

SENATE, No. 2354

STATE OF NEW JERSEY

INTRODUCED DECEMBER 18, 1997

By Senator LaROSSA

1 AN ACT providing a refundable gross income tax credit for the portion
2 of school district property taxes levied on homesteads owners and
3 attributable to tenants to fund thorough and efficient budgets of
4 local school districts, and imposing a gross income tax surcharge,
5 supplementing Title 54A of the New Jersey Statutes.

6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

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10 1. This act shall be known and may be cited as the "Thorough and
11 Efficient Education Funding Local Share Homestead Property Tax
12 Credit Act."

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14 2. As used in this act:

15 The terms "condominium," "continuing care retirement
16 community," "cooperative," "dwelling house," "homestead,"
17 "horizontal property regime," "mutual housing corporation,"
18 "principal residence," "rent constituting property taxes," "residential
19 rental property," and "residential shareholder in a cooperative or
20 mutual housing corporation" shall have the same meaning as set forth
21 in section 2 of P.L.1966, c.60 (C.54A:3A-16);

22 "Statewide thorough and efficient local share amount" means the
23 thorough and efficient local share amount of all taxpayers qualifying
24 for a credit pursuant to this act;

25 "Thorough and efficient local share amount" means that portion of
26 the property taxes or rent constituting property taxes paid by a
27 claimant on the claimant's homestead determined by multiplying a
28 municipal thorough and efficient local share factor by the property
29 taxes or rent constituting property taxes;

30 "Thorough and efficient local share factor" means that proportion,
31 as shall be annually determined by each county Board of Taxation, of
32 the total residential real property tax levy in each municipality in the
33 respective county that constitutes the thorough and efficient local
34 share levy; and

35 "Thorough and efficient local share levy" means that amount
36 required to be raised through the school district's local school tax levy

1 to fund the portion of the district's local tax levy contained in the T&E
2 budget as determined pursuant to P.L.1996, c.138 (C.18A:7F-1 et
3 seq.).

4
5 3. a. A resident taxpayer shall be allowed a credit against the tax
6 otherwise due under the "New Jersey Gross Income Tax Act,"
7 N.J.S.54A:1-1 et seq., for the taxable year equal to the thorough and
8 efficient local share amount included in the property taxes paid by the
9 claimant in that taxable year on the claimant's homestead.

10 b. A credit shall be allowed pursuant to subsection a. of this
11 section in relation to the thorough and efficient local share amount
12 included in the property taxes actually paid by or allocable to a
13 resident property taxpayer who is a claimant on more than one
14 homestead, but the aggregate amount of the thorough and efficient
15 local share amount included in property taxes claimed shall not exceed
16 the total of the proportionate amounts of thorough and efficient local
17 share amounts included in the property taxes assessed and levied
18 against or allocable to each homestead for the portion of the taxable
19 year the claimant occupied it as the claimant's principal residence.

20 c. If title to a homestead is held by more than one individual as
21 joint tenants or tenants in common, each individual shall be allowed a
22 credit pursuant to this section only in relation to the individual's
23 proportionate share of thorough and efficient local share amounts
24 included in the property taxes assessed and levied against the
25 homestead. The individual's proportionate share of the thorough and
26 efficient local share amounts included in the property taxes on that
27 homestead shall be equal to the share of that individual's interest in the
28 title. Title may be presumed to be held in equal shares among all
29 co-owners, but if the conveyance under which the title is held provides
30 for unequal interests therein, a claimant's share of the thorough and
31 efficient local share amounts included in the property taxes paid on
32 that homestead shall be in proportion to the claimant's interest in the
33 title.

34 d. If the homestead of a claimant is a residential property
35 consisting of more than one unit, that claimant shall be allowed a
36 credit pursuant to this section only in relation to the proportionate
37 share of the thorough and efficient local share amounts included in the
38 property taxes assessed and levied against the residential unit occupied
39 by that claimant, as determined by the local tax assessor.

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

1 and efficient local share amounts included in the property taxes for
2 which they may be jointly liable on that homestead.

3
4 4. a. A resident taxpayer whose homestead is a unit of residential
5 rental property shall be allowed a credit against the tax otherwise due
6 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.,
7 for the taxable year equal to the thorough and efficient local share
8 amount included in the claimant's rent constituting property taxes due
9 and paid for the calendar year in which the rent constituting property
10 taxes is due and payable for occupancy of that homestead.

