

No. 1979-131

## AN ACT

HB 1407

Reenacting and amending the act of March 11, 1971 (P.L.104, No.3), entitled, as amended, "An act providing property tax or rent rebate to certain senior citizens, widows, widowers and permanently disabled persons with limited incomes; establishing uniform standards and qualifications for eligibility to receive a rebate; and imposing duties upon the Department of Revenue," providing for inflation dividends; redefining certain terms; providing for anticipation of revenues and changing certain procedures.

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

Section 1. The title and sections 1, 2 and 3, act of March 11, 1971 (P.L.104, No.3), known as the "Senior Citizens Property Tax or Rent Rebate Act," reenacted and amended June 16, 1975 (P.L.7, No.4), are amended to read:

## AN ACT

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

Section 1. Short Title.—This act shall be known and may be cited as the "Senior Citizens Property Tax or Rent Rebate *and Older Persons Inflation Needs Act*."

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 *and inflation cost* 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 rebates or rent rebates in lieu of property taxes *and inflation dividends* 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 *or rent rebate or inflation dividend*.

(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] the calendar year [in] for which [real property taxes or rent are due and payable.] a rebate and dividend are claimed.**

(3) **“Homestead” means a dwelling, whether owned or rented, and so much of the land surrounding it, 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 *or by reason of statutes of descent and distribution*.**

(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 rebate 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) "Inflation dividend" means an additional amount calculated by the department in accordance with subsection (a.2) of section 4.**

**[(6)] (7) "Claimant" means a person who files a claim for property tax rebate or rent rebate in lieu of property taxes *and inflation dividend* 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 *and inflation costs* 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 *and inflation costs* were due and payable, or was a permanently disabled person during a calendar year or part thereof in which real property taxes, [or] rent *and inflation costs* 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.**

**[(7)] (8) "Department" means the Department of Revenue.**

**(9) "Inflation expenses" means the additional costs of those essential consumer needs of senior citizens in the Commonwealth. Those inflation expenses include but are not limited to the additional cost of medical prescriptions, energy needs, transportation and food and clothing essentials.**

Section 2. Section 4 of the act, amended November 22, 1978 (P.L.1157, No.272), is amended to read:

Section 4. Property Tax [or]; Rent Rebate *and Inflation Cost*.—

**[(a.1) The amount of any claim for property tax rebate or rent rebate in lieu of property taxes for real property taxes or rent due and payable during the calendar year 1973 through calendar year 1977, inclusive, 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

**(a.2)] (a.1) The amount of any claim for property tax rebate or rent rebate in lieu of property taxes for real property taxes or rent due and**

payable during calendar year 1978 and thereafter shall be determined in accordance with the following schedule:

Household Income	Percentage of Real Property Taxes or Rent Rebate in Lieu of Property Taxes Allowed as Rebate
\$ 0 - \$4,499	100%
4,500 - 4,999	90
5,000 - 5,499	80
5,500 - 5,999	70
6,000 - 6,499	60
6,500 - 6,999	50
7,000 - 7,499	40
7,500 - 7,999	30
8,000 - 8,499	20
8,500 - 8,999	10

*(a.2) To all claimants eligible for a property tax or rent rebate there shall be paid an inflation dividend determined in accordance with the following schedule:*

Household Income	Dividend
\$ 0 - 3,999	\$95
4,000 - 4,999	70
5,000 - 5,999	40
6,000 - 7,499	20
7,500 - 8,999	15

(b) No claim shall be allowed if the amount of property tax or rent rebate computed in accordance with this section is less than ten dollars (\$10), and the maximum amount of *property tax or rent* rebate payable shall not exceed four hundred dollars (\$400).

