

ASSEMBLY, No. 887

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman GARRETT and Assemblywoman CRECCO

1 AN ACT concerning the gross income tax and property taxes paid on  
2 homesteads, amending N.J.S.54A:1-2 and P.L.1981, c.239,  
3 supplementing chapter 4 of Title 54A of the New Jersey Statutes  
4 and repealing sections 1 through 10 of P.L.1990, c.61 (C.54:4-8.57  
5 et seq.).

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

- 9  
10 1. N.J.S.54A:1-2 is amended to read as follows:  
11 54A:1-2. As used in this act, unless the context clearly indicates  
12 otherwise, the following words and phrases shall have the following  
13 meaning:
- 14 a. "Director" means the Director of the Division of Taxation in the  
15 Department of the Treasury.
  - 16 b. "Fiduciary" means a guardian, trustee, executor, administrator,  
17 receiver, conservator, or any person acting in any fiduciary capacity  
18 for any person.
  - 19 c. "Excludable income" shall be limited to those payments set forth  
20 in chapter 6 hereunder.
  - 21 d. "Gross income" shall include that set forth in chapter 5  
22 hereunder.
  - 23 e. "Dependent" means a spouse or child or any individual related  
24 to the taxpayer and who is a dependent pursuant to the provisions of  
25 the Internal Revenue Code during a taxable year.
  - 26 f. "Disabled" means total and permanent inability to engage in any  
27 substantial gainful activity by reason of any medically determinable  
28 physical or mental impairment, including blindness. For purposes of  
29 this subsection, "blindness" means central visual acuity of 20/200 or  
30 less in the better eye with the use of a correcting lens. An eye which  
31 is accompanied by a limitation in the fields of vision such that the  
32 widest diameter of the visual field subtends an angle no greater than

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 20 degrees shall be considered as having a central visual acuity of  
2 20/200 or less.

3 g. "Medical expenses" means nonreimbursed payments for  
4 physicians, dental and other medical fees, hospital care, nursing care,  
5 medicines and drugs, prosthetic devices, X-rays and other diagnostic  
6 services conducted by or directed by a physician or dentist. In  
7 addition, medical expenses may also include amounts paid for  
8 transportation primarily for and essential to medical care and insurance  
9 (including amounts paid as premiums under part B of Title XVIII of  
10 the Social Security Act, relating to supplementary medical insurance  
11 for the aged) covering medical care.

12 h. Partnership and partner. The term "partnership" includes a  
13 syndicate, group, pool, joint venture, or other unincorporated  
14 organization, through or by means of which any business, financial  
15 operation, or venture is carried on, and which is not, within the  
16 meaning of this act, a trust or estate or a corporation; and the term  
17 "partner" includes a member in such a syndicate, group, pool, joint  
18 venture, or organization.

19 i. Blank.

20 j. Blank.

21 k. "Taxable year" means the calendar or fiscal accounting period  
22 for which a tax is payable under this act.

23 l. "Taxpayer" means any individual, estate or trust required to  
24 report or to pay taxes, interest and penalties under this act, or whose  
25 income in whole or in part is subject to the tax imposed by this act.

26 m. "Resident taxpayer" means an individual:

27 (1) Who is domiciled in this State, unless he maintains no  
28 permanent place of abode in this State, maintains a permanent place of  
29 abode elsewhere, and spends in the aggregate no more than 30 days of  
30 the taxable year in this State; or

31 (2) Who is not domiciled in this State but maintains a permanent  
32 place of abode in this State and spends in the aggregate more than 183  
33 days of the taxable year in this State, unless such individual is in the  
34 Armed Forces of the United States.

35 n. "Nonresident taxpayer" means a taxpayer who is not a resident.

36 o. Resident estate or trust. A resident estate or trust means:

37 (1) The estate of a decedent who at his death was domiciled in this  
38 State,

39 (2) A trust, or a portion of a trust, consisting of property  
40 transferred by will of a decedent who at his death was domiciled in this  
41 State, or

42 (3) A trust, or portion of a trust, consisting of the property of:

43 (a) A person domiciled in this State at the time such property was  
44 transferred to the trust, if such trust or portion of a trust was then  
45 irrevocable, or if it was then revocable and has not subsequently  
46 become irrevocable; or

1 (b) A person domiciled in this State at the time such trust, or  
2 portion of a trust, became irrevocable, if it was revocable when such  
3 property was transferred to the trust but has subsequently become  
4 irrevocable.

