

# STATE OF NEW YORK

4991

2023-2024 Regular Sessions

## IN SENATE

February 21, 2023

Introduced by Sen. OBERACKER -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the real property tax law, in relation to establishing a real property tax exemption for certain persons sixty years of age and over

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 461 to read as follows:

3 § 461. Persons sixty years of age and over. 1. (a) Real property owned  
4 by one or more persons, each of whom is sixty years of age or over, or  
5 real property owned by husband and wife, one of whom is sixty years of  
6 age or over with an annual household income not exceeding one hundred  
7 thousand dollars, shall be exempt from taxation by any municipal corpo-  
8 ration in which located to the extent provided pursuant to paragraph (b)  
9 of this subdivision.

10 (b) The exemption provided by this section shall be one hundred  
11 percent of the assessed valuation for assessment rolls prepared on the  
12 basis of taxable status dates occurring during the year two thousand  
13 twenty-three and thereafter.

14 (c) The real property tax exemption on real property owned by husband  
15 and wife, one of whom is sixty years of age or over, once granted, shall  
16 not be rescinded by any municipal corporation solely because of the  
17 death of the older spouse so long as the surviving spouse is at least  
18 sixty years of age.

19 2. Exemption from taxation for school purposes shall not be granted  
20 in the case of real property where a child resides if such child attends  
21 a public school of elementary or secondary education.

22 3. No exemption shall be granted:

23 (a) unless the owner shall have held an exemption under this section  
24 for his or her previous residence or unless the title of the property

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

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1 shall have been vested in the owner or one of the owners of the property  
2 for at least twelve consecutive months prior to the date of making  
3 application for exemption, provided, however, that in the event of the  
4 death of either a husband or wife in whose name title of the property  
5 shall have been vested at the time of death and then becomes vested  
6 solely in the survivor by virtue of devise by or descent from the  
7 deceased husband or wife, the time of ownership of the property by the  
8 deceased husband or wife shall be deemed also a time of ownership by the  
9 survivor and such ownership shall be deemed continuous for the purposes  
10 of computing such period of twelve consecutive months. In the event of a  
11 transfer by either a husband or wife to the other spouse of all or part  
12 of the title to the property, the time of ownership of the property by  
13 the transferor spouse shall be deemed also a time of ownership by the  
14 transferee spouse and such ownership shall be deemed continuous for the  
15 purposes of computing such period of twelve consecutive months. Where  
16 property of the owner or owners has been acquired to replace property  
17 formerly owned by such owner or owners and taken by eminent domain or  
18 other involuntary proceeding, except a tax sale, the period of ownership  
19 of the former property shall be combined with the period of ownership of  
20 the property for which application is made for exemption and such peri-  
21 ods of ownership shall be deemed to be consecutive for purposes of this  
22 section. Where a residence is sold and replaced with another within one  
23 year and both residences are within the state, the period of ownership  
24 of both properties shall be deemed consecutive for purposes of the  
25 exemption from taxation by a municipality. Where the owner or owners  
26 transfer title to property which as of the date of transfer was exempt  
27 from taxation under the provisions of this section, the reacquisition of  
28 title by such owner or owners within nine months of the date of transfer  
29 shall be deemed to satisfy the requirement of this paragraph that the  
30 title of the property shall have been vested in the owner or one of the  
31 owners for such period of twelve consecutive months. Where, upon or  
32 subsequent to the death of an owner or owners, title to property which  
33 as of the date of such death was exempt from taxation under such  
34 provisions, becomes vested, by virtue of devise or descent from the  
35 deceased owner or owners, or by transfer by any other means within nine  
36 months after such death, solely in a person or persons who, at the time  
37 of such death, maintained such property as a primary residence, the  
38 requirement of this paragraph that the title of the property shall have  
39 been vested in the owner or one of the owners for such period of twelve  
40 consecutive months shall be deemed satisfied;

41 (b) unless the property is used exclusively for residential purposes,  
42 provided, however, that in the event any portion of such property is not  
43 so used exclusively for residential purposes but is used for other  
44 purposes, such portion shall be subject to taxation and the remaining  
45 portion only shall be entitled to the exemption provided by this  
46 section;

47 (c) unless the real property is the legal residence of and is occupied  
48 in whole or in part by the owner or by all of the owners of the proper-  
49 ty: except where, (i) an owner is absent from the residence while  
50 receiving health-related care as an inpatient of a residential health  
51 care facility, as defined in section twenty-eight hundred one of the  
52 public health law, provided that any income accruing to that person  
53 shall only be income only to the extent that it exceeds the amount paid  
54 by such owner, spouse, or co-owner for care in the facility, and  
55 provided further, that during such confinement such property is not  
56 occupied by other than the spouse or co-owner of such owner; or, (ii)

1 the real property is owned by a husband and/or wife, or an ex-husband  
2 and/or an ex-wife, and either is absent from the residence due to  
3 divorce, legal separation or abandonment and all other provisions of  
4 this section are met provided that where an exemption was previously  
5 granted when both resided on the property, then the person remaining on  
6 the real property shall be seventy years of age or over.

7 4. (a) For the purposes of this section, title to that portion of real  
8 property owned by a cooperative apartment corporation in which a  
9 tenant-stockholder of such corporation resides and which is represented  
10 by his or her share or shares of stock in such corporation as determined  
11 by its or their proportional relationship to the total outstanding stock  
12 of the corporation, including that owned by the corporation, shall be  
13 deemed to be vested in such tenant-stockholder.

