S T A T E O F N E W Y O R K

4031

2009-2010 Regular Sessions

I N A S S E M B L Y

January 29, 2009

Introduced by M. of A. THIELE, BURLING, CROUCH, ERRIGO, GIGLIO, KOLB, MILLER, WALKER, RAIA, TOWNSEND -- Multi-Sponsored by -- M. of A. BACALLES, CONTE, SPANO -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to limiting real property assessment increases on primary residences only and to provide for senior tax deferral; to amend the tax law, in relation to establishing a personal income tax credit for a cap on real property tax based off of a household's gross income; and to amend the education law, in relation to authorizing a school district to impose a cap on taxes

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The real property tax law is amended by adding a new section 307-b to read as follows:

S 307-B. LIMITATION ON INCREASES OF ASSESSED VALUE OF PRIMARY RESIDENCES ONLY REAL PROPERTY SUBJECT TO TAXATION. 1. NOTWITHSTANDING ANY PROVISION OF ANY GENERAL, SPECIAL OR LOCAL LAW TO THE CONTRARY, THE ASSESSOR FOR A MUNICIPAL CORPORATION SHALL NOT INCREASE THE ASSESSMENT OF ANY PRIMARY RESIDENCES ONLY TAXABLE REAL PROPERTY AS DEFINED PURSUANT TO SECTION THREE HUNDRED OF THIS TITLE, AS MEASURED FROM THE FULL VALUATION ASSESSMENT OF SUCH REAL PROPERTY ON DECEMBER THIRTY-FIRST, TWO THOUSAND NINE, UNLESS THE PROPERTY IS SOLD, TRANSFERRED OR RENOVATED, OR TO CORRECT AN ERROR. THREE YEARS FROM THE EFFECTIVE DATE OF THIS SECTION AND ONCE EVERY THREE YEARS THEREAFTER, A MUNICIPAL CORPORATION SHALL BE ALLOWED TO INCREASE THE ASSESSMENT OF TAXABLE REAL PROPERTY BY THE PERCENTAGE INCREASE IN THE CONSUMER PRICE INDEX OR FIVE PERCENT WHICHEVER IS LESS, BUT NOT MORE THAN THE ACTUAL INCREASE IN VALUE.

2. WHEN A PERSON SELLS OR TRANSFERS HIS OR HER PRIMARY RESIDENCE WITHIN THIS STATE AND WITHIN ONE YEAR ESTABLISHES IN THE SAME ASSESSING UNIT ANOTHER PROPERTY AS HIS OR HER NEW PRIMARY RESIDENCE, THE NEWLY ESTAB-

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

LBD05122-01-9

LISHED PRIMARY RESIDENCE SHALL BE INITIALLY ASSESSED AT LESS THAN FAIR MARKET VALUE. THE DIFFERENCE BETWEEN THE NEW PRIMARY RESIDENCE'S FAIR MARKET VALUE AND ITS ASSESSED VALUE IN THE FIRST YEAR THE HOMESTEAD IS ESTABLISHED SHALL BE THE DIFFERENCE BETWEEN THE PREVIOUS PRIMARY RESIDENCE'S FAIR MARKET VALUE AND ITS ASSESSED VALUE IN THE YEAR OF SALE. IN ADDITION, TO BE ASSESSED AS PROVIDED IN THIS SUBDIVISION, THE ASSESSED VALUE OF THE NEW PRIMARY RESIDENCE SHALL BE EQUAL TO OR EXCEED THE ASSESSED VALUE OF THE PREVIOUS PRIMARY RESIDENCE. THEREAFTER, THE PRIMARY RESIDENCE SHALL BE ASSESSED AS PROVIDED IN THIS SECTION.

S 2. Section 606 of the tax law is amended by adding a new subsection (qq) to read as follows:

(QQ) CAP ON REAL PROPERTY TAX. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBSECTION, AGAINST THE TAX IMPOSED BY THIS ARTICLE. A CAP ON REAL PROPERTY TAX SHALL BE ESTABLISHED BASED ON A HOUSEHOLD'S GROSS INCOME AND INDEXED TO THE CONSUMER PRICE INDEX.

(2) THE NET REAL PROPERTY TAX FOR ANY TAXABLE YEAR ON A PARCEL OF OWNER-OCCUPIED RESIDENTIAL REAL PROPERTY SHALL NOT EXCEED AN AMOUNT EQUAL TO THE FOLLOWING PERCENTAGE OF THE HOUSEHOLD GROSS INCOME:

HOUSEHOLD GROSS INCOME	CAP ON REAL PROPERTY TAX
$200,000 OR LESS	5% OF HOUSEHOLD GROSS INCOME

(3) A TAXPAYER SHALL FILE INCOME TAX RETURNS IN THE MANNER PRESCRIBED BY THIS ARTICLE. ANY AMOUNT PAID OVER THE REAL PROPERTY TAX CAP SHALL BE RETURNED TO THE TAXPAYER IN THE FORM OF A REFUNDABLE PERSONAL INCOME TAX CREDIT. SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX LAW SHALL NOT BE AFFECTED BY ANY PROVISION OF THIS SUBSECTION.

