

New Jersey



Assessors

Bulletin



MEMBER
International Association
of Assessing Officers

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LEGAL CORNER

NEW RULES FOR APARTMENT PROPERTY APPEALS



In a decision which has sent shock waves through the Tax Bar on the magnitude of 8.5 on the Richter Scale, our Appellate Division has significantly inhibited the ability of owners of multifamily dwelling units to qualify for assessment relief before the Tax Court. In *First*

Real Estate Inv Trust v. Hasbrouck Heights, 190 N.J. Super 85 (App. Div. 1983), Judge Milmed, speaking for the Court, declared that in order to discharge its burden of proof in valuing an apartment property by the income capitalization approach, the taxpayer's expert must establish that the actual rents collected by the property owner are "economic rents." To accomplish this, a comparison must be made of the rentals from the subject property "with known rentals for similar space in the same or comparable locations."

Significantly, even though the rents that the taxpayer collected were subject to strict regulation under the borough's Rent Stabilization Ordinance, the court held that it was nonetheless the taxpayer's burden to establish that the actual rents were economic rents; even if that requires an analysis of rentals predating the adoption of rent control. Judge Milmed went on to suggest that the failure of the taxpayer to seek hardship relief is pertinent to the issue.

Although Judge Milmed purported to rely upon the decision of our Supreme Court in *Parkview Village Association v. Collingswood* 61 N.J. 21 (1972),

those familiar with the *Collingswood* decision consider *First Real Estate* to be in direct conflict with the essential holding in that case. Instead of placing the burden upon the taxpayer's expert to establish by a preponderance of the evidence that the actual rents do represent economic rents, our Supreme Court in *Parkview* appears to have held precisely to the contrary at p. 34:

"In the absence of convincing evidence to the contrary the current ongoing income scale of a large, well-managed apartment project like this, functioning as customary with leases of relatively short length, should be deemed *prima facie* to represent its fair rental value for purposes of the capitalized income method of property valuation."

It remains to be seen whether the Supreme Court will grant certification to review the decision of the Appellate Division below. In the meantime, however, tax assessors and taxing districts may take heart in the fact that the proofs required of a taxpayer in an apartment property appeal are now much more formidable than they used to be. If the taxpayer's expert fails to produce sufficient evidence of comparable rents—even in rent control communities—the taxing district may move for dismissal on the basis of insufficient proofs.

Edward G. Rosenblum

SENATE, NO. 3116

This bill permits an individual employed by a municipal tax assessor to serve as a member of the board of taxation for the county in which the municipality is located, provided that the individual is not employed as the assessor.

Senate Concurrent Resolution No. 3044

A Concurrent Resolution proposing to amend Article VIII, Section I, paragraph 1 of the Constitution of the State of New Jersey to stipulate that property be taxed according to classifications and standards of value to be established by the Legislature.

Proposed Amendment

Amend Article VIII, Section I, paragraph 1, so that the same shall read as follows:

1. (a) Property shall be assessed for taxation under general laws and by uniform rules and according to classifications and standards of value to be established by the Legislature.

(b) The Legislature shall enact laws to provide that the value of land, not less than five acres in area, which is determined by the assessing officer of the taxing jurisdiction to be actively devoted to agricultural or horticultural use and to have been so devoted for at least the two successive years immediately preceding the tax year in issue, shall, for local tax purposes, on application of the owner, be that value which such land has for agricultural or horticultural use.

Any such laws shall provide that when land which has been valued in this manner for local tax purposes is applied to a use other than for agriculture or horticulture it shall be subject to additional taxes in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation and the assessment authorized hereunder and the taxes that would have been paid or payable had the land been valued and assessed as otherwise provided in this Constitution, in the current year and in such of the tax years immediately preceding, not in excess of two such years in which the land was valued as herein authorized.

Such laws shall also provide for the equalization of assessments of land valued in accordance with the provisions hereof and for the assessment and collection of any additional taxes levied thereupon and shall include such other provisions as shall be necessary to carry out the provisions of this amendment.

2. When this proposed amendment to the Constitution is finally agreed to, pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted to the people at the next general election occurring more than three months after the final agreement and shall be published at least once in at least one newspaper of each county designated by the President of the Senate and the Speaker of the General Assembly and the Secretary of State, not less than three months prior to that general election.

Every politician always talks about Lincoln but none ever imitate him.

MANVILLE FACES PROBLEMS

One of the biggest tax appeals ever filed in the State of New Jersey could have a devastating effect on the Borough of Manville.

