ASSEMBLY, No. 1947

STATE OF NEW JERSEY

INTRODUCED MAY 6, 1996

By Assemblyman KELLY

AN ACT concerning property tax rebates to tenants and amending P.L.1976, c.63.

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

1. Section 2 of P.L.1976, c.63 (C.54:4-6.3) is amended to read as follows:

2. As used in this act unless the context clearly indicates a different meaning:

a. "Qualified real rental property" means any building or structure or complex of buildings or structures in which <u>four or more</u> housing units are rented or leased or offered for rental or lease for residential purposes except hotels, motels or other guesthouses serving transient or seasonal guests**[**, residents of**]** <u>; buildings or structures which are subject to an abatement agreement under which reduced or no property taxes are paid on the improvements pursuant to statute, notwithstanding that payments in lieu of taxes are paid in accordance with the agreement; buildings or structures located in municipalities in which a rent control ordinance is in effect for the base year and the current tax year restricting the property owner from passing through local property tax increases to tenants; units in</u> a residential cooperative <u>or condominium, wherever situated</u>, mutual housing corporation or continuing care retirement community **[**who are entitled to a homestead rebate pursuant to section 1 of P.L.1976, c.72 (C.54:4-3.80), and owner-occupied structures of three units or less**]** <u>; or group residences for which the rent includes social or personal services and requires tenant participation in rehabilitative, medical, or related programs</u>.

b. "Property tax reduction" means the difference between the amount of property tax paid **[**or payable in any year on any qualified real rental property, exclusive of improvements not included in the assessment on the real property for the base year, and the amount of property tax paid**]** in the base year **[**, but such calculations 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 <u>thus</u> is new matter.

property tax reduction shall exclude reductions resulting from judgments entered by county boards of taxation, the tax court, or by courts of competent jurisdiction. "Property tax reduction" shall also include any rebate or refund of school property taxes which may be provided pursuant to P.L.1976, c.113. "Property tax reduction" shall not include any amount in excess of that which is identified herein. Any such amount shall be retained by the property owner**]** and, if lower than property taxes paid in the base year, the taxes paid in the current year.

If the current year property tax calculation reflects an assessment reduction from a base year assessment, there is no property tax reduction for that year and no rebate shall be due or payable for that property for the current tax year.

In the event a revaluation or reassessment is implemented in the current tax year, the property tax reduction shall be the difference between the amount of property tax paid in the current tax year, exclusive of improvements not included in the assessment on the real property for the base year, and the amount of property tax paid in the base year. The year in which a revaluation or reassessment is implemented shall become the base year in any subsequent tax year.

c. "Base year" means**[**, for qualified real rental property rented or leased or offered for rent or lease on or after the effective date of this act, the tax year prior to any year in which the property tax on that property is decreased from the 1990 tax year or decreased from any tax year since the 1990 tax year, whichever tax year results in the largest property tax decrease**]** : (1) calendar year 1995 or any calendar year after 1995 in which property taxes for qualified real rental property exceed the property taxes imposed for 1995; (2) the first year after 1995 that qualified real rental property is offered for rent or lease; (3) the first year after 1995 in which any portion of the qualified real rental property is entitled to assessment under the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), and such assessment reduces the taxes below the base year level; (4) the first full calendar year after 1995 in which qualified real rental property is no longer subject to a tax exemption or tax abatement program; (5) a tax year subsequent to 1995 for which the property tax calculation reflects an assessment reduction from the prior base year assessment; or (6) a tax year subsequent to 1995 in which the property taxes paid in the base year and the property taxes paid in the current year do not reflect consistent budgetary and tax item components because sewer, solid waste or similar services provided through a taxing entity budget and reflected in the tax rate are changed to a separately billed user fee.

d. "Assessment reduction" means a reduction in assessment resulting from agreements entered into with municipal taxing authorities, abatements, exemptions, changes in assessments imposed administratively by a municipal tax assessor or county board of

taxation, and judgments entered by a county board of taxation, the tax court, or by a court of competent jurisdiction.

e. "Property taxes paid in the base year" means the assessed value of the property in the base year multiplied by the base year tax rate.

f. "Property taxes paid in the current year" means the assessed value of the property in the base year multiplied by the current year tax rate.

