

[CORRECTED COPY]

CHAPTER 40

AN ACT providing for increased property tax relief for individual homestead owners in this State through the homestead rebate program and imposing an adjustment in the rate of gross income tax for taxpayers with taxable incomes in excess of \$500,000, amending P.L.1990, c.61, P.L.1999, c.63, P.L.1981, c.239 and N.J.S.54A:2-1, supplementing Title 54A of the New Jersey Statutes and repealing section 4 of P.L.1999, c.63 (C.54:4-8.58b).

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

1. Section 1 of P.L.1990, c.61 (C.54:4-8.57) is amended to read as follows:

C.54:4-8.57 Short title.

1. Sections 1 through 10 of P.L.1990, c.61 (C.54:4-8.57 through 54:4-8.66) and sections 3, 14 through 16, 18 and 19 of P.L.1999, c.63 (C.54:4-8.58a and C.54:4-8.66a through C.54:4-8.66e) shall be known and may be cited as the "2004 Homestead Property Tax Rebate Act".

2. Section 2 of P.L.1990, c.61 (C.54:4-8.58) is amended to read as follows:

C.54:4-8.58 Definitions relative to homestead rebates.

2. As used in sections 2 through 10 of P.L.1990, c.61 (C.54:4-8.58 through 54:4-8.66) and sections 3 and 14 through 16 of P.L.1999, c.63 (C.54:4-8.58a and 54:4-8.66a through C.54:4-8.66c):

"Annualized rent" means, for tax years 2004 and thereafter, the rent paid by the claimant during the tax year for which the homestead rebate is being claimed, and if paid for a lease term covering less than the full tax year, the actual rent paid for the days during the term of the lease of the homestead proportionalized as if the term of the lease had been for 365 days of the tax year;

"Arm's-length transaction" means a transaction in which the parties are dealing from equal bargaining positions, neither party is subject to the other's control or dominant influence, and the transaction is entirely legal in all respects and is treated with fairness and integrity;

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

"Continuing care retirement community" means a residential facility primarily for retired persons where lodging and nursing, medical or other health related services at the same or another location are provided as continuing care to an individual pursuant to an agreement effective for the life of the individual or for a period greater than one year, including mutually terminable contracts, and in consideration of the payment of an entrance fee with or without other periodic charges;

"Cooperative" means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment, manufactured or mobile home or other unit of housing owned or leased by the corporation or association, or to lease or purchase a unit of housing constructed or to be constructed by the corporation or association;

"Director" means the Director of the Division of Taxation in the Department of the Treasury;

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

"Homestead" means:

a. (1) a dwelling house and the land on which that dwelling house is located which constitutes the place of the claimant's domicile and is owned and used by the claimant as the claimant's principal residence;

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

(3) a condominium unit or a unit in a horizontal property regime which constitutes the place

of the claimant's domicile and is owned and used by the claimant as the claimant's principal residence;

(4) for purposes of this definition as provided in this subsection, in addition to the generally accepted meaning of owned or ownership, a homestead shall be deemed to be owned by a person if that person is a tenant for life or a tenant under a lease for 99 years or more and is entitled to and actually takes possession of the homestead under an executory contract for the sale thereof or under an agreement with a lending institution which holds title as security for a loan, or is a resident of a continuing care retirement community pursuant to a contract for continuing care for the life of that person which requires the resident to bear a share of the property taxes that are assessed upon the continuing care retirement community, if a share is attributable to the unit that the resident occupies;

b. a unit in a cooperative or mutual housing corporation which constitutes the place of domicile of a residential shareholder or lessee therein, or of a lessee, or shareholder who is not a residential shareholder therein, and which is used by the claimant as the claimant's principal residence; and

c. a unit of residential rental property which unit constitutes the place of the claimant's domicile and is used by the claimant as the claimant's principal residence;

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

"Gross income" means all New Jersey gross income required to be reported pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., other than income excludable from the gross income tax return, but before reduction thereof by any applicable exemptions, deductions and credits, received during the taxable year by the owner or residential shareholder in, or lessee of, a homestead;

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

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

(2) Is built on a permanent chassis;

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

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

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

(1) The construction and maintenance of streets;

(2) Lighting of streets and other common areas;

(3) Garbage removal;

(4) Snow removal; and

(5) Provisions for the drainage of surface water from home sites and common areas;

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

"Principal residence" means a homestead actually and continually occupied by a claimant as the claimant's permanent residence, as distinguished from a vacation home, property owned and rented or offered for rent by the claimant, and other secondary real property holdings;

"Property tax" means payments to a municipality based upon an assessment made by the

municipality upon real property on an ad valorem basis on land and improvements, but shall not include payments made in lieu of taxes;

"Rent" means the amount due in an arm's-length transaction solely for the right of occupancy of a homestead that is a unit of residential rental property. Rent shall not include any amount paid under the federal Housing Choice Voucher (Section 8) Program. If the director finds that the parties in a rental transaction have not dealt with each other in an arm's-length transaction and that the rent due was excessive, the director may, for purposes of the homestead rebate claim, adjust the rent claimed in the homestead rebate application to a reasonable amount of rent;

"Rent constituting property taxes" means 18% of the rent paid by the homestead rebate claimant during the tax year on a unit of residential rental property which constitutes the claimant's homestead, and in the case of a manufactured home or mobile home in a mobile home park which constitutes the claimant's homestead means 18% of the site fee paid by the claimant during the tax year to the owner of the mobile home park. Provided however, that for tax year 2004 and for each tax year thereafter, rent constituting property taxes shall equal 18% of annualized rent, and in the case of a manufactured home or mobile home in a mobile home park rent constituting property taxes shall equal 18% of a similarly annualized site fee;

"Resident" means an individual:

a. who is domiciled in this State, unless he maintains no permanent place of abode in this State, maintains a permanent place of abode elsewhere, and spends in the aggregate no more than 30 days of the tax year in this State; or

b. who is not domiciled in this State but maintains a permanent place of abode in this State and spends in the aggregate more than 183 days of the tax year in this State, unless the individual is in the Armed Forces of the United States;

"Residential rental property" means:

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

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

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

d. a site in a mobile home park equipped for the installation of manufactured or mobile homes, where these sites are under common ownership and control for the purpose of leasing each site to the owner of a manufactured or mobile home for the installation thereof;

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

"Tax year" means the calendar year in which property taxes are due and payable.