5 For the purposes of the foregoing, a trust or portion of a trust is  
6 revocable if it is subject to a power, exercisable immediately or at any  
7 future time, to revest title in the person whose property constitutes  
8 such trust or portion of a trust, and a trust or portion of a trust  
9 becomes irrevocable when the possibility that such power may be  
10 exercised has been terminated.

11 p. Nonresident estate or trust. A nonresident estate or trust means  
12 an estate or trust which is not a resident.

13 q. Unless the context in which it occurs requires otherwise, the  
14 term "act" or "this act" shall mean the New Jersey Gross Income Tax  
15 Act, Title 54A of the New Jersey Statutes.

16 r. "Condominium" means the form of real property ownership  
17 provided for under the "Condominium Act," P.L.1969, c.257  
18 (C.46:8B-1 et seq.).

19 s. "Continuing care retirement community" means a residential  
20 facility primarily for retired persons where lodging and nursing,  
21 medical or other health related services at the same or another location  
22 are provided as continuing care to an individual pursuant to an  
23 agreement effective for the life of the individual or for a period greater  
24 than one year, including mutually terminable contracts, and in  
25 consideration of the payment of an entrance fee with or without other  
26 periodic charges.

27 t. "Cooperative" means a housing corporation or association which  
28 entitles the holder of a share or membership interest thereof to possess  
29 and occupy for dwelling purposes a house, apartment, manufactured  
30 or mobile home or other unit of housing owned or leased by the  
31 corporation or association, or to lease or purchase a unit of housing  
32 constructed or to be constructed by the corporation or association.

33 u. "Dwelling house" means any residential property assessed as real  
34 property which consists of not more than four units, of which not more  
35 than one may be used for commercial purposes, but shall not include  
36 a unit in a condominium, cooperative, horizontal property regime or  
37 mutual housing corporation.

38 v. "Homestead" means:

39 (1) (a) a dwelling house and the land on which that dwelling house  
40 is located which constitutes the place of the claimant's domicile and is  
41 owned and used by the claimant as the claimant's principal residence;

42 (b) a dwelling house situated on land owned by a person other than  
43 the claimant which constitutes the place of the claimant's domicile and  
44 is owned and used by the claimant as the claimant's principal residence;

45 (c) a condominium unit or a unit in a horizontal property regime  
46 which constitutes the place of the claimant's domicile and is owned and

- 1 used by the claimant as the claimant's principal residence;  
2 (d) for purposes of this definition as provided in this subsection, in  
3 addition to the generally accepted meaning of owned or ownership, a  
4 homestead shall be deemed to be owned by a person if that person is  
5 a tenant for life or a tenant under a lease for 99 years or more and is  
6 entitled to and actually takes possession of the homestead under an  
7 executory contract for the sale thereof or under an agreement with a  
8 lending institution which holds title as security for a loan, or is a  
9 resident of a continuing care retirement community pursuant to a  
10 contract for continuing care for the life of that person which requires  
11 the resident to bear, separately from any other charges, the  
12 proportionate share of property taxes attributable to the unit that the  
13 resident occupies;
- 14 (2) a unit in a cooperative or mutual housing corporation which  
15 constitutes the place of domicile of a residential shareholder or lessee  
16 therein, or of a lessee, or shareholder who is not a residential  
17 shareholder therein, and which is used by the claimant as the claimant's  
18 principal residence; and
- 19 (3) a unit of residential rental property which unit constitutes the  
20 place of the claimant's domicile and is used by the claimant as the  
21 claimant's principal residence.
- 22 w. "Horizontal property regime" means the form of real property  
23 ownership provided for under the "Horizontal Property Act,"  
24 P.L.1963, c.168 (C.46:8A-1 et seq.).
- 25 x. "Reportable gross income" means all New Jersey gross income  
26 required to be reported pursuant to the "New Jersey Gross Income  
27 Tax Act," N.J.S.54A:1-1 et seq., other than income excludable from  
28 the gross income tax return, but before reduction thereof by any  
29 applicable exemptions, deductions and credits, received during the  
30 taxable year by the owner or residential shareholder in, or lessee of, a  
31 homestead.
- 32 y. "Mutual housing corporation" means a corporation  
33 not-for-profit, incorporated under the laws of this State on a mutual  
34 or cooperative basis within the scope of section 607 of the Lanham  
35 Act (National Defense Housing), Pub.L.849, 76th Congress (42  
36 U.S.C. §1521 et seq.), as amended, which acquired a National Defense  
37 Housing Project pursuant to that act.
- 38 z. "Principal residence" means a homestead actually and continually  
39 occupied by a claimant as the claimant's permanent residence, as  
40 distinguished from a vacation home, property owned and rented or  
41 offered for rent by the claimant, and other secondary real property  
42 holdings.
- 43 aa. "Rent constituting property taxes" means 18% of the rent paid  
44 by the claimant during the tax year on a unit of residential rental  
45 property which constitutes the claimant's homestead.
- 46 bb. "Residential rental property" means:

