

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:*

7  
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.