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 Assembly, do enact as follows:

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

§ 467-m. Real property assessment freeze and property tax freeze for persons sixty-five years of age or older. 1. (a) The governing board of any municipality may, by local law, ordinance or resolution grant a real property assessment freeze and property tax freeze 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) Any city of one million or more persons may, by local law, grant a tax assessment freeze for qualifying real property owned and occupied by the child or children of a deceased owner, pursuant to residency requirements outlined in subparagraph (B) of paragraph one of subsection (b) of section six hundred five of the tax law and income requirements outlined in paragraph (d) of this subdivision. This assessment freeze shall not be transferable to successive owners and shall not be claimed by more than one joint owner for the same primary residence in the same year. This assessment freeze cannot be combined with other property tax exemptions or credits. For the purposes of this section, the terms "child" and "children" shall mean a son or daughter, whether by blood or adoption.

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

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(c) 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 a condominium or cooperative form of ownership and located in this state. 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 real property assessment freeze and property tax freeze provided by this section; provided that in no event shall the taxes for such property be frozen in an amount that exceeds 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.

(d) Application for a real property assessment freeze and property tax freeze shall be made annually to the municipality by the owner or owners of such real property. No application for such real property assessment freeze and property tax freeze 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 real property assessment freeze and property tax freeze 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 municipality's fiscal year for which an application for such real property assessment freeze and property tax freeze is made.

2. Qualifying real property taxes shall be frozen in the amounts payable at the time such application for a property tax freeze is made. Real property tax assessments shall freeze the assessed value of qualifying real property for a certain period of time to be determined by the municipality. The assessed value of such qualifying property shall remain frozen regardless if future property values increase or decrease.

3. The amount of property taxes that are frozen shall accrue against such person, without interest, and shall, on the date such property tax freeze 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 property tax freeze pursuant to this section, may, at any time, terminate the property tax freeze and remove the resultant lien on said property by paying in full the cumulative amount of such lien.

4. A real property assessment freeze and a property tax freeze 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 real property assessment freeze and property tax freeze 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 real property assessment freeze and property tax freeze and shall be entitled to a real property assessment freeze

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

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

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

8. Upon the expiration of the property tax freeze period, the municipality may collect upon the lien utilizing the procedures for enforcement of collection of delinquent taxes pursuant to article eleven of this chapter.

9. A city of one million or more persons shall post announcements, both by publication and electronically, if they offer this tax assessment freeze.

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

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