

SUMMARY OF
1997
REAL PROPERTY TAX LEGISLATION



STATE BOARD OF REAL PROPERTY SERVICES

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SUMMARY OF 1997 REAL PROPERTY TAX LEGISLATION

NEW YORK STATE BOARD OF REAL PROPERTY SERVICES

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Special thanks are due to Paul Miller and Karen Delduce for their efforts in continually monitoring the status of bills of interest throughout the legislative session, and to Lynn Miller for her ongoing contributions to the process.

SUMMARY OF 1997 REAL PROPERTY TAX LEGISLATION

This publication provides a summary of legislation enacted in 1997 relating to real property tax administration. The descriptions it contains are intended only as a source of general information about the major features of these new laws. For a more detailed and authoritative account of what these new laws do, the best resource is, of course, the laws themselves.

Undoubtedly, the most significant new legislation of interest relating to real property taxes in 1997 is the new **School Tax Relief (STAR) Program**, which will provide a substantial State-funded exemption to virtually all owner-occupied primary residences, and which also establishes a "Property Taxpayer's Bill of Rights." The major features of the STAR Program are summarized on page one of this publication.

The following other laws may also be of special interest:

- Assessment of Converted Condominiums (p.3)
- Mandate Relief (p.3)
- Elected Assessors and Continuing Education (p.4)
- Source of Training Funds (p.4)
- Service of SCAR Petitions (p.4)
- Sales Ratio Studies (p.4)
- New York City Watershed (p.5)
- New Exemption for Persons with Disabilities (p.10)
- Property Value Limits for Alternative Veterans Exemption (p.11)
- New Installment Payment Options (p.14)
- School District Budgeting Reform (p.16)

For the most part, the laws described herein are now in effect. In those few cases where a law had not become effective by the time this Summary was published, a statement to that effect has been included in the description of the law.

All statutory citations in this publication are to the Real Property Tax Law (RPTL), unless otherwise noted.

October, 1997

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I. STAR PROGRAM

A. STAR Exemption

The New York State School Tax Relief (STAR) Program was established by Chapter 389 of the Laws of 1997. The central feature of the STAR program is a State-funded exemption from school property taxes for owner-occupied, primary residences (RPTL, §425). To be eligible for the exemption, the property must be a one, two, or three-family residence, a mobile home, a farm home, or a residential condominium or cooperative apartment.

The “enhanced” STAR exemption will be available to eligible senior citizens starting with the taxes for school year 1998-99. The amount of the enhanced exemption will ultimately be \$50,000, subject to equalization and other adjustments, to be phased-in over four years (\$12,500 in school year 1998-99, \$25,000 in 1999-2000, \$37,500 in 2000-01, and \$50,000 in 2001-02 and thereafter). To be eligible, the property owners must all be 65 years of age or older, except that if the property is owned by a husband and wife, only one of them must be at least 65 years of age. In addition, the combined annual income of all of the owners, and of any owners’ spouses residing on the premises, must not exceed \$60,000.

“Income” has the same meaning for STAR purposes as it does for purposes of the senior citizens exemption (RPTL, §467), except that any exclusions or deductions from income that are allowed at local option for purposes of the senior citizens exemption will not be allowed for STAR purposes. Low-income seniors who will be receiving the senior citizens exemption will automatically qualify for the STAR exemption, without filing a separate STAR application.

The “basic” STAR exemption will be extended to all primary-residence homeowners, regardless of age or income, starting with the taxes for school year 1999-2000. The amount of the basic exemption will ultimately be \$30,000, subject to equalization and other adjustments, to be phased-in over three years (\$10,000 in school year 1999-2000, \$20,000 in 2000-01, and \$30,000 in 2001-02 and thereafter). Senior citizens whose annual incomes exceed \$60,000 will be eligible for the basic STAR exemption.

The STAR exemption amounts will be adjusted for each assessing unit by the applicable State equalization rate, and, in counties where the median home value exceeds the statewide median home value, by a “sales price differential factor.” The State Board will calculate the applicable STAR exemption amounts and certify them to assessing units at least 20 days before their tentative assessment rolls must be filed.

The STAR exemption must be applied after the senior citizen exemption and any other applicable exemptions have been applied to the property’s assessed value. However, the exemption may not reduce the property’s taxable assessed value below zero.