3. Section 3 of P.L.1999, c.63 (C.54:4-8.58a) is amended to read as follows:

C.54:4-8.58a Homestead rebate, determination in tax year 2003 and thereafter.

3. a. For tax year 2003, the director shall determine the amount of the homestead rebate that shall be paid to each claimant pursuant to P.L.1990, c.61 (C.54:4-8.57 et seq.), and P.L.1999, c.63 (C.54:4-8.58a et al.), as amended by P.L.2004, c.40, based upon the information provided by the individual applicant in the application for either a NJ SAVER rebate or for a homestead rebate, or from any other information as may be available to the director in order that each individual applicant shall be paid the homestead rebate that may be allowed to the claimant pursuant to sections 3 through 5 of P.L.1990, c.61 (C.54:4-8.59 through 54:4-8.61), as the director determines is appropriate.

b. (1) For tax year 2003, a resident of this State who has paid property taxes for the tax year on a homestead that is owned as such, who has filed an application for an NJ SAVER rebate

pursuant to the provisions of P.L.1999, c.63 (C.54:4-8.58a et al.), or pursuant to that act as amended and supplemented by P.L.2004, c.40, and who meets the prerequisites for an NJ SAVER rebate at 12:01 A.M. on October 1, 2003 for that tax year, shall be considered to have applied for a homestead rebate and shall be allowed a homestead rebate instead of an NJ SAVER rebate for that tax year pursuant to P.L.1990, c.61 (C.54:4-8.57 et seq.), and P.L.1999, c.63 (C.54:4-8.58a et al.), as amended by P.L.2004, c.40. An application for an NJ SAVER rebate shall be allowed as a homestead rebate for a homestead the title to which is held by a partnership, to the extent of the applicant's interest as a partner therein, and by a guardian, trustee, committee, conservator or other fiduciary for any individual who would otherwise be eligible for an NJ SAVER rebate. An application for an NJ SAVER rebate shall not be allowed for a homestead, the title to which is held partially or entirely by a corporate entity of any type, except as otherwise specifically allowed for applications from residents of properties owned by continuing care retirement community, cooperative or mutual housing corporations.

(2) For tax year 2004 and for tax years thereafter, any rebates applied for and paid pursuant to P.L.1990, c.61 (C.54:4-8.57 et seq.), and P.L.1999, c.63 (C.54:4-8.58a et al.), as amended and supplemented by P.L.2004, c.40, shall be homestead rebates.

4. Section 3 of P.L.1990, c.61 (C.54:4-8.59) is amended to read as follows:

C.54:4-8.59 Homestead rebate, amount; eligibility, conditions.

3. a. A resident of this State shall be allowed a homestead rebate for the tax year equal to the amount by which property taxes paid by the claimant in that tax year on the claimant's homestead exceed 5% of the claimant's gross income, rounded to the nearest whole dollar, but within the appropriate range, but not more than the amount of property taxes actually paid. As used in this section,

Range 1 equals \$1,200 to \$1,000 for tax year 2003, and shall be subject to the cost-of-living adjustment for each tax year thereafter as provided in subsection h. of this section;

Range 2 equals \$800 to \$600 for tax year 2003, and shall be subject to the cost-of-living adjustment for each tax year thereafter as provided in subsection h. of this section; and

Range 3 equals \$500 for tax year 2003, and shall be subject to the cost-of-living adjustment for each tax year thereafter as provided in subsection h. of this section.

b. (1) For a resident who is 65 years of age or older at the close of the tax year, or who is allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1:

With Tax Year Gross Income:	Range:
not over \$70,000	(1)
over \$70,000 but not over \$125,000	(2)
over \$125,000 but not over \$200,000	(3)

(2) For a resident homeowner of this State who is not 65 years of age or older at the close of the tax year, and who is not allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1

With Tax Year Gross Income:	Range:
not over \$125,000	(2)
over \$125,000 but not over \$200,000	(3)

(3) (a) A homestead rebate shall be allowed for tax year 2003 pursuant to this section in relation to the amount of the property taxes actually paid by or allocable to a resident property taxpayer who is a claimant on more than one homestead, but the aggregate amount of the property taxes claimed shall not exceed the total of the proportionate amounts of property taxes assessed and levied against or allocable to each homestead for the portion of the tax year the claimant occupied it as the claimant's principal residence.

(b) Notwithstanding any provision of this act to the contrary, a homestead rebate shall be allowed for tax year 2004 and thereafter pursuant to this section in relation to the amount of the property taxes actually paid during the tax year for the homestead owned and occupied as such at 12:01 a.m. on October 1 of the tax year, whether paid for the entire tax year by the claimant or by any pre-October 1 owner or owners of that homestead during that tax year.

c. (1) If title to a homestead is held by more than one individual as joint tenants or tenants in common, each individual shall be allowed a homestead rebate pursuant to this section only in relation to the individual's proportionate share of the property taxes assessed and levied against the homestead. The individual's proportionate share of the property taxes on that homestead shall be equal to the share of that individual's interest in the title. Title shall be presumed to be held in equal shares among all co-owners, but if the claimant satisfactorily demonstrates to the director that the title provides for unequal interests, either under the conveyance under which the title is held, or as otherwise may be demonstrated, that claimant's share of the property taxes paid on that homestead shall be in proportion to the claimant's interest in the title.

