

# STATE OF NEW YORK

8155

2023-2024 Regular Sessions

## IN ASSEMBLY

October 13, 2023

Introduced by M. of A. CUNNINGHAM -- read once and referred to the  
Committee on Aging

AN ACT to amend the real property tax law, in relation to granting a  
real property assessment freeze and property tax freeze for persons  
sixty-five years of age or older

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

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

3 § 467-m. Real property assessment freeze and property tax freeze for  
4 persons sixty-five years of age or older. 1. (a) The governing board of  
5 any municipality may, by local law, ordinance or resolution grant a real  
6 property assessment freeze and property tax freeze for qualifying real  
7 property owned and occupied by one or more persons, each of whom is  
8 sixty-five years of age or older, or qualifying real property owned and  
9 occupied by husband and wife or by siblings, one of whom is sixty-five  
10 years of age or older. For purposes of this section, "sibling" shall  
11 mean a brother or a sister, whether related through half blood, whole  
12 blood or adoption.

13 (b) Any city of one million or more persons may, by local law, grant a  
14 tax assessment freeze for qualifying real property owned and occupied by  
15 the child or children of a deceased owner, pursuant to residency  
16 requirements outlined in subparagraph (B) of paragraph one of subsection  
17 (b) of section six hundred five of the tax law and income requirements  
18 outlined in paragraph (d) of this subdivision. This assessment freeze  
19 shall not be transferable to successive owners and shall not be claimed  
20 by more than one joint owner for the same primary residence in the same  
21 year. This assessment freeze cannot be combined with other property tax  
22 exemptions or credits. For the purposes of this section, the terms  
23 "child" and "children" shall mean a son or daughter, whether by blood or  
24 adoption.

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

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1 (c) For the purposes of this section, "qualifying real property" shall  
2 mean a one, two or three family residence, a farm dwelling or residen-  
3 tial property held in a condominium or cooperative form of ownership and  
4 located in this state. If the property is not an eligible type of prop-  
5 erty, but a portion of the property is partially used by the owner as a  
6 primary residence, that portion which is so used shall be entitled to  
7 the real property assessment freeze and property tax freeze provided by  
8 this section; provided that in no event shall the taxes for such proper-  
9 ty be frozen in an amount that exceeds the assessed value attributable  
10 to that portion. The primary residence and occupancy requirement shall  
11 be waived if the qualifying person or persons are absent from the prop-  
12 erty due to medical reasons or institutionalization.

13 (d) Application for a real property assessment freeze and property tax  
14 freeze shall be made annually to the municipality by the owner or owners  
15 of such real property. No application for such real property assessment  
16 freeze and property tax freeze shall be granted to any owner with a  
17 total income exceeding fifty-eight thousand four hundred dollars. For  
18 purposes of this section, "income" shall mean the gross income of the  
19 owner or owners of such property for the income tax year immediately  
20 preceding the date of application for such real property assessment  
21 freeze and property tax freeze and shall include social security and  
22 retirement benefits, interest, dividends, total gain from the sale or  
23 exchange of a capital asset which may be offset by a loss from the sale  
24 or exchange of a capital asset in the same income tax year, net rental  
25 income, earned income from salary or earnings and net income from self-  
26 employment, but shall not include a return of capital, gifts or inheri-  
27 tances. The age of each owner of such property shall be the age of such  
28 person at the commencement of the municipality's fiscal year for which  
29 an application for such real property assessment freeze and property tax  
30 freeze is made.

31 2. Qualifying real property taxes shall be frozen in the amounts paya-  
32 ble at the time such application for a property tax freeze is made. Real  
33 property tax assessments shall freeze the assessed value of qualifying  
34 real property for a certain period of time to be determined by the muni-  
35 cipality. The assessed value of such qualifying property shall remain  
36 frozen regardless if future property values increase or decrease.

37 3. The amount of property taxes that are frozen shall accrue against  
38 such person, without interest, and shall, on the date such property tax  
39 freeze is granted, constitute a lien against such property in favor of  
40 the appropriate municipal corporation. The owner or owners of such prop-  
41 erty, having received such property tax freeze pursuant to this section,  
42 may, at any time, terminate the property tax freeze and remove the  
43 resultant lien on said property by paying in full the cumulative amount  
44 of such lien.

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

53 5. Any person who has already attained the age of sixty-five years or  
54 older is eligible for such real property assessment freeze and property  
55 tax freeze and shall be entitled to a real property assessment freeze

1 and property tax freeze based on the tax year immediately preceding the  
2 effective date of this section.

3 6. A city of one million or more persons may, by local law, determine  
4 whether a recipient of the assessment freeze, if the qualified real  
5 property is rendered uninhabitable or unusable by a casualty or natural  
6 disaster, remains eligible to receive the assessment freeze for the  
7 property while the owner constructs a replacement qualified real proper-  
8 ty on the land if the owner does not establish a different primary resi-  
9 dence for which the owner receives an assessment freeze during that  
10 period and intends to return and occupy the property as the owner's  
11 primary residence. To continue to receive such freeze, the owner shall  
12 begin active construction of the replacement qualified real property or  
13 other physical preparation of the site on which the property is to be  
14 located not later than one year after the date the owner ceases to occu-  
15 py the former qualified residential structure as the owner's primary  
16 residence. Should the cost of remodeling exceed fifteen thousand  
17 dollars, the city may, by local law, determine whether to continue to  
18 claim this assessment freeze.

19 7. The freeze period shall expire when either no eligible person  
20 remains in the property, or when the beneficiary of the freeze fails to  
21 reapply for such freeze; provided, however, that the municipality shall  
22 provide a notice sixty days prior to the annual reapplication deadline  
23 via United States Postal Service to the beneficiary's primary residence;  
24 provided further, that a real property assessment freeze period shall  
25 also expire upon the renovation, construction or demolition of qualify-  
26 ing real property that results in a change to the cash value of such  
27 property of more than ten thousand dollars or a value established by the  
28 municipality.

29 8. Upon the expiration of the property tax freeze period, the munici-  
30 pality may collect upon the lien utilizing the procedures for enforce-  
31 ment of collection of delinquent taxes pursuant to article eleven of  
32 this chapter.

33 9. A city of one million or more persons shall post announcements,  
34 both by publication and electronically, if they offer this tax assess-  
35 ment freeze.

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

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