

[First Reprint]
SENATE, No. 1

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

**By Senators DiFRANCESCO, MATHEUSSEN, Sinagra, Bennett,
Scott, Bubba, Ciesla, Kosco, Kyrillos, Connors and Inverso**

1 **AN ACT** providing a gross income tax deduction for residential
2 property taxes paid by homeowners and tenants, ¹providing a
3 refundable tax credit for property tax payers, and¹ 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 facility
17 primarily for retired persons where lodging and nursing, medical or
18 other health related services at the same or another location are
19 provided as continuing care to an individual pursuant to an agreement
20 effective for the life of the individual or for a period greater than one
21 year, including mutually terminable contracts, and in consideration of
22 the payment of an entrance fee with or without other periodic charges.
23 "Cooperative" means a housing corporation or association which
24 entitles the holder of a share or membership interest thereof to possess
25 and occupy for dwelling purposes a house, apartment, manufactured
26 or mobile home or other unit of housing owned or leased by the
27 corporation or association, or to lease or purchase a unit of housing
28 constructed or to be constructed by the corporation or association.
29 "Dwelling house" means any residential property assessed as real
30 property which consists of not more than four units, of which not more

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.
Matter enclosed in superscript numerals has been adopted as follows:
¹ Senate SSG committee amendments adopted May 9, 1996.

1 than one may be used for commercial purposes, but shall not include
2 a unit in a condominium, cooperative, horizontal property regime or
3 mutual housing corporation.

4 "Homestead" means:

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

8 b. a dwelling house situated on land owned by a person other than
9 the taxpayer which constitutes the place of the taxpayer's domicile and
10 is owned and used by the taxpayer as the taxpayer's principal
11 residence;

12 c. a condominium unit or a unit in a horizontal property regime or
13 a continuing care retirement community which constitutes the place of
14 the taxpayer's domicile and is owned and used by the taxpayer as the
15 taxpayer's principal residence.

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

27 d. a unit in a cooperative or mutual housing corporation which
28 constitutes the place of domicile of a residential shareholder or lessee
29 therein, or of a lessee or shareholder who is not a residential
30 shareholder therein, which is used by the taxpayer as the taxpayer's
31 principal residence; and

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

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

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

44 "Principal residence" means a homestead actually and continually
45 occupied by a taxpayer as the taxpayer's permanent residence, as
46 distinguished from a vacation home, property owned and rented or

1 offered for rent by the taxpayer, and other secondary real property
2 holdings.

3 "Rent constituting property taxes" means 18% of the rent paid by
4 the taxpayer for occupancy during the taxable year of a unit of
5 residential rental property which the taxpayer occupies as a principal
6 residence.

7 "Residential rental property" means:

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

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

13 c. any building or structure or complex of buildings or structures
14 constructed under the following sections of the National Housing Act
15 (Pub.L.73-479) as amended and supplemented: section 202, Housing
16 Act of 1959 (Pub.L.86-372) and as subsequently amended, section
17 231, Housing Act of 1959.

18 "Residential shareholder in a cooperative or mutual housing
19 corporation" means a tenant or holder of a membership interest in that
20 cooperative or corporation, whose residential unit therein constitutes
21 the tenant's or holder's domicile and principal residence, and who may
22 deduct real property taxes for purposes of federal income tax
23 pursuant to section 216 of the federal Internal Revenue Code of 1986,
24 26 U.S.C. §216.

25

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

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

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

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

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

14
15 4. a. A resident taxpayer whose homestead is a unit of residential
16 rental property shall be allowed a deduction from gross income for
17 that portion of the rent constituting property taxes not in excess of
18 \$10,000 paid for occupancy of that homestead.

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

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

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

44
45 ¹⁶ a. Notwithstanding any provision of this act to the contrary,
46 commencing with the taxpayer's taxable year beginning on or after

1 January 1, 1996, if a deduction determined pursuant to section 3, 4, or
2 5 of this act does not reduce the gross income tax liability of the
3 taxpayer by at least \$50, the taxpayer shall, instead of claiming the
4 deduction, be allowed a tax credit in the amount of \$50 which shall be
5 applied against the taxpayer's gross income tax liability for the taxable
6 year in which the deduction may otherwise be claimed. If any amount
7 of the \$50 credit remains unused after application of the credit against
8 the taxpayer's gross income tax liability, the remaining amount shall be
9 paid to the taxpayer as a refund of overpayment pursuant to subsection
10 (f) of N.J.S.54A:9-7.

11 b. Notwithstanding any other provision of law, a resident of this
12 State who paid property taxes or rent constituting property taxes on
13 a homestead during the calendar year, but who is not subject to tax,
14 pursuant to N.J.S.54A:2-4, shall be allowed a \$50 refundable credit
15 for property taxes paid or rent constituting property taxes during the
16 calendar year, provided however, that the amount of refundable credit
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. The refundable tax credit shall be applied for
21 annually on an application as shall be made available by the director,
22 to be filed with the director on or before the date for filing annual
23 gross income tax returns. The refundable tax credit shall be paid to
24 qualified applicants in the same manner as an overpayment pursuant to
25 subsection (f) of N.J.S.54A:9-7.¹

26
27 ^{17.} An amount equal to the revenue that would be available to the
28 Property Tax Relief Fund but for the amount estimated to be foregone
29 and due to be refunded during a fiscal year due to the "Property Tax
30 Deduction Act," P.L.1996, c. (C.) (now pending before the
31 Legislature as this bill), shall be made available to the Property Tax
32 Relief Fund from State General Fund revenue sources during that
33 fiscal year without a reduction in the level of State aid appropriated to
34 municipalities, school districts and counties from the General Fund
35 during that fiscal year.¹

36
37 ^{1[6.] 8.}¹ This act shall take effect immediately and apply to taxable
38 years ending after ¹[December 31, 1994] December 31, 1995¹.

39
40
41
42
43 The "Property Tax Deduction Act."