

CHAPTER 157

AN ACT concerning historic site real property tax exemptions, amending P.L.1962, c.92, and amending and supplementing P.L.2004, c.183.

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

C.54:4-3.54a1 Findings, declarations relative to tax exemptions for certain historic site real property.

1. The Legislature finds and declares:

a. The decision of the New Jersey Supreme Court on May 30, 2007, in *University Cottage Club of Princeton New Jersey Corp. v. New Jersey Department of Environmental Protection and the Borough of Princeton*, 191 N.J. 38 (2007), which effectively granted to the University Cottage Club real property tax exempt status under the historic site real property tax exemption law, P.L.1962, c.92 (C.54:4-3.52 et seq.), and determined that revised requirements for an historic site real property tax exemption contained in a supplementary law to the 1962 historic site real property tax exemption law, approved by the Legislature and enacted as P.L.2004, c.183 (C.54:4-3.54a et seq.) on December 22, 2004, did not apply to the University Cottage Club, requires the Legislature to clarify its intent in approving that act.

b. The court's interpretation of intended effect of P.L.2004, c.183 is contrary to the intent of the Legislature and as a result, corrective legislation removing any question regarding the intent, scope and applicability of that act is necessary and appropriate.

c. The Legislature intended to preserve the tax exempt status of historic sites that had received tax exempt status from the Commissioner of Environmental Protection prior to enactment of the 2004 law because the owners of those properties relied upon the tax exemption, and municipalities had already removed those properties from their tax rolls. The Legislature intended to apply the standards set forth in P.L.2004, c.183 to historic sites that were not previously certified as tax exempt by the Commissioner of Environmental Protection.

d. It is also important to clarify and expand upon the Legislature's intent to require significant public access to any historic site determined to be eligible for an historic site real property tax exemption, and to require that the nonprofit corporation that owns the historic site must have a primary mission as an historical organization to research, preserve and interpret history and architectural history. It was the Legislature's intent in 2004, and remains the Legislature's intent today, that the granting of property tax exempt status to an historic site, which imposes an additional property tax burden on the residents of the taxing district in which the historic site is located, because the budgetary needs of the taxing district must be fulfilled regardless of the number of taxpaying properties located in the taxing district, must be contingent on the public's ability to regularly use and enjoy the historic site and also understand the history of the historic site through the research, preservation and interpretation of the history of the site, including the site's architectural history, prepared by its nonprofit corporate owner. It was not the intent of the Legislature in 2004, and it is not the intent of the Legislature today, that historic site real property tax exemptions be granted to private clubs and organizations that provide such minimal access and benefit to the public that financially support them that the access and benefit is of nominal or insignificant value to the public.

e. The Commissioner of Environmental Protection erred significantly in relying on informal standards rather than rules and regulations promulgated under the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to award real property tax exemptions

to historic sites; therefore, the Legislature is transferring all authority over the historic site real property tax exemption approval and certification process to the Director of the Division of Taxation in the Department of the Treasury, who has the expertise to administer this real property tax exemption along with the input and participation of municipal tax assessors.

f. It is important to preserve the integrity of the historic site real property tax exemption and so it is necessary and proper to amend the effective date of P.L.2004, c.186 to clarify that the 2004 act is applicable to properties designated as historic sites after July 1, 1999. Of the over 35,000 properties designated as historic sites in New Jersey, only two property owners, applied for real property historic site tax exempt status after July 1, 1999. In P.L.2004, c.186 the Legislature intended that the stricter public access requirements should apply to any historic site that had not been certified to be real property tax exempt prior to the effective date of the law, December 22, 2004.

2. Section 1 of P.L.1962, c.92 (C.54:4-3.52) is amended to read as follows:

C.54:4-3.52 Historic sites; conditions; tax exemption; fee.