(cf: P.L.1991, c.65, s.1)

2. Section 4 of P.L. 1976, c. 63 (C.54:4-6.5) is amended to read as follows:

4. At the time when municipal property tax bills are prepared pursuant to R.S.54:4-64 [for the tax year 1977, and each year thereafter,]the municipal tax collector shall compute the amount of property tax reduction for the year for each property owner of qualified real rental property and shall provide a notice to inform the property owner receiving a property tax reduction of the amount thereof and of [his] the owner's obligations under this act. The tax collector shall consider all tax appeal judgments entered or tax appeal stipulations filed with a county tax board or court of competent jurisdiction at the time the notice of tax reduction is calculated. The tax collector shall, within 10 working days, provide a revised notice of tax reduction if notified by the owner of real property or the owner's agent or otherwise made aware, by the later of the sixtieth day following the mailing of the notice or the last deadline date for the property owner to distribute the rebate to the tenants, of the entry of a tax appeal judgment or filing of a stipulation with a county tax board or court of competent jurisdiction. A copy shall be provided to the rent leveling board, or similar agency charged with regulating rents or, where no such board exists, retained by the tax collector.

(cf: P.L.1977, c.81, s.3)

3. Section 5 of P.L.1976, c.63 (C.54:4-6.6) is amended to read as follows:

5. The property tax rebate for each tenant shall be computed by the property owner [in the following manner:

The property tax reduction on the qualified real rental property for the year shall be divided by the total annual rent for all dwelling units, occupied or unoccupied, on such property for the said year to determine the property tax rebate or credit as a fixed percentage of rent for every tenant. The annual rent of each residential unit shall be multiplied by such fixed percentage to determine the annual amount of property tax rebate or credit for each such unit. However, a municipality instead may provide by ordinance that the property tax reduction for residential rental property shall be divided by the total rentable square feet contained within all mobile home spaces or

residential rental units on such property to determine the annual property tax rebate or credit per square foot for every residential unit in the entire property. The square footage of each unit shall be multiplied by such property tax rebate or credit per square foot to determine the annual amount of property tax rebate or credit for each residential unit. However where one or more residential rental units, spaces or equivalent are occupied by the property owner or his employees, the tax credit or rebate for the residential rental units on such property shall be computed by first reducing the property tax reduction by the proportion that the number of units occupied by the property owner or his employees bears to the total number of residential units on the property**]** by reducing the total property tax reduction by the proportion that nonresidential rents and the rental value of the owner's or the owner's employee's personal occupancy bears to total rental value, and then by dividing the remaining property tax reduction among all residential tenants in proportion to the rent each is required to pay.

(cf: P.L.1977, c.81, s.4)

4. Section 6 of P.L.1976, c.63 (C.54:4-6.7) is amended to read as follows:

6. The property tax rebate or credit for each dwelling unit shall be paid to the tenant in residence of such unit **[**at the time each rent payment is made**]** monthly during the calendar year, except that the first rebate shall be cumulative to the month following receipt of the notice of property tax reduction pursuant to section 4 of P.L.1976, c.63 (C.54:4-6.5), and the last shall be made by December 31; provided however, that if notices are received after November 1 of the tax year, the landlord may extend the time for completing rebates to the next following June 30. Such property tax reduction shall, at the option of the owner, either be credited as a rent reduction or paid directly to the tenant.

The amount of each monthly property tax rebate or credit shall be equal to one twelfth of the annual amount of the rebate or credit **[**multiplied by the percentage of annual rent payable at such time**]**; provided, however, that the amount of the rebate or credit due the tenant at the time the rent is paid shall be rounded off such that any amount less than $0.50 shall be reduced to the next lower dollar and any amount $0.50 or higher shall be increased to the next higher dollar. Rebates shall be paid to a tenant only for the number of months the tenant has been in residence. A rebate need not be provided to a tenant who is in arrears until the arrearage is satisfied, at which time the full accrued rebate of that tenant shall be paid or credited.

An owner may cease the payment or crediting of a rebate immediately upon the receipt of a revised notice of property tax

reduction pursuant to section 4 of P.L.1976, c.63 (C.54:4-6.5); provided however, that no amount of rebate previously paid or credited may be recovered by the owner.