More than two years ago the Manville Corporation filed an appeal against the Borough's revaluation that raised their assessment from \$16 million to \$36.1 million.

The Corporation is seeking a reduction to \$9.5 million because a gradual phase out of some production facilities.

According to Edward Rosenblum, Special Counsel to the Borough, both parties are working toward an out of court settlement.

If the Corporation wins a full reduction, Manville's tax rate is expected to soar, placing the majority of the tax burden on the homeowners because of the lack of other industry.

ASSEMBLY, NO. 3849

An act concerning the taxation of exempt real estate in certain cases and supplementing chapter 4 of Title 54 of the Revised Statutes.

1. When real property owned by the federal government and exempt from taxation is used by another whose property is not exempt, for a private purpose, and the use does not render the real property taxable pursuant to section 1 of P. L. 1949, c. 177 (C.54:4-2.3) or otherwise, the real property shall be assessed and taxed as real property. The real property shall be listed and assessed as the real property of the user unless the federal government shall consent to taxation thereof. For purposes of this act "use" means the right or license, express or implied, to possess and enjoy the benefits from any real property, whether or not that right or license is actually exercised.

2. Any real property subject to taxation under this act shall be assessed and taxed in the manner otherwise prescribed by law for all other taxable real property.

3. This act shall take effect immediately and shall be applicable with regard to assessments and taxes for the tax year 1984 and thereafter.

Statement

This bill provides for the assessment and taxation of real property which is owned by the federal government but used by another for a private purpose. Federally owned property leased to another who is not exempt would be taxable under current law. Where use of the real property is allowed under an instrument or agreement other than a lease, the property is not taxable. This bill modifies that current discrepancy.

LEGISLATIVE NEWS



As you probably already know, the action in the legislature revolves around certain types of legislation and because of its importance, it has taken the majority of the legislature's time to resolve. The legislation pertaining to auto insurance as an example.

Bills like these and other current situations involve the legislature totally.

The Governor recently signed into law, S-1932 (Ch. 309, P.L. 1983) which exempts from increases in local property taxes the increased value of any property due to the installation of an automatic fire suppression system.

The need for this law is clearly evident due to the recognition of the sponsor, Sen. Caulfield. The intent of this law is to help reduce the already overabundance of the number of fire injuries in the Senator's district and other localities in the State.

Another bill waiting to be reviewed (if it's not yet signed into law) by the Governor is A-3355 and other companion bills. These proposals pertain to the amending of the mobile home law with a better degree of efficiency. What is (or was) holding this bill up is the review of the companion bills. Assurance was needed that the companion bills were in no way in conflict with the basic amendment A-3355.

Another assessor's concern is the completion of the Property Tax Commission as mandated by J.R. 3. The purpose of this commission is to review the property tax structure. It is empowered to conduct hearings and gather information that can be composed into recommendations to the legislature which will alter, amend or provide new laws making the tax programs more equitable.

This commission and others related to it are a long time coming. Many taxpayers, assessors and members of governing bodies feel that there is an urgent need for this commission. New policy in certain areas of Property Taxation is needed, especially in the area of municipal-wide revaluations. Having just completed one, and suffered the horrors and frustrations associated with them, I sympathize with those who have suffered through them and I feel sorry for those who are facing them. Although revaluations are undertaken to guarantee that all property owners are uniformly assessed under the same standard of value, the only uniformity that results from this is that all assessors are uniformly attacked, chastised, degraded and insulted. Revaluation for the assessor is a catch 22 situation whereby an assessor is damned if he does or damned if he

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doesn't. Before I go any further; don't anyone get the idea that I'm bemoaning the whole revaluation program; far from it. What I'm trying to emphasize is that despite all the public relations programs an assessor undertakes for the need of a revaluation, what is most unpalatable to a taxpayer is the always resulting large increase in the payment of residential property taxes because of the continuous shifts in property values. The answer that properties were underassessed does not suffice. The need for revaluation because of a declining ratio or a high coefficient of deviation also does not suffice. The balance in the burden of taxation is continuously shifting and the burden is placed more and more on those least able to afford it. They have been victimized by an economy that has no compassion and offers only fear. I can expound more on this subject, but I need not for I am addressing my peers whom I am sure have recognized all that I have written and all that remains to be written. I can only ask that when the hearings are held, you come forth and make these needs for more equity in property taxation known.