11 b. If more than one resident, other than a husband and wife, qualify
12 for a credit by reason of their having occupied the same unit of
13 residential rental property as their homestead, it shall be presumed that
14 each claimant shall be allowed a credit pursuant to subsection a. of this
15 section only in relation to the individual's proportionate share of the
16 thorough and efficient local share amount included in the total rent
17 constituting property taxes paid by that claimant which credit shall be
18 in proportion to the percentage that the total rent paid by that claimant
19 bears to the total rent paid by all tenants of the same unit. For the
20 purposes of a credit claimed by an individual subject to this subsection,
21 the names and social security numbers of each co-tenant shall be
22 reported by the claimant and the total rent paid shall be presumed to
23 be paid in equal parts among all co-tenants.

24 c. If a claimant for a credit pursuant to subsection a. of this section
25 has no other homestead in this State other than a unit of residential
26 rental property, and that claimant was not a resident of this State for
27 the full taxable year, but paid rent for the full taxable year for one or
28 more units of residential rental property in this State, the claimant's
29 total credit otherwise calculated pursuant to subsection a. of this
30 section shall be prorated in the proportion which the number of days
31 the claimant occupied residential rental property in this State as a
32 homestead during the taxable year bears to 365 days.

33 d. A husband and wife who qualify for a credit by reason of their
34 having occupied the same unit of residential rental property as their
35 homestead, who elect to file separate income tax returns pursuant to
36 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall
37 each be entitled to claim a credit based upon one-half of the thorough
38 and efficient local share amounts included in the rent constituting
39 property taxes for which they may be jointly liable on that homestead.

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41 5. a. A resident taxpayer for the full tax year for which a credit is
42 claimed, whose homestead has been other than a unit of residential
43 rental property for a part of the taxable year and has been a unit of
44 residential rental property for the remainder of that year, shall be
45 allowed a credit against the tax otherwise due under the "New Jersey
46 Gross Income Tax Act," N.J.S.54A:1-1 et seq., for that taxable year

1 equal to the sum of the thorough and efficient local share amount
2 included in the actual property taxes due and paid by the claimant for
3 the calendar year in which the property taxes are due and payable on
4 a homestead that is not a unit of residential rental property and the
5 thorough and efficient local share amount included in the rent
6 constituting property taxes due and paid by the claimant for the
7 calendar year in which the rent constituting property taxes is due and
8 payable for occupancy of a homestead that is a unit of residential
9 rental, provided however, that the thorough and efficient local share
10 amount included in property taxes shall be subject to the limitations set
11 forth in subsections b. through e. of section 3 of this act and the
12 thorough and efficient local share amount included in rent constituting
13 property taxes shall be subject to the limitations set forth in subsection
14 b. through d. of section 4 of this act as may be applicable.
15

16 6. a. No credit shall be allowed pursuant to this act except upon
17 annual written application therefor, in a manner and on a form
18 prescribed by the director. The director may require a claimant to
19 attach to the credit application a copy of the appropriate property tax
20 bill or proof of rent paid for the taxable year. The director may
21 require such other verification of eligibility for a credit as the director
22 may deem necessary. The application form shall be submitted (1) as
23 part of the claimant's gross income tax return filed pursuant to the
24 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or , (2)
25 on any other form and at any time as the director shall prescribe if (a)
26 the claimant is not required to file a gross income tax return or (b) the
27 claimant has filed an application for extension of time to file the
28 claimant's gross income tax return. The director shall, for good cause
29 shown, extend the time of any applicant to file a claim for a credit for
30 a reasonable period, and in such case, the application shall be
31 processed and crediting or payment made in accordance with the
32 procedures established in the case of applications timely filed. The
33 director may require sworn applications. In the event that the director
34 waives the requirement of sworn applications, all declarations by
35 claimants shall be considered as if made under oath and claimants, as
36 to false declarations, shall be subject to the penalties as provided by
37 law for perjury.

38 b. The director may inspect the records in the office of the tax
39 collector of a municipality with respect to claims for credits.