1       (1) any building or structure or complex of buildings or structures  
2 in which dwelling units are rented or leased or offered for rental or  
3 lease for residential purposes;

4       (2) a rooming house, hotel or motel, if the rooms constituting the  
5 homestead are equipped with kitchen and bathroom facilities; and

6       (3) any building or structure or complex of buildings or structures  
7 constructed under the following sections of the National Housing Act  
8 (Pub.L.73-479) as amended and supplemented: section 202, Housing  
9 Act of 1959 (Pub.L.86-372) and as subsequently amended, section  
10 231, Housing Act of 1959.

11       cc. "Residential shareholder in a cooperative or mutual housing  
12 corporation" means a tenant or holder of a membership interest in that  
13 cooperative or corporation, whose residential unit therein constitutes  
14 the tenant or holder's domicile and principal residence, and who may  
15 deduct real property taxes for purposes of federal income tax pursuant  
16 to section 216 of the federal Internal Revenue Code of 1986, 26  
17 U.S.C. §216.

18 (cf: N.J.S.54A:1-2)

19

20       2. (New section) Sections 2 through 10 of this act shall be known  
21 as and may be cited as the "Homestead Property Tax Credit Act."

22

23       3. (New section) a. Except for a resident taxpayer who is allowed  
24 a credit pursuant to subsection b. of this section which exceeds the  
25 minimum credit provided for in this subsection, or who is allowed a  
26 credit pursuant to section 4 or 5 of this act, a resident taxpayer shall  
27 be allowed:

28       (1) a minimum credit against the tax otherwise due under the  
29 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., of \$150  
30 for property taxes paid on one homestead during the taxable year if the  
31 claimant's reportable gross income does not exceed \$70,000 for that  
32 year; or

33       (2) a minimum credit against the tax otherwise due under the "New  
34 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., of \$100 for  
35 property taxes paid on one homestead during the taxable year if the  
36 claimant's reportable gross income exceeds \$70,000 but does not  
37 exceed \$100,000 for that year.

38       If a claimant who is eligible for the minimum credit pursuant to this  
39 subsection paid property taxes on homesteads maintained as such in  
40 this State for less than the full taxable year, the minimum credit shall  
41 be prorated in the proportion which the number of days that the  
42 homesteads were maintained during the taxable year bears to 365 days.  
43 A claim for the minimum credit pursuant to this subsection shall be  
44 subject to any further proportionate reduction as may be required  
45 pursuant to subsections d. and e. of this section. A minimum credit  
46 subject to any proportionate reduction shall be rounded to the nearest

1 whole dollar. A claim for a minimum credit based upon a homestead  
2 maintained by both spouses shall be determined based upon the  
3 combined reportable gross income of both spouses regardless of  
4 whether the claimants filed a joint New Jersey gross income tax return  
5 or separate New Jersey gross income tax returns for the taxable year.

