

[Passed Both Houses]

[Third Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1947

STATE OF NEW JERSEY

ADOPTED SEPTEMBER 19, 1996

Sponsored by Assemblymen KELLY, ROBERTS,
Assemblywoman Heck, Assemblyman Gregg, Assemblywoman
Frischia, Senators Lynch and DiFrancesco

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

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 2 of P.L.1976, c.63 (C.54:4-6.3) is amended to read as
8 follows:

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

11 a. "Qualified real rental property" means any building or structure
12 or complex of buildings or structures in which four or more housing
13 units are rented or leased or offered for rental or lease for residential
14 purposes except :

15 (1) hotels, motels or other guesthouses serving transient or
16 seasonal guests[, residents of];

17 (2) buildings or structures which are subject to an abatement
18 agreement under which reduced or no property taxes are paid on the
19 improvements pursuant to statute, notwithstanding that payments in
20 lieu of taxes are paid in accordance with the agreement;

21 (3) buildings or structures located in municipalities in which a rent

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted December 16, 1996.

² Assembly floor amendments adopted January 29, 1997.

³ Senate SBA committee amendments adopted June 5, 1997.

1 control ordinance which ¹[restricts the property owner from passing
2 through local property tax increases to tenants] does not provide for
3 an automatic increase in the amount of rent permitted to be charged by
4 a property owner upon an increase in the amount of property tax
5 levied upon the property ¹ is in effect for the base year and the current
6 year;

7 (4) dwelling units in a residential cooperative [,] or mutual
8 housing corporation [or];

9 (5) dwelling units in a condominium ², other than those dwelling
10 units which are occupied by qualified tenants under the "Tenant
11 Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.) ² ;

12 (6) dwelling units in a continuing care retirement community
13 [who are entitled to a homestead rebate pursuant to section 1 of
14 P.L.1976, c.72 (C.54:4-3.80), and owner-occupied structures of three
15 units or less]; or

16 (7) dwelling units within residential health care facilities; assisted
17 living residences; facilities with a Class C license pursuant to
18 P.L.1979, c.496 (C.55:13B-1 et al.), the "Rooming and Boarding
19 House Act of 1979" or similar facilities for which occupancy is
20 predicated upon the receipt of medical, nursing or personal care
21 services for the residents and the cost thereof is included in the rent.

22 Owner occupation of a building shall not be a factor in whether a
23 building is qualified real rental property under P.L.1976, c.63
24 (C.54:4-6.2 et seq.).

25 b. "Property tax reduction" means the difference between the
26 amount of property tax paid or payable [in any year] on any qualified
27 real rental property[, exclusive of improvements not included in the
28 assessment on the real property for the base year, and the amount of
29 property tax paid in the base year, but such calculations for the
30 property tax reduction shall exclude reductions resulting from
31 judgments entered by county boards of taxation, the tax court, or by
32 courts of competent jurisdiction. "Property tax reduction" shall also
33 include any rebate or refund of school property taxes which may be
34 provided pursuant to P.L.1976, c.113. "Property tax reduction" shall
35 not include any amount in excess of that which is identified herein.
36 Any such amount shall be retained by the property owner] in the base
37 year, and the amount of property taxes paid or payable in the current
38 year if less than the amount of property taxes paid or payable in the
39 base year.

40 c. "Base year" means[, for qualified real rental property rented or
41 leased or offered for rent or lease on or after the effective date of this
42 act, the tax year prior to any year in which the property tax on that
43 property is decreased from the 1990 tax year or decreased from any
44 tax year since the 1990 tax year, whichever tax year results in the
45 largest property tax decrease] calendar year ³[1996] 1998 ³.

46 If any of the following events occur, "base year" shall then mean:

1 (1) any calendar year after ³[1996] 1998³ in which property taxes
2 levied for qualified real rental property exceed the property taxes
3 levied for ³[1996] 1998³ for that property;

4 (2) the first calendar year after ³[1996] 1998³ during which
5 qualified real rental property is first offered for rent or lease;

6 (3) the first full calendar year after ³[1996] 1998³ in which
7 qualified real rental property is no longer subject to a tax exemption
8 or tax abatement program;

9 (4) a calendar year subsequent to ³[1996] 1998³ for which the
10 property tax calculation reflects an assessment reduction from the
11 prior base year assessment; or

12 (5) a calendar year subsequent to ³[1996] 1998³ in which the
13 property taxes paid in the base year and the property taxes paid in the
14 current year do not reflect consistent budgetary and tax item
15 components because sewer, solid waste or similar services provided
16 through a taxing entity budget and reflected in the tax rate are changed
17 to a separately billed user fee.

18 d. "Assessment reduction" means a decrease in the amount of
19 assessed value of qualified real rental property resulting from an
20 agreement entered into with a municipal taxing authority, an
21 abatement, exemption, change in assessment imposed administratively
22 by a municipal tax assessor or county board of taxation, or a judgment
23 entered by a county board of taxation, the tax court, or by a court of
24 competent jurisdiction.

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

26

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

29 4. a. At the time when municipal property tax bills are prepared
30 pursuant to R.S.54:4-64 [for the tax year 1977, and each year
31 thereafter,] the municipal tax collector shall compute the amount of
32 property tax reduction for the year for each property owner of
33 qualified real rental property and shall provide a notice to inform the
34 property owner receiving a property tax reduction of the amount
35 thereof and of [his] the owner's obligations under [this act] P.L.1976,
36 c.63 (C.54:4-6.2 et seq.).