1. a. Any building and its pertinent contents and the land whereon it is erected and which may be necessary for the fair enjoyment thereof owned by a nonprofit corporation and which has been certified to be an historic site to the Director of the Division of Taxation in the Department of the Treasury by the Commissioner of Environmental Protection as hereinafter provided shall be exempted from real property taxation by the Director of the Division of Taxation after a determination by the director that the property meets the criteria set forth in section 2 of P.L.2004, c.183 (C.54:4-3.54b).

b. The municipal tax assessor shall annually certify to the Director of the Division of Taxation that each property certified for an historic site real property tax exemption continues to be qualified for its exempt status under the criteria set forth in section 2 of P.L.2004, c.183 (C.54:4-3.54b).

c. The Director of the Division of Taxation, by rule or regulation, shall set an annual fee, to be collected by the municipal assessor from the owner of an historic site that has been granted an historic site real property tax exemption, for the review of the real property tax exemption status of the historic site. The fee shall not exceed \$50 per year and shall be used to offset the cost to the municipal assessor for the review and certification to the director.

3. Section 2 of P.L.1962, c.92 (C.54:4-3.53) is amended to read as follows:

C.54:4-3.53 Certification of historic sites.

2. The Commissioner of Environmental Protection when requested for any such certification and after consultation with and the advice of the Historic Preservation Office within the Department of Environmental Protection shall certify a building to be an historic site whenever he finds such building to have material relevancy to the history of the State and its government warranting its preservation as an historical site and in the event of a restoration, heretofore or hereafter made, such building is or shall be of substantially the same kind, character and description as the original.

4. Section 3 of P.L.1962, c.92 (C.54:4-3.54) is amended to read as follows:

C.54:4-3.54 Cancellation of certification; issuance of new certification.

3. In the event of any substantial change in the building or the premises, such certification as an historic site may be canceled by the commissioner, but no such cancellation shall preclude the issuance of a new certification.

5. Section 1 of P.L.2004, c.183 (C.54:4-3.54a) is amended to read as follows:

C.54:4-3.54a Certain historical properties exempt from taxation; qualifications.

1. After the effective date of P.L.2004, c.183 (C.54:4-3.54a et seq.), any building, its pertinent contents and the land on which it is erected and which may be necessary for the fair enjoyment thereof, owned by a nonprofit corporation that: is organized under P.L.1983, c.127 (C.15A:1-1 et seq.); is qualified for tax exempt status under the Internal Revenue Code of 1986, 26 U.S.C. s.501(c) and meets all other State and federal requirements; has a primary mission as an historical organization to research, preserve and interpret history and architectural history; and has been certified to be an historic site by the Commissioner of Environmental Protection, shall be exempt from taxation upon application to, and certification by, the Director of the Division of Taxation in the Department of the Treasury.

6. Section 2 of P.L.2004, c.183 (C.54:4-3.54b) is amended to read as follows:

C.54:4-3.54b Certification of building as historic site; conditions; rules, regulations.

2. a. The Director of the Division of Taxation in the Department of the Treasury shall certify a building to be an historic site qualified for a real property tax exemption whenever the director finds such building to have the following characteristics:

(1) material relevancy to the history of the State and its government warranting its preservation as an historical site;

(2) the building is listed in the New Jersey Register of Historic Places;

(3) in the event of a restoration or rehabilitation, or both, heretofore or hereafter made, such restoration or rehabilitation shall be done in accordance with the United States Secretary of the Interior's Standards for the Treatment of Historic Properties; and

(4) the building is open to the general public and freely available to all people, without discrimination as to race, creed, color or religion, under reasonable terms and conditions, including but not limited to a nominal fee, that would ensure the preservation and maintenance of the site, for a minimum of 96 days per year. Notwithstanding the foregoing, the building can be open to the public for less than 96 days per year if the building meets the following three qualifications: (a) the nonprofit corporation that owns the building applies to the Director of the Division of Taxation for approval of fewer days; (b) the governing body of the municipality in which the building is located passes a resolution in support of the nonprofit corporation's application for fewer days; and (c) the director determines, based upon the financial resources of the nonprofit corporation, that 96 days is not feasible and approves a fewer number of days. In making this determination the director shall consider at least, but shall not be limited to, the following criteria: the financial condition and resources of the nonprofit corporate owner; whether the request is temporary because of a short-term constraint regarding the public's physical access to the building; whether the property relies on volunteers to manage public access; and the impact upon the public interest in restricting access to the real property tax exempt historic site property.

