

No. 136

AN ACT

HB 924

Amending the act of March 11, 1971 (P.L.104, No.3), entitled "An act providing property tax assistance to certain senior citizens, widows and permanently disabled persons with limited incomes; establishing uniform standards and qualifications for eligibility to receive assistance; imposing duties upon the Department of Revenue and making an appropriation," providing for rent assistance; redefining certain terms; changing the percentage allowed as assistance; changing certain procedures and the date for filing of claims; changing the limitation on the amount allocated for claims; and further providing for appeals.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title and sections 2, 3, 4, 5, 6 and 8, act of March 11, 1971 (P.L.104, No.3), known as the "Senior Citizens Property Tax Assistance Act," are amended to read:

AN ACT

Providing property tax *or rent* assistance to certain senior citizens, widows, *widowers* and permanently disabled persons with limited incomes; establishing uniform standards and qualifications for eligibility to receive assistance; *and* imposing duties upon the Department of Revenue. [**and making an appropriation.**]

Section 2. Declaration of Policy.—In recognition of the severe economic plight of certain senior citizens, widows, *widowers* and permanently disabled persons who are real property owners *or renters* with fixed and limited incomes who are faced with rising living costs and constantly increasing tax burdens upon their homesteads, the General Assembly, pursuant to the mandates of the Constitutional Convention of 1968, considers it to be a matter of sound public policy to make special provisions for property tax assistance *or rent assistance in lieu of property taxes* to that class of senior citizens, widows, *widowers* and permanently disabled persons who are real property taxpayers *or renters* who are without adequate means of support to enable them to remain in peaceable possession of their homes and relieving their economic burden.

Section 3. Definitions.—As used in this act:

(1) "Income" means all income from whatever source derived, including but not limited to salaries, wages, bonuses, commissions, income from self-employment, alimony, support money, cash public assistance and relief, the gross amount of any pensions or annuities including railroad retirement benefits, all benefits received under the Federal Social Security Act (except Medicare benefits), all benefits received under State unemployment insurance laws and veterans' disability payments, all

interest received from the Federal or any State government, or any instrumentality or political subdivision thereof, realized capital gains, rentals, workmen's compensation and the gross amount of loss of time insurance benefits, life insurance benefits and proceeds (*except the first five thousand dollars (\$5,000) of the total of death benefit payments*), and gifts of cash or property (other than transfers by gift between members of a household) in excess of a total value of three hundred dollars (\$300), but shall not include surplus food or other relief in kind supplied by a governmental agency or property tax assistance.

(2) "Household income" *for the calendar years 1971 and 1972* means all income received by the claimant and all other persons while residing in the homestead during a calendar year in which real property taxes *or rent* are due and payable, but shall not include the income of residents not related to the claimant paying reasonable fixed rents. "*Household income*" *for the calendar year 1973 and thereafter* means all income received by the claimant and his spouse while residing in the homestead during a calendar year in which real property taxes or rent are due and payable.

(3) "Homestead" means a dwelling, *whether owned or rented*, and so much of the land surrounding it, *not exceeding two acres,* as is reasonably necessary for use of the dwelling as a home, occupied by a claimant. A homestead shall also include premises occupied by reason of ownership or lease in a cooperative housing corporation, mobile homes which are assessed as realty for local property tax purposes and the land, if owned *or rented* by the claimant, upon which the mobile home is situated, and other similar living accommodations, as well as a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built. It shall also include premises occupied by reason of the claimant's ownership *or rental* of a dwelling located on land owned by a nonprofit incorporated association, of which the claimant is a member, if the claimant is required to pay a pro rata share of the property taxes levied against the association's land. It shall also include premises occupied by a claimant if he is required by law to pay a property tax by reason of his ownership *or rental* (including a possessory interest) in the dwelling, the land, or both. An owner includes a person in possession under a contract of sale, deed of trust, life estate, joint tenancy or tenancy in common.

(4) "Real property taxes" means all taxes on a homestead (exclusive of municipal assessments, delinquent charges, and interest) due and payable during a calendar year.