40 c. If a credit application contains a claim for a credit that is
41 incorrectly determined by the claimant or is based upon incorrect or
42 insufficient information from which the director is to approve the
43 claim, the director may determine the eligibility of the claimant for a
44 credit and the correct amount of a credit to be paid to that claimant
45 from such other information as may be available to the director. In
46 addition, the director may adjust the amount of any credit to which a

1 claimant may be entitled by any part of the amount of any previous
2 credit erroneously claimed by and paid to that claimant.

3 d. In the case of a claimant whose homestead is a unit in a
4 cooperative, mutual housing corporation or continuing care retirement
5 community, the application shall include the name and address of the
6 location of the property and the amount of real property taxes
7 attributed to the cooperative, mutual housing residential unit or
8 continuing care retirement community residential unit, as shall be
9 indicated in an official notice which shall be furnished by the
10 cooperative, mutual housing corporation or continuing care retirement
11 community for the same year.

12 e. A credit shall be allowed pursuant to this act for a claimant
13 whose ownership of an interest in a homestead is satisfied by the
14 holding of the beneficial interest if legal title thereto or share therein
15 is held by another for the benefit of the claimant.

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17 7. The tax collector of each municipality shall, on or before
18 March 1 of each year, furnish the director with a list of property
19 taxpayers in the district delinquent for taxes due and payable during
20 the year immediately preceding and the amounts of such delinquencies.
21 The collector shall report on such list the name, lot and block number
22 on the property tax duplicate as may be applicable, and the address of
23 each owner to whom a delinquency is attributable together with the
24 amount of such delinquency so identified. No credit under this act
25 shall be allowed a property owner listed as delinquent pursuant to this
26 section, provided however that for the purposes of this act, property
27 which is on appeal and for which the statutory percentage of the tax
28 as provided in R.S.54:3-27 has been paid shall not be regarded as
29 delinquent.

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31 8. If a credit allowed pursuant to section 3, 4 or 5 of this act
32 reduces tax liability below zero, then the amount by which the credit
33 reduces the tax liability below zero shall be paid to the taxpayer as a
34 refund of overpayment pursuant to N.J.S.54A:9-7, provided however,
35 that subsection (f) of that section shall not apply.

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37 9. The payment of any refund authorized under this act shall not be
38 subject to garnishment, attachment, execution or other legal process,
39 except as provided in section 1 of P.L.1981, c.239 (C.54A:9-8.1), or
40 except for an income withholding order issued pursuant to P.L.1981,
41 c.417 (C.2A:17-56.7 et seq.), nor shall the payment thereof be
42 anticipated.

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44 10. a. Any citizen and resident of this State who has paid the
45 thorough and efficient local share amount included in the property
46 taxes on a homestead or whose homestead is a residential rental

1 property but who is not required to file a return under the "New Jersey
2 Gross Income Tax Act," N.J.S.54:1-1 et seq., shall be entitled to apply
3 for a refundable credit pursuant to section 3, 4, or 5 as may be
4 applicable.

5 b. The credit allowed pursuant to this section shall be applied as a
6 payment of tax otherwise due under the "New Jersey Gross Income
7 Tax Act," N.J.S.54A:1-1 et seq., and the amount of any such credit
8 not applied as a payment of tax otherwise due shall be considered as
9 overpayment of tax subject to refund, further credit or setoff pursuant
10 to N.J.S.54A:9-7 and N.J.S.54A:9-8 and P.L.1981, c.239
11 (C.54A:9-8.1 et seq.), provided however, that subsection (f) of
12 N.J.S.54A:9-7 shall not apply.

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14 11. a. In addition to the tax imposed pursuant to the "New Jersey
15 Gross Income Tax Act," N.J.S.54A:1-1 et seq., each taxpayer shall be
16 assessed and shall pay a Statewide thorough and efficient local share
17 surcharge equal to a percentage of the taxpayer's gross income tax
18 liability for the taxable year otherwise determined pursuant to
19 N.J.S.54A:1-1 et seq. Annually, within two days following the
20 transmittal of the State budget message to the Legislature by the
21 Governor pursuant to section 11 of article 3 of P.L.1944, c.112
22 (C.52:27B-20), the State Treasurer shall determine the Statewide
23 thorough and efficient local share surcharge percentage. The
24 percentage shall be set so that the surcharge will collect during the
25 next commencing fiscal year, when combined with amounts anticipated
26 to be collected during the next commencing fiscal year pursuant to the
27 anticipated surcharge assessed during the subsequent taxable year, an
28 amount equal to the Statewide thorough and efficient local share
29 amount for that fiscal year. The surcharge shall be payable pursuant
30 to N.J.S.54A:8-1 and administered as part of the otherwise due tax
31 liability determined pursuant to the provisions of N.J.S.54A:1-1 et seq.