(2) Eligible claimants shall include individuals within any of the filing categories set forth in N.J.S.54A:2-1 and any individual or individuals not required to file a gross income tax return because their gross income was below the minimum taxable income threshold established in N.J.S.54A:2-4 and N.J.S.54A:8-3.1. In the case of a married individual filing a separate New Jersey gross income tax return, if the spouse of the claimant maintains the same homestead as the claimant and also files a separate gross income tax return in this State the homestead rebate claimed under this subsection shall be equal to one-half of the amount of the homestead rebate allowable had the spouses filed a joint return and homestead rebate application.

(3) An application for a homestead rebate shall be allowed for a homestead the title to which is held by a partnership, to the extent of the applicant's interest as a partner therein, and by a guardian, trustee, committee, conservator or other fiduciary for any individual who would otherwise be eligible for a rebate. An application for a homestead rebate shall not be allowed for a homestead, the title to which is held partially or entirely by a corporate entity of any type, except as otherwise specifically allowed for an application from a resident of a property owned by a continuing care retirement community, or a cooperative or mutual housing corporation.

d. If the homestead of a claimant is a residential property consisting of more than one unit, that claimant shall be allowed a homestead rebate pursuant to this section only in relation to the proportionate share of the property taxes assessed and levied against the residential unit occupied by that claimant, as determined by the local tax assessor.

e. Nothing in this section shall preclude a co-owner, who is other than a husband or wife claiming a homestead rebate on the same homestead, from receiving a homestead rebate determined pursuant to this section if another co-owner claims a homestead rebate pursuant to this section, provided however, that each claim for a homestead rebate determined pursuant to this section shall be separately subject to the provisions of subsections c. and d. of this section.

f. (Deleted by amendment, P.L.2004, c.40.)

g. (Deleted by amendment, P.L.2004, c.40.)

h. (1) For the 2005 tax year and each tax year thereafter, the director shall annually recompute the minimum and maximum homestead rebate ranges set forth in subsection a. of this section by multiplying the homestead rebate ranges allowed in the prior tax year by the cost-of-living adjustment, and recomputing the new homestead rebate ranges for the current tax year. The director shall round the recomputed homestead rebate ranges to the next highest multiple of \$5.

(2) "Cost-of-living adjustment" for any tax year means the factor calculated by dividing the consumer price index for all urban consumers for the nation, as prepared by the United States Department of Labor as of the close of the 12-month period ending on August 31 of the tax year, by that index as of the close of the 12-month period ending on August 31 of the calendar year preceding the tax year in which the recomputation of the homestead rebate ranges is made.

5. Section 4 of P.L.1990, c.61 (C.54:4-8.60) is amended to read as follows:

C.54:4-8.60 Rebates for residential rental property units, amount; eligibility, conditions.

4. a. A resident of this State who is 65 years of age or older at the close of the tax year, or who is allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, whose homestead is a unit of residential rental property shall be allowed a homestead rebate for the tax year equal to the sum of the following two amounts: the amount by which the claimant's rent constituting property taxes in that tax year exceeds 5% of the claimant's gross income, rounded to the nearest whole dollar, plus the amount of \$50. For the tax year 2003 the homestead rebate shall be not more than \$825 or less than \$150, which maximum homestead rebate shall be subject to the cost-of-living adjustment for each tax year thereafter as provided in subsection g. of this section. Provided further, that for each tax year the following gross income limits apply:

(1) in the case of a married couple filing a joint New Jersey gross income tax return or an individual filing a return who determines gross income tax pursuant to subsection a. of N.J.S.54A:2-1, gross income does not exceed \$70,000 for that year, or such individual or individuals not required to file a gross income tax return because their gross income was below the minimum taxable income threshold established in N.J.S.54A:2-4 and N.J.S.54A:8-3.1;

(2) in the case of an unmarried individual who determines gross income tax pursuant to subsection b. of N.J.S.54A:2-1, gross income does not exceed \$35,000 for that year, or such individual not required to file a gross income tax return because their gross income was below the minimum taxable income threshold established in N.J.S.54A:2-4 and N.J.S.54A:8-3.1;

(3) in the case of a married individual filing a separate New Jersey gross income tax return, if the spouse of the claimant maintains the same homestead as the claimant and also files a separate gross income tax return in this State, the combined gross income of both spouses does not exceed \$70,000 for that year, or such individual or individuals not required to file a gross income tax return because their gross income was below the minimum taxable income threshold established in N.J.S.54A:2-4 and N.J.S.54A:8-3.1, but in no event shall the homestead rebate claimed under this subsection exceed one-half of the amount of the homestead rebate allowable had the spouses filed a joint return and homestead rebate application; and

(4) in the case of a married individual filing a separate gross income tax return and maintaining a homestead apart from that individual's spouse, gross income does not exceed \$35,000 for that year, or such individual not required to file a gross income tax return because their gross income was below the minimum taxable income threshold established in N.J.S.54A:2-4 and N.J.S.54A:8-3.1.

