

ASSEMBLY, No. 975

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman GEIST

1 **AN ACT** exempting certain transfers of farmland from New Jersey
2 transfer inheritance tax and amending R.S.54:34-4.

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

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7 1. R.S.54:34-4 is amended to read as follows:

8 54:34-4. Exemptions. The following transfers of property shall be
9 exempt from taxation:

10 a. Property passing to or for the use of the State of New Jersey, or
11 to or for the use of a municipal corporation within the State or other
12 political subdivision thereof, for exclusively public purposes.

13 b. Property passing to a beneficiary or beneficiaries having any
14 present or future, vested, contingent or defeasible interest under any
15 trust deed or agreement heretofore or hereafter executed by a resident
16 or nonresident decedent, to the extent that the trust fund results from
17 the proceeds of contracts of insurance heretofore or hereafter in force,
18 insuring the life of such decedent, and paid or payable, at or after the
19 death of such decedent, to the trustee or trustees under such trust deed
20 or agreement.

21 c. Property passing to (i) a trustee or trustees of any trust deed or
22 agreement heretofore or hereafter executed or (ii) to a trustee or
23 trustees of a trust created by the will of a decedent, by virtue of any
24 contract of insurance heretofore or hereafter in force insuring the life
25 of a resident or nonresident decedent and the proceeds of which are
26 paid or payable at or after the death of such decedent to such trustee
27 or trustees for the benefit of a beneficiary or beneficiaries having any
28 present or future, vested, contingent or defeasible interest under such
29 trust deed, agreement or will.

30 d. That part of the estate of any decedent which passes to, for the
31 use of or in trust for any educational institution, church, hospital,
32 orphan asylum, public library or Bible and tract society or to, for the

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 use of or in trust for any institution or organization organized and
2 operated exclusively for religious, charitable, benevolent, scientific,
3 literary or educational purposes, including any institution instructing
4 the blind in the use of dogs as guides, no part of the net earnings of
5 which inures to the benefit of any private stockholder or other
6 individual or corporation; provided, that this exemption shall not
7 extend to transfers of property to such educational institutions and
8 organizations of other states, the District of Columbia, territories and
9 foreign countries which do not grant an equal, and like exemption of
10 transfers of property for the benefit of such institutions and
11 organizations of this State.

12 e. That part of the estate of any decedent who has heretofore died,
13 or may hereafter die, received, either heretofore or hereafter, by the
14 legal representatives of such decedent, whether directly from the
15 United States, or through any intervening estate or estates, by reason
16 of any war risk insurance certificate or policy, either term or
17 converted, or any adjusted service certificate, issued by the United
18 States. Nothing contained in this subsection e. shall entitle any person
19 to a refund of any tax heretofore paid on the transfer of property of
20 the nature aforementioned; and provided further, that the exemption
21 provided for in this subsection e. shall not extend to that part of the
22 estate of any decedent composed of property of the nature
23 aforementioned, when such property was received by the decedent
24 before death.

25 f. The proceeds of any contract of insurance heretofore or
26 hereafter in force insuring the life of a resident or nonresident decedent
27 paid or payable at or after the death of such decedent to any
28 beneficiary or beneficiaries other than the estate or the executor or
29 administrator of such decedent.

30 g. Any transfer, relinquishment, surrender or exercise at any time
31 or times by a resident or nonresident of any right to nominate or
32 change the beneficiary or beneficiaries of any contract of insurance
33 heretofore or hereafter in force insuring the life of such resident or
34 nonresident irrespective of whether such transfer, relinquishment,
35 surrender or exercise of such right took place or whether the proceeds
36 of such policy were paid or payable, before or after the taking effect
37 of this act.

38 h. The value of any pension, annuity, retirement allowance, return
39 of contributions, or benefit payable by the Government of the United
40 States pursuant to the Civil Service Retirement Act to a beneficiary or
41 beneficiaries other than the estate or the executor or administrator of
42 a decedent.

