

ASSEMBLY, No. 3960

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MAY 9, 2011

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

SYNOPSIS

Lowers age of eligibility for surviving spouse under homestead property tax reimbursement program; extends payment of homestead property tax reimbursement to non-eligible surviving spouse for portion of tax year during which deceased spouse lived.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT revising certain eligibility criteria under the homestead
2 property tax reimbursement program and amending P.L.1997,
3 c.348.

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.1997, c.348 (C.54:4-8.67) is amended to
9 read as follows:

10 1. As used in this act:

11 "Base year" means, in the case of a person who is an eligible
12 claimant on or before December 31, 1997, the tax year 1997; and in
13 the case of a person who first becomes an eligible claimant after
14 December 31, 1997, the tax year in which the person first becomes
15 an eligible claimant. In the case of an eligible claimant who
16 subsequently moves from the homestead for which the initial
17 eligibility was established, the base year shall be the first full tax
18 year during which the person resides in the new homestead.
19 Provided however, a base year for an eligible claimant after such a
20 move shall not apply to tax years commencing prior to January 1,
21 2009.

22 "Commissioner" means the Commissioner of Health and Senior
23 Services.

24 "Director" means the Director of the Division of Taxation.

25 "Condominium" means the form of real property ownership
26 provided for under the "Condominium Act," P.L.1969, c.257
27 (C.46:8B-1 et seq.).

28 "Cooperative" means a housing corporation or association which
29 entitles the holder of a share or membership interest thereof to
30 possess and occupy for dwelling purposes a house, apartment or
31 other unit of housing owned or leased by the corporation or
32 association, or to lease or purchase a unit of housing constructed or
33 to be constructed by the corporation or association.

34 "Disabled person" means an individual receiving monetary
35 payments pursuant to Title II of the federal Social Security Act (42
36 U.S.C. s.401 et seq.) on December 31, 1998, or on December 31 in
37 all or any part of the year for which a homestead property tax
38 reimbursement under this act is claimed.

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

44 "Eligible claimant" means a person who:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 is 65 or more years of age, or who is a disabled person, or in the
2 case of the surviving spouse of an eligible claimant, is 62 or more
3 years of age on the date of the death of the eligible claimant spouse;

4 is an owner of a homestead, or the lessee of a site in a mobile
5 home park on which site the applicant owns a manufactured or
6 mobile home;

7 has an annual income of less than \$17,918 in tax year 1998, less
8 than \$18,151 in tax year 1999, or less than \$37,174 in tax year
9 2000, if single, or, if married, whose annual income combined with
10 that of the spouse is less than \$21,970 in tax year 1998, less than
11 \$22,256 in tax year 1999, or less than \$45,582 in tax year 2000,
12 which income eligibility limits for single and married persons shall
13 be subject to adjustments in tax years 2001 through 2006 pursuant
14 to section 9 of P.L.1997, c.348 (C.54:4-8.68);

15 has an annual income of \$60,000 or less in tax year 2007,
16 \$70,000 or less in tax year 2008, or \$80,000 or less in tax year
17 2009, if single or married, which income eligibility limits shall be
18 subject to adjustments in subsequent tax years pursuant to section 9
19 of P.L.1997, c.348 (C.54:4-8.68);

20 as a renter or homeowner, has made a long-term contribution to
21 the fabric, social structure and finances of one or more communities
22 in this State, as demonstrated through the payment of property taxes
23 directly, or through rent, on any homestead or rental unit used as a
24 principal residence in this State for at least 10 consecutive years at
25 least three of which as owner of the homestead for which a
26 homestead property tax reimbursement is sought prior to the date
27 that an initial application for a homestead property tax
28 reimbursement is filed. A person who has been an eligible claimant
29 for a previous tax year shall qualify as an eligible claimant
30 beginning the second full tax year following a move to another
31 homestead in New Jersey, despite not meeting the three-year
32 minimum residency and ownership requirement required for initial
33 claimants under this paragraph; provided that the person satisfies
34 the income eligibility limits for the tax year. Provided however,
35 eligibility beginning in a second full tax year after such a move
36 shall not apply to tax years commencing prior to January 1, 2010.

