

SENATE, No. 2200

STATE OF NEW JERSEY

INTRODUCED JUNE 16, 1997

By Senator INVERSO

1 AN ACT concerning the eligibility of certain surviving spouses for a
2 veterans property tax deduction and amending P.L.1948, c.259 and
3 P.L.1963, c.171.

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

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8 1. Section 1 of P.L.1948, c.259 (C.54:4-3.30) is amended to read
9 as follows:

10 1. a. The dwelling house and the lot or curtilage whereon the same
11 is erected, of any citizen and resident of this State, now or hereafter
12 honorably discharged or released under honorable circumstances, from
13 active service, in time of war, in any branch of the Armed Forces of
14 the United States, who has been or shall be declared by the United
15 States Veterans Administration or its successor to have a
16 service-connected disability from paraplegia, sarcoidosis,
17 osteochondritis resulting in permanent loss of the use of both legs, or
18 permanent paralysis of both legs and lower parts of the body, or from
19 hemiplegia and has permanent paralysis of one leg and one arm or
20 either side of the body, resulting from injury to the spinal cord,
21 skeletal structure, or brain or from disease of the spinal cord not
22 resulting from any form of syphilis; or from total blindness; or from
23 amputation of both arms or both legs, or both hands or both feet, or
24 the combination of a hand and a foot; or from other service-connected
25 disability declared by the United States Veterans Administration or its
26 successor to be a total or 100% permanent disability, and not so
27 evaluated solely because of hospitalization or surgery and
28 recuperation, sustained through enemy action, or accident, or resulting
29 from disease contracted while in such active service, shall be exempt
30 from taxation, on proper claim made therefor, and such exemption
31 shall be in addition to any other exemption of such person's real and
32 personal property which now is or hereafter shall be prescribed or
33 allowed by the Constitution or by law but no taxpayer shall be allowed
34 more than one exemption under this act.

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.

1 b. (1) The surviving spouse of any such citizen and resident of this
2 State, who at the time of death was entitled to the exemption provided
3 under this act, shall be entitled, on proper claim made therefor, to the
4 same exemption as the deceased had, during the surviving spouse's
5 widowhood or widowerhood, as the case may be, and while a resident
6 of this State, for the time that the surviving spouse is the legal owner
7 thereof and actually occupies the said dwelling house or any other
8 dwelling house thereafter acquired.

9 (2) The surviving spouse of any decedent, who at the time of death
10 met the criteria established in section 1 of P.L.1948, c.259 (C.54:4-
11 3.30) for an exemption from property taxes except for the fact that the
12 decedent was not a citizen and resident of this State, shall be entitled,
13 on proper claim made therefor, to that exemption during the surviving
14 spouse's widowhood or widowerhood, as the case may be, and while
15 a resident of this State, for the time that the surviving spouse is the
16 legal owner of a dwelling house in this State.

17 c. The surviving spouse of any citizen and resident of this State,
18 who died in active service in time of war in any branch of the Armed
19 Forces of the United States, shall be entitled, on proper claim made
20 therefor, to an exemption from taxation on the dwelling house and lot
21 or curtilage whereon the same is erected, during the surviving spouse's
22 widowhood or widowerhood, as the case may be, and while a resident
23 of this State, for the time that the surviving spouse is the legal owner
24 thereof and actually occupies the said dwelling or any other dwelling
25 house thereafter acquired.

26 d. The surviving spouse of any citizen and resident of this State
27 who died prior to January 10, 1972, that being the effective date of
28 P.L.1971, c.398, and whose circumstances were such that, had said
29 law become effective during the deceased's lifetime, the deceased
30 would have become eligible for the exemption granted under this
31 section as amended by said law, shall be entitled, on proper claim
32 made therefor, to the same exemption as the deceased would have
33 become eligible for upon the dwelling house and lot or curtilage
34 occupied by the deceased at the time of death, during the surviving
35 spouse's widowhood or widowerhood, as the case may be, and while
36 a resident of this State, for the time that the surviving spouse is the
37 legal owner thereof and actually occupies the said dwelling house on
38 the premises to be exempted.

39 e. Nothing in this act shall be intended to include paraplegia or
40 hemiplegia resulting from locomotor ataxia or other forms of syphilis
41 of the central nervous system, or from chronic alcoholism, or to
42 include other forms of disease resulting from the veteran's own
43 misconduct which may produce signs and symptoms similar to those
44 resulting from paraplegia, osteochondritis, or hemiplegia.