b. If more than one resident, other than a husband and wife, qualify for a homestead rebate by reason of their having occupied the same unit of residential rental property as their homestead, it shall be presumed that each claimant shall be allowed a homestead rebate pursuant to this section only in relation to the individual's proportionate share of the total rent constituting property taxes paid by that claimant which homestead rebate shall be in proportion to the percentage that the total rent paid by that claimant bears to the total rent paid by all tenants of the same unit. For the purposes of a homestead rebate claimed by an individual subject to this subsection, the names and social security numbers of each co-tenant shall be reported by the claimant and the total rent paid shall be presumed to be paid in equal parts among all co-tenants.

c. If a claimant for a tax year 2003 homestead rebate pursuant to this section has no other homestead in this State other than a unit of residential rental property, and that claimant was not a resident of this State for the full tax year, but paid rent for the full tax year for one or more units of residential rental property in this State, the claimant's total homestead rebate otherwise calculated pursuant to this section shall be prorated in the proportion which the number of days the claimant occupied residential rental property in this State as a homestead during the tax year bears to 365 days. A claimant for a homestead rebate pursuant to this section for tax year 2004 and any tax year thereafter shall meet all the prerequisites for the homestead occupied as such at 12:01 a.m. on October 1 of the tax year.

d. Nothing in this section shall preclude a co-tenant, other than a husband or wife claiming a homestead rebate on the same homestead, from receiving a homestead rebate determined pursuant to this section if another co-tenant claims a rebate pursuant to this section, provided however, that each such claim shall be separately subject to the provisions of subsections b. and c. of this section.

e. (Deleted by amendment, P.L.2004, c.40.)

f. Notwithstanding any provisions of subsection a. of this section to the contrary,

(1) A resident of this State whose homestead is a unit of residential rental property,

(a) who is 65 years of age or older at the close of the tax year, or who is allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, who has gross income for the tax year in excess of the gross income limits in subsection a. but not in excess of \$100,000 for that year; or

(b) who is not 65 years of age or older at the close of the tax year, or who is not allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, who has gross income for the tax year, who has gross income not in excess of \$100,000 for that year,

shall be allowed a homestead rebate pursuant to this subsection of \$150 for property taxes paid through rent during the 2003 tax year and for any tax year thereafter, provided however, that the homestead rebate allowed pursuant to this subsection shall be subject to the limitations and reductions as may apply pursuant to the provisions of subsections b., c. and d. of this section.

(2) The gross income limit imposed in paragraph (1) of this subsection for a claim for a homestead rebate made pursuant to this subsection that is based upon a homestead maintained by both spouses shall be based upon the combined gross income of both spouses if the claimants filed a joint New Jersey gross income tax return for the tax year. If a claim by a married individual for a homestead rebate made pursuant to this subsection is based upon a homestead maintained by both spouses who each file separate New Jersey gross income tax returns for the tax year, no homestead rebate for the tax year shall be paid to either spouse if their combined gross income exceeds the gross income limit imposed in paragraph (1) of this subsection. For such a claim, if the combined gross income of both spouses does not exceed the gross income limit imposed in paragraph (1) of this subsection, then each such spouse making a claim shall be allowed a homestead rebate amount equal to one-half of the homestead rebate amount otherwise allowed pursuant to this subsection.

g. (1) For the 2005 tax year and each tax year thereafter, the director shall annually recompute the maximum homestead rebate set forth in subsection a. of this section by multiplying the maximum homestead rebate allowed in the prior tax year by the cost-of-living adjustment, and recomputing the new maximum homestead rebate for the current tax year. The director shall round the recomputed maximum homestead rebate amount to the next highest multiple of \$5.

(2) "Cost-of-living adjustment" for any tax year means the factor calculated by dividing the consumer price index for all urban consumers for the nation, as prepared by the United States Department of Labor as of the close of the 12-month period ending on August 31 of the tax year, by that index as of the close of the 12-month period ending on August 31 of the calendar year preceding the tax year in which the recomputation of the maximum homestead rebate is made.

6. Section 5 of P.L.1990, c.61 (C.54:4-8.61) is amended to read as follows:

C.54:4-8.61 Rebates for property taxes and rent; proportionate application.

5. a. For tax year 2003, the director shall determine the amount of the homestead rebate that shall be paid to an applicant who was a resident of this State for the full tax year and whose homestead has been other than a unit of residential rental property for a part of the tax year and has been a unit of residential rental property for the remainder of that year, based upon a proportionate application of the provisions of both section 3 of P.L.1990, c.61 (C.54:4-8.59) and section 4 of P.L.1990, c.61 (C.54:4-8.60) as may apply for each part of the tax year, and based upon the information provided by the individual applicant in the applicant's application or from any other information as may be available to the director.

b. For tax year 2003, the director shall determine the amount of the homestead rebate that shall be paid to an applicant who was a resident of this State for less than the full tax year, and whose homestead has been other than a unit of residential rental property for a part of the tax year and has been a unit of residential rental property for the remainder of that year, based upon a proportionate application of the provisions of both section 3 of P.L.1990, c.61 (C.54:4-8.59)

and section 4 of P.L.1990, c.61 (C.54:4-8.60) as may apply for each part of the tax year, and based upon the information provided by the individual applicant in the applicant's application or from any other information as may be available to the director.

- c. (Deleted by amendment, P.L.2004, c.40.)
- d. (Deleted by amendment, P.L.2004, c.40.)

7. Section 6 of P.L.1990, c.61 (C.54:4-8.62) is amended to read as follows:

C.54:4-8.62 Rebate applications.

