prescribe the rules and regulations necessary to carry out the provisions of this section.

d. As used in this section:

[1]"Affordable housing" means housing occupied or restricted to occupancy by households with income no greater than 80 percent of the regional median income, including, but not limited to, housing that is deed restricted as affordable pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.).[1]

"Affordable housing development" means a development [1]:

(1) for which construction commences on or after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill);

(2) [2]for[2] which [2]**[**does not utilize funds obtained from any federal, State, or local subsidy toward, or is allowed a tax credit or payment in lieu of tax for,**]** taxes are not abated or exempted pursuant to the terms of a financial agreement under the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.) or does not receive an affordable housing subsidy for[2] the construction of low- and moderate-income housing; and

(3)[1] that includes one or more units of housing, at least 20 percent of which qualify as affordable housing.

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]Senate SCU committee amendments adopted January 25, 2024.
[2]Senate SBA committee amendments adopted March 11, 2024.

[2]“Affordable housing subsidy” means any financing that is intended to support the development of affordable housing and is provided by the Department of Community Affairs, the New Jersey Housing and Mortgage Finance Agency, or a municipal affordable housing trust fund, except that the term shall not include any rebates or incentives that are intended to promote energy efficiency standards.[2]

[1]**[**“Affordable housing” means housing occupied or restricted to occupancy by households with income no greater than 80 percent of the regional median income, including, but not limited to, housing that is deed restricted as affordable pursuant to the “Fair Housing Act,” P.L.1985, c.222 (C.52:27D-301 et al.).**]**[1]

“Eligible property expenditures” means capital expenditures incurred by the taxpayer in connection with the construction of a new affordable housing development owned by the taxpayer.

[1]**[**“Non-affordable housing” means housing that does not qualify as affordable housing.**]**[1]

2. a. Notwithstanding section 26 of P.L.2004, c.65 (C.54A:5-1.2), for purposes of calculating the depreciation deduction allowed under the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq., a taxpayer shall be allowed to depreciate a percentage of eligible property expenditures, as that percentage is determined and computed pursuant to subsection b. of this section, over a [1]**[**ten-year**]** 10-year[1] period.

b. For purposes of calculating the percentage of eligible property expenditures depreciated by a taxpayer pursuant to subsection a. of this section, the taxpayer shall apply the following formula: 2 x (the number of affordable housing units in the development / the [1]total[1] number of [1]**[**non-affordable**]**[1] housing units in the development).

c. The Director of the Division of Taxation in the Department of the Treasury shall prescribe the rules and regulations necessary to carry out the provisions of this section.

d. As used in this section:

[1]“Affordable housing” means housing occupied or restricted to occupancy by households with income no greater than 80 percent of the regional median income, including, but not limited to, housing that is deed restricted as affordable pursuant to the “Fair Housing Act,” P.L.1985, c.222 (C.52:27D-301 et al.).[1]

“Affordable housing development” means a development [1]:

(1) for which construction commences on or after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill);

(2) [2]for[2] which [2]**[**does not utilize funds obtained from any federal, State, or local subsidy toward, or is allowed a tax credit or payment in lieu of tax for,**]** taxes are not abated or exempted pursuant to the terms of a financial agreement under the “Long Term Tax Exemption Law,” P.L.1991, c.431 (C.40A:20-1 et seq.) or does not receive an affordable

housing subsidy for[2] the construction of low- and moderate-income housing; and

(3)[1] that includes one or more units of housing, at least 20 percent of which qualify as affordable housing.

[2]"Affordable housing subsidy" means any financing that is intended to support the development of affordable housing and is provided by the Department of Community Affairs, the New Jersey Housing and Mortgage Finance Agency, or a municipal affordable housing trust fund, except that the term shall not include any rebates or incentives that are intended to promote energy efficiency standards.[2]

[1]⟦"Affordable housing" means housing occupied or restricted to occupancy by households with income no greater than 80 percent of the regional median income, including, but not limited to, housing that is deed restricted as affordable pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.).⟧[1]

"Eligible property expenditures" means capital expenditures incurred by the taxpayer in connection with the construction of a new affordable housing development owned by the taxpayer.

[1]⟦"Non-affordable housing" means housing that does not qualify as affordable housing.⟧[1]

3. This act shall take effect immediately and shall apply to eligible property expenditures [1]⟦incurred on and after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill)⟧ for affordable housing developments placed in service [2]⟦in the 2025⟧ during any[2] tax year [2]or privilege period beginning January 1, 2025[2] and thereafter[1].