45 (cf: P.L.1985, c.515, s.2)

1 2. Section 1 of P.L.1963, c.171 (C.54:4-8.10) is amended to read
2 as follows:

3 1. As used in this act:

4 (a) "Active service in time of war" means active service at some
5 time during one of the following periods:

6 Operation "Desert Shield/Desert Storm" mission in the Arabian
7 peninsula and the Persian Gulf, on or after August 2, 1990 or the date
8 of inception of that operation, as proclaimed by the President of the
9 United States or Congress, whichever date of inception is earliest, who
10 has served in the Arabian peninsula or on board any ship actively
11 engaged in patrolling the Persian Gulf for a period, continuous or in
12 the aggregate, of at least 14 days commencing on or before the date
13 of termination of that mission, as proclaimed by the President of the
14 United States, Congress or the Governor, whichever date of
15 termination is the latest, in such active service; provided, that any
16 person receiving an actual service-incurred injury or disability shall be
17 classed as a veteran whether or not that person has completed the 14
18 days' service as herein provided;

19 The Panama peacekeeping mission, on or after December 20, 1989
20 or the date of inception of that mission, as proclaimed by the President
21 of the United States or Congress, whichever date of inception is
22 earliest, who has served in Panama or on board any ship actively
23 engaged in patrolling the territorial waters of that nation for a period,
24 continuous or in the aggregate, of at least 14 days commencing on or
25 before January 31, 1990 or the date of termination of that mission, as
26 proclaimed by the President of the United States or Congress,
27 whichever date of termination is the latest, in such active service;
28 provided, that any person receiving an actual service-incurred injury
29 or disability shall be classed as a veteran whether or not that person
30 has completed the 14 days' service as herein provided;

31 The Grenada peacekeeping mission, on or after October 23, 1983,
32 who has served in Grenada or on board any ship actively engaged in
33 patrolling the territorial waters of that nation for a period, continuous
34 or in the aggregate, of at least 14 days commencing on or before
35 November 21, 1983 or the date of termination of that mission as
36 proclaimed by the President of the United States or Congress,
37 whichever date of termination is the latest, in such active service;
38 provided, that any person receiving an actual service-incurred injury
39 or disability shall be classed as a veteran whether or not that person
40 has completed the 14 days' service as herein provided;

41 The Lebanon peacekeeping mission, on or after September 26, 1982,
42 who has served in Lebanon or on board any ship actively engaged in
43 patrolling the territorial waters of that nation for a period, continuous
44 or in the aggregate, of at least 14 days commencing on or before
45 December 1, 1987 or the date of termination of that mission, as
46 proclaimed by the President of the United States or Congress,

1 whichever date of termination is the latest, in such active service;
2 provided, that any person receiving an actual service-incurred injury
3 or disability shall be classed as a veteran whether or not that person
4 has completed the 14 days' service as herein provided;

5 The Vietnam conflict, December 31, 1960, to May 7, 1975;

6 The Korean conflict, June 23, 1950 to January 31, 1955;

7 World War II, September 16, 1940 to December 31, 1946;

8 World War I, April 6, 1917 to November 11, 1918, and in the case
9 of service with the United States military forces in Russia, April 6,
10 1917 to April 1, 1920;

11 Spanish-American War, April 21, 1898 to August 13, 1898;

12 Civil War, April 15, 1861 to May 26, 1865; or, as to any
13 subsequent war, during the period from the date of declaration of war
14 to the date on which actual hostilities shall cease.

15 (b) "Assessor" means the assessor, board of assessors or any other
16 official or body of a taxing district charged with the duty of assessing
17 real and personal property for the purpose of general taxation.

18 (c) "Collector" means the collector or receiver of taxes of a taxing
19 district.

20 (d) "Honorably discharged or released under honorable
21 circumstances from active service in time of war," means and includes
22 every form of separation from active, full-time duty with military or
23 naval pay and allowances in some branch of the Armed Forces of the
24 United States in time of war, other than those marked "dishonorable,"
25 "undesirable," "bad conduct," "by sentence of general court martial,"
26 "by sentence of summary court martial" or similar expression
27 indicating that the discharge or release was not under honorable
28 circumstances. A disenrollment certificate or other form of release
29 terminating temporary service in a military or naval branch of the
30 armed forces rendered on a voluntary and part-time basis without pay,
31 or a release from or deferment of induction into the active military or
32 naval service shall not be deemed to be included in the aforementioned
33 phrase.

34 (e) "Pre-tax year" means the particular calendar year immediately
35 preceding the "tax year."

36 (f) "Resident" means one legally domiciled within the State of New
37 Jersey. Mere seasonal or temporary residence within the State, of
38 whatever duration, shall not constitute domicile within the State for
39 the purposes of this act. Absence from this State for a period of 12
40 months shall be prima facie evidence of abandonment of domicile in
41 this State. The burden of establishing legal domicile within the State
42 shall be upon the claimant.

43 (g) "Tax year" means the particular calendar year in which the
44 general property tax is due and payable.

45 (h) "Veteran" means any citizen and resident of this State
46 honorably discharged or released under honorable circumstances from

1 active service in time of war in any branch of the Armed Forces of the
2 United States.

3 (i) "Veteran's deduction" means the deduction against the taxes
4 payable by any person, allowable pursuant to this act.

5 (j) "Surviving spouse" means the surviving wife or husband of any
6 of the following, while he or she is a resident of this State, during
7 widowhood or widowerhood:

8 1. A [citizen and resident of this State] person who has died or
9 shall die while on active duty in time of war in any branch of the
10 Armed Forces of the United States; or

11 2. A [citizen and resident of this State] person who has had or shall
12 hereafter have active service in time of war in any branch of the Armed
13 Forces of the United States and who died or shall die while on active
14 duty in a branch of the Armed Forces of the United States; or

15 3. A [citizen and resident of this State] person who has been or
16 may hereafter be honorably discharged or released under honorable
17 circumstances from active service in time of war in any branch of the
18 Armed Forces of the United States.