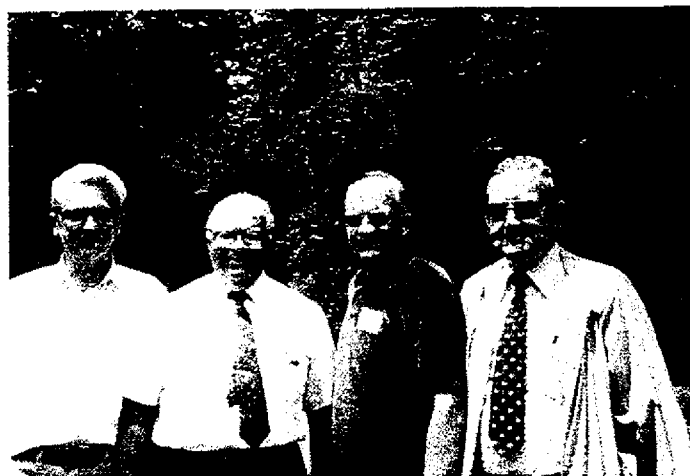
George Harraka, C.T.A.

Chairman, Legislative Committee

Think like a man of action; act like a man of thought.

One spring day in the air beats ten in the almanac.

RUTGERS 1983



ASSEMBLY, NO. 3978

A supplement to "An act concerning rebates from taxation, providing for homestead rebates for citizens and residents of this State, and supplementing chapter 4 of Title 54 of the Revised Statutes," approved August 30, 1976 (P. L. 1976, c. 72; C.54:4-3.80 et seq.), as said title was amended by P. L. 1977, c. 17

Statement

This bill establishes the date for filing a homestead rebate claim to be March 1 annually. Current law provides for an extension of time at the discretion of the director. This was established when the program was adopted as an administrative expedient to ensure that all qualified persons had ample opportunity to file a claim.

It is clear after several years of experience, that an extension of time is necessary and this bill establishes a specific date. The Director of the Division of Taxation will retain the authority to extend the deadline for any particular taxpayer for good reason demonstrated.

Further, this bill will allow homestead rebates to all persons who, while qualified for the rebate payment in July, 1983 against property taxes paid in 1982, failed to file a timely application and are therefore denied that rebate payment. Such a claim must be filed within 90 days of the effective date of the bill. This will cover those persons who missed the more restrictive deadline of January 1983, rather than March or April which had been the case in prior years.

Introductory Reduced Membership Dues Offer Extended

A special introductory reduced dues offer for new members of the International Association of Assessing Officers has been extended through December 1983 by the IAAO Executive Board. Under the special offer, which previously was made only to new members joining the association between July 1, 1983 and October 5, 1983, annual dues are reduced to \$45 for most categories of association members during the first year of membership.

While enormous studies have been made in communications in recent years, there's still a lot to be said for the smile.

ASSESSOR WANTED

Municipal Tax Assessor—Part-time. Wanted for the Borough of Leonia, Bergen County. 1.5 square miles, 8027 pop., 2300 + line items. CTA required. Salary negotiable. Send resume to George D. Haeuber, Borough Administrator, 312 Broad Avenue, P.O. Box H., Leonia, NJ 07605

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An act temporarily making permissive the implementation of a revaluation of real property in certain cities of the second class.

1. Notwithstanding any provisions of law or any judicial order to the contrary, no city of the second class having a population in excess of 92,000 but less than 105,000, according to the most recent federal decennial census, shall be required to implement a revaluation of real property for the tax years 1984 through 1985, inclusive. The determination of a city not to implement a revaluation pursuant to this act shall not prevent the city from conducting and implementing any partial or complete reassessment of real property in the city during the time covered by the act.

2. This act shall take effect immediately.

Statement

The purpose of this bill is to permit certain cities of the second class to determine whether or not a revaluation of real property should be implemented for the tax years 1984 through 1985, inclusive. The bill further provides that a determination not to implement a revaluation of real property would not prevent the city from conducting and implementing any partial or complete reassessment of real property during the period covered by the bill.

Failure can be divided into those who thought and never did and those that did and never thought.

Association of Municipal Assessors of New Jersey

NEW JERSEY ASSESSORS BULLETIN

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ONE MAN'S OPINION



Chapter 123 was signed into law in 1973 and since then it has been a thorn in the assessor's side.

The distasteful part is that when the true value exceeds the upper limit or falls below the lower limit of the common level range, the average ratio

is applied to the true value.

Proponents of the Bill say it is good for the assessor because if the true value is within the 15% boundary, there is no change in the assessment.

