

2567

2015-2016 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. KATZ -- Multi-Sponsored by -- M. of A. RAIA --
read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to property tax
assessments for senior citizens

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 307-b to read as follows:
3 S 307-B. SENIOR CITIZEN PROPERTY TAX ASSESSMENT. 1. GENERAL. NOTWITH-
4 STANDING ANY OTHER PROVISION OF LAW, PROPERTY TAX ASSESSMENTS FOR REAL
5 PROPERTY OWNED BY ONE OR MORE PERSONS, EACH OF WHOM IS SIXTY-FIVE YEARS
6 OF AGE OR OVER, OR REAL PROPERTY OWNED BY HUSBAND AND WIFE, ONE OF WHOM
7 IS SIXTY-FIVE YEARS OF AGE OR OVER, MAY BE BASED ON THE COMBINED INCOME
8 OF THE OWNERS OF THE PROPERTY AND OF ANY OWNERS' SPOUSE RESIDING ON THE
9 PREMISES FOR THE INCOME TAX YEAR IMMEDIATELY PRECEDING THE DATE OF THE
10 PROPERTY TAX ASSESSMENT.
11 2. PROPERTY TAX CALCULATION. ALL REAL PROPERTY ENTITLED TO AN ASSESS-
12 MENT BASED ON THIS SECTION SHALL BE TAXED, AT THE OWNERS' DISCRETION,
13 BASED ON EITHER THE APPLICABLE TAX RATE FOR THE YEAR OR THREE PERCENT
14 MULTIPLIED BY THE COMBINED INCOME OF THE OWNERS OF THE PROPERTY AND OF
15 ANY OWNERS' SPOUSE RESIDING ON THE PREMISES.
16 3. INCOME. THE TERM "INCOME" AS USED HEREIN SHALL MEAN THE "ADJUSTED
17 GROSS INCOME" FOR FEDERAL INCOME TAX PURPOSES AS REPORTED ON THE INDIV-
18 IDUAL'S FEDERAL OR STATE INCOME TAX RETURN, SUBJECT TO ANY SUBSEQUENT
19 AMENDMENTS OR REVISIONS, REDUCED BY DISTRIBUTIONS, TO THE EXTENT
20 INCLUDED IN FEDERAL ADJUSTED GROSS INCOME, RECEIVED FROM AN INDIVIDUAL
21 RETIREMENT ACCOUNT AND AN INDIVIDUAL RETIREMENT ANNUITY; PROVIDED THAT
22 IF NO SUCH RETURN WAS FILED FOR THE APPLICABLE INCOME TAX YEAR, "INCOME"
23 SHALL MEAN THE ADJUSTED GROSS INCOME THAT WOULD HAVE BEEN SO REPORTED IF
24 SUCH A RETURN HAD BEEN FILED.

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

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1 4. PROPERTY ELIGIBILITY REQUIREMENTS. TO QUALIFY FOR A SENIOR CITIZEN
2 PROPERTY TAX ASSESSMENT PURSUANT TO THIS SECTION, THE PROPERTY MUST BE A
3 ONE, TWO OR THREE FAMILY RESIDENCE, A FARM DWELLING OR RESIDENTIAL PROP-
4 erty HELD IN CONDOMINIUM OR COOPERATIVE FORM OF OWNERSHIP AND MUST SERVE
5 AS THE PRIMARY RESIDENCE OF ONE OR MORE OF THE OWNERS THEREOF WHO ARE
6 SIXTY-FIVE YEARS OF AGE OR OVER.

7 5. PRIVACY. ANY INFORMATION OR DOCUMENTATION SUBMITTED BY THE OWNER IN
8 CONNECTION WITH APPLICATIONS FOR OR RENEWAL OF THE ASSESSMENT AUTHORIZED
9 UNDER THIS SECTION TO VERIFY INCOME, SHALL BE DEEMED CONFIDENTIAL, AND
10 THE ASSESSOR, ANY MUNICIPAL OFFICER OR MUNICIPAL EMPLOYEES ARE PROHIBIT-
11 ED FROM DISCLOSING ANY SUCH INFORMATION, EXCEPT FOR ANY DISCLOSURE
12 NECESSARY IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES. ANY UNAUTHORIZED
13 DISCLOSURE OF SUCH INFORMATION SHALL BE DEEMED A VIOLATION OF SECTION
14 EIGHT HUNDRED FIVE-A OF THE GENERAL MUNICIPAL LAW.

15 6. SPECIAL CIRCUMSTANCES. (A) A HUSBAND AND WIFE MAY RECEIVE AN
16 ASSESSMENT PURSUANT TO THIS SECTION ON NO MORE THAN ONE RESIDENCE,
17 UNLESS LIVING APART DUE TO LEGAL SEPARATION.

