

CHAPTER 101

AN ACT establishing a tax clearance certificate program for awards of certain business assistance and incentives, supplementing Chapter 50 of Title 54 of the Revised Statutes.

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

C.54:50-39 Tax clearance certificate required for award of business assistance, incentive.

1. a. A department or agency of State government, including independent authorities and instrumentalities of the State, shall, as a precondition to the award of business assistance or incentive or as a component of the application for business assistance or incentive as appropriate, require a person to submit a tax clearance certificate issued by the director prior to the department or agency making an award of business assistance or incentive to the person.

b. The person applying for business assistance or incentive may apply to the director for a tax clearance certificate and shall provide the director such information in such form as the director may prescribe necessary for the director to determine if the person has satisfied all requirements for filing those State tax and information returns and for paying those State taxes for which they have been liable as taxpayers or as collectors of tax.

c. If the director determines that the person has complied with all requirements for filing tax and information returns and for paying or remitting required State taxes and fees, the director shall issue to the person a tax clearance certificate.

If the director determines that the person has not filed all required tax and information returns or has not paid all tax, penalties, interest, or fees due, the director shall issue a notice of delinquency or deficiency listing unfiled returns or balances due. The director may require a person to resolve all delinquencies and deficiencies before a tax clearance certificate is issued, or upon review of the total circumstances, the director may issue an interim tax clearance certificate if the director determines to the director's satisfaction that the person will resolve all such delinquencies or deficiencies within the time period specified by the director.

The director's issuance of a regular or interim tax clearance certificate shall not constitute a waiver of authority to demand resolution of all deficiencies and delinquencies and shall not prevent further audit or the assessment of additional taxes, penalties, interest, or fees as may be provided by law. No additional right to protest or appeal the State tax indebtedness, filing deficiency, or penalties shall be available to any person pursuant to this section.

d. As used in this section:

"Business assistance or incentive" means monetary or financial assistance in any form, other than a tax credit or tax exemption granted pursuant to a claim made on a tax return filed with the Division of Taxation in the Department of the Treasury, including but not limited to a grant, loan, loan guarantee, or other monetary or financial benefit awarded to a person by a department or agency of State government, including independent authorities and instrumentalities of the State, to assist the person in the conduct or operation of a business, occupation, trade, or profession in the State, in connection with the following programs:

(1) the business employment incentive program established pursuant to P.L.1996, c.26 (C.34:1B-124 et al.);

(2) the business retention and relocation assistance program established pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

(3) the customized training services provided pursuant to section 5 of P.L.1992, c.43 (C.34:15D-5);

(4) the business, commercial and industrial components of the clean energy program administered by the Board of Public Utilities;

(5) the business grant, loan, and loan guarantee programs administered by:

(a) the Economic Development Authority;

(b) the Housing and Mortgage Finance Authority; and

(c) the Casino Reinvestment Development Authority;

(6) the science and technology grants provided by or through the New Jersey Commission on Science and Technology; and

(7) any other similar State program that confers a significant monetary or financial benefit upon a business or businesses, as prescribed by the State Treasurer pursuant to regulations promulgated pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. The director may charge and collect an application fee from a person applying for a tax clearance certificate, to reflect the administrative costs, and may charge and collect a reasonable service fee for the provision of any expedited services offered.

f. In order to better manage the workload of issuing tax clearance certificates, the director may prescribe a schedule by which tax clearance certificates will initially be issued for only one or more of the programs enumerated as business assistance or incentive, or one or more of the components of one or more of those programs, and by which tax clearance certificate issuance for other programs enumerated, or other components of those programs, will be instituted beginning on dates specified according to the schedule. In prescribing the schedule the director will give due regard to the monetary value of the assistance and incentive offered, the timing of the application process, the number of applicants, and necessary applicant and program administrator notice for a particular program or program component. Such a schedule adopted by the director shall be subject to change by the director, but in any case shall provide for issuance of tax clearance certificates for all enumerated programs before January 1, 2009.

Notwithstanding any provisions of this section to the contrary, no tax clearance certificate shall be required as a precondition to the award of business assistance or incentive or as a component of the application for business assistance or incentive prior to its program's, or its program's component's, scheduling by the director pursuant to this subsection.

g. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt immediately upon filing with the Office of Administrative Law such regulations as the director deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed 180 days following enactment of P.L.2007, c.101 (C.54:50-39) and may thereafter be amended, adopted or readopted by the director in accordance with the requirements of P.L.1968, c.410.

2. This act shall take effect immediately but remain inoperative until July 1, 2007.

Approved June 28, 2007.