

SENATE, No. 1007

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 30, 2020

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

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.



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
3 homestead rebate or credit and a homestead property tax
4 reimbursement, 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
16 the 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
19 rebate or credit, interest at the rate prescribed in R.S.54:49-3,
20 assessed for each month or fraction thereof, compounded annually
21 at the end of each year, from the date next following the **[45th]**
22 90th day after receiving the notice from the director that such
23 payment was erroneous until the date of the return of the erroneous
24 payment.

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

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

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 determination on the waiver request before any action is taken by
2 the director to recover the payment.

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

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

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

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

26 (cf: P.L.2017, c.207, s.2)

27
28 3. Section 3 of P.L.1997, c.348 (C.54:4-8.70) is amended to
29 read as follows:

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

1 It shall be the duty of every eligible claimant to inform the
2 director of any change in his or her status or homestead which may
3 affect his or her right to continuance of the homestead property tax
4 reimbursement.

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

28 Prior to any action by the director to recover an amount of a
29 homestead property tax reimbursement pursuant to this section that
30 the director has determined was paid based upon a finding that the
31 claimant misrepresented or withheld any material fact in obtaining
32 the reimbursement, a claimant, or the claimant's representative,
33 shall be provided with written notice of the determination of the
34 director which provides sufficient information for the claimant to
35 understand the factual and legal basis for the determination, and of
36 the claimant's opportunity to file a protest of the findings of the
37 director in accordance with R.S.54:49-18 and rights of appeal
38 thereunder .

39 (cf: P.L.2017, c.207, s.3)

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41 4. This act shall take effect immediately.
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44 STATEMENT

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46 This bill provides for a fair system to allow recipients of
47 overpayments of homestead rebates or credits and homestead
48 property tax reimbursements, to contest the overpayment, or seek a

1 waiver of the overpayment, when the overpayment is made without
2 any fault of the recipient. The bill describes the notice that must be
3 provided by the Director of the Division of Taxation in the
4 Department of the Treasury to the recipient explaining the right to
5 contest an overpayment, and the right to request a waiver of the
6 repayment when the recipient has not misrepresented or withheld
7 any material fact in obtaining the reimbursement. In those
8 circumstances, the bill also allows for a waiver of the recovery of
9 an erroneous payment that the director must consider if the
10 repayment would be contrary to principles of equity.

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