

5526

2011-2012 Regular Sessions

I N   A S S E M B L Y

February 23, 2011

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Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the  
Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to allowing a  
real property tax freeze for property owned by certain persons over 65  
years of age

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

1     Section 1. The real property tax law is amended by adding a new  
2     section 467-g to read as follows:  
3     S 467-G. REAL PROPERTY TAX FREEZE FOR CERTAIN PERSONS OVER SIXTY-FIVE  
4     YEARS OF AGE. 1. REAL PROPERTY OWNED BY ONE OR MORE PERSONS, EACH OF  
5     WHOM IS SIXTY-FIVE YEARS OF AGE OR OVER, OR REAL PROPERTY OWNED BY  
6     HUSBAND AND WIFE, ONE OF WHOM IS SIXTY-FIVE YEARS OF AGE OR OVER, MAY BE  
7     SUBJECT TO A TAXATION FREEZE PROVIDED THE GOVERNING BOARD OF ANY MUNICI-  
8     PAL CORPORATION IN WHICH THE REAL PROPERTY IS LOCATED AFTER PUBLIC  
9     HEARING, ADOPTS A LOCAL LAW, ORDINANCE OR RESOLUTION PROVIDING THAT REAL  
10    PROPERTY TAXES FOR SUCH PROPERTY BE FROZEN AT THE AMOUNTS PAYABLE AT THE  
11    TIME SUCH APPLICATION FOR FREEZE IS MADE.  
12    2. NO FREEZE SHALL BE GRANTED:  
13    (A) IF THE INCOME OF THE OWNER OR THE COMBINED INCOME OF THE OWNERS OF  
14    THE PROPERTY FOR THE INCOME TAX YEAR IMMEDIATELY PRECEDING THE DATE OF  
15    MAKING APPLICATION FOR THE FREEZE EXCEEDS THE SUM OF THIRTY-TWO THOUSAND  
16    DOLLARS. INCOME TAX YEAR SHALL MEAN THE TWELVE MONTH PERIOD FOR WHICH  
17    THE OWNER OR OWNERS FILED A FEDERAL PERSONAL INCOME TAX RETURN, OR IF NO  
18    SUCH RETURN IS FILED, THE CALENDAR YEAR. WHERE TITLE IS VESTED IN EITHER  
19    THE HUSBAND OR THE WIFE, THEIR COMBINED INCOME MAY NOT EXCEED SUCH SUM.  
20    SUCH INCOME SHALL INCLUDE SOCIAL SECURITY AND RETIREMENT BENEFITS,  
21    INTEREST, DIVIDENDS, TOTAL GAIN FROM THE SALE OR EXCHANGE OF A CAPITAL  
22    ASSET WHICH MAY BE OFFSET BY A LOSS FROM THE SALE OR EXCHANGE OF A CAPI-  
23    TAL ASSET IN THE SAME INCOME TAX YEAR, NET RENTAL INCOME, SALARY OR  
24    EARNINGS, AND NET INCOME FROM SELF-EMPLOYMENT, BUT SHALL NOT INCLUDE A

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

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1 RETURN OF CAPITAL, GIFTS OR INHERITANCES. IN COMPUTING NET RENTAL INCOME  
2 AND NET INCOME FROM SELF-EMPLOYMENT NO DEPRECIATION DEDUCTION SHALL BE  
3 ALLOWED FOR THE EXHAUSTION, WEAR AND TEAR OF REAL OR PERSONAL PROPERTY  
4 HELD FOR THE PRODUCTION OF INCOME;

