

54:2-33

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(Tax Court--Filing of complaints--Procedure)

NJSA: 54:2-33 et seq.; 2A:3A-4.1 et al.; 2A:83-1

LAWS OF: 1979 **CHAPTER:** 114

BILL NO: S3009

SPONSOR(S): Perskie

DATE INTRODUCED: January 11, 1979

COMMITTEE: **ASSEMBLY:** Taxation
SENATE: Revenue, Finance and Appropriations

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by asterisks

DATE OF PASSAGE: **ASSEMBLY:** June 18, 1979
SENATE: February 26, 1979

DATE OF APPROVAL: June 28, 1979

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: Yes

HEARINGS: Yes

974.90 New Jersey. Legislature. Senate. Special Committee on Tax Appeals
T235 Procedure.
1977b Public hearing, held 3-15-77 & 3-30-77. Trenton.

974.90 New Jersey. Legislature. Senate. Special Committee on Tax Appeals
T235 Procedure.
1977c Tax appeals in New Jersey; a critique and a program for legislative action. Trenton.

KBG:pp

CHAPTER 114 LAWS OF N. J. 1979
APPROVED 6-28-79

[THIRD OFFICIAL COPY REPRINT]

SENATE, No. 3009

STATE OF NEW JERSEY

INTRODUCED JANUARY 11, 1979

By Senator PERSKIE

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning tax appeals ****and the Tax Court****, amending sections 54:2-33, 54:2-34, 54:2-35, 54:2-37, 54:2-38, 54:2-39, 54:2-40 and 54:2-41 of the Revised Statutes, *****amending N. J. S. 2A:83-1,***** amending P. L. 1946, c. 161, ****amending and supplementing P. L. 1978, c. 33**** and repealing certain statutes pertaining thereto.

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

1 1. R. S. 54:2-33 is amended to read as follows:

2 54:2-33. The **[Division of Tax Appeals in the State Department**
3 **of Taxation and Finance]** *tax court* shall succeed to and exercise
4 exclusively all the powers and perform all the duties concerning
5 the review, hearing and determination of ****[appeals]**** ****pro-*
6 *ceedings**** concerning the assessment, collection, apportionment
7 or equalization of taxes, formerly exercised or performed by, or
8 conferred and charged upon, the State Board of Taxes and Assess-
9 ment, *and the Division of Tax Appeals in the Department of the*
10 *Treasury* and shall have such other and further powers and per-
11 form such other and further duties in connection with the hearing
12 and determination of tax ****[appeals]**** ****proceedings****, as
13 may be conferred or imposed upon it, from time to time.

1 2. R. S. 54:2-34 is amended to read as follows:

2 54:2-34. The **[Division of Tax Appeals in the State Department**
3 **of Taxation and Finance]** *tax court* shall review, hear and deter-
4 mine all ****[appeals]**** ****proceedings**** by any person, taxing
5 district, municipality or county aggrieved by any act, proceeding,
6 ruling, decision or determination of the **[State Tax Department or**
7 **of the State Tax Commissioner]** *Director, Division of Taxation in*
8 *the Department of the Treasury.*

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

1 3. R. S. 54:2-35 is amended to read as follows:

2 54:2-35. Any action or determination of a county board of
 3 taxation may be *****[**appealed for review to**]***** ****reviewed by****
 4 the **[**Division of Tax Appeals in the State Department of Taxation
 5 and Finance**]** *tax court* ****pursuant to rules of court**** *****[**
 6 under such rules and regulations as it may from time to time
 7 prescribe,**]***** and it may review such action and proceedings and
 8 give such judgment therein as it may think proper***, *except that*
 9 *an action brought pursuant to sections 54:2-37 or 54:2-39 shall be*
 10 *governed by provisions therein****. *****[**Nothing herein contained
 11 shall apply to any appeal to the **[**Division of Tax Appeals in the
 12 State Department of Taxation and Finance**]** *tax court* provided for
 13 by sections 54:2-37 and 54:2-39 of the Revised Statutes.**]*****

1 4. R. S. 54:2-37 is amended to read as follows:

2 54:2-37. A county equalization table may be reviewed by the
 3 **[**board**]** *tax court* on complaint of any taxing district or taxpayer
 4 in the county, or on its own motion, but such review shall not
 5 suspend the apportionment of moneys or collection of taxes. No
 6 change shall be made in the table except after a hearing in the
 7 county, of which five days' notice shall be given by mail to the
 8 governing body of each taxing district. If, after the hearing, the
 9 **[**board**]** *tax court* shall determine that the aggregate valuation of
 10 any district or districts as fixed by the county board was erroneous,
 11 it shall revise and correct the equalization table, and ascertain the
 12 difference between the amount of State and county taxes actually
 13 charged against each district in the county or distributed to it and
 14 the amount which should have been charged or distributed accord-
 15 ing to the corrected table ****and enter judgment accordingly****.
 16 The difference shall be debited or credited, as the case may be, to
 17 each taxing district on account of its share of State and county
 18 taxes next due or distributable, as the case may be. The **[**board**]**
 19 *tax court* may make all orders necessary to carry out the provisions
 20 of this section, but such review shall be completed before September
 21 tenth, annually. A certified copy of the revised and corrected table
 22 shall be transmitted to each official or board to whom the original
 23 table was required to be transmitted and also to the **[**State Tax
 24 Commissioner**]** *Director of the Division of Taxation in the Depart-*
 25 *ment of the Treasury.*

1 5. R. S. 54:2-38 is amended to read as follows:

2 54:2-38. The State equalization table may be reviewed by the
 3 **[**State Board of Tax Appeals**]** *tax court* on complaint of any
 4 county, filed with it within *****[**10**]***** ***45*** days after the

5 table has been filed with it, or on its own motion, but such review
 6 shall not suspend the apportionment of moneys or collection of
 7 taxes. No change shall be made in such table except after a hearing,
 8 of which 5 days' notice shall be given by mail to the county board of
 9 taxation and the governing body of each county. If after such hear-
 10 ing the [State Board of Tax Appeals] *tax court* shall determine
 11 that the aggregate valuation of any county as fixed by the [State
 12 Tax Commissioner] *Director of the Division of Taxation* was
 13 erroneous, the [State board] *tax court* shall revise and correct the
 14 State equalization table, and shall ascertain the difference between
 15 the amount of State taxes actually charged against each district in
 16 the county, and the State moneys paid such county, or district, and
 17 the amount which should have been charged or paid according to
 18 the corrected table. The difference shall be debited or credited, as
 19 the case may be, to each county or district on account of its share of
 20 State taxes or State moneys next due, and the [State Board of Tax
 21 Appeals] *tax court* shall have power to make all orders necessary
 22 to carry out the provisions of this section, but such review shall be
 23 completed before November 1, annually. A certified copy of the
 24 revised and corrected table shall be transmitted to each official or
 25 board to whom the original table was required to be transmitted and
 26 also to the [State Tax Commissioner] *director*.

1 6. R. S. 54:2-39 is amended to read as follows:

2 54:2-39. Any ***[appellant]*** ***party*** who is dissatisfied
 3 with the judgment of the county board of taxation upon his appeal
 4 may ***[appeal from]*** ***seek review of*** that judgment
 5 ***[to]*** ***in*** the [Division of Tax Appeals in the Depart-
 6 ment of the Treasury] *tax court* by filing a **[petition of appeal
 7 to]** *complaint with* the [division] *tax court* ***pursuant to
 8 rules of court***, ***[in manner and form to be]*** [by said
 9 division] ***[prescribed by rules of court]***, [on or before
 10 December 15 following the date fixed for final decisions by the
 11 county boards,] *within 45 days of the* ***[rendering]***
 11A ***service*** of the judgment of the county board, and the [divi-
 11B sion] *tax court* shall ***[proceed summarily to]*** hear and
 11C determine all such ***[appeals]*** ***matters*** and render its
 11D judgment thereon ***[as soon as may be]***.

12 At the time that a **[petition of appeal]** *complaint* has
 13 been filed with the [Division of Tax Appeals] *tax court*, all taxes
 14 ***or any installments thereof then due and payable for the year
 15 for which review is sought,*** ***[for the current tax year]***
 16 must have been paid **[and the appellant at such time shall pre-
 17 sent evidence of such payment]**. No interest shall be due and

17A payable by the appellant for the period from November 1 of the
 17B current tax year to the date of filing the ****[petition of appeal]****
 17C ****complaint****.

18 ****[Each petition of appeal shall be verified and shall contain a**
 19 *copy of the findings of fact and conclusions of the county board on*
 20 *the appeal and full and complete information as to the land, includ-*
 21 *ing the size of the lot, a description of the buildings and structures*
 22 *thereon, if any, and the use thereof and further shall detail the*
 23 *income and expense of operation in cases of income-producing*
 24 *property. Where the petition of appeal is from a judgment as to*
 25 *the assessed valuation of the appellant's property, there shall be*
 26 *annexed to the petition evidence of payment of taxes due and*
 27 *payable as hereinabove prescribed.]***

28 *****[No appeal, however, shall lie to the]*** [Division of Tax**
 29 **Appeals in the Department of the Treasury] ***[tax court**
 30 **where]*** ****If the Tax Court shall determine that**** the appeal
 31 to the county board of taxation has been (a) withdrawn at the
 32 hearing, or previously thereto in writing by the appellant or his
 33 agent; (b) dismissed because of appellant's failure to prosecute
 34 the appeal at a hearing called by the county tax board; (c) settled
 35 by mutual consent of the taxpayer and assessor of the taxing
 36 district*****, there shall be no review*****. This provision shall not
 37 preclude *****[an appeal to]*** ****review by**** the [Division of
 38 Tax Appeals in the Department of the Treasury] *tax court* in the
 39 event that the appeal was "dismissed without prejudice" by the
 40 county board of taxation.****

1 7. R. S. 54:2-40 is amended to read as follows:

2 54:2-40. A copy of the ****[petition of appeal]**** ****complaint****
 3 shall be served by the *****[appellant]*** ****plaintiff****** upon the
 4 county board of taxation whose judgment is *****[appealed**
 5 **from]*** ****the subject of such review******, or its secretary, and
 6 upon the clerk of the taxing district who shall forthwith notify the
 7 assessor, collector, and such other municipal officials as the govern-
 8 ing body shall direct of the content thereof. Service of such copies
 9 shall be evidenced upon the original ****[petition of appeal]****
 10 ****complaint**** filed with the [Division of Tax Appeals in the De-
 11 partment of the Treasury] *tax court* or service thereon acknow-
 12 ledged. A copy of each judgment of the [division] *tax court*
 13 whether of affirmance, reversal, modification or otherwise shall be
 14 sent to the taxpayer and, at the same time, to the *****clerk of the**
 15 ***taxing district who shall forthwith notify the****** collector and
 16 *****[to]***** the assessor or board of assessors of the taxing district

17 and the secretary of the county board of taxation in which said
 18 taxing districts is situated. The [division] *tax court* shall also
 19 give prompt notice to the taxpayer and, at the same time, to the
 20 ****clerk of the taxing district who shall forthwith notify the****
 21 collector and ***[to]*** the assessor or board of assessors of the
 22 taxing district and to the secretary of the county board of taxation,
 23 in whose county the taxing district is situated, of the withdrawal
 24 ***[and]*** ****or**** dismissal of **[petitions of appeal]**
 25 ***complaints*** filed with the [division] *tax court*.

1 8. R. S. 54:2-41 is amended to read as follows:

2 54:2-41. The [Division of Tax Appeals in the State Department
 3 of Taxation and Finance] ***[the Treasury]*** *tax court* may,
 4 ****upon the filing of a complaint**** at any time *during the tax*
 5 *year or within the next 3 tax years thereafter*, ***[on written
 6 *application]**** by a property owner, [with the consent of the
 7 majority of the governing body of the municipality affected, to be
 8 evidenced by a true copy of a resolution adopted by such governing
 9 body certified by its clerk] *a municipality or a county board of*
 10 *taxation*, ****enter judgment to**** correct *typographical errors,*
 11 *errors in transposing,* and mistakes in tax assessments; provided,
 12 that such ***[application]*** ****complaint**** [and resolution]
 13 shall set forth the facts causing and constituting the error *or errors*
 14 and mistake *or mistakes, or either thereof* sought to be corrected,
 15 and that such facts be verified by affidavits [of the property owner
 16 and the assessor of such municipality, respectively] *submitted by*
 17 *the* ***[applicant]*** ****plaintiff****; provided, however, that the
 18 ***[Division of Tax Appeals]*** *tax court* shall not consider under
 19 *this section any* ***[application]*** ****complaint**** relating to
 20 *matters of valuation involving an assessor's opinion or judgment.*
 21 *Any* ***[application]*** ****complaint**** so submitted shall con-
 22 *tain a certification that a copy of such* ***[application]*** ****com-*
 23 *plaint**** and all exhibits thereto have been filed with the county
 24 board, and served upon the property owner or the municipality, or
 25 both, as may be appropriate in the case of each ***[applicant]***
 26 ****plaintiff****. Any party required to receive a copy of ***[an
 27 *application]**** ****the complaint**** pursuant to this section may
 28 file ***[objections]*** ****an answer**** to such ***[applica-
 29 *tion]**** ****complaint**** with the ***[division]*** *tax court*
 30 ***[within 30 days of receipt of such copy]*** ***pursuant to rules
 31 *of court****. The [division] *tax court* may require such further
 32 proof and grant or deny such ***[application]*** ****complaint****
 33 as it may deem necessary or proper.

1 9. Section 14 of P. L. 1946, c. 161 (C. 54:2-43) is amended to read
2 as follows:

3 14. Where a judgment final has been rendered by the [Division
4 of Tax Appeals in the State Department of Taxation and Finance]
5 *tax court* involving real property such judgment shall be conclusive
6 and binding upon the municipal assessor and the taxing district,
7 parties to such ***[appeal]*** *proceeding****, for the assess-
8 ment year and for the 2 assessment years succeeding the assess-
9 ment year covered by the final judgment, except as to changes in
10 the value of the property occurring after the assessment date.
11 Where such changes are alleged, the **[petition of appeal]****
12 *complaint*** shall specifically set forth the nature of the changes
13 relied upon as the basis for such appeal. However, the conclusive
14 and binding effect of such judgment shall terminate with the tax
15 year immediately preceding the year in which a program for a
16 complete revaluation of all real property within the district has
17 been put into effect.

1 10. Section 15 of P. L. 1946, c. 161 (C. 54:2-40.4) is amended to
2 read as follows:

3 15. ***[a. In any proceeding before the]*** [division of Tax
4 Appeals in the State Department of the Treasury] ***[tax court
5 where deeds or other instruments of conveyance do not state the
6 true consideration or sales price of the property, which is the
7 subject of appeal, the realty transfer fee, if any, paid upon the
8 recording of such deeds or instruments as well as the affidavit of
9 consideration attached to and filed with any such deed or instru-
10 ment shall be admitted as prima facie evidence of the true con-
11 sideration or sales price of the said property.]***

12 ***[b.]*** *a.**** Whenever the [Division of Tax Appeals]
13 *tax court* is satisfied by the proofs that the ratio of the assessed
14 valuation of the subject property to its true value exceeds the upper
15 limit or falls below the lower limit of the common level range, it
15A shall ***[revise]*** *enter judgment revising**** the taxable
16 value of the property by applying the average ratio to the true
17 value of the property except as hereinafter provided.

18 ***[c.]*** *b.**** If the average ratio is below the county per-
19 centage level and the ratio of the assessed value of the subject
20 property to its true value exceeds the county percentage level, the
21 [Division of Tax Appeals] *tax court* shall ***[reduce]*** *enter*
22 *judgment reducing**** the taxable value of the property by applying
23 the average ratio to the true value of the property.

23A ***[d.]*** **c.** If both the average ratio and the ratio of the
 24 assessed value of the subject property to its true value exceed the
 25 county percentage level, the [Division of Tax Appeals] *tax court*
 26 shall ***[revise]*** ****enter judgment revising**** the taxable
 27 value of the property by applying the county percentage level to
 27A the true value of the property.

28 ***[e.]*** **d.** The provisions of this act shall not apply to
 29 any ***[appeal from]*** ****proceeding to review**** an assess-
 30 ment of real property taken with respect to the tax year in which
 31 the taxing district shall have completed and put into operation a
 32 district-wide revaluation program approved by the Director of
 33 Taxation pursuant to chapter 424, laws of 1971 (C. 54:1-35.35
 34 et seq.), *or a reassessment program approved by the county board*
 35 *of taxation.*

1 ***11. Section 23 of P. L. 1978, c. 33 (C. 2A:3A-23) is amended
 2 to read as follows:

3 23. The clerk *and a deputy clerk* of the Tax Court shall be
 4 appointed by the Supreme Court *to serve at it pleasure, and shall*
 5 *not be subject to the provisions of Title 11, Civil Service, of the*
 6 *Revised Statutes.*

1 12. (New section) *Any provision of law to the contrary not-*
 2 *withstanding:*

3 a. *Review of actions including any act, action, proceeding, rul-*
 4 *ing, decision, order or judgment of the county board of taxation*
 5 *or the Director of the Division of Taxation taken on or after the*
 6 *effective date of this act shall be by filing a complaint in the Tax*
 7 *Court pursuant to the rules of court.*

8 b. *The time periods within which a complaint may be filed in the*
 9 *Tax Court are as follows:*

10 (1) *From actions of County Board of Taxation, within 45 days*
 11 *of the action so reviewed, pursuant to rules of court;*

12 (2) *From actions of Director, Division of Taxation, within 90*
 13 *days of the action so reviewed, pursuant to rules of court;*

14 (3) *Review of Equalization Tables, within 45 days of the adop-*
 15 *tion or promulgation of the Equalization Table to be reviewed, pur-*
 16 *suant to rules of court.*

17 c. *The determination or judgment of the Tax Court may be*
 18 *appealed as of right to the Appellate Division of the Superior Court*
 19 *pursuant to rules of court.*

1 13. (New section) *Upon the filing or entering of the first paper*
 2 *or proceeding in any action or proceeding in the Tax Court, the*
 3 *plaintiff ****or any person filing a counterclaim**** shall pay to*

4 the clerk of the court, for use of the State, \$60.00 for the first paper
 5 filed by him, which shall cover all fees payable therein, ****[except
 6 such as may be otherwise provided herein or provided by law or
 7 rules of court. A filing fee of \$60.00 shall be paid upon the filing
 7A of any counterclaim]**** ****except a lesser fee may be provided
 8 by rule of court****. Other or additional fees may be established
 9 by rules of court. ****Except where a lesser fee is provided by law
 10 or rule of court that fee shall be paid.**** The foregoing fees shall
 11 not be applicable to any proceeding in the small claims division.
 12 The fees in the small claims division shall be established pursuant
 13 to rules of court.***

1 ****15. N. J. S. 2A:83-1 is amended to read as follows:

2 2A:83-1. In any action or proceeding for the acquisition or sale
 3 of land, or any interest or interests therein, or on review of the
 4 assessment for taxes of any real property, *or in any action or pro-*
 5 *ceeding in the Tax Court*, any person offered as a witness in any
 6 such action or proceeding shall be competent to testify as to sales
 7 of comparable land, *including any improvements thereon*, contigu-
 8 ous or adjacent to the land in question, or in the vicinity or locality
 9 thereof, *or otherwise comparable*, from information or knowledge
 10 of such sales, obtained from the owner, seller, purchaser, lessee or
 11 occupant of such comparable land, or from information obtained
 12 from the broker or brokers *or attorney or attorneys* who negotiated
 13 or who are familiar with or cognizant of such sales, which testimony
 14 when so offered, shall be competent and admissible evidence in any
 15 such action or proceeding.