The law further says, "Provisions of this Act shall not apply to any appeal from an assessment of real property taken with respect to the tax year in which the taxing district shall have completed and put into operation a district-wide revaluation program approved by the Director of Taxation."

I have seen appeals filed where discrimination is alleged during a year a revaluation or reassessment was put into force and though no mention of Chapter 123 is made, the ratio is used to reduce the true value.

In effect, this is easier for the taxpayer. He does not have to worry about the 15% range and gets the benefit of the reduction.

I think no ratio should be applied in a year a reassessment or revaluation has been put into effect.

What do you think?

Lou Schick

Reno to Host 1988 Annual Conference

Reno, Nevada has been chosen as the host city for the 1988 International Conference on Assessment Administration, sponsored by the International Association of Assessing Officers.

Proposed Amendment to N.J.S.A. Acts Saved from Repeal 54:1-15(7)

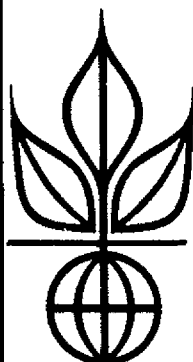
On or before the first day of January of each year there shall be filed in the office of the county clerk, or the register of deeds where such office exists, duplicates by blue prints or otherwise of all tax maps approved by the state board of equalization during the year then past, at the charge of the taxing district for which said maps have been made; and it shall be the duty of the officials having the custody of the original to secure and file such duplicates.

In addition, on or before January 10, 1984, the assessor shall file with the county board of taxation duplicate copies of all tax maps which conform to the lot and block designations reflected on the tax list submitted for the 1984 tax year. For each year thereafter, the assessor shall submit copies of revised tax map sheets to reflect any changes made to the tax map. The revised tax map sheets shall be submitted to the county board within 30 days from the date the tax map has been revised.

SENATE, NO. 3593

An Act to provide for a State of New Jersey limited constitutional tax convention to consider proposals for the proper allocation of services between the State and its local units of government and for revision of the tax structure of State and local governments and to make legislative and constitutional recommendations, and making an appropriation therefor.

The purpose of this bill is to provide for a State of New Jersey limited constitutional tax convention to consider proposals for the proper allocation of services between the State and its local units of government.



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SENATE, NO. 3624

An Act concerning the payment of delinquent taxes and redemption of real property and amending R. S. 54:5-59.

1. R. S. 54:5-59 is amended to read as follows:

54:5-59. If the certificate of sale is held by the municipality, the amount required for redemption shall include all subsequent municipal liens, except so much of the taxes for the year in which the redemption is made as are not delinquent as of the date of redemption under the provisions of R. S. 54:4-66, with interest thereon at the rate chargeable by the municipality on delinquent taxes and costs, but with the consent of the governing body redemption may be made in installments. The first installment shall include all past due taxes with interest thereon, all costs required to be paid upon redemption, and all installments of assessments past due, together with interest on the assessments to the date of the payment of the installment. The balance of the assessments shall be paid in such installments and at such times as they would have been payable but for a default in payment thereof, or for such sale or unpaid taxes or assessments. After the payment of the first installment, the municipality shall not assign the certificate or take any action to cut off or foreclose the right of redemption so long as the installments shall be paid when due and no default shall exist in the payment of municipal liens accruing subsequent to the date of the payment of the first installment. If redemption is made after the claim of the municipality under any sale for the enforcement of taxes or other municipal liens or charges has been apportioned, the amount required for redemption shall be the charge or charges as apportioned to the subdivision being redeemed, with interest and costs, including all subsequent municipal liens thereon with interest from the date of such apportionment.

2. This act shall take effect immediately.

Statement

The purpose of this bill is to clarify the require-

IN MEMORIAM

Edward Markowich, Assessor for the City of Clifton for 10 years before his retirement two years ago, passed away at the age of 65.

He had formerly been the Assessor in Wayne for four years and Cranford for 16 years.

Ed, who taught tax assessment at Rutgers University for 10 years, was a former president of the Union County Tax Assessors Association and a vice-president of the Assessors Association of New Jersey.

ment contained in R. S. 54:5-59 concerning payment of taxes by persons redeeming real property from tax sale. As presently worded, the section could be interpreted to require payment of the entire year's taxes, including installments not then delinquent, at the time of redemption. The bill amends this section to provide that only that portion of the taxes assessed for the current year which is then delinquent shall be paid at the time of redemption.

