

STATE OF NEW YORK

2864--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. Paragraph a of subdivision 1 and paragraphs a and b of
2 subdivision 3 of section 467-b of the real property tax law, paragraph a
3 of subdivision 1 as amended by chapter 576 of the laws of 1974, para-
4 graph a of subdivision 3 as amended by section 1 of part U of chapter 55
5 of the laws of 2014 and paragraph b of subdivision 3 as amended by
6 section 1 of chapter 129 of the laws of 2014, are amended to read as
7 follows:
8 a. "Dwelling unit" means that part of a dwelling in which a head of
9 the household resides and which is subject to either the emergency hous-
10 ing rent control law or to the rent and rehabilitation law of the city
11 of New York enacted pursuant to the local emergency housing rent control
12 law, or to the emergency tenant protection act of nineteen seventy-four
13 or is a dwelling unit contained in real property described in subdivi-
14 sion fourteen of this section;
15 a. for a dwelling unit where the head of the household is a person
16 sixty-two years of age or older, no tax abatement shall be granted if
17 the combined income of all members of the household for the income tax

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

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1 year immediately preceding the date of making application exceeds four
2 thousand dollars, or such other sum not more than twenty-five thousand
3 dollars beginning July first, two thousand five, twenty-six thousand
4 dollars beginning July first, two thousand six, twenty-seven thousand
5 dollars beginning July first, two thousand seven, twenty-eight thousand
6 dollars beginning July first, two thousand eight, twenty-nine thousand
7 dollars beginning July first, two thousand nine, and fifty thousand
8 dollars beginning July first, two thousand fourteen, as may be provided
9 by the local law, ordinance or resolution adopted pursuant to this
10 section, provided that when the head of the household retires before the
11 commencement of such income tax year and the date of filing the applica-
12 tion, the income for such year may be adjusted by excluding salary or
13 earnings and projecting his or her retirement income over the entire
14 period of such year. The maximum income threshold provided for herein
15 shall be increased by order of the commissioner of the state division of
16 housing and community renewal on January first of each year to reflect
17 any increase in the regional consumer price index for the N.Y.,
18 N.Y.-Northeastern, N.J. area, based upon the index for all urban consum-
19 ers (CPI-U) during the preceding twelve month period.

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

32 § 1-a. Section 467-b of the real property tax law is amended by adding
33 a new subdivision 14 to read as follows:

34 14. In a city with a population of one million or more, any such local
35 law, ordinance or resolution may provide for the abatement of taxes of
36 such city imposed on real property originally organized pursuant to
37 article two of the private housing finance law containing dwelling units
38 in which the qualifying head of household or their qualifying successor
39 in interest: (a) has a signed agreement with the landlord to limit
40 increases in maximum rent for the lifetime of the tenancy to the amount
41 established by the rent guidelines board in its annual guidelines for
42 rent adjustments for housing accommodations subject to the emergency
43 tenant protection act of nineteen seventy-four or the administrative
44 code of the city of New York or to a greater amount provided for in a
45 regulatory agreement approved by the New York city department of housing
46 preservation and development, and (b) is otherwise eligible for the tax
47 abatement provided in this section, regardless of whether such real
48 property is still subject to the regulations of said article; provided,
49 however, that the application for any abatement pursuant to this subdi-
50 vision shall be subject to the approval of the New York city department
51 of housing preservation and development, or the approval of another
52 department designated by the mayor of the city of New York, in such
53 department's discretion.

54 § 2. Paragraphs b, d and m of subdivision 1 of section 467-c of the
55 real property tax law, paragraph b as amended by chapter 420 of the laws
56 of 1991, paragraph d as separately amended by chapters 188 and 205 of

1 the laws of 2005, subparagraph 1 of paragraph d as amended by section 2
2 of part U of chapter 55 of the laws of 2014 and paragraph m as amended
3 by chapter 129 of the laws of 2014, are amended to read as follows:

4 b. "Dwelling unit" means that part of a dwelling in which an eligible
5 head of the household resides and which is subject to the provisions of
6 either Article II, IV, V, or XI of the private housing finance law; or
7 that part of a dwelling which was or continues to be subject to a mort-
8 gage insured or initially insured by the federal government pursuant to
9 section two hundred thirteen of the National Housing Act, as amended, in
10 which an eligible head of the household resides or is a unit in a hous-
11 ing development described in subdivision thirteen of this section.