In the case of a lease terminated pursuant to P.L.1971, c.318 (C.46:8-9.1), any property tax rebate or credit due and owing prior to that termination of the lease shall be paid to the executor or administrator of the estate of the tenant or the surviving spouse of the tenant terminating the lease.

(cf: P.L.1985, c.317, s.3)

5. Section 9 of P.L.1976, c.63 (C.54:4-6.10) is amended to read as follows:

9. The Director of the Division of Local Government Services shall by regulation prescribe the procedures for computing property tax reductions and rebates [in 1977 and thereafter], and the necessary forms to be used for the notices required by this act and any additional information [he] the director deems advisable to be provided in such notices, and such other rules or regulations as [he] the director deems necessary or advisable for the efficient administration and implementation of the purposes and provisions of this act.

(cf: P.L.1976, c.63, s.9)

6. Section 11 of P.L.1976, c.63 (C.54:4-6.12) is amended to read as follows:

11. Any landlord who fails to provide property tax rebates to [his] tenants in accordance with the provisions of this act, or who knowingly and willfully fails to provide or post any notice, certification, information or statement required by this act shall be liable for a penalty of not more than $100.00 for each offense. Such penalty shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and the municipal court of the municipality in which the qualified real rental property is located shall have jurisdiction over such proceedings. Process shall be in the nature of a summons or warrant, and shall be issued upon the complaint of [the local enforcement agency, or any other person] the local enforcement agency or of a residential tenant of the qualified real rental property. Any money received as a result of such proceedings shall be paid over to the governing body of the municipality in which the qualified real rental property is located [and may be used by the governing body for any lawful municipal purpose].

(cf: P.L.1991, c.91, s.503)

7. This act shall take effect the June 1 next following enactment.

STATEMENT

This bill makes changes to the "Tenants' Property Tax Rebate Act." The "Tenants' Property Tax Rebate Act" requires that landlords rebate reductions in property taxes to their tenants. This bill distinguishes between those tax reductions due to decreases in the general property tax rate, owing perhaps to increased State aid or governmental efficiency, and are intended to be passed on to tenants, and those tax reductions due to a revaluation, reassessment or tax appeal, which are specific to the property and should be retained by the landlord as an incentive to the filing of meritorious challenges to assessed valuations. This bill also clarifies revisions to the act by excluding some properties from coverage, excluding some tenants whose rents do not clearly include property taxes from coverage, and changing the basis of the calculation of the property tax reduction and the rebate due to each tenant.

The rebates paid to tenants are based on the amount of property tax reduction. The property tax reduction is the difference between the taxes paid in a base year and the amount of taxes paid in the current year. The bill amends the calculation of property tax reduction so that the amount of taxes paid in the base year are adjusted to reflect assessment reductions from agreements entered into with municipal taxing authorities, abatements, revaluations, reassessments, changes in assessments imposed administratively by a tax assessor or county board of taxation, and judgments entered by a county board of taxation, a tax court or a court of competent jurisdiction, including the carryover effect of such judgments for a tax year subsequent to the year of the judgment (such as a freeze act year), so that those reductions will not be reflected in the rebates to tenants.

The bill also redefines the base year tax level from which the reduction is calculated, beginning with 1995 instead of 1990, and updates that base year for several special situations affecting the property tax assessments, including any year in which an assessment reduction occurs and any year in which the base year and current year budget and tax components are inconsistent because a tax funded service has been shifted to a separately stated user fee. The bill provides that no rebate is due in a year in which an assessment reduction occurs or the base and current year budgets become inconsistent.

This bill revises the act by:

· Excluding from coverage condominium and cooperative units that are rented by their owners; replacing a complex exemption with a blanket exception for all structures with fewer than five rental units, and excluding certain group homes and rental property subject to an abatement agreement from coverage.

· Clarifying that property subject to rent control, which precludes

property owners from passing property tax increases through to their tenants, is also not be subject to the rebate act.

· Clarifying who may protest a landlord's failure to pay a rebate.

· Simplifying the calculation of the rebate and its payment to tenants.

· Providing for an amended property tax reduction calculation if the tax collector is advised of an assessment reduction.

Excludes certain properties from Tenant Property Tax Rebate Act; redefines property tax reduction.