ASSEMBLY, NO. 3923

An act concerning the revaluation of real property and supplementing Title 54 of the Revised Statutes.

1. An individual or firm which, pursuant to a contract with a municipality, undertakes a revaluation of all or a designated portion of the real property in that municipality shall, within 30 days of the appraisal of each parcel of real property included therein, forward to the owner thereof a copy of the appraisal record for that parcel.

2. This act shall take effect immediately.

Statement

This bill requires appraisers working under contract with a municipality to revalue real property to provide property owners with the appraisal records on their property.

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EXECUTIVE BOARD MEETING



Prior to the regular order of business, the Executive Board received a guest, Mayor James G. Smith, Hackettstown, who is the President of the New Jersey Conference of Mayors. Mr. Smith explained the objectives of the New Jersey Conference of Mayors. He stated that the

mayors are united to assure that the actions of the New Jersey Legislature are in the best interest of municipalities. He also stated that the New Jersey Conference of Mayors is very interested in uniting with other groups, such as the Assessors' Association, to achieve their goal. The Conference of Mayors is also requesting any data in regard to the reasons for mass reductions of Tax Appeals. Mayor Smith reported that Senate Bill 3207 is proceeding through the Legislature. This bill has a provision that the developer will be reimbursed for the costs of site improvements. Mayor Smith said that this is an example of the type of legislation that they will be on the lookout for. Mayor Smith also requested any data that we have on Chapter 220.

PRESIDENTIAL REPORT

President Cross reported that she has been appointed to the Governor's Tax Policy Committee.

ATTORNEY'S REPORT—Edward Rosenblum

1. Mr. Rosenblum reported that Chapter 220 Oral Arguments have been made by Deputy Attorney General Harry Haushalter and Mr. Rosenblum. Due to the magnitude of the subject and the various ramifications, Judge Evers' decision may take a considerable amount of time before a ruling is submitted.

2. Mr. Rosenblum has been pursuing the matter of Assessors' Insurance. Mr. Rosenblum was very candid and stated that our Legal Fund, which may be well intended, really can not do the job that it was intended for. He stated that any assistance that the Legal Fund could give to an assessor would be no more than a "drop in the bucket" towards the payment of any legal fees. In Mr. Rosenblum's ac-

tive pursuit of this insurance, he was advised that Lloyd's representatives recommend that the Association have the funds to pay for any legal costs up to \$25,000 and then have their insurance company pick up the costs in excess of \$25,000. There was much discussion in regard to this matter and the consensus of opinion was that this may be the avenue to proceed on. Gloria Cross formed a committee to review this matter. The committee is as follows: John Murray, Joseph Crane, Samuel Befarah, Robert Ebert, James Anderson, and Gloria Cross.

COMMITTEE REPORTS:

Assessor Advisory & Legal Fund—Co-Chairmen: Sam Befarah, John Murray, and Joseph Crane

John Murray reported on the following:

1. A Tax Assessor in Raritan Boro has not received a pay raise for 1982 and 1983. The Association was advised by Mr. Rosenblum that there is probably nothing that can be done in regard to this matter as the statutes state than an appeal on the salary ordinance must be made within forty-five (45) days.

2. A referendum is pending in Hillsboro which freezes the salaries of fourteen persons, which was to include the Tax Assessor. Mr. Rosenblum stated that there were only two courses of action regarding such a referendum: (1) A Prerogative Writ, or (2) A Show Cause Writ. We understand that the Tax Assessor has been removed from this referendum, so no action will be required.

3. The case of Gloria Cross, in regard to the property record card and Income & Expense Statements being public record, has been adjudicated in favor of Gloria. The Legal Fund has agreed to pay \$1,000 toward the fees for this case. Since this case affects all assessors, it was agreed that the State Association pay the balance of the fees, which amount to approximately \$1,900. Association members will receive a written report on this decision. Election Committee—Chairwoman, Carolyn Landi

Carolyn Landi reported that the ballots were sent out to Tri-County members of Somerset, Mercer, and Middlesex Counties, for the position of Vice-President from this Tri-County area. This was

(continued on next page)

EXECUTIVE BOARD - (continued)

done in the manner as perscribed in the Constitution and By-Laws of the Association of Municipal Assessors of New Jersey.

Membership Committee—Chairman, John Coan

The Committee will be meeting with representatives of the New Jersey Farm Bureau on November 3, 1983.

Assessors' Outing Committee—Chairman, Charles Fouquet

Charles Fouquet submitted a financial report on the Assessors' Outing.

