

54:34-1

LEGISLATIVE HISTORY CHECKLIST

HJSA 54:34-1 (Transfer inheritance tax--exclude stock for surviving joint tenant)

LAWS OF 1979 CHAPTER 413

Bill No. A419

Sponsor(s) Snedeker and others

Date Introduced Pre-filed

Committee: Assembly Taxation

Senate Labor, Industry and Professions

Amended during passage Yes ~~x~~ Amendments during passage denoted by asterisks.

Date of Passage: Assembly Jan. 11, 1979

Senate Jan. 3, 1980

Date of approval Feb. 8, 1980

Following statements are attached if available:

Sponsor statement Yes ~~x~~ (Below)

Committee Statement: Assembly Yes ~~x~~

Senate Yes ~~x~~

Fiscal Note Yes No

Veto message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

Sponsor's statement:

The purpose of this bill is expressed in its title.

8/1/78

2-8-80

[SECOND OFFICIAL COPY REPRINT]

**ASSEMBLY, No. 419****STATE OF NEW JERSEY**

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Assemblymen SNEDEKER, SAXTON, VAN WAGNER, HURLEY, LITTELL, KAVANAUGH, Assemblywoman BURGIO, Assemblymen DOYLE, NEWMAN, PELLECCCHIA, BAER, BURNS, GREGORIO, JACKMAN, STEWART, HERMAN, Assemblywoman CROCE, Assemblyman GORMAN, Assemblywoman SZABO, Assemblymen McMANIMON, WEIDEL, D. GALLO, CHINNICI, BARRY, ORECHIO, OLSZOWY, Assemblywoman MUHLER, Assemblymen FAVA, DiFRANCESCO, VILLANE, BASSANO, MAGUIRE and ALBANESE

AN ACT concerning the transfer inheritance tax and amending  
R. S. 54:34-1.

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

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

2 54:34-1. Except as provided in section 54:34-4 of this Title, a  
3 tax shall be and is hereby imposed at the rates set forth in section  
4 54:34-2 of this Title upon the transfer of property, real or per-  
5 sonal, of the value of \$500.00 or over, or of any interest therein  
6 or income therefrom, in trust or otherwise, to or for the use of any  
7 transferee, distributee or beneficiary in the following cases:

8 a. Where real or tangible personal property situated in this  
9 State or intangible personal property wherever situated is trans-  
10 ferred by will or by the intestate laws of this State from a resident  
11 of this State dying seized or possessed thereof.

12 b. Where real or tangible personal property within this State of  
13 a decedent not a resident of this State at the time of his death is  
14 transferred by will or intestate law.

15 c. Where real or tangible personal property within this State  
16 of a resident of this State or intangible personal property where-  
17 ever situate of a resident of this State or real or tangible personal

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

18 property within this State of a nonresident, is transferred by deed,  
 19 grant, bargain, sale or gift made in contemplation of the death of  
 20 the grantor, vendor or donor, or intended to take effect in posses-  
 21 sion or enjoyment at or after such death.

22 A transfer by deed, grant, bargain, sale or gift made without  
 23 adequate valuable consideration and within 3 years prior to the  
 24 death of the grantor, vendor or donor of a material part of his  
 25 estate or in the nature of a final disposition or distribution thereof,  
 26 shall, in the absence of proof to the contrary, be deemed to have  
 27 been made in contemplation of death within the meaning of para-  
 28 graph "c" of this section; but no such transfer made prior to such  
 29 3-year period shall be deemed or held to have been made in con-  
 30 templation of death.

31 d. Where by transfer of a resident decedent of real or tangible  
 32 personal property within this State or intangible property where-  
 33 ever situate, or by transfer of a nonresident decedent of real  
 34 **\*\*[ar]\*\*** **\*\*or\*\*** tangible personal property within this State, a  
 35 transferee, distributee or beneficiary comes into the possession or  
 36 enjoyment therein of:

37 (1) An estate in expectancy of any kind or character which is  
 38 contingent or defeasible, transferred by an instrument taking effect  
 39 on or after July 4, 1909; or

40 (2) Property transferred pursuant to a power of appointment  
 41 contained in an instrument taking effect on or after July 4, 1909.

42 e. When a decedent appoints or names one or more executors or  
 43 trustees and bequeaths or devises property to him or them in lieu  
 44 of commissions or allowances, the transfer of which property would  
 45 otherwise be taxable, or appoints him or them his residuary legatee  
 46 or legatees, and the bequest, devise or residuary legacy exceeds  
 47 what would be reasonable compensation for his or their services,  
 48 such excess shall be deemed a transfer liable to tax. The Superior  
 49 Court or County Court, having jurisdiction in the case, shall de-  
 50 termine what is a reasonable compensation.

51 f. The right of the surviving joint tenant or joint tenants, per-  
 52 son or persons, to the immediate ownership or possession and en-  
 53 joyment of real or personal property held in the joint names of  
 54 two or more persons, or deposited in banks or other institutions  
 55 or depositories in the joint names of two or more persons and  
 56 payable to either or the survivor, *excluding, however, the right of*  
 57 *a spouse, as a surviving joint tenant with his or her deceased*  
 58 *spouse, to the immediate ownership or possession and enjoyment*  
 59 *of a membership certificate or stock in a cooperative housing cor-*  
 60 *poration, the ownership of which entitles such member or stock-*

61 *holder to occupy real estate for dwelling purposes \*as the principal*  
62 *residence of the decedent \*\*and\*\* spouse\**, shall upon the death of  
63 one of such persons, be deemed a transfer taxable in the same  
64 manner as though such property had belonged absolutely to the  
65 deceased joint tenant or joint depositor and had been devised or  
66 bequeathed by his will to the surviving joint tenant or joint tenants,  
67 person or persons, excepting therefrom such part of the property  
68 as such survivor or survivors may prove to the satisfaction of the  
69 Director of the Division of Taxation to have originally belonged to  
70 him or them and never to have belonged to the decedent.

71 In the case of a nonresident decedent, paragraph "f" of this  
72 section shall apply only to real or tangible personal property  
73 within this State.

1 2. This act shall take effect immediately.

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ASSEMBLY TAXATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 419

STATE OF NEW JERSEY

DATED: NOVEMBER 13, 1978

The committee released Assembly Bill No. 419 favorably as a means to resolve an inequity that exists within the present law whereby joint ownership of a condominium absolves the surviving spouse from inheritance tax, but ownership of a cooperative does not.

At the suggestion of the Division of Taxation the committee amended the bill to restrict the impact of the bill to the principal residence of the decedent spouse. The division also indicated that the fiscal impact was negligible.

SENATE LABOR, INDUSTRY AND PROFESSIONS  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 419**  
with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: APRIL 26, 1979

This bill would amend N. J. S. A. 54:34-1 to exclude from the transfer inheritance tax a spouse's right, as a surviving joint tenant, to ownership or possession of a membership certificate or stock in a cooperative housing corporation.

The bill addresses an inequity that exists in the present law whereby joint ownership of a condominium exempts the surviving spouse from inheritance tax, but ownership of a cooperative does not.

The Senate Labor, Industry and Professions Committee made technical amendments to the bill.

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