18 (B) WHEN A PARCEL INCLUDES TWO OR MORE PHYSICALLY SEPARATE RESIDENCES,
19 AN ASSESSMENT MAY BE GRANTED PURSUANT TO THIS SECTION TO EACH RESIDENCE
20 WHICH (I) SERVES AS THE PRIMARY RESIDENCE OF AT LEAST ONE OF THE OWNERS
21 OF THE PARCEL, AND (II) WOULD BE ELIGIBLE FOR AN ASSESSMENT PURSUANT TO
22 THIS SECTION IF IT WERE SEPARATELY ASSESSED AND OWNED EXCLUSIVELY BY THE
23 OWNER OR OWNERS WHO RESIDE THEREIN, PROVIDED THAT ONLY ONE SUCH ASSESS-
24 MENT MAY BE APPLIED TO THE LAND INCLUDED WITHIN THE PARCEL.

25 (C) WHEN AN APPLICANT'S PRIMARY RESIDENCE IS LOCATED IN TWO OR MORE
26 MUNICIPAL CORPORATIONS, EACH PORTION OF THE RESIDENCE SHALL BE ELIGIBLE
27 FOR THE ASSESSMENT PROVIDED BY THIS SECTION IF THE ELIGIBILITY REQUIRE-
28 MENTS ARE OTHERWISE SATISFIED. THE PROVISIONS OF THIS PARAGRAPH SHALL
29 NOT APPLY WHEN THE LAND ASSOCIATED WITH A RESIDENTIAL STRUCTURE IS
30 LOCATED IN MORE THAN ONE MUNICIPAL CORPORATION, BUT THE RESIDENTIAL
31 STRUCTURE ITSELF IS LOCATED ENTIRELY WITHIN ONE OF THOSE MUNICIPAL
32 CORPORATIONS.

33 7. APPLICATION PROCEDURE. (A) ALL OWNERS OF THE PROPERTY WHO PRIMARILY
34 RESIDE THEREON MUST JOINTLY FILE AN APPLICATION FOR A SENIOR CITIZEN
35 PROPERTY TAX ASSESSMENT WITH THE ASSESSOR ON OR BEFORE THE APPROPRIATE
36 TAXABLE STATUS DATE. SUCH APPLICATION MAY BE FILED BY MAIL IF IT IS
37 ENCLOSED IN A POSTPAID ENVELOPE PROPERLY ADDRESSED TO THE APPROPRIATE
38 ASSESSOR, DEPOSITED IN A POST OFFICE OR OFFICIAL DEPOSITORY UNDER THE
39 EXCLUSIVE CARE OF THE UNITED STATES POSTAL SERVICE, AND POSTMARKED BY
40 THE UNITED STATES POSTAL SERVICE ON OR BEFORE THE APPLICABLE TAXABLE
41 STATUS DATE. EACH SUCH APPLICATION SHALL BE MADE ON A FORM PRESCRIBED BY
42 THE COMMISSIONER, WHICH SHALL REQUIRE THE APPLICANT OR APPLICANTS TO
43 AGREE TO NOTIFY THE ASSESSOR IF THEIR PRIMARY RESIDENCE CHANGES WHILE
44 THEIR PROPERTY IS RECEIVING THE ASSESSMENT. THE ASSESSOR MAY REQUEST
45 THAT PROOF OF RESIDENCY BE SUBMITTED WITH THE APPLICATION. IF THE APPLI-
46 CANT REQUESTS A RECEIPT FROM THE ASSESSOR AS PROOF OF SUBMISSION OF THE
47 APPLICATION, THE ASSESSOR SHALL PROVIDE SUCH RECEIPT.

48 (B) IF THE ASSESSOR IS SATISFIED THAT THE APPLICANT OR APPLICANTS ARE
49 ENTITLED TO AN ASSESSMENT PURSUANT TO THIS SECTION, HE OR SHE SHALL
50 APPROVE THE APPLICATION AND SUCH REAL PROPERTY SHALL THEREAFTER BE
51 ASSESSED BASED ON THE OWNERS' AND ANY OF THE OWNERS' SPOUSES RESIDING ON
52 THE PREMISES INCOME AS PROVIDED HEREIN. IF THE ASSESSOR DETERMINES THAT
53 THE APPLICANT OR APPLICANTS ARE NOT ENTITLED TO AN ASSESSMENT PURSUANT
54 TO THIS SECTION, HE OR SHE SHALL, NOT LATER THAN TEN DAYS PRIOR TO THE
55 DATE FOR HEARING COMPLAINTS IN RELATION TO ASSESSMENTS, MAIL TO EACH
56 APPLICANT NOT ENTITLED TO THE ASSESSMENT A NOTICE OF DENIAL OF THAT

1 APPLICATION FOR THE ASSESSMENT HEREIN FOR THAT YEAR. THE NOTICE OF
2 DENIAL SHALL SPECIFY EACH REASON FOR SUCH DENIAL AND SHALL BE SENT ON A
3 FORM PRESCRIBED BY THE COMMISSIONER. FAILURE TO MAIL ANY SUCH NOTICE OF
4 DENIAL OR THE FAILURE OF ANY PERSON TO RECEIVE SUCH NOTICE SHALL NOT
5 PREVENT THE LEVY, COLLECTION AND ENFORCEMENT OF THE TAXES ON PROPERTY
6 OWNED BY SUCH PERSON.

