

OFFICE OF COUNSEL
Real Property Tax Section

SUMMARY OF 2014 REAL PROPERTY TAX LEGISLATION

This document provides general summaries of the most noteworthy legislation enacted in 2014 related to real property tax administration. These descriptions are intended only as a source of basic information about the key elements of the new laws. For a fuller and more authoritative account of what these new laws do, the best resource is, of course, the laws themselves. As used herein, “RPTL” means the Real Property Tax Law, “DTF” means the Department of Taxation and Finance, and “ORPTS” means the Office of Real Property Tax Services.

ASSESSMENT ADMINISTRATION

Mohawk Valley & Niagara County Assessment Relief Act

□ Chapter 55, Pt. T (A.8555-d) • Unconsolidated

Chapter 55, Part T, enacted the “Mohawk Valley & Niagara County Assessment Relief Act.” This legislation provided for a real property tax exemption, at local option, in Oneida, Herkimer, Madison, Montgomery, Tompkins, Cortland, Chemung, Schuyler, Steuben and Niagara Counties, due to severe weather that impacted those counties between June 20, 2013 and August 9, 2013. Those counties, and the municipal corporations therein, had the option of passing a resolution by May 15, 2014 to authorize this relief for property owners. Upon the adoption of such a resolution, property owners were permitted to submit a request to the assessor by June 30, 2014 for a reduction in assessed value, if their loss met or exceeded a prescribed threshold. To be eligible for relief, the improvements on the property generally had to have lost at least 50% of their value due to the severe weather, but this floor could be lowered at local option to allow relief to improvements that lost 40%, 30%, 20% or 10% of their value. This tax relief applied to final assessment rolls with taxable status dates prior to June 20, 2013, where taxes levied upon those rolls were payable without interest on or after June 20, 2013.

Correction of Errors; Affordable Housing

□ Chapter 409 (S.1998) • RPTL §§ 550(2) and 581-a

Chapter 409 expands the definition of the term “clerical error” (RPTL § 550(2)) to include an assessment that is incorrect due to an assessor’s failure to utilize the methodology prescribed by RPTL § 581-a for the valuation of the type of residential real property commonly referred to as “affordable housing.” RPTL §581-a is not an exemption statute, so the failure to apply that methodology to qualifying property previously did not constitute a clerical error under RPTL §550(2)(c). This legislation allows the RPTL correction of errors procedures to be used to make such corrections administratively, giving the owner considerably more time to act. The correction of errors procedures allow for a refund or credit to be provided to the taxpayer where

an application (Form RP-556) demonstrating the existence of a correctible error has been duly filed within three years from the annexation of the warrant for such tax (RPTL § 556(a)).

Correction of Errors; Superstorm Sandy

☐ Chapter 340 (A.9614) • Unconsolidated

Chapter 340 amends the Superstorm Sandy Assessment Relief Act (L.2013, c.424) to allow delegated municipal officials to pay tax refunds of up to \$7,500 to victims of Superstorm Sandy, when so authorized by the tax levying body, as opposed to the \$2,500 limit that would otherwise be applicable per RPTL §558. Refunds in excess of the locally-applicable limit must be approved by the applicable tax levying body.

School District Tax Refunds & Public Libraries

☐ Chapter 546 (S.2003) • RPTL § 726

Chapter 546 amends RPTL § 726(1)(c) to allow school districts that owe refunds to taxpayers as the result of tax certiorari proceedings to “charge back” to school district public libraries the portion of the refund attributable to library purposes. Prior law was silent regarding whether a school district that has a public library could charge the library the portion of a refund attributable to library purposes, leading the State Comptroller to conclude that it could not (Op. State Compt. 95-15).

Oil and Gas Fee Extender

☐ Chapter 59 (S.6359-D), Part C • Unconsolidated

Chapter 59, Part C, extends from March 31, 2015, to March 31, 2018, the authority for the imposition of fees upon oil and gas producers to defray the cost to the State of determining unit of production values (L.1992, C.540, § 2; L.2012, C.59, Pt. A, § 1).

EXEMPTION ADMINISTRATION

Agricultural Assessments; Silvopasturing

☐ Chapter 547 (S.3693) • Agriculture and Markets Law § 301(4)(m)

Chapter 547 allows land used in “silvopasturing” to qualify as land used in agricultural production. For the purposes of this law, “silvopasturing” means the intentional combination of trees, forages and livestock managed as a single integrated practice for the collective benefit of each, including the planting of appropriate grasses and legume forages among trees for sound grazing and livestock husbandry. Land used in silvopasturing shall be limited to up to ten fenced acres per large livestock, including cattle, horses, camelids, and up to five fenced acres per small livestock, such as sheep, hogs, goats and poultry.

