STATE OF NEW YORK

2864

2021-2022 Regular Sessions

IN SENATE

January 26, 2021

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

AN ACT to amend the real property tax law, in relation to increasing the combined household income limit for eligibility for a senior citizen rent increase exemption (SCRIE), disability rent increase exemption (DRIE), senior citizen homeowners' exemption (SCHE), and disabled homeowners' exemption (DHE) on the basis of the consumer price index; and in relation to local laws, ordinances or resolutions providing for the abatement of taxes in a city with a population of one million or more persons

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

Section 1. Paragraph a of subdivision 1 and paragraphs a and b of subdivision 3 of section 467-b of the real property tax law, paragraph a of subdivision 1 as amended by chapter 576 of the laws of 1974, paragraph a of subdivision 3 as amended by section 1 of part U of chapter 55 of the laws of 2014 and paragraph b of subdivision 3 as amended by section 1 of chapter 129 of the laws of 2014, are amended to read as follows:

a. "Dwelling unit" means that part of a dwelling in which a head of the household resides and which is subject to either the emergency housing rent control law or to the rent and rehabilitation law of the city of New York enacted pursuant to the local emergency housing rent control law, or to the emergency tenant protection act of nineteen seventy-four *or is a dwelling unit contained in real property described in subdivision fourteen of this section*;

a. for a dwelling unit where the head of the household is a person sixty-two years of age or older, no tax abatement shall be granted if the combined income of all members of the household for the income tax year immediately preceding the date of making application exceeds four thousand dollars, or such other sum not more than twenty-five thousand

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

dollars beginning July first, two thousand five, twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, twenty-nine thousand dollars beginning July first, two thousand nine, and fifty thousand dollars beginning July first, two thousand fourteen, as may be provided by the local law, ordinance or resolution adopted pursuant to this section, provided that when the head of the household retires before the commencement of such income tax year and the date of filing the application, the income for such year may be adjusted by excluding salary or earnings and projecting his or her retirement income over the entire period of such year. **The maximum income threshold provided for herein shall be increased by order of the commissioner of the state division of housing and community renewal on January first of each year to reflect any increase in the regional consumer price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U) during the preceding twelve month period.**

b. for a dwelling unit where the head of the household qualifies as a person with a disability pursuant to subdivision five of this section, no tax abatement shall be granted if the combined income for all members of the household for the current income tax year exceeds fifty thousand dollars beginning July first, two thousand fourteen, as may be provided by the local law, ordinance or resolution adopted pursuant to this section. **The maximum income threshold provided for herein shall be increased by order of the commissioner of the state division of housing and community renewal on January first of each year to reflect any increase in the regional consumer price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U) during the preceding twelve month period.**

§ 1-a. Section 467-b of the real property tax law is amended by adding a new subdivision 14 to read as follows:

14. In a city with a population of one million or more, any such local law, ordinance or resolution may provide for the abatement of taxes of such city imposed on:

(a) real property originally organized pursuant to article two of the private housing finance law containing dwelling units in which the qualifying head of household or their qualifying successor in interest: (i) has a signed agreement with the landlord to limit increases in maximum rent to an amount based on what is ordered by the rent guidelines board for the lifetime of the tenancy, which amount may be less than, equal to, or greater than the amount so ordered by the rent guidelines board, and (ii) is otherwise eligible for the tax abatement provided in this section, regardless of whether such real property is still subject to the regulations of said article; or

(b) real property containing dwelling units in which the qualifying head of household or their qualifying successor in interest: (i) has a signed agreement with the landlord to limit increases in maximum rent to an amount equal to or less than those ordered by the rent guidelines board for the lifetime of the tenancy, and (ii) is otherwise eligible for the tax abatement provided in this section;

(c) provided, however, that the application for any abatement pursuant to this subdivision shall be subject to the approval of the New York city department of housing preservation and development, in such department's discretion.

§ 2. Paragraphs b, d and m of subdivision 1 of section 467-c of the real property tax law, paragraph b as amended by chapter 420 of the laws of 1991, paragraph d as separately amended by chapters 188 and 205 of the laws of 2005, subparagraph 1 of paragraph d as amended by section 2 of part U of chapter 55 of the laws of 2014 and paragraph m as amended by chapter 129 of the laws of 2014, are amended to read as follows:

b. "Dwelling unit" means that part of a dwelling in which an eligible head of the household resides and which is subject to the provisions of either Article II, IV, V, or XI of the private housing finance law; or that part of a dwelling which was or continues to be subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the National Housing Act, as amended, in which an eligible head of the household resides **or is a unit in a housing development described in subdivision thirteen of this section**.

d. "Eligible head of the household" means (1) a person or his or her spouse who is sixty-two years of age or older and is entitled to the possession or to the use and occupancy of a dwelling unit, provided, however, with respect to a dwelling which was subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the National Housing Act, as amended "eligible head of the household" shall be limited to that person or his or her spouse who was entitled to possession or the use and occupancy of such dwelling unit at the time of termination of such mortgage, and whose income when combined with the income of all other members of the household, does not exceed six thousand five hundred dollars for the taxable period, or such other sum not less than sixty-five hundred dollars nor more than twenty-five thousand dollars beginning July first, two thousand five, twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, twenty-nine thousand dollars beginning July first, two thousand nine, and fifty thousand dollars beginning July first, two thousand fourteen, as may be provided by local law; or (2) a person with a disability as defined in this subdivision. **The maximum income threshold provided for herein shall be increased by order of the commissioner of the state division of housing and community renewal on January first of each year to reflect any increase in the regional consumer price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U) during the preceding twelve month period.**

m. "Person with a disability" means an individual who is currently receiving social security disability insurance (SSDI) or supplemental security income (SSI) benefits under the federal social security act or disability pension or disability compensation benefits provided by the United States department of veterans affairs or those previously eligible by virtue of receiving disability benefits under the supplemental security income program or the social security disability program and currently receiving medical assistance benefits based on determination of disability as provided in section three hundred sixty-six of the social services law and whose income for the current income tax year, together with the income of all members of such individual's household, does not exceed fifty thousand dollars beginning July first, two thousand fourteen, as may be provided by local law. **The maximum income threshold provided for herein shall be increased by order of the commissioner of the state division of housing and community renewal on January first of each year to reflect any increase in the regional consumer price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the**

index for all urban consumers (CPI-U) during the preceding twelve month period.

