

ASSEMBLY, No. 2467

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

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District 14 (Mercer and Middlesex)

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District 4 (Camden and Gloucester)

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SYNOPSIS

Provides for fair notice and opportunity to contest, or obtain waiver of a repayment of, overpayment of homestead rebate or credit and homestead property tax reimbursement.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/13/2020)

1 AN ACT providing for fair notice and an opportunity to contest, or
2 obtain a waiver of a repayment of, an overpayment of a homestead
3 rebate or credit and a homestead property tax reimbursement,
4 amending P.L.1999, c.63 and P.L.1997, c.348.

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

8
9 1. Section 15 of P.L.1999, c.63 (C.54:4-8.66b) is amended to
10 read as follows:

11 15. a. Except as provided in subsection b. of this section, a
12 person who receives a homestead rebate or credit otherwise
13 authorized under this act but which the director determines has been
14 paid in error, other than under the circumstances provided in section
15 16 of P.L.1999, c.63 (C.54:4-8.66c), and which is recoverable by the
16 director, and fails to return the payment within **[45]** 90 days of
17 receiving a written notice from the director that such payment was
18 erroneous, shall pay, in addition to the amount of the erroneous rebate
19 or credit, interest at the rate prescribed in R.S.54:49-3, assessed for
20 each month or fraction thereof, compounded annually at the end of
21 each year, from the date next following the **[45th]** 90th day after
22 receiving the notice from the director that such payment was
23 erroneous until the date of the return of the erroneous payment.

24 b. A person who is 65 years of age or older at the close of the
25 tax year, or who is allowed to claim a personal deduction as a blind
26 or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, who
27 receives a written notice from the director pursuant to this section,
28 shall within **[45]** 90 days after receiving that notice, be permitted to
29 enter into an installment payment agreement for a reasonable period
30 of time that will enable the person to completely satisfy the amount
31 paid in error and without the assessment of interest thereon.

32 c. The notice provided by the director to the claimant or the
33 claimant's representative shall provide a written determination which
34 provides sufficient information for the claimant to understand the
35 factual and legal basis for the determination, how and when to contest
36 the determination, the potential interest that may be due on the
37 erroneous overpayment, and provide the claimant with a reasonable
38 opportunity to be heard to contest the determination of the director
39 before any action is taken by the director to recover the payment. The
40 notice shall clearly state that the claimant may request that the
41 director allow a waiver of the recovery of an erroneous payment, that
42 the director shall consider whether the repayment would be contrary
43 to principles of equity, and that the director shall provide the claimant
44 with a written determination on the waiver request before any action
45 is taken by the director to recover the payment.

46 (cf: P.L.2017, c.207, s.1)

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

3 16. a. Except for an installment payment agreement permitted
4 pursuant to subsection b. of section 15 of P.L.1999, c.63 (C.54:4-
5 8.66b), a homestead rebate or credit determined by the director to
6 have been paid as a result of the claimant's intentional
7 misrepresentation or paid in error due to the claimant's withholding
8 of any material fact in obtaining the rebate or credit and any penalties
9 and interest as imposed thereon by this act, shall be payable to and
10 recoverable by the director in the same manner as a tax deficiency
11 assessment with respect to the payment of a State tax in accordance
12 with the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

13 b. Prior to any action by the director to recover an amount
14 payable pursuant to this section, a claimant or the claimant's
15 representative, shall be provided with written notice of the
16 determination of the director which provides sufficient information
17 for the claimant to understand the factual and legal basis for the
18 determination, and of the claimant's opportunity to file a protest of
19 the findings of the director in accordance with R.S.54:49-18 and
20 rights of appeal thereunder.

21 (cf: P.L.2017, c.207, s.2
22

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

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

43 It shall be the duty of every eligible claimant to inform the director
44 of any change in his or her status or homestead which may affect his
45 or her right to continuance of the homestead property tax
46 reimbursement.

47 If the director determines that an eligible claimant **【receives】**
48 received an additional homestead property tax reimbursement to

1 which the claimant was not entitled or an amount of homestead
2 property tax reimbursement greater than the reimbursement to which
3 the claimant was entitled, and that the claimant has not
4 misrepresented or withheld any material fact in obtaining the
5 reimbursement, the director shall permit the claimant to enter into an
6 installment payment agreement for a reasonable period of time that
7 will enable the claimant to satisfy the amount of the reimbursement
8 paid to which the claimant was not entitled. If the claimant does not
9 enter into an installment payment agreement, the director may, in
10 addition to all other available legal remedies, offset such amount
11 against a gross income tax refund or amount due pursuant to
12 P.L.1990, c.61 (C.54:4-8.57 et seq.), and shall provide the claimant
13 with a reasonable opportunity to be heard to contest the determination
14 of the director before any action is taken by the director to recover
15 the payment. The notice shall clearly state that the claimant may
16 request that the director allow a waiver of the recovery of an
17 erroneous payment, that the director shall consider whether the
18 repayment would be contrary to principles of equity, and that the
19 director shall provide the claimant with a written determination on
20 the waiver request before any action is taken by the director to
21 recover the payment.

22 Prior to any action by the director to recover an amount of a
23 homestead property tax reimbursement pursuant to this section that
24 the director has determined was paid based upon a finding that the
25 claimant misrepresented or withheld any material fact in obtaining
26 the reimbursement, a claimant, or the claimant's representative, shall
27 be provided with written notice of the determination of the director
28 which provides sufficient information for the claimant to understand
29 the factual and legal basis for the determination, and of the claimant's
30 opportunity to file a protest of the findings of the director in
31 accordance with R.S.54:49-18 and rights of appeal thereunder.
32 (cf: P.L.2017, c.207, s.3)

33
34 4. This act shall take effect immediately.
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37 STATEMENT

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39 This bill provides for a fair system to allow recipients of
40 overpayments of homestead rebates or credits and homestead
41 property tax reimbursements, to contest the overpayment, or seek a
42 waiver of the overpayment, when the overpayment is made without
43 any fault of the recipient. The bill describes the notice that must be
44 provided by the Director of the Division of Taxation in the
45 Department of the Treasury to the recipient explaining the right to
46 contest an overpayment, and the right to request a waiver of the
47 repayment when the recipient has not misrepresented or withheld any
48 material fact in obtaining the reimbursement. In those circumstances,

1 the bill also allows for a waiver of the recovery of an erroneous
2 payment that the director must consider if the repayment would be
3 contrary to principles of equity.

4 The bill also provides that the recipient has the right to file a
5 protest of a finding by the director that the overpayment must be
6 repaid where there is a finding that the claimant misrepresented or
7 withheld any material fact in obtaining the payments. After losing a
8 contest concerning the overpayment in these circumstances, the bill
9 allows a claimant to file a protest as is allowed by law currently when
10 a State taxpayer files a protest against a State tax deficiency
11 assessment.