6 b. Except for a resident of this State who is allowed a credit  
7 pursuant to subsection a. of this section, or who is allowed a credit  
8 pursuant to section 4 or 5 of this act, a resident taxpayer shall be  
9 allowed a credit against the tax otherwise due under the "New Jersey  
10 Gross Income Tax Act," N.J.S.54A:1-1 et seq., for the taxable year  
11 equal to the amount by which property taxes paid by the claimant in  
12 that taxable year on the claimant's homestead exceed 5% of the  
13 claimant's reportable gross income, up to a maximum credit of \$500  
14 (rounded to the nearest whole dollar), provided that:

15 (1) in the case of a married couple filing a joint New Jersey gross  
16 income tax return or an individual filing a return who determines gross  
17 income tax pursuant to subsection a. of N.J.S.54A:2-1, reportable  
18 gross income does not exceed \$70,000 for that year;

19 (2) in the case of an unmarried individual who determines gross  
20 income tax pursuant to subsection b. of N.J.S.54A:2-1, reportable  
21 gross income does not exceed \$35,000 for that year;

22 (3) in the case of a married individual filing a separate New Jersey  
23 gross income tax return, if the spouse of the claimant maintains the  
24 same homestead as the claimant and also files a separate gross income  
25 tax return in this State, the combined reportable gross income of both  
26 spouses does not exceed \$70,000, but in no event shall the credit  
27 claimed under this subsection exceed one-half of the amount of the  
28 credit allowable had the spouses filed a joint return and credit  
29 application; and

30 (4) in the case of a married individual filing a separate gross  
31 income tax return and maintaining a homestead apart from that  
32 individual's spouse, reportable gross income does not exceed \$35,000.

33 c. A credit shall be allowed pursuant to subsection b. of this  
34 section in relation to the amount of the property taxes actually paid by  
35 or allocable to a resident property taxpayer who is a claimant on more  
36 than one homestead, but the aggregate amount of the property taxes  
37 claimed shall not exceed the total of the proportionate amounts of  
38 property taxes assessed and levied against or allocable to each  
39 homestead for the portion of the taxable year the claimant occupied it  
40 as the claimant's principal residence.

41 d. If title to a homestead is held by more than one individual as  
42 joint tenants or tenants in common, each individual shall be allowed a  
43 credit pursuant to this section only in relation to the individual's  
44 proportionate share of the property taxes assessed and levied against  
45 the homestead. The individual's proportionate share of the property  
46 taxes on that homestead shall be equal to the share of that individual's

1 interest in the title. Title may be presumed to be held in equal shares  
2 among all co-owners, but if the conveyance under which the title is  
3 held provides for unequal interests therein, a claimant's share of the  
4 property taxes paid on that homestead shall be in proportion to the  
5 claimant's interest in the title.

6 e. If the homestead of a claimant is a residential property consisting  
7 of more than one unit, that claimant shall be allowed a credit pursuant  
8 to this section only in relation to the proportionate share of the  
9 property taxes assessed and levied against the residential unit occupied  
10 by that claimant, as determined by the local tax assessor.

11 f. Nothing in this section shall preclude a co-owner, other than a  
12 husband or wife claiming a credit for the same homestead, from  
13 claiming a minimum credit pursuant to subsection a. of this section if  
14 another co-owner claims a credit pursuant to subsection b. of this  
15 section, provided however, that each such claim shall be separately  
16 subject to the provisions of subsections d. and e. of this section.

17

18 4. (New section) a. Except for a resident taxpayer who is allowed  
19 a credit pursuant to subsection b. of this section which exceeds the  
20 minimum credit provided for in this subsection, or who is allowed a  
21 credit pursuant to section 3 or 5 of this act, a resident taxpayer whose  
22 homestead is a unit of residential rental property shall be allowed:

23 (1) a minimum credit against the tax otherwise due under the "New  
24 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., of \$65 for  
25 property taxes paid through rent on the homestead during the taxable  
26 year if the claimant's reportable gross income does not exceed \$70,000  
27 for that year; or

28 (2) a minimum credit against the tax otherwise due under the "New  
29 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., of \$35 for  
30 property taxes paid through rent on the homestead during the taxable  
31 year if the claimant's reportable gross income exceeds \$70,000 but  
32 does not exceed \$100,000 for that year.