37 b. In computing the property tax reduction, if the current year
38 property tax calculation reflects an assessment reduction from a base
39 year assessment, other than as provided in subsection c. of this section,
40 no property tax reduction has occurred and no rebate shall be due or
41 payable for that property for the current tax year.

42 c. In the event a municipal-wide revaluation or reassessment is
43 implemented in the current tax year, the property tax reduction shall
44 be the difference between the amount of property tax paid or payable
45 in the current tax year and the amount of property tax paid in the base
46 year. The year in which a municipal-wide revaluation or reassessment

1 is implemented shall become the base year in any subsequent tax year.
2 d. The tax collector shall compute the property tax reduction in
3 accordance with any tax appeal judgments entered or tax appeal
4 stipulations filed with a county tax board or court of competent
5 jurisdiction as of the date of his calculation. If the tax collector
6 receives notice of the entry of a tax appeal judgment or the filing of a
7 stipulation with a county tax board or court of competent jurisdiction
8 after the initial property tax reduction notice has been mailed to the
9 property owner, he shall, within 30 working days, recalculate the
10 property tax reduction accordingly and provide a revised notice of tax
11 reduction to the property owner. For the purposes of this subsection,
12 "receives notice" shall mean the tax collector has been notified by the
13 owner of real property or the owner's agent, or otherwise made aware
14 of the judgment or stipulation. A copy of the notice or any revised
15 notice shall be provided to the rent leveling board, or similar agency
16 charged with regulating rents or, where no such board exists, retained
17 by the tax collector.

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

19

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

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

24 The property tax reduction on the qualified real rental property for
25 the year shall be divided by the total annual rent for all dwelling units,
26 occupied or unoccupied, on such property for the said year to
27 determine the property tax rebate or credit as a fixed percentage of
28 rent for every tenant. The annual rent of each residential unit shall be
29 multiplied by such fixed percentage to determine the annual amount of
30 property tax rebate or credit for each such unit. However, a
31 municipality instead may provide by ordinance that the property tax
32 reduction for residential rental property shall be divided by the total
33 rentable square feet contained within all mobile home spaces or
34 residential rental units on such property to determine the annual
35 property tax rebate or credit per square foot for every residential unit
36 in the entire property. The square footage of each unit shall be
37 multiplied by such property tax rebate or credit per square foot to
38 determine the annual amount of property tax rebate or credit for each
39 residential unit. However where one or more residential rental units,
40 spaces or equivalent are occupied by the property owner or his
41 employees, the tax credit or rebate for the residential rental units on
42 such property shall be computed by first reducing the property tax
43 reduction by the proportion that the number of units occupied by the
44 property owner or his employees bears to the total number of
45 residential units on the property] by subtracting from the total
46 property tax reduction as calculated pursuant to section 4 of P.L.1976,

1 c.63 (C.54:4-6.5) an amount equal to the proportion that
2 nonresidential rents and the rental value of the owner's or the owner's
3 employee's personal occupancy bears to total rental value, and then by
4 dividing the remaining property tax reduction among all residential
5 tenants in proportion to the rent each is required to pay.

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

7
8 4. Section 6 of P.L.1976, c.63 (C.54:4-6.7) is amended to read as
9 follows:

10 6. The property tax rebate or credit for each dwelling unit shall be
11 paid to the tenant who was in residence of such unit [at the time each
12 rent payment is made] during the calendar year. The rebate shall be
13 paid monthly, except that the first rebate payment shall be cumulative
14 to the month following receipt of the notice of property tax reduction
15 pursuant to section 4 of P.L.1976, c.63 (C.54:4-6.5), and the last shall
16 be made by December 31; provided however, that if a notice is
17 received after November 1 of the tax year, the first rebate payment
18 need not be cumulative and the rebate may be payable in monthly
19 installments to the next following June 30. Such property tax
20 reduction shall, at the option of the owner, either be credited as a rent
21 reduction or paid directly to the tenant.

22 The amount of each monthly property tax rebate or credit shall be
23 equal to one twelfth of the annual amount of the rebate or credit
24 [multiplied by the percentage of annual rent payable at such time];
25 provided, however, that the amount of the rebate or credit due the
26 tenant at the time the rent is paid shall be rounded off such that any
27 amount less than \$0.50 shall be reduced to the next lower dollar and
28 any amount \$0.50 or higher shall be increased to the next higher
29 dollar. Rebates shall be paid to a tenant only for the number of
30 months during the calendar year the tenant has been in residence. A
31 landlord shall use his or her best efforts to obtain the forwarding
32 address of a tenant who is ²[entitled] entitled² to a rebate and who has
33 moved from the rental premises. ²[A rebate need not be provided to
34 a tenant who is in arrears until the arrearage is satisfied, at which time
35 the full accrued rebate of that tenant shall be paid or credited.]²

36 An owner shall adjust the payment or crediting of a rebate
37 immediately upon the receipt of and in accordance with a revised
38 notice of property tax reduction pursuant to section 4 of P.L.1976,
39 c.63 (C.54:4-6.5); provided, however, that no amount of rebate
40 previously paid or credited may be recovered by the owner.

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

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

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

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

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

13

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

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

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

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

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