(4) THE PERSONAL INCOME TAX CREDIT PURSUANT TO THIS SECTION SHALL ONLY BE AVAILABLE TO NEW YORK STATE RESIDENTS FOR A PRIMARY RESIDENCE. SUCH CREDIT SHALL BE CLAIMED ON THE NEW YORK STATE RESIDENT INCOME TAX RETURN, FORM IT-201.

(5) FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) A "HOMEOWNER" SHALL MEAN ANY PERSON:

(I) WHO OCCUPIED THE SAME NEW YORK RESIDENCE FOR SIX MONTHS OR MORE;

(II) WHO PAID REAL PROPERTY TAXES ON SUCH PERSON'S RESIDENCE;

(III) WHO WAS A NEW YORK STATE RESIDENT FOR ALL OF THE TAX YEAR;

(IV) WHO COULD NOT BE CLAIMED AS A DEPENDENT ON ANOTHER TAXPAYER'S FEDERAL INCOME TAX RETURN;

(V) WHOSE RESIDENCE WAS NOT COMPLETELY EXEMPTED FROM REAL PROPERTY TAXES; AND

(VI) WHOSE PRIMARY RESIDENCE IS IN NEW YORK STATE.

(B) "MEMBERS OF A HOUSEHOLD" INCLUDE ALL WHO SHARE A RESIDENCE AND ITS FURNISHINGS, FACILITIES, AND ACCOMMODATIONS WHETHER SUCH PERSONS ARE RELATED OR NOT.

HOWEVER, TENANTS, SUBTENANTS, ROOMERS, OR BOARDERS ARE NOT MEMBERS OF A HOUSEHOLD UNLESS SUCH PERSONS ARE RELATED IN ONE OF THE FOLLOWING WAYS:

(I) A SON, DAUGHTER, OR A DESCENDENT OF EITHER; (II) A STEPSON OR STEPDAUGHTER; (III) A BROTHER, SISTER, STEPBROTHER, OR STEPSISTER; (IV) A FATHER, MOTHER, OR AN ANCESTOR OF EITHER; (V) A STEPFATHER OR STEPMOTHER; (VI) A NIECE OR NEPHEW; (VII) AN AUNT OR UNCLE; OR (VIII) A SON-IN-LAW, DAUGHTER-IN-LAW, FATHER-IN-LAW, MOTHER-IN-LAW, BROTHER-IN-LAW, OR SISTER-IN-LAW.

PROVIDED, FURTHER, THAT NO ONE CAN BE A MEMBER OF MORE THAN ONE HOUSEHOLD AT ONE TIME.

(C) "HOUSEHOLD GROSS INCOME" MEANS THE ANNUAL TOTAL OF THE FOLLOWING INCOME ITEMS THAT A HOMEOWNER AND ALL MEMBERS OF HIS OR HER HOUSEHOLD RECEIVED DURING THE TAX YEAR;

(I) FEDERAL ADJUSTED GROSS INCOME (EVEN IF SUCH PERSON DOES NOT HAVE TO FILE A FEDERAL RETURN);

(II) NEW YORK STATE ADDITIONS TO FEDERAL ADJUSTED GROSS INCOME. FOR A LIST OF THESE ADDITIONS, SEE PUBLICATION 22, GENERAL INFORMATION ON NEW YORK STATE'S REAL PROPERTY TAX CREDIT FOR HOMEOWNERS AND RENTERS, OR THE INSTRUCTIONS FOR FORM IT-201. FOR FORM IT-200 FILERS, THE NEW YORK STATE ADDITIONS TO FEDERAL ADJUSTED GROSS INCOME ARE SHOWN ON FORM IT-200, LINE 9, PUBLIC EMPLOYEE 414(H) RETIREMENT CONTRIBUTIONS AND LINE 10, IRC 125 AMOUNTS FROM THE NEW YORK CITY FLEXIBLE BENEFITS PROGRAM. FOR FORM IT-201 FILERS, THE NEW YORK STATE ADDITIONS TO FEDERAL ADJUSTED GROSS INCOME ARE SHOWN ON FORM IT-201, LINES 19 THROUGH 22;

(III) SUPPORT MONEY, INCLUDING FOSTER CARE SUPPORT PAYMENTS;

(IV) INCOME EARNED ABROAD EXEMPTED BY SECTION 911 OF THE INTERNAL REVENUE CODE;

(V) SUPPLEMENTAL SECURITY INCOME (SSI) PAYMENTS;

(VI) NONTAXABLE INTEREST RECEIVED FROM NEW YORK STATE, ITS AGENCIES, INSTRUMENTALITIES, PUBLIC CORPORATIONS, OR POLITICAL SUBDIVISIONS;

(VII) WORKERS' COMPENSATION;

(VIII) THE GROSS AMOUNT OF LOSS-OF-TIME INSURANCE. (FOR EXAMPLE, AN ACCIDENT OR HEALTH INSURANCE POLICY AND DISABILITY BENEFITS RECEIVED UNDER A NO-FAULT AUTOMOBILE POLICY, ETC.);

(IX) CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE NEEDY (FOR EXAMPLE, CASH GRANTS TO CLIENTS, EMERGENCY AID TO ADULTS, VALUE OF FOOD VOUCHERS RECEIVED BY CLIENTS, ETC.), EXCEPT AMOUNTS RECEIVED FROM THE HOME ENERGY ASSISTANCE PROGRAM (HEAP);

(X) NONTAXABLE STRIKE BENEFITS;

(XI) THE GROSS AMOUNT OF PENSIONS AND ANNUITIES, INCLUDING RAILROAD RETIREMENT BENEFITS;

(XII) ALL PAYMENTS RECEIVED UNDER THE SOCIAL SECURITY ACT AND VETERANS DISABILITY PENSIONS REDUCED BY ANY MEDICARE PREMIUMS DEDUCTED FROM YOUR BENEFIT REPORTED ON FEDERAL FORM SSA-1099, SOCIAL SECURITY BENEFIT STATEMENT.

HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE FOOD STAMPS, MEDICARE, MEDICAID, SCHOLARSHIPS, GRANTS, SURPLUS FOOD, OR OTHER RELIEF IN KIND. IT ALSO SHALL NOT INCLUDE PAYMENTS MADE TO VETERANS UNDER THE FEDERAL VETERANS' DIOXIN AND RADIATION EXPOSURE COMPENSATION STANDARDS ACT BECAUSE OF EXPOSURE TO HERBICIDES CONTAINING DIOXIN (AGENT ORANGE), OR PURSUANT TO CERTAIN AGENT ORANGE PRODUCT LIABILITY LITIGATION.

ALSO, HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE PAYMENTS MADE TO INDIVIDUALS BECAUSE OF THEIR STATUS AS VICTIMS OF NAZI PERSECUTION AS DEFINED IN FEDERAL PUBLIC LAW 103-286.

(D) A "RESIDENCE" MEANS A DWELLING THAT A PERSON OWNS THAT IS LOCATED IN NEW YORK STATE. FOR PURPOSES OF THIS SUBPARAGRAPH, EACH RESIDENCE WITHIN A MULTIPLE DWELLING UNIT MAY QUALIFY. A CONDOMINIUM OR A COOPERATIVE WITHIN A SINGLE DWELLING IS ALSO A RESIDENCE.

A TRAILER OR MOBILE HOME THAT IS USED ONLY FOR RESIDENTIAL PURPOSES IS ALSO A RESIDENCE IF THE TRAILER OR MOBILE HOME IS ASSESSED FOR REAL PROPERTY TAX PURPOSES.

(E) "REAL PROPERTY TAXES PAID" ARE:

(I) ALL CURRENT, PRIOR, AND PREPAID REAL PROPERTY TAXES, SPECIAL AD VALOREM LEVIES AND ASSESSMENTS LEVIED AND PAID UPON A RESIDENCE OWNED OR PREVIOUSLY OWNED BY A QUALIFIED TAXPAYER (OR SPOUSE, IF THE SPOUSE OCCUPIED THE RESIDENCE FOR AT LEAST SIX MONTHS) DURING THE TAX YEAR. SUCH

PERSON MAY ELECT TO INCLUDE REAL PROPERTY TAXES THAT ARE EXEMPTED FROM TAX UNDER SECTION FOUR HUNDRED SIXTY-SEVEN (FOR PERSONS SIXTY-FIVE AND OLDER) OF THE REAL PROPERTY TAX LAW (VETERANS' TAX EXEMPTION DOES NOT QUALIFY).

(II) REAL PROPERTY TAXES PAID ALSO INCLUDE ANY REAL ESTATE TAXES ALLOWED (OR WHICH WOULD BE ALLOWABLE IF THE TAXPAYER HAD FILED A RETURN ON A CASH BASIS) AS A DEDUCTION FOR TENANT-STOCKHOLDERS IN A COOPERATIVE HOUSING CORPORATION UNDER SECTION 216 OF THE INTERNAL REVENUE CODE.

(III) IF ANY PART OF A RESIDENCE WAS OWNED BY SOMEONE WHO WAS NOT A MEMBER OF A HOUSEHOLD, INCLUDE ONLY THE REAL PROPERTY TAXES PAID THAT APPLY TO THE PART SUCH PERSON AND OTHER QUALIFIED MEMBERS OF A HOUSEHOLD OWN.

IF A RESIDENCE WAS PART OF A LARGER UNIT, INCLUDE ONLY THE AMOUNT OF REAL PROPERTY TAXES PAID THAT CAN BE REASONABLY APPLIED TO SUCH PERSON'S RESIDENCE.

IF A HOMEOWNER OWNED AND OCCUPIED MORE THAN ONE RESIDENCE DURING THE TAX YEAR, ADD TOGETHER THE PRORATED PART OF REAL PROPERTY TAXES PAID FOR THE PERIOD YOU OCCUPIED EACH RESIDENCE.