(5) "*Rent assistance in lieu of property taxes*" means *twenty per cent of the gross amount actually paid in cash or its equivalent in any calendar year to a landlord in connection with the occupancy of a homestead by a claimant, irrespective of whether such amount constitutes payment solely for the right of occupancy or otherwise.*

(6) "Claimant" means a person who files a claim for property tax

assistance *or rent assistance in lieu of property taxes* and was sixty-five years of age or over, or whose spouse (if a member of the household) was sixty-five years of age or over, during a calendar year in which real property taxes *or rent* were due and payable or was a widow *or widower* and was fifty years of age or over during a calendar year or part thereof in which real property taxes *or rent* were due and payable, or was a permanently disabled person during a calendar year or part thereof in which real property taxes *or rent* were due and payable. For the purposes of this act the term “widow” *or “widower”* shall mean the surviving wife *or the surviving husband, as the case may be*, of a deceased individual and who has not remarried except as provided in subsection (c) *and (d)* of section 4 of this act. For the purposes of this act the term “permanently disabled person” shall mean a person who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to continue indefinitely, except as provided in subsection (c) *and (d)* of section 4 of this act.

[(6)] (7) “Department” means the Department of Revenue.

Section 4. Property Tax *or Rent* Assistance.—(a) The amount of any claim for property tax assistance for real property taxes due and payable during [any calendar year beginning January 1, 1971, and thereafter] *the calendar years 1971 and 1972, or rent assistance in lieu of property taxes for rent due and payable during the calendar year 1972* shall be determined in accordance with the following schedule:

Household Income	Percentage of Real Property Taxes <i>or</i> <i>Rent Assistance in Lieu of Property Taxes</i> Allowed as Assistance
\$ 0 - \$ 999	100%
1,000 - 1,499	90
1,500 - 1,999	80
2,000 - 2,499	70
2,500 - 2,999	60
3,000 - 3,499	50
3,500 - 3,999	40
4,000 - 4,999	30
5,000 - 5,999	20
6,000 - 7,499	10

(a.1) *The amount of any claim for property tax assistance or rent assistance in lieu of property taxes for real property taxes or rent due and payable during the calendar year 1973 and thereafter shall be determined in accordance with the following schedule:*

\$ 0 - \$2,999	100%
3,000 - 3,499	90
3,500 - 3,999	80

4,000 - 4,499	70
4,500 - 4,999	60
5,000 - 5,499	50
5,500 - 5,999	40
6,000 - 6,499	30
6,500 - 6,999	20
7,000 - 7,499	10

(b) No claim shall be allowed if the amount of property tax *or rent* assistance computed in accordance with this section is less than ten dollars (\$10), and the maximum amount of assistance payable shall not exceed two hundred dollars (\$200).

(c) *No claim shall be allowed if the claimant is a tenant of an owner of real property exempt from real property taxes.*

(d) If a homestead is owned *or rented* and occupied for only a portion of a year or is owned *or rented* in part by a person who does not meet the qualifications for a claimant, exclusive of any interest owned *or leased* by a claimant's spouse, or if the claimant is a widow *or widower* who remarries, or if the claimant is a permanently disabled person who is no longer disabled, the department shall apportion the real property taxes *or rent* in accordance with the period or degree of ownership *or leasehold* or eligibility of the claimant in determining the amount of assistance for which a claimant is eligible. *A claimant who is a renter shall not be eligible for rent assistance in lieu of property taxes during those months within which he receives public assistance from the Department of Public Welfare.*

Section 5. Filing of Claim.—A claim for property tax *or rent* assistance shall be filed with the department [within one hundred twenty days] *on or before the thirtieth day of June of the year next* succeeding the end of the calendar year in which real property taxes *or rent* were due and payable: [except that no] *Provided, That widowers and renters requesting assistance by virtue of this amendment, may file their first claim for assistance with the department no later than six months after the effective date of this act. No* reimbursement on any such claim shall be made from the *State Lottery Fund* [General Fund,] earlier than [sixty-five days after the last day on which such claim may be filed.] *the fifteenth day of September of the same year.* Only one claimant from a homestead each year shall be entitled to property tax *or rent* assistance. If two or more persons are able to meet the qualifications for a claimant, they may determine who the claimant shall be. If they are unable to agree, the department shall determine to whom assistance is to be paid.

Section 6. Proof of Claim.—Each claim shall include reasonable proof of household income, the size and nature of the property claimed as a homestead and the *rent or* tax receipt, or other proof that the real property taxes on the homestead have been paid, *or rent in connection with the occupancy of a homestead has been paid.* If the claimant is a

widow, *or widower*, an affidavit of such status shall be included. Proof that a claimant is eligible to receive disability benefits under the Federal Social Security Act shall constitute proof of disability under this act. No person who has been found not to be disabled by the social security administration shall be granted assistance under this act. A claimant not covered under the Federal Social Security Act shall be examined by a physician designated by the department and such status determined using the same standards used by the social security administration. It shall not be necessary that such taxes *or rent* were paid by the claimant: ***Provided, That the rent or taxes have been paid when the claim is filed.*** The first claim filed shall include proof that the claimant or his spouse was age sixty-five or over or fifty years or over in the case of a widow, *or widower*, during the calendar year in which real property taxes *or rent* were due and payable.