33 If a claimant who is eligible for the minimum credit pursuant to this  
34 subsection paid rent for less than the full taxable year on one or more  
35 homesteads in this State maintained as such for less than the full  
36 taxable year, the minimum credit shall be prorated in the proportion  
37 which the number of days that the homestead was maintained during  
38 the tax year bears to 365 days. A claim for a minimum credit pursuant  
39 to this subsection shall be subject to such further proportionate  
40 reduction as may be required pursuant to subsections c. and d. of this  
41 section. A minimum credit subject to any proportionate reduction  
42 shall be rounded to the nearest whole dollar. A claim for a minimum  
43 credit based upon a homestead maintained by both spouses shall be  
44 determined based upon the combined reportable gross income of both  
45 spouses regardless of whether the claimants filed a joint New Jersey  
46 gross income taxable return or separate New Jersey gross income tax

1 returns for the taxable year.

2 b. Except for a resident taxpayer who is allowed a credit pursuant  
3 to subsection a. of this section, or who is allowed a credit pursuant to  
4 section 3 or 5 of this act, a resident taxpayer whose homestead is a  
5 unit of residential rental property shall be allowed a credit against the  
6 tax otherwise due under the "New Jersey Gross Income Tax Act,"  
7 N.J.S.54A:1-1 et seq., for the taxable year equal to the amount by  
8 which the claimant's rent constituting property taxes in that taxable  
9 year exceeds 5% of the claimant's reportable gross income, up to a  
10 maximum credit of \$500 (rounded to the nearest whole dollar),  
11 provided that:

12 (1) in the case of a married couple filing a joint New Jersey gross  
13 income tax return or an individual filing a return who determines gross  
14 income tax pursuant to subsection a. of N.J.S.54A:2-1, reportable  
15 gross income does not exceed \$70,000 for that year;

16 (2) in the case of an unmarried individual who determines gross  
17 income tax pursuant to subsection b. of N.J.S.54A:2-1, reportable  
18 gross income does not exceed \$35,000 for that year;

19 (3) in the case of a married individual filing a separate New Jersey  
20 gross income tax return, if the spouse of the claimant maintains the  
21 same homestead as the claimant and also files a separate gross income  
22 tax return in this State, the combined reportable gross income of both  
23 spouses does not exceed \$70,000, but in no event shall the credit  
24 claimed under this subsection exceed one-half of the amount of the  
25 credit allowable had the spouses filed a joint return and credit  
26 application; and

27 (4) in the case of a married individual filing a separate gross  
28 income tax return and maintaining a homestead apart from that  
29 individual's spouse, reportable gross income does not exceed \$35,000.

30 c. If more than one resident, other than a husband and wife, qualify  
31 for a credit by reason of their having occupied the same unit of  
32 residential rental property as their homestead, it shall be presumed that  
33 each claimant shall be allowed a credit pursuant to either subsection  
34 a. or subsection b. of this section only in relation to the individual's  
35 proportionate share of the total rent constituting property taxes paid  
36 by that claimant which credit shall be in proportion to the percentage  
37 that the total rent paid by that claimant bears to the total rent paid by  
38 all tenants of the same unit. For the purposes of a credit claimed by  
39 an individual subject to this subsection, the names and social security  
40 numbers of each co-tenant shall be reported by the claimant and the  
41 total rent paid shall be presumed to be paid in equal parts among all  
42 co-tenants.

43 d. If a claimant for a credit either pursuant to subsection a. or  
44 subsection b. of this section has no other homestead in this State other  
45 than a unit of residential rental property, and that claimant was not a  
46 resident of this State for the full taxable year, but paid rent for the full

1 taxable year for one or more units of residential rental property in this  
2 State, the claimant's total credit otherwise calculated pursuant to  
3 subsection a. or subsection b. of this section shall be prorated in the  
4 proportion which the number of days the claimant occupied residential  
5 rental property in this State as a homestead during the taxable year  
6 bears to 365 days.