6. a. No homestead rebate shall be allowed pursuant to this act except upon annual application therefor, in any manner, upon any form, and in any format, whether in writing or otherwise, as shall be prescribed by the director. The director may require a claimant for a homestead rebate to attach to the homestead rebate application a copy of the appropriate property tax bill or proof of rent paid for the prior tax year. The director may require such other verification of eligibility for a homestead rebate as the director may deem necessary. The director may require that the application for a homestead rebate for a unit of residential rental property authorized pursuant to section 4 of P.L.1990, c.61 (C.54:4-8.60) shall be submitted (1) as part of the claimant's gross income tax return filed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or, (2) on any other form, in any manner or format and at any time and prior to any date as the director shall prescribe if (a) the claimant is not required to file a gross income tax return or (b) the claimant has filed an application for extension of time to file the claimant's gross income tax return. The director may require that the application for a homestead rebate authorized pursuant to section 3 of P.L.1990, c.61 (C.54:4-8.59) shall be submitted (1) as part of the applicant's gross income tax return filed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or (2) on any other form, in any other format and at any time and prior to any date as the director shall prescribe. The director shall, for good cause shown, extend the time of any applicant to file a claim for a homestead rebate for a reasonable period, and in such case, the application shall be processed and payment of a homestead rebate made in accordance with the procedures established in the case of applications timely filed, except the date for payment of the rebate may be delayed for a reasonable period. If an applicant or an applicant's spouse has filed an application for an extension of time to file a gross income tax return, the date by which the applicant shall file the homestead rebate application may, in the discretion of the director, be extended for a reasonable period, and the date for the payment of the rebate may be delayed for a reasonable period. The director may require sworn applications. In the event that the director waives the requirement of sworn applications, all declarations by claimants shall be considered as if made under oath and claimants, as to false declarations, shall be subject to the penalties as provided by law for perjury.

For the purposes of this subsection, in order to establish good cause to extend the time of any applicant to file a claim for a homestead rebate the applicant shall provide to the director either medical evidence, such as a doctor's certification, that the claimant was unable to file the claim by the date prescribed by the director because of illness or hospitalization, or evidence that the applicant attempted to file a timely application. Except as may be established by medical evidence of inability to file a claim, good cause shall not be established due to a claimant not having received an application from the director.

b. Upon approval of homestead rebate applications by the director, the director shall prepare lists of individuals entitled to a rebate, together with the respective amounts due each claimant and shall forward such lists to the State Treasurer, the Director of the Division of Budget and Accounting and any other officials as the director deems appropriate on or before the earliest of such date or dates as may be convenient for the director to compile such lists. The director may inspect all records in the offices of the tax collector and tax assessor of a municipality with respect to applications, claims and allowances for homestead rebates.

c. If a homestead rebate application contains a claim for a rebate that is incorrectly determined by the claimant or is based upon incorrect or insufficient information from which the director is to approve the claim, the director may determine the eligibility of the claimant for a homestead rebate and the correct amount of a homestead rebate to be paid to that claimant from

such other information as may be available to the director. In addition, the director may adjust the amount of any homestead rebate to which a claimant may be entitled by any part of the amount of any previous homestead rebate erroneously claimed by and paid to that claimant.

d. In the case of a claimant for a homestead rebate whose homestead is a unit in a cooperative, mutual housing corporation or continuing care retirement community, the director may provide that the application shall include the name and address of the location of the property and the amount of real property taxes attributed to the cooperative, mutual housing residential unit or continuing care retirement community residential unit, as shall be indicated in an official notice which shall be furnished by the cooperative, mutual housing corporation or continuing care retirement community for the same year.

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

f. All provisions of this section shall apply to NJ SAVER rebate applications filed for and paid as homestead rebates for tax year 2003.

g. The director may, in writing, require the owner of residential rental property upon which property tax is not assessed, and the owner's agents and representatives, to provide the names of residents and tenants on the residential rental property and such other information, in such form, as the director deems reasonable to ensure that no claimant claiming a unit of that residential rental property as a homestead under this act receives a homestead rebate for which the claimant is not eligible. Any individual or entity failing to provide the required information within 60 days of the written request of the director shall be liable, in the discretion of the director, to a penalty of up to \$500 for each month that the required information is not provided, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

8. Section 7 of P.L.1990, c.61 (C.54:4-8.63) is amended to read as follows:

C.54:4-8.63 Rebates, distribution.

7. The State Treasurer annually on or before October 31, upon certification of the director and upon warrant of the State Comptroller, shall pay and distribute the amount of a homestead rebate payable under this act that is claimed for the prior tax year to each claimant whose rebate is approved by the director.

9. Section 8 of P.L.1990, c.61 (C.54:4-8.64) is amended to read as follows:

C.54:4-8.64 Property tax delinquency; withholding of rebates.

8. a. The tax collector of each municipality shall, on or before May 15 of each year, furnish the director with a list of property taxpayers in the district delinquent for taxes due and payable for the year immediately preceding and the amounts of such delinquencies. The collector shall report on such list the name, lot and block number on the property tax duplicate as may be applicable, and the address of each owner to whom a delinquency is attributable together with the amount of such delinquency so identified. No homestead rebate payment under this act shall be made to a property owner while that property owner's delinquency remains, provided however that for the purposes of this act, for an assessment on a property which is on appeal and for which the statutory percentage of the tax as provided in R.S.54:3-27 has been paid, the taxes assessed on that property shall not be regarded as delinquent.

b. If the director receives the list as provided for in subsection a. of this section, and the director determines that a property tax delinquency remains for the preceding tax year on May 15, the director shall ascertain the amount of the homestead rebate required to be withheld because of such delinquency in each municipality in the State, and shall certify such amounts to the State Treasurer as soon thereafter as may be practicable.

