

STATE OF NEW YORK

7464

2019-2020 Regular Sessions

IN ASSEMBLY

May 6, 2019

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

AN ACT to amend the real property tax law and the general municipal law,
in relation to property taxes in a city with a population of one
million or more

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

1 Section 1. Subdivision 1 of section 1805 of the real property tax law
2 is amended by adding a new paragraph (h) to read as follows:

3 (h) Provided further, this subdivision shall not apply to the assess-
4 ment roll of a special assessing unit wholly contained within a city
5 with a population of one million or more.

6 § 2. The real property tax law is amended by adding a new section
7 467-1 to read as follows:

8 § 467-1. Real property tax cap for certain persons who reside in a
9 city with a population of one million or more. 1. Real property located
10 in a city with a population of one million or more and is owned by one
11 or more persons, may be subject to a real property tax cap.

12 2. Property shall be eligible for a tax cap if:

13 (a) 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 cap shall equal the income qualifications
16 established by subdivision four of section four hundred twenty-five of
17 this title.

18 (b) the title of the property shall have been vested in the owner or
19 one of the owners of the property for not less than twenty years prior
20 to the date of making application for a cap, provided, however, that if
21 as the result of the death of a spouse in whose name title of the prop-
22 erty was vested at the time of death the property becomes vested solely
23 in the survivor by virtue of devise by or descent from the deceased
24 spouse, the time of ownership of the property by the deceased spouse

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

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1 shall be deemed also a time of ownership by the survivor and such owner-
2 ship shall be deemed continuous for the purposes of computing such peri-
3 od of thirty-six consecutive months. In the event of a transfer by a
4 spouse to the other spouse of all or part of the title to the property,
5 the time of ownership of the property by the transferor spouse shall be
6 deemed also a time of ownership by the transferee spouse and such owner-
7 ship shall be deemed continuous for the purposes of computing such peri-
8 od of thirty-six consecutive months. Provided, further, that where a
9 person is the owner of a present interest in a parcel under a life
10 estate, or is a vendee in possession under an installment contract of
11 sale, or is a beneficial owner under a trust, or resides primarily in a
12 dwelling which is owned by a corporation or partnership but is nonethe-
13 less eligible for a cap, and that person has applied for and been grant-
14 ed a cap pursuant to this section, that person shall be deemed to be the
15 owner of the parcel for purposes of this section.

16 (c) the property is used exclusively for residential purposes,
17 provided, however, that in the event any portion of such property is not
18 so used exclusively for residential purposes but is used for other
19 purposes, such portion shall be subject to taxation and the remaining
20 portion only shall be entitled to a cap provided by this section.

21 (d) the real property is the legal residence of and is occupied in
22 whole or in part by the owner or by all of the owners of the property,
23 provided that an owner who is absent while receiving health-related care
24 as an inpatient of a residential health care facility, as defined in
25 section twenty-eight hundred one of the public health law, shall be
26 deemed to remain a legal resident and an occupant of the property while
27 so confined and income accruing to that person shall be income only to
28 the extent that it exceeds the amount paid by such owner, spouse, or
29 co-owner for care in the facility; and provided further, that during
30 such confinement such property is not occupied by other than the spouse
31 or co-owner of such owner.

32 3. Beginning with the two thousand twenty fiscal year, an eligible
33 person residing in a city with a population of one million or more may
34 apply for a real property tax cap. The real property tax cap shall equal
35 ten percent of a household's income for the taxable year.

36 4. Application for such cap must be made by the owner, or all of the
37 owners of the property, on forms prescribed by the commissioner to be
38 furnished by the appropriate assessing authority and shall furnish the
39 information and be executed in the manner required or prescribed in such
40 forms, and shall be filed in such assessor's office on or before the
41 appropriate taxable status date.

