

STATE OF NEW YORK

8439

2021-2022 Regular Sessions

IN ASSEMBLY

November 17, 2021

Introduced by M. of A. BRABENEC -- read once and referred to the Committee on Aging

AN ACT to amend the real property tax law, in relation to establishing a real property tax exemption for certain persons sixty years of age and over

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The real property tax law is amended by adding a new
2 section 461 to read as follows:

3 § 461. Persons sixty years of age and over. 1. (a) Real property owned
4 by one or more persons, each of whom is sixty years of age or over, or
5 real property owned by husband and wife, one of whom is sixty years of
6 age or over with an annual household income not exceeding one hundred
7 thousand dollars, shall be exempt from taxation by any municipal corpo-
8 ration in which located to the extent provided pursuant to paragraph (b)
9 of this subdivision.

10 (b) The exemption provided by this section shall be one hundred
11 percent of the assessed valuation for assessment rolls prepared on the
12 basis of taxable status dates occurring during the year two thousand
13 twenty-one and thereafter.

14 (c) The real property tax exemption on real property owned by husband
15 and wife, one of whom is sixty years of age or over, once granted, shall
16 not be rescinded by any municipal corporation solely because of the
17 death of the older spouse so long as the surviving spouse is at least
18 sixty years of age.

19 2. Exemption from taxation for school purposes shall not be granted
20 in the case of real property where a child resides if such child attends
21 a public school of elementary or secondary education.

22 3. No exemption shall be granted:

23 (a) unless the owner shall have held an exemption under this section
24 for his or her previous residence or unless the title of the property

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 shall have been vested in the owner or one of the owners of the property
2 for at least twelve consecutive months prior to the date of making
3 application for exemption, provided, however, that in the event of the
4 death of either a husband or wife in whose name title of the property
5 shall have been vested at the time of death and then becomes vested
6 solely in the survivor by virtue of devise by or descent from the
7 deceased husband or wife, the time of ownership of the property by the
8 deceased husband or wife shall be deemed also a time of ownership by the
9 survivor and such ownership shall be deemed continuous for the purposes
10 of computing such period of twelve consecutive months. In the event of a
11 transfer by either a husband or wife to the other spouse of all or part
12 of the title to the property, the time of ownership of the property by
13 the transferor spouse shall be deemed also a time of ownership by the
14 transferee spouse and such ownership shall be deemed continuous for the
15 purposes of computing such period of twelve consecutive months. Where
16 property of the owner or owners has been acquired to replace property
17 formerly owned by such owner or owners and taken by eminent domain or
18 other involuntary proceeding, except a tax sale, the period of ownership
19 of the former property shall be combined with the period of ownership of
20 the property for which application is made for exemption and such peri-
21 ods of ownership shall be deemed to be consecutive for purposes of this
22 section. Where a residence is sold and replaced with another within one
23 year and both residences are within the state, the period of ownership
24 of both properties shall be deemed consecutive for purposes of the
25 exemption from taxation by a municipality. Where the owner or owners
26 transfer title to property which as of the date of transfer was exempt
27 from taxation under the provisions of this section, the reacquisition of
28 title by such owner or owners within nine months of the date of transfer
29 shall be deemed to satisfy the requirement of this paragraph that the
30 title of the property shall have been vested in the owner or one of the
31 owners for such period of twelve consecutive months. Where, upon or
32 subsequent to the death of an owner or owners, title to property which
33 as of the date of such death was exempt from taxation under such
34 provisions, becomes vested, by virtue of devise or descent from the
35 deceased owner or owners, or by transfer by any other means within nine
36 months after such death, solely in a person or persons who, at the time
37 of such death, maintained such property as a primary residence, the
38 requirement of this paragraph that the title of the property shall have
39 been vested in the owner or one of the owners for such period of twelve
40 consecutive months shall be deemed satisfied;

41 (b) unless the property is used exclusively for residential purposes,
42 provided, however, that in the event any portion of such property is not
43 so used exclusively for residential purposes but is used for other
44 purposes, such portion shall be subject to taxation and the remaining
45 portion only shall be entitled to the exemption provided by this
46 section;

47 (c) unless the real property is the legal residence of and is occupied
48 in whole or in part by the owner or by all of the owners of the proper-
49 ty: except where, (i) an owner is absent from the residence while
50 receiving health-related care as an inpatient of a residential health
51 care facility, as defined in section twenty-eight hundred one of the
52 public health law, provided that any income accruing to that person
53 shall only be income only to the extent that it exceeds the amount paid
54 by such owner, spouse, or co-owner for care in the facility, and
55 provided further, that during such confinement such property is not
56 occupied by other than the spouse or co-owner of such owner; or, (ii)

1 the real property is owned by a husband and/or wife, or an ex-husband
2 and/or an ex-wife, and either is absent from the residence due to
3 divorce, legal separation or abandonment and all other provisions of
4 this section are met provided that where an exemption was previously
5 granted when both resided on the property, then the person remaining on
6 the real property shall be seventy years of age or over.

7 4. (a) For the purposes of this section, title to that portion of real
8 property owned by a cooperative apartment corporation in which a
9 tenant-stockholder of such corporation resides and which is represented
10 by his share or shares of stock in such corporation as determined by its
11 or their proportional relationship to the total outstanding stock of the
12 corporation, including that owned by the corporation, shall be deemed to
13 be vested in such tenant-stockholder.