Tax Map Revision Committee—Chairman, William Birchall

A letter was received by William E. Birchall from Ivan Haftkowycz, Chief, Engineering Section, Local Property and Public Utility Branch, in regard to the proposed tax map regulations.

I.A.A.O. Committee—Chairman, Charles Shutt

Al Green reported that progress has been made on the forthcoming I.A.A.O. Conference.

Recertification Committee—Chairman, Robert Ebert

There was much discussion regarding the recertification of assessors. Mr. Ebert advised the Executive Board that he has found, in presenting the proposed recertification programs throughout the state, that a majority of the assessors are opposed to any other designation attached to the C.T.A. (such as Master, etc.) He found that Plan D, of which everyone should have a copy, appears to be the most acceptable plan. A motion was made by John Gausz and seconded by Randolph Brokaw, to meet with the Director to see what he is actually looking for in this matter. Also, it was felt that the Director must take a stand on various subjects in regard to flagrant violations of assessors' rights.

REGIONALIZATION

A motion was made by Randolph Brokaw and seconded by Alicia Melson, that as Regionalization goes hand in hand with Recertification, the committee should meet with the Director in regard to this matter at the same time that they are discussing the Recertification Program.

Kenneth H. Beck
Secretary

Department Store Lease Study Available

A department store lease study conducted by the National Retail Merchants Association may be of interest to the members of IAAO. This study of approximately 300 department store leases was conducted by a subcommittee of the NRMA Tax Committee and may be a useful tool in the capitalization of economic income. Orders may be placed with NRMA, 100 West 31st Street, New York, NY 10001. A charge for the study may be established.

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LOCAL PROPERTY TAX

Under Chapter 123 Assessment of Property Can Be Increased Under Certain Circumstances Without the Presence of A Municipal Appeal—The Tax Court of New Jersey denied plaintiff's motion for summary judgment and held that under Chapter 123 (N.J.S.A. 54:2-40.4 and N.J.S.A. 54:3-22(c) to (f) an assessment of property can be increased under certain circumstances without the presence of a municipal appeal from the original assessment in actions grounded in discrimination. The court held that Chapter 123 mandates that the average ratio to be used in actions grounded in discrimination shall mean the director's school aid ratio (weighted except in 1978) as calculated pursuant to N.J.S.A. 54:1-35.1 for the year preceding the tax year as revised by the Division of Tax Appeals (presently the Tax Court of New Jersey). However, the court said that the presumption of discrimination in accordance with the Chapter 123 ratio can be rebutted by a party in any manner demonstrating a common level, notwithstanding the Chapter 123 ratio.

The court held that Chapter 123 mandates that county tax boards and the Tax Court apply the average ratio or county percentage level if it finds that the ratio of the assessment to true value of the subject property exceeds or falls below the common level. In appropriate cases the county tax boards or tax court must increase the assessment beyond the original assessment if it finds that the ratio of the assessed value is below the common level range.

Proposed Regulation Addition to N.J.A.C. 18:23A-1.27

(h) The municipal tax assessor shall, on or before January 10, 1984, file with the county board of taxation a duplicate copy of a municipal tax map which conforms to the block and lot designations reflected on the current year's tax list submitted by the assessor to the county board of taxation on or before January 10 of the tax year.

Senate Joint Resolution, No. 3020

A Joint Resolution establishing a commission to study use of sales ratios as indicators of the values of real property for taxation purposes and to make recommendations to the Legislature thereon.

Whereas, the sales ratio approach for the promulgation by the Director of the Division of Taxation of the director's ratio for each taxing district in the State is dependent upon those sales which do not fit the criteria of the nonusable categories established by the Local Property Tax Bureau of the Division of Taxation; and

Whereas, these nonusable categories were selected in 1954 with only one significant change since, made in 1958; and

Whereas, the director's ratio was originally promulgated for the purposes of determining each taxing district's wealth for the apportionment of school aid, and was not intended as an indicator of the value of individual real property; and

Whereas, under P.L. 1973, c. 123 (C.54:1-35a et seq.) the director's ratio is used to establish rebuttable presumptions in tax appeal cases alleging discrimination, and the use of the ratio for that purpose may result in substantial inequities among various classes of real property since the ratio is heavily influenced by residential sales; and