S 3. Section 2022 of the education law is amended by adding a new subdivision 7 to read as follows:

7. A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, IN A COMMON, UNION FREE, CENTRAL, CENTRAL HIGH SCHOOL DISTRICT OR CITY SCHOOL DISTRICT TO WHICH THIS ARTICLE APPLIES, UPON THE FILING WITH THE TRUSTEES OR BOARD OF EDUCATION OF A PETITION PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION REQUESTING SUCH OFFICERS TO SUBMIT A PROPOSITION FOR THE PURPOSE OF IMPOSING A LIMITATION ON THE TAX RATE TO THE QUALIFIED VOTERS AT THE ANNUAL DISTRICT MEETING SIGNED BY TWENTY-FIVE PERCENT OF THE NUMBER OF QUALIFIED VOTERS WHO VOTED IN THE PREVIOUS ANNUAL DISTRICT MEETING, SAID NUMBER TO BE DETERMINED BY THE NUMBER OF PERSONS RECORDED ON THE POLL LIST AS HAVING VOTED AT SUCH DISTRICT MEETING, THE TRUSTEES OR BOARD OF EDUCATION SHALL SUBMIT SUCH PROPOSITION TO THE QUALIFIED VOTERS.

B. SUCH PETITION RELATING TO IMPOSITION OF A LIMITATION ON THE TAX RATE SHALL BE SUBMITTED AT LEAST THIRTY DAYS PRIOR TO THE ANNUAL DISTRICT MEETING AND SHALL SPECIFY THE PROPOSED MAXIMUM PERCENTAGE CHANGE IN THE ESTIMATED TAX RATE, AS DEFINED BY THE COMMISSIONER FROM THE ACTUAL TAX RATE THAT RESULTED FROM THE LEVYING OF SCHOOL TAXES IN THE PRIOR SCHOOL YEAR THAT THE TRUSTEES OR BOARD OF EDUCATION MUST APPLY IN DEVELOPING OR ADOPTING A BUDGET FOR THE SCHOOL YEAR COMMENCING WITH THE BUDGET TO BE SUBMITTED AT THE NEXT ANNUAL DISTRICT MEETING FOLLOWING VOTER APPROVAL OF SUCH PROPOSITION. THE PROPOSITION PRESENTED TO THE QUALIFIED VOTERS FOR APPROVAL MUST SPECIFY THE LIMIT ON THE PERCENTAGE CHANGE IN THE ESTIMATED TAX RATE THAT THE PETITION PROPOSES TO IMPOSE.

C. NOTWITHSTANDING THE PROVISIONS OF SECTION TWO THOUSAND TWENTY-THREE OF THIS PART OR ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, UPON APPROVAL BY THE VOTERS OF A PROPOSITION IMPOSING A LIMITATION ON TAX RATE CHANGES PURSUANT TO THIS SUBDIVISION, FOR THE SCHOOL YEARS IN WHICH THE LIMITATION IS IN EFFECT THE TRUSTEES OR BOARD OF EDUCATION SHALL NOT DEVELOP AND SUBMIT A PROPOSED BUDGET TO THE VOTERS AT THE ANNUAL DISTRICT MEETING OR A BUDGET REVOTE THAT IN COMBINATION WITH ANY SEPARATE PROPOSITIONS INVOLVING THE EXPENDITURE OF MONEY PROPOSED BY THE TRUSTEES OR BOARD OF EDUCATION AT SUCH ANNUAL DISTRICT MEETING OR BUDGET REVOTE, WOULD RESULT IN AN ESTIMATED TAX RATE, DETERMINED AT THE TIME THE PROPERTY TAX REPORT CARD IS PREPARED, THAT IS IN EXCESS OF THE MAXIMUM PERCENTAGE CHANGE IN SUCH ESTIMATED TAX RATE THAT HAS BEEN APPROVED BY THE VOTERS, AND THE TRUSTEES OR BOARD OF EDUCATION

SHALL NOT ADOPT A CONTINGENCY BUDGET FOR SUCH SCHOOL YEARS, IN COMBINATION WITH ANY SUCH SEPARATE PROPOSITIONS PROPOSED BY THE TRUSTEES OR BOARD OF EDUCATION THAT HAVE BEEN APPROVED BY THE VOTERS, WOULD RESULT IN AN ESTIMATED TAX RATE IN EXCESS OF SUCH LIMITATION.

S 4. 1. Notwithstanding any other provision of law, rule or regulation to the contrary, in a village, town, city, or county upon the filing of a petition pursuant to subdivision 2 of this section with the county board of elections in which the political subdivision which is the subject of the petition is located, a proposition for the purpose of imposing a limitation on the tax rate to the qualified voters at the next general election or village general election, if the proposition relates to a village tax rate, signed by twenty-five percent of the number of qualified voters who voted in the previous general election or village general election if the proposition relates to a village tax rate, said number to be determined by respective board of elections such proposition shall be submitted to the qualified voters.

2. Such petition relating to the imposition of a limitation on the tax rate shall be submitted at least thirty days prior to the general election or village general election if the proposition relates to a village tax rate and shall specify the proposed maximum percentage change in the estimated tax rate from the actual tax rate that resulted from the levying of property taxes in the prior year, for the year commencing with the budget in the year following voter approval of such proposition. The proposition presented to the qualified voters for approval must specify the limit on the percentage change in the estimated tax rate that the petition proposes to impose.

S 5. The real property tax law is amended by adding eight new sections 1443, 1444, 1445, 1446, 1447, 1448, 1449 and 1450 to read as follows:

S 1443. SENIOR TAX DEFERRAL. 1. FOR THE PURPOSES OF THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "HOUSEHOLD" MEANS A PERSON OR GROUP OF PERSONS LIVING TOGETHER IN A ROOM OR GROUP OF ROOMS AS A HOUSING UNIT, BUT THE TERM DOES NOT INCLUDE PERSONS BOARDING IN OR RENTING A PORTION OF THE DWELLING.

