

SENATE, No. 1

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senators DiFRANCESCO and MATHEUSSEN

1 AN ACT providing a gross income tax deduction for residential  
2 property taxes paid by homeowners and tenants, supplementing  
3 Title 54A of the New Jersey Statutes.

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

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8 1. This act shall be known and may be cited as the "Property Tax  
9 Deduction Act."

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11 2. As used in this act:  
12 "Condominium" means the form of real property ownership  
13 provided for under the "Condominium Act," P.L.1969, c.257  
14 (C.46:8B-1 et seq.).

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

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

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

33 "Homestead" means:

34 a. a dwelling house and the land on which that dwelling house is  
35 located which constitutes the place of the taxpayer's domicile and is

1 owned and used by the taxpayer as the taxpayer's principal residence;  
2 b. a dwelling house situated on land owned by a person other than  
3 the taxpayer which constitutes the place of the taxpayer's domicile and  
4 is owned and used by the taxpayer as the taxpayer's principal  
5 residence;

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

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

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

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

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

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

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

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

1 "Residential rental property" means:

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

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

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

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

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20 3. a. A resident taxpayer under the "New Jersey Gross Income  
21 Tax Act," N.J.S.54A:1-1 et seq., shall be allowed a deduction from  
22 gross income for property taxes not in excess of \$10,000 paid on the  
23 taxpayer's homestead.

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

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

41 d. If title to a homestead is held by a husband and wife who own  
42 the homestead as tenants by the entirety, or if that husband and wife  
43 are both residential shareholders of a cooperative or mutual housing  
44 corporation and occupy the same homestead therein, and who elect to  
45 file separate income tax returns pursuant to the "New Jersey Gross  
46 Income Tax Act," N.J.S.54A:1-1 et seq., that husband and wife shall

1 each be entitled to one-half of the deduction for property taxes for  
2 which they may be jointly eligible pursuant to this section.

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

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9 4. a. A resident taxpayer whose homestead is a unit of residential  
10 rental property shall be allowed a deduction from gross income for  
11 that portion of the rent constituting property taxes not in excess of  
12 \$10,000 paid for occupancy of that homestead.

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

17 c. If more than one taxpayer, other than husband and wife, qualify  
18 to deduct rent constituting property taxes by reason of their having  
19 occupied the same rented homestead, it shall be presumed that the  
20 deduction shall be equally divided. A taxpayer may, however, deduct  
21 an amount for rent constituting property taxes in the same proportion  
22 that the rent paid by that taxpayer bears to the total rent paid by all  
23 tenants of the same unit.

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25 5. If a taxpayer who is eligible for a deduction for property taxes  
26 under section 3 of this act for a part of the taxable year is also eligible  
27 for a deduction for rent constituting property taxes under section 4 of  
28 this act for a part of the taxable year, the taxpayer shall be allowed a  
29 deduction, not in excess of \$10,000, the amount of which shall be  
30 equal to the sum of the amount of property taxes paid on a homestead  
31 that is not a unit of residential rental property and the amount of rent  
32 constituting property taxes paid for the occupancy of a homestead that  
33 is a unit of residential rental property, provided however, that the  
34 amount of property taxes shall be subject to the limitations set forth in  
35 subsections b. through e. of section 3 and the amount of rent  
36 constituting property taxes shall be subject to the limitations set forth  
37 in subsections b. and c. of section 4 as may be applicable.

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39 6. This act shall take effect immediately and apply to taxable years  
40 ending after December 31, 1994.

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43 STATEMENT

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45 This bill provides a gross income tax deduction of up to \$10,000  
46 for property taxes paid by homeowners, or the rental equivalent

1   thereof paid by tenants, on a taxpayer's principal residence in this  
2   State.

3       In effect, this bill reinstates the deduction of property taxes under  
4   the gross income tax which was allowed under the former "Homestead  
5   Tax Relief Act," P.L.1985, c.304 (C.54A:3A-1 et seq.). However,  
6   unlike the "Homestead Tax Relief Act," this bill limits the deduction  
7   for taxpayers to \$10,000, does not allow for a refund of any amount  
8   of an unused deduction and does not require that taxpayers receive a  
9   set minimum deduction.

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14   The "Property Tax Deduction Act."