37 "Homestead" means:

38 a dwelling house and the land on which that dwelling house is
39 located which constitutes the place of the eligible claimant's
40 domicile and is owned and used by the eligible claimant as the
41 eligible claimant's principal residence;

42 a site in a mobile home park equipped for the installation of
43 manufactured or mobile homes, where these sites are under
44 common ownership and control for the purpose of leasing each site
45 to the owner of a manufactured or mobile home for the installation
46 thereof and such site is used by the eligible claimant as the eligible
47 claimant's principal residence;

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

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

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

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

25 "Homestead property tax reimbursement" means payment of the
26 difference between the amount of property tax or site fee
27 constituting property tax due and paid in any year on any
28 homestead, exclusive of improvements not included in the
29 assessment on the real property for the base year, and the amount of
30 property tax or site fee constituting property tax due and paid in the
31 base year, when the amount paid in the base year is the lower
32 amount; but such calculations shall be reduced by any current year
33 property tax reductions or reductions in site fees constituting
34 property taxes resulting from judgments entered by county boards
35 of taxation or the State Tax Court.

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

39 "Manufactured home" or "mobile home" means a unit of housing
40 which:

41 (1) Consists of one or more transportable sections which are
42 substantially constructed off site and, if more than one section, are
43 joined together on site;

44 (2) Is built on a permanent chassis;

45 (3) Is designed to be used, when connected to utilities, as a
46 dwelling on a permanent or nonpermanent foundation; and

47 (4) Is manufactured in accordance with the standards
48 promulgated for a manufactured home by the Secretary of the

1 United States Department of Housing and Urban Development
2 pursuant to the "National Manufactured Housing Construction and
3 Safety Standards Act of 1974," Pub.L.93-383 (42 U.S.C. s.5401 et
4 seq.) and the standards promulgated for a manufactured or mobile
5 home by the commissioner pursuant to the "State Uniform
6 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

7 "Mobile home park" means a parcel of land, or two or more
8 parcels of land, containing no fewer than 10 sites equipped for the
9 installation of manufactured or mobile homes, where these sites are
10 under common ownership and control for the purpose of leasing
11 each site to the owner of a manufactured or mobile home for the
12 installation thereof, and where the owner or owners provide
13 services, which are provided by the municipality in which the park
14 is located for property owners outside the park, which services may
15 include but shall not be limited to:

- 16 (1) The construction and maintenance of streets;
- 17 (2) Lighting of streets and other common areas;
- 18 (3) Garbage removal;
- 19 (4) Snow removal; and
- 20 (5) Provisions for the drainage of surface water from home sites
21 and common areas.

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

28 "Income" means income as determined pursuant to P.L.1975,
29 c.194 (C.30:4D-20 et seq.).

30 "Principal residence" means a homestead actually and
31 continually occupied by an eligible claimant as his or her permanent
32 residence, as distinguished from a vacation home, property owned
33 and rented or offered for rent by the claimant, and other secondary
34 real property holdings.

35 "Property tax" means the general property tax due and paid as set
36 forth in this section, on a homestead, but does not include special
37 assessments and interest and penalties for delinquent taxes. For the
38 sole purpose of qualifying for a benefit under P.L.1997, c.348
39 (C.54:4-8.67 et seq.), property taxes paid by June 1 of the year
40 following the year for which the benefit is claimed will be deemed
41 to be timely paid.

42 "Site fee constituting property tax" means 18 percent of the
43 annual site fee paid or payable to the owner of a mobile home park.

44 "Tax year" means the calendar year in which a homestead is
45 assessed and the property tax is levied thereon and it means the
46 calendar year in which income is received or accrued.

47 (cf: P.L.2009, c.129, s.1)

1 2. Section 2 of P.L.1997, c.348 (C.54:4-8.69) is amended to
2 read as follows:

3 2. Every eligible claimant shall be entitled to reimbursement
4 for each year subsequent to the base year and annually thereafter,
5 on proper claim being made therefor to the director, to a homestead
6 property tax reimbursement. The amount of the homestead property
7 tax reimbursement shall not be reduced by the amount of the
8 deductions taken by the eligible claimant pursuant to P.L.1963,
9 c.171 (C.54:4-8.10 to 54:4-8.23) and **[P.L.1964, c.255 (C.54:4-8.40**
10 **to 54:4-8.45 et al.)]** P.L.1963, c.172 (C.54:4-8.40 et seq.). The
11 surviving spouse of a deceased resident of this State who during his
12 or her life received a homestead property tax reimbursement
13 pursuant to P.L.1997, c.348 (C.54:4-8.67 et seq.) shall be entitled**[**,
14 so long as he or she remains a resident in the same homestead with
15 respect to which the homestead property tax reimbursement was
16 granted, and so long as he or she is an eligible claimant**]** to the
17 same homestead property tax reimbursement, **[upon the same**
18 **conditions, with respect to the same homestead]** provided that the
19 surviving spouse remains a resident in the same homestead with
20 respect to which the homestead property tax reimbursement was
21 granted and meets all of the requirements set forth in the definition
22 of “eligible claimant” in section 1 of P.L.1997, c.348 (C.54:4-8.67).
23 (cf: P.L.1999, c.63, s.17)

