

ASSEMBLY, No. 6152

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED DECEMBER 6, 2021

Sponsored by:

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

SYNOPSIS

Allows municipalities to transfer inactive alcoholic beverage retail licenses for use in redevelopment, improvement, or revitalization areas under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/6/2021)

1 AN ACT concerning alcoholic beverage licensing, supplementing
2 Title 33 of the Revised Statutes, and amending P.L.1977, c.246.

3

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

6

7 1. (New section) a. As used in this act:

8 “Host municipality” means a municipality from which an
9 inactive license is issued pursuant to P.L. , c. (C.) (pending
10 before the Legislature as this bill) to the governing body of a
11 receiving municipality as part of an economic redevelopment plan
12 or in connection with a premises located within a redevelopment,
13 improvement, or revitalization area.

14 “Inactive license” means a plenary retail consumption license
15 that has been placed on inactive status and renewed as authorized
16 by the provisions of R.S.33:1-12.39 for a two year period.

17 “Receiving municipality” means a municipality that enters into
18 an agreement to acquire an inactive plenary retail consumption
19 license from a host municipality as part of an economic
20 redevelopment plan or in connection with a premises located within
21 a redevelopment, improvement, or revitalization area pursuant to
22 P.L. , c. (pending before the Legislature as this bill).

23 “Redevelopment, improvement, or revitalization area” means an
24 urban enterprise zone designated pursuant to P.L.1983, c.303
25 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); a
26 downtown business improvement zone designated pursuant to
27 P.L.1998, c.115 (C.40:56-71.1 et seq.); a pedestrian mall or
28 pedestrian mall improvement or special improvement district as
29 defined in section 2 of P.L.1972, c.134 (C.40:56-66); a transit
30 oriented development as defined by section 2 of P.L.2011, c.149
31 (C.34:1B-243); an area determined to be in need of redevelopment
32 pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and
33 40A:12A-22); or an area determined to be in need of rehabilitation
34 pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14), or any
35 improvement which is 100 percent new construction, which is an
36 entirely new improvement not previously occupied or used for any
37 purpose.

38

39 2. (New section) a. A governing board or body of a host
40 municipality that is authorized to issue a new plenary retail
41 consumption licenses shall be entitled to offer the license at public
42 sale pursuant to P.L.1981, c.416 (C.33:1-19.3 et seq.) or offer the
43 license at public sale to the highest bidding governing body of any
44 other municipality in this State.

45 A license transferred to a receiving municipality pursuant to this

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.

1 section only shall be used in connection with a premises as part of
2 an economic redevelopment plan or located within a redevelopment,
3 improvement, or revitalization area as defined in section 1 of
4 P.L. , c. (C.) (pending before the Legislature as this bill).
5 The host municipality shall not be entitled to issue a new license
6 pursuant to P.L.1975, c.275 (C.33:1-19.1 et seq.) to replace the
7 license transferred to the receiving municipality pursuant to this
8 section.

9 b. Notice of the public sale shall be provided to the director and
10 other municipalities at least 90 days prior to the sale. The notice to
11 the municipalities shall specify the minimum acceptable bid and
12 general conditions of sale including a statement that the transferring
13 municipality reserves the right to reject all bids where the highest
14 bid is not accepted.

15 The funds derived from the sale shall be remitted to the
16 municipal treasurer for the general use of the host municipality.

17 c. A receiving municipality that acquires a license pursuant to
18 subsection a. of this section shall be entitled to offer the license at
19 public sale pursuant to P.L.1975, c.275 (C.33:1-19.1 et seq.).

20 d. A license issued by the receiving municipality to a qualified
21 bidder that is not actively used in connection with the operation of a
22 premises within two years of the issuance date shall expire and shall
23 not be reissued by the receiving municipality. The license holder
24 shall not be entitled to appeal the expiration of the license to the
25 director or a court of law unless the license holder has been
26 deprived of the use of the licensed premises as a result of eminent
27 domain, fire, or other casualty, and establishes by affidavit filed
28 with the director that the license holder is making a good faith
29 effort to resume active use of the license in connection with the
30 operation of a licensed premises.

31 e. A receiving municipality shall not be entitled to acquire more
32 than one license pursuant to this section each calendar year.

33 f. No person who would fail to qualify as a licensee under Title
34 33 of the Revised Statutes shall be permitted to hold an interest in a
35 license transferred under the provisions of this section.

36 g. Licenses transferred pursuant to the provisions of this
37 section shall be subject to all the provisions of Title 33 of the
38 Revised Statutes, rules and regulations promulgated by the director,
39 and municipal ordinances.