b. On or before January 30 annually, a nonprofit corporation that owns the building certified as an historic site pursuant to this section shall submit to the municipal tax assessor,

the Historic Preservation Office in the Department of Environmental Protection, and the Director of the Division of Taxation a status report that contains the following information:

(1) evidence that the property was open to the public during the preceding calendar year, including proof of public notification or advertisement and a brief summary of visitation statistics;

(2) a copy of any amendments or modifications to the current corporation bylaws;

(3) evidence that the nonprofit corporation that owns the building certified as an historic site has current nonprofit status pursuant to P.L.1983, c.127 (C.15A:1-1 et seq.) and is qualified for tax exempt status under the Internal Revenue Code of 1986, 26 U.S.C. s.501(c);

(4) a brief description of any physical restoration or rehabilitation undertaken in the preceding calendar year, with photographs documenting the current condition of the building; and

(5) a description of any physical restoration or rehabilitation anticipated to be taken in the subsequent calendar year.

c. The Director of the Division of Taxation shall on or before September 15 of each year certify that a property owner and the real property for which an exemption is claimed pursuant to P.L.2004, c.183 (C.54:4-3.54a et seq.) have met all of the qualifications for an historic site real property tax exemption. If an owner and property are not yet qualified for such exemption because the property was not open to the public for at least the number of days required pursuant to subsection a. of this section by August 31 but is otherwise qualified, the director shall certify the number of days the property was open by August 31, and that the owner and property will be qualified for such exemption if the property is open to the public for at least the required number of days by December 31. The director shall deliver such certification to the property owner and the tax assessor of the taxing district in which the real property is located. In addition to the report required pursuant to subsection b. of this section, on or before August 31 annually, the nonprofit corporation that owns the building certified as an historic site pursuant to this section shall submit to the Historic Preservation Office in the Department of Environmental Protection, the municipal tax assessor, and the Director of the Division of Taxation an interim status report that contains current calendar year information that the director determines is necessary to fulfill the director's obligation pursuant to this subsection.

d. Not later than the first day of the third month next following the effective date of P.L.2007, c.157 (C.54:4-3.54a1 et al.) the Director of the Division of Taxation shall promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this section and section 1 of P.L.2004, c.183 (C.54:4-3.54a).

7. Section 3 of P.L.2004, c.183 (C.54:4-3.54c) is amended to read as follows:

C.54:4-3.54c Cancellation of certification, notification.

3. Upon the cancellation of a certification as an historic site pursuant to section 3 of P.L.1962, c.92 (C.54:4-3.54), the commissioner shall, no later than the next business day, notify the Director of the Division of Taxation in the Department of the Treasury and the municipal tax assessor wherein the historic site is located, of the cancellation.

8. Section 4 of P.L.2004, c.183 (effective date) is amended to read as follows:

4. This act shall take effect immediately and shall be applicable to any historic site determined to be eligible to receive an historic site real property taxation exemption after July 1, 1999, and to any historic site for which application is made for real property tax exempt status as an historic site after July 1, 1999.

C.54:4-3.54a2 Certain tax exemptions null and void; liability for certain taxes.

9. Any historic site real property tax exemption granted after July 1, 1999 on an historic site that is not in compliance with the provisions of section 2 of P.L.2004, c.183 (C.54:4-3.54b) is null and void, and the owner of the historic site shall be liable for the payment of real property taxes to the taxing district for each tax year during which the historic site property was not in compliance with P.L.2004, c.183 (C.54:4-3.54a et seq.).

10. This act shall take effect immediately.

Approved August 21, 2007.