14 (b) That proportion of the assessment of such real property owned by a  
15 cooperative apartment corporation determined by the relationship of such  
16 real property vested in such tenant-stockholder to such entire parcel  
17 and the buildings thereon owned by such cooperative apartment corpo-  
18 ration in which such tenant-stockholder resides shall be subject to  
19 exemption from taxation pursuant to this section and any exemption so  
20 granted shall be credited by the appropriate taxing authority against  
21 the assessed valuation of such real property; the reduction in real  
22 property taxes realized thereby shall be credited by the cooperative  
23 apartment corporation against the amount of such taxes otherwise payable  
24 by or chargeable to such tenant-stockholder.

25 5. Every municipal corporation in which such real property is located  
26 shall notify, or cause to be notified, each person owning residential  
27 real property in such municipal corporation of the provisions of this  
28 section. The provisions of this subdivision may be met by a notice or  
29 legend sent on or with each tax bill to such persons reading "You may be  
30 eligible for tax exemptions for persons sixty years of age and over.  
31 Such persons have until month....., day....., year....., to  
32 apply for such exemptions. For information please call or write....",  
33 followed by the name, telephone number and/or address of a person or  
34 department selected by the municipal corporation to explain the  
35 provisions of this section. Each cooperative apartment corporation shall  
36 notify each tenant-stockholder thereof in residence of such provisions  
37 as set forth in this subdivision. Failure to notify, or cause to be  
38 notified any person who is in fact, eligible to receive the exemption  
39 provided by this section or the failure of such person to receive the  
40 same shall not prevent the levy, collection and enforcement of the  
41 payment of the taxes on property owned by such person.

42 6. Application for such exemption shall be made by the owner, or all  
43 of the owners of the property, on forms prescribed by the commission to  
44 be furnished by the appropriate assessing authority and shall furnish  
45 the information and be executed in the manner required or prescribed in  
46 such forms, and shall be filed in such assessor's office on or before  
47 the appropriate taxable status date. Notwithstanding any other provision  
48 of law, any person otherwise qualifying under this section shall not be  
49 denied the exemption under this section if he or she becomes sixty years  
50 of age after the appropriate taxable status date and on or before Decem-  
51 ber thirty-first of the same year.

52 7. An application for such exemption may be filed with the assessor  
53 after the appropriate taxable status date but not later than the last  
54 date on which a petition with respect to complaints of assessment may be  
55 filed, where failure to file a timely application resulted from: (a) a  
56 death of the applicant's spouse, child, parent, brother or sister; or

1 (b) an illness of the applicant or of the applicant's spouse, child,  
2 parent, brother or sister, which actually prevents the applicant from  
3 filing on a timely basis, as certified by a licensed physician. The  
4 assessor shall approve or deny such application as if it had been filed  
5 on or before the taxable status date.

6 8. Notwithstanding the provisions of this section or any other  
7 provision of law, a county with an annual taxable status date of January  
8 first or January second and with a population of one million or more,  
9 may, at its option and by amendment or adoption of a local law or ordi-  
10 nance, authorize its assessor to accept applications for the exemption  
11 from real property taxes authorized pursuant to this section on a date  
12 later than such county's statutory deadline date for receiving applica-  
13 tions for such exemption. Any application filed later than such statuto-  
14 ry deadline date which is in compliance with such local law or ordinance  
15 amended or adopted pursuant to this subdivision and which meets all  
16 other necessary requirements for granting the exemption authorized by  
17 this section shall be deemed to have been timely filed prior to such  
18 statutory deadline date, and any individual or individuals for whom such  
19 an application has been filed shall be granted such exemption and shall  
20 receive such exemption on the assessment rolls prepared for such county  
21 on the basis of the taxable status date immediately preceding the date  
22 such application was filed.

23 9. Notwithstanding the provisions of this section or any other  
24 provision of law, in a city having a population of one million or more,  
25 applications for the exemption authorized pursuant to this section shall  
26 be considered timely filed if they are filed on or before the fifteenth  
27 day of March of the appropriate year.

28 10. (a) The exemption granted pursuant to this section shall remain in  
29 effect until discontinued in the manner provided in this section.

30 (b) The assessor shall discontinue any exemption granted pursuant to  
31 this section if it appears that: (i) the property may not be the primary  
32 residence of the owner or owners who applied for the exemption, (ii)  
33 title to the property has been transferred to a new owner or owners,  
34 (iii) the owners fail to satisfy the income limitations, or (iv) the  
35 property otherwise may no longer be eligible for the exemption.

36 (c) Upon determining that an exemption granted pursuant to this  
37 section should be discontinued, the assessor shall mail a notice so  
38 stating to the owner or owners thereof at the time and in the manner  
39 provided by section five hundred ten of this chapter. Such owner or  
40 owners shall be entitled to seek administrative and judicial review of  
41 such action in the manner provided by law, provided, that the burden  
42 shall be on such owner or owners to establish eligibility for the  
43 exemption.

44 11. Any conviction of having made any wilful false statement in the  
45 application for such exemption, shall be punishable by a fine of not  
46 more than one hundred dollars and shall disqualify the applicant or  
47 applicants from further exemption for a period of five years.

48 12. Notwithstanding any other provision of law to the contrary, the  
49 provisions of this section shall apply to real property in which a  
50 person or persons hold a legal life estate or which is held in trust  
51 solely for the benefit of a person or persons if such person or persons  
52 would otherwise be eligible for a real property tax exemption, pursuant  
53 to subdivision one of this section, were such person or persons the  
54 owner or owners of such real property.

55 § 2. The state shall reimburse municipalities for all revenue lost as  
56 a result of real property tax exemptions granted pursuant to section 461

1 of the real property tax law, as added by section one of this act. The  
2 comptroller shall provide an application procedure and promulgate rules  
3 and regulations for the processing of claims by municipalities.  
4 § 3. This act shall take effect immediately.