(B) "INCOME" MEANS THE "ADJUSTED GROSS INCOME," AS DEFINED IN SECTION 62 OF THE UNITED STATES INTERNAL REVENUE CODE, OF ALL MEMBERS OF A HOUSEHOLD.

2. ANY PERSON WHO IS ENTITLED TO CLAIM ENHANCED STAR EXEMPTION PURSUANT TO SECTION FOUR HUNDRED TWENTY-FIVE OF THIS CHAPTER MAY ELECT TO DEFER PAYMENT OF A PORTION OF THE COMBINED TOTAL OF THE AD VALOREM TAXES AND ANY NON-AD VALOREM ASSESSMENTS NOT TO EXCEED TWENTY-FIVE HUNDRED DOLLARS PER YEAR BY FILING AN ANNUAL APPLICATION FOR SENIOR TAX DEFERRAL WITH THE ASSESSOR ON OR BEFORE SEPTEMBER FIRST BEFORE THE YEAR IN WHICH THE TAXES AND NON-AD VALOREM ASSESSMENTS ARE ASSESSED. IT SHALL BE THE BURDEN OF EACH APPLICANT TO AFFIRMATIVELY DEMONSTRATE COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

3. APPROVAL OF AN APPLICATION FOR SENIOR TAX DEFERRAL SHALL DEFER THAT PORTION OF THE COMBINED TOTAL OF AD VALOREM TAXES AND ANY NON-AD VALOREM ASSESSMENTS NOT TO EXCEED TWENTY-FIVE HUNDRED DOLLARS.

4. NO SENIOR TAX DEFERRAL SHALL BE GRANTED:

(A) IF THE TOTAL AMOUNT OF SENIOR DEFERRED TAXES, NON-AD VALOREM ASSESSMENTS, AND INTEREST PLUS THE TOTAL AMOUNT OF ALL OTHER UNSATISFIED LIENS ON THE HOMESTEAD EXCEEDS EIGHTY-FIVE PERCENT OF THE ASSESSED VALUE OF THE HOMESTEAD, OR

(B) IF THE PRIMARY MORTGAGE FINANCING ON THE HOMESTEAD IS FOR AN AMOUNT WHICH EXCEEDS SEVENTY PERCENT OF THE ASSESSED VALUE OF THE HOMESTEAD.

5. THE AMOUNT OF TAXES, NON-AD VALOREM ASSESSMENTS, AND INTEREST DEFERRED UNDER THIS ARTICLE SHALL ACCRUE INTEREST AT A RATE EQUAL TO THE SEMIANNUALLY COMPOUNDED RATE OF ONE-HALF OF ONE PERCENT PLUS THE AVERAGE YIELD TO MATURITY OF THE LONG-TERM FIXED-INCOME PORTION OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM INVESTMENTS AS OF THE END OF THE QUARTER PRECEDING THE DATE OF THE SALE OF THE DEFERRED PAYMENT TAX CERTIFICATES; HOWEVER, THE INTEREST RATE MAY NOT EXCEED SEVEN PERCENT.

6. THE TAXES, NON-AD VALOREM ASSESSMENTS, AND INTEREST DEFERRED PURSUANT TO THIS ARTICLE SHALL CONSTITUTE A PRIOR LIEN AND SHALL ATTACH AS OF THE DATE AND IN THE SAME MANNER AND BE COLLECTED AS OTHER LIENS FOR TAXES, AS PROVIDED FOR UNDER THIS CHAPTER, BUT SUCH SENIOR DEFERRED TAXES, NON-AD VALOREM ASSESSMENTS, AND INTEREST SHALL ONLY BE DUE, PAYABLE, AND DELINQUENT AS PROVIDED IN THIS ARTICLE.

S 1444. SENIOR TAX DEFERRAL; APPLICATION. 1. THE APPLICATION FOR SENIOR TAX DEFERRAL SHALL BE MADE UPON A FORM PRESCRIBED BY THE BOARD AND FURNISHED BY THE ASSESSOR. THE APPLICATION FORM SHALL BE SIGNED UPON OATH BY THE APPLICANT BEFORE AN OFFICER AUTHORIZED BY THE STATE TO ADMINISTER OATHS. THE ASSESSOR MAY, IN HIS OR HER DISCRETION, REQUIRE THE APPLICANT TO SUBMIT SUCH OTHER EVIDENCE AND DOCUMENTATION AS DEEMED NECESSARY BY THE ASSESSOR IN CONSIDERING THE APPLICATION. THE APPLICATION FORM SHALL ADVISE THE APPLICANT OF THE MANNER IN WHICH INTEREST IS COMPUTED. EACH APPLICATION FORM SHALL CONTAIN AN EXPLANATION OF THE CONDITIONS TO BE MET FOR APPROVAL AND THE CONDITIONS UNDER WHICH DEFERRED TAXES AND INTEREST BECOME DUE, PAYABLE, AND DELINQUENT. EACH APPLICATION SHALL CLEARLY STATE THAT ALL SENIOR TAX DEFERRALS PURSUANT TO THIS ARTICLE SHALL CONSTITUTE A LIEN ON THE APPLICANT'S HOMESTEAD.