7 8. PROOF OF RESIDENCY. (A) FROM TIME TO TIME, THE ASSESSOR MAY REQUEST
8 PROOF OF RESIDENCY FROM THE OWNER OR OWNERS OF ANY PROPERTY WHICH
9 RECEIVES AN ASSESSMENT PURSUANT TO THIS SECTION. IN ADDITION, THE ASSES-
10 SOR SHALL REQUEST PROOF OF RESIDENCY FROM ANY SUCH OWNER OR OWNERS WHEN
11 REQUESTED TO DO SO BY THE COMMISSIONER.

12 (B) A REQUEST FOR PROOF OF RESIDENCY SHALL BE MAILED AT LEAST SIXTY
13 DAYS PRIOR TO THE ENSUING TAXABLE STATUS DATE. THE OWNER OR OWNERS SHALL
14 SUBMIT PROOF OF THEIR RESIDENCY TO THE ASSESSOR ON OR BEFORE THE ENSUING
15 TAXABLE STATUS DATE.

16 (C) THE BURDEN SHALL BE ON THE OWNER OR OWNERS TO ESTABLISH THAT THE
17 PROPERTY IS THEIR PRIMARY RESIDENCE. IF THEY SUBMIT PROOF OF RESIDENCY
18 ON OR BEFORE THE ENSUING TAXABLE STATUS DATE, AND THE SUBMISSION DEMON-
19 STRATES TO THE ASSESSOR'S SATISFACTION THAT THE PROPERTY IS THE PRIMARY
20 RESIDENCE OF ONE OR MORE OF THE OWNERS THEREOF, AND IF THE REQUIREMENTS
21 OF THIS SECTION ARE OTHERWISE SATISFIED, THE ASSESSMENT SHALL CONTINUE
22 IN EFFECT ON THE ENSUING TENTATIVE ASSESSMENT ROLL. OTHERWISE, THE
23 ASSESSOR SHALL DISCONTINUE THE ASSESSMENT ON THE NEXT ENSUING TENTATIVE
24 ASSESSMENT ROLL AS PROVIDED HEREIN, AND, WHERE APPROPRIATE, SHALL
25 PROCEED AS FURTHER PROVIDED HEREIN.

26 9. DISCONTINUANCE OF ASSESSMENT. (A) THE ASSESSOR SHALL DISCONTINUE
27 ANY ASSESSMENT GRANTED PURSUANT TO THIS SECTION IF IT APPEARS THAT: (I)
28 THE PROPERTY MAY NOT BE THE PRIMARY RESIDENCE OF THE OWNER OR OWNERS WHO
29 APPLIED FOR THE ASSESSMENT, (II) TITLE TO THE PROPERTY HAS BEEN TRANS-
30 FERRED TO A NEW OWNER OR OWNERS, OR (III) THE PROPERTY OTHERWISE MAY NO
31 LONGER BE ELIGIBLE FOR THE ASSESSMENT.

32 (B) UPON DETERMINING THAT AN ASSESSMENT GRANTED PURSUANT TO THIS
33 SECTION SHOULD BE DISCONTINUED, THE ASSESSOR SHALL MAIL A NOTICE SO
34 STATING TO THE OWNER OR OWNERS THEREOF AT THE TIME AND IN THE MANNER
35 PROVIDED BY SECTION FIVE HUNDRED TEN OF THIS CHAPTER. SUCH OWNER OR
36 OWNERS SHALL BE ENTITLED TO SEEK ADMINISTRATIVE AND JUDICIAL REVIEW OF
37 SUCH ACTION IN THE MANNER PROVIDED BY LAW, PROVIDED, THAT THE BURDEN
38 SHALL BE ON SUCH OWNER OR OWNERS TO ESTABLISH ELIGIBILITY FOR THE
39 ASSESSMENT.

40 10. REGISTRATION PROGRAM. THE COMMISSIONER SHALL ESTABLISH AND IMPLE-
41 MENT A PROGRAM UNDER WHICH ALL OWNERS OF PROPERTIES INITIALLY APPLYING
42 FOR AND THOSE RECEIVING AN ASSESSMENT BASED ON THIS SECTION SHALL BE
43 REQUIRED TO BE REGISTERED WITH THE COMMISSIONER IN THE MANNER, AT SUCH
44 INTERVALS, AND BY THE DATE OR DATES PRESCRIBED BY THE COMMISSIONER.

45 S 2. This act shall take effect on the first of February next succeed-
46 ing the date on which it shall have become a law and shall apply to
47 assessment rolls prepared on the basis of taxable status dates occurring
48 on or after such date.