24

25 3. Section 3 of P.L.1997, c.348 (C.54:4-8.70) is amended to
26 read as follows:

27 3. An application for a homestead property tax reimbursement
28 hereunder shall be filed with the director annually on or before June
29 1 of the year following the year for which the claim is being made
30 and shall reflect the prerequisites for a homestead property tax
31 reimbursement on December 31 of the tax year for which the claim
32 is being made, except as provided in section 4 of P.L. , c. (C.)
33 (pending before the Legislature as this bill); provided, however, that
34 the director may, by rule, designate a later date as the date by which
35 the application shall be filed or waive the requirement for filing an
36 annual application for any year or years subject to any limitations
37 and conditions the director may deem appropriate. The application
38 shall be on a form prescribed by the director and provided for the
39 use of applicants hereunder. Each applicant making a claim for a
40 homestead property tax reimbursement under this act shall provide,
41 if required by the director, to the director a copy of his or her
42 current year property tax bill or current year site fee bill on the
43 homestead constituting that person's principal residence and a copy
44 of his or her property tax bill for the base year or site fee bill for
45 the base year on the same homestead, or other equivalent proof as
46 permitted by the director.

47 It shall be the duty of every eligible claimant to inform the
48 director of any change in his or her status or homestead which may

1 affect his or her right to continuance of the homestead property tax
2 reimbursement.

3 If an eligible claimant receives an additional homestead property
4 tax reimbursement to which the claimant was not entitled or greater
5 than the reimbursement to which the claimant was entitled, the
6 director may, in addition to all other available legal remedies, offset
7 such amount against a gross income tax refund or amount due
8 pursuant to P.L.1990, c.61.
9 (cf: P.L.2003, c.30, s.1)

10

11 4. (New section) Whenever the surviving spouse of a deceased
12 resident of this State who, during his or her life received a
13 homestead property tax reimbursement pursuant to P.L.1997, c.348
14 (C.54:4-8.67 et al.), does not satisfy the criteria for the definition of
15 eligible claimant in section 1 of P.L.1997, c.348 (C.54:4-8.67), and
16 the requirements of section 2 of P.L.1997, c.348 (C.54:4-8.69), the
17 surviving spouse shall be entitled to file a claim for a pro rata
18 homestead property tax reimbursement for the number of days of
19 the tax year that the deceased spouse lived, including the date of
20 death, in which case the claim for reimbursement shall reflect the
21 prerequisites for a homestead property tax reimbursement on the
22 date of the deceased spouse's death.

23

24 5. This act shall take effect immediately and shall be
25 retroactive to January 1, 2007.

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STATEMENT

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30 This bill would revise the criteria for eligibility to receive a
31 homestead property tax reimbursement as those criteria pertain to
32 the surviving spouses of eligible senior citizens and disabled
33 persons.

34

35 The bill would lower from the current age of 65, to age 62, the
36 minimum age for the surviving spouse of an eligible claimant under
37 the homestead property tax reimbursement program to maintain his
38 or her eligibility to receive a homestead property tax reimbursement
39 after the death of his or her eligible claimant spouse.

39

40 The bill also would entitle the surviving spouse of an eligible
41 claimant to file a claim for a pro rata reimbursement for the number
42 of days during the tax year that the deceased spouse lived, even
43 though the surviving spouse is ineligible to receive the
44 reimbursement because he or she does not meet all of the criteria
45 necessary to qualify as an eligible claimant.

45

46 While current law allows a surviving spouse to file an
47 application on behalf of an eligible claimant spouse who dies after
48 December 31 of the tax year, there is currently no statutory
provision that would allow a spouse to claim a partial

1 reimbursement based upon the number of days an eligible claimant
2 lives during the tax year. This presents an unusual hardship for the
3 spouse of someone who was eligible to receive a homestead
4 property tax reimbursement, but who as the surviving spouse, is not
5 him- or herself eligible under the statutory eligibility criteria set
6 forth in section 1 of P.L.1997, c.348 (C.54:4-8.67). Under current
7 law, not only is the surviving spouse deprived of eligibility for
8 future years until he or she can satisfy the eligibility requirements,
9 but the surviving spouse is also denied the right to claim a partial
10 reimbursement for the portion of the year that the eligible deceased
11 spouse lived.