16 *In any action or proceeding in the Tax Court, the realty transfer*
 17 *fee, if any, paid upon the recording of any deed or other instrument*
 18 *of conveyance as well as the consideration or sales price stated*
 19 *therein or in the affidavit of consideration attached to and filed with*
 20 *any such deed or instrument shall be admitted as prima facie evi-*
 21 *dence of the true consideration or sales price of the said property.*

22 This section shall not be construed to apply to any action or
 23 proceeding instituted by any individual or private corporation
 24 authorized to take property for public use where compensation
 25 must first be made to the owner thereof.****

1 ***[11.]*** ****[***14.***]**** ****15.**** The following are
 1A repealed.

2 Revised Statutes sections:

3 54:2-1 to 54:2-17 inclusive;

4 54:2-19 to 54:2-21 inclusive.

5 Pamphlet Laws:

6 P. L. 1946, c. 161, ss. 11-13, 16 (C. 54:2-40.1 to 54:2-40.3
7 inclusive, and 54:2-42);

8 P. L. 1947, c. 98, ss. 1, 3, 4 (C. 54:2-44, 54:2-46, and 54:2-47);

9 P. L. 1959, c. 28, ss. 5-8 (C. 54:2-41.1 to 54:2-41.4 inclusive);

10 P. L. 1977, c. 234, ss. 3-6 (C. 54:2-48 to 54:2-51 inclusive).

1 ***[12.]*** ***[15.]*** ***[16.]*** This act shall take
2 effect July 1, 1979*; *provided, however, that any amendment or*
3 *repeal effected by this act, which by its terms, effect, or implication*
4 *render inoperable the provisions of section 27, P. L. 1978, c. 33,*
5 *shall be without force and effect, but only for such purpose and*
6 *to such extent.**

SENATE, No. 3009

STATE OF NEW JERSEY

INTRODUCED JANUARY 11, 1979

By Senator PERSKIE

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning tax appeals, amending sections 54:2-33, 54:2-34, 54:2-35, 54:2-37, 54:2-38, 54:2-39, 54:2-40 and 54:2-41 of the Revised Statutes, amending P. L. 1946, c. 161, and repealing certain statutes pertaining thereto.

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

1 1. R. S. 54:2-33 is amended to read as follows:

2 54:2-33. The **Division of Tax Appeals** in the State Department
3 of Taxation and Finance] *tax court* shall succeed to and exercise
4 exclusively all the powers and perform all the duties concerning
5 the review, hearing and determination of appeals concerning the
6 assessment, collection, apportionment or equalization of taxes,
7 formerly exercised or performed by, or conferred and charged
8 upon, the State Board of Taxes and Assessment, *and the Division*
9 *of Tax Appeals in the Department of the Treasury* and shall have
10 such other and further powers and perform such other and further
11 duties in connection with the hearing and determination of tax
12 appeals, as may be conferred or imposed upon it, from time to time.

1 2. R. S. 54:2-34 is amended to read as follows:

2 54:2-34. The **Division of Tax Appeals** in the State Department
3 of Taxation and Finance] *tax court* shall review, hear and deter-
4 mine all appeals by any person, taxing district, municipality or
5 county aggrieved by any act, proceeding, ruling, decision or deter-
6 mination of the **State Tax Department** or of the **State Tax**
7 **Commissioner**] *Director, Division of Taxation in the Department*
8 *of the Treasury*.

1 3. R. S. 54:2-35 is amended to read as follows:

2 54:2-35. Any action or determination of a county board of
3 taxation may be appealed for review to the **Division of Tax**
4 **Appeals** in the State Department of Taxation and Finance] *tax*

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

5 *court*, under such rules and regulations as it may from time to time
6 prescribe, and it may review such action and proceedings and give
7 such judgment therein as it may think proper. Nothing herein con-
8 tained shall apply to any appeal to the [Division of Tax Appeals
9 in the State Department of Taxation and Finance] *tax court* pro-
10 vided for by sections 54:2-37 and 54:2-39 of the Revised Statutes.

1 4. R. S. 54:2-37 is amended to read as follows:

2 54:2-37. A county equalization table may be reviewed by the
3 [board] *tax court* on complaint of any taxing district or taxpayer
4 in the county, or on its own motion, but such review shall not
5 suspend the apportionment of moneys or collection of taxes. No
6 change shall be made in the table except after a hearing in the
7 county, of which five days' notice shall be given by mail to the
8 governing body of each taxing district. If, after the hearing, the
9 [board] *tax court* shall determine that the aggregate valuation of
10 any district or districts as fixed by the county board was erroneous,
11 it shall revise and correct the equalization table, and ascertain the
12 difference between the amount of State and county taxes actually
13 charged against each district in the county or distributed to it and
14 the amount which should have been charged or distributed accord-
15 ing to the corrected table. The difference shall be debited or
16 credited, as the case may be, to each taxing district on account of
17 its share of State and county taxes next due or distributable,
18 as the case may be. The [board] *tax court* may make all orders
19 necessary to carry out the provisions of this section, but such
20 review shall be completed before September tenth, annually. A
21 certified copy of the revised and corrected table shall be transmitted
22 to each official or board to whom the original table was required
23 to be transmitted and also to the [State Tax Commissioner]
24 *Director of the Division of Taxation in the Department of the*
25 *Treasury.*

1 5. R. S. 54:2-38 is amended to read as follows:

2 54:2-38. The State equalization table may be reviewed by the
3 [State Board of Tax Appeals] *tax court* on complaint of any
4 county, filed with it within 10 days after the table has been filed
5 with it, or on its own motion, but such review shall not suspend the
6 apportionment of moneys or collection of taxes. No change shall
7 be made in such table except after a hearing, of which 5 days'
8 notice shall be given by mail to the county board of taxation and
9 the governing body of each county. If after such hearing the [State
10 Board of Tax Appeals] *tax court* shall determine that the aggre-
11 gate valuation of any county as fixed by the [State Tax Commis-

12 sioner] *Director of the Division of Taxation* was erroneous, the
13 [State board] *tax court* shall revise and correct the State equaliza-
14 tion table, and shall ascertain the difference between the amount
15 of State taxes actually charged against each district in the county,
16 and the State moneys paid such county, or district, and the amount
17 which should have been charged or paid according to the corrected
18 table. The difference shall be debited or credited, as the case may
19 be, to each county or district on account of its share of State taxes
20 or State moneys next due, and the [State Board of Tax Appeals]
21 *tax court* shall have power to make all orders necessary to carry
22 out the provisions of this section, but such review shall be com-
23 pleted before November 1, annually. A certified copy of the revised
24 and corrected table shall be transmitted to each official or board
25 to whom the original table was required to be transmitted and also
26 to the [State Tax Commissioner] *director*.

1 6. R. S. 54:2-39 is amended to read as follows:

2 54:2-39. Any appellant who is dissatisfied with the judgment of
3 the county board of taxation upon his appeal may appeal from that
4 judgment to the [Division of Tax Appeals in the Department of the
5 Treasury] *tax court* by filing a petition of appeal to the [division]
6 *tax court*, in manner and form to be [by said division] prescribed,
7 [on or before December 15 following the date fixed for final deci-
8 sions by the county boards,] *within 45 days of the rendering of the*
9 *judgment of the county board*, and the [division] *tax court* shall
10 proceed summarily to hear and determine all such appeals and
11 render its judgment thereon as soon as may be.

12 At the time that a petition of appeal has been filed with the
13 [Division of Tax Appeals] *tax court*, all taxes for the current tax
14 year must have been paid and the appellant at such time shall
15 present evidence of such payment. No interest shall be due and
16 payable by the appellant for the period from November 1 of the
17 current tax year to the date of filing the petition of appeal.

18 Each petition of appeal shall be verified and shall contain *a copy*
19 *of the findings of fact and conclusions of the county board on the*
20 *appeal and full and complete information as to the land, including*
21 *the size of the lot, a description of the buildings and structures*
22 *thereon, if any, and the use thereof and further shall detail the*
23 *income and expense of operation in cases of income-producing*
24 *property. Where the petition of appeal is from a judgment as to*
25 *the assessed valuation of the appellant's property, there shall be*
26 *annexed to the petition evidence of payment of taxes due and*
27 *payable as hereinabove prescribed.*

28 No appeal, however, shall lie to the [Division of Tax Appeals in
29 the Department of the Treasury] *tax court* where the appeal to
30 the county board of taxation has been (a) withdrawn at the hearing,
31 or previously thereto in writing by the appellant or his agent; (b)
32 dismissed because of appellant's failure to prosecute the appeal at
33 a hearing called by the county tax board; (c) settled by mutual
34 consent of the taxpayer and assessor of the taxing district. This
35 provision shall not preclude an appeal to the [Division of Tax
36 Appeals in the Department of the Treasury] *tax court* in the event
37 that the appeal was "dismissed without prejudice" by the county
38 board of taxation.

1 7. R. S. 54:2-40 is amended to read as follows:

2 54:2-40. A copy of the petition of appeal shall be served by the
3 appellant upon the county board of taxation whose judgment is
4 appealed from, or its secretary, and upon the clerk of the taxing
5 district who shall forthwith notify the assessor, collector, and such
6 other municipal officials as the governing body shall direct of the
7 content thereof. Service of such copies shall be evidenced upon
8 the original petition of appeal filed with the [Division of Tax
9 Appeals in the Department of the Treasury] *tax court* or service
10 thereon acknowledged. A copy of each judgment of the [division]
11 *tax court* whether of affirmance, reversal, modification or otherwise
12 shall be sent to the taxpayer and, at the same time, to the collector
13 and to the assessor or board of assessors of the taxing district and
14 the secretary of the county board of taxation in which said taxing
15 districts is situated. The [division] *tax court* shall also give prompt
16 notice to the taxpayer and, at the same time, to the collector and to
17 the assessor or board of assessors of the taxing district and to the
18 secretary of the county board of taxation, in whose county the tax-
19 ing district is situated, of the withdrawal and dismissal of petitions
20 of appeal filed with the [division] *tax court*.

1 8. R. S. 54:2-41 is amended to read as follows:

2 54:2-41. The [Division of Tax Appeals in the State Department
3 of Taxation and Finance] *tax court* may, at any time *during*
4 *the tax year or within the next 3 tax years thereafter*, on written
5 application by a property owner, [with the consent of the majority
6 of the governing body of the municipality affected, to be evidenced
7 by a true copy of a resolution adopted by such governing body
8 certified by its clerk] *a municipality or a county board of taxation*,
9 *correct typographical errors, errors in transposing, and mistakes*
10 *in tax assessments; provided, that such application [and resolu-*
11 *tion]* shall set forth the facts causing and constituting the error

12 *or errors and mistake or mistakes, or either thereof sought to be*
13 *corrected, and that such facts be verified by affidavits [of the*
14 *property owner and the assessor of such municipality, respectively]*
15 *submitted by the applicant; provided, however, that the tax court*
16 *shall not consider under this section any application relating to*
17 *matters of valuation involving an assessor's opinion or judgment.*
18 *Any application so submitted shall contain a certification that*
19 *a copy of such application and all exhibits thereto have been filed*
20 *with the county board, and served upon the property owner or the*
21 *municipality, or both, as may be appropriate in the case of each*
22 *applicant. Any party required to receive a copy of an application*
23 *pursuant to this section may file objections to such application*
24 *with the tax court within 30 days of receipt of such copy. The*
25 **[division]** *tax court may require such further proof and grant or*
26 *deny such application as it may deem necessary or proper.*

1 9. Section 14 of P. L. 1946, c. 161 (C. 54:2-43) is amended to read
2 as follows:

3 14. Where a judgment final has been rendered by the **[Division**
4 **of Tax Appeals in the State Department of Taxation and Finance]**
5 *tax court* involving real property such judgment shall be conclusive
6 and binding upon the municipal assessor and the taxing district,
7 parties to such appeal, for the assessment year and for the 2
8 assessment years succeeding the assessment year covered by the
9 final judgment, except as to changes in the value of the property
10 occurring after the assessment date. Where such changes are
11 alleged, the petition of appeal shall specifically set forth the nature
12 of the changes relied upon as the basis for such appeal. However,
13 the conclusive and binding effect of such judgment shall terminate
14 with the tax year immediately preceding the year in which a pro-
15 gram for a complete revaluation of all real property within the
16 district has been put into effect.

1 10. Section 15 of P. L. 1946, c. 161 (C. 54:2-40.4) is amended to
2 read as follows:

3 15. a. In any proceeding before the **[division of Tax Appeals in**
4 **the State Department of the Treasury]** *tax court* where deeds or
5 other instruments of conveyance do not state the true consideration
6 or sales price of the property, which is the subject of appeal, the
7 realty transfer fee, if any, paid upon the recording of such deeds
8 or instruments as well as the affidavit of consideration attached to
9 and filed with any such deed or instrument shall be admitted as
10 prima facie evidence of the true consideration or sales price of the
11 said property.

12 b. Whenever the [Division of Tax Appeals] *tax court* is satisfied
 13 by the proofs that the ratio of the assessed valuation of the subject
 14 property to its true value exceeds the upper limit or falls below the
 15 lower limit of the common level range, it shall revise the taxable
 16 value of the property by applying the average ratio to the true
 17 value of the property except as hereinafter provided.

18 c. If the average ratio is below the county percentage level and
 19 the ratio of the assessed value of the subject property to its true
 20 value exceeds the county percentage level, the [Division of Tax
 21 Appeals] *tax court* shall reduce the taxable value of the property
 22 by applying the average ratio to the true value of the property.

23 d. If both the average ratio and the ratio of the assessed value
 24 of the subject property to its true value exceed the county per-
 25 centage level, the [Division of Tax Appeals] *tax court* shall revise
 26 the taxable value of the property by applying the county percentage
 27 level to the true value of the property.

28 e. The provisions of this act shall not apply to any appeal from
 29 an assessment of real property taken with respect to the tax year
 30 in which the taxing district shall have completed and put into
 31 operation a district-wide revaluation program approved by the
 32 Director of Taxation pursuant to chapter 424, laws of 1971
 33 (C. 54:1-35.35 et seq.), or a reassessment program approved by
 34 the county board of taxation.

1 11. The following are repealed:

2 Revised Statutes sections:

3 54:2-1 to 54:2-17 inclusive;

4 54:2-19 to 54:2-21 inclusive.

5 Pamphlet Laws:

6 P. L. 1946, c. 161, ss. 11-13, 16 (C. 54:2-40.1 to 54:2-40.3
 7 inclusive, and 54:2-42);

8 P. L. 1947, c. 98, ss. 1, 3, 4 (C. 54:2-44, 54:2-46, and 54:2-47);

9 P. L. 1959, c. 28, ss. 5-8 (C. 54:2-41.1 to 54:2-41.4 inclusive);

10 P. L. 1977, c. 234, ss. 3-6 (C. 54:2-48 to 54:2-51 inclusive).

1 12. This act shall take effect July 1, 1979.

STATEMENT

The purpose of this bill is to clarify legislative intent as to which provisions of chapter 2 of Title 54 of the Revised Statutes (Tax Appeals) are to be applicable to the Tax Court established by P. L. 1978, c. 33, which takes effect July 1, 1979. That chapter contains various statutes relating to the structure, procedures, and powers of the Division of Tax Appeals abolished by P. L. 1978,

c. 33, including duties of both a judicial and a tax administrative nature. This bill would amend such of those statutes as are appropriately applicable to the tax court to make them so applicable, and would repeal such of those statutes as are not appropriately applicable.

This legislation is made necessary by the provisions of section 28 of P. L. 1978, c. 33 (C. 2A:3A-28) which states: "Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding, or otherwise, reference is made to the Division of Tax Appeals in the Department of the Treasury, the same shall be considered to mean and refer to the tax court established under this act." In certain instances, the statutes to be repealed by the legislation contain provisions which are either inappropriate to the tax court, or for which similar provisions exist in P. L. 1978, c. 33. In other instances, the statutes to be repealed contain provisions which, in the case of a court, should be provided by court rule, rather than by legislation. In the later instance, the intent of this legislation is not to deny any powers to the tax court, but rather to remove any statutes which might be construed to limit the court in establishing rules and procedures for the hearing and determination of tax appeals.

