

54:4-27.2; 54:4-134 to 54:4-136

LEGISLATIVE HISTORY CHECKLIST

NJSA: 54:4-27.2; 54:4-134 to 54:4-136

(Tax refund—set-off against  
real property tax)

LAWS OF: 1983

CHAPTER: 137

Bill No: S3037

Sponsor(s): Feldman

Date Introduced: January 20, 1983

Committee: Assembly: \_\_\_\_\_

Senate: County and Municipal Government

Amended during passage: /// No

Date of Passage: Assembly: March 14, 1983

Senate: Feb. 9, 1983

Date of Approval: April 14, 1983

Following statements are attached if available:

Sponsor statement: Yes //

Committee statement: Assembly /// No

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: /// ~~no~~ yes

Following were printed:

Reports: /// No

Hearings: /// No

SENATE, No. 3037

STATE OF NEW JERSEY

INTRODUCED JANUARY 20, 1983

By Senator FELDMAN

Referred to Committee on County and Municipal Government

AN ACT concerning certain property tax refunds, amending P. L. 1975, c. 361 and supplementing Title 54 of the Revised Statutes.

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

1 1. Section 2 of P. L. 1975, c. 361 (C. 54:3-27.2) is amended to  
2 read as follows:

3 2. In the event that a taxpayer is successful in an appeal from  
4 an assessment on real property, the respective taxing district shall  
5 refund any excess taxes paid, together with interest thereon from  
6 the date of payment at a rate of 5% per annum, *less any amount of*  
7 *taxes, interest, or both, which may be applied against delinquencies*  
8 *pursuant to P. L. , c. (C. ),* within 60 days of the  
9 date of final judgment.

1 2. (New section) Whenever the owner of real property shall be  
2 entitled, pursuant to a determination of a county board of taxation  
3 or a judgment of the tax court, to a refund of all or any portion of  
4 the property taxes paid against the property in any given year,  
5 and any property taxes imposed against that property are delin-  
6 quent at the time of the determination or judgment, the governing  
7 body of the municipality constituting the taxing district in which  
8 the property is located may apply the refund, or such portion  
9 thereof as may be necessary, including any accrued interest, against  
10 the delinquency.

11 If the total amount of the refund is equal to or exceeds the total  
12 amount of the delinquency, the lien against the property for unpaid  
13 taxes shall be extinguished, and the balance, if any, remaining after

**Matter printed in italics thus is new matter.**

14 the application of the refund against the delinquency shall be for-  
15 warded to the owner not later than 60 days after the date of the  
16 determination of the county board of taxation or the tax court  
17 judgment, as the case may be. If the total amount of the delinquency  
18 exceeds the total amount of the refund, the balance of the delin-  
19 quency remaining shall remain a lien against the property.

1 3. (New section) Nothing in this amendatory and supplementary  
2 act shall be construed as defining real property taxes, generally, as  
3 constituting a personal debt of the owner of the property against  
4 which the taxes are assessed and levied, or as authorizing the en-  
5 forcement of that assessment and levy, other than where prescribed  
6 by law, by any legal action against that owner personally.

1 4. This amendatory and supplementary act shall apply to:

2 a. Any action initiated on or after the effective date of this  
3 amendatory and supplementary act;

4 b. Any action pending before a county board of taxation or the  
5 tax court on or after that date; and

6 c. Any appeal of a determination of a county tax board or a  
7 judgment of the tax court, which appeal is pending before any  
8 court of this State on or after that date.

1 5. This act shall take effect immediately.

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#### STATEMENT

This bill authorizes any municipal governing body to set off a refund of real property taxes, to which a property owner is entitled pursuant to a county tax board determination or a judgment of the tax court, against delinquent taxes owed on the same property. While there are certain decisions to the contrary, the courts of this State have generally held that this type of setoff may not be effectuated without specific statutory authority, and that municipalities may recover delinquent taxes only through the enforcement of liens therefore pursuant to the "Tax Sale Law" (R. S. 54:5-1 et seq.) and the supplementary "In Rem Tax Foreclosure Act" (P. L. 1948, c. 46; C. 54:5-104.29 et seq.).