42 5. (a) At least sixty days prior to the appropriate taxable status
43 date, the assessing authority shall mail to each person who was granted
44 a cap pursuant to this section on the latest completed assessment roll
45 and application form and a notice that such application must be filed on
46 or before the taxable status date and be approved in order for the cap
47 to be granted. The assessing authority shall, within three days of the
48 completion and filing of the tentative assessment roll, notify by mail
49 any applicant who has included with his or her application at least one
50 self-addressed, prepaid envelope, of the approval or denial of the
51 application; provided, however, that the assessing authority shall, upon
52 the receipt and filing of the application, send by mail notification of
53 receipt to any applicant who has included two of such envelopes with the
54 application. Where an applicant is entitled to a notice of denial pursu-
55 ant to this subdivision, such notice shall be on a form prescribed by
56 the state board and shall state the reasons for such denial and shall

1 further state that the applicant may have such determination reviewed in
2 the manner provided by law.

3 (b) An owner eligible for the cap may request that a notice be sent to
4 an adult third party. Such request shall be made on a form prescribed by
5 the state board and shall be submitted to the assessor of the assessing
6 unit in which the eligible taxpayer resides no later than sixty days
7 before the first taxable status date to which it is to apply. Such form
8 shall provide a section whereby the designated third party shall consent
9 to such designation. Such request shall be effective upon receipt by the
10 assessor. The assessor shall maintain a list of all eligible property
11 owners who have requested notices pursuant to this subdivision.

12 (c) A notice shall be sent to the designated third party at least
13 thirty days prior to each ensuing taxable status date; provided that no
14 such notice need be sent in the first year if the request was not
15 received by the assessor at least sixty days before the applicable tax-
16 able status date. Such notice shall read substantially as follows:

17 "On behalf of (identify person or persons eligible for the cap), you
18 are advised that his, her, or their renewal application for the tax cap
19 must be filed with the assessor no later than (enter date). You are
20 encouraged to remind him, her, or them of that fact, and to offer
21 assistance if needed, although you are under no legal obligation to do
22 so. Your cooperation and assistance are greatly appreciated."

23 (d) The obligation to mail such notices shall cease if the eligible
24 taxpayer cancels the request or ceases to qualify for the tax cap.

25 (e) Failure to mail any notice required by this subdivision, or the
26 failure of a party to receive same, shall not affect the validity of the
27 levy, collection, or enforcement of taxes on property owned by such
28 person, or in the case of a third party notice, on property owned by the
29 person or persons eligible for a tax cap.

30 6. Any conviction of having made any willful false statement in the
31 application for such cap, shall be punishable by a fine of not more than
32 one hundred dollars and shall disqualify the applicant or applicants
33 from further tax cap.

34 § 3. The general municipal law is amended by adding a new section 3-e
35 to read as follows:

36 § 3-e. Limitation upon real property tax levies by cities having a
37 population of one million or more. 1. Unless otherwise provided by law,
38 the amount of real property taxes that may be levied by or on behalf of
39 any city having a population of one million or more shall not exceed the
40 tax levy limitation established pursuant to this section.

41 2. When used in this section:

42 (a) "Allowable levy growth factor" shall be the lesser of: (i) one and
43 two one-hundredths; or (ii) the sum of one plus the inflation factor;
44 provided, however, that in no case shall the levy growth factor be less
45 than one.

46 (b) "Approved capital expenditures" means the expenditures associated
47 with capital projects that have been approved by the qualified voters of
48 the local government.

49 (c) "Available carryover" means the sum of the amount by which the tax
50 levy for the prior fiscal year was below the tax levy limit for such
51 fiscal year, if any, but no more than one and one-half percent of the
52 tax levy limit for such fiscal year.

53 (d) "Capital tax levy" means the tax levy necessary to support capital
54 expenditures, if any.

1 (e) "Coming fiscal year" means the fiscal year of the local government
2 for which a tax levy limitation shall be determined pursuant to this
3 section.