Section 8. [In the event that the total amount of the claims exceeds the sum of sixty million dollars (\$60,000,000) in any one year, then the percentage allowed as assistance shall be reduced in the proportion that sixty million dollars (\$60,000,000) bears to the total amount of the claims in any one year.] ***Funds for Payment of Administrative Expenses and Claims.—Expenses, salaries and other costs incurred in the administration of this act and approved claims shall be paid from the State Lottery Fund established by the act of August 26, 1971 (P.L.351, No.91), known as the "State Lottery Law."*** In the event that the total amount of administrative expenses and claims exceeds the amount in such fund, in any one year, then the percentages allowed as tax or rent assistance shall be reduced in the proportion that the amount of such fund bears to the total amount of claims in such year.

Section 2. Section 11 of the act is repealed.

Section 3. The act is amended by adding three sections to read:

Section 11.1. Petition for Redetermination.—Any claimant whose claim for property tax assistance is either denied, corrected or otherwise adversely affected by the department, may file with the department a petition for redetermination on forms supplied by the department within ninety days after the date of mailing of written notice by the department of such action. Such petition shall set forth the grounds upon which claimant alleges that such departmental action is erroneous or unlawful, in whole or part, and shall be accompanied by an affidavit or affirmation that the facts contained therein are true and correct. An extension of time for filing the petition may be allowed for cause but not to exceed one hundred twenty days. The department shall hold such hearings as may be necessary for the purpose of redetermination, and each claimant who has duly filed such petition for redetermination shall be notified by the department of the time when, and the place where, such hearing in his case will be held.

It shall be the duty of the department, within six months after

receiving a filed petition for redetermination, to dispose of the matters raised by such petition and mail notice of the department's decision to the claimant.

Section 11.2. Review by Board of Finance and Revenue.—*Within ninety days after the date of official receipt by the claimant of notice mailed by the department of its decision on any petition for redetermination filed with it, the claimant who is adversely affected by such decision may by petition request the Board of Finance and Revenue to review such action. The failure of the department to officially notify the claimant of a decision within the six-months period provided for by section 11.1 shall act as a denial of such petition, and a petition for review may be filed with the Board of Finance and Revenue within one hundred twenty days after written notice is officially received by the claimant that the department has failed to dispose of the petition within the six-months period prescribed by section 11.1. Every petition for redetermination filed hereunder shall state the reasons upon which the claimant relies, or shall incorporate by reference the petition for redetermination in which such reasons shall have been stated. The petition shall be supported by affidavit that the facts set forth therein are correct and true. The Board of Finance and Revenue shall act in disposition of such petitions filed with it within six months after they have been received, and in the event of failure of said board to dispose of any such petition within six months, the action taken by the department upon the petition for redetermination shall be deemed sustained. The Board of Finance and Revenue may sustain the action taken by the department on the petition for redetermination or it may take such other action as it shall deem is necessary and consistent with provisions of this act. Notice of the action of the Board of Finance and Revenue shall be given by mail to the department and to the claimant.*

Section 11.3. Appeal to the Commonwealth Court.—*Any claimant, aggrieved by the decision of the Board of Finance and Revenue may, within thirty days, after receipt by claimant of official board notice appeal to the Commonwealth Court from the decision of the Board of Finance and Revenue, in the manner now or hereafter provided by law for appeals from decisions of said board in tax cases.*

Section 4. If any word, phrase, clause, sentence, section or provision of the act or this amendatory act is for any reason held to be unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of the act or this amendatory act. It is hereby declared as the legislative intent that the act or this amendatory act would have been adopted had such unconstitutional word, phrase, clause, sentence, section or provision thereof not been included herein.

Section 5. The provisions of this amendatory act shall take effect immediately and shall apply to calendar years commencing January 1,

1972 and thereafter: Provided however, That the amendment to clause (1) of section 3 of the act shall apply to calendar years commencing January 1, 1973 and thereafter: And further provided, That that portion of clause (3) ¹of section 3 of the act as relates to the elimination of the acreage requirement shall be effective immediately but shall only apply to those making application after the effective date of this act in which case the act shall apply to calendar years ²commencing January 1, 1972 and thereafter.

APPROVED—The 5th day of December, A. D. 1973.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 136.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive style with a large initial "C" and a prominent "T" at the end.

Secretary of the Commonwealth.

¹"of section 3" omitted in original.

²"commencing" in original.