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

38 m. "Person with a disability" means an individual who is currently
39 receiving social security disability insurance (SSDI) or supplemental
40 security income (SSI) benefits under the federal social security act or
41 disability pension or disability compensation benefits provided by the
42 United States department of veterans affairs or those previously eligi-
43 ble by virtue of receiving disability benefits under the supplemental
44 security income program or the social security disability program and
45 currently receiving medical assistance benefits based on determination
46 of disability as provided in section three hundred sixty-six of the
47 social services law and whose income for the current income tax year,
48 together with the income of all members of such individual's household,
49 does not exceed fifty thousand dollars beginning July first, two thou-
50 sand fourteen, as may be provided by local law. The maximum income
51 threshold provided for herein shall be increased by order of the commis-
52 sioner of the state division of housing and community renewal on January
53 first of each year to reflect any increase in the regional consumer
54 price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the
55 index for all urban consumers (CPI-U) during the preceding twelve month
56 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 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: (a) has a signed agreement with the landlord to limit increases in maximum rent for the lifetime of the tenancy to an amount established by the rent guidelines board in its annual guidelines for rent adjustments for housing accommodations subject to the emergency tenant protection act of nineteen seventy-four or the administrative code of the city of New York or to a greater amount provided for in a regulatory agreement approved by the New York city department of housing preservation and development, and (b) 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; 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, or the approval of another department designated by the mayor of the city of New York, 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

1 monies earned through employment in the federal foster grandparent
2 program and any such income shall be offset by all medical and
3 prescription drug expenses actually paid which were not reimbursed or
4 paid for by insurance, if the governing board of a municipality, after a
5 public hearing, adopts a local law, ordinance or resolution providing
6 therefor. In addition, an exchange of an annuity for an annuity
7 contract, which resulted in non-taxable gain, as determined in section
8 one thousand thirty-five of the internal revenue code, shall be excluded
9 from such income. Provided that such exclusion shall be based on satis-
10 factory proof that such an exchange was solely an exchange of an annuity
11 for an annuity contract that resulted in a non-taxable transfer deter-
12 mined by such section of the internal revenue code. Furthermore, such
13 income shall not include the proceeds of a reverse mortgage, as author-
14 ized by section six-h of the banking law, and sections two hundred
15 eighty and two hundred eighty-a of the real property law; provided,
16 however, that monies used to repay a reverse mortgage may not be
17 deducted from income, and provided additionally that any interest or
18 dividends realized from the investment of reverse mortgage proceeds
19 shall be considered income. The provisions of this paragraph notwith-
20 standing, such income shall not include veterans disability compen-
21 sation, as defined in Title 38 of the United States Code provided the
22 governing board of such municipality, after public hearing, adopts a
23 local law, ordinance or resolution providing therefor. In computing net
24 rental income and net income from self-employment no depreciation
25 deduction shall be allowed for the exhaustion, wear and tear of real or
26 personal property held for the production of income;

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

30 (a) if the income of the owner or the combined income of the owners of
31 the property for the income tax year immediately preceding the date of
32 making application for exemption exceeds the sum of three thousand
33 dollars, or such other sum not less than three thousand dollars nor more
34 than twenty-six thousand dollars beginning July first, two thousand six,
35 twenty-seven thousand dollars beginning July first, two thousand seven,
36 twenty-eight thousand dollars beginning July first, two thousand eight,
37 twenty-nine thousand dollars beginning July first, two thousand nine,
38 and in a city with a population of one million or more fifty thousand
39 dollars beginning July first, two thousand seventeen, as may be provided
40 by the local law or resolution adopted pursuant to this section. The
41 maximum income threshold provided for herein shall be increased by order
42 of the commissioner on January first of each year to reflect any
43 increase in the regional consumer price index for the N.Y.,
44 N.Y.-Northeastern, N.J. area, based upon the index for all urban consum-
45 ers (CPI-U) during the preceding twelve month period. Income tax year
46 shall mean the twelve month period for which the owner or owners filed a
47 federal personal income tax return, or if no such return is filed, the
48 calendar year. Where title is vested in either the husband or the wife,
49 their combined income may not exceed such sum, except where the husband
50 or wife, or ex-husband or ex-wife is absent from the property due to
51 divorce, legal separation or abandonment, then only the income of the
52 spouse or ex-spouse residing on the property shall be considered and may
53 not exceed such sum. Such income shall include social security and
54 retirement benefits, interest, dividends, total gain from the sale or
55 exchange of a capital asset which may be offset by a loss from the sale
56 or exchange of a capital asset in the same income tax year, net rental

1 income, salary or earnings, and net income from self-employment, but
2 shall not include a return of capital, gifts, inheritances or monies
3 earned through employment in the federal foster grandparent program and
4 any such income shall be offset by all medical and prescription drug
5 expenses actually paid which were not reimbursed or paid for by insur-
6 ance, if the governing board of a municipality, after a public hearing,
7 adopts a local law or resolution providing therefor. In computing net
8 rental income and net income from self-employment no depreciation
9 deduction shall be allowed for the exhaustion, wear and tear of real or
10 personal property held for the production of income;

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

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

17 (b) the amendments to paragraph b of subdivision 3 of section 467-b of
18 the real property tax law made by section one of this act shall not
19 affect the expiration of such paragraph pursuant to section 4 of chapter
20 129 of the laws of 2014, as amended, and shall be deemed to expire ther-
21 ewith;

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

27 (d) the amendments to paragraph m of subdivision 1 of section 467-c of
28 the real property tax law made by section two of this act shall not
29 affect the expiration of such paragraph pursuant to section 4 of chapter
30 129 of the laws of 2014, as amended, and shall be deemed expired there-
31 with.