7 e. Nothing in this section shall preclude a co-tenant, other than a  
8 husband or wife claiming a credit on the same homestead, from  
9 claiming a minimum credit pursuant to subsection a. of this section if  
10 another co-tenant claims a credit pursuant to subsection b. of this  
11 section, provided however, that each such claim shall be separately  
12 subject to the provisions of subsections c. and d. of this section.

13

14 5. (New section) a. Except for a resident taxpayer who is allowed  
15 a credit pursuant to subsection b. of this section which exceeds the  
16 minimum credit provided for in this subsection, or who is allowed a  
17 credit pursuant to section 3 or 4 of this act, a resident taxpayer for the  
18 full taxable year for which a credit is claimed, who has paid property  
19 taxes on a homestead other than a unit of residential rental property  
20 for a part of the taxable year and has paid property taxes through rent  
21 on a unit of residential rental property for the remainder of that year,  
22 shall be allowed a minimum credit against the tax otherwise due under  
23 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., for  
24 that taxable year equal to:

25 (1) the sum of that portion of \$150 which the number of days that  
26 the claimant's homestead was other than a unit of residential rental  
27 property bears to 365 days and that portion of \$65 which the number  
28 of days that the claimant's homestead was a unit of residential rental  
29 property bears to 365 days, if the claimant's reportable gross income  
30 does not exceed \$70,000 for that year; or

31 (2) the sum of that portion of \$100 which the number of days that  
32 the claimant's homestead was other than a unit of residential rental  
33 property bears to 365 days and that portion of \$35 which the number  
34 of days that the claimant's homestead was a unit of residential rental  
35 property bears to 365 days, if the claimant's reportable gross income  
36 exceeds \$70,000 but does not exceed \$100,000 for that year.

37 A claim for a minimum credit pursuant to this subsection shall first  
38 be subject to such further proportionate reductions to the respective  
39 portions of the sums determined pursuant to paragraph (1) or (2)  
40 hereinabove as may be required pursuant to subsections d. and e. of  
41 section 3 and subsections c. and d. of section 4 of this act. A  
42 minimum credit determined pursuant to this subsection shall be  
43 rounded to the nearest whole dollar. A claim for a minimum credit  
44 based upon a homestead maintained by both spouses shall be  
45 determined based upon the combined reportable gross income of both  
46 spouses regardless of whether the claimants filed a joint New Jersey

1 gross income tax return or separate New Jersey gross income tax  
2 returns for the taxable year.

3 b. Except for a resident taxpayer who is allowed a credit pursuant  
4 to subsection a. of this section, or who is allowed a credit pursuant to  
5 section 3 or 4 of this act, a resident taxpayer for the full tax year for  
6 which a credit is claimed, whose homestead has been other than a unit  
7 of residential rental property for a part of the taxable year and has  
8 been a unit of residential rental property for the remainder of that year,  
9 shall be allowed a credit against the tax otherwise due under the "New  
10 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., for that taxable  
11 year equal to the amount by which the sum of the actual property taxes  
12 paid by the claimant and the rent constituting property taxes paid by  
13 the claimant in that taxable year exceeds 5% of the claimant's  
14 reportable gross income, up to a maximum credit of \$500 (rounded to  
15 the nearest whole dollar), provided that:

16 (1) in the case of a married couple filing a joint New Jersey gross  
17 income tax return or an individual filing a return who determines gross  
18 income tax pursuant to subsection a. of N.J.S.54A:2-1, reportable  
19 gross income does not exceed \$70,000 for that year;

20 (2) in the case of an unmarried individual who determines gross  
21 income tax pursuant to subsection b. of N.J.S.54A:2-1, reportable  
22 gross income does not exceed \$35,000 for that year;

23 (3) in the case of a married individual filing a separate New Jersey  
24 gross income tax return, if the spouse of the claimant maintains the  
25 same homestead as the claimant and also files a separate gross income  
26 tax return in this State, the combined reportable gross income of both  
27 spouses does not exceed \$70,000, but in no event shall the credit  
28 claimed under this subsection exceed one-half of the amount of the  
29 credit allowable had the spouses filed a joint return and credit  
30 application; and

31 (4) in the case of a married individual filing a separate gross  
32 income tax return and maintaining a homestead apart from that  
33 individual's spouse, reportable gross income does not exceed \$35,000.