c. On or before November 15, the director shall notify each homestead rebate claimant whose rebate has been withheld because of delinquency that the amount of the rebate to which the claimant otherwise would have been entitled has been sent to the tax collector in the municipality to be credited against the claimant's delinquency.

d. Upon certification by the director as to the amount of homestead rebates required to be withheld because of delinquency in the several municipalities, the State Treasurer upon the warrant of the State Comptroller, shall pay such amount on or before October 30 to the tax collector in each municipality.

e. The tax collector in each municipality shall credit the tax delinquency of each property taxpayer who appears on the delinquency list set forth in subsection a. of this section in the amount that otherwise would have been returned to the property taxpayer as a homestead rebate. In the event that the amount so credited exceeds the amount of delinquency, the tax collector may return the difference to the taxpayer or credit such amount to the subsequent property tax bill.

f. In the case of delinquency in the payment of property taxes by a cooperative, mutual housing corporation or continuing care retirement community, a homestead rebate that may be due an individual resident shall be paid by the State Treasurer to the tax collector of the municipality. The tax collector shall credit the cooperative, mutual housing corporation or continuing care retirement community with such payment and the cooperative, mutual housing corporation or continuing care retirement community shall, in turn, credit the individual unit owner to the extent of the rebate and notify the applicant of the amount to be credited.

g. If a tax collector fails to comply with the provisions of subsection a. of this section requiring the tax collector to furnish the director with a list, on or before May 15 of each year, of property taxpayers in the district delinquent for taxes due and payable for the year immediately preceding and the amounts of such delinquencies, the director shall pay the homestead rebate directly to the delinquent applicant rather than to the tax collector of the municipality as set forth in subsection d. of this section.

h. All provisions of this section shall apply to NJ SAVER rebate applications filed for and paid as homestead rebates for tax year 2003.

10. Section 9 of P.L.1990, c.61 (C.54:4-8.65) is amended to read as follows:

C.54:4-8.65 Rebates not subject to legal process; exceptions.

9. The homestead rebates authorized under this act shall not be subject to garnishment, attachment, execution or other legal process, except as provided in section 1 of P.L.1981, c.239 (C.54A:9-8.1), or except for an income withholding order issued pursuant to P.L.1981, c.417 (C.2A:17-56.8 et seq.), nor shall the payment thereof be anticipated.

11. Section 1 of P.L.1981, c.239 (C.54A:9-8.1) is amended to read as follows:

C.54A:9-8.1 Setoff of indebtedness to State agencies; precedence of child support indebtedness.

1. Whenever any taxpayer or resident shall be entitled to any refund of taxes pursuant to the "New Jersey Gross Income Tax Act" (N.J.S.54A:1-1 et seq.), including an earned income tax credit provided as a refund pursuant to P.L.2000, c.80 (C.54A:4-6 et al.), or whenever any individual is eligible to receive a homestead rebate pursuant to P.L.1990, c.61 (C.54:4-8.57 et al.), P.L.1999, c.63 (C.54:4-8.58a et al.) or P.L.2004, c.40, and if the rebate is not required to be paid over to the municipal tax collector under the provisions of section 8 of P.L.1990, c.61 (C.54:4-8.64), and at the same time the taxpayer or resident shall be indebted to any agency or institution of State Government, to the Victims of Crime Compensation Board for the portion of an assessment ordered pursuant to N.J.S.2C:43-3.1 for deposit in the Victims of Crime Compensation Board Account or restitution ordered to be paid to the board pursuant to N.J.S.2C:44-2 for deposit in the Victims of Crime Compensation Board Account, or for child support under Title IV-A, Title IV-D, or Title IV-E of the federal Social Security Act (42 U.S.C. s.601 et seq.), or other indebtedness in accordance with section 1 of P.L.1995, c.290 (C.2A:17-56.11b) the Department of the Treasury shall apply or cause to be applied the refund, homestead rebate, or all, or so much of any or all as shall be necessary, to satisfy the indebtedness. Child support indebtedness shall take precedence over all other indebtedness. The Department of the Treasury shall retain a percentage of the proceeds of any collection setoff as shall be necessary to provide for any expenses of the collection effort.

12. Section 10 of P.L.1990, c.61 (C.54:4-8.66) is amended to read as follows:

C.54:4-8.66 Appeal to tax court from director's determination.

10. a. (1) The director shall determine the amount of the rebate, if any, that shall be paid to each claimant pursuant to P.L.1990, c.61 (C.54:4-8.57 et seq.) based upon the information provided by the individual applicant in the application or from any other information as may be available to the director and shall notify the applicant of the determined amount in the form of the homestead rebate check or in any other manner as the director may deem appropriate. Subject to the provisions of the State Uniform Tax Procedure Law, R.S. 54:48-1 et seq., such notification shall finally and irrevocably fix the amount of the rebate unless the applicant, within 90 days after having been given notice of such determination, shall apply to the director for a hearing, or unless the director shall redetermine the same. After such hearing the director shall give notice of the final determination to the applicant.

(2) An applicant for a homestead rebate authorized under this act who is aggrieved by any decision, order, finding, or denial by the director of all or part of that applicant's homestead rebate may appeal therefrom to the New Jersey Tax Court in accordance with the provisions of the State Uniform Tax Procedure Law, R.S. 54-48-1 et seq.

b. The appeal provided by this section shall be the exclusive remedy available to an applicant for review of a decision of the director in respect to the determination of all or part of a homestead rebate authorized under this act.

13. Section 14 of P.L.1999, c.63 (C.54:4-8.66a) is amended to read as follows:

C.54:4-8.66a Misrepresentation, penalty.