The following sections of law are repealed:

1. R. S. 54:2-1, which provided in 1937 for the continuance of the "State Board of Tax Appeals," no longer in existence;
2. R. S. 54:2-2, which prescribes the powers and duties of the "State Board of Tax Appeals" with respect to the hearing and determination of tax appeals. The provisions of this section are no longer necessary in light of the provisions of section 3 of P. L. 1978, c. 33 (C. 2A:3A-3);
3. R. S. 54:2-3, which provides for the judges of the Division of Tax Appeals and the qualifications thereof;
4. R. S. 54:2-4, which provides for the method of appointment of judges of the Division of Tax Appeals, their terms, and the method of filling vacancies occurring in the division;
5. R. S. 54:2-5, which requires judges of the Division of Tax Appeals to take and file an oath of office;
6. R. S. 54:2-6, which provides for the removal of judges of the division by the Governor for cause;
7. R. S. 54:2-7, which provides for the designation of a presiding judge of the division;
8. R. S. 54:2-8, which provides for the salaries of the division judges;

9. R. S. 54:2-9, which prohibits former judges of the division to practice before the division for 2 years after leaving office;

10. R. S. 54:2-10, which prescribes the necessary quorum for transacting division business;

11. R. S. 54:2-11, which provides for the place of office and of meetings of the division;

12. R. S. 54:2-12, which provides for the appointment of clerical and technical assistants to the division judges;

13. R. S. 54:2-13, which provides for a division seal;

14. R. S. 54:2-14, which requires the division to keep a record of its proceedings, and permits the division to prescribe rules regulating tax appeals;

15. R. S. 54:2-15, which empowers the division to punish for contempt;

16. R. S. 54:2-16, which provides for the method of conduct of division hearings and for the reduction of its findings and conclusions to writing as public records;

17. R. S. 54:2-17, which empowers division judges to administer oaths, examine witnesses, issue subpoenas, and punish for failure to testify;

18. R. S. 54:2-19, which provides for witness fees for attendance at division proceedings;

19. R. S. 54:2-20, which provides for the crime of perjury for false witness at division proceedings;

20. R. S. 54:2-21, which provides for the taking of depositions from witnesses on matters pending before the division;

21. Section 11 of P. L. 1946, c. 161 (C. 54:2-40.2), which provides that petitions of appeal filed with the division may be amended at any time prior to hearing without notice and as a matter of course;

22. Section 12 of P. L. 1946, c. 161 (C. 54:2-40.3), which provides for the execution and filing of appeals by an attorney-at-law without affidavit;

23. Section 13 of P. L. 1946, c. 161 (C. 54:2-42), which provides that the division may not enter any judgment upon the oral consent of the taxpayer with the municipality, but may enter judgment upon the written consents of the taxpayer and the municipality;

24. Section 16 of P. L. 1946, c. 161 (C. 54:2-40.1), which provides for certain filing fees to be paid by the taxpayer upon the filing of an appeal;

25. Section 1 of P. L. 1947, c. 98 (C. 54:2-44), which requires certain filing fees to be paid to the division after the effective date of that act;

26. Section 3 of P. L. 1947, c. 98 (C. 54:2-46), which requires that all filing fees be paid to the division prior to the hearing of the appeal;

27. Section 4 of P. L. 1947, c. 98 (C. 54:2-47), which provides that fees required under P. L. 1947, c. 98 shall be in lieu of any other such fees required by previous law;

28. Section 5 of P. L. 1959, c. 28 (C. 54:2-41.1), which provides for the assignment and reassignment of appeals to division judges;

29. Section 6 of P. L. 1959, c. 28 (C. 54:2-41.2), which accords the presiding judge general administrative supervision over the division, and the power to assign appeals within certain limitations;

30. Section 7 of P. L. 1959, c. 28 (C. 54:2-41.3), which provides for the method of determination of appeals by division judges according to the manner in which the appeals are assigned;

31. Section 8 of P. L. 1959, c. 28 (C. 54:2-41.4), which provides that judgments on appeals be signed by the division judge and filed with the division; and,

32. Sections 3, 4, 5 and 6 of P. L. 1977, c. 234 (C. 54:2-48 through 54:2-51), which establish a small claims bureau in the Division of Tax Appeals.

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
SENATE, No. 3009
with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 13, 1979

This bill proposes to establish legislative intent as to which provisions of Chapter 2 of Title 54 of the Revised Statutes establishing the structure, procedures and powers of the Division of Tax Appeals, will apply to the Tax Court established pursuant to P. L. 1978, Chapter 33 effective July 1, 1979.

The Tax Court is "... established as an inferior court of limited jurisdiction . . . to be a court of record with jurisdiction to hear and determine all tax appeals of such character as now are taken to, and heard and determined by, the Division of Tax Appeals." (P. L. 1978, c. 33, ss. 1 and 3.) Any reference in law, rule, regulation, order, contract, document, judicial or administrative proceedings to the Division of Tax Appeals shall mean and refer to the Tax Court (P. L. 1978, c. 33, s. 28). Therefore, because the provisions of Chapter 2 of Title 54 of the Revised Statutes establish the structure, powers, procedures and jurisdiction of the Division of Tax Appeals that chapter becomes a part of the body of law accomplishing such regarding the Tax Court. A legislative review of that body of law is necessary to establish clearly the intent of the Legislature as to the applicability of the Division of Tax Appeals statutes to the newly established tax court. This is accomplished by amending certain provisions to make them specifically applicable to the tax court and repealing those provisions which: (1) are similar to provisions contained in the act establishing the tax court; (2) are inappropriate to the tax court; or (3) should be established by court rule rather than by legislation, as reflected in the tax court legislation.

REPEAL PROVISIONS

As a general statement, this legislation repeals all current statutes regarding the constitution, general powers, procedures and fee structure applicable to the Division of Tax Appeals. This includes Article 1 (Constitution and Powers), Article 2 (Taking of Testimony), Article 4

(Fees), Article 5 (Small Claims Bureau) in their entirety, and selected sections of Article 3 (Appeal and Review) as concern fees or procedure. All of these structure, fee, and procedure provisions are newly established in the act establishing the tax court.

AMENDING PROVISIONS

While the provisions of law governing the constitution, general powers, procedures, and fee structure regarding the Division of Tax Appeals are repealed, those current provisions of law establishing the jurisdiction of the Division of Tax Appeals are retained and, in major part, amended to confer or impose all such jurisdiction on the tax court.

This is accomplished, in the first instance, by inserting "tax court" in every instance where "Division of Tax Appeals," "board," "State Board of Tax Appeals" or "division" is found in Article 3 of Chapter 2 of Title 54.

Further amendatory provisions propose to incorporate in this bill the provisions of other legislation currently at various stages in the legislative process as follows:

Section 6. This section incorporates, in part, the provisions of SCS for S-411 and S-256 and A-1858, both currently undergoing review and evaluation in the Assembly. These bills propose certain changes in the structure and procedures of the county boards of taxation, most commonly referred to as the "county tax administrator" bill. This provision (S-3009, Section 6 proposing amendment of R. S. 54:2-39) is exactly like a provision in SCS for S-256 and S-411 passed by the Senate of April 24, 1978.

Section 8. This section would incorporate the provisions of S-1103 OCR, which was reviewed and released by both the Senate Revenue, Finance and Appropriations Committee and the Assembly Committee on Taxation and has been passed by both the Senate and the Assembly. The bill provides for a process to correct certain errors and mistakes in tax assessments.

Also newly provided for as an amendment to R. S. 54:2-40.4:

Section 10. This section of law prescribes the method to be employed in establishing true consideration or sales price of a property, and prescribes the use of the ratio of assessed to true value, the average ratio, and the county percentage level in establishing the reasonable assessed value of real property the assessed value of which is the subject of appeal. This section further precludes use of this method in the case of any appeal from an assessment where a complete district-wide revaluation has been completed. This latter provision is supplemental in S-3009 to include in the exception to the establishment of reasonable value the appeal from an assessment where a reassessment program approved by the county board has been completed.

COMMITTEE AMENDMENT

This amendment is intended to provide and require all the provisions of the law regarding the Division of Tax Appeals for purposes of completion of hearings and final decision by the Division of Tax Appeals for the period July 1, 1979 to December 31, 1979 when the Division is, by operation of the tax court law, abolished.

SENATE COMMITTEE AMENDMENT TO

SENATE, No. 3009

STATE OF NEW JERSEY

ADOPTED FEBRUARY 13, 1979

Amend page 6, section 12, line 1, after July 1, 1979, insert “; provided, however, that any amendment or repeal effected by this act, which by its terms, effect, or implication render inoperable the provisions of section 27, P. L. 1978, c. 33, shall be without force and effect, but only for such purpose and to such extent”.

[OFFICIAL COPY REPRINT]

SENATE, No. 3009

STATE OF NEW JERSEY

INTRODUCED JANUARY 11, 1979

By Senator PERSKIE

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning tax appeals, amending sections 54:2-33, 54:2-34, 54:2-35, 54:2-37, 54:2-38, 54:2-39, 54:2-40 and 54:2-41 of the Revised Statutes, amending P. L. 1946, c. 161, and repealing certain statutes pertaining thereto.

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

1 1. R. S. 54:2-33 is amended to read as follows:

2 54:2-33. The **Division of Tax Appeals in the State Department**
3 **of Taxation and Finance** *tax court* shall succeed to and exercise
4 exclusively all the powers and perform all the duties concerning
5 the review, hearing and determination of appeals concerning the
6 assessment, collection, apportionment or equalization of taxes,
7 formerly exercised or performed by, or conferred and charged
8 upon, the State Board of Taxes and Assessment, *and the Division*
9 *of Tax Appeals in the Department of the Treasury* and shall have
10 such other and further powers and perform such other and further
11 duties in connection with the hearing and determination of tax
12 appeals, as may be conferred or imposed upon it, from time to time.

1 2. R. S. 54:2-34 is amended to read as follows:

2 54:2-34. The **Division of Tax Appeals in the State Department**
3 **of Taxation and Finance** *tax court* shall review, hear and deter-
4 mine all appeals by any person, taxing district, municipality or
5 county aggrieved by any act, proceeding, ruling, decision or deter-
6 mination of the **State Tax Department or of the State Tax**
7 **Commissioner** *Director, Division of Taxation in the Department*
8 *of the Treasury.*

1 3. R. S. 54:2-35 is amended to read as follows:

2 54:2-35. Any action or determination of a county board of
3 taxation may be appealed for review to the **Division of Tax**
4 **Appeals in the State Department of Taxation and Finance** *tax*

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

5 *court*, under such rules and regulations as it may from time to time
6 prescribe, and it may review such action and proceedings and give
7 such judgment therein as it may think proper. Nothing herein con-
8 tained shall apply to any appeal to the [Division of Tax Appeals
9 in the State Department of Taxation and Finance] *tax court* pro-
10 vided for by sections 54:2-37 and 54:2-39 of the Revised Statutes.

1 4. R. S. 54:2-37 is amended to read as follows:

2 54:2-37. A county equalization table may be reviewed by the
3 [board] *tax court* on complaint of any taxing district or taxpayer
4 in the county, or on its own motion, but such review shall not
5 suspend the apportionment of moneys or collection of taxes. No
6 change shall be made in the table except after a hearing in the
7 county, of which five days' notice shall be given by mail to the
8 governing body of each taxing district. If, after the hearing, the
9 [board] *tax court* shall determine that the aggregate valuation of
10 any district or districts as fixed by the county board was erroneous,
11 it shall revise and correct the equalization table, and ascertain the
12 difference between the amount of State and county taxes actually
13 charged against each district in the county or distributed to it and
14 the amount which should have been charged or distributed accord-
15 ing to the corrected table. The difference shall be debited or
16 credited, as the case may be, to each taxing district on account of
17 its share of State and county taxes next due or distributable,
18 as the case may be. The [board] *tax court* may make all orders
19 necessary to carry out the provisions of this section, but such
20 review shall be completed before September tenth, annually. A
21 certified copy of the revised and corrected table shall be transmitted
22 to each official or board to whom the original table was required
23 to be transmitted and also to the [State Tax Commissioner]
24 *Director of the Division of Taxation in the Department of the*
25 *Treasury.*

1 5. R. S. 54:2-38 is amended to read as follows:

2 54:2-38. The State equalization table may be reviewed by the
3 [State Board of Tax Appeals] *tax court* on complaint of any
4 county, filed with it within 10 days after the table has been filed
5 with it, or on its own motion, but such review shall not suspend the
6 apportionment of moneys or collection of taxes. No change shall
7 be made in such table except after a hearing, of which 5 days'
8 notice shall be given by mail to the county board of taxation and
9 the governing body of each county. If after such hearing the [State
10 Board of Tax Appeals] *tax court* shall determine that the aggre-
11 gate valuation of any county as fixed by the [State Tax Commis-

12 sioner] *Director of the Division of Taxation* was erroneous, the
 13 [State board] *tax court* shall revise and correct the State equaliza-
 14 tion table, and shall ascertain the difference between the amount
 15 of State taxes actually charged against each district in the county,
 16 and the State moneys paid such county, or district, and the amount
 17 which should have been charged or paid according to the corrected
 18 table. The difference shall be debited or credited, as the case may
 19 be, to each county or district on account of its share of State taxes
 20 or State moneys next due, and the [State Board of Tax Appeals]
 21 *tax court* shall have power to make all orders necessary to carry
 22 out the provisions of this section, but such review shall be com-
 23 pleted before November 1, annually. A certified copy of the revised
 24 and corrected table shall be transmitted to each official or board
 25 to whom the original table was required to be transmitted and also
 26 to the [State Tax Commissioner] *director*.

1 6. R. S. 54:2-39 is amended to read as follows:

2 54:2-39. Any appellant who is dissatisfied with the judgment of
 3 the county board of taxation upon his appeal may appeal from that
 4 judgment to the [Division of Tax Appeals in the Department of the
 5 Treasury] *tax court* by filing a petition of appeal to the [division]
 6 *tax court*, in manner and form to be [by said division] prescribed,
 7 [on or before December 15 following the date fixed for final deci-
 8 sions by the county boards,] *within 45 days of the rendering of the*
 9 *judgment of the county board*, and the [division] *tax court* shall
 10 proceed summarily to hear and determine all such appeals and
 11 render its judgment thereon as soon as may be.

12 At the time that a petition of appeal has been filed with the
 13 [Division of Tax Appeals] *tax court*, all taxes for the current tax
 14 year must have been paid and the appellant at such time shall
 15 present evidence of such payment. No interest shall be due and
 16 payable by the appellant for the period from November 1 of the
 17 current tax year to the date of filing the petition of appeal.

18 Each petition of appeal shall be verified and shall contain *a copy*
 19 *of the findings of fact and conclusions of the county board on the*
 20 *appeal and full and complete information as to the land, including*
 21 *the size of the lot, a description of the buildings and structures*
 22 *thereon, if any, and the use thereof and further shall detail the*
 23 *income and expense of operation in cases of income-producing*
 24 *property. Where the petition of appeal is from a judgment as to*
 25 *the assessed valuation of the appellant's property, there shall be*
 26 *annexed to the petition evidence of payment of taxes due and*
 27 *payable as hereinabove prescribed.*

28 No appeal, however, shall lie to the [Division of Tax Appeals in
 29 the Department of the Treasury] *tax court* where the appeal to
 30 the county board of taxation has been (a) withdrawn at the hearing,
 31 or previously thereto in writing by the appellant or his agent; (b)
 32 dismissed because of appellant's failure to prosecute the appeal at
 33 a hearing called by the county tax board; (c) settled by mutual
 34 consent of the taxpayer and assessor of the taxing district. This
 35 provision shall not preclude an appeal to the [Division of Tax
 36 Appeals in the Department of the Treasury] *tax court* in the event
 37 that the appeal was "dismissed without prejudice" by the county
 38 board of taxation.

1 7. R. S. 54:2-40 is amended to read as follows:

2 54:2-40. A copy of the petition of appeal shall be served by the
 3 appellant upon the county board of taxation whose judgment is
 4 appealed from, or its secretary, and upon the clerk of the taxing
 5 district who shall forthwith notify the assessor, collector, and such
 6 other municipal officials as the governing body shall direct of the
 7 content thereof. Service of such copies shall be evidenced upon
 8 the original petition of appeal filed with the [Division of Tax
 9 Appeals in the Department of the Treasury] *tax court* or service
 10 thereon acknowledged. A copy of each judgment of the [division]
 11 *tax court* whether of affirmance, reversal, modification or otherwise
 12 shall be sent to the taxpayer and, at the same time, to the collector
 13 and to the assessor or board of assessors of the taxing district and
 14 the secretary of the county board of taxation in which said taxing
 15 districts is situated. The [division] *tax court* shall also give prompt
 16 notice to the taxpayer and, at the same time, to the collector and to
 17 the assessor or board of assessors of the taxing district and to the
 18 secretary of the county board of taxation, in whose county the tax-
 19 ing district is situated, of the withdrawal and dismissal of petitions
 20 of appeal filed with the [division] *tax court*.