§ 2-a. Section 467-c of the real property tax law is amended by adding a new subdivision 13 to read as follows:

13. In a city with a population of one million or more, any such local law, ordinance or resolution may provide for the abatement of taxes of such city imposed on:

(a) real property originally organized pursuant to article two of the private housing finance law containing dwelling units in which the qualifying head of household or their qualifying successor in interest: (i) has a signed agreement with the landlord to limit increases in maximum rent to an amount based on what is ordered by the rent guidelines board for the lifetime of the tenancy, which amount may be less than, equal to, or greater than the amount so ordered by the rent guidelines board, and (ii) is otherwise eligible for the tax abatement provided in this section, regardless of whether such real property is still subject to the regulations of said article; or

(b) real property containing dwelling units in which the qualifying head of household or their qualifying successor in interest: (i) has a signed agreement with the landlord to limit increases in maximum rent to an amount equal to or less then those ordered by the rent guidelines board for the lifetime of the tenancy, and (ii) is otherwise eligible for the tax abatement provided in this section;

(c) provided, however, that the application for any abatement pursuant to this subdivision shall be subject to the approval of the New York city department of housing preservation and development, in such department's discretion.

§ 3. Paragraph (a) of subdivision 3 of section 467 of the real property tax law, as separately amended by chapters 131 and 279 of the laws of 2017, is amended to read as follows:

(a) if the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of three thousand dollars, or such other sum not less than three thousand dollars nor more than twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, twenty-nine thousand dollars beginning July first, two thousand nine, and in a city with a population of one million or more fifty thousand dollars beginning July first, two thousand seventeen, as may be provided by the local law, ordinance or resolution adopted pursuant to this section. **The maximum income threshold provided for herein shall be increased by order of the commissioner on January first of each year to reflect any increase in the regional consumer price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U) during the preceding twelve month period.** Income tax year shall mean the twelve month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife, or ex-husband or ex-wife is absent from the property as provided in subparagraph (ii) of paragraph (d) of this subdivision, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286 or monies earned through employment in the federal foster grandparent program and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance, if the governing board of a municipality, after a public hearing, adopts a local law, ordinance or resolution providing therefor. In addition, an exchange of an annuity for an annuity contract, which resulted in non-taxable gain, as determined in section one thousand thirty-five of the internal revenue code, shall be excluded from such income. Provided that such exclusion shall be based on satisfactory proof that such an exchange was solely an exchange of an annuity for an annuity contract that resulted in a non-taxable transfer determined by such section of the internal revenue code. Furthermore, such income shall not include the proceeds of a reverse mortgage, as authorized by section six-h of the banking law, and sections two hundred eighty and two hundred eighty-a of the real property law; provided, however, that monies used to repay a reverse mortgage may not be deducted from income, and provided additionally that any interest or dividends realized from the investment of reverse mortgage proceeds shall be considered income. The provisions of this paragraph notwithstanding, such income shall not include veterans disability compensation, as defined in Title 38 of the United States Code provided the governing board of such municipality, after public hearing, adopts a local law, ordinance or resolution providing therefor. In computing net rental income and net income from self-employment no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income;

§ 4. Paragraph (a) of subdivision 5 of section 459-c of the real property tax law, as amended by chapter 131 of the laws of 2017, is amended to read as follows:

(a) if the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of three thousand dollars, or such other sum not less than three thousand dollars nor more than twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, twenty-nine thousand dollars beginning July first, two thousand nine, and in a city with a population of one million or more fifty thousand dollars beginning July first, two thousand seventeen, as may be provided by the local law or resolution adopted pursuant to this section. **The maximum income threshold provided for herein shall be increased by order of the commissioner on January first of each year to reflect any increase in the regional consumer price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U) during the preceding twelve month period.** Income tax year shall mean the twelve month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife, or ex-husband or ex-wife is absent from the property due to divorce, legal separation or abandonment, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances or monies earned through employment in the federal foster grandparent program and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance, if the governing board of a municipality, after a public hearing, adopts a local law or resolution providing therefor. In computing net rental income and net income from self-employment no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income;

§ 5. This act shall take effect immediately; provided that:

(a) the amendments to paragraph a of subdivision 3 of section 467-b of the real property tax law made by section one of this act shall not affect the expiration of such paragraph pursuant to section 4 of part U of chapter 55 of the laws of 2014, as amended, and shall be deemed to expire therewith;

(b) the amendments to paragraph b of subdivision 3 of section 467-b of the real property tax law made by section one of this act shall not affect the expiration of such paragraph pursuant to section 4 of chapter 129 of the laws of 2014, as amended, and shall be deemed to expire therewith;

(c) the amendments to subparagraph 1 of paragraph d of subdivision 1 of section 467-c of the real property tax law made by section two of this act shall not affect the expiration of such subparagraph pursuant to section 4 of part U of chapter 55 of the laws of 2014, as amended, and shall be deemed expired therewith; and

(d) the amendments to paragraph m of subdivision 1 of section 467-c of the real property tax law made by section two of this act shall not affect the expiration of such paragraph pursuant to section 4 of chapter 129 of the laws of 2014, as amended, and shall be deemed expired therewith.