Anyone who misrepresents his or her primary residence, age or income on a STAR application may be subject to a \$100 penalty, may be prohibited from receiving the STAR exemption for five years, may have to return up to three years of tax savings, and may be subject to criminal prosecution.

School districts are required to provide information about the STAR exemption to each person who owns a residence in the school district. This requirement may be satisfied by sending such persons a notice in the form prescribed by the STAR law (§425(5)).

While other exemptions merely shift the tax burden to other taxpayers, the STAR exemption is funded by the State. School districts will determine their tax rates without regard to the STAR exemption, but will levy their taxes against the taxable assessed value of each parcel after the STAR exemption, if any (§1306-a). The State will then reimburse each school district for the tax shortfall attributable to the STAR exemption, upon receiving the necessary application from the school district.

In conjunction with the STAR program, legislation was enacted to improve the process by which the public reviews school district expenditures (L.1997, c.436). Those changes are discussed elsewhere in this Summary (p.16).

B. Property Taxpayer's Bill of Rights

A "Property Taxpayer's Bill of Rights" was also enacted by Chapter 389 as part of the STAR Program. For tax levies for fiscal years that begin on and after July 1, 1998, property tax bills will have to state: the market value of the property to which the tax bill pertains; the uniform percentage of value used in assessing property in that assessing unit pursuant to section 305 of the RPTL; the total tax levy and percent change from the prior year for each taxing purpose; and an explanation of the assessment review process (RPTL, §922(1)(a)). The market value, uniform percentage and assessment review information need not be included on the tax bill if the assessing unit mailed such information to taxpayers no later than 10 days after the filing of the prior tentative assessment roll. In the case of a school district, the tax bill will also have to state the tax savings attributable to the STAR exemption (§1306-a(2)).

When taxes are paid through an escrow account, the collecting officer will be required to provide the property owner with a receipt within three weeks after the tax has been paid (§955(3)). These receipts will be in the same form as tax bills, except that they will be marked "Paid" and will show the date of payment.

Chapter 389 also contains provisions which authorize the use of sales ratio studies in certiorari proceedings, which permit the interest-free tax collection period to be extended under certain circumstances, and which enhance the ability of counties to allow current taxes to be paid in installments. Those provisions are described elsewhere in this Summary (pp. 4, 15).

II. ASSESSMENT ADMINISTRATION

A. Local Assessment Administration

1. Converted Condominiums

Chapter 293 enables municipal corporations, other than New York City and Nassau County, to provide that “converted condominiums” (i.e., residential condominium units which have been converted to condominium ownership from conventional ownership) shall be assessed without regard to the assessment restrictions otherwise applicable to condominiums (RPTL, §581(1)(c); Real Property Law, §339-y(1)(f)).

The general rule is that the sum of the assessments of individual condominium units must not exceed the value of the entire complex if it was valued as a single entity. This restriction tends to reduce condominium assessments by preventing the use of sales of units in the assessment process. (Note, however, that this restriction does not apply to condominiums in Class 1 in a special assessing unit or in the homestead class of an approved assessing unit which uses dual tax rates.)

Chapter 293 allows local governments to decline to grant these benefits to converted condominiums, thereby removing the incentive to convert existing housing to condominium ownership to reduce taxes. Pre-existing condominiums are not affected by this change.

2. Mandate Relief

Chapter 355 provides mandate relief to local governments in relation to real property tax administration. Generally speaking, the proposal eliminates unnecessary paperwork and excessive bureaucracy in a number of different program areas. Most notably, the legislation:

- (a) Repeals the requirement that assessors prepare certain reports concerning exemptions (former RPTL, §496)
- (b) Authorizes the issuance of transition assessments upon certain State acquisitions without applications from the affected tax districts (§545).
- (c) Simplifies the process for becoming an approved assessing unit (Article 19).
- (d) Allows special and approved assessing units to levy taxes without advance review of their adjusted base proportions by the State Board (§§1803-a, 1903)
- (e) Allows tax districts to use non-State Board forms for tax enforcement (Article 11)

3. Delegation of Authority to Make Certain Corrections

Chapter 515 amends the Correction of Errors procedures (RPTL, §§550-559) by permitting a tax levying body to authorize a designated official to approve the correction of the tax roll and tax bill where the correction does not exceed \$2,500 (RPTL, §554(9)). It also increases the maximum tax refund that may be approved under such delegated authority from \$500 to \$2,500 (§556(8)(a)).

