

# STATE OF NEW YORK

3859--A

2021-2022 Regular Sessions

## IN ASSEMBLY

January 28, 2021

Introduced by M. of A. SCHMITT, MANKTELOW, BYRNES, ASHBY, PALMESANO, McDONOUGH, DeSTEFANO, MONTESANO, M. MILLER -- read once and referred 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 establishing a real property tax freeze for property owned by certain persons 62 years of age or older

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 freeze for certain persons over sixty-two  
4 years of age. 1.(a) Real property owned by one or more persons, each of  
5 whom is sixty-two years of age or over, or real property owned by  
6 husband and wife, one of whom is sixty-two years of age or over, may be  
7 subject to a taxation freeze provided the governing board of any munici-  
8 pality 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 frozen at the amounts payable at the time  
11 such application for freeze was initially made.

12 (b) The relief provided by this section shall represent the maximum  
13 allowable amount that a municipal corporation, having duly adopted a  
14 real property tax freeze pursuant to this section, may levy against a  
15 qualifying owner or owners of residential real property in any given  
16 year; provided the owner or owners remain eligible to receive such  
17 relief.

18 (c) Nothing in this section shall prohibit an owner or owners of resi-  
19 dential real property from applying for or being granted any other real  
20 property tax exemptions provided by law that they may qualify for. An  
21 owner or owners' final annual tax liability for a municipal corporation  
22 adopting the provisions of this section shall be calculated after taking

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

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1 into account and granting all other applicable real property tax  
2 exemption.

3 2. An owner or owners of a residential real property shall be eligible  
4 for a real property tax freeze pursuant to this section if: (a) the  
5 owner or owners of residential real property are each sixty-two years of  
6 age on or before December thirty-first of the year preceding an applica-  
7 tion for relief under this section; (b) the income of the owner or the  
8 combined income of the owners of the property for the income tax year  
9 immediately preceding the date of making application for the freeze does  
10 not exceed the sum of one hundred twenty thousand dollars. Income tax  
11 year shall mean the twelve month period for which the owner or owners  
12 filed a federal personal income tax return, or if no such return is  
13 filed, the calendar year. Where title is vested in either the husband or  
14 the wife, their combined income may not exceed such sum. Such income  
15 shall include social security and retirement benefits, interest, divi-  
16 dends, total gain from the sale or exchange of a capital asset which may  
17 be offset by a loss from the sale or exchange of a capital asset in the  
18 same income tax year, net rental income, salary or earnings, and net  
19 income from self-employment, but shall not include a return of capital,  
20 gifts or inheritances; and (c) the property is an owner occupied one-,  
21 two-, or three-family residential property, that serves as the primary  
22 residence of the owner or owners.

23 3. Each governing board of any municipality shall notify, or cause to  
24 be notified, each person owning residential real property in such muni-  
25 cipality of the provisions of this section. The provisions of this  
26 subdivision may be met by a notice or legend sent on or with each tax  
27 bill to such persons reading "You may be eligible for a senior citizen  
28 tax freeze. Senior citizens have until month ....., day .....,  
29 year ....., to apply for such freeze. For information please call or  
30 write .....", followed by the name, telephone number and/or address of a  
31 person or department selected by the county to explain the provisions of  
32 this section. Failure to notify, or cause to be notified any person who  
33 is in fact, eligible to receive a freeze provided by this section or the  
34 failure of such person to receive the same shall not prevent the levy,  
35 collection and enforcement of the payment of the taxes on property owned  
36 by such person.

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

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

1 the commissioner and shall state the reasons for such denial and shall  
2 further state that the applicant may have such determination reviewed in  
3 the manner provided by law. Failure to mail any such application form or  
4 notices or the failure of such person to receive any of the same shall  
5 not prevent the levy, collection and enforcement of the payment of the  
6 taxes on property owned by such person.

7 6. Any tax freeze provided by this section shall cease upon an owner  
8 or owners conveyance of the property for which relief was provided under  
9 this section, or upon the owner or owners no longer using such property  
10 as a primary residence. Use as a primary residence shall not be  
11 effected by one's status as a patient or resident of any medical or  
12 other treatment facility.

13 7. Any conviction of having made any willful false statement in the  
14 application for such freeze, shall be punishable by a fine of not more  
15 than one hundred dollars and shall disqualify the applicant or appli-  
16 cants from further freezes for a period of five years.

17 § 2. This act shall take effect on the first of January next succeed-  
18 ing the date on which it shall have become a law.