34  
35 6. (New section) a. No credit shall be allowed pursuant to this act  
36 except upon annual written application therefor, in a manner and on a  
37 form prescribed by the director. The director may require a claimant  
38 to attach to the credit application a copy of the appropriate property  
39 tax bill or proof of rent paid for the taxable year. The director may  
40 require such other verification of eligibility for a credit as the director  
41 may deem necessary. The application form shall be submitted (1) as  
42 part of the claimant's gross income tax return filed pursuant to the  
43 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or , (2)  
44 on any other form and at any time as the director shall prescribe if (a)  
45 the claimant is not required to file a gross income tax return or (b) the  
46 claimant has filed an application for extension of time to file the

1 claimant's gross income tax return. The director shall, for good cause  
2 shown, extend the time of any applicant to file a claim for a credit for  
3 a reasonable period, and in such case, the application shall be  
4 processed and crediting or payment made in accordance with the  
5 procedures established in the case of applications timely filed. The  
6 director may require sworn applications. In the event that the director  
7 waives the requirement of sworn applications, all declarations by  
8 claimants shall be considered as if made under oath and claimants, as  
9 to false declarations, shall be subject to the penalties as provided by  
10 law for perjury.

11 b. The director may inspect the records in the office of the tax  
12 collector of a municipality with respect to claims for credits.

13 c. If a credit application contains a claim for a credit that is  
14 incorrectly determined by the claimant or is based upon incorrect or  
15 insufficient information from which the director is to approve the  
16 claim, the director may determine the eligibility of the claimant for a  
17 credit and the correct amount of a credit to be paid to that claimant  
18 from such other information as may be available to the director. In  
19 addition, the director may adjust the amount of any credit to which a  
20 claimant may be entitled by any part of the amount of any previous  
21 credit erroneously claimed by and paid to that claimant.

22 d. In the case of a claimant whose homestead is a unit in a  
23 cooperative, mutual housing corporation or continuing care retirement  
24 community, the application shall include the name and address of the  
25 location of the property and the amount of real property taxes  
26 attributed to the cooperative, mutual housing residential unit or  
27 continuing care retirement community residential unit, as shall be  
28 indicated in an official notice which shall be furnished by the  
29 cooperative, mutual housing corporation or continuing care retirement  
30 community for the same year.

31 e. A credit shall be allowed pursuant to this act for a claimant  
32 whose ownership of an interest in a homestead is satisfied by the  
33 holding of the beneficial interest if legal title thereto or share therein  
34 is held by another for the benefit of the claimant.

35

36 7. (New section) The tax collector of each municipality shall, on or  
37 before March 1 of each year, furnish the director with a list of  
38 property taxpayers in the district delinquent for taxes due and payable  
39 during the year immediately preceding and the amounts of such  
40 delinquencies. The collector shall report on such list the name, lot and  
41 block number on the property tax duplicate as may be applicable, and  
42 the address of each owner to whom a delinquency is attributable  
43 together with the amount of such delinquency so identified. No credit  
44 under this act shall be allowed a property owner listed as delinquent  
45 pursuant to this section, provided however that for the purposes of  
46 this act, property which is on appeal and for which the statutory

1 percentage of the tax as provided in R.S.54:3-27 has been paid shall  
2 not be regarded as delinquent.

3

4 8. (New section) The payment of any excess property tax credit  
5 authorized under this act shall not be subject to garnishment,  
6 attachment, execution or other legal process, except as provided in  
7 section 1 of P.L.1981, c.239 (C.54A:9-8.1), or except for an income  
8 withholding order issued pursuant to P.L.1981, c.417 (C.2A:17-56.7  
9 et seq.), nor shall the payment thereof be anticipated.

10

11 9. (New section) a. Any citizen and resident of this State who has  
12 paid property taxes on a homestead or whose homestead is a  
13 residential rental property but who is not required to file a return  
14 under the "New Jersey Gross Income Tax Act," N.J.S.54:1-1 et seq.,  
15 shall be entitled to apply for a refundable homestead property tax  
16 credit pursuant to section 3, 4, or 5 as may be applicable.