B. Training Reimbursement

1. Elected Assessors and Continuing Education

Chapter 527 authorizes the State to reimburse elected assessors for their actual and necessary costs incurred when they complete continuing education training programs (RPTL, §318(4)). Elected assessors who serve on three-member Boards of Assessors are not generally subject to a continuing education requirement, and under prior law, could not receive reimbursement when they voluntarily completed such training.

2. Source of Training Funds

Chapter 430, a multifaceted budget-related enactment, includes a provision that requires payments for reimbursement of assessor training to be made from the Local Assistance Account (RPTL, §318(8)). Previously, these funds were placed in the State Operations Account, which made them potentially subject to being used for non-training purposes.

C. Judicial Review

1. Service of SCAR Petitions

Chapter 517 requires that Small Claims Assessment Review (SCAR) petitions be served upon an assessing unit either by personal delivery or by certified mail, return receipt requested (RPTL, §730(8)). If served by personal delivery, the clerk of the assessing unit or "other appropriate person" must furnish the petitioner with a receipt setting forth the date and time of service.

Previously, a SCAR petitioner was only required to mail a copy of the petition to the assessing unit within 10 days of filing the petition with the county clerk. Chapter 517 will make it unnecessary for SCAR hearing officers to determine the threshold issue of whether the petitioner did in fact comply with this requirement.

2. Sales Ratio Studies

Chapter 389, in addition to establishing the STAR program, includes a provision which permits a party in a certiorari proceeding to submit as evidence of ratio "actual sales of real property within the assessing units that occurred during the year in which the assessment under review was made" (RPTL, §720(3)). This method of proof, commonly known as a "sales ratio study," had been permitted until 1986, but not since then (L.1986, c.679). Chapter 389 restores the right to offer sales ratio studies, effective with certiorari proceedings commenced on or after January 1, 1998.

Note that notwithstanding Chapter 389, a party to a certiorari proceeding may still offer as proof of ratio the State equalization rate (or in a special assessing unit, the class ratio) or a “stratified random sample.” The sales ratio study is simply an additional method of proof.

3. Appraisals and Testimony by County Directors

Chapter 406 authorizes counties, upon the adoption of a local law, to provide appraisals of real property to cities, towns and villages (RPTL, §1536-a). These appraisals will be prepared by appraisers and other technical personnel who meet minimum qualification standards and have attended the prescribed training courses. The appraisers will be employed by the county, but the costs incurred in making the appraisals will be charged back to the city, town or village. The appraisals may be considered by the Assessor in determining market value, but are not binding.

Further, when an assessment is subject to judicial review, Chapter 406 authorizes the County Director of Real Property Tax Services (or his or her designee) to provide appraisals and to appear as an expert witness in the court proceeding (§1532(1)(b-1)).

D. Public Property

1. New York City Watershed

Chapter 2 is part of the historic agreement Governor Pataki negotiated between the City of New York and local governments in the City’s watershed to comply with directives of the Federal Government to assure the continued purity of the City’s water supply. In order to protect its watershed, the City of New York will embark on a program of both purchasing land and obtaining conservation easements over land. Chapter 2 establishes the statutory framework for these conservation easements, and provides that they will generally be taxable (RPTL, §§583-589-a).

Conservation easements are enforceable restrictions upon the uses to which real property may be placed. Under Chapter 2, two types of easements will be taxable to the City: “Watershed Conservation Easements” and “Watershed Agricultural Easements.” The difference is that the agricultural easements allow the burdened parcels to continue in agricultural production. Both types of easements are fully taxable, and the City does not receive any benefit from exemptions applied to the burdened parcels, with one exception: If a parcel with a watershed agricultural easement receives an agricultural assessment pursuant to Article 25AA of the Agriculture and Markets Law, the easement will not be taxable.