40 h. A license issued pursuant to this section shall not be included
41 in the total combined population necessary to issue a new plenary
42 retail consumption or seasonal retail consumption license pursuant
43 to section 2 of P.L.1947, c.94 (C.33:1-12.14).

44

45 3. (New section) a. The holder of an inactive plenary retail
46 consumption license issued by a host municipality may apply to the
47 governing bodies of the host municipality and a contiguous
48 receiving municipality to use the license in connection with a

1 premises located in the contiguous receiving municipality. An
2 inactive plenary retail consumption license used in a contiguous
3 receiving municipality only shall be used as part of an economic
4 redevelopment plan or in connection with a premises located within
5 a redevelopment, improvement, or revitalization area. A license
6 used in the contiguous receiving municipality pursuant to this
7 section shall remain in the receiving municipality permanently and
8 shall not be transferred to any other municipality. The host
9 municipality shall not be entitled to issue a new license pursuant to
10 P.L.1975, c.275 (C.33:1-19.1 et seq.) to replace the license
11 transferred to the receiving municipality pursuant to this section.

12 b. The issuing and receiving municipality shall submit to the
13 director notice of the intent to transfer a license at least 90 days
14 prior to the transfer. The issuing and receiving municipalities shall
15 adopt by majority vote identical resolutions authorizing the transfer
16 of the license. The identical resolutions shall establish the license
17 transfer fee, which shall be paid by the license holder and deposited
18 in the general fund of the host municipality. Prior to adopting the
19 resolution pursuant to this section, the governing body of both
20 municipalities shall give special consideration as to whether
21 sufficient attempts were made by the license holder to use or
22 transfer the license for use in connection with a premises located in
23 the host municipality.

24 c. A license transferred to a receiving municipality pursuant to
25 this section that is not actively used in connection with the
26 operation of a premises within two years of the transfer date shall
27 expire and shall not be reissued by the receiving municipality. The
28 license holder shall not be entitled to appeal the expiration of the
29 license to the director or a court of law unless the license holder has
30 been deprived of the use of the licensed premises as a result of
31 eminent domain, fire, or other casualty, and establishes by affidavit
32 filed with the director that the license holder is making a good faith
33 effort to resume active use of the license in connection with the
34 operation of a licensed premises.

35 d. A receiving municipality shall not be entitled to acquire
36 more than one license pursuant to this section in each calendar year.

37 e. Licenses transferred pursuant to the provisions of this
38 section shall be subject to all the provisions of Title 33 of the
39 Revised Statutes, rules and regulations promulgated by the director,
40 and municipal ordinances.

41 f. A license issued pursuant to this section shall not be
42 included in the total combined population necessary to issue a new
43 plenary retail consumption or seasonal retail consumption license
44 pursuant to section 2 of P.L.1947, c.94 (C.33:1-12.14).

45
46 4. (New section) a. A receiving municipality in which the
47 number of plenary retail consumption licenses has reached the
48 population limitation established in section 2 of P.L.1947, c.94

1 (C.33:1-12.14) may issue a request for proposal to acquire from a
2 license holder an additional inactive plenary retail consumption
3 license that was initially issued by any other host municipality in
4 this State. The inactive license acquired pursuant to this section
5 shall be used in connection with a premises as part of an economic
6 redevelopment plan or a redevelopment, improvement, or
7 revitalization area.

8 b. The request for proposal issued pursuant to subsection a. of
9 this section shall specify a time and date after which no further
10 applications from license holders will be accepted. The request
11 shall be published in a newspaper circulating generally throughout
12 the State by not less than two insertions, one week apart, the second
13 of which shall be made not less than 30 days prior to the time and
14 date specified in the notice as the time and date after which no
15 further applications will be accepted. In addition, the request for
16 proposal shall be published by the governing body on the official
17 Internet website of the receiving municipality. The request for
18 proposal shall require that all bids shall be sealed and remain
19 confidential to other bidders. Notwithstanding the provisions of
20 section 1 of P.L.1981, c. 416 (C.33:1-19.3) the license shall be
21 awarded to the lowest qualified bidder.

22 c. The holder of an inactive plenary retail consumption license
23 shall apply to the governing body of the host municipality for
24 permission to transfer the inactive plenary retail consumption
25 license from the host municipally prior to submitting a bid in
26 response to the request for proposal. The governing body of the host
27 municipality may approve the application only by a resolution adopted
28 by a majority vote. The host municipality shall not require the
29 applicant to disclose the location of the proposed licensed premises.

