

# STATE OF NEW YORK

4579

2019-2020 Regular Sessions

## IN SENATE

March 15, 2019

Introduced by Sen. RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

AN ACT to amend the real property tax law, in relation to a real property tax cap for persons over seventy years of age

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

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

3 § 467-1. Real property tax cap for certain persons over seventy years  
4 of age. 1. Real property owned by one or more persons, each of whom is  
5 seventy years of age or over, or real property owned by husband and  
6 wife, one of whom is seventy years of age or over, may be subject to a  
7 real property tax cap provided the governing board of any municipal  
8 corporation in which the real property is located, after public hearing,  
9 adopts a local law, ordinance or resolution providing that real property  
10 taxes for such property be capped at the amounts payable at the time  
11 such application is made.

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 does not exceed the sum of seventy thou-  
16 sand dollars. Income shall mean the aggregate adjusted gross income of  
17 all owners for the taxable year as filed, or as would have been filed,  
18 on their federal personal income tax return.

19 (b) the title of the property shall have been vested in the owner or  
20 one of the owners of the property for at least thirty-six consecutive  
21 months prior to the date of making application for a cap, provided,  
22 however, that if as the result of the death of either a husband or wife  
23 in whose name title of the property was vested at the time of death the  
24 property becomes vested solely in the survivor by virtue of devise by or  
25 descent from the deceased husband or wife, the time of ownership of the

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

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

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

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

33 3. Each governing board of any municipal corporation that shall have  
34 adopted a tax cap pursuant to this section shall notify, or cause to be  
35 notified, each person owning residential real property in such municipal  
36 corporation of the provisions of this section. The provisions of this  
37 subdivision may be met by a notice or legend sent on or with each tax  
38 bill to such persons reading "You may be eligible for a senior resident  
39 tax cap. Senior residents have until month ....., day....., year....., to  
40 apply for such cap. For further information, please contact your local  
41 assessor." Failure to notify, or cause to be notified any person who is  
42 in fact, eligible to receive a cap provided by this section or the fail-  
43 ure of such person to receive the same shall not prevent the levy,  
44 collection and enforcement of the payment of the taxes on property owned  
45 by such person.

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

52 5. At least sixty days prior to the appropriate taxable status date,  
53 the assessing authority shall mail to each person who was granted a cap  
54 pursuant to this section on the latest completed assessment roll and  
55 application form and a notice that such application must be filed on or  
56 before the taxable status date and be approved in order for the cap to

1 be granted. The assessing authority shall, within three days of the  
2 completion and filing of the tentative assessment roll, notify by mail  
3 any applicant who has included with his application at least one self-  
4 addressed, prepaid envelope, of the approval or denial of the applica-  
5 tion; provided, however, that the assessing authority shall, upon the  
6 receipt and filing of the application, send by mail notification of  
7 receipt to any applicant who has included two of such envelopes with the  
8 application. Where an applicant is entitled to a notice of denial pursu-  
9 ant to this subdivision, such notice shall be on a form prescribed by  
10 the state board and shall state the reasons for such denial and shall  
11 further state that the applicant may have such determination reviewed in  
12 the manner provided by law.

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

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

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

33 (c) The obligation to mail such notices shall cease if the eligible  
34 taxpayer cancels the request or ceases to qualify for the senior tax  
35 cap.

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

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

45 § 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.