14 (b) That proportion of the assessment of such real property owned by a
15 cooperative apartment corporation determined by the relationship of such
16 real property vested in such tenant-stockholder to such entire parcel
17 and the buildings thereon owned by such cooperative apartment corpo-
18 ration in which such tenant-stockholder resides shall be subject to
19 exemption from taxation pursuant to this section and any exemption so
20 granted shall be credited by the appropriate taxing authority against
21 the assessed valuation of such real property; the reduction in real
22 property taxes realized thereby shall be credited by the cooperative
23 apartment corporation against the amount of such taxes otherwise payable
24 by or chargeable to such tenant-stockholder.

25 5. Every municipal corporation in which such real property is located
26 shall notify, or cause to be notified, each person owning residential
27 real property in such municipal corporation of the provisions of this
28 section. The provisions of this subdivision may be met by a notice or
29 legend sent on or with each tax bill to such persons reading "You may be
30 eligible for tax exemptions for persons sixty years of age and over.
31 Such persons have until month....., day....., year....., to
32 apply for such exemptions. For information please call or write....",
33 followed by the name, telephone number and/or address of a person or
34 department selected by the municipal corporation to explain the
35 provisions of this section. Each cooperative apartment corporation shall
36 notify each tenant-stockholder thereof in residence of such provisions
37 as set forth in this subdivision. Failure to notify, or cause to be
38 notified any person who is in fact, eligible to receive the exemption
39 provided by this section or the failure of such person to receive the
40 same shall not prevent the levy, collection and enforcement of the
41 payment of the taxes on property owned by such person.

42 6. Application for such exemption shall be made by the owner, or all
43 of the owners of the property, on forms prescribed by the commission to
44 be furnished by the appropriate assessing authority and shall furnish
45 the information and be executed in the manner required or prescribed in
46 such forms, and shall be filed in such assessor's office on or before
47 the appropriate taxable status date. Notwithstanding any other provision
48 of law, any person otherwise qualifying under this section shall not be
49 denied the exemption under this section if he or she becomes sixty years
50 of age after the appropriate taxable status date and on or before Decem-
51 ber thirty-first of the same year.

52 7. An application for such exemption may be filed with the assessor
53 after the appropriate taxable status date but not later than the last
54 date on which a petition with respect to complaints of assessment may be
55 filed, where failure to file a timely application resulted from: (a) a
56 death of the applicant's spouse, child, parent, brother or sister; or

1 (b) an illness of the applicant or of the applicant's spouse, child,
2 parent, brother or sister, which actually prevents the applicant from
3 filing on a timely basis, as certified by a licensed physician. The
4 assessor shall approve or deny such application as if it had been filed
5 on or before the taxable status date.

6 8. Notwithstanding the provisions of this section or any other
7 provision of law, a county with an annual taxable status date of January
8 first or January second and with a population of one million or more,
9 may, at its option and by amendment or adoption of a local law or ordi-
10 nance, authorize its assessor to accept applications for the exemption
11 from real property taxes authorized pursuant to this section on a date
12 later than such county's statutory deadline date for receiving applica-
13 tions for such exemption. Any application filed later than such statuto-
14 ry deadline date which is in compliance with such local law or ordinance
15 amended or adopted pursuant to this subdivision and which meets all
16 other necessary requirements for granting the exemption authorized by
17 this section shall be deemed to have been timely filed prior to such
18 statutory deadline date, and any individual or individuals for whom such
19 an application has been filed shall be granted such exemption and shall
20 receive such exemption on the assessment rolls prepared for such county
21 on the basis of the taxable status date immediately preceding the date
22 such application was filed.

23 9. Notwithstanding the provisions of this section or any other
24 provision of law, in a city having a population of one million or more,
25 applications for the exemption authorized pursuant to this section shall
26 be considered timely filed if they are filed on or before the fifteenth
27 day of March of the appropriate year.

28 10. (a) The exemption granted pursuant to this section shall remain in
29 effect until discontinued in the manner provided in this section.

30 (b) The assessor shall discontinue any exemption granted pursuant to
31 this section if it appears that: (i) the property may not be the primary
32 residence of the owner or owners who applied for the exemption, (ii)
33 title to the property has been transferred to a new owner or owners,
34 (iii) the owners fail to satisfy the income limitations, or (iv) the
35 property otherwise may no longer be eligible for the exemption.

36 (c) Upon determining that an exemption granted pursuant to this
37 section should be discontinued, the assessor shall mail a notice so
38 stating to the owner or owners thereof at the time and in the manner
39 provided by section five hundred ten of this chapter. Such owner or
40 owners shall be entitled to seek administrative and judicial review of
41 such action in the manner provided by law, provided, that the burden
42 shall be on such owner or owners to establish eligibility for the
43 exemption.

44 11. Any conviction of having made any wilful false statement in the
45 application for such exemption, shall be punishable by a fine of not
46 more than one hundred dollars and shall disqualify the applicant or
47 applicants from further exemption for a period of five years.

48 12. Notwithstanding any other provision of law to the contrary, the
49 provisions of this section shall apply to real property in which a
50 person or persons hold a legal life estate or which is held in trust
51 solely for the benefit of a person or persons if such person or persons
52 would otherwise be eligible for a real property tax exemption, pursuant
53 to subdivision one of this section, were such person or persons the
54 owner or owners of such real property.

55 § 2. The state shall reimburse municipalities for all revenue lost as
56 a result of real property tax exemptions granted pursuant to section 461

1 of the real property tax law as added by this act. The comptroller shall
2 provide an application procedure and promulgate rules and regulations
3 for the processing of claims by municipalities.
4 § 3. This act shall take effect immediately.