30 After the receiving municipality accepts a successful bid, the
31 host municipality shall submit to the director notice of the intent to
32 transfer a license at least 90 days prior to the transfer. The host and
33 receiving municipalities shall adopt by majority vote identical
34 resolutions authorizing the transfer of the license. The identical
35 resolutions shall establish the license transfer fee, which shall be
36 paid by the license holder and deposited in the general fund of the
37 host municipality. Prior to adopting the resolution pursuant to this
38 section, the governing body of both municipalities shall give special
39 consideration as to whether sufficient attempts were made by the
40 license holder to use or transfer the license for use in connection
41 with a premises located in the host municipality.

42 d. A receiving municipality that acquires a license pursuant to
43 subsection a. of this section shall be entitled to offer the license at
44 public sale pursuant to P.L.1975, c.275 (C.33:1-19.1 et seq.). A
45 license issued by the receiving municipality to a qualified bidder
46 that is not actively used in connection with the operation of a
47 premises within two years of the issuance date shall expire and shall
48 not be reissued by the receiving municipality. The license holder
49 shall not be entitled to appeal the expiration of the license to the

1 director or a court of law unless the license holder has been
2 deprived of the use of the licensed premises as a result of eminent
3 domain, fire, or other casualty, and establishes by affidavit filed
4 with the director that the license holder is making a good faith
5 effort to resume active use of the license in connection with the
6 operation of a licensed premises.

7 e. A receiving municipality shall not be entitled to acquire
8 more than one license pursuant to this section in each calendar year.

9 f. Licenses transferred pursuant to the provisions of this
10 section shall be subject to all the provisions of Title 33 of the
11 Revised Statutes, rules and regulations promulgated by the director,
12 and municipal ordinances.

13 g. A license issued pursuant to this section shall not be included
14 in the total combined population necessary to issue a new plenary
15 retail consumption or seasonal retail consumption license pursuant
16 to section 2 of P.L.1947, c.94 (C.33:1-12.14).

17

18 5. Section 1 of P.L.1977, c.246 (C.33:1-12.39) is amended to
19 read as follows:

20 1. **[No]** a. Following the effective date of P.L. _____,
21 c. (C. _____) (pending before the Legislature as this bill), a Class
22 C license [,] as [the same is] defined in R.S.33:1-12 [,] shall not
23 be renewed if the [same] license has not been actively used in
24 connection with the operation of a licensed premises within a period
25 of two years [prior to the commencement date of the license period
26 for which the renewal application is filed unless the director, for
27 good cause and after a hearing, authorizes a further application for
28 one or more renewals within a stated period of years; provided,
29 however that, if] . A license that remains inactive at the end of the
30 two-year period shall expire. Prior to the expiration of a plenary
31 retail consumption license pursuant to this subsection, the license
32 holder may transfer the license for use as part of an economic
33 redevelopment plan or in connection with a redevelopment,
34 improvement, or revitalization area pursuant to P.L. _____, c.
35 (C. _____) (pending before the Legislature as this bill).

36 b. A license shall not expire pursuant to subsection a. of this
37 section if the licensee has been deprived of the use of the licensed
38 premises as a result of eminent domain, fire or other casualty, and
39 establishes by affidavit filed with the director that [he] the licensee
40 is making a good faith effort to resume active use of the license in
41 connection with the operation of a licensed premise then the period
42 of two years provided for in this section shall be automatically
43 extended for an additional period of two years.

44 Any request for relief under this section shall be accompanied by
45 a nonreturnable filing fee of **[\$100.00]** \$100 payable to the
46 director.

47 (cf: P.L.1996, c.127, s.1)

1 6. This act shall take effect on the first day of the seventh
2 month following the date of enactment.

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STATEMENT

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7 This bill establishes several procedures by which a plenary retail
8 consumption license, generally issued to bars and restaurants, may
9 be transferred for use as part of an economic redevelopment plan or
10 in connection with premises located in a redevelopment,
11 improvement, or revitalization area located in another municipality.
12 The bill defines “redevelopment, improvement, or revitalization
13 area” as an urban enterprise zone; a downtown business
14 improvement zone; a pedestrian mall or pedestrian mall
15 improvement or special improvement district; a transit oriented
16 development; an area determined to be in need of redevelopment;
17 an area determined to be in need of rehabilitation; or any
18 improvement which is 100 percent new construction, which is an
19 entirely new improvement not previously occupied or used for any
20 purpose.

