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 Assembly, do enact as follows:

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

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

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

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

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

(a) the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for the cap shall equal the income qualifications established by subdivision four of section four hundred twenty-five of this title.

(b) the title of the property shall have been vested in the owner or one of the owners of the property for not less than twenty years prior to the date of making application for a cap, provided, however, that if as the result of the death of a spouse in whose name title of the property was vested at the time of death the property becomes vested solely in the survivor by virtue of devise by or descent from the deceased 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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shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of thirty-six consecutive months. In the event of a transfer by a spouse to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of thirty-six consecutive months. Provided, further, that where a person is the owner of a present interest in a parcel under a life estate, or is a vendee in possession under an installment contract of sale, or is a beneficial owner under a trust, or resides primarily in a dwelling which is owned by a corporation or partnership but is nonetheless eligible for a cap, and that person has applied for and been granted a cap pursuant to this section, that person shall be deemed to be the owner of the parcel for purposes of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. When used in this section:

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

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

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

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

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

(f) "Inflation factor" means the quotient of: (i) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period ending six months prior to the start of the coming fiscal year minus the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period ending six months prior to the start of the prior fiscal year, divided by; (ii) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period ending six months prior to the start of the prior fiscal year, with the result expressed as a decimal to four places.

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

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

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

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

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

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

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

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

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

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

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

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

(vii) Add the available carryover, if any.

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

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

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

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

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

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

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