Agricultural Districts; Acreage Requirement

☐ Chapter 463 (S.6360-A) • Agriculture and Markets Law § 303(1)

Chapter 463 allows a landowner to submit a proposal for the creation of an agricultural district provided that such owner owns at least 250 acres or at least 10% of the land proposed to be included in the district, whichever is greater. Under the prior law, a landowner needed to own at least 500 acres or at least 10% of the land proposed to be included in the district, whichever was greater, in order to submit such a proposal.

Energy; Green Buildings

☐ Chapter **363** (A.8009) • RPTL § 470

Chapter **363** amends RPTL § 470 to clarify that Leadership in Energy & Environmental Design (“LEED”) certification is not the only green building certification standard that may entitle a taxpayer to a tax exemption under RPTL § 470. Section 470 provides, at local option, a real property tax exemption for buildings that meet green building standards. Depending upon the level of energy and environmental efficiency, this tax exemption may last for up to 10 years, with the first 6 years providing up to a 100% exemption. Non-LEED green building certification standards must be “equivalent” to the LEED “Certified/Silver,” “Gold,” and “Platinum” standards in order to receive the exemption.

Energy; Solar, Wind and Farm Waste Systems

☐ Chapter **344** (S.7026-A) • RPTL § 487

Chapter **344** extends the exemption provided by RPTL § 487 for certain solar, wind and farm waste electric generating facilities to include improvements that begin construction prior to January 1, 2025. Prior to this law, eligibility for the exemption ended on January 1, 2015. The legislation also specifies that construction of such an energy system is deemed to begin when a contract or interconnection agreement with a utility is executed. Finally, it establishes a procedure for notification to and from municipalities who may wish to enter into a contract with the owner or developer of such an energy system for payments in lieu of taxes.

Energy; Nuclear Power Generating Facilities

☐ Chapter **336** (A.9380) • RPTL § 485

Chapter **336** extends the provisions of RPTL §485 until 2031. The statute is now set to expire in 2016. RPTL §485, originally enacted in 2001, provides a property tax exemption, at local option, to nuclear powered electric generation plants. Once exempt, the owners make a Payment in Lieu of Taxes (PILOT). Each taxing jurisdiction and the facility owners may negotiate an individual, tailored PILOT. If they cannot agree there is a fall back provision whereby the PILOT will be imposed under a statutory formula, which essentially equates to the taxes that would have been paid if the plant had remained taxable.

STAR; Enhanced STAR Income Standard

☐ Chapter **59** (S.6359-D), Part NN • RPTL § 425(4)(b)(i)(C-1)

Chapter **59**, Part NN, provides that if the death of a senior citizen’s spouse results in a decrease in income, and he or she would qualify for Enhanced STAR if eligibility were based upon income for the tax year immediately subsequent to the tax year that would otherwise be applicable, then the senior citizen’s eligibility for Enhanced STAR on the applicable taxable status date shall be determined based upon his or her income for such later income tax year.

STAR; Late Registrations

☐ Chapter **59** (S.6359-D), Part B • RPTL § 425(14)(a)(iii)

Chapter **59**, Part B, provides that if DTF accepts a late STAR registration after a Basic STAR exemption was removed, it may pay directly to the taxpayer the tax savings that the exemption would have yielded, instead of directing that the exemption be restored. It may also direct that the exemption be restored prospectively without a new application.

Veterans; Documents Establishing Eligibility

- Chapter **426** (A.6215) • RPTL §§ 458, 458-a, and 458-b

Chapter **426** amends RPTL §§ 458, 458-a, and 458-b to require DTF to develop, in consultation with the Director of the Division of Veterans' Affairs, a list of documents to be used in establishing eligibility for a veterans exemption. The list has been posted on the DTF website at <http://www.tax.ny.gov/pit/property/exemption/vetexemptproof.htm>.

Veterans, Alternative; School District Opt-out

- Chapter **430** (S.6781) • RPTL § 458-a

Chapter **430** modifies recent legislation that empowered school districts to offer the alternative veteran's exemption (L.2013, c.518), by expressly allowing participating school districts to opt out. More specifically, it empowers a school district that has adopted a resolution authorizing the exemption to repeal that resolution no later than 90 days before the taxable status date next occurring on or after December 31, 2013.

Veterans, Eligible Funds; Amount of Eligible Funds

- Chapter **425** (A.2124) • RPTL § 458

Chapter **425** increases the dollar limit upon the "eligible funds" that may be considered for purposes of the "eligible funds" veterans exemption authorized by RPTL §458. The new limit is \$7500, effective July 1, 2015. The prior limit was \$5000.

Retroactive Exemptions for Specific Properties

In certain assessing units, the assessor has been authorized to accept an exemption application after taxable status date for a specific parcel owned by a named nonprofit or governmental entity. The entity either acquired the parcel after taxable status date, or acquired title but failed to apply for the exemption by taxable status date. The details are in the Legislative Status Chart posted at <http://www.tax.ny.gov/research/property/legal/legis/14bills.htm>.

