

STATE OF NEW YORK

7069--A

IN SENATE

(Prefiled)

January 3, 2018

Introduced by Sens. KAVANAGH, SERRANO -- 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

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

1 Section 1. Paragraphs a and b of subdivision 3 of section 467-b of the
2 real property tax law, paragraph a as amended by section 1 of part U of
3 chapter 55 of the laws of 2014 and paragraph b as amended by chapter 129
4 of the laws of 2014, are amended to read as follows:
5 a. for a dwelling unit where the head of the household is a person
6 sixty-two years of age or older, no tax abatement shall be granted if
7 the combined income of all members of the household for the income tax
8 year immediately preceding the date of making application exceeds four
9 thousand dollars, or such other sum not more than twenty-five thousand
10 dollars beginning July first, two thousand five, twenty-six thousand
11 dollars beginning July first, two thousand six, twenty-seven thousand
12 dollars beginning July first, two thousand seven, twenty-eight thousand
13 dollars beginning July first, two thousand eight, twenty-nine thousand
14 dollars beginning July first, two thousand nine, and fifty thousand
15 dollars beginning July first, two thousand fourteen, as may be provided
16 by the local law, ordinance or resolution adopted pursuant to this
17 section, provided that when the head of the household retires before the
18 commencement of such income tax year and the date of filing the applica-
19 tion, the income for such year may be adjusted by excluding salary or
20 earnings and projecting his or her retirement income over the entire
21 period of such year. The maximum income threshold provided for herein
22 shall be increased by order of the commissioner of the state division of

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

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1 housing and community renewal on January first of each year to reflect
2 any increase in the regional consumer price index for the N.Y.,
3 N.Y.-Northeastern, N.J. area, based upon the index for all urban consum-
4 ers (CPI-U) during the preceding twelve month period.

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

17 § 2. Paragraphs d and m of subdivision 1 of section 467-c of the real
18 property tax law, paragraph d as separately amended by chapters 188 and
19 205 of the laws of 2005, subparagraph 1 of paragraph d as amended by
20 section 2 of part U of chapter 55 of the laws of 2014 and paragraph m as
21 amended by chapter 129 of the laws of 2014, are amended to read as
22 follows:

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

49 m. "Person with a disability" means an individual who is currently
50 receiving social security disability insurance (SSDI) or supplemental
51 security income (SSI) benefits under the federal social security act or
52 disability pension or disability compensation benefits provided by the
53 United States department of veterans affairs or those previously eligi-
54 ble by virtue of receiving disability benefits under the supplemental
55 security income program or the social security disability program and
56 currently receiving medical assistance benefits based on determination

1 of disability as provided in section three hundred sixty-six of the
2 social services law and whose income for the current income tax year,
3 together with the income of all members of such individual's household,
4 does not exceed fifty thousand dollars beginning July first, two thou-
5 sand fourteen, as may be provided by local law. The maximum income
6 threshold provided for herein shall be increased by order of the commis-
7 sioner of the state division of housing and community renewal on January
8 first of each year to reflect any increase in the regional consumer
9 price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the
10 index for all urban consumers (CPI-U) during the preceding twelve month
11 period.

12 § 3. Paragraph (a) of subdivision 3 of section 467 of the real proper-
13 ty tax law, as separately amended by chapters 131 and 279 of the laws of
14 2017, is amended to read as follows:

15 (a) if the income of the owner or the combined income of the owners of
16 the property for the income tax year immediately preceding the date of
17 making application for exemption exceeds the sum of three thousand
18 dollars, or such other sum not less than three thousand dollars nor more
19 than twenty-six thousand dollars beginning July first, two thousand six,
20 twenty-seven thousand dollars beginning July first, two thousand seven,
21 twenty-eight thousand dollars beginning July first, two thousand eight,
22 twenty-nine thousand dollars beginning July first, two thousand nine,
23 and in a city with a population of one million or more fifty thousand
24 dollars beginning July first, two thousand seventeen, 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 on January first of each year to
28 reflect any increase in the regional consumer price index for the N.Y.,
29 N.Y.-Northeastern, N.J. area, based upon the index for all urban consum-
30 ers (CPI-U) during the preceding twelve month period. Income tax year
31 shall mean the twelve month period for which the owner or owners filed a
32 federal personal income tax return, or if no such return is filed, the
33 calendar year. Where title is vested in either the husband or the wife,
34 their combined income may not exceed such sum, except where the husband
35 or wife, or ex-husband or ex-wife is absent from the property as
36 provided in subparagraph (ii) of paragraph (d) of this subdivision, then
37 only the income of the spouse or ex-spouse residing on the property
38 shall be considered and may not exceed such sum. Such income shall
39 include social security and retirement benefits, interest, dividends,
40 total gain from the sale or exchange of a capital asset which may be
41 offset by a loss from the sale or exchange of a capital asset in the
42 same income tax year, net rental income, salary or earnings, and net
43 income from self-employment, but shall not include a return of capital,
44 gifts, inheritances, payments made to individuals because of their
45 status as victims of Nazi persecution, as defined in P.L. 103-286 or
46 monies earned through employment in the federal foster grandparent
47 program and any such income shall be offset by all medical and
48 prescription drug expenses actually paid which were not reimbursed or
49 paid for by insurance, if the governing board of a municipality, after a
50 public hearing, adopts a local law, ordinance or resolution providing
51 therefor. In addition, an exchange of an annuity for an annuity
52 contract, which resulted in non-taxable gain, as determined in section
53 one thousand thirty-five of the internal revenue code, shall be excluded
54 from such income. Provided that such exclusion shall be based on satis-
55 factory proof that such an exchange was solely an exchange of an annuity
56 for an annuity contract that resulted in a non-taxable transfer deter-

1 mined by such section of the internal revenue code. Furthermore, such
2 income shall not include the proceeds of a reverse mortgage, as author-
3 ized by section six-h of the banking law, and sections two hundred
4 eighty and two hundred eighty-a of the real property law; provided,
5 however, that monies used to repay a reverse mortgage may not be
6 deducted from income, and provided additionally that any interest or
7 dividends realized from the investment of reverse mortgage proceeds
8 shall be considered income. The provisions of this paragraph notwith-
9 standing, such income shall not include veterans disability compen-
10 sation, as defined in Title 38 of the United States Code provided the
11 governing board of such municipality, after public hearing, adopts a
12 local law, ordinance or resolution providing therefor. In computing net
13 rental income and net income from self-employment no depreciation
14 deduction shall be allowed for the exhaustion, wear and tear of real or
15 personal property held for the production of income;

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

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

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

1 (a) the amendments to paragraph a of subdivision 3 of section 467-b of
2 the real property tax law made by section one of this act shall not
3 affect the expiration of such paragraph pursuant to section 4 of part U
4 of chapter 55 of the laws of 2014, as amended, or the expiration of such
5 section pursuant to section 17 of chapter 576 of the laws of 1974, as
6 amended, and shall be deemed to expire therewith;

7 (b) the amendments to paragraph b of subdivision 3 of section 467-b of
8 the real property tax law made by section one of this act shall not
9 affect the expiration of such section pursuant to section 17 of chapter
10 576 of the laws of 1974 and section 4 of chapter 129 of the laws of
11 2014, as amended, and shall be deemed to expire therewith;

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

17 (d) the amendments to paragraph m of subdivision 1 of section 467-c of
18 the real property tax law, made by section two 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 expired there-
21 with.