2. (A) THE ASSESSOR SHALL CONSIDER EACH ANNUAL APPLICATION FOR SENIOR TAX DEFERRAL WITHIN THIRTY DAYS OF THE DAY THE APPLICATION IS FILED OR AS SOON AS PRACTICABLE THEREAFTER. AN ASSESSOR WHO FINDS THAT THE APPLICANT IS ENTITLED TO THE SENIOR TAX DEFERRAL SHALL APPROVE THE APPLICATION AND FILE THE APPLICATION IN THE PERMANENT RECORDS. AN ASSESSOR WHO FINDS THE APPLICANT IS NOT ENTITLED TO THE DEFERRAL SHALL SEND A NOTICE OF DISAPPROVAL WITHIN THIRTY DAYS OF THE FILING OF THE APPLICATION, GIVING REASONS THEREFOR TO THE APPLICANT, EITHER BY PERSONAL DELIVERY OR BY REGISTERED MAIL TO THE MAILING ADDRESS GIVEN BY THE APPLICANT AND SHALL MAKE RETURN IN THE MANNER IN WHICH SUCH NOTICE WAS SERVED UPON THE APPLICANT UPON THE ORIGINAL NOTICE THEREOF AND FILE AMONG THE PERMANENT RECORDS OF THE ASSESSOR'S OFFICE. THE ORIGINAL NOTICE OF DISAPPROVAL SENT TO THE APPLICANT SHALL ADVISE THE APPLICANT OF THE RIGHT TO APPEAL THE DECISION OF THE ASSESSOR TO THE BOARD OF ASSESSMENT REVIEW AND SHALL INFORM THE APPLICANT OF THE PROCEDURE FOR FILING SUCH AN APPEAL.

(B) APPEALS OF THE DECISION OF THE ASSESSOR TO THE BOARD OF ASSESSMENT REVIEW SHALL BE IN WRITING ON A FORM PRESCRIBED BY THE BOARD AND FURNISHED BY THE ASSESSOR. SUCH APPEAL SHALL BE FILED WITH THE BOARD OF ASSESSMENT REVIEW WITHIN TWENTY DAYS AFTER THE APPLICANT'S RECEIPT OF THE NOTICE OF DISAPPROVAL. THE BOARD OF ASSESSMENT REVIEW SHALL REVIEW THE APPLICATION AND THE EVIDENCE PRESENTED TO THE BOARD OF ASSESSMENT REVIEW UPON WHICH THE APPLICANT BASED HIS OR HER CLAIM FOR SENIOR TAX DEFERRAL AND, AT THE ELECTION OF THE APPLICANT, SHALL HEAR THE APPLICANT IN PERSON, OR BY AGENT ON THE APPLICANT'S BEHALF ON HIS OR HER RIGHT TO SENIOR TAX DEFERRAL. THE BOARD OF ASSESSMENT REVIEW SHALL REVERSE THE DECISION OF THE ASSESSOR AND GRANT SENIOR TAX DEFERRAL TO THE APPLICANT, IF IN ITS JUDGMENT THE APPLICANT IS ENTITLED THERETO, OR AFFIRM THE DECISION OF THE ASSESSOR. SUCH ACTION OF THE BOARD OF ASSESSMENT REVIEW SHALL BE FINAL UNLESS THE APPLICANT OR ASSESSOR OR OTHER LIENHOLDER,

WITHIN FIFTEEN DAYS FROM THE DATE OF DISAPPROVAL OF THE APPLICATION BY THE BOARD, FILES IN THE SUPREME COURT OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED, AN ARTICLE SEVENTY-EIGHT PROCEEDING PURSUANT TO THE CIVIL PRACTICE LAW AND RULES.

3. EACH APPLICATION SHALL CONTAIN A LIST OF, AND THE CURRENT VALUE OF, ALL OUTSTANDING LIENS ON THE APPLICANT'S HOMESTEAD.

4. FOR APPROVED APPLICATIONS, THE DATE OF RECEIPT BY THE ASSESSOR OF THE APPLICATION FOR SENIOR TAX DEFERRAL SHALL BE USED IN CALCULATING TAXES DUE AND PAYABLE NET OF DISCOUNTS FOR EARLY PAYMENT.

5. IF SUCH PROOF HAS NOT BEEN FURNISHED WITH A PRIOR APPLICATION, EACH APPLICANT SHALL FURNISH PROOF OF FIRE AND EXTENDED COVERAGE INSURANCE IN AN AMOUNT WHICH IS IN EXCESS OF THE SUM OF ALL OUTSTANDING LIENS AND DEFERRED TAXES AND INTEREST WITH A LOSS PAYABLE CLAUSE TO THE ASSESSOR.

6. THE ASSESSOR SHALL NOTIFY THE COLLECTING OFFICER.

7. THE ASSESSOR SHALL PROMPTLY NOTIFY THE COLLECTING OFFICER OF DENIALS OF APPLICATION AND CHANGES IN OWNERSHIP OF PROPERTIES THAT HAVE BEEN GRANTED A SENIOR TAX DEFERRAL.