14. Any individual who receives a homestead rebate otherwise authorized under this act but as a result of an intentional misrepresentation of a material fact shall be required to repay to the director the amount of the homestead rebate and shall be liable to a penalty equal to 150% of the amount of the homestead rebate paid as a result of that misrepresentation.

14. Section 15 of P.L.1999, c.63 (C.54:4-8.66b) is amended to read as follows:

C.54:4-8.66b Erroneous rebates.

15. Any person who receives a homestead rebate otherwise authorized under this act but which has been paid in error and which is recoverable by the director, and fails to return the payment within 45 days of receiving notice from the director that such payment was erroneous, shall pay, in addition to the amount of the erroneous rebate, interest at the rate prescribed in R.S.54:49-3, assessed for each month or fraction thereof, compounded annually at the end of each year, from the date next following the 45th day after receiving the notice from the director that such payment was erroneous until the date of the return of the erroneous payment.

15. Section 16 of P.L.1999, c.63 (C.54:4-8.66c) is amended to read as follows:

C.54:4-8.66c Recovery of erroneous or misrepresented rebates, procedures.

16. A homestead rebate paid as a result of misrepresentation or paid in error and any penalties and interest as imposed thereon by this act, shall be payable to and recoverable by the director in the same manner as a deficiency with respect to the payment of a State tax in accordance with the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

16. Section 18 of P.L.1999, c.63 (C.54:4-8.66d) is amended to read as follows:

C.54:4-8.66d Rules, regulations.

18. The Director of the Division of Taxation in the Department of the Treasury is empowered to promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and to prescribe forms to administer the provisions of this act. Notwithstanding any provisions of P.L.1968, c.410 to the contrary, the director may adopt,

immediately upon filing with the Office of Administrative Law, such regulations as the director deems necessary to implement the provisions of P.L.1999, c.63 (C. 54:4-8.58a et al.) and P.L.2004, c.40 which regulations shall be effective for a period not to exceed 180 days from the date of the filing. Such regulations may thereafter be amended, adopted or readopted by the director as the director deems necessary in accordance with the requirements of P.L.1968, c.410.

17. N.J.S.54A:2-1 is amended to read as follows:

Imposition of tax.

54A:2-1. Imposition of tax. There is hereby imposed a tax for each taxable year (which shall be the same as the taxable year for federal income tax purposes) on the New Jersey gross income as herein defined of every individual, estate or trust (other than a charitable trust or a trust forming part of a pension or profit-sharing plan), subject to the deductions, limitations and modifications hereinafter provided, determined in accordance with the following tables with respect to taxpayers' taxable income:

a. For married individuals filing a joint return and individuals filing as head of household or as surviving spouse for federal income tax purposes:

(1) for taxable years beginning on or after January 1, 1991 but before January 1, 1994:

If the taxable income is:	The tax is:
Not over \$20,000.00	2% of taxable income
Over \$20,000.00 but not over \$50,000.00	\$400.00 plus 2.5% of the excess over \$20,000.00
Over \$50,000.00 but not over \$70,000.00	\$1,150.00 plus 3.5% of the excess over \$50,000.00
Over \$70,000.00 but not over \$80,000.00	\$1,850.00 plus 5.0% of the excess over \$70,000.00
Over \$80,000.00 but not over \$150,000.00	\$2,350.00 plus 6.5% of the excess over \$80,000.00
Over \$150,000.00	\$6,900.00 plus 7.0% of the excess over \$150,000.00

(2) for taxable years beginning on or after January 1, 1994 but before January 1, 1995:

If the taxable income is:	The tax is:
Not over \$20,000.00 . . .	1.900% of taxable income
Over \$20,000.00 but not over \$50,000.00	\$380.00 plus 2.375% of the excess over \$20,000.00
Over \$50,000.00 but not over \$70,000.00	\$1,092.50 plus 3.325% of the excess over \$50,000.00
Over \$70,000.00 but not over \$80,000.00	\$1,757.50 plus 4.750% of the excess over \$70,000.00
Over \$80,000.00 but not over \$150,000.00	\$2,232.50 plus 6.175% of the excess over \$80,000.00
Over \$150,000.00	\$6,555.00 plus 6.650% of the excess over

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\$150,000.00

(3) for taxable years beginning on or after January 1, 1995 but before January 1, 1996:

If the taxable income is:	The tax is:
Not over \$20,000.00	1.700% of taxable income
Over \$20,000.00 but not over \$50,000.00	\$340.00 plus 2.125% of the excess over \$20,000.00
Over \$50,000.00 but not over \$70,000.00	\$977.50 plus 2.975% of the excess over \$50,000.00
Over \$70,000.00 but not over \$80,000.00	\$1,572.50 plus 4.250% of the excess over \$70,000.00
Over \$80,000.00 but not over \$150,000.00	\$1,997.50 plus 6.013% of the excess over \$80,000.00
Over \$150,000.00	\$6,206.60 plus 6.580% of the excess over \$150,000.00

(4) for taxable years beginning on or after January 1, 1996 but before January 1, 2004:

If the taxable income is:	The tax is:
Not over \$20,000.00	1.400% of taxable income
Over \$20,000.00 but not over \$50,000.00	\$280.00 plus 1.750% of the excess over \$20,000.00
Over \$50,000.00 but not over \$70,000.00	\$805.00 plus 2.450% of the excess over \$50,000.00
Over \$70,000.00 but not over \$80,000.00	\$1,295.50 plus 3.500% of the excess over \$70,000.00
Over \$80,000.00 but not over \$150,000.00	\$1,645.00 plus 5.525% of the excess over \$80,000.00
Over \$150,000.00	\$5,512.50 plus 6.370% of the excess over \$150,000.00