MISCELLANEOUS

Real Property Tax Freeze Credit

- Chapter **59** (S.6359-D), Part FF • Tax Law § 606(bbb)

Chapter **59**, Part FF, establishes the Real Property Tax Freeze Credit, a tax relief program that reimburses qualifying New York State homeowners for increases in local property taxes on their primary residences. The credit applies to school districts in 2014 and 2015, and to most other municipalities in 2015 and 2016. Additional information is available on the DTF website at http://www.tax.ny.gov/pit/property/property_tax_freeze.htm.

School District Reorganizations & Tax Rate Changes

- Chapter **56** (S.6356-d), Part A, § 6 • Education Law § 3613

Chapter **56**, Part A, § 6, gives school districts that are proposing a reorganization (e.g., a merger) the option of alleviating any impact the reorganization might have upon school tax rates. They may choose to defer the impact altogether for one year, and/or phase it in over a period of as long as 10 years.

Land Banks

□ Chapter **106** (A.8819) • Not-for-profit Corporation Law § 1603(g)

Chapter **106** authorizes the existence of no more than 20 land banks located in the State at one time. Under the prior law, no more than 10 land banks were authorized at one time.

Legislation of Local Interest

Enactments that are primarily of local interest include the following:

- The Towns of Bethlehem and Eden have been authorized to grant a real property tax exemption for property owners who have entered into a commitment with the town to restrict development on their property for a specified period of time (Chaps. **278, 296**).
- The City of Oneonta has been authorized to provide a partial exemption from city taxes for multiple dwellings that are converted to owner-occupied homes with no more than two dwelling units, and for newly constructed residential dwellings that are used as the primary residence of the owner (Chaps. **365, 405** [*note that per Approval Message # 6, a technical correction will be made to c.405*]).
- The Town of Henrietta has been authorized to make a one-time payment of no more than \$100 to all owners of single family residential properties as of June 1, 2014, so long as they are not in arrears on any monies owed to the town (Chap. **329**).
- The legislation authorizing the City of Middletown to pledge its delinquent tax liens as collateral for a loan and/or sell the liens to a private party for collection (L.2013, c.510) has been amended to expire and be deemed repealed on and after December 31, 2015 (Chap. **144**).
- The ability of the City of Schenectady to nullify tax liens that were imposed upon property that had previously been tax exempt has been expanded (Chap. **398**).
- The timing of the tax collection process in Onondaga County has been modified (Chap. **390**).
- The expiration date for State Finance Law § 99-n, which relates to the treatment of lands owned by the Oneida Indian Nation, has been extended (Chap. **73**).
- The following enactments primarily impact New York City:
 - An Enhanced Circuit Breaker refundable personal income tax credit was enacted for households in NYC with incomes of less than \$200,000 (Chap. **59**, Pt. K).
 - The eligibility thresholds for the senior citizens rent increase exemption (“SCRIE”) and the disability rent increase exemption (“DRIE”) have been temporarily increased to \$50,000 (Chaps. **55**, Pt. U, and **129**).
 - A partial real property tax exemption has been created for property in NYC that was rebuilt after being severely damaged by Hurricane Sandy (Chap. **25**).
 - An additional tax exemption of up to 50 years has been authorized for certain housing projects built by mutual redevelopment companies (Chap. **531**).
 - An exemption from certain NYC water and sewer charges that applies to hospitals and charities was extended by two years, and was also made applicable to the National September 11 Memorial & Museum (Chaps. **246, 247**).
 - The NYC solar energy tax abatement program has been extended to March 15, 2017, and the exemption amount has been potentially increased for some generating systems (Chap. **396**).

- The following enactments impact Nassau County and/or municipalities therein:
 - The expiration date for the modifications to the county's assessment calendar that were enacted in 2002 has been changed to June 30, 2016 (Chap. **55**, Pt. Y).
 - The formula for calculating class tax shares in the County for purposes of the four-class tax system established by RPTL Article 18, and for purposes of the two-class system established by Article 19, have been modified by extending a 1% limit upon changes to current base proportions (Chaps. **443**, **333**).
 - The County's system for levy and extension of taxes has been partially revised in relation to Class 4 (commercial) property (Chap. **458**).
 - The following enactments impact Suffolk County and/or municipalities therein:
 - The Town of Southampton has been authorized to provide a real property tax exemption for new construction, significant alteration, improvement or installation of real property for hospitality purposes (Chap. **470**).
 - The County is authorized to retroactively extend the interest-free period for the payment of the first installment of 2014 real property taxes in the Town of East Hampton from January 10, 2014 to January 31, 2014 (Chap. **151**).
 - The formula for calculating class tax shares in the Town of Islip is modified by extending a 1% limit upon changes to current base proportions (Chap. **216**).
 - The deadline for school districts within the Town of Smithtown to exercise the provisions of the Superstorm Sandy Assessment Relief Act (L.2013, c.424) has been extended. (Chap. **416**).
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GOVERNOR'S APPROVAL MESSAGE