1 8. R. S. 54:2-41 is amended to read as follows:

2 54:2-41. The [Division of Tax Appeals in the State Department
 3 of Taxation and Finance] *tax court* may, at any time *during*
 4 *the tax year or within the next 3 tax years thereafter*, on written
 5 application by a property owner, [with the consent of the majority
 6 of the governing body of the municipality affected, to be evidenced
 7 by a true copy of a resolution adopted by such governing body
 8 certified by its clerk] *a municipality or a county board of taxation,*
 9 *correct typographical errors, errors in transposing, and mistakes*
 10 *in tax assessments; provided, that such application [and resolu-*
 11 *tion]* shall set forth the facts causing and constituting the error

12 *or errors and mistake or mistakes, or either thereof sought to be*
13 *corrected, and that such facts be verified by affidavits [of the*
14 *property owner and the assessor of such municipality, respectively]*
15 *submitted by the applicant; provided, however, that the tax court*
16 *shall not consider under this section any application relating to*
17 *matters of valuation involving an assessor's opinion or judgment.*
18 *Any application so submitted shall contain a certification that*
19 *a copy of such application and all exhibits thereto have been filed*
20 *with the county board, and served upon the property owner or the*
21 *municipality, or both, as may be appropriate in the case of each*
22 *applicant. Any party required to receive a copy of an application*
23 *pursuant to this section may file objections to such application*
24 *with the tax court within 30 days of receipt of such copy. The*
25 **[division]** *tax court may require such further proof and grant or*
26 *deny such application as it may deem necessary or proper.*

1 9. Section 14 of P. L. 1946, c. 161 (C. 54:2-43) is amended to read
2 as follows:

3 14. Where a judgment final has been rendered by the **[Division**
4 **of Tax Appeals in the State Department of Taxation and Finance]**
5 *tax court* involving real property such judgment shall be conclusive
6 and binding upon the municipal assessor and the taxing district,
7 parties to such appeal, for the assessment year and for the 2
8 assessment years succeeding the assessment year covered by the
9 final judgment, except as to changes in the value of the property
10 occurring after the assessment date. Where such changes are
11 alleged, the petition of appeal shall specifically set forth the nature
12 of the changes relied upon as the basis for such appeal. However,
13 the conclusive and binding effect of such judgment shall terminate
14 with the tax year immediately preceding the year in which a pro-
15 gram for a complete revaluation of all real property within the
16 district has been put into effect.

1 10. Section 15 of P. L. 1946, c. 161 (C. 54:2-40.4) is amended to
2 read as follows:

3 15. a. In any proceeding before the **[division of Tax Appeals in**
4 **the State Department of the Treasury]** *tax court* where deeds or
5 other instruments of conveyance do not state the true consideration
6 or sales price of the property, which is the subject of appeal, the
7 realty transfer fee, if any, paid upon the recording of such deeds
8 or instruments as well as the affidavit of consideration attached to
9 and filed with any such deed or instrument shall be admitted as
10 prima facie evidence of the true consideration or sales price of the
11 said property.

12 b. Whenever the [Division of Tax Appeals] *tax court* is satisfied
 13 by the proofs that the ratio of the assessed valuation of the subject
 14 property to its true value exceeds the upper limit or falls below the
 15 lower limit of the common level range, it shall revise the taxable
 16 value of the property by applying the average ratio to the true
 17 value of the property except as hereinafter provided.

18 c. If the average ratio is below the county percentage level and
 19 the ratio of the assessed value of the subject property to its true
 20 value exceeds the county percentage level, the [Division of Tax
 21 Appeals] *tax court* shall reduce the taxable value of the property
 22 by applying the average ratio to the true value of the property.

23 d. If both the average ratio and the ratio of the assessed value
 24 of the subject property to its true value exceed the county per-
 25 centage level, the [Division of Tax Appeals] *tax court* shall revise
 26 the taxable value of the property by applying the county percentage
 27 level to the true value of the property.

28 e. The provisions of this act shall not apply to any appeal from
 29 an assessment of real property taken with respect to the tax year
 30 in which the taxing district shall have completed and put into
 31 operation a district-wide revaluation program approved by the
 32 Director of Taxation pursuant to chapter 424, laws of 1971
 33 (C. 54:1-35.35 et seq.), or a reassessment program approved by
 34 the county board of taxation.

1 11. The following are repealed:

2 Revised Statutes sections:

3 54:2-1 to 54:2-17 inclusive;

4 54:2-19 to 54:2-21 inclusive.

5 Pamphlet Laws:

6 P. L. 1946, c. 161, ss. 11-13, 16 (C. 54:2-40.1 to 54:2-40.3
 7 inclusive, and 54:2-42);

8 P. L. 1947, c. 98, ss. 1, 3, 4 (C. 54:2-44, 54:2-46, and 54:2-47);

9 P. L. 1959, c. 28, ss. 5-8 (C. 54:2-41.1 to 54:2-41.4 inclusive);

10 P. L. 1977, c. 234, ss. 3-6 (C. 54:2-48 to 54:2-51 inclusive).

1 12. This act shall take effect July 1, 1979*; *provided, however,*
 2 *that any amendment or repeal effected by this act, which by its*
 3 *terms, effect, or implication render inoperable the provisions of*
 4 *section 27, P. L. 1978, c. 33, shall be without force and effect, but*
 5 *only for such purpose and to such extent.**

SENATE AMENDMENTS TO
SENATE, No. 3009
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED FEBRUARY 22, 1979

Amend page 3, section 6, line 5, omit "petition of appeal to", insert "complaint with".

Amend page 3, section 6, line 6, after "prescribed", insert "by rules of court".

Amend page 3, section 6, line 12, omit "petition of appeal", insert "complaint".

Amend page 3, section 6, lines 14 and 15, after "paid", omit remainder of line 14 and "present evidence of such payment" on line 15.

Amend page 3, section 6, line 17, omit "petition of appeal", insert "complaint".

Amend page 3, section 6, lines 18-27, omit.

Amend page 4, section 7, line 2, omit "petition of appeal", insert "complaint".

Amend page 4, section 7, line 8, omit "petition of appeal", insert "complaint".

Amend page 4, section 7, lines 19 and 20, omit "petitions of appeal", insert "complaints".

Amend page 5, section 9, line 11, omit "petition of appeal", insert "complaint".

STATEMENT

The purpose of these amendments is to make the technical change from "petition of appeal" to "complaint" in the law governing tax appeals. The amendments also recognize that appeals to the tax court from the county board of taxation are more properly made in the manner and form prescribed by rules of court instead of by statute. The amendments were prepared in cooperation with the presiding judge of the tax court.

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 3009

STATE OF NEW JERSEY

INTRODUCED JANUARY 11, 1979

By Senator PERSKIE

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning tax appeals, amending sections 54:2-33, 54:2-34, 54:2-35, 54:2-37, 54:2-38, 54:2-39, 54:2-40 and 54:2-41 of the Revised Statutes, amending P. L. 1946, c. 161, and repealing certain statutes pertaining thereto.

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

1 1. R. S. 54:2-33 is amended to read as follows:

2 54:2-33. The **[Division of Tax Appeals in the State Department**
3 **of Taxation and Finance]** *tax court* shall succeed to and exercise
4 exclusively all the powers and perform all the duties concerning
5 the review, hearing and determination of appeals concerning the
6 assessment, collection, apportionment or equalization of taxes,
7 formerly exercised or performed by, or conferred and charged
8 upon, the State Board of Taxes and Assessment, *and the Division*
9 *of Tax Appeals in the Department of the Treasury* and shall have
10 such other and further powers and perform such other and further
11 duties in connection with the hearing and determination of tax
12 appeals, as may be conferred or imposed upon it, from time to time.

1 2. R. S. 54:2-34 is amended to read as follows:

2 54:2-34. The **[Division of Tax Appeals in the State Department**
3 **of Taxation and Finance]** *tax court* shall review, hear and deter-
4 mine all appeals by any person, taxing district, municipality or
5 county aggrieved by any act, proceeding, ruling, decision or deter-
6 mination of the **[State Tax Department or of the State Tax**
7 **Commissioner]** *Director, Division of Taxation in the Department*
8 *of the Treasury.*

1 3. R. S. 54:2-35 is amended to read as follows:

2 54:2-35. Any action or determination of a county board of
3 taxation may be appealed for review to the **[Division of Tax**
4 **Appeals in the State Department of Taxation and Finance]** *tax*

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

5 court, under such rules and regulations as it may from time to time
6 prescribe, and it may review such action and proceedings and give
7 such judgment therein as it may think proper. Nothing herein con-
8 tained shall apply to any appeal to the **[Division of Tax Appeals**
9 **in the State Department of Taxation and Finance]** *tax court* pro-
10 vided for by sections 54:2-37 and 54:2-39 of the Revised Statutes.

1 4. R. S. 54:2-37 is amended to read as follows:

2 54:2-37. A county equalization table may be reviewed by the
3 **[board]** *tax court* on complaint of any taxing district or taxpayer
4 in the county, or on its own motion, but such review shall not
5 suspend the apportionment of moneys or collection of taxes. No
6 change shall be made in the table except after a hearing in the
7 county, of which five days' notice shall be given by mail to the
8 governing body of each taxing district. If, after the hearing, the
9 **[board]** *tax court* shall determine that the aggregate valuation of
10 any district or districts as fixed by the county board was erroneous,
11 it shall revise and correct the equalization table, and ascertain the
12 difference between the amount of State and county taxes actually
13 charged against each district in the county or distributed to it and
14 the amount which should have been charged or distributed accord-
15 ing to the corrected table. The difference shall be debited or
16 credited, as the case may be, to each taxing district on account of
17 its share of State and county taxes next due or distributable,
18 as the case may be. The **[board]** *tax court* may make all orders
19 necessary to carry out the provisions of this section, but such
20 review shall be completed before September tenth, annually. A
21 certified copy of the revised and corrected table shall be transmitted
22 to each official or board to whom the original table was required
23 to be transmitted and also to the **[State Tax Commissioner]**
24 *Director of the Division of Taxation in the Department of the*
25 *Treasury.*

1 5. R. S. 54:2-38 is amended to read as follows:

2 54:2-38. The State equalization table may be reviewed by the
3 **[State Board of Tax Appeals]** *tax court* on complaint of any
4 county, filed with it within 10 days after the table has been filed
5 with it, or on its own motion, but such review shall not suspend the
6 apportionment of moneys or collection of taxes. No change shall
7 be made in such table except after a hearing, of which 5 days'
8 notice shall be given by mail to the county board of taxation and
9 the governing body of each county. If after such hearing the **[State**
10 **Board of Tax Appeals]** *tax court* shall determine that the aggre-
11 gate valuation of any county as fixed by the **[State Tax Commis-**

12 sioner] *Director of the Division of Taxation* was erroneous, the
 13 [State board] *tax court* shall revise and correct the State equaliza-
 14 tion table, and shall ascertain the difference between the amount
 15 of State taxes actually charged against each district in the county,
 16 and the State moneys paid such county, or district, and the amount
 17 which should have been charged or paid according to the corrected
 18 table. The difference shall be debited or credited, as the case may
 19 be, to each county or district on account of its share of State taxes
 20 or State moneys next due, and the [State Board of Tax Appeals]
 21 *tax court* shall have power to make all orders necessary to carry
 22 out the provisions of this section, but such review shall be com-
 23 pleted before November 1, annually. A certified copy of the revised
 24 and corrected table shall be transmitted to each official or board
 25 to whom the original table was required to be transmitted and also
 26 to the [State Tax Commissioner] *director*.

1 6. R. S. 54:2-39 is amended to read as follows:

2 54:2-39. Any appellant who is dissatisfied with the judgment of
 3 the county board of taxation upon his appeal may appeal from that
 4 judgment to the [Division of Tax Appeals in the Department of the
 5 Treasury] *tax court* by filing a **[petition of appeal to]** ***com-*
 6 *plaint with*** the [division] *tax court*, in manner and form to be
 7 [by said division] prescribed ***by rules of court*** , [on or before
 8 December 15 following the date fixed for final decisions by the
 9 county boards,] *within 45 days of the rendering of the judgment of*
 10 *the county board*, and the [division] *tax court* shall proceed sum-
 11 marily to hear and determine all such appeals and render its
 11A judgment thereon as soon as may be.

12 At the time that a **[petition of appeal]** ***complaint*** has
 13 been filed with the [Division of Tax Appeals] *tax court*, all taxes
 14 for the current tax year must have been paid **[and the appellant
 15 at such time shall present evidence of such payment]**. ** No interest
 16 shall be due and payable by the appellant for the period from
 17 November 1 of the current tax year to the date of filing the **[peti-
 17A tion of appeal]** ***complaint***.

18 **[Each petition of appeal shall be verified and shall contain a
 19 copy of the findings of fact and conclusions of the county board on
 20 the appeal and full and complete information as to the land, includ-
 21 ing the size of the lot, a description of the buildings and structures
 22 thereon, if any, and the use thereof and further shall detail the
 23 income and expense of operation in cases of income-producing
 24 property. Where the petition of appeal is from a judgment as to
 25 the assessed valuation of the appellant's property, there shall be
 26 annexed to the petition evidence of payment of taxes due and
 27 payable as hereinabove prescribed.]**

28 No appeal, however, shall lie to the [Division of Tax Appeals in
 29 the Department of the Treasury] *tax court* where the appeal to
 30 the county board of taxation has been (a) withdrawn at the hearing,
 31 or previously thereto in writing by the appellant or his agent; (b)
 32 dismissed because of appellant's failure to prosecute the appeal at
 33 a hearing called by the county tax board; (c) settled by mutual
 34 consent of the taxpayer and assessor of the taxing district. This
 35 provision shall not preclude an appeal to the [Division of Tax
 36 Appeals in the Department of the Treasury] *tax court* in the event
 37 that the appeal was "dismissed without prejudice" by the county
 38 board of taxation.

1 7. R. S. 54:2-40 is amended to read as follows:

2 54:2-40. A copy of the **[petition of appeal]** ***complaint***
 3 shall be served by the appellant upon the county board of taxation
 4 whose judgment is appealed from, or its secretary, and upon the
 5 clerk of the taxing district who shall forthwith notify the assessor,
 6 collector, and such other municipal officials as the governing body
 7 shall direct of the content thereof. Service of such copies shall be
 8 evidenced upon the original **[petition of appeal]** ***com-*
 9 *plaint*** filed with the [Division of Tax Appeals in the Department
 10 of the Treasury] *tax court* or service thereon acknowledged. A
 11 copy of each judgment of the [division] *tax court* whether of
 12 affirmance, reversal, modification or otherwise shall be sent to the
 13 taxpayer and, at the same time, to the collector and to the assessor
 14 or board of assessors of the taxing district and the secretary of the
 15 county board of taxation in which said taxing districts is situated.
 16 The [division] *tax court* shall also give prompt notice to the tax-
 17 payer and, at the same time, to the collector and to the assessor or
 18 board of assessors of the taxing district and to the secretary of
 19 the county board of taxation, in whose county the taxing district is
 20 situated, of the withdrawal and dismissal of **[petitions of
 21 appeal]** ***complaints*** filed with the [division] *tax court*.

1 8. R. S. 54:2-41 is amended to read as follows:

2 54:2-41. The [Division of Tax Appeals in the State Department
 3 of Taxation and Finance] *tax court* may, at any time *during*
 4 *the tax year or within the next 3 tax years thereafter*, on written
 5 application by a property owner, [with the consent of the majority
 6 of the governing body of the municipality affected, to be evidenced
 7 by a true copy of a resolution adopted by such governing body
 8 certified by its clerk] *a municipality or a county board of taxation,*
 9 *correct typographical errors, errors in transposing, and mistakes*
 10 *in tax assessments; provided, that such application [and resolu-*
 11 *tion]* shall set forth the facts causing and constituting the error

12 *or errors and mistake or mistakes, or either thereof sought to be*
13 *corrected, and that such facts be verified by affidavits [of the*
14 *property owner and the assessor of such municipality, respectively]*
15 *submitted by the applicant; provided, however, that the tax court*
16 *shall not consider under this section any application relating to*
17 *matters of valuation involving an assessor's opinion or judgment.*
18 *Any application so submitted shall contain a certification that*
19 *a copy of such application and all exhibits thereto have been filed*
20 *with the county board, and served upon the property owner or the*
21 *municipality, or both, as may be appropriate in the case of each*
22 *applicant. Any party required to receive a copy of an application*
23 *pursuant to this section may file objections to such application*
24 *with the tax court within 30 days of receipt of such copy. The*
25 **[division]** *tax court may require such further proof and grant or*
26 *deny such application as it may deem necessary or proper.*

1 9. Section 14 of P. L. 1946, c. 161 (C. 54:2-43) is amended to read
2 as follows:

3 14. Where a judgment final has been rendered by the **[Division**
4 **of Tax Appeals in the State Department of Taxation and Finance]**
5 *tax court* involving real property such judgment shall be conclusive
6 and binding upon the municipal assessor and the taxing district,
7 parties to such appeal, for the assessment year and for the 2
8 assessment years succeeding the assessment year covered by the
9 final judgment, except as to changes in the value of the property
10 occurring after the assessment date. Where such changes are
11 alleged, the ****[petition of appeal]**** ****complaint**** shall specifi-
12 cally set forth the nature of the changes relied upon as the basis for
13 such appeal. However, the conclusive and binding effect of such
14 judgment shall terminate with the tax year immediately preceding
15 the year in which a program for a complete revaluation of all real
16 property within the district has been put into effect.

1 10. Section 15 of P. L. 1946, c. 161 (C. 54:2-40.4) is amended to
2 read as follows:

3 15. a. In any proceeding before the **[division of Tax Appeals in**
4 **the State Department of the Treasury]** *tax court* where deeds or
5 other instruments of conveyance do not state the true consideration
6 or sales price of the property, which is the subject of appeal, the
7 realty transfer fee, if any, paid upon the recording of such deeds
8 or instruments as well as the affidavit of consideration attached to
9 and filed with any such deed or instrument shall be admitted as
10 prima facie evidence of the true consideration or sales price of the
11 said property.

12 b. Whenever the [Division of Tax Appeals] *tax court* is satisfied
 13 by the proofs that the ratio of the assessed valuation of the subject
 14 property to its true value exceeds the upper limit or falls below the
 15 lower limit of the common level range, it shall revise the taxable
 16 value of the property by applying the average ratio to the true
 17 value of the property except as hereinafter provided.

18 c. If the average ratio is below the county percentage level and
 19 the ratio of the assessed value of the subject property to its true
 20 value exceeds the county percentage level, the [Division of Tax
 21 Appeals] *tax court* shall reduce the taxable value of the property
 22 by applying the average ratio to the true value of the property.

23 d. If both the average ratio and the ratio of the assessed value
 24 of the subject property to its true value exceed the county per-
 25 centage level, the [Division of Tax Appeals] *tax court* shall revise
 26 the taxable value of the property by applying the county percentage
 27 level to the true value of the property.