4 (f) "Inflation factor" means the quotient of: (i) the average of the
5 national consumer price indexes determined by the United States depart-
6 ment of labor for the twelve-month period ending six months prior to the
7 start of the coming fiscal year minus the average of the national
8 consumer price indexes determined by the United States department of
9 labor for the twelve-month period ending six months prior to the start
10 of the prior fiscal year, divided by; (ii) the average of the national
11 consumer price indexes determined by the United States department of
12 labor for the twelve-month period ending six months prior to the start
13 of the prior fiscal year, with the result expressed as a decimal to four
14 places.

15 (g) "Local government" means a city having a population of one million
16 or more.

17 (h) "Prior fiscal year" means the fiscal year of the local government
18 immediately preceding the coming fiscal year.

19 (i) "Tax levy limitation" means the amount of taxes a local government
20 is authorized to levy pursuant to this section, provided, however, that
21 the tax levy limit shall not include the local government's approved
22 capital tax levy, if any.

23 3. (a) Beginning with the fiscal year that begins in two thousand
24 twenty, no local government shall adopt a budget that requires a tax
25 levy that is greater than the tax levy limitation for the coming fiscal
26 year.

27 (b) The state comptroller shall calculate the tax levy limitation for
28 each local government by the one hundred twentieth day preceding the
29 commencement of each local government's fiscal year, and shall notify
30 each local government of the tax levy limitation so determined.

31 (c) The tax levy limitation applicable to the coming fiscal year shall
32 be determined as follows:

33 (i) Ascertain the total amount of taxes levied for the prior fiscal
34 year.

35 (ii) Add any payments in lieu of taxes that were receivable in the
36 prior fiscal year.

37 (iii) Subtract the approved capital tax levy for the prior fiscal
38 year, if any.

39 (iv) Subtract the levy attributable to a large legal settlement of a
40 tort action excluded from the levy limitation in the prior fiscal year,
41 if any.

42 (v) Multiply the result by the allowable levy growth factor.

43 (vi) Subtract any payments in lieu of taxes receivable in the coming
44 fiscal year.

45 (vii) Add the available carryover, if any.

46 (d) In the event the city council of a local government has approved a
47 legal settlement of a tort action against the government, the annual
48 costs of which exceed ten percent of the property taxes levied by the
49 local government in the prior fiscal year, the state comptroller, upon
50 application by the local government, may adjust the tax levy limitation
51 for the coming fiscal year applicable to such local government, by
52 adding the annual costs of such settlement to the tax levy limitation.

53 (e) The state comptroller shall determine the portion of the tax levy
54 of each local government that is attributable to any increase or
55 decrease over the prior year in the cost of the local government share
56 of direct cash assistance to persons eligible for the federal-state-lo-

1 cal temporary assistance to needy families program or the state-local
2 safety net assistance program and shall adjust the tax levy limitation
3 for such local government to reflect such change.

4 4. A local government may adopt a budget that requires a tax levy that
5 is greater than the tax levy limitation for the coming fiscal year only
6 if the city council of such local government first enacts, by a two-
7 thirds vote of the total voting power of such city council, a local law
8 to override such limitation for such coming fiscal year only.

9 5. In the event a local government's actual tax levy for a given
10 fiscal year exceeds the maximum allowable levy as established pursuant
11 to this section due to clerical or technical errors, the local govern-
12 ment shall place the excess amount of the levy in reserve in accordance
13 with such requirements as the state comptroller may prescribe, and shall
14 use such funds and any interest earned thereon to offset the tax levy
15 for the ensuing fiscal year.

16 § 4. Severability clause. If any clause, sentence, paragraph, subdivi-
17 sion, section or part of this act shall be adjudged by any court of
18 competent jurisdiction to be invalid, such judgment shall not affect,
19 impair, or invalidate the remainder thereof, but shall be confined in
20 its operation to the clause, sentence, paragraph, subdivision, section
21 or part thereof directly involved in the controversy in which such judg-
22 ment shall have been rendered. It is hereby declared to be the intent of
23 the legislature that this act would have been enacted even if such
24 invalid provisions had not been included herein.

25 § 5. This act shall take effect immediately and shall first apply to
26 the levy of taxes by local governments for the fiscal year that begins
27 in 2020.