5 (B) UNLESS THE TITLE OF THE PROPERTY SHALL HAVE BEEN VESTED IN THE  
6 OWNER OR ONE OF THE OWNERS OF THE PROPERTY FOR AT LEAST TWENTY-FOUR  
7 CONSECUTIVE MONTHS PRIOR TO THE DATE OF MAKING APPLICATION FOR A FREEZE,  
8 PROVIDED, HOWEVER, THAT IN THE EVENT OF THE DEATH OF EITHER A HUSBAND OR  
9 WIFE IN WHOSE NAME TITLE OF THE PROPERTY SHALL HAVE BEEN VESTED AT THE  
10 TIME OF DEATH AND THEN BECOMES VESTED SOLELY IN THE SURVIVOR BY VIRTUE  
11 OF DEVISE BY OR DESCENT FROM THE DECEASED HUSBAND OR WIFE, THE TIME OF  
12 OWNERSHIP OF THE PROPERTY BY THE DECEASED HUSBAND OR WIFE SHALL BE  
13 DEEMED ALSO A TIME OF OWNERSHIP BY THE SURVIVOR AND SUCH OWNERSHIP SHALL  
14 BE DEEMED CONTINUOUS FOR THE PURPOSES OF COMPUTING SUCH PERIOD OF TWEN-  
15 TY-FOUR CONSECUTIVE MONTHS. IN THE EVENT OF A TRANSFER BY EITHER A  
16 HUSBAND OR WIFE TO THE OTHER SPOUSE OF ALL OR PART OF THE TITLE TO THE  
17 PROPERTY, THE TIME OF OWNERSHIP OF THE PROPERTY BY THE TRANSFEROR SPOUSE  
18 SHALL BE DEEMED ALSO A TIME OF OWNERSHIP BY THE TRANSFEREE SPOUSE AND  
19 SUCH OWNERSHIP SHALL BE DEEMED CONTINUOUS FOR THE PURPOSES OF COMPUTING  
20 SUCH PERIOD OF TWENTY-FOUR CONSECUTIVE MONTHS. WHERE PROPERTY OF THE  
21 OWNER OR OWNERS HAS BEEN ACQUIRED TO REPLACE PROPERTY FORMERLY OWNED BY  
22 SUCH OWNER OR OWNERS AND TAKEN BY EMINENT DOMAIN OR OTHER INVOLUNTARY  
23 PROCEEDING, EXCEPT A TAX SALE, THE PERIOD OF OWNERSHIP OF THE FORMER  
24 PROPERTY SHALL BE COMBINED WITH THE PERIOD OF OWNERSHIP OF THE PROPERTY  
25 FOR WHICH APPLICATION IS MADE FOR A FREEZE AND SUCH PERIODS OF OWNERSHIP  
26 SHALL BE DEEMED TO BE CONSECUTIVE FOR PURPOSES OF THIS SECTION. WHERE A  
27 RESIDENCE IS SOLD AND REPLACED WITH ANOTHER WITHIN ONE YEAR AND BOTH  
28 RESIDENCES ARE WITHIN THE STATE, THE PERIOD OF OWNERSHIP OF BOTH PROPER-  
29 TIES SHALL BE DEEMED CONSECUTIVE FOR PURPOSES OF A FREEZE FROM TAXATION  
30 BY A MUNICIPALITY WITHIN THE STATE GRANTING SUCH FREEZE. WHERE THE  
31 OWNER OR OWNERS TRANSFER TITLE TO PROPERTY WHICH AS OF THE DATE OF  
32 TRANSFER WAS EXEMPT FROM TAXATION UNDER THE PROVISIONS OF THIS SECTION,  
33 THE REACQUISITION OF TITLE BY SUCH OWNER OR OWNERS WITHIN NINE MONTHS OF  
34 THE DATE OF TRANSFER SHALL BE DEEMED TO SATISFY THE REQUIREMENT OF THIS  
35 PARAGRAPH THAT THE TITLE OF THE PROPERTY SHALL HAVE BEEN VESTED IN THE  
36 OWNER OR ONE OF THE OWNERS FOR SUCH PERIOD OF TWENTY-FOUR CONSECUTIVE  
37 MONTHS. WHERE, UPON OR SUBSEQUENT TO THE DEATH OF AN OWNER OR OWNERS,  
38 TITLE TO PROPERTY WHICH AS OF THE DATE OF SUCH DEATH WAS EXEMPT FROM  
39 TAXATION UNDER SUCH PROVISIONS, BECOMES VESTED, BY VIRTUE OF DEVISE OR  
40 DESCENT FROM THE DECEASED OWNER OR OWNERS, OR BY TRANSFER BY ANY OTHER  
41 MEANS WITHIN NINE MONTHS AFTER SUCH DEATH, SOLELY IN A PERSON OR PERSONS  
42 WHO, AT THE TIME OF SUCH DEATH, MAINTAINED SUCH PROPERTY AS A PRIMARY  
43 RESIDENCE, THE REQUIREMENT OF THIS PARAGRAPH THAT THE TITLE OF THE PROP-  
44 erty SHALL HAVE BEEN VESTED IN THE OWNER OR ONE OF THE OWNERS FOR SUCH  
45 PERIOD OF TWENTY-FOUR CONSECUTIVE MONTHS SHALL BE DEEMED SATISFIED;