However, this places municipalities in the position of being required to refund overpayments for a certain year or certain years while waiting until the existing statutory remedies are exhausted before recovering delinquent taxes. Since considerable time may elapse between the refund and the recovery, such requirement may severely upset the municipal budget process. In addition, should a tax lien be accorded a low priority in bankruptcy proceedings, a municipality may be unable to recover delinquent taxes. Thus,

it is in the interest of fairness and efficient local financing that the setoff provided for in this bill be permitted.

The bill is intended to apply solely to property taxes, and does not include other local assessments or charges which may be included in a tax lien but which may also be recovered through civil action against a property owner personally.

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However, this places municipalities in the position of being required to refund overpayments for a certain year or certain years while waiting until the existing statutory remedies are exhausted before recovering delinquent taxes. Since considerable time may elapse between the refund and the recovery, such requirement may severely upset the municipal budget process. In addition, should a tax lien be accorded a low priority in bankruptcy proceedings, a municipality may be unable to recover delinquent taxes. Thus,

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it is in the interest of fairness and efficient local financing that the setoff provided for in this bill be permitted.

The bill is intended to apply solely to property taxes, and does not include other local assessments or charges which may be included in a tax lien but which may also be recovered through civil action against a property owner personally.

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SENATE COUNTY AND MUNICIPAL GOVERNMENT  
COMMITTEE

STATEMENT TO

**SENATE, No. 3037**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: JANUARY 27, 1983

Senate Bill No. 3037 authorizes any municipal governing body to set off a refund of real property taxes, to which a property owner is entitled pursuant to a county tax board determination or a judgment of the tax court, against delinquent taxes owed on the same property. While there are certain decisions to the contrary, the courts of this State have generally held that this type of set-off may not be effectuated without specific statutory authority, and that municipalities may recover delinquent taxes only through the enforcement of liens therefor pursuant to the "Tax Sale Law" (R. S. 54:5-1 et seq.) and the supplementary "In Rem Tax Foreclosure Act" (P. L. 1948, c. 46; C. 54:5-104.29 et seq.).

However, this places municipalities in the position of being required to refund overpayments for a certain year or years while waiting until the existing statutory remedies are exhausted before recovering delinquent taxes. Since considerable time may lapse between the refund and the recovery, this may adversely affect the financial condition of the municipality. Thus, it is in the interest of fairness and efficient local financing that the set-off provided for in this bill be permitted.

The bill is intended to apply solely to property taxes, and does not include other local assessments or charges which may be included in a tax lien but which may also be recovered through civil action against a property owner personally.

The Senate committee amendments corrects a typographical error in the bill.



S-785

Wednesday, April 20, 1983

S-1609, sponsored by State Senator Walter Rand (D-Camden), which grants the owner of a self-storage increase facility a lien on goods stored for non-payment of the rent due under a lease.

S-3037, sponsored by State Senator Matthew Feldman, (D-Bergen), which permits municipalities to subtract from a property tax refund any delinquent taxes owed on the property for which the refund is used.

A-2088, sponsored by Assemblyman Elliott F. Smith, (R-Somerset), which provides one Juvenile and Domestic Relations Court Judge for Somerset County.

AJR-3031, sponsored by Assemblywoman Angela L. Perun, (D-Union), which designates the month of April as Gospel Music Month.

S-3145, sponsored by State Senator Joseph Hirkala, (D-Passaic), which provides a supplemental appropriation of \$50,000 to the Hackensack Meadowlands Municipal Committee. The Committee consists of the mayors of the 14 member municipalities in the Hackensack Meadowlands district. Its function is to review and comment on codes, standards, the district master plan, development and redevelopment plans and improvement plans of the Hackensack Meadowlands Commission.

S-3134, sponsored by State Senator Garrett W. Hagedorn, (R-Bergen), which allocates a supplemental appropriation of \$378,482 in federal funds to the deaf-blind training programs run by the Departments of Education and Human Services and a child abuse and neglect program run by the Division of Youth and Family Services. The funds were not anticipated when the budget was adopted.

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