

§§1-8 -  
C.54A:3A-15 to  
54A:3A-22  
§9 - C.54A:9-26  
§10 - Note to §§1-9

P.L. 1996, CHAPTER 60, *approved July 4, 1996*

Senate Committee Substitute for

Senate No. 1

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

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

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

35 "Homestead" means:

36 a. a dwelling house and the land on which that dwelling house is  
37 located which constitutes the place of the taxpayer's domicile and is  
38 owned and used by the taxpayer as the taxpayer's principal residence;

39 b. a dwelling house situated on land owned by a person other than  
40 the taxpayer which constitutes the place of the taxpayer's domicile and

1 is owned and used by the taxpayer as the taxpayer's principal  
2 residence;

3 c. a condominium unit or a unit in a horizontal property regime or  
4 a continuing care retirement community which constitutes the place of  
5 the taxpayer's domicile and is owned and used by the taxpayer as the  
6 taxpayer's principal residence.

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

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

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

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

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

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

40 "Property taxes" means payments to municipalities for which an  
41 assessment by a municipality has been made on an ad valorem basis on  
42 both land and improvements, and shall not include payments made in  
43 lieu of taxes.

44 "Rent constituting property taxes" means 18% of the rent paid by  
45 the taxpayer for occupancy during the taxable year of a unit of  
46 residential rental property which the taxpayer occupies as a principal

1 residence; notwithstanding the definition of "property taxes" herein,  
2 rent constituting property taxes includes the rent paid for the  
3 occupancy of a manufactured home installed in a mobile home park.

4 "Residential rental property" means:

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

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

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

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

22

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

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

37 c. If title to a homestead is held by more than one individual as  
38 joint tenants or tenants in common, each individual shall be allowed a  
39 deduction pursuant to this section only in relation to the individual's  
40 proportionate share of the property taxes assessed and levied against  
41 the homestead. The proportionate share shall be equal to that of all  
42 other individuals who hold the title, but if the conveyance under which  
43 the title is held provides for unequal interests therein, a taxpayer's  
44 share of the property taxes shall be in proportion to the taxpayer's  
45 interest in the title.

46 d. If title to a homestead is held by a husband and wife who own

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

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

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

21  
22 4. a. A resident taxpayer whose homestead is a unit of residential  
23 rental property shall be allowed a deduction from gross income for  
24 that portion of the rent constituting property taxes not in excess of  
25 \$10,000, subject to the limitations of subsection d. of this section, due  
26 and paid for the calendar year in which the rent constituting taxes is  
27 due and payable, for occupancy of that homestead.

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

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

39 d. Notwithstanding the provisions of subsection a. of this section  
40 to the contrary: (1) a resident taxpayer whose homestead is a unit of  
41 residential rental property shall be allowed a deduction for the  
42 taxpayer's taxable year beginning during 1996 based on 50% of the  
43 rent constituting property taxes not in excess of \$5,000 paid for the  
44 occupancy of that homestead; and (2) a resident taxpayer whose  
45 homestead is a unit of residential rental property shall be allowed a  
46 deduction for the taxpayer's taxable year beginning during 1997 based

1 on 75% of the rent constituting property taxes not in excess of \$7,500  
2 paid for the occupancy of that homestead.

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

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

42  
43 6. a. (1) Notwithstanding any provision of this act to the  
44 contrary, commencing with the taxpayer's taxable year beginning on  
45 or after January 1, 1996:

46 (a) a taxpayer; or

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

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

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

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

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

32  
33 7. The benefits provided for in P.L. , c. (C. ) (now  
34 pending before the Legislature as this bill) shall not be subject to  
35 garnishment, attachment or other legal process, except as provided in  
36 section 1 of P.L.1981, c.239 (C.54A:9-8.1) or except for an income  
37 withholding order issued pursuant to P.L.1981, c.417 (C.2A:17-56.7  
38 et seq.), and the payment of the benefits shall not be anticipated.

39  
40 8. The director shall determine the form and manner of a qualified  
41 applicant's application for the benefits provided for in P.L. , c.  
42 (C. ) (now pending before the Legislature as this bill). The director  
43 may prescribe such regulations as the director may deem necessary to  
44 administer and enforce the provisions of P.L. , c. (C. ),  
45 including but not limited to the method for determining an applicant's  
46 benefits as provided pursuant to sections 3, 4, 5 and 6 of P.L. ,

1 c. (C. ), due dates, and the form of payment.

2

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

12

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

15

16

17

18

19 The "Property Tax Deduction Act."