46 (C) UNLESS THE PROPERTY IS USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES,  
47 PROVIDED, HOWEVER, THAT IN THE EVENT ANY PORTION OF SUCH PROPERTY IS NOT  
48 SO USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES BUT IS USED FOR OTHER  
49 PURPOSES, SUCH PORTION SHALL BE SUBJECT TO TAXATION AND THE REMAINING  
50 PORTION ONLY SHALL BE ENTITLED TO A FREEZE PROVIDED BY THIS SECTION;

51 (D) UNLESS THE REAL PROPERTY IS THE LEGAL RESIDENCE OF AND IS OCCUPIED  
52 IN WHOLE OR IN PART BY THE OWNER OR BY ALL OF THE OWNERS OF THE PROPER-  
53 TY, PROVIDED THAT AN OWNER WHO IS ABSENT WHILE RECEIVING HEALTH-RELATED  
54 CARE AS AN INPATIENT OF A RESIDENTIAL HEALTH CARE FACILITY, AS DEFINED  
55 IN SECTION TWENTY-EIGHT HUNDRED ONE OF THE PUBLIC HEALTH LAW, SHALL BE  
56 DEEMED TO REMAIN A LEGAL RESIDENT AND AN OCCUPANT OF THE PROPERTY WHILE

1 SO CONFINED AND INCOME ACCRUING TO THAT PERSON SHALL BE INCOME ONLY TO  
2 THE EXTENT THAT IT EXCEEDS THE AMOUNT PAID BY SUCH OWNER, SPOUSE, OR  
3 CO-OWNER FOR CARE IN THE FACILITY; AND PROVIDED FURTHER, THAT DURING  
4 SUCH CONFINEMENT SUCH PROPERTY IS NOT OCCUPIED BY OTHER THAN THE SPOUSE  
5 OR CO-OWNER OF SUCH OWNER.

6 3. EACH GOVERNING BOARD OF ANY MUNICIPAL CORPORATION SHALL NOTIFY, OR  
7 CAUSE TO BE NOTIFIED, EACH PERSON OWNING RESIDENTIAL REAL PROPERTY IN  
8 SUCH MUNICIPAL CORPORATION OF THE PROVISIONS OF THIS SECTION. THE  
9 PROVISIONS OF THIS SUBDIVISION MAY BE MET BY A NOTICE OR LEGEND SENT ON  
10 OR WITH EACH TAX BILL TO SUCH PERSONS READING "YOU MAY BE ELIGIBLE FOR A  
11 SENIOR CITIZEN TAX FREEZE. SENIOR CITIZENS HAVE UNTIL MONTH.....,  
12 DAY....., YEAR....., TO APPLY FOR SUCH FREEZE. FOR INFORMATION  
13 PLEASE CALL OR WRITE ....," FOLLOWED BY THE NAME, TELEPHONE NUMBER  
14 AND/OR ADDRESS OF A PERSON OR DEPARTMENT SELECTED BY THE COUNTY TO  
15 EXPLAIN THE PROVISIONS OF THIS SECTION. FAILURE TO NOTIFY, OR CAUSE TO  
16 BE NOTIFIED ANY PERSON WHO IS IN FACT, ELIGIBLE TO RECEIVE A FREEZE  
17 PROVIDED BY THIS SECTION OR THE FAILURE OF SUCH PERSON TO RECEIVE THE  
18 SAME SHALL NOT PREVENT THE LEVY, COLLECTION AND ENFORCEMENT OF THE  
19 PAYMENT OF THE TAXES ON PROPERTY OWNED BY SUCH PERSON.

20 4. APPLICATION FOR SUCH FREEZE MUST BE MADE BY THE OWNER, OR ALL OF  
21 THE OWNERS OF THE PROPERTY, ON FORMS PRESCRIBED BY THE COMMISSIONER TO  
22 BE FURNISHED BY THE APPROPRIATE ASSESSING AUTHORITY AND SHALL FURNISH  
23 THE INFORMATION AND BE EXECUTED IN THE MANNER REQUIRED OR PRESCRIBED IN  
24 SUCH FORMS, AND SHALL BE FILED IN SUCH ASSESSOR'S OFFICE ON OR BEFORE  
25 THE APPROPRIATE TAXABLE STATUS DATE.