28 e. The provisions of this act shall not apply to any appeal from
 29 an assessment of real property taken with respect to the tax year
 30 in which the taxing district shall have completed and put into
 31 operation a district-wide revaluation program approved by the
 32 Director of Taxation pursuant to chapter 424, laws of 1971
 33 (C. 54:1-35.35 et seq.), or a reassessment program approved by
 34 the county board of taxation.

1 11. The following are repealed:

2 Revised Statutes sections:

3 54:2-1 to 54:2-17 inclusive;

4 54:2-19 to 54:2-21 inclusive.

5 Pamphlet Laws:

6 P. L. 1946, c. 161, ss. 11-13, 16 (C. 54:2-40.1 to 54:2-40.3
 7 inclusive, and 54:2-42);

8 P. L. 1947, c. 98, ss. 1, 3, 4 (C. 54:2-44, 54:2-46, and 54:2-47);

9 P. L. 1959, c. 28, ss. 5-8 (C. 54:2-41.1 to 54:2-41.4 inclusive);

10 P. L. 1977, c. 234, ss. 3-6 (C. 54:2-48 to 54:2-51 inclusive).

1 12. This act shall take effect July 1, 1979*; *provided, however,*
 2 *that any amendment or repeal effected by this act, which by its*
 3 *terms, effect, or implication render inoperable the provisions of*
 4 *section 27, P. L. 1978, c. 33, shall be without force and effect, but*
 5 *only for such purpose and to such extent.**

ASSEMBLY COMMITTEE ON TAXATION

STATEMENT TO

SENATE No. 3009

[SECOND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: MAY 3, 1979

Senate Bill No. 3009, Second Official Copy Reprint, amends Chapter 2 of Title 54 to make the pertinent provisions of that chapter, which established the Division of Tax Appeals, applicable to the division's successor, the Tax Court, which was established pursuant to P. L. 1978, c. 33.

The bill repeals those portions of Chapter 2 that have either no applicability to or are provided for in the statutes that established the Tax Court. It then confers upon the Tax Court the authority of appeal and review, heretofore the purview of the Division of Tax Appeals.

The statement prepared by the Senate Revenue, Finance and Appropriations Committee provides the detail of the general changes affected by the bill.

ASSEMBLY COMMITTEE AMENDMENTS

Generally, the amendments are technical in nature. Appeals are amended to become proceedings; petitions of appeal and applications are now complaints; where a matter was previously dealt with according to rules and regulations of the Division of Tax Appeals, they will be done so according to rules of court. When decisions are made, judgments will now be entered.

Other than purely technical changes include the following:

- Parties to a complaint had 30 days to file a response in cases seeking to rectify errors or mistakes. An amendment has changed that time period to be determined pursuant to rules of court.
- Current law provides that a realty transfer fee or an affidavit of consideration shall be admitted as prima facie evidence of the true consideration or sales price. This is deleted by amendment as it appears to be an evidentiary matter that could be handled by the courts.
- Section 23 of the Tax Court law is amended to provide for a deputy clerk, as well as the clerk, of the Tax Court, and further provides

that neither position shall be subject to Title 11, Civil Service, of the Revised Statutes.

- A new section is added to the bill that clearly specifies that the appeals process includes the Appellate Division of Superior Court. It also establishes a uniform time period under which complaints may be filed.
- Another new section establishes a \$60.00 minimum fee for filing first papers in an action or proceeding or the filing of a counterclaim. It also gives to the court the authority to establish other fees pursuant to rules of court, and particularly so in the case where the amount in controversy is less than \$2,000.00.

ASSEMBLY COMMITTEE AMENDMENTS TO

SENATE, No. 3009

[SECOND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED MAY 3, 1979

Amend page 1, title, line 1, after "appeals", insert "and the Tax Court".

Amend page 1, title, line 3, after "161," insert "amending and supplementing P. L. 1978, c. 33".

Amend page 1, section 1, line 5, omit "appeals", insert "proceedings".

Amend page 1, section 1, line 12, omit "appeals", insert "proceedings".

Amend page 1, section 2, line 4, omit "appeals", insert "proceedings".

Amend page 1, section 3, line 3, omit "appealed for review to", insert "reviewed by".

Amend page 2, section 3, line 5, after "court", insert "pursuant to rules of court" and omit the remainder of the line.

Amend page 2, section 3, line 6, omit "prescribe,".

Amend page 2, section 3, line 7, after "proper", insert ", except that an action brought pursuant to sections 54:2-37 or 54:2-39 shall be governed by provisions therein"; omit "Nothing herein con-".

Amend page 2, section 3, lines 8 through 10, omit in their entirety.

Amend page 2, section 4, line 15, after "table", insert "and enter judgment accordingly".

Amend page 2, section 5, line 4, omit "10", insert "45".

Amend page 3, section 6, line 2, omit "appellant", insert "party".

Amend page 3, section 6, line 3, omit "appeal from", insert "seek review of".

Amend page 3, section 6, line 4, omit "to", insert "in".

Amend page 3, section 6, line 6, after "tax court", insert "pursuant to rules of court"; omit "in manner and form to be".

Amend page 3, section 6, line 7, omit "prescribed **by rules of court**,".

Amend page 3, section 6, line 9, omit "rendering", insert "service".

Amend page 3, section 6, line 10, omit "proceed sum-".

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

Amend page 3, section 6, line 11, omit “marily to”; omit “appeals”, insert “matters”.

Amend page 3, section 6, line 11A, omit “as soon as may be”.

Amend page 3, section 6, line 13, after “all taxes”, insert “or any installments thereof then due and payable for the year for which review is sought,”.

Amend page 3, section 6, line 14, omit “for the current tax year”.

Amend page 4, section 6, line 28, omit “No appeal, however, shall be to the”.

Amend page 4, section 6, line 29, omit “tax court where”, insert “If the Tax Court shall determine that”.

Amend page 4, section 6, line 34, after “district”, insert “, there shall be no review”.

Amend page 4, section 6, line 35, omit “an appeal to”, insert “review by”.

Amend page 4, section 7, line 3, omit “appellant”, insert “plaintiff”.

Amend page 4, section 7, line 4, omit “appealed from”, insert “the subject of such review”.

Amend page 4, section 7, line 13, after “time, to the”, insert “clerk of the taxing district who shall forthwith notify the”; after “collector and”, omit “to”.

Amend page 4, section 7, line 17, after “time, to the”, insert “clerk of the taxing district who shall forthwith notify the”; after “collector and”, omit “to”.

Amend page 4, section 7, line 20, omit “and”, insert “or”.

Amend page 4, section 8, line 3, after “Finance”], insert “[the Treasury”].

Amend page 4, section 8, line 3, after “may,”, insert “upon the filing of a complaint”.

Amend page 4, section 8, lines 4 and 5, omit “on written application”.

Amend page 4, section 8, line 8, after “taxation,”, insert “enter judgment to”.

Amend page 4, section 8, line 10, omit “application”, insert “complaint”.

Amend page 5, section 8, line 15, omit “applicant”, insert “plaintiff”; after “that the”, insert “[Divisions of Tax Appeals”].

Amend page 5, section 8, line 16, omit “application”, insert “complaint”.

Amend page 5, section 8, line 18, omit “application”, insert “complaint”.

Amend page 5, section 8, line 19, omit “application”, insert “complaint”.

Amend page 5, section 8, line 22, omit "applicant", insert "plaintiff"; omit "an application", insert "the complaint".

Amend page 5, section 8, line 23, omit "objections", insert "an answer"; omit "application", insert "complaint".

Amend page 5, section 8, line 24, after "the", insert "[division]"; omit "within 30 days of receipt of such copy", insert "pursuant to rules of court".

Amend page 5, section 8, line 26, omit "application", insert "complaint".

Amend page 5, section 9, line 7, omit "appeal", insert "proceeding".

Amend page 5, section 10, line 3, omit "a. In any proceeding before the".

Amend page 5, section 10, lines 4-11, after "]", omit in their entirety.

Amend page 6, section 10, line 12, omit "b.", insert "a."

Amend page 6, section 10, line 15, omit "revise", insert "enter judgment revising".

Amend page 6, section 10, line 18, omit "c.", insert "b."

Amend page 6, section 10, line 21, omit "reduce", insert "enter judgment reducing".

Amend page 6, section 10, line 23, omit "d.", insert "c."

Amend page 6, section 10, line 25, omit "revise", insert "enter judgment revising".

Amend page 6, section 10, line 28, omit "e.", insert "d."; omit "appeal from", insert "proceeding to review".

Amend page 6, section 10, after line 34, insert new sections as follow:

"11. Section 23 of P. L. 1978, c. 33 (C. 2A:3A-23) is amended to read as follows:

23. The clerk *and a deputy clerk* of the Tax Court shall be appointed by the Supreme Cour *to serve at its pleasure, and shall not be subject to the provisions of Title 11, Civil Service, of the Revised Statutes.*

12. (New section) Any provision of law to the contrary notwithstanding:

a. Review of actions including any act, action, proceeding, ruling, decision, order or judgment of the county board of taxation or the Director of the Division of Taxation taken on or after the effective date of this act shall be by filing a complaint in the Tax Court pursuant to the rules of court.

b. The time periods within which a complaint may be filed in the Tax Court are as follows:

(1) From actions of County Board of Taxation, within 45 days of the action so reviewed, pursuant to rules of court;

(2) From actions of Director, Division of Taxation, within 90 days of the action so reviewed, pursuant to rules of court;

(3) Review of Equalization Tables, within 45 days of the adoption or promulgation of the Equalization Table to be reviewed, pursuant to rules of court.

c. The determination or judgment of the Tax Court may be appealed as of right to the Appellate Division of the Superior Court pursuant to rules of court.

13. (New section) Upon the filing or entering of the first paper or proceeding in any action or proceeding in the Tax Court, the plaintiff shall pay to the clerk of the court, for use of the State, \$60.00 for the first paper filed by him, which shall cover all fees payable therein, except such as may be otherwise provided herein or provided by law or rules of court. A filing fee of \$60.00 shall be paid upon the filing of any counterclaim. Other or additional fees may be established by rules of court. The foregoing fees shall not be applicable to any proceeding in the small claims division. The fees in the small claims division shall be established pursuant to rules of court.”.

Amend page 6, section 11, line 1, omit “11.”, insert “14.”.

Amend page 6, section 12, line 1, omit “12.”, insert “15.”.

[ASSEMBLY REPRINT]
SENATE, No. 3009
[SECOND OFFICIAL COPY REPRINT]

with Assembly committee amendments adopted May 3, 1979

STATE OF NEW JERSEY

INTRODUCED JANUARY 11, 1979

By Senator PERSKIE

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning tax appeals ****and the Tax Court****, amending sections 54:2-33, 54:2-34, 54:2-35, 54:2-37, 54:2-38, 54:2-39, 54:2-40 and 54:2-41 of the Revised Statutes, amending P. L. 1946, c. 161, ****amending and supplementing P. L. 1978, c. 33**** and repealing certain statutes pertaining thereto.

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

1 1. R. S. 54:2-33 is amended to read as follows:

2 54:2-33. The **[Division of Tax Appeals in the State Department**
3 **of Taxation and Finance]** *tax court* shall succeed to and exercise
4 exclusively all the powers and perform all the duties concerning
5 the review, hearing and determination of *****[appeals]***** ****pro-*
6 *ceedings**** concerning the assessment, collection, apportionment
7 or equalization of taxes, formerly exercised or performed by, or
8 conferred and charged upon, the State Board of Taxes and Assess-
9 ment, *and the Division of Tax Appeals in the Department of the*
10 *Treasury* and shall have such other and further powers and per-
11 form such other and further duties in connection with the hearing
12 and determination of tax *****[appeals]***** ****proceedings****, as
13 may be conferred or imposed upon it, from time to time.

1 2. R. S. 54:2-34 is amended to read as follows:

2 54:2-34. The **[Division of Tax Appeals in the State Department**
3 **of Taxation and Finance]** *tax court* shall review, hear and deter-
4 mine all *****[appeals]***** ****proceedings**** by any person, taxing
5 district, municipality or county aggrieved by any act, proceeding,
6 ruling, decision or determination of the **[State Tax Department or**
7 **of the State Tax Commissioner]** *Director, Division of Taxation in*
8 *the Department of the Treasury.*

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

1 3. R. S. 54:2-35 is amended to read as follows:

2 54:2-35. Any action or determination of a county board of
 3 taxation may be ***[appealed for review to]*** ****reviewed by****
 4 the [Division of Tax Appeals in the State Department of Taxation
 5 and Finance] *tax court* ****pursuant to rules of court**** ***[,
 6 under such rules and regulations as it may from time to time
 7 prescribe,]*** and it may review such action and proceedings and
 8 give such judgment therein as it may think proper***, *except that*
 9 *an action brought pursuant to sections 54:2-37 or 54:2-39 shall be*
 10 *governed by provisions therein***. ***[Nothing herein contained*
 11 *shall apply to any appeal to the [Division of Tax Appeals in the*
 12 *State Department of Taxation and Finance] tax court provided for*
 13 *by sections 54:2-37 and 54:2-39 of the Revised Statutes.]****

1 4. R. S. 54:2-37 is amended to read as follows:

2 54:2-37. A county equalization table may be reviewed by the
 3 [board] *tax court* on complaint of any taxing district or taxpayer
 4 in the county, or on its own motion, but such review shall not
 5 suspend the apportionment of moneys or collection of taxes. No
 6 change shall be made in the table except after a hearing in the
 7 county, of which five days' notice shall be given by mail to the
 8 governing body of each taxing district. If, after the hearing, the
 9 [board] *tax court* shall determine that the aggregate valuation of
 10 any district or districts as fixed by the county board was erroneous,
 11 it shall revise and correct the equalization table, and ascertain the
 12 difference between the amount of State and county taxes actually
 13 charged against each district in the county or distributed to it and
 14 the amount which should have been charged or distributed accord-
 15 ing to the corrected table ****and enter judgment accordingly****.
 16 The difference shall be debited or credited, as the case may be, to
 17 each taxing district on account of its share of State and county
 18 taxes next due or distributable, as the case may be. The [board]
 19 *tax court* may make all orders necessary to carry out the provisions
 20 of this section, but such review shall be completed before September
 21 tenth, annually. A certified copy of the revised and corrected table
 22 shall be transmitted to each official or board to whom the original
 23 table was required to be transmitted and also to the [State Tax
 24 Commissioner] *Director of the Division of Taxation in the Depart-*
 25 *ment of the Treasury.*

1 5. R. S. 54:2-38 is amended to read as follows:

2 54:2-38. The State equalization table may be reviewed by the
 3 [State Board of Tax Appeals] *tax court* on complaint of any
 4 county, filed with it within ***[10]*** ****45**** days after the

5 table has been filed with it, or on its own motion, but such review
 6 shall not suspend the apportionment of moneys or collection of
 7 taxes. No change shall be made in such table except after a hearing,
 8 of which 5 days' notice shall be given by mail to the county board of
 9 taxation and the governing body of each county. If after such hear-
 10 ing the [State Board of Tax Appeals] *tax court* shall determine
 11 that the aggregate valuation of any county as fixed by the [State
 12 Tax Commissioner] *Director of the Division of Taxation* was
 13 erroneous, the [State board] *tax court* shall revise and correct the
 14 State equalization table, and shall ascertain the difference between
 15 the amount of State taxes actually charged against each district in
 16 the county, and the State moneys paid such county, or district, and
 17 the amount which should have been charged or paid according to
 18 the corrected table. The difference shall be debited or credited, as
 19 the case may be, to each county or district on account of its share of
 20 State taxes or State moneys next due, and the [State Board of Tax
 21 Appeals] *tax court* shall have power to make all orders necessary
 22 to carry out the provisions of this section, but such review shall be
 23 completed before November 1, annually. A certified copy of the
 24 revised and corrected table shall be transmitted to each official or
 25 board to whom the original table was required to be transmitted and
 26 also to the [State Tax Commissioner] *director*.

1 6. R. S. 54:2-39 is amended to read as follows:

2 54:2-39. Any ***[appellant]*** ***party*** who is dissatisfied
 3 with the judgment of the county board of taxation upon his appeal
 4 may ***[appeal from]*** ***seek review of*** that judgment
 5 ***[to]*** ***in*** the [Division of Tax Appeals in the Depart-
 6 ment of the Treasury] *tax court* by filing a **[petition of appeal
 7 to]** *complaint with* the [division] *tax court* ***pursuant to
 8 rules of court***, ***[in manner and form to be]*** [by said
 9 division] ***[prescribed *by rules of court*]***, [on or before
 10 December 15 following the date fixed for final decisions by the
 11 county boards,] *within 45 days of the* ***[rendering]***
 11A ***service*** of the judgment of the county board, and the [divi-
 11B sion] *tax court* shall ***[proceed summarily to]*** hear and
 11c determine all such ***[appeals]*** ***matters*** and render its
 11d judgment thereon ***[as soon as may be]***.

12 At the time that a **[petition of appeal]** *complaint* has
 13 been filed with the [Division of Tax Appeals] *tax court*, all taxes
 14 ***or any installments thereof then due and payable for the year
 15 for which review is sought,*** ***[for the current tax year]***
 16 must have been paid **[and the appellant at such time shall pre-
 17 sent evidence of such payment]**. No interest shall be due and

17A payable by the appellant for the period from November 1 of the
 17B current tax year to the date of filing the ****[petition of appeal]****
 17C ****complaint****.