32 b. Upon the determination of the Statewide thorough and efficient
33 local share surcharge, the Director of the Division of Taxation in the
34 Department of Treasury shall issue regulations to reflect the entire
35 increase in taxpayer liability for the taxable year in increased
36 withholding from employee wages.

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38 12. This act shall take effect immediately and apply to taxpayer
39 taxable years commencing on and after enactment.

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STATEMENT

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44 This bill provides a refundable gross income tax credit for the
45 portion of school district property taxes levied on homesteads to fund
46 thorough and efficient budgets of local school districts. The tax credit

1 will be available to owners of homesteads and tenants for the portion
2 of the property taxes they pay, or that are attributable to a portion of
3 their rent, and can be claimed as a refundable tax credit by gross
4 income taxpayers and by residents that do not need to file gross
5 income tax returns. The refundable credit will serve as a means to
6 reimburse residential homeowners and tenants in New Jersey for the
7 portion of their property taxes or rent that is paid to fund their local
8 school district's "thorough and efficient budget" determined under the
9 "Comprehensive Educational Improvement and Financing Act of
10 1996," P.L.1996, c.138 (C.18A:7F-1 et seq.). The bill thus provides
11 a means of overcoming the State's over-reliance on residential
12 property taxes to fund education. In effect, property taxes on
13 residential property will no longer be used to fund a thorough and
14 efficient education.

15 The "Comprehensive Educational Improvement and Financing Act
16 of 1996" recently enacted the funding mechanism for the establishment
17 of a thorough and efficient system of free public education (T&E) as
18 guaranteed by the State Constitution. It establishes standards of
19 thoroughness and efficiency and a new system for funding public
20 education through a combination of State aid and local support. It
21 directs the State Board of Education to review the new core
22 curriculum content standards that will define for all students in the
23 State the substance of a thorough education. Also the Commissioner
24 of Education is directed to develop and establish efficiency standards
25 which shall define the types of programs, services, activities and
26 materials necessary to achieve an efficient education. Together these
27 standards will define what is required to provide a thorough and
28 efficient education and will serve as the basis for determining the
29 amount of funding necessary to do so.

30 School districts' T&E budgets are the total amount of funding
31 needed to provide a thorough and efficient education consistent with
32 the curriculum content and efficiency standards issued by the State
33 board and commissioner. Each school district is required to fund its
34 T&E budget through local tax revenues up to a level based on district
35 property wealth and district income. Any difference between the
36 district's T&E budget and the required local share will be funded
37 through State aid, with supplemental aid being available for certain
38 districts where the impact of the new standards on local taxes would
39 be excessive.

40 However, the local funding source still relies upon property taxes
41 that are an increasing burden on residential property taxpayers in this
42 State. Thus the funding mechanism has been enacted without regard
43 to the tax burdens placed upon the citizens of this State under these
44 revenue sources.

45 This bill seeks to address the inherent inequities of relying upon
46 residential property taxes to fund T&E budgets. This reliance upon

1 residential property taxes disregards a homeowner or tenant's ability
2 to pay and can place similarly situated property owners in different
3 school districts under different tax burdens. Even owners of
4 identically valued homes, in districts that pay the same money to
5 educate a student, can pay radically different property taxes because
6 State aid to each district can vary widely, as can the local taxes
7 generated by the commercial property tax base.

8 The refundable tax credits will approximate the amount each
9 residential homestead owner and tenant pay in property taxes to pay
10 for their school districts' T&E budgets. The amount of gross income
11 tax revenue needed to offset these credits will be raised by an annual
12 Statewide thorough and efficient local share gross income tax
13 surcharge. In effect, through the use of the credits and surcharges, the
14 bill replaces the inherently unfair use of residential property taxes to
15 fund constitutionally mandated T&E budgets by means of income tax
16 surcharges added to all taxpayers' income tax liabilities, but only in
17 amounts necessary to offset local taxpayer payments of Statewide
18 residential T&E budget property taxes.

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23 The "Thorough and Efficient Education Funding Local Share
24 Homestead Property Tax Credit Act."