S 1445. ANNUAL NOTIFICATION TO TAXPAYER. 1. THE ASSESSOR SHALL NOTIFY THE TAXPAYER OF EACH PARCEL APPEARING ON THE REAL PROPERTY ASSESSMENT ROLL OF THE RIGHT TO DEFER PAYMENT OF TAXES AND NON-AD VALOREM ASSESSMENTS PURSUANT TO THIS ARTICLE. SUCH NOTICE SHALL BE PRINTED ON THE BACK OF ENVELOPES USED FOR MAILING THE NOTICE OF TAXES. SUCH NOTICE OF THE RIGHT TO DEFER PAYMENT OF TAXES AND NON-AD VALOREM ASSESSMENTS SHALL READ:

NOTICE TO TAXPAYERS ENTITLED
TO SENIOR TAX DEFERRAL

"IF YOUR INCOME IS LOW ENOUGH TO MEET CERTAIN CONDITIONS, YOU MAY QUALIFY FOR A DEFERRED TAX PAYMENT PLAN ON PRIMARY RESIDENTIAL PROPERTY. AN APPLICATION TO DETERMINE ELIGIBILITY IS AVAILABLE IN THE ASSESSOR'S OFFICE."

2. ON OR BEFORE APRIL FIRST OF EACH YEAR, THE ASSESSOR SHALL NOTIFY EACH TAXPAYER TO WHOM A SENIOR TAX DEFERRAL HAS BEEN PREVIOUSLY GRANTED OF THE ACCUMULATED SUM OF DEFERRED TAXES, NON-AD VALOREM ASSESSMENTS, AND INTEREST OUTSTANDING.

S 1446. DEFERRED PAYMENT TAX CERTIFICATES FOR PERSONS WHO QUALIFY FOR THE ENHANCED STAR PROVISIONS. THE ASSESSOR SHALL NOTIFY THE LOCAL GOVERNING BODY OF THE AMOUNT OF TAXES AND NON-AD VALOREM ASSESSMENTS DEFERRED WHICH WOULD OTHERWISE HAVE BEEN COLLECTED FOR SUCH GOVERNING BODY.

S 1447. CHANGE IN OWNERSHIP OR USE OF PROPERTY OWNED BY PERSONS SIXTY-FIVE YEARS OR OLDER. 1. IN THE EVENT THAT THERE IS A CHANGE IN USE OF SENIOR TAX-DEFERRED PROPERTY SUCH THAT THE OWNER IS NO LONGER ENTITLED TO CLAIM SENIOR TAX DEFERRAL FOR SUCH PROPERTY, OR SUCH PERSON FAILS TO MAINTAIN THE REQUIRED FIRE AND EXTENDED INSURANCE COVERAGE, THE TOTAL AMOUNT OF SUCH DEFERRED TAXES AND INTEREST FOR ALL PREVIOUS YEARS SHALL BE DUE AND PAYABLE DECEMBER FIRST OF THE YEAR IN WHICH THE CHANGE IN USE OCCURS OR ON THE DATE FAILURE TO MAINTAIN INSURANCE OCCURS AND SHALL BE DELINQUENT ON JANUARY THIRTY-FIRST OF THE YEAR FOLLOWING THE YEAR IN WHICH THE CHANGE IN USE OR FAILURE TO MAINTAIN INSURANCE OCCURS.

2. IN THE EVENT THAT THERE IS A CHANGE IN OWNERSHIP OF SENIOR TAX-DEFERRED PROPERTY, THE TOTAL AMOUNT OF SUCH DEFERRED TAXES AND INTEREST FOR ALL PREVIOUS YEARS SHALL BE DUE AND PAYABLE ON THE DATE THE CHANGE IN OWNERSHIP TAKES PLACE AND SHALL BE DELINQUENT ON JANUARY THIRTY-FIRST FOLLOWING SUCH DATE. WHEN, HOWEVER, THE CHANGE IN OWNERSHIP IS TO A

SURVIVING SPOUSE AND SUCH SPOUSE IS ELIGIBLE TO CLAIM SENIOR TAX DEFERRAL ON SUCH PROPERTY, SUCH SURVIVING SPOUSE MAY CONTINUE THE DEFERMENT OF PREVIOUSLY DEFERRED TAXES AND INTEREST PURSUANT TO THE PROVISION OF THIS ARTICLE.

3. WHENEVER THE ASSESSOR DISCOVERS THAT THERE HAS BEEN A CHANGE IN THE OWNERSHIP OR USE OF PROPERTY WHICH HAS BEEN GRANTED A SENIOR TAX DEFERRAL, THE ASSESSOR SHALL NOTIFY THE COLLECTING OFFICER IN WRITING OF THE DATE SUCH CHANGE OCCURS, AND THE COLLECTING OFFICER SHALL COLLECT ANY TAXES AND INTEREST DUE OR DELINQUENT.