Whereas, there is need for a review of the method by which the director's ratio is derived and of the use of that ratio for the purposes of P.L. 1973, c. 123 (C.54:1-35a et seq.), in order to determine whether or not that ratio is appropriate for those purposes, whether or not the method for deriving the ratio requires alteration if it is to be used for those purposes, and whether or not other compensating mechanisms are required to be established in the tax appeals process to allow for the equitable use of that ratio in determining tax appeals involving various classes of real property; now, therefore,

Be it resolved, *by the Senate and General Assembly of the State of New Jersey:*

There is established a commission to consist of eleven members, one of whom shall be the Director of the Division of Taxation in the Department of the Treasury, with the remaining members to be appointed as follows: two members shall be Senators appointed by the President of the Senate, who shall not each be members of the same political party; two members shall be Assemblymen appointed by the Speaker of the General Assembly, who shall not each be members of the same political party; two members shall be municipal assessors appointed by the Governor; one member shall be a county tax administrator appointed by the Governor; and two members shall be public members possessing expertise in matters of real property taxation appointed

by the Governor, who shall not each be members of the same political party. The public members shall, at the time of appointment and during their service on the commission, be citizens and residents of this State. Any vacancy in the membership of the commission shall be filled by appointment in the same manner as the original appointment.

The commission shall select from among its public members a chairman and a vice chairman and also shall elect a secretary, who need not be a member of the commission.

The commission shall review the method by which the Director of the Division of Taxation in the Department of the Treasury derives the director's ratio for each taxing district in the State, the appropriateness of the use of that ratio for the purposes of P.L. 1973, c. 123 (C.54:135 et seq.), the necessity for alterations in that method of the ratio is used for those purposes, and the need for other compensating mechanisms to be established in the tax appeals process to allow for the equitable use of that ratio in determining tax appeals involving various classes of real property. The commission shall report its findings, conclusions and recommendations to the Governor and the Legislature as soon as practicable, but not later than six months from the date upon which all members of the commission have been appointed, including in its report any legislative bills which it may wish to recommend for enactment by the Legislature and the Governor.

Property Tax Burden for California Homeowners Drops for Second Year

For the last two years, California's landmark tax-cutting initiative, Proposition 13, approved by voters in 1978, has not resulted in the expected shift of the property tax burden from businesses to residential homeowners, the state Board of Equalization reports. Moreover, the board has found that homeowners' collective statewide share of the tax burden has actually dropped in comparison to taxes paid by commercial and industrial property owners.

Overall the homeowners' property tax burden declined last year from 33.2 percent to 32.4 percent, with business, industrial, and rental properties accounting for the remainder of the tax total. The .8 percent drop in the homeowner share followed a .6 percent decline the year before. These findings may put a damper on efforts to enact a "split-roll" property tax, which would impose lower rates for homeowners.

(IAAO BULLETIN)

Exemption—Building Under Construction—Religious organization not entitled to tax exemption for building during construction.

CREATIVE FINANCE

The International Association of Assessing Officers (IAAO) announces the publication of *Adjusting for Terms of Financing: A Bibliography*, another in its Bibliographic Series.

Traditionally, house buyers have borrowed money for their purchases at fixed rates for long terms, and have paid the sellers in full. As conditions favorable to that tradition change, the housing market shrinks. Buyers, sellers, and lenders then seek ways of financing other than the traditional ones.

Buyers seek cheaper money to keep their total housing costs down. Sellers offer cheaper money, rather than lower house prices, as an inducement to prospective buyers. Lenders devise mortgages that are alternatives to traditional ones so they can adjust to market conditions as they borrow short and lend long.

Changing the terms of real estate finance can be a substitute for changing selling prices, so assessors and appraisers express a growing interest in the practice. The non-traditional ways that buyers, sellers, and lenders have found to alter the terms of financing are covered in IAAO's new publication.

The selective, classified, and annotated bibliography of forty-five references is in two parts. Part I lists works whose authors deal with changes in finance terms initiated by sellers (creative finance) and builders (buy downs). The two major concerns of these authors are, first, whether reported transactions should be adjusted to standard transaction terms or to cash, and second, what the appropriate adjustment techniques should be.