17 b. The credit allowed pursuant to this section shall be applied as a  
18 payment of tax otherwise due under the "New Jersey Gross Income  
19 Tax Act," N.J.S.54A:1-1 et seq., and the amount of any such credit  
20 not applied as a payment of tax otherwise due shall be considered as  
21 overpayment of tax subject to refund, further credit or setoff pursuant  
22 to N.J.S.54A:9-7 and N.J.S.54A:9-8 and P.L.1981, c.239  
23 (C.54A:9-8.1 et seq.).

24

25 10. (New section) If a credit allowed pursuant to section 3, 4 or 5  
26 of this act reduces tax liability to below zero, then the amount by  
27 which the credit reduces the tax liability below zero shall be  
28 considered an overpayment of tax and shall be refunded. Such refund  
29 shall be paid in the same manner as other refunds under the "New  
30 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

31

32 11. Section 1 of P.L.1981, c.239 (C.54A:9-8.1) is amended to read  
33 as follows:

34 1. Whenever any taxpayer or homeowner shall be entitled to any  
35 refund of taxes pursuant to the "New Jersey Gross Income Tax"  
36 (N.J.S.54A:1-1 et seq.) or a refund of an overpayment of taxes  
37 attributable to a homestead property tax [rebate] credit pursuant to  
38 [P.L.1990, c.61 (C.54:4-8.57 et al.)]P.L. , c. ,(C. )

39 (now pending before the Legislature as this bill), and at the same time  
40 the taxpayer or homeowner shall be indebted to any agency or  
41 institution of State Government or for child support under Title IV-A,  
42 Title IV-D, or Title IV-E of the federal Social Security Act (42 U.S.C.  
43 §601 et seq.), the Department of the Treasury shall apply or cause to  
44 be applied the refund [or rebate, or both,]or so much [of either or  
45 both] thereof as shall be necessary, to satisfy the indebtedness. Child  
46 support indebtedness shall take precedence over all other

1 indebtedness. The Department of the Treasury shall retain a  
2 percentage of the proceeds of any collection setoff as shall be  
3 necessary to provide for any expenses of the collection effort.

4 (cf: P.L.1990, c.61,s.11)

5

6 12. Section 2 of P.L.1981, c.239 (C.54A:9-8.2) is amended to read  
7 as follows:

8 2. The Department of the Treasury shall promulgate regulations  
9 concerning the procedures and methods to be employed by all agencies  
10 and institutions in the executive branch in the collection or the setting  
11 off of delinquent accounts. The regulations shall be consistent with all  
12 federal requirements or limitations regarding any information utilized  
13 in any collection or setoff, and shall in addition provide for due notice  
14 to the debtor and opportunity for a hearing upon request prior to any  
15 setoff; safeguards against the disclosure or inappropriate use of any  
16 personally identifiable information regarding the debtor obtained or  
17 maintained pursuant to this act; and the appropriate apportionment of  
18 any setoff in the case of a debtor's joint filing of a joint income tax  
19 return or homestead [rebate] property tax credit application.

20 (cf: P.L.1981, c.239, s.2)

21

22 13. Sections 1 through 10 of P.L.1990, c.61 (C.54:4-8.57 through  
23 54:4-8.66) are repealed.

24

25 14. This act shall take effect immediately and apply to taxpayer  
26 taxable years commencing on and after enactment.

27

28

## 29 STATEMENT

30

31 This bill repeals the provisions of the "Homestead Property Tax  
32 Rebate Act of 1990" and converts that separately paid rebate system  
33 into a gross income tax credit for property taxes paid and rent  
34 attributable to property taxes paid. The credit is to be claimed against  
35 a taxpayer's gross income tax liability and may be refunded as part of  
36 any other gross income tax refund. Those residents that are not  
37 required to file a gross income tax return will be able to obtain an  
38 identical refundable homestead property tax credit.

39

40

41

42

43 "Homestead Property Tax Credit Act;" requires homestead property  
44 tax rebate be provided as a refundable gross income tax credit.