

ASSEMBLY, No. 942

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman FELICE

1 AN ACT concerning the exemption from taxation of the increase in
2 valuation of certain property due to improvements designed to
3 facilitate the use of property by disabled persons and supplementing
4 chapter 4 of Title 54 of the Revised Statutes.

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

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9 1. For the purposes of this act: "Exemption" means all or any
10 portion of the assessed value of an improvement not increasing the
11 assessed value of a property due to the approval by the assessor of an
12 application filed pursuant to section 5 of this act;

13 "Improvement" means a physical change in an existing dwelling
14 house and connecting accessways, other than ordinary painting, repairs
15 and replacement of maintenance items, which is designed to facilitate
16 the use and accessibility of the dwelling house by a permanently and
17 totally disabled person pursuant to the provisions of this act;

18 "Permanently and totally disabled" means total and permanent
19 inability to engage in any substantial gainful activity by reason of any
20 medically determinable physical impairment, pursuant to the provisions
21 of the federal Social Security Act. For purposes of this act,
22 "permanently and totally disabled" also includes "blindness."
23 "Blindness" means central visual acuity of 20/200 or less in the better
24 eye with the use of a correcting lens. An eye which is accompanied by
25 a limitation in the fields of vision such that the widest diameter of the
26 visual field subtends an angle no greater than 20 degrees shall be
27 considered as having a central visual acuity of 20/200 or less.

28 "Pretax year" means the calendar year immediately preceding the
29 "tax year";

30 "Qualified resident" means a resident: who is permanently and
31 totally disabled and an owner of real property upon which a dwelling
32 house is located in which he resides, or who is an owner of real
33 property upon which a dwelling house is located in which he resides
34 and has a permanently and totally disabled member of his household
35 residing therein who is a spouse or qualified dependent for federal
36 income tax purposes;

37 "Resident" means one legally domiciled within the State of New

1 Jersey for a period of one year immediately preceding October 1 of the
2 pretax year. Mere seasonal or temporary residence within the State,
3 of whatever duration, shall not constitute domicile within the State for
4 the purposes of this act. Absence from this State for a period of 12
5 months shall be prima facie evidence of abandonment of domicile in
6 this State. The burden of establishing legal domicile within the State
7 shall be upon the claimant; and

8 "Tax year" means the calendar year in which the general property
9 tax is due and payable.

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11 2. Any qualified resident shall be entitled annually, on proper
12 application being made therefor, to an exemption from taxation of the
13 increase in the valuation of real property upon which a dwelling house
14 is located which results from improvements thereto designed to
15 facilitate the use and accessibility of the dwelling house by a
16 permanently and totally disabled person who is the owner and resident
17 of the house or who is a member of the owner's household and resides
18 therein who is a spouse or qualified dependent for federal income tax
19 purposes.

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21 3. The transference of the title to the property for which an
22 exemption has been approved pursuant to this act to the surviving
23 spouse of a deceased qualified resident or to any other person shall not
24 affect the continuance of the exemption so long as the permanently and
25 totally disabled person shall remain a resident of the dwelling house.

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27 4. No exemption, as provided herein, shall be allowed except upon
28 written application therefor, which application shall be on a form
29 prescribed by the Director of the Division of Taxation in the
30 Department of the Treasury and provided for the use of qualified
31 residents hereunder by the governing body of the municipality
32 constituting the taxing district in which the application is to be filed
33 and approved pursuant to this act.

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35 5. An application for an exemption hereunder shall be filed with the
36 assessor of the taxing district on or before October 1 of the pretax
37 year. If the assessor determines that the improvement or
38 improvements are designed and necessary to facilitate the use and
39 accessibility of the real property by the permanently and totally
40 disabled resident, the assessor may approve the application for
41 exemption. If the assessor determines that one or more of the
42 improvements are not necessary in facilitating the use and accessibility
43 of the property by the disabled resident, the assessor may approve the
44 application for exemption for only those improvements the assessor
45 determines as necessary in facilitating that use and accessibility. The
46 assessor shall determine the assessed value of the improvements

1 approved in the application and shall subtract that value from the total
2 assessed valuation of the qualified resident's real property.

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4 6. In addition to any information required on the application form
5 by the Director of the Division of Taxation, the qualified resident, in
6 the application, shall establish that every fact essential to support a
7 claim for an exemption hereunder exists on October 1 of the pretax
8 year and that the applicant is:

9 a. A citizen and resident of this State;

10 b. The owner of the dwelling house; and

11 c. A resident of the dwelling house. In the case that the disabled
12 person is a member of the resident's household and not the owner, the
13 owner shall establish that the owner and the disabled household
14 member are residents of the dwelling house. In addition, the qualified
15 resident shall include a physician's certificate or the Social Security
16 Administration's certificate verifying the permanent and total disability.

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18 7. A claim having been filed with and approved by the assessor on
19 and after the effective date of this act shall continue in force from year
20 to year thereafter without the necessity for further claim so long as the
21 qualified resident shall be entitled to an exemption hereunder. The
22 assessor may, at any time, require the filing of a new application or any
23 proof, as the assessor may deem necessary, to establish the right of the
24 qualified resident to continuance of the exemption. It shall be the duty
25 of every qualified resident to inform the assessor of a change in status
26 or property which may affect the right to continuance of the
27 exemption.

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29 8. The Director of the Division of Taxation may promulgate rules
30 and regulations and prescribe forms necessary to implement this act.

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32 9. A person aggrieved by an action of the assessor may appeal to
33 the county board of taxation or the tax court, as appropriate.

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35 10. This act shall take effect upon approval of Assembly
36 Concurrent Resolution No. 42, by the voters of this State and shall be
37 applicable for the first full tax year occurring at least 90 days after that
38 approval and to each tax year thereafter.

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43 Provides for a tax exemption on certain improvements to dwelling
44 houses to facilitate their use by disabled persons.