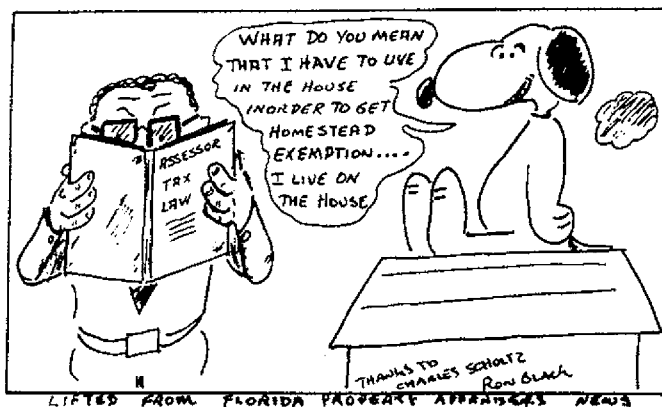
Part II lists works whose authors deal with changes in finance terms initiated by lenders (tax free loans, alternative mortgage instruments) and insurers (FHA and VA). Many of these works are definitional, but some report actual practice.

The broad coverage of this bibliography makes it a valuable reference work. To order a copy of *Adjusting for Terms of Financing: A Bibliography*, compiled and annotated by Robert M. Clatanoff, write to Research and Technical Services Department, International Association of Assessing Officers, 1313 E. 60th Street Chicago, IL 60637, or call (312) 947-2054. The price is \$4.00.

ASSEMBLY, NO. 3841

An act concerning real property revaluations and supplementing Title 54 of the Revised Statutes.
Statement

This bill would permit a municipality, under certain circumstances, to revalue nonresidential realty without physically assessing each parcel thereof.



SENATE, NO. 1612

Senate Bill No. 1612 creates a 25-member commission to study the State tax structure and appropriates \$75,000.00 to support the work of the commission.

The commission is essentially charged to evaluate present and future demands for governmental services, and the most efficient and equitable ways to allocate the costs of those services among all the taxpayers in the State.

Of the total membership, 11 members are specifically identified in the bill. The remaining 14 members are to be appointed by the Governor, with the advice and consent of the Senate, of whom two are to be academicians expert in tax reform, two are to be attorneys, and 10 public members generally representative of government, labor, business, the professions, and other knowledgeable persons.

The commission is to report its findings on or before February 28, 1984.

(This bill was passed by the legislature but conditionally vetoed by Governor Kean who recommended it be replaced by A-1786.)

ASSEMBLY, NO. 1786

New Jersey's continuing fiscal problems and recurring taxation crises require the establishment by statute of a permanent standing body composed of persons of acknowledged experience and expertise in taxation and public and private fiscal matters to continuously study, analyze, deliberate and recommend to the Governor and the Legislature policies and courses of action designated to create and implement in the State an overall system of taxation and public finance that will in the short and long term foster a healthy, job-providing economy, adequately meet the needs of the people for public services and facilities and provide for a reasonably, efficient and fair State Tax system.

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ASSEMBLY, NO. 3516

An act requiring counties and municipalities to provide officers and employees with the means to defend lawsuits and legal proceedings under certain circumstances and supplementing Title 40A of the New Jersey Statutes.

This bill requires municipalities and counties to provide for the defense of any action or proceeding wherein a county or municipal officer or employee is a defendant and which arose out of or was incidental to the performance of the officer's or employee's duties. It does not apply to criminal or disciplinary complaints made by a county or municipality against its officers or employees, unless the officer or employee is acquitted of the charges. If a complaint against an officer or an employee is dismissed for a lack of prosecution, or if the court determines that there was no reasonable basis for the complaint, the county or municipality may be awarded costs, including reasonable counsel fees. The bill is modeled on N.J.S. 40:15-155 which requires municipalities to provide for the defense of police officers, but even though police officers would be covered under this bill as municipal employees, the repeal of N.J.S. 40A:14-155 is not proposed because of the substantial number of cases that have been decided interpreting that act and which are helpful in its administration.

ASSEMBLY, NO. 3959

An act concerning homestead rebates and amending P. L. 1976, c. 72.

Statement

This bill amends the definition of "dwelling house" under P. L. 1976, c. 72 in order to extend homestead rebates to residential property consisting of not more than five units instead of four units as presently provided by law.

ASSEMBLY, NO. 3358

This bill would give the New Jersey Superior Court discretion to postpone the foreclosure of mortgages on residential property owned and occupied by jobless homeowners.

As a condition of the stay, the court would direct the homeowner to seek an emergency loan from the New Jersey Mortgage Finance Agency under a program created by accompanying legislation.

If the homeowner failed to qualify for the emergency assistance, the court would then have to lift the stay and permit the mortgage to go to foreclosure.

Under the terms of the bill, the court's authority to stay writs of execution on behalf of unemployed homeowners would expire on December 31, 1986.

Association of Municipal Assessors of New Jersey

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