19 (k) "Cooperative" means a housing corporation or association
20 incorporated or organized under the laws of New Jersey which entitles
21 a shareholder thereof to possess and occupy for dwelling purposes a
22 house, apartment or other structure owned or leased by the
23 corporation or association;

24 (l) "Mutual housing corporation" means a corporation
25 not-for-profit incorporated under the laws of New Jersey on a mutual
26 or cooperative basis within the scope of section 607 of the "National
27 Defense Housing Act," Pub. L.76-849 (42 U.S.C. 1521 et seq.), which
28 acquired a National Defense Housing Project pursuant to that act.

29 (cf: P.L.1995, c.406, s.5)

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31 3. Section 3 of P.L.1963, c.171 (C.54:4-8.12) is amended to read
32 as follows:

33 3. No veteran's deduction from taxes assessed against real and
34 personal property, as provided herein, shall be allowed except upon
35 written application therefor, which application shall be on a form
36 prescribed by the Director of the Division of Taxation, in the
37 Department of the Treasury, and provided for the use of claimants
38 hereunder by the governing body of the municipality constituting the
39 taxing district in which such claim is to be filed and the application has
40 been approved as provided in this act. An assessor shall not require
41 the filing of an application for a veteran's deduction under this act of
42 any person who has filed, or shall file, a claim for an exemption from
43 taxation under chapter 184 of the laws of 1951, on or before
44 December 31, 1963, but shall approve a veteran's deduction for such
45 person, if it appears from such claim for exemption that such person
46 meets all the other prerequisites required by law for the approval of a

1 claim for a veteran's deduction. Each assessor may at any time inquire
2 into the right of a claimant to the continuance of a veteran's deduction
3 hereunder and for that purpose he may require the filing of a new
4 application or the submission of such proof as he shall deem necessary
5 to determine the right of the claimant to continuance of such
6 deduction. No application for a veteran's deduction based upon
7 service in the Armed Forces shall be allowed unless there is annexed
8 thereto a copy, which may be photostatic, of claimant's certificate of
9 honorable discharge or of his certificate of release under honorable
10 circumstances from active service in time of war in a branch of the
11 Armed Forces of the United States. In the case of an application by
12 a surviving spouse said application shall not be allowed unless it
13 clearly establishes that:

14 (a) Claimant's spouse died while on active duty in a branch of the
15 Armed Forces of the United States, having had active service in time
16 of war, as herein defined, in a branch of the Armed Forces of the
17 United States, or in the case of a surviving spouse of a veteran,
18 claimant shall establish that the veteran was honorably discharged or
19 released under honorable circumstances from active service in time of
20 war in any branch of the Armed Forces of the United States, (b)
21 [claimant's spouse was a citizen and resident of this State at the time
22 of death] (~~deleted by amendment, P.L. , c.~~), (c) claimant was
23 the spouse of the veteran at the time of the veteran's death, and (d)
24 claimant is a resident of this State and has not remarried.

25 (cf: P.L.1997, c.30, s.1)

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27 4. This act shall take effect upon approval by the voters of Senate
28 Concurrent Resolution No. 133 of 1997 or a substantially similar
29 Constitutional Amendment extending eligibility for a property tax
30 deduction to a New Jersey resident who is the surviving spouse of a
31 nonresident veteran.

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STATEMENT

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36 This bill would amend existing law to implement a constitutional
37 amendment, proposed by Senate Concurrent Resolution No. 133 of
38 1997, which would extend eligibility for a property tax deduction to
39 a New Jersey resident who is the surviving spouse of a nonresident
40 veteran.

41 At present, the New Jersey Constitution provides that the surviving
42 spouse of a war veteran, or of a wartime member of the armed forces
43 who died while on active duty, is eligible to receive a \$50 property tax
44 deduction if the surviving spouse resides in New Jersey and the
45 deceased spouse was a "citizen and resident" of New Jersey. It allows
46 an additional deduction, as established by law, when the deceased

1 spouse had a service-connected disability. The proposed
2 constitutional amendment would eliminate the requirement that the
3 deceased spouse must have been a "citizen and resident" of this State
4 and allow every resident surviving spouse whose husband or wife
5 served their country during wartime to receive the deduction
6 regardless of whether or not the deceased spouse was a New Jersey
7 resident.

8 The bill would amend the relevant sections of existing law to
9 conform them with the proposed change in the Constitution. It would
10 take effect upon approval by the voters of Senate Concurrent
11 Resolution No. 133 of 1997 or a substantially similar constitutional
12 amendment extending eligibility for a property tax deduction to a New
13 Jersey resident who is the surviving spouse of a nonresident veteran.

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18 Implements proposed constitutional amendment extending eligibility
19 for property tax deduction to New Jersey resident who is surviving
20 spouse of nonresident veteran.