18 ****[Each petition of appeal shall be verified and shall contain a**
 19 *copy of the findings of fact and conclusions of the county board on*
 20 *the appeal and full and complete information as to the land, includ-*
 21 *ing the size of the lot, a description of the buildings and structures*
 22 *thereon, if any, and the use thereof and further shall detail the*
 23 *income and expense of operation in cases of income-producing*
 24 *property. Where the petition of appeal is from a judgment as to*
 25 *the assessed valuation of the appellant's property, there shall be*
 26 *annexed to the petition evidence of payment of taxes due and*
 27 *payable as hereinabove prescribed.]***

28 *****[No appeal, however, shall lie to the]*** [Division of Tax**
 29 **Appeals in the Department of the Treasury] ***[tax court**
 30 **where]*** ***If the Tax Court shall determine that*** the appeal
 31 to the county board of taxation has been (a) withdrawn at the
 32 hearing, or previously thereto in writing by the appellant or his
 33 agent; (b) dismissed because of appellant's failure to prosecute
 34 the appeal at a hearing called by the county tax board; (c) settled
 35 by mutual consent of the taxpayer and assessor of the taxing
 36 district***, *there shall be no review****. This provision shall not
 37 preclude *****[an appeal to]*** ***review by***** the [Division of
 38 Tax Appeals in the Department of the Treasury] *tax court* in the
 39 event that the appeal was "dismissed without prejudice" by the
 40 county board of taxation.**

1 7. R. S. 54:2-40 is amended to read as follows:

2 54:2-40. A copy of the ****[petition of appeal]**** ****complaint****
 3 shall be served by the *****[appellant]*** ***plaintiff***** upon the
 4 county board of taxation whose judgment is *****[appealed**
 5 **from]*** ***the subject of such review*****, or its secretary, and
 6 upon the clerk of the taxing district who shall forthwith notify the
 7 assessor, collector, and such other municipal officials as the govern-
 8 ing body shall direct of the content thereof. Service of such copies
 9 shall be evidenced upon the original ****[petition of appeal]****
 10 ****complaint**** filed with the [Division of Tax Appeals in the De-
 11 partment of the Treasury] *tax court* or service thereon acknow-
 12 ledged. A copy of each judgment of the [division] *tax court*
 13 whether of affirmance, reversal, modification or otherwise shall be
 14 sent to the taxpayer and, at the same time, to the *****clerk of the**
 15 **taxing district who shall forthwith notify the***** collector and
 16 *****[to]***** the assessor or board of assessors of the taxing district

17 and the secretary of the county board of taxation in which said
 18 taxing districts is situated. The [division] *tax court* shall also
 19 give prompt notice to the taxpayer and, at the same time, to the
 20 ****clerk of the taxing district who shall forthwith notify the****
 21 collector and ***[to]*** the assessor or board of assessors of the
 22 taxing district and to the secretary of the county board of taxation,
 23 in whose county the taxing district is situated, of the withdrawal
 24 ***[and]*** ****or**** dismissal of **[petitions of appeal]**
 25 ***complaints*** filed with the [division] *tax court*.

1 8. R. S. 54:2-41 is amended to read as follows:

2 54:2-41. The [Division of Tax Appeals in the State Department
 3 of Taxation and Finance] ***[the Treasury]*** *tax court* may,
 4 ****upon the filing of a complaint**** at any time *during the tax*
 5 *year or within the next 3 tax years thereafter*, ***[on written
 6 *application]**** by a property owner, [with the consent of the
 7 majority of the governing body of the municipality affected, to be
 8 evidenced by a true copy of a resolution adopted by such governing
 9 body certified by its clerk] *a municipality or a county board of*
 10 *taxation, enter judgment to**** correct *typographical errors,*
 11 *errors in transposing, and mistakes in tax assessments; provided,*
 12 that such ***[application]*** ****complaint**** [and resolution]
 13 shall set forth the facts causing and constituting the error *or errors*
 14 *and mistake or mistakes, or either thereof* sought to be corrected,
 15 and that such facts be verified by affidavits [of the property owner
 16 and the assessor of such municipality, respectively] *submitted by*
 17 *the* ***[applicant]*** ****plaintiff****; *provided, however, that the*
 18 ***[Division of Tax Appeals]*** *tax court shall not consider under,*
 19 *this section any* ***[application]*** ****complaint**** *relating to*
 20 *matters of valuation involving an assessor's opinion or judgment.*
 21 *Any* ***[application]*** ****complaint**** *so submitted shall con-*
 22 *tain a certification that a copy of such* ***[application]*** ****com-*
 23 *plaint**** *and all exhibits thereto have been filed with the county*
 24 *board, and served upon the property owner or the municipality, or*
 25 *both, as may be appropriate in the case of each* ***[applicant]***
 26 ****plaintiff****. *Any party required to receive a copy of* ***[an
 27 *application]**** ****the complaint**** *pursuant to this section may*
 28 *file* ***[objections]*** ****an answer**** *to such* ***[applica-
 29 *tion]**** ****complaint**** *with the* ***[division]*** *tax court*
 30 ***[within 30 days of receipt of such copy]*** ****pursuant to rules*
 31 *of court****. The [division] *tax court* may require such further
 32 proof and grant or deny such ***[application]*** ****complaint****
 33 as it may deem necessary or proper.

1 9. Section 14 of P. L. 1946, c. 161 (C. 54:2-43) is amended to read
2 as follows:

3 14. Where a judgment final has been rendered by the [Division
4 of Tax Appeals in the State Department of Taxation and Finance]
5 *tax court* involving real property such judgment shall be conclusive
6 and binding upon the municipal assessor and the taxing district,
7 parties to such ***[appeal]*** ****proceeding****, for the assess-
8 ment year and for the 2 assessment years succeeding the assess-
9 ment year covered by the final judgment, except as to changes in
10 the value of the property occurring after the assessment date.
11 Where such changes are alleged, the **[petition of appeal]**
12 ***complaint*** shall specifically set forth the nature of the changes
13 relied upon as the basis for such appeal. However, the conclusive
14 and binding effect of such judgment shall terminate with the tax
15 year immediately preceding the year in which a program for a
16 complete revaluation of all real property within the district has
17 been put into effect.

1 10. Section 15 of P. L. 1946, c. 161 (C. 54:2-40.4) is amended to
2 read as follows:

3 15. ***[a. In any proceeding before the]*** [division of Tax
4 Appeals in the State Department of the Treasury] ***[*tax court*
5 where deeds or other instruments of conveyance do not state the
6 true consideration or sales price of the property, which is the
7 subject of appeal, the realty transfer fee, if any, paid upon the
8 recording of such deeds or instruments as well as the affidavit of
9 consideration attached to and filed with any such deed or instru-
10 ment shall be admitted as prima facie evidence of the true con-
11 sideration or sales price of the said property.]***

12 ***[b.]*** ****a.**** Whenever the [Division of Tax Appeals]
13 *tax court* is satisfied by the proofs that the ratio of the assessed
14 valuation of the subject property to its true value exceeds the upper
15 limit or falls below the lower limit of the common level range, it
15A shall ***[revise]*** ****enter judgment revising**** the taxable
16 value of the property by applying the average ratio to the true
17 value of the property except as hereinafter provided.

18 ***[c.]*** ****b.**** If the average ratio is below the county per-
19 centage level and the ratio of the assessed value of the subject
20 property to its true value exceeds the county percentage level, the
21 [Division of Tax Appeals] *tax court* shall ***[reduce]*** ****enter*
22 *judgment reducing**** the taxable value of the property by applying
23 the average ratio to the true value of the property.

23A ***[d.]*** **c.** If both the average ratio and the ratio of the
 24 assessed value of the subject property to its true value exceed the
 25 county percentage level, the [Division of Tax Appeals] *tax court*
 26 shall ***[revise]*** ****enter judgment revising**** the taxable
 27 value of the property by applying the county percentage level to
 27A the true value of the property.

28 ***[e.]*** **d.** The provisions of this act shall not apply to
 29 any ***[appeal from]*** ****proceeding to review**** an assess-
 30 ment of real property taken with respect to the tax year in which
 31 the taxing district shall have completed and put into operation a
 32 district-wide revaluation program approved by the Director of
 33 Taxation pursuant to chapter 424, laws of 1971 (C. 54:1-35.35
 34 et seq.), or a reassessment program approved by the county board
 35 of taxation.

1 ***11. Section 23 of P. L. 1978, c. 33 (C. 2A:3A-23) is amended
 2 to read as follows:

3 23. The clerk and a deputy clerk of the Tax Court shall be
 4 appointed by the Supreme Court to serve at its pleasure, and shall
 5 not be subject to the provisions of Title 11, Civil Service, of the
 6 Revised Statutes.

1 12. (New section) Any provision of law to the contrary not-
 2 withstanding:

3 a. Review of actions including any act, action, proceeding, rul-
 4 ing, decision, order or judgment of the county board of taxation
 5 or the Director of the Division of Taxation taken on or after the
 6 effective date of this act shall be by filing a complaint in the Tax
 7 Court pursuant to the rules of court.

8 b. The time periods within which a complaint may be filed in the
 9 Tax Court are as follows:

10 (1) From actions of County Board of Taxation, within 45 days
 11 of the action so reviewed, pursuant to rules of court;

12 (2) From actions of Director, Division of Taxation, within 90
 13 days of the action so reviewed, pursuant to rules of court;

14 (3) Review of Equalization Tables, within 45 days of the adop-
 15 tion or promulgation of the Equalization Table to be reviewed, pur-
 16 suant to rules of court.

17 c. The determination or judgment of the Tax Court may be
 18 appealed as of right to the Appellate Division of the Superior Court
 19 pursuant to rules of court.

1 13. (New section) Upon the filing or entering of the first paper
 2 or proceeding in any action or proceeding in the Tax Court, the
 3 plaintiff shall pay to the clerk of the court, for use of the State,

4 \$60.00 for the first paper filed by him, which shall cover all fees
 5 payable therein, except such as may be otherwise provided herein
 6 or provided by law or rules of court. A filing fee of \$60.00 shall be
 7 paid upon the filing of any counterclaim. Other or additional fees
 8 may be established by rules of court. The foregoing fees shall not be
 9 applicable to any proceeding in the small claims division. The fees
 10 in the small claims division shall be established pursuant to rules
 11 of court.***

1 ***[11.]*** **14.** The following are repealed:

2 Revised Statutes sections:

3 54:2-1 to 54:2-17 inclusive;

4 54:2-19 to 54:2-21 inclusive.

5 Pamphlet Laws:

6 P. L. 1946, c. 161, ss. 11-13, 16 (C. 54:2-40.1 to 54:2-40.3
 7 inclusive, and 54:2-42);

8 P. L. 1947, c. 98, ss. 1, 3, 4 (C. 54:2-44, 54:2-46, and 54:2-47);

9 P. L. 1959, c. 28, ss. 5-8 (C. 54:2-41.1 to 54:2-41.4 inclusive);

10 P. L. 1977, c. 234, ss. 3-6 (C. 54:2-48 to 54:2-51 inclusive).

1 ***[12.]*** **15.** This act shall take effect July 1, 1979*;
 2 provided, however, that any amendment or repeal effected by this
 3 act, which by its terms, effect, or implication render inoperable the
 4 provisions of section 27, P. L. 1978, c. 33, shall be without force
 5 and effect, but only for such purpose and to such extent.*

ASSEMBLY AMENDMENTS TO
SENATE No. 3009

[SECOND OFFICIAL COPY REPRINT]

[ASSEMBLY REPRINT]

STATE OF NEW JERSEY

ADOPTED JUNE 14, 1979

Amend page 1, title, line 3, after "Statutes", insert "amending N. J. S. 2A:83-1,".

Amend page 7, section 13, line 3, after "plaintiff", insert "or any person filing a counterclaim".

Amend page 8, section 13, line 5, after "therein", omit remainder of line.

Amend page 8, section 13, line 6, omit.

Amend page 8, section 13, line 7, omit "paid upon the filing of any counterclaim", insert "except a lesser fee may be provided by rule of court".

Amend page 8, section 13, line 8, after "court.", insert "Except where a lesser fee is provided by law or rule of court that fee shall be paid.".

Amend page 8, section 13, after line 11, insert a new section 15 as follows:

"15. N. J. S. 2A:83-1 is amended to read as follows:

2A:83-1. In any action or proceeding for the acquisition or sale of land, or any interest or interests therein, or on review of the assessment for taxes of any real property, *or in any action or proceeding in the Tax Court*, any person offered as a witness in any such action or proceeding shall be competent to testify as to sales of comparable land, *including any improvements thereon*, contiguous or adjacent to the land in question, or in the vicinity or locality thereof, *or otherwise comparable*, from information or knowledge of such sales, obtained from the owner, seller, purchaser, lessee or occupant of such comparable land, or from information obtained from the broker or brokers *or attorney or attorneys* who negotiated or who are familiar with or cognizant of such sales, which testimony when so offered, shall be competent and admissible evidence in any such action or proceeding.

In any action or proceeding in the Tax Court, the realty transfer fee, if any, paid upon the recording of any deed or other instrument of conveyance as well as the consideration or sales price stated therein or in the affidavit of consideration attached to and filed with any such deed or instrument shall be admitted as prima facie evidence of the true consideration or sales price of the said property.

This section shall not be construed to apply to any action or proceeding instituted by any individual or private corporation authorized to take property for public use where compensation must first be made to the owner thereof.”.

Amend page 8, section 14, line 1, omit “14.”, insert “15.”.

Amend page 8, section 15, line 1, omit “15.”, insert “16.”.

STATEMENT

In the review of this bill in the Assembly Committee on Taxation several amendments were made at the request of the sponsor and in consultation with the tax court.

One of the amendments adopted by committee was to delete section 15a. of P. L. 1946, c. 161 which, in its essence, dictates the basis for determining the true consideration or sales price of a property which is the subject of appeal. Because the tax court, rather than the Division of Tax Appeals, will be hearing all matters in this regard, it was reasonable to provide for this method of determination under the rules of evidence. Upon reconsideration, the tax court has recommended that this provision be preserved in law for the present, and will be a matter included in a further general revision of Title 54 at a future date.

The amendments further provide for minor changes in the current law as concerns the establishment of value of real estate under Title 2A. Two changes are made. Improvements are included, in addition to land, and other comparables not necessarily adjacent to or in the vicinity of the real estate in question.

Further, the statute as amended, would list attorneys in addition to brokers as valid sources of information as to sales to be adduced in evidence, this in response to a recent court decision interpreting the statute as excluding attorneys as valid witnesses regarding the establishment of the value of real estate.

[SECOND ASSEMBLY REPRINT]

SENATE, No. 3009

[SECOND OFFICIAL COPY REPRINT]

with Assembly committee amendments adopted May 3, 1979
and Assembly amendments adopted June 14, 1979

STATE OF NEW JERSEY

INTRODUCED JANUARY 11, 1979

By Senator PERSKIE

Referred to Committee on Revenue, Finance and Appropriations

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5 the review, hearing and determination of ****[appeals]**** ****pro-*
6 *ceedings**** concerning the assessment, collection, apportionment
7 or equalization of taxes, formerly exercised or performed by, or
8 conferred and charged upon, the State Board of Taxes and Assess-
9 ment, *and the Division of Tax Appeals in the Department of the*
10 *Treasury* and shall have such other and further powers and per-
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4 mine all ****[appeals]**** ****proceedings**** by any person, taxing
5 district, municipality or county aggrieved by any act, proceeding,
6 ruling, decision or determination of the **[State Tax Department or**

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

7 of the State Tax Commissioner] *Director, Division of Taxation in*
8 *the Department of the Treasury.*

1 3. R. S. 54:2-35 is amended to read as follows:

2 54:2-35. Any action or determination of a county board of
3 taxation may be ***[appealed for review to]*** ****reviewed by****
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5 and Finance] *tax court* ****pursuant to rules of court**** ***,
6 under such rules and regulations as it may from time to time
7 prescribe,]*** and it may review such action and proceedings and
8 give such judgment therein as it may think proper***, *except that*
9 *an action brought pursuant to sections 54:2-37 or 54:2-39 shall be*
10 *governed by provisions therein****. ***[Nothing herein contained
11 shall apply to any appeal to the [Division of Tax Appeals in the
12 State Department of Taxation and Finance] *tax court* provided for
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1 4. R. S. 54:2-37 is amended to read as follows:

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5 suspend the apportionment of moneys or collection of taxes. No
6 change shall be made in the table except after a hearing in the
7 county, of which five days' notice shall be given by mail to the
8 governing body of each taxing district. If, after the hearing, the
9 [board] *tax court* shall determine that the aggregate valuation of
10 any district or districts as fixed by the county board was erroneous,
11 it shall revise and correct the equalization table, and ascertain the
12 difference between the amount of State and county taxes actually
13 charged against each district in the county or distributed to it and
14 the amount which should have been charged or distributed accord-
15 ing to the corrected table ****and enter judgment accordingly****.
16 The difference shall be debited or credited, as the case may be, to
17 each taxing district on account of its share of State and county
18 taxes next due or distributable, as the case may be. The [board]
19 *tax court* may make all orders necessary to carry out the provisions
20 of this section, but such review shall be completed before September
21 tenth, annually. A certified copy of the revised and corrected table
22 shall be transmitted to each official or board to whom the original
23 table was required to be transmitted and also to the [State Tax
24 Commissioner] *Director of the Division of Taxation in the Depart-*
25 *ment of the Treasury.*

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 8 of which 5 days' notice shall be given by mail to the county board of
 9 taxation and the governing body of each county. If after such hear-
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 11 that the aggregate valuation of any county as fixed by the [State
 12 Tax Commissioner] *Director of the Division of Taxation* was
 13 erroneous, the [State board] *tax court* shall revise and correct the
 14 State equalization table, and shall ascertain the difference between
 15 the amount of State taxes actually charged against each district in
 16 the county, and the State moneys paid such county, or district, and
 17 the amount which should have been charged or paid according to
 18 the corrected table. The difference shall be debited or credited, as
 19 the case may be, to each county or district on account of its share of
 20 State taxes or State moneys next due, and the [State Board of Tax
 21 Appeals] *tax court* shall have power to make all orders necessary
 22 to carry out the provisions of this section, but such review shall be
 23 completed before November 1, annually. A certified copy of the
 24 revised and corrected table shall be transmitted to each official or
 25 board to whom the original table was required to be transmitted and
 26 also to the [State Tax Commissioner] *director*.