This program will be administered in a manner parallel to the administration of taxable State easements (RPTL, §543; see also, Environmental Conservation Law, Article 49). The allocation factor used to value the easements will be subject to review by the State Board after 20 years. The penalty provisions of the agricultural assessments program and the forest tax exemption program (RPTL, §480-a) will not be triggered by the granting of a conservation easement.

2. State Lands in Certain Towns

Senate Bill Number 5450, if approved by the Governor, would make certain State lands taxable for all purposes. (Although the bill has passed both houses, as of this writing there has been no official announcement as to whether the bill has been signed.) The lands to which this bill would apply are lands acquired for the Palisades Interstate Park in the Towns of Monroe and Warwick in Orange County (RPTL, §532).

E. State Board of Real Property Services

1. Farmer on State Board

Chapter 403 requires that one member of the State Board of Real Property Services be actively engaged in the commercial production of agricultural crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more (RPTL, §200). This individual must be appointed to an eight-year term upon the expiration of an existing term, and shall take office on January 1 of the following year. Chapter 403 takes effect November 19, 1997.

2. Oil and Gas Program Fee Extender

Chapter 35 extends for three more years (to March 31, 2000) the requirement that oil and gas producers must pay a portion of the cost of the oil and gas assessment program, based upon a fee schedule (RPTL, §593). The charge provision was enacted in 1992, along with the centralized system of valuation of oil and gas property that is now on the books (§§590-597).

F. Technical and Clarifying Amendments

Chapter 362 makes a series of amendments, primarily technical in nature, to clarify several laws relating to real property tax administration. From the standpoint of assessment administration, the most noteworthy changes are as follows:

- (a) A reference to the new State aid program (RPTL, §1573) has been included in the definition of "revaluation" (§102(12-a)).
- (b) A statutory reference to special rates for the approval of the assessment of taxable State owned lands has been restored after being erroneously deleted (§1222(1)(a)).
- (c) The procedures relating to new "portions" in approved assessing units have been clarified (§1903(3)(h)).

In addition, Chapter 430, a multi-faceted budget-related enactment, includes a provision clarifying that an assessing unit may qualify for aid under the new State aid program three years after qualifying for aid under the old State aid program (§1573(2)(a)).

III. EXEMPTION ADMINISTRATION

A. Agriculture

1. Ratites as Livestock

Chapter 62 adds ratites, such as ostriches, emus, rheas and kiwis, to the listed examples of livestock and livestock products, the raising of which may qualify farmland for an agricultural assessment (Agriculture and Markets Law, §301(2)(e)).

2. Miscellaneous

Chapter 357 makes a variety of changes to the "Agricultural Districts Law" (Article 25AA of the Agriculture and Markets Law), a number of which bear upon real property tax administration.

Prior to the enactment of Chapter 357, the term "land used in agricultural production" included certain lands used under a written rental agreement in conjunction with land which "qualifies" for an agricultural assessment (Agriculture and Markets Law (AML), §301(4)(b)). The term "qualifies" has been replaced by "is eligible," to clarify that the associated agricultural land need only be eligible for an agricultural assessment, and need not actually be receiving such an assessment. A corresponding amendment has been made to require applicants for agricultural assessments to furnish the assessor with information regarding the eligibility for agricultural assessment of any land used in conjunction with rented land (AML, §305(1)(a)).

In addition, the definition of "farm operation," has been revised to include "on-farm buildings, equipment, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise" (AML, §301(11)).

Finally, the deadline for filing an application for an agricultural assessment, for land located within an agricultural district, has been changed. In the year of a revaluation or update of assessments the application may now be filed no later than thirty days prior to the day required by law for the filing of the tentative assessment roll (AML, §305(1)(a)). In other years, applications must be submitted by taxable status date.

Chapter 357 will take effect November 3, 1997 and will apply to assessment rolls prepared on the basis of a taxable status date occurring on or after such date.

B. Banking Districts

Chapter 204 creates certain incentives to "encourage banks to locate in areas that otherwise might not be economically feasible for the location of a branch facility." The new law includes a local option, partial exemption for alterations, constructions, installations or improvements of branch

banks within a banking improvement district (RPTL, §485-f) established pursuant to guidelines set by rule of the State Banking Board. The exemption is patterned on the business investment exemption (§485-b) and mirrors that law's generally applicable 10 year exemption declining from 50 percent of the increase in assessment attributable to the improvement.