APPROVAL MEMORANDUM - No. 6 Chapter 405

MEMORANDUM filed with Assembly Bill Number 8324-A, entitled:

"AN ACT to amend the real property tax law, in relation to a residential investment exemption in certain cities"

APPROVED

This bill would allow any city with more than 13,500 inhabitants but fewer than 14,000 inhabitants to enact, at its option, a real property tax exemption program for residential real property. Because the population band references in the bill fail to reference the most recent decennial census, they are technically flawed. The Legislature has agreed to a chapter amendment to correct this error. On that basis, I am signing the bill.

This bill is approved.

(signed) ANDREW M. CUOMO

GOVERNOR'S DISAPPROVAL MESSAGES

VETO MESSAGE - No. 495

TO THE ASSEMBLY: I am returning herewith, without my approval, the following bill:

Assembly Bill Number 8320-B, entitled: "AN ACT to amend the real property tax law, in relation to a real property tax exemption for farm dwellings owned by a limited liability company"

NOT APPROVED

This bill would extend the STAR exemption in farm dwellings owned by an LLC, a measure which would have an annual fiscal impact of \$2.5 million. Consideration of legislation with such an impact on State finances should occur in the context of negotiating the budget, when all of the State's fiscal needs are considered in a comprehensive fashion. For this reason, I must disapprove this legislation.

The bill is disapproved.

(signed) ANDREW M. CUOMO

VETO MESSAGE - No. 501

TO THE ASSEMBLY: I am returning herewith, without my approval, the following bill:

Assembly Bill Number 9170, entitled:

"AN ACT to amend the administrative code of the city of New York, in relation to requiring assessment-rolls to be published on the department of finance website"

NOT APPROVED

This bill would require New York City's Department of Finance (DoF) to post its property tax assessment roll and certain property tax assessment data on its website and create a document containing such information in a searchable format within nine months. I vetoed similar legislation last year (Veto Memo No. 244 of 2013). This bill would mandate that DoF either disclose information in a

website searchable format, which is already provided on DoF's website, or disclose information that would be confusing, cumbersome and unhelpful to property owners. As a result, again, I cannot approve this bill.

The bill is disapproved.

(signed) ANDREW M. CUOMO

VETO MESSAGE - No. 523

TO THE SENATE: I am returning herewith, without my approval, the following bill:

Senate Bill Number 7466, entitled:

"AN ACT to amend the real property tax law, in relation to requiring assessment disclosure notices in New York city to include a description of the method of assessment"

NOT APPROVED

This bill would require that New York City's Department of Finance (DoF) include in its assessment disclosure notice of certain property tax assessment data. This bill is identical to legislation I vetoed last year (Veto No. 243). DoF already provides most of the information required by this legislation through several separate databases on its website and on the Notices of Property Value that are mailed to property owners. Moreover, New York City advises that this unfunded mandate would require it to, at significant cost, recode the DoF's systems for very little benefit. Therefore, for the same reasons that I disapproved this legislation last year, I cannot approve this bill.

The bill is disapproved.

(signed) ANDREW M. CUOMO

VETO MESSAGE - Nos. 530, 545, 546

TO THE ASSEMBLY: I am returning herewith, without my approval, the following bills:

Assembly Bill Number 1859-B, entitled:

"AN ACT to amend the real property tax law, in relation to outreach, status and time limits relating to the tax abatement program for rent-controlled and rent-regulated property occupied by senior citizens or persons with disabilities"

Assembly Bill Number 8978, entitled:

"AN ACT to amend the real property tax law, in relation to providing language access services to individuals relating to the tax abatement program for rent-controlled and rent-regulated property occupied by senior citizens or persons with disabilities"

Assembly Bill Number 9014-A, entitled:

"AN ACT to amend the real property tax law, in relation to making certain tax abatement forms more readily available to seniors and authorizing certain entities to assist in the completion of such forms"

NOT APPROVED

These bills would amend the Real Property Tax Law to make the Senior Citizen Rent Increase Exemption (SCRIE) and Disability Rent Increase Exemption (DRIE) programs more accessible to the public. While I support the policy goals and substance of the bills, collectively they impose costs totaling nearly \$1 million on the State for which the Legislature has made no provision. These proposals are more appropriately discussed in the context of the State Budget. For these reasons, I am disapproving all three bills.

These bills are disapproved.

(signed) ANDREW M. CUOMO

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For the 2014 Legislative Status Chart, see <http://www.tax.ny.gov/research/property/legal/legis/14bills.htm>.