1 6. R. S. 54:2-39 is amended to read as follows:

2 54:2-39. Any ***[appellant]*** ****party**** who is dissatisfied
 3 with the judgment of the county board of taxation upon his appeal
 4 may ***[appeal from]*** ****seek review of**** that judgment
 5 ***[to]*** ****in**** the [Division of Tax Appeals in the Depart-
 6 ment of the Treasury] *tax court* by filing a **[petition of appeal
 7 to]** *complaint with* the [division] *tax court* ****pursuant to*
 8 *rules of court****, ***[in manner and form to be]*** [by said
 9 division] ***[prescribed *by rules of court****], [on or before
 10 December 15 following the date fixed for final decisions by the
 11 county boards,] *within 45 days of the* ***[rendering]***
 11A ****service**** of the judgment of the county board, and the [divi-
 11B sion] *tax court* shall ***[proceed summarily to]*** hear and
 11c determine all such ***[appeals]*** ****matters**** and render its
 11d judgment thereon ***[as soon as may be]***.

12 At the time that a **[petition of appeal]** *complaint* has
 13 been filed with the [Division of Tax Appeals] *tax court*, all taxes
 14 ****or any installments thereof then due and payable for the year*
 15 *for which review is sought,**** ***[for the current tax year]***
 16 must have been paid **[and the appellant at such time shall pre-
 17 sent evidence of such payment]**. No interest shall be due and

17A payable by the appellant for the period from November 1 of the
 17B current tax year to the date of filing the ****[petition of appeal]****
 17C ****complaint****.

18 ****[Each petition of appeal shall be verified and shall contain a**
 19 *copy of the findings of fact and conclusions of the county board on*
 20 *the appeal and full and complete information as to the land, includ-*
 21 *ing the size of the lot, a description of the buildings and structures*
 22 *thereon, if any, and the use thereof and further shall detail the*
 23 *income and expense of operation in cases of income-producing*
 24 *property. Where the petition of appeal is from a judgment as to*
 25 *the assessed valuation of the appellant's property, there shall be*
 26 *annexed to the petition evidence of payment of taxes due and*
 27 *payable as hereinabove prescribed.]***

28 *****[No appeal, however, shall lie to the]*** [Division of Tax**
 29 **Appeals in the Department of the Treasury] ***[tax court**
 30 **where]*** ****If the Tax Court shall determine that**** the appeal
 31 to the county board of taxation has been (a) withdrawn at the
 32 hearing, or previously thereto in writing by the appellant or his
 33 agent; (b) dismissed because of appellant's failure to prosecute
 34 the appeal at a hearing called by the county tax board; (c) settled
 35 by mutual consent of the taxpayer and assessor of the taxing
 36 district***, *there shall be no review****. This provision shall not
 37 preclude *****[an appeal to]*** ****review by**** the [Division of
 38 Tax Appeals in the Department of the Treasury] *tax court* in the
 39 event that the appeal was "dismissed without prejudice" by the
 40 county board of taxation.****

1 7. R. S. 54:2-40 is amended to read as follows:

2 54:2-40. A copy of the ****[petition of appeal]**** ****complaint****
 3 shall be served by the *****[appellant]*** ****plaintiff****** upon the
 4 county board of taxation whose judgment is ****[appealed**
 5 **from]*** ****the subject of such review******, or its secretary, and
 6 upon the clerk of the taxing district who shall forthwith notify the
 7 assessor, collector, and such other municipal officials as the govern-
 8 ing body shall direct of the content thereof. Service of such copies
 9 shall be evidenced upon the original ****[petition of appeal]****
 10 ****complaint**** filed with the [Division of Tax Appeals in the De-
 11 partment of the Treasury] *tax court* or service thereon acknow-
 12 ledged. A copy of each judgment of the [division] *tax court*
 13 whether of affirmance, reversal, modification or otherwise shall be
 14 sent to the taxpayer and, at the same time, to the *****clerk of the**
 15 ***taxing district who shall forthwith notify the****** collector and
 16 *****[to]***** the assessor or board of assessors of the taxing district

17 and the secretary of the county board of taxation in which said
 18 taxing districts is situated. The [division] *tax court* shall also
 19 give prompt notice to the taxpayer and, at the same time, to the
 20 ****clerk of the taxing district who shall forthwith notify the****
 21 collector and ***[to]*** the assessor or board of assessors of the
 22 taxing district and to the secretary of the county board of taxation,
 23 in whose county the taxing district is situated, of the withdrawal
 24 ***[and]*** ****or**** dismissal of **[petitions of appeal]**
 25 ****complaints**** filed with the [division] *tax court*.

1 8. R. S. 54:2-41 is amended to read as follows:

2 54:2-41. The [Division of Tax Appeals in the State Department
 3 of Taxation and Finance] ***[the Treasury]*** *tax court* may,
 4 ****upon the filing of a complaint**** at any time *during the tax*
 5 *year or within the next 3 tax years thereafter*, ***[on written
 6 *application]**** by a property owner, [with the consent of the
 7 majority of the governing body of the municipality affected, to be
 8 evidenced by a true copy of a resolution adopted by such governing
 9 body certified by its clerk] *a municipality or a county board of*
 10 *taxation*, ****enter judgment to**** correct *typographical errors,*
 11 *errors in transposing,* and mistakes in tax assessments; provided,
 12 that such ***[application]*** ****complaint**** [and resolution]
 13 shall set forth the facts causing and constituting the error *or errors*
 14 and mistake *or mistakes, or either thereof* sought to be corrected,
 15 and that such facts be verified by affidavits [of the property owner
 16 and the assessor of such municipality, respectively] *submitted by*
 17 *the* ***[applicant]*** ****plaintiff****; provided, however, that the
 18 ***[Division of Tax Appeals]*** *tax court shall not consider under*
 19 *this section any* ***[application]*** ****complaint**** relating to
 20 *matters of valuation involving an assessor's opinion or judgment.*
 21 *Any* ***[application]*** ****complaint**** so submitted shall con-
 22 *tain a certification that a copy of such* ***[application]*** ****com-*
 23 *plaint**** and all exhibits thereto have been filed with the county
 24 board, and served upon the property owner or the municipality, or
 25 both, as may be appropriate in the case of each ***[applicant]***
 26 ****plaintiff****. Any party required to receive a copy of ***[an
 27 *application]**** ****the complaint**** pursuant to this section may
 28 file ***[objections]*** ****an answer**** to such ***[applica-
 29 *tion]**** ****complaint**** with the ***[division]*** *tax court*
 30 ***[within 30 days of receipt of such copy]*** ****pursuant to rules*
 31 *of court****. The [division] *tax court* may require such further
 32 proof and grant or deny such ***[application]*** ****complaint****
 33 as it may deem necessary or proper.

1 9. Section 14 of P. L. 1946, c. 161 (C. 54:2-43) is amended to read
2 as follows:

3 14. Where a judgment final has been rendered by the [Division
4 of Tax Appeals in the State Department of Taxation and Finance]
5 *tax court* involving real property such judgment shall be conclusive
6 and binding upon the municipal assessor and the taxing district,
7 parties to such ***[appeal]*** *proceeding****, for the assess-
8 ment year and for the 2 assessment years succeeding the assess-
9 ment year covered by the final judgment, except as to changes in
10 the value of the property occurring after the assessment date.
11 Where such changes are alleged, the **[petition of appeal]**
12 *complaint*** shall specifically set forth the nature of the changes
13 relied upon as the basis for such appeal. However, the conclusive
14 and binding effect of such judgment shall terminate with the tax
15 year immediately preceding the year in which a program for a
16 complete revaluation of all real property within the district has
17 been put into effect.

1 10. Section 15 of P. L. 1946, c. 161 (C. 54:2-40.4) is amended to
2 read as follows:

3 15. ***[a. In any proceeding before the]*** [division of Tax
4 Appeals in the State Department of the Treasury] ***[tax court
5 where deeds or other instruments of conveyance do not state the
6 true consideration or sales price of the property, which is the
7 subject of appeal, the realty transfer fee, if any, paid upon the
8 recording of such deeds or instruments as well as the affidavit of
9 consideration attached to and filed with any such deed or instru-
10 ment shall be admitted as prima facie evidence of the true con-
11 sideration or sales price of the said property.]***

12 ***[b.]*** *a.**** Whenever the [Division of Tax Appeals]
13 *tax court* is satisfied by the proofs that the ratio of the assessed
14 valuation of the subject property to its true value exceeds the upper
15 limit or falls below the lower limit of the common level range, it
15A shall ***[revise]*** *enter judgment revising**** the taxable
16 value of the property by applying the average ratio to the true
17 value of the property except as hereinafter provided.

18 ***[c.]*** *b.**** If the average ratio is below the county per-
19 centage level and the ratio of the assessed value of the subject
20 property to its true value exceeds the county percentage level, the
21 [Division of Tax Appeals] *tax court* shall ***[reduce]*** *enter*
22 *judgment reducing**** the taxable value of the property by applying
23 the average ratio to the true value of the property.

23A ***[d.]*** **c.** If both the average ratio and the ratio of the
 24 assessed value of the subject property to its true value exceed the
 25 county percentage level, the [Division of Tax Appeals] *tax court*
 26 shall ***[revise]*** ***enter judgment revising*** the taxable
 27 value of the property by applying the county percentage level to
 27A the true value of the property.

28 ***[e.]*** **d.** The provisions of this act shall not apply to
 29 any ***[appeal from]*** ***proceeding to review*** an assess-
 30 ment of real property taken with respect to the tax year in which
 31 the taxing district shall have completed and put into operation a
 32 district-wide revaluation program approved by the Director of
 33 Taxation pursuant to chapter 424, laws of 1971 (C. 54:1-35.35
 34 et seq.), or a reassessment program approved by the county board
 35 of taxation.

1 ***11. Section 23 of P. L. 1978, c. 33 (C. 2A:3A-23) is amended
 2 to read as follows:

3 23. The clerk and a deputy clerk of the Tax Court shall be
 4 appointed by the Supreme Court to serve at its pleasure, and shall
 5 not be subject to the provisions of Title 11, Civil Service, of the
 6 Revised Statutes.

1 12. (New section) Any provision of law to the contrary not-
 2 withstanding:

3 a. Review of actions including any act, action, proceeding, rul-
 4 ing, decision, order or judgment of the county board of taxation
 5 or the Director of the Division of Taxation taken on or after the
 6 effective date of this act shall be by filing a complaint in the Tax
 7 Court pursuant to the rules of court.

8 b. The time periods within which a complaint may be filed in the
 9 Tax Court are as follows:

10 (1) From actions of County Board of Taxation, within 45 days
 11 of the action so reviewed, pursuant to rules of court;

12 (2) From actions of Director, Division of Taxation, within 90
 13 days of the action so reviewed, pursuant to rules of court;

14 (3) Review of Equalization Tables, within 45 days of the adop-
 15 tion or promulgation of the Equalization Table to be reviewed, pur-
 16 suant to rules of court.

17 c. The determination or judgment of the Tax Court may be
 18 appealed as of right to the Appellate Division of the Superior Court
 19 pursuant to rules of court.

1 13. (New section) Upon the filing or entering of the first paper
 2 or proceeding in any action or proceeding in the Tax Court, the
 3 plaintiff ****or any person filing a counterclaim**** shall pay to

4 *the clerk of the court, for use of the State, \$60.00 for the first paper*
 5 *filed by him, which shall cover all fees payable therein, ****[except*
 6 *such as may be otherwise provided herein or provided by law or*
 7 *rules of court. A filing fee of \$60.00 shall be paid upon the filing*
 7A *of any counterclaim]**** ****except a lesser fee may be provided*
 8 *by rule of court****. Other or additional fees may be established*
 9 *by rules of court. ****Except where a lesser fee is provided by law*
 10 *or rule of court that fee shall be paid.**** The foregoing fees shall*
 11 *not be applicable to any proceeding in the small claims division.*
 12 *The fees in the small claims division shall be established pursuant*
 13 *to rules of court.****

1 ****15. N. J. S. 2A:83-1 is amended to read as follows:

2 2A:83-1. In any action or proceeding for the acquisition or sale
 3 of land, or any interest or interests therein, or on review of the
 4 assessment for taxes of any real property, *or in any action or pro-*
 5 *ceeding in the Tax Court*, any person offered as a witness in any
 6 such action or proceeding shall be competent to testify as to sales
 7 of comparable land, *including any improvements thereon*, contigu-
 8 ous or adjacent to the land in question, or in the vicinity or locality
 9 thereof, *or otherwise comparable*, from information or knowledge
 10 of such sales, obtained from the owner, seller, purchaser, lessee or
 11 occupant of such comparable land, or from information obtained
 12 from the broker or brokers *or attorney or attorneys* who negotiated
 13 or who are familiar with or cognizant of such sales, which testimony
 14 when so offered, shall be competent and admissible evidence in any
 15 such action or proceeding.

16 *In any action or proceeding in the Tax Court, the realty transfer*
 17 *fee, if any, paid upon the recording of any deed or other instrument*
 18 *of conveyance as well as the consideration or sales price stated*
 19 *therein or in the affidavit of consideration attached to and filed with*
 20 *any such deed or instrument shall be admitted as prima facie evi-*
 21 *dence of the true consideration or sales price of the said property.*

22 This section shall not be construed to apply to any action or
 23 proceeding instituted by any individual or private corporation
 24 authorized to take property for public use where compensation
 25 must first be made to the owner thereof.****

1 ***[11.]*** ****[***14.***]**** ****15.**** The following are
 1A repealed.

2 Revised Statutes sections:

3 54:2-1 to 54:2-17 inclusive;

4 54:2-19 to 54:2-21 inclusive.

5 Pamphlet Laws:

6 P. L. 1946, c. 161, ss. 11-13, 16 (C. 54:2-40.1 to 54:2-40.3
 7 inclusive, and 54:2-42);

8 P. L. 1947, c. 98, ss. 1, 3, 4 (C. 54:2-44, 54:2-46, and 54:2-47);
9 P. L. 1959, c. 28, ss. 5-8 (C. 54:2-41.1 to 54:2-41.4 inclusive);
10 P. L. 1977, c. 234, ss. 3-6 (C. 54:2-48 to 54:2-51 inclusive).
1 ***[12.]*** ****[***15.***]**** ****16.**** This act shall take
2 effect July 1, 1979*; *provided, however, that any amendment or*
3 *repeal effected by this act, which by its terms, effect, or implication*
4 *render inoperable the provisions of section 27, P. L. 1978, c. 33,*
5 *shall be without force and effect, but only for such purpose and*
6 *to such extent.**

CORRECTED COPY
[SECOND ASSEMBLY REPRINT]

SENATE, No. 3009

[SECOND OFFICIAL COPY REPRINT]

with Assembly committee amendments adopted May 3, 1979
and Assembly amendments adopted June 14, 1979

STATE OF NEW JERSEY

INTRODUCED JANUARY 11, 1979

By Senator PERSKIE

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning tax appeals ****and the Tax Court****, amending sections 54:2-33, 54:2-34, 54:2-35, 54:2-37, 54:2-38, 54:2-39, 54:2-40 and 54:2-41 of the Revised Statutes, *****amending N. J. S. 2A:83-1,***** amending P. L. 1946, c. 161, ****amending and supplementing P. L. 1978, c. 33**** and repealing certain statutes pertaining thereto.

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

1 1. R. S. 54:2-33 is amended to read as follows:

2 54:2-33. The **[Division of Tax Appeals in the State Department**
3 **of Taxation and Finance]** *tax court* shall succeed to and exercise
4 exclusively all the powers and perform all the duties concerning
5 the review, hearing and determination of ****[appeals]*** ***pro-*
6 *ceedings**** concerning the assessment, collection, apportionment
7 or equalization of taxes, formerly exercised or performed by, or
8 conferred and charged upon, the State Board of Taxes and Assess-
9 ment, *and the Division of Tax Appeals in the Department of the*
10 *Treasury* and shall have such other and further powers and per-
11 form such other and further duties in connection with the hearing
12 and determination of tax ****[appeals]*** ***proceedings****, as
13 may be conferred or imposed upon it, from time to time.

