

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 895 and 1054

STATE OF NEW JERSEY

ADOPTED JUNE 24, 1996

Sponsored by Assemblywoman WRIGHT and Assemblymen
CONNORS, DORIA, GEIST and DALTON

1 AN ACT providing a gross income tax deduction for residential
2 property taxes paid by homeowners and tenants, providing a
3 refundable tax credit for property tax payers, and supplementing
4 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. This act shall be known and may be cited as the "Property Tax
10 Deduction Act."

11

12 2. As used in this act:

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

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

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

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

34 "Homestead" means:

35 a. a dwelling house and the land on which that dwelling house is

1 located which constitutes the place of the taxpayer's domicile and is
2 owned and used by the taxpayer as the taxpayer's principal residence;

3 b. a dwelling house situated on land owned by a person other than
4 the taxpayer which constitutes the place of the taxpayer's domicile and
5 is owned and used by the taxpayer as the taxpayer's principal
6 residence;

7 c. a condominium unit or a unit in a horizontal property regime or
8 a continuing care retirement community which constitutes the place of
9 the taxpayer's domicile and is owned and used by the taxpayer as the
10 taxpayer's principal residence.

11 In addition to the generally accepted meaning of owned or
12 ownership, a homestead shall be deemed to be owned by a person if
13 that person is a tenant for life or a tenant under a lease for 99 years or
14 more, is entitled to and actually takes possession of the homestead
15 under an executory contract for the sale thereof or under an agreement
16 with a lending institution which holds title as security for a loan, or is
17 a resident of a continuing care retirement community pursuant to a
18 contract for continuing care for the life of that person which requires
19 the resident to bear, separately from any other charges, the
20 proportionate share of property taxes attributable to the unit that the
21 resident occupies;

22 d. a unit in a cooperative or mutual housing corporation which
23 constitutes the place of domicile of a residential shareholder or lessee
24 therein, or of a lessee or shareholder who is not a residential
25 shareholder therein, which is used by the taxpayer as the taxpayer's
26 principal residence; and

27 e. a unit of residential rental property, which unit constitutes the
28 place of the taxpayer's domicile and is used by the taxpayer as the
29 taxpayer's principal residence.

30 "Horizontal property regime" means the form of real property
31 ownership provided for under the "Horizontal Property Act,"
32 P.L.1963, c.168 (C.46:8A-1 et seq.).

33 "Mutual housing corporation" means a corporation not-for-profit,
34 incorporated under the laws of this State on a mutual or cooperative
35 basis within the scope of section 607 of the Lanham Act (National
36 Defense Housing), Pub.L.849, 76th Congress (42 U.S.C.§1521 et
37 seq.), as amended, which acquired a National Defense Housing Project
38 pursuant to that act.

39 "Principal residence" means a homestead actually and continually
40 occupied by a taxpayer as the taxpayer's permanent residence, as
41 distinguished from a vacation home, property owned and rented or
42 offered for rent by the taxpayer, and other secondary real property
43 holdings.

44 "Property taxes" means payments to municipalities for which an
45 assessment by a municipality has been made on an ad valorem basis on
46 both land and improvements, and shall not include payments made in

1 lieu of taxes.

2 "Rent constituting property taxes" means 18% of the rent paid by
3 the taxpayer for occupancy during the taxable year of a unit of
4 residential rental property which the taxpayer occupies as a principal
5 residence; notwithstanding the definition of "property taxes" herein,
6 rent constituting property taxes includes the rent paid for the
7 occupancy of a manufactured home installed in a mobile home park.

8 "Residential rental property" means:

9 a. any building or structure or complex of buildings or structures
10 in which dwelling units are rented or leased or offered for rental or
11 lease for residential purposes;

12 b. a rooming house, hotel or motel, if the rooms constituting the
13 homestead are equipped with kitchen and bathroom facilities; and

14 c. any building or structure or complex of buildings or structures
15 constructed under the following sections of the National Housing Act
16 (Pub.L.73-479) as amended and supplemented: section 202, Housing
17 Act of 1959 (Pub.L.86-372) and as subsequently amended, section
18 231, Housing Act of 1959.

19 "Residential shareholder in a cooperative or mutual housing
20 corporation" means a tenant or holder of a membership interest in that
21 cooperative or corporation, whose residential unit therein constitutes
22 the tenant's or holder's domicile and principal residence, and who may
23 deduct real property taxes for purposes of federal income tax
24 pursuant to section 216 of the federal Internal Revenue Code of 1986,
25 26 U.S.C. §216.