43 i. The value of any annuity payable by the Government of the
44 United States pursuant to the Retired Serviceman's Family Protection
45 Plan or the Survivor Benefit Plan to a beneficiary or beneficiaries other
46 than the estate or the executor or administrator of a decedent.

1 j. The value of any pension, annuity, retirement allowance or return
2 of contributions, regardless of the source, which is a direct result of
3 the decedent's employment under a qualified plan as defined by
4 section 401 (a), (b) and (c) or 2039 (c) of the Internal Revenue Code,
5 payable to a surviving spouse, and not otherwise exempted pursuant
6 to this section or other law of the State of New Jersey.

7 k. Real property used for farming purposes, and shares of stock in
8 a corporation owning real property used for farming purposes where
9 that stock is predominantly owned by immediate family members,
10 passing to a beneficiary or beneficiaries through an intestate or testate
11 estate, provided:

12 (1) the property is used solely for farming purposes, except for a
13 dwelling house that may be situated on the property which may be
14 used for residential purposes by a beneficiary;

15 (2) the real property or stock is transferred to a beneficiary or
16 beneficiaries who are immediate family members of the decedent and
17 who will materially and substantially participate in the operation of the
18 farm enterprise; and

19 (3) the pertinent real property continues to be used for farming
20 purposes by the recipient beneficiary or beneficiaries for a period of
21 not less than eight years. If the pertinent real property ceases to be
22 used for farming purposes, or is sold, within eight years of the date of
23 death of the decedent, then the exemption provided under this
24 subsection shall be void, and the transfer of property shall be subject
25 to taxation pursuant to R.S.54:33-1 et seq.

26 As used in this subsection farming purposes means:

27 (a) cultivating the soil or raising or harvesting any agricultural or
28 horticultural commodity on a farm, including, but not limited to, the
29 raising, shearing, feeding, caring for, training, and management of
30 animals.

31 (b) handling, drying, packing, grading, or storing on a farm any
32 agricultural or horticultural commodity in its unmanufactured state,
33 but only if the owner or operator of the farm regularly produces more
34 than one-half of the commodity so treated, or

35 (c) the planting, cultivating, caring for, or cutting of trees, or the
36 preparation, other than milling, of trees for market.

37 As used in this subsection immediate family members means the
38 spouse, father, mother, grandparent, child, aunt, uncle, brother, or
39 sister of the decedent. The provisions of this subsection shall not
40 apply to any transfer of property which is not subject to taxation under
41 the provisions of R.S.54:34-2.

42 (cf: P.L.1981, c.152, s.1)

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44 2. This act shall take effect immediately and shall apply to taxes
45 that become due and payable on and after January 1, 1996.

STATEMENT

3 This bill provides an exemption from the New Jersey transfer
4 inheritance tax upon the transfer of land used for farming purposes as
5 well as the stock of a corporation owning land devoted to farming.
6 The exemption is conditioned upon the use of the land for specified
7 farm purposes for a period of at least eight years by the recipient
8 beneficiary or beneficiaries. The purpose of this exemption is to
9 provide tax relief to families who inherit farms or shares of stock in
10 family farms, and to encourage the continuation of family farm
11 ownership in New Jersey.

12 The bill limits the exemption to the transfer to those beneficiaries
13 who are immediate family members of the decedent, defined as the
14 spouse, father, mother, grandparent, child, aunt, uncle, brother or
15 sister of the decedent. The bill also stipulates that if the family ceases
16 to use the land for farming or sells the farm within eight years after the
17 date of death of the decedent, then the exemption is revoked and the
18 inheritance tax is due as if the exemption had not been applicable.

19 The exemption only applies to real property and farms actually
20 operated by the beneficiaries and in certain cases, to transfers of stock
21 in a corporation owning real property. The provisions of the bill do
22 not apply to transfers of property which are not otherwise subject to
23 the tax.

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28 Exempts land used for farming purposes from transfer inheritance tax
29 for decedents' transfers to immediate family members under certain
30 conditions.