(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 rebate for which a claimant is eligible. A claimant who **[is a renter] receives public assistance from the Department of Public Welfare** shall not be eligible for rent rebate in lieu of property taxes, *or an inflation discount* during those months within which he receives public assistance. **[from the Department of Public Welfare.]**

*(e) Rent shall not include subsidies provided by or through a governmental agency.*

Section 3. Section 5 of the act, amended June 20, 1979, (No.18), is amended to read:

Section 5. Filing of Claim.—A claim for property tax or rent rebate *and inflation dividend* shall be filed with the department 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: Provided, That claims filed after the June 30 deadline until December 31 of such calendar year shall be accepted by the Secretary of Revenue as long as funds are available to pay the benefits to the late filing claimants. No reimbursement on a claim shall be made from the State Lottery Fund earlier than the day following the thirtieth day of June provided in this act on which that claim may be filed with the department. Rebate claims for taxes or rent paid during calendar year 1977 shall be accepted by the Secretary of Revenue if filed with the department on or before the thirtieth day of April 1979. Only one claimant from a homestead each year shall be entitled to *the* property tax or rent rebate *and inflation dividend*. 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 [a] *the* rebate *and dividend* is to be paid.

Section 4. Section 6 of the act, amended November 22, 1978 (P.L.1157, No.272), is amended to read:

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, a declaration of such status [on such forms and] in such manner as prescribed by the Secretary of Revenue 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 a rebate *or dividend* 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 *directly* 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 5. Section 7 of the act, is reenacted to read:

Section 7. Incorrect Claim.—Whenever on audit of any claim, the department finds the claim to have been incorrectly determined, it shall redetermine the correct amount of the claim and notify the claimant of the reason of the redetermination and the amount of the corrected claim.

Section 6. Section 8 of the act, amended June 29, 1979 (No.26), is amended to read:

Section 8. 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 amounts allowed as tax or rent rebates *and inflation dividends* shall be reduced in the proportion that the amount of such fund bears to the total amount of claims in such year. For the purposes of this section, **[for the fiscal years beginning July 1, 1975, July 1, 1976, July 1, 1977, July 1, 1978 and July 1, 1979,]** the amount in the State Lottery Fund shall include **[funds available including revenue estimated to be available for the purposes of administrative expenses and claims, only for existing programs at their current levels.]** *the June 30 ending lottery fund balance plus eighty per cent of projected lottery fund revenues after lottery fund administrative expenses for the subsequent fiscal year.*

Section 7. Sections 9, 10, 11.1, 11.2, 11.3 and 12 of the act, are reenacted or amended to read:

Section 9. Claim Forms and Rules and Regulations.—**[The department shall prescribe necessary rules and regulations and shall make available suitable forms for filing a claim.]** *Necessary rules and regulations shall be prescribed by a committee consisting of the Secretaries of Aging, Revenue and Community Affairs. The Secretary of Aging shall serve as the chairman of the committee. The Department of Revenue shall receive all applications, determine the eligibility of claimants, hear appeals, disburse payments, and make available suitable forms for the filing of claims.*

Section 10. Fraudulent Claim; Conveyance to Obtain Benefits.—In any case in which a claim is excessive and was filed with fraudulent intent, the claim shall be disallowed in full and a penalty of twenty-five per cent of the amount claimed shall be imposed. The penalty and the amount of the disallowed claim, if the claim has been paid, shall bear interest at the rate of one-half of one per cent per month from the date of the claim until repaid. The claimant and any person who assisted in the preparation or filing of a fraudulent claim shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), or undergo imprisonment not exceeding one year, or both.

A claim shall be disallowed if the claimant received title to the homestead primarily for the purpose of receiving property tax rebate.

Section 11.1. Petition for Redetermination.—Any claimant whose claim **[for property tax rebate]** 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] contain** 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.**—Any claimant, aggrieved by the decision of the Board of Finance and Revenue may appeal 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 12. Effective Date.**—This act shall take effect immediately, applicable to tax years beginning January 1, 1971, and thereafter.

**Section 8.** This act shall take effect immediately and shall be applicable to calendar years beginning January 1, 1979 and thereafter and the inflation dividends provided for in this act shall be paid by the

department on January 1, 1980 for all persons who received rent rebates or property tax assistance for the calendar year 1978.

APPROVED—The 21st day of December, A. D. 1979.

DICK THORNBURGH