

ASSEMBLY, No. 3365

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JANUARY 9, 2024

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

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 introduced.



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

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

8
9 1. a. Notwithstanding paragraph (12) of subsection (k) of
10 section 4 of P.L.1945, c.162 (C.54:10A-4), for purposes of
11 calculating the depreciation deduction allowed pursuant to the
12 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
13 et seq.), a taxpayer shall be allowed to depreciate a percentage of
14 eligible property expenditures, as that percentage is determined and
15 computed pursuant to subsection b. of this section, over a ten-year
16 period.

17 b. For purposes of calculating the percentage of eligible
18 property expenditures depreciated by a taxpayer pursuant to
19 subsection a. of this section, the taxpayer shall apply the following
20 formula: $2 \times (\text{the number of affordable housing units in the}$
21 $\text{development} / \text{the number of non-affordable housing units in the}$
22 $\text{development})$.

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

26 d. As used in this section:

27 "Affordable housing development" means a development that
28 includes one or more units of housing, at least 20 percent of which
29 qualify as affordable housing.

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

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

38 "Non-affordable housing" means housing that does not qualify as
39 affordable housing.

40
41 2. a. Notwithstanding section 26 of P.L.2004, c.65 (C.54A:5-
42 1.2), for purposes of calculating the depreciation deduction allowed
43 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
44 seq., a taxpayer shall be allowed to depreciate a percentage of
45 eligible property expenditures, as that percentage is determined and
46 computed pursuant to subsection b. of this section, over a ten-year
47 period.

48 b. For purposes of calculating the percentage of eligible
49 property expenditures depreciated by a taxpayer pursuant to

1 subsection a. of this section, the taxpayer shall apply the following
2 formula: $2 \times$ (the number of affordable housing units in the
3 development / the number of non-affordable housing units in the
4 development).

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

8 d. As used in this section:

9 “Affordable housing development” means a development that
10 includes one or more units of housing, at least 20 percent of which
11 qualify as affordable housing.

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

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

20 “Non-affordable housing” means housing that does not qualify as
21 affordable housing.

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23 3. This act shall take effect immediately and shall apply to
24 eligible property expenditures incurred on and after the effective
25 date of P.L. , c. (C.) (pending before the Legislature as this
26 bill).

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STATEMENT

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31 This bill allows taxpayers to depreciate a percentage of eligible
32 property expenditures, meaning capital expenditures incurred by the
33 taxpayer in connection with the construction of a new affordable
34 housing development owned by the taxpayer, over a ten-year
35 period.

36 For purposes of calculating the percentage of eligible property
37 expenditures that may be depreciated by a taxpayer pursuant to the
38 bill, the taxpayer is to apply the following formula: $2 \times$ (the number
39 of affordable housing units in the development / the number of non-
40 affordable housing units in the development).

41 Under the bill, “affordable housing development” means a
42 development that includes one or more units of housing, at least 20
43 percent of which qualify as affordable housing. The bill defines
44 “affordable housing” as housing occupied or restricted to occupancy
45 by households with income no greater than 80 percent of the
46 regional median income, including, but not limited to, housing that
47 is deed restricted as affordable pursuant to the “Fair Housing Act,”
48 P.L.1985, c.222 (C.52:27D-301 et al.).