26

27 3. a. A resident taxpayer under the "New Jersey Gross Income Tax
28 Act," N.J.S.54A:1-1 et seq., shall be allowed a deduction from gross
29 income for property taxes not in excess of \$10,000, subject to the
30 limitations of subsection f. of this section, due and paid for the
31 calendar year in which the taxes are due and payable on the taxpayer's
32 homestead.

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

41 c. 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 deduction 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 proportionate share shall be equal to that of all
46 other individuals who hold the title, but if the conveyance under which

1 the title is held provides for unequal interests therein, a taxpayer's
2 share of the property taxes shall be in proportion to the taxpayer's
3 interest in the title.

4 d. If title to a homestead is held by a husband and wife who own
5 the homestead as tenants by the entirety, or if that husband and wife
6 are both residential shareholders of a cooperative or mutual housing
7 corporation and occupy the same homestead therein, and who elect to
8 file separate income tax returns pursuant to the "New Jersey Gross
9 Income Tax Act," N.J.S.54A:1-1 et seq., that husband and wife shall
10 each be entitled to one-half of the deduction for property taxes for
11 which they may be jointly eligible pursuant to this section.

12 e. If the homestead is a dwelling house consisting of more than one
13 unit, that taxpayer shall be allowed a deduction for property taxes only
14 in relation to the proportionate share of the property taxes assessed
15 and levied against the residential unit occupied by the taxpayer, as
16 determined by the local tax assessor.

17 f. Notwithstanding the provisions of subsection a. of this section
18 to the contrary: (1) a resident taxpayer shall be allowed a deduction
19 for a taxpayer's taxable year beginning during 1996 based on 50% of
20 the property taxes not in excess of \$5,000 paid on the taxpayer's
21 homestead; and (2) a resident taxpayer shall be allowed a deduction
22 for a taxpayer's taxable year beginning during 1997 based on 75% of
23 the property taxes not in excess of \$7,500 paid on the taxpayer's
24 homestead.

25

26 4. a. A resident taxpayer whose homestead is a unit of residential
27 rental property shall be allowed a deduction from gross income for
28 that portion of the rent constituting property taxes not in excess of
29 \$10,000, subject to the limitations of subsection d. of this section, due
30 and paid for the calendar year in which the rent constituting taxes is
31 due and payable, for occupancy of that homestead.

32 b. A husband and wife who elect to file separate income tax returns
33 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
34 et seq., shall each be entitled to one-half of the property tax deduction
35 allowed pursuant to this section.

36 c. If more than one taxpayer, other than husband and wife, qualify
37 to deduct rent constituting property taxes by reason of their having
38 occupied the same rented homestead, it shall be presumed that the
39 deduction shall be equally divided. A taxpayer may, however, deduct
40 an amount for rent constituting property taxes in the same proportion
41 that the rent paid by that taxpayer bears to the total rent paid by all
42 tenants of the same unit.

43 d. Notwithstanding the provisions of subsection a. of this section
44 to the contrary: (1) a resident taxpayer whose homestead is a unit of
45 residential rental property shall be allowed a deduction for the
46 taxpayer's taxable year beginning during 1996 based on 50% of the

1 rent constituting property taxes not in excess of \$5,000 paid for the
2 occupancy of that homestead; and (2) a resident taxpayer whose
3 homestead is a unit of residential rental property shall be allowed a
4 deduction for the taxpayer's taxable year beginning during 1997 based
5 on 75% of the rent constituting property taxes not in excess of \$7,500
6 paid for the occupancy of that homestead.

7
8 5. a. If a taxpayer who is eligible for a deduction for property
9 taxes under section 3 of this act for a part of the taxable year is also
10 eligible for a deduction for rent constituting property taxes under
11 section 4 of this act for a part of the taxable year, the taxpayer shall be
12 allowed a deduction, not in excess of \$10,000, subject to the
13 limitations of subsection b. of this section, the amount of which shall
14 be equal to the sum of the amount of property taxes due and paid for
15 the calendar year in which the property taxes are due and payable on
16 a homestead that is not a unit of residential rental property and the
17 amount of rent constituting property taxes due and paid for the
18 calendar year in which the rent constituting property taxes is due and
19 payable for the occupancy of a homestead that is a unit of residential
20 rental property, provided however, that the amount of property taxes
21 shall be subject to the limitations set forth in subsections b. through e.
22 of section 3 and the amount of rent constituting property taxes shall
23 be subject to the limitations set forth in subsections b. and c. of section
24 4 as may be applicable.