(5) for taxable years beginning on or after January 1, 2004:

If the taxable income is:	The tax is:
Not over \$20,000.00	1.400% of taxable income
Over \$20,000.00 but not over \$50,000.00	\$280.00 plus 1.750% of the excess over \$20,000.00
Over \$50,000.00 but not over \$70,000.00	\$805.00 plus 2.450% of the excess over \$50,000.00
Over \$70,000.00 but not over \$80,000.00	\$1,295.50 plus 3.500% of the excess over

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	\$70,000.00
Over \$80,000.00 but not over \$150,000.00	\$1,645.00 plus 5.525% of the excess over \$80,000.00
Over \$150,000.00 but not over \$500,000.00	\$5,512.50 plus 6.370% of the excess over \$150,000.00
Over \$500,000.00	\$27,807.50 plus 8.970% of the excess over \$500,000.00

b. For married individuals filing separately, unmarried individuals other than individuals filing as head of household or as a surviving spouse for federal income tax purposes, and estates and trusts:

(1) for taxable years beginning on or after January 1, 1991 but before January 1, 1994:

If the taxable income is:	The tax is:
Not over \$20,000.00	2% of taxable income
Over \$20,000.00 but not over \$35,000.00	\$400.00 plus 2.5% of the excess over \$20,000.00
Over \$35,000.00 but not over \$40,000.00	\$775.00 plus 5.0% of the excess over \$35,000.00
Over \$40,000.00 but not over \$75,000.00	\$1,025.00 plus 6.5% of the excess over \$40,000.00
Over \$75,000.00	\$3,300.00 plus 7.0% of the excess over \$75,000.00

(2) for taxable years beginning on or after January 1, 1994 but before January 1, 1995:

If the taxable income is:	The tax is:
Not over \$20,000.00	1.900% of taxable income
Over \$20,000.00 but not over \$35,000.00	\$380.00 plus 2.375% of the excess over \$20,000.00
Over \$35,000.00 but not over \$40,000.00	\$736.25 plus 4.750% of the excess over \$35,000.00
Over \$40,000.00 but not over \$75,000.00	\$973.75 plus 6.175% of the excess over \$40,000.00
Over \$75,000.00	\$3,135.00 plus 6.650% of the excess over \$75,000.00

(3) for taxable years beginning on or after January 1, 1995 but before January 1, 1996:

If the taxable income is:	The tax is:
Not over \$20,000.00	1.700% of taxable income
Over \$20,000.00 but not over \$35,000.00	\$340.00 plus 2.125% of the excess over

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	\$20,000.00
Over \$35,000.00 but not over \$40,000.00	\$658.75 plus 4.250% of the excess over \$35,000.00
Over \$40,000.00 but not over \$75,000.00	\$871.25 plus 6.013% of the excess over \$40,000.00
Over \$75,000.00	\$2,975.80 plus 6.580% of the excess over \$75,000.00

(4) for taxable years beginning on or after January 1, 1996 but before January 1, 2004:

If the taxable income is:	The tax is:
Not over \$20,000.00	1.400% of taxable income
Over \$20,000.00 but not over \$35,000.00	\$280.00 plus 1.750% of the excess over \$20,000.00
Over \$35,000.00 but not over \$40,000.00	\$542.50 plus 3.500% of the excess over \$35,000.00
Over \$40,000.00 but not over \$75,000.00	\$717.50 plus 5.525% of the excess over \$40,000.00
Over \$75,000.00	\$2,651.25 plus 6.370% of the excess over \$75,000.00

(5) for taxable years beginning on or after January 1, 2004:

If the taxable income is:	The tax is:
Not over \$20,000.00	1.400% of taxable income
Over \$20,000.00 but not over \$35,000.00	\$280.00 plus 1.750% of the excess over \$20,000.00
Over \$35,000.00 but not over \$40,000.00	\$542.50 plus 3.500% of the excess over \$35,000.00
Over \$40,000.00 but not over \$75,000.00	\$717.50 plus 5.525% of the excess over \$40,000.00
Over \$75,000.00 but not over \$500,000.00	\$2,651.25 plus 6.370% of the excess over \$75,000.00
Over \$500,000.00	\$29,723.75 plus 8.970% of the excess over \$500,000.00

c. For the purposes of this section, an individual who would be eligible to file as a head of household for federal income tax purposes but for the fact that such taxpayer is a nonresident alien, shall determine tax pursuant to subsection a. of this section.

18. For the purposes of the amendment made to N.J.S.54A:2-1 in section 17 of P.L.2004, c.40, for taxable year 2004, withholding by every employer from salaries, wages and other remuneration paid by an employer for services rendered described in subsection a. of N.J.S.54A:2-1, in excess of \$500,000 during that taxable year, shall be at the rate of 12% as soon as practicable but no later than September 1, 2004. The Director of the Division of Taxation is authorized to do all things necessary to implement the withholding tax prescribed by

this section for taxable year 2004.

C.54A:9-29 Certain revenue appropriated for direct real property taxpayer relief.

19. All revenue derived annually from the tax rate change effectuated in the amendment made to N.J.S.54A:2-1 in section 17 of P.L.2004, c.40 shall be annually appropriated for direct real property taxpayer relief.

Repealer.

20. Section 4 of P.L.1999, c.63 (C.54:4-8.58b) is repealed.

21. This act shall take effect upon the enactment into law of P.L.2004, c.73 (C.18A:7F-5 et al.), P.L.2004, c.74 (C.40A:4-45.15c et al.), and P.L.2004, c.85 and sections 17, 18 and 19 shall apply to taxable years beginning on or after January 1, 2004.

Approved June 28, 2004.