1 2. R. S. 54:2-34 is amended to read as follows:

2 54:2-34. The **[Division of Tax Appeals in the State Department**
3 **of Taxation and Finance]** *tax court* shall review, hear and deter-
4 mine all ****[appeals]*** ***proceedings**** by any person, taxing
5 district, municipality or county aggrieved by any act, proceeding,
6 ruling, decision or determination of the **[State Tax Department** or

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

7 of the State Tax Commissioner] *Director, Division of Taxation in*
8 *the Department of the Treasury.*

1 3. R. S. 54:2-35 is amended to read as follows:

2 54:2-35. Any action or determination of a county board of
3 taxation may be ***[*appealed for review to*]*** ****reviewed by****
4 the [Division of Tax Appeals in the State Department of Taxation
5 and Finance] *tax court* ****pursuant to rules of court**** ***,
6 under such rules and regulations as it may from time to time
7 prescribe,]*** and it may review such action and proceedings and
8 give such judgment therein as it may think proper***, *except that*
9 *an action brought pursuant to sections 54:2-37 or 54:2-39 shall be*
10 *governed by provisions therein****. ***[Nothing herein contained
11 shall apply to any appeal to the [Division of Tax Appeals in the
12 State Department of Taxation and Finance] *tax court* provided for
13 by sections 54:2-37 and 54:2-39 of the Revised Statutes.]***

1 4. R. S. 54:2-37 is amended to read as follows:

2 54:2-37. A county equalization table may be reviewed by the
3 [board] *tax court* on complaint of any taxing district or taxpayer
4 in the county, or on its own motion, but such review shall not
5 suspend the apportionment of moneys or collection of taxes. No
6 change shall be made in the table except after a hearing in the
7 county, of which five days' notice shall be given by mail to the
8 governing body of each taxing district. If, after the hearing, the
9 [board] *tax court* shall determine that the aggregate valuation of
10 any district or districts as fixed by the county board was erroneous,
11 it shall revise and correct the equalization table, and ascertain the
12 difference between the amount of State and county taxes actually
13 charged against each district in the county or distributed to it and
14 the amount which should have been charged or distributed accord-
15 ing to the corrected table ****and enter judgment accordingly****.
16 The difference shall be debited or credited, as the case may be, to
17 each taxing district on account of its share of State and county
18 taxes next due or distributable, as the case may be. The [board]
19 *tax court* may make all orders necessary to carry out the provisions
20 of this section, but such review shall be completed before September
21 tenth, annually. A certified copy of the revised and corrected table
22 shall be transmitted to each official or board to whom the original
23 table was required to be transmitted and also to the [State Tax
24 Commissioner] *Director of the Division of Taxation in the Depart-*
25 *ment of the Treasury.*

1 5. R. S. 54:2-38 is amended to read as follows:

2 54:2-38. The State equalization table may be reviewed by the
3 [State Board of Tax Appeals] *tax court* on complaint of any
4 county, filed with it within ***[10]*** ***45*** days after the

5 table has been filed with it, or on its own motion, but such review
 6 shall not suspend the apportionment of moneys or collection of
 7 taxes. No change shall be made in such table except after a hearing,
 8 of which 5 days' notice shall be given by mail to the county board of
 9 taxation and the governing body of each county. If after such hear-
 10 ing the [State Board of Tax Appeals] *tax court* shall determine
 11 that the aggregate valuation of any county as fixed by the [State
 12 Tax Commissioner] *Director of the Division of Taxation* was
 13 erroneous, the [State board] *tax court* shall revise and correct the
 14 State equalization table, and shall ascertain the difference between
 15 the amount of State taxes actually charged against each district in
 16 the county, and the State moneys paid such county, or district, and
 17 the amount which should have been charged or paid according to
 18 the corrected table. The difference shall be debited or credited, as
 19 the case may be, to each county or district on account of its share of
 20 State taxes or State moneys next due, and the [State Board of Tax
 21 Appeals] *tax court* shall have power to make all orders necessary
 22 to carry out the provisions of this section, but such review shall be
 23 completed before November 1, annually. A certified copy of the
 24 revised and corrected table shall be transmitted to each official or
 25 board to whom the original table was required to be transmitted and
 26 also to the [State Tax Commissioner] *director*.

1 6. R. S. 54:2-39 is amended to read as follows:

2 54:2-39. Any ***[appellant]*** ****party**** who is dissatisfied
 3 with the judgment of the county board of taxation upon his appeal
 4 may ***[appeal from]*** ****seek review of**** that judgment
 5 ***[to]*** ****in**** the [Division of Tax Appeals in the Depart-
 6 ment of the Treasury] *tax court* by filing a **[petition of appeal
 7 to]** *complaint with* the [division] *tax court* ****pursuant to*
 8 *rules of court****, ***[in manner and form to be]*** [by said
 9 division] ***[prescribed *by rules of court****], [on or before
 10 December 15 following the date fixed for final decisions by the
 11 county boards,] *within 45 days of the* ***[rendering]***
 11A ****service**** of the judgment of the county board, and the [divi-
 11B sion] *tax court* shall ***[proceed summarily to]*** hear and
 11C determine all such ***[appeals]*** ****matters**** and render its
 11D judgment thereon ***[as soon as may be]***.

12 At the time that a **[petition of appeal]** *complaint* has
 13 been filed with the [Division of Tax Appeals] *tax court*, all taxes
 14 ****or any installments thereof then due and payable for the year*
 15 *for which review is sought,**** ***[for the current tax year]***
 16 must have been paid **[and the appellant at such time shall pre-
 17 sent evidence of such payment]**. No interest shall be due and

17A payable by the appellant for the period from November 1 of the
 17B current tax year to the date of filing the ****[petition of appeal]****
 17C ****complaint****.

18 ****[Each petition of appeal shall be verified and shall contain a**
 19 *copy of the findings of fact and conclusions of the county board on*
 20 *the appeal and full and complete information as to the land, includ-*
 21 *ing the size of the lot, a description of the buildings and structures*
 22 *thereon, if any, and the use thereof and further shall detail the*
 23 *income and expense of operation in cases of income-producing*
 24 *property. Where the petition of appeal is from a judgment as to*
 25 *the assessed valuation of the appellant's property, there shall be*
 26 *annexed to the petition evidence of payment of taxes due and*
 27 *payable as hereinabove prescribed.]***

28 *****[No appeal, however, shall lie to the]*** [Division of Tax**
 29 **Appeals in the Department of the Treasury] ***[tax court**
 30 **where]*** ****If the Tax Court shall determine that**** the appeal
 31 to the county board of taxation has been (a) withdrawn at the
 32 hearing, or previously thereto in writing by the appellant or his
 33 agent; (b) dismissed because of appellant's failure to prosecute
 34 the appeal at a hearing called by the county tax board; (c) settled
 35 by mutual consent of the taxpayer and assessor of the taxing
 36 district***, *there shall be no review****. This provision shall not
 37 preclude *****[an appeal to]*** ****review by**** the [Division of
 38 Tax Appeals in the Department of the Treasury] *tax court* in the
 39 event that the appeal was "dismissed without prejudice" by the
 40 county board of taxation.****

1 7. R. S. 54:2-40 is amended to read as follows:

2 54:2-40. A copy of the ****[petition of appeal]**** ****complaint****
 3 shall be served by the *****[appellant]*** ****plaintiff****** upon the
 4 county board of taxation whose judgment is *****[appealed**
 5 **from]*** ****the subject of such review******, or its secretary, and
 6 upon the clerk of the taxing district who shall forthwith notify the
 7 assessor, collector, and such other municipal officials as the govern-
 8 ing body shall direct of the content thereof. Service of such copies
 9 shall be evidenced upon the original ****[petition of appeal]****
 10 ****complaint**** filed with the [Division of Tax Appeals in the De-
 11 partment of the Treasury] *tax court* or service thereon acknow-
 12 ledged. A copy of each judgment of the [division] *tax court*
 13 whether of affirmance, reversal, modification or otherwise shall be
 14 sent to the taxpayer and, at the same time, to the *****clerk of the**
 15 **taxing district who shall forthwith notify the***** collector and
 16 *****[to]***** the assessor or board of assessors of the taxing district

17 and the secretary of the county board of taxation in which said
 18 taxing districts is situated. The [division] *tax court* shall also
 19 give prompt notice to the taxpayer and, at the same time, to the
 20 ****clerk of the taxing district who shall forthwith notify the****
 21 collector and ***[to]*** the assessor or board of assessors of the
 22 taxing district and to the secretary of the county board of taxation,
 23 in whose county the taxing district is situated, of the withdrawal
 24 ***[and]*** ****or**** dismissal of **[petitions of appeal]**
 25 ****complaints**** filed with the [division] *tax court*.

1 8. R. S. 54:2-41 is amended to read as follows:

2 54:2-41. The [Division of Tax Appeals in the State Department
 3 of Taxation and Finance] ***[the Treasury]*** *tax court* may,
 4 ****upon the filing of a complaint**** at any time *during the tax*
 5 *year or within the next 3 tax years thereafter*, ***[on written
 6 *application]**** by a property owner, [with the consent of the
 7 majority of the governing body of the municipality affected, to be
 8 evidenced by a true copy of a resolution adopted by such governing
 9 body certified by its clerk] *a municipality or a county board of*
 10 *taxation*, ****enter judgment to**** correct *typographical errors,*
 11 *errors in transposing,* and mistakes in tax assessments; provided,
 12 that such ***[application]*** ****complaint**** [and resolution]
 13 shall set forth the facts causing and constituting the error *or errors*
 14 and mistake *or mistakes, or either thereof* sought to be corrected,
 15 and that such facts be verified by affidavits [of the property owner
 16 and the assessor of such municipality, respectively] *submitted by*
 17 *the* ***[applicant]*** ****plaintiff****; provided, however, that the
 18 ***[Division of Tax Appeals]*** *tax court* shall not consider under
 19 *this section any* ***[application]*** ****complaint**** relating to
 20 *matters of valuation involving an assessor's opinion or judgment.*
 21 *Any* ***[application]*** ****complaint**** so submitted shall con-
 22 *tain a certification that a copy of such* ***[application]*** ****com-*
 23 *plaint**** and all exhibits thereto have been filed with the county
 24 board, and served upon the property owner or the municipality, or
 25 both, as may be appropriate in the case of each ***[applicant]***
 26 ****plaintiff****. Any party required to receive a copy of ***[an
 27 *application]**** ****the complaint**** pursuant to this section may
 28 file ***[objections]*** ****an answer**** to such ***[applica-
 29 *tion]**** ****complaint**** with the ***[division]*** *tax court*
 30 ***[within 30 days of receipt of such copy]*** ****pursuant to rules*
 31 *of court****. The [division] *tax court* may require such further
 32 proof and grant or deny such ***[application]*** ****complaint****
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1 9. Section 14 of P. L. 1946, c. 161 (C. 54:2-43) is amended to read
2 as follows:

3 14. Where a judgment final has been rendered by the [Division
4 of Tax Appeals in the State Department of Taxation and Finance]
5 *tax court* involving real property such judgment shall be conclusive
6 and binding upon the municipal assessor and the taxing district,
7 parties to such ***[appeal]*** ****proceeding****, for the assess-
8 ment year and for the 2 assessment years succeeding the assess-
9 ment year covered by the final judgment, except as to changes in
10 the value of the property occurring after the assessment date.
11 Where such changes are alleged, the **[petition of appeal]****
12 ***complaint*** shall specifically set forth the nature of the changes
13 relied upon as the basis for such appeal. However, the conclusive
14 and binding effect of such judgment shall terminate with the tax
15 year immediately preceding the year in which a program for a
16 complete revaluation of all real property within the district has
17 been put into effect.

1 10. Section 15 of P. L. 1946, c. 161 (C. 54:2-40.4) is amended to
2 read as follows:

3 15. ***[a. In any proceeding before the]*** [division of Tax
4 Appeals in the State Department of the Treasury] ***[*tax court*
5 where deeds or other instruments of conveyance do not state the
6 true consideration or sales price of the property, which is the
7 subject of appeal, the realty transfer fee, if any, paid upon the
8 recording of such deeds or instruments as well as the affidavit of
9 consideration attached to and filed with any such deed or instru-
10 ment shall be admitted as prima facie evidence of the true con-
11 sideration or sales price of the said property.]***

12 ***[b.]*** ****a.**** Whenever the [Division of Tax Appeals]
13 *tax court* is satisfied by the proofs that the ratio of the assessed
14 valuation of the subject property to its true value exceeds the upper
15 limit or falls below the lower limit of the common level range, it
15A shall ***[revise]*** ****enter judgment revising**** the taxable
16 value of the property by applying the average ratio to the true
17 value of the property except as hereinafter provided.

18 ***[c.]*** ****b.**** If the average ratio is below the county per-
19 centage level and the ratio of the assessed value of the subject
20 property to its true value exceeds the county percentage level, the
21 [Division of Tax Appeals] *tax court* shall ***[reduce]*** ****enter*
22 *judgment reducing**** the taxable value of the property by applying
23 the average ratio to the true value of the property.

23A ***[d.]*** **c.** If both the average ratio and the ratio of the
 24 assessed value of the subject property to its true value exceed the
 25 county percentage level, the [Division of Tax Appeals] *tax court*
 26 shall ***[revise]*** ****enter judgment revising**** the taxable
 27 value of the property by applying the county percentage level to
 27A the true value of the property.

28 ***[e.]*** **d.** The provisions of this act shall not apply to
 29 any ***[appeal from]*** ****proceeding to review**** an assess-
 30 ment of real property taken with respect to the tax year in which
 31 the taxing district shall have completed and put into operation a
 32 district-wide revaluation program approved by the Director of
 33 Taxation pursuant to chapter 424, laws of 1971 (C. 54:1-35.35
 34 et seq.), or a reassessment program approved by the county board
 35 of taxation.

1 ***11. Section 23 of P. L. 1978, c. 33 (C. 2A:3A-23) is amended
 2 to read as follows:

3 23. The clerk and a deputy clerk of the Tax Court shall be
 4 appointed by the Supreme Court to serve at its pleasure, and shall
 5 not be subject to the provisions of Title 11, Civil Service, of the
 6 Revised Statutes.

1 12. (New section) Any provision of law to the contrary not-
 2 withstanding:

3 a. Review of actions including any act, action, proceeding, rul-
 4 ing, decision, order or judgment of the county board of taxation
 5 or the Director of the Division of Taxation taken on or after the
 6 effective date of this act shall be by filing a complaint in the Tax
 7 Court pursuant to the rules of court.

8 b. The time periods within which a complaint may be filed in the
 9 Tax Court are as follows:

10 (1) From actions of County Board of Taxation, within 45 days
 11 of the action so reviewed, pursuant to rules of court;

12 (2) From actions of Director, Division of Taxation, within 90
 13 days of the action so reviewed, pursuant to rules of court;

14 (3) Review of Equalization Tables, within 45 days of the adop-
 15 tion or promulgation of the Equalization Table to be reviewed, pur-
 16 suant to rules of court.

17 c. The determination or judgment of the Tax Court may be
 18 appealed as of right to the Appellate Division of the Superior Court
 19 pursuant to rules of court.

1 13. (New section) Upon the filing or entering of the first paper
 2 or proceeding in any action or proceeding in the Tax Court, the
 3 plaintiff ****or any person filing a counterclaim**** shall pay to

4 the clerk of the court, for use of the State, \$60.00 for the first paper
 5 filed by him, which shall cover all fees payable therein, ****[except
 6 such as may be otherwise provided herein or provided by law or
 7 rules of court. A filing fee of \$60.00 shall be paid upon the filing
 7A of any counterclaim]**** ****except a lesser fee may be provided
 8 by rule of court****. Other or additional fees may be established
 9 by rules of court. ****Except where a lesser fee is provided by law
 10 or rule of court that fee shall be paid.**** The foregoing fees shall
 11 not be applicable to any proceeding in the small claims division.
 12 The fees in the small claims division shall be established pursuant
 13 to rules of court.***

1 ****15. N. J. S. 2A:83-1 is amended to read as follows:

2 2A:83-1. In any action or proceeding for the acquisition or sale
 3 of land, or any interest or interests therein, or on review of the
 4 assessment for taxes of any real property, *or in any action or pro-*
 5 *ceeding in the Tax Court*, any person offered as a witness in any
 6 such action or proceeding shall be competent to testify as to sales
 7 of comparable land, *including any improvements thereon*, contigu-
 8 ous or adjacent to the land in question, or in the vicinity or locality
 9 thereof, *or otherwise comparable*, from information or knowledge
 10 of such sales, obtained from the owner, seller, purchaser, lessee or
 11 occupant of such comparable land, or from information obtained
 12 from the broker or brokers *or attorney or attorneys* who negotiated
 13 or who are familiar with or cognizant of such sales, which testimony
 14 when so offered, shall be competent and admissible evidence in any
 15 such action or proceeding.

16 *In any action or proceeding in the Tax Court, the realty transfer*
 17 *fee, if any, paid upon the recording of any deed or other instrument*
 18 *of conveyance as well as the consideration or sales price stated*
 19 *therein or in the affidavit of consideration attached to and filed with*
 20 *any such deed or instrument shall be admitted as prima facie evi-*
 21 *dence of the true consideration or sales price of the said property.*

22 This section shall not be construed to apply to any action or
 23 proceeding instituted by any individual or private corporation
 24 authorized to take property for public use where compensation
 25 must first be made to the owner thereof.****

1 ****[11.]**** ****[****14.****]**** ****15.**** The following are
 1A repealed.

2 Revised Statutes sections:

3 54:2-1 to 54:2-17 inclusive;

4 54:2-19 to 54:2-21 inclusive.

5 Pamphlet Laws:

6 P. L. 1946, c. 161, ss. 11-13, 16 (C. 54:2-40.1 to 54:2-40.3
 7 inclusive, and 54:2-42);

8 P. L. 1947, c. 98, ss. 1, 3, 4 (C. 54:2-44, 54:2-46, and 54:2-47);

9 P. L. 1959, c. 28, ss. 5-8 (C. 54:2-41.1 to 54:2-41.4 inclusive);

10 P. L. 1977, c. 234, ss. 3-6 (C. 54:2-48 to 54:2-51 inclusive).

1 ***[12.]*** ****[***15.***]**** ****16.**** This act shall take
2 effect July 1, 1979*; *provided, however, that any amendment or*
3 *repeal effected by this act, which by its terms, effect, or implication*
4 *render inoperable the provisions of section 27, P. L. 1978, c. 33,*
5 *shall be without force and effect, but only for such purpose and*
6 *to such extent.**

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

JUNE 28, 1979

FOR FURTHER INFORMATION

PATRICK SWEENEY

Governor Brendan Byrne today signed S-3009, sponsored by Senator Steven P. Perskie (D-Atlantic), S-113, also sponsored by Perskie, and A-3231, sponsored by Assemblyman Kenneth A. Gewertz (D-Gloucester).

S-3009 amends and supplements a number of laws governing tax appeals in order to implement the Tax Court which becomes effective July 1, 1979. The bill conforms major New Jersey tax appeal statutes to the concept of review in a tax court of original jurisdiction rather than an administrative agency. The sections of the bill are concerned with changes in time periods, procedure and filing fees.

S-113 is a companion measure to S-115, also sponsored by Perskie, which was recently signed into law establishing a Tax Court. S-113 provides that a taxpayer or taxing district appealing assessed valuation of property can appeal directly to the Tax Court where the assessed valuation of the property exceeds \$750,000 in value.

A-3231 makes permanent existing pilot projects which render emergency mobile intensive paramedic care in coronary cases at nine hospitals. This legislation allows the pilot program, which would have expired on June 30, 1979, to continue.

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