25 b. Notwithstanding the provisions of subsection a. of this section
26 to the contrary: (1) a taxpayer who is eligible for a deduction for
27 property taxes under section 3 of this act for a part of the taxable year
28 and is also eligible for a deduction for rent constituting property taxes
29 under section 4 of this act for a part of the taxable year, shall be
30 allowed a deduction for the taxpayer's taxable year beginning during
31 1996 based on 50% of an amount not in excess of \$5,000, the amount
32 of which shall be equal to the sum of the amount of property taxes
33 paid on a homestead that is not a unit of residential rental property and
34 the amount of rent constituting property taxes paid for the occupancy
35 of a homestead that is a unit of residential rental property; and (2) a
36 taxpayer who is eligible for a deduction for property taxes under
37 section 3 of this act for a part of the taxable year and is also eligible
38 for a deduction for rent constituting property taxes under section 4 of
39 this act for a part of the taxable year, shall be allowed a deduction for
40 the taxpayer's taxable year beginning during 1997 based on 75% of an
41 amount not in excess of \$7,500, the amount of which shall be equal to
42 the sum of the amount of property taxes paid on a homestead that is
43 not a unit of residential rental property and the amount of rent
44 constituting property taxes paid for the occupancy of a homestead that
45 is a unit of residential rental property.

1 6. a. (1) Notwithstanding any provision of this act to the contrary,
2 commencing with the taxpayer's taxable year beginning on or after
3 January 1, 1996:

4 (a) a taxpayer; or

5 (b) a resident of this State who is 65 years of age or older at the
6 close of the taxable year or who is allowed to claim a personal
7 deduction as a blind or disabled taxpayer pursuant to subsection b. of
8 N.J.S.54A:3-1 but who, pursuant to N.J.S.54A:2-4, is not subject to
9 tax; and

10 who paid property taxes or rent constituting property taxes on a
11 homestead during the calendar year may elect to take a credit instead
12 of the deduction provided pursuant to section 3, 4, or 5 in the amount
13 of \$50, subject to the provisions of paragraph (2) of this subsection.

14 (2) Notwithstanding the provisions of paragraph (1) of this
15 subsection, the amount of tax liability reduction or credit allowed for
16 the taxpayer's taxable year beginning during 1996 shall be \$25 and the
17 amount of tax liability reduction or credit allowed for the taxpayer's
18 taxable year beginning during 1997 shall be \$37.50.

19 b. A husband and wife who elect to file separate income tax returns
20 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
21 et seq., shall each be entitled to one-half of the credit allowed pursuant
22 to subsection a. of this section.

23 c. The credit shall be paid to the taxpayer as a refund of
24 overpayment pursuant to N.J.S.54A:9-7, provided however, that
25 subsection (f) of that section shall not apply. The credit for a claimant
26 qualified under subsection a. of this section who, pursuant to
27 N.J.S.54A:2-4, is not subject to tax, shall be applied for annually on
28 an application as shall be made available by the director, to be filed
29 with the director on or before the date for filing annual gross income
30 tax returns. The director shall determine the form and manner by
31 which a qualified applicant shall apply for a refund of an overpayment
32 pursuant to this section, and the time of the refund of the
33 overpayment. For the purposes of this section, refunds of
34 overpayments may be combined with payments of rebates pursuant to
35 P.L.1990, c.61 (C.54:4-8.57et seq.).

36
37 7. The benefits provided for in P.L. , c. (C.) (now
38 pending before the Legislature as this bill) shall not be subject to
39 garnishment, attachment or other legal process, except as provided in
40 section 1 of P.L.1981, c.239 (C.54A:9-8.1) or except for an income
41 withholding order issued pursuant to P.L.1981, c.417 (C.2A:17-56.7
42 et seq.), and the payment of the benefits shall not be anticipated.

43
44 8. The director shall determine the form and manner of a qualified
45 applicant's application for the benefits provided for in P.L. , c.
46 (C.) (now pending before the Legislature as this bill). The director

1 may prescribe such regulations as the director may deem necessary to
2 administer and enforce the provisions of P.L. , c. (C.),
3 including but not limited to the method for determining an applicant's
4 benefits as provided pursuant to sections 3, 4, 5 and 6 of P.L. ,
5 c. (C.), due dates, and the form of payment.

6
7 9. An amount equal to the revenue that would be available to the
8 Property Tax Relief Fund but for the amount estimated to be foregone
9 and due to be refunded during a fiscal year due to the "Property Tax
10 Deduction Act," P.L.1996, c. (C.) (now pending before the
11 Legislature as this bill), shall be made available to the Property Tax
12 Relief Fund from State General Fund revenue sources during that
13 fiscal year without a reduction in the level of State aid appropriated to
14 municipalities, school districts and counties from the General Fund
15 during that fiscal year.

16
17 10. This act shall take effect immediately and apply to taxable years
18 beginning on or after January 1, 1996.

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22

23 The "Property Tax Deduction Act."