4. DURING ANY YEAR IN WHICH THE TOTAL AMOUNT OF SENIOR DEFERRED TAXES, INTEREST, AND ALL OTHER UNSATISFIED LIENS ON THE PRIMARY RESIDENCE EXCEEDS EIGHTY-FIVE PERCENT OF THE ASSESSED VALUE OF THE PRIMARY RESIDENCE, THE ASSESSOR SHALL IMMEDIATELY NOTIFY THE OWNER OF THE PROPERTY ON WHICH TAXES AND INTEREST HAVE BEEN DEFERRED THAT THE PORTION OF TAXES AND INTEREST WHICH EXCEEDS EIGHTY-FIVE PERCENT OF THE ASSESSED VALUE OF THE PRIMARY RESIDENCE SHALL BE DUE AND PAYABLE WITHIN THIRTY DAYS OF RECEIPT OF THE NOTICE. FAILURE TO PAY THE AMOUNT DUE SHALL CAUSE THE TOTAL AMOUNT OF SENIOR DEFERRED TAXES AND INTEREST TO BECOME DELINQUENT.

5. EACH YEAR, UPON NOTIFICATION, EACH OWNER OF PROPERTY ON WHICH SENIOR TAXES AND INTEREST HAVE BEEN DEFERRED SHALL SUBMIT TO THE ASSESSOR A LIST OF, AND THE CURRENT VALUE OF, ALL OUTSTANDING LIENS ON THE OWNER'S PRIMARY RESIDENCE. FAILURE TO RESPOND TO THIS NOTIFICATION WITHIN THIRTY DAYS SHALL CAUSE THE TOTAL AMOUNT OF SENIOR DEFERRED TAXES AND INTEREST TO BECOME PAYABLE WITHIN THIRTY DAYS.

S 1448. PREPAYMENT AND DISTRIBUTION OF SENIOR DEFERRED TAXES. 1. ALL OR PART OF THE SENIOR DEFERRED TAXES AND ACCRUED INTEREST MAY AT ANY TIME BE PAID TO THE COLLECTING OFFICER BY:

(A) THE OWNER OF THE PROPERTY OR THE SPOUSE OF THE OWNER.

(B) THE NEXT OF KIN OF THE OWNER, HEIR OF THE OWNER, CHILD OF THE OWNER, OR ANY PERSON HAVING OR CLAIMING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY, PROVIDED NO OBJECTION IS MADE BY THE OWNER WITHIN THIRTY DAYS AFTER THE COLLECTING OFFICER NOTIFIES THE OWNER OF THE FACT THAT SUCH PAYMENT HAS BEEN TENDERED.

2. ANY PARTIAL PAYMENT MADE PURSUANT TO THIS SECTION SHALL BE APPLIED FIRST TO ACCRUED INTEREST.

3. WHEN ANY SENIOR DEFERRED TAXES OR INTEREST IS COLLECTED, THE COLLECTING OFFICER SHALL MAINTAIN A RECORD OF THE PAYMENT, SETTING FORTH A DESCRIPTION OF THE PROPERTY AND THE AMOUNT OF SENIOR TAXES OR INTEREST COLLECTED FOR SUCH PROPERTY. THE COLLECTING OFFICER SHALL DISTRIBUTE PAYMENTS RECEIVED IN ACCORDANCE WITH THE PROCEDURES FOR DISTRIBUTION OF AD VALOREM TAXES OR REDEMPTION MONEYS AS PRESCRIBED IN THIS ARTICLE.

S 1449. CONSTRUCTION. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PREVENT THE COLLECTION OF PERSONAL PROPERTY TAXES WHICH BECOME A LIEN AGAINST SENIOR TAX-DEFERRED PROPERTY, DEFER PAYMENT OF SPECIAL ASSESSMENTS TO BENEFITED PROPERTY OTHER THAN THOSE SPECIFICALLY ALLOWED TO BE DEFERRED, OR AFFECT ANY PROVISION OF ANY MORTGAGE OR OTHER INSTRUMENT RELATING TO PROPERTY REQUIRING A PERSON TO PAY AD VALOREM TAXES OR NON-AD VALOREM ASSESSMENTS.

S 1450. PENALTIES. 1. THE FOLLOWING PENALTIES SHALL BE IMPOSED ON ANY PERSON WHO WILLFULLY FILES INFORMATION FOR A SENIOR TAX DEFERRAL PURSUANT TO SECTION FOURTEEN HUNDRED FORTY-THREE OF THIS ARTICLE REQUIRED BY THIS ARTICLE WHICH IS INCORRECT:

(A) SUCH PERSON SHALL PAY THE TOTAL AMOUNT OF SENIOR TAXES AND INTEREST DEFERRED, WHICH AMOUNT SHALL IMMEDIATELY BECOME DUE;

(B) SUCH PERSON SHALL BE DISQUALIFIED FROM FILING A SENIOR TAX DEFERRAL APPLICATION FOR THE NEXT THREE YEARS; AND

(C) SUCH PERSON SHALL PAY A PENALTY OF TWENTY-FIVE PERCENT OF THE TOTAL AMOUNT OF SENIOR TAXES AND INTEREST DEFERRED.

2. ANY PERSON AGAINST WHOM THE PENALTIES PRESCRIBED IN THIS SECTION HAVE BEEN IMPOSED MAY APPEAL THE PENALTIES IMPOSED TO THE BOARD OF ASSESSMENT REVIEW WITHIN THIRTY DAYS AFTER SUCH PENALTIES ARE IMPOSED.

S 6. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.