STATE OF NEW YORK

103

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. PERSAUD -- 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 granting a tax deferment for persons sixty-five years of age or older who reside in a city having a population of one million or more persons

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

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

§ 467-l. Deferral of real property tax for persons sixty-five years of age or older residing in a city having a population of one million or more persons. 1. (a) Any city of one million or more persons may, by local law, grant a tax deferment for qualifying real property owned and occupied by one or more persons, each of whom is sixty-five years of age or older, or qualifying real property owned and occupied by husband and wife or by siblings, one of whom is sixty-five years of age or older. For purposes of this section, "sibling" shall mean a brother or a sister, whether related through half blood, whole blood or adoption.

(b) For the purposes of this section, "qualifying real property" shall mean a one, two or three family residence, a farm dwelling or residential property held in condominium or cooperative form of ownership. If the property is not an eligible type of property, but a portion of the property is partially used by the owner as a primary residence, that portion which is so used shall be entitled to the deferment provided by this section; provided that in no event shall the deferment exceed the assessed value attributable to that portion. The primary residence and occupancy requirement shall be waived if the qualifying person or persons are absent from the property due to medical reasons or institutionalization.

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

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(c) Application for such deferment shall be made annually by the owner or owners of such real property. No application for such deferment shall be granted to any owner with a total income exceeding fifty-eight thousand four hundred dollars. For purposes of this section, "income" shall mean the gross income of the owner or owners of such property for the income tax year immediately preceding the date of application for such deferment and shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, earned income from salary or earnings and net income from self-employment, but shall not include a return of capital, gifts or inheritances. The age of each owner of such property shall be the age of such person at the commencement of the city's fiscal year for which an application for tax deferment is made.

2. Such deferment shall equal the total per centum of the deferment base. For purposes of this section, "deferment base" shall mean any increase in real property tax from the tax year immediately preceding the year in which such person reached the age of sixty-five years to the tax year for which an application for tax deferment is made.

3. The amount of taxes deferred shall accrue against such person, without interest, and shall, on the date such deferment is granted, constitute a lien against such property in favor of the appropriate municipal corporation. The owner or owners of such property, having received such deferment pursuant to this section, may, at any time, terminate the deferment and remove the resultant lien on said property by paying in full the cumulative amount of such lien.

4. A tax deferment granted to a husband and wife pursuant to this section, once granted, shall not be rescinded solely because of the death of the older spouse so long as the surviving spouse is at least sixty-two years of age. In the event that the surviving spouse is less than sixty-two years of age, such surviving spouse shall be eligible for the tax deferment upon reaching sixty-two years of age provided all other eligibility requirements are met.

5. Any person who has already attained the age of sixty-five years or older is eligible for such deferral and shall be entitled to a tax deferment based on the tax year immediately preceding the effective date of this section.

6. The deferment period will expire when either no eligible person remains in the property, or when the beneficiary of the deferment fails to reapply for such deferment; provided, however, that the municipality must provide a notice sixty days prior to the annual reapplication deadline via United States Postal Service to the beneficiary's primary residence. Upon the expiration of the deferment period, the municipal corporation may collect upon the lien utilizing its standard procedures for tax liens and tax sales pursuant to chapter three of title eleven of the administrative code of the city of New York.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.