26 5. AT LEAST SIXTY DAYS PRIOR TO THE APPROPRIATE TAXABLE STATUS DATE,  
27 THE ASSESSING AUTHORITY SHALL MAIL TO EACH PERSON WHO WAS GRANTED A  
28 FREEZE PURSUANT TO THIS SECTION ON THE LATEST COMPLETED ASSESSMENT ROLL  
29 AN APPLICATION FORM AND A NOTICE THAT SUCH APPLICATION MUST BE FILED ON  
30 OR BEFORE THE TAXABLE STATUS DATE AND BE APPROVED IN ORDER FOR THE  
31 FREEZE TO BE GRANTED. THE ASSESSING AUTHORITY SHALL, WITHIN THREE DAYS  
32 OF THE COMPLETION AND FILING OF THE TENTATIVE ASSESSMENT ROLL, NOTIFY BY  
33 MAIL ANY APPLICANT WHO HAS INCLUDED WITH HIS APPLICATION AT LEAST ONE  
34 SELF-ADDRESSED, PRE-PAID ENVELOPE, OF THE APPROVAL OR DENIAL OF THE  
35 APPLICATION; PROVIDED, HOWEVER, THAT THE ASSESSING AUTHORITY SHALL, UPON  
36 THE RECEIPT AND FILING OF THE APPLICATION, SEND BY MAIL NOTIFICATION OF  
37 RECEIPT TO ANY APPLICANT WHO HAS INCLUDED TWO OF SUCH ENVELOPES WITH THE  
38 APPLICATION. WHERE AN APPLICANT IS ENTITLED TO A NOTICE OF DENIAL  
39 PURSUANT TO THIS SUBDIVISION, SUCH NOTICE SHALL BE ON A FORM PRESCRIBED  
40 BY THE COMMISSIONER AND SHALL STATE THE REASONS FOR SUCH DENIAL AND  
41 SHALL FURTHER STATE THAT THE APPLICANT MAY HAVE SUCH DETERMINATION  
42 REVIEWED IN THE MANNER PROVIDED BY LAW. FAILURE TO MAIL ANY SUCH APPLI-  
43 CATION FORM OR NOTICES OR THE FAILURE OF SUCH PERSON TO RECEIVE ANY OF  
44 THE SAME SHALL NOT PREVENT THE LEVY, COLLECTION AND ENFORCEMENT OF THE  
45 PAYMENT OF THE TAXES ON PROPERTY OWNED BY SUCH PERSON.

46 6. ANY CONVICTION OF HAVING MADE ANY WILFUL FALSE STATEMENT IN THE  
47 APPLICATION FOR SUCH FREEZE, SHALL BE PUNISHABLE BY A FINE OF NOT MORE  
48 THAN ONE HUNDRED DOLLARS AND SHALL DISQUALIFY THE APPLICANT OR APPLI-  
49 CANTS FROM FURTHER FREEZES FOR A PERIOD OF FIVE YEARS.

50 7. NO MUNICIPALITY SHALL ADOPT A LOCAL LAW, ORDINANCE OR RESOLUTION  
51 PURSUANT TO THIS SECTION IF SUCH MUNICIPALITY HAS IN EFFECT A LOCAL LAW,  
52 ORDINANCE OR RESOLUTION PERMITTING A REAL PROPERTY TAX EXEMPTION PURSU-  
53 ANT TO SECTION FOUR HUNDRED SIXTY-SEVEN OF THIS ARTICLE.

54 S 2. Section 467 of the real property tax law is amended by adding a  
55 new subdivision 11 to read as follows:

1 11. NO MUNICIPALITY SHALL ADOPT A LOCAL LAW, ORDINANCE OR RESOLUTION  
2 PURSUANT TO THIS SECTION IF SUCH MUNICIPALITY HAS IN EFFECT A LOCAL LAW,  
3 ORDINANCE OR RESOLUTION PERMITTING A REAL PROPERTY TAX FREEZE PURSUANT  
4 TO SECTION FOUR HUNDRED SIXTY-SEVEN-G OF THIS ARTICLE.

5 S 3. This act shall take effect on the first of February next succeed-  
6 ing the date on which it shall have become a law and shall apply to  
7 assessment rolls prepared on the basis of taxable status dates occurring  
8 on or after such date.