21 Under current law, a municipality may issue plenary retail
22 consumption licenses until the combined total number in the
23 municipality is fewer than one license for each 3,000 municipal
24 residents. This bill allows a municipality that is entitled to issue an
25 additional plenary retail consumption license to offer the license at
26 public sale to the highest bidding governing body of any other
27 municipality in this State. A license transferred to a receiving
28 municipality pursuant to this section only is to be used in
29 connection with a premises as part of an economic redevelopment
30 plan or located within a redevelopment, improvement, or
31 revitalization area. The bill requires the host municipality to
32 provide notice of the public sale to the director and other
33 municipalities at least 90 days prior to the sale. The notice to the
34 municipalities is to specify the minimum acceptable bid and general
35 conditions of sale including a statement that the transferring
36 municipality reserves the right to reject all bids where the highest
37 bid is not accepted. The funds derived from the sale are to be
38 remitted to the municipal treasurer for the general use of the host
39 municipality. A receiving municipality that acquires the license
40 would be entitled to offer the license at public sale. A license
41 issued by the receiving municipality to a qualified bidder that is not
42 actively used in connection with the operation of a premises within
43 two years of the issuance date is to expire and not be reissued by the
44 receiving municipality. The receiving municipality would be
45 prohibited from acquiring more than one license through this
46 bidding process in each calendar year.

47 In addition, this bill establishes two procedures for transferring
48 an inactive plenary retail consumption license to a different

1 municipality. Under current law, an inactive plenary retail
2 consumption license is a license to sell alcoholic beverages for on
3 premises consumption that is not being used at an open and
4 operating licensed premises. A licensee is required to place the
5 license on “inactive status” when the licensed business ceases
6 operation and the license continues to be held by the licensee of
7 record.

8 Under this bill, a license that remains inactive for two years is to
9 expire. Prior to the expiration of the license, the license holder may
10 apply to the governing body of the host municipality that issued the
11 license and a contiguous neighboring municipality to use the license
12 in connection with a premises located in the contiguous receiving
13 municipality. An inactive plenary retail consumption license used
14 in a contiguous receiving municipality only would be used as part
15 of an economic redevelopment plan or in connection with a
16 premises located within a redevelopment, improvement, or
17 revitalization area. The bill requires the transferred license to
18 remain in the contiguous receiving municipality and prohibits the
19 transfer of license to any other municipality. Under the bill, the
20 issuing and receiving municipalities are to submit to the director
21 notice of the intent to transfer a license at least 90 days prior to the
22 transfer. The bill requires the issuing and receiving municipalities
23 to adopt by majority vote identical resolutions authorizing the
24 transfer of the license. The identical resolutions are to establish the
25 license transfer fee agreed upon by both municipal governing
26 bodies. A receiving municipality that acquires a license would be
27 entitled to offer the license at public sale in accordance with current
28 law. A license issued by a receiving municipality that is not
29 actively used in connection with the operation of a premises within
30 two years of the transfer date would expire and not be reissued by
31 the receiving municipality. The bill prohibits a receiving
32 contiguous municipality from acquiring more than one license
33 through this transfer process in each calendar year.

34 Finally, this bill allows a receiving municipality that has reached
35 the license population limitation established under current law to
36 issue a request for proposal (RFP) to acquire an inactive plenary
37 retail consumption license from any license holder in this State. The
38 bill requires the receiving municipality to issue the license for use
39 in connection with a premises as part of economic redevelopment
40 plan or a redevelopment, improvement, or revitalization area. The
41 RFP would specify a time and date after which no further
42 applications from license holders will be accepted. The
43 municipality is to publish the RFP in a newspaper circulating
44 generally throughout the State by not less than two insertions, one
45 week apart, the second of which is to be made not less than 30 days
46 prior to the time and date specified in the notice as the time and
47 date after which no further applications will be accepted. In
48 addition, the request for proposal is to be published by the

1 governing body on the official Internet website of the receiving
2 municipality. The RFP is to require that all bids to be sealed and
3 remain confidential to other bidders. The holder of an inactive
4 plenary retail consumption license is to apply for permission to
5 transfer the inactive plenary retail consumption license from the
6 host municipality prior to submitting a bid in response to the RFP.
7 The host municipality may approve the application by resolution. The
8 host municipality would be prohibited from requiring the applicant
9 to disclose the location of the proposed licensed premises.

10 After the receiving municipality accepts a successful bid, the
11 host and receiving municipality are to submit to the ABC director
12 notice of the intent to transfer a license at least 90 days prior to the
13 transfer.

14 The bill requires the issuing and receiving municipalities to adopt
15 by majority vote identical resolutions authorizing the transfer of the
16 license. The identical resolutions are to establish the license
17 transfer fee agreed upon by both municipal governing bodies. The
18 bill requires a license that is not actively used within two years of
19 issuance date to expire. A receiving municipality that issued the
20 RFP would be prohibited from acquiring more than one license
21 through this process in each calendar year.

22 The plenary retail consumption licenses transferred to or
23 acquired by a receiving municipality under the bill's provisions
24 would not be included in the population formula used to issue new
25 licenses.