Note that municipalities are authorized to deposit their funds in such banks and receive a fixed interest rate on their deposit, a rate presumably less than that which could be obtained elsewhere. Chapter 204 will take effect January 1, 1998.

C. Business Investment

Chapter 332 provides that the business investment exemption will no longer apply to "fire district taxes" (RPTL, §485-b((1) and (4)). This appears to refer to special ad valorem levies charged on behalf of fire districts. Chapter 332 is now effective, but exemptions that existed prior to the enactment are not subject to reduction.

D. Historic Property

Chapter 183 provides a local option, partial real property tax exemption for qualifying historic property (RPTL, §444-a). After a public hearing, a county, city, town or village may adopt a local law to grant the exemption; school districts may act by resolution. If adopted, qualifying property will receive a partial exemption attributable to any increase in value attributable to alterations or rehabilitations made to qualifying property. Generally, that exemption equals 100 percent of the value increase for five years, with the exemption being phased out by 20 percent per year thereafter. Municipalities authorizing the exemption may reduce these percentages and/or limit the exemption to forms of alterations or rehabilitation specified in the local law or resolution. To be eligible, the property either must be designated a "landmark" or "contribute[] to the character of an historic district" created by local law. The alterations or rehabilitation must be "made for means of historic preservation." The alterations or rehabilitations must be commenced after the effective date of the local law and must satisfy guidelines and standards in the local preservation law.

E. Housing

1. Multiple Dwellings Financed by NYS Housing Finance Agency

Chapter 146 adds two more years to the "sunset" provisions of various laws relating to the New York State Housing Finance Agency (HFA), including the real property tax exemption for multiple dwellings financed by HFA (RPTL, §421-d). By virtue of this change, these laws are now slated to expire on June 30, 1999.

2. New Multiple Dwellings

Chapter 534 extends for one year the partial real property tax exemption for new multiple dwellings in New York City (RPTL, §421-a). As amended, construction of such projects must be commenced before January 1, 1998, and be completed by December 31, 1999.

3. Certain Condominium Projects

Chapter 540 authorizes a tax exemption in any city to which the Multiple Dwelling Law applies for a group of multiple dwellings “which is developed as a planned community and which is owned as two separate condominiums containing a total of [10,000] or more dwelling units”(RPTL, §489(4-c)). The new law exempts the increase in value attributable to alterations or improvements made to the property for 30 years (commencing with the start of construction), then phasing out by 20 percent per year until the improvements are fully taxable. It also provides that the improvements are not to “result in an equalization increase in the assessed valuation” of the property.

4. Certain Improvements to Multiple Dwellings

Chapter 599 extends the “sunset” date, from June 1, 1996 to June 1, 1999, for the adoption or amendment of local legislation providing for tax exemptions for increases in assessments attributable to alterations or improvements made to multiple dwellings (RPTL, §489). This act is necessary so that those previously adopted local laws and ordinances, still in effect, may be amended.

F. Industrial Development Agencies

Chapter 444 generally relates to the powers of Industrial Development Agencies (IDAs). It contains, among other things, provisions which are intended to give local governments greater input into the granting of real property tax exemptions for projects that are supported by an IDA.

Since 1993, IDAs have been required to establish a “uniform tax exemption policy, with input from local taxing jurisdictions, ... [and to] provide guidelines for the claiming of real property [and other] tax exemptions” (General Municipal Law (GML), §874(4), as added by L.1993, cc.356 and 357). Chapter 444 requires each IDA to review and readopt its “uniform tax exemption policy” by April 1, 1999, after holding a hearing for the purpose of receiving comments from the “affected tax jurisdictions.” Prior to the hearing, the IDA must provide notice of the hearing to each such tax jurisdiction, as well as a report containing certain information about the projects which the IDA has supported during the prior five years.

The law also places additional constraints upon an IDA’s ability to “deviate” from its “uniform tax exemption policy.” In particular, an IDA will be required to give each tax jurisdiction notice at least 30 days before it meets to act on the “proposed deviation.” The IDA will then be obliged to “review and respond to any correspondence received from any affected tax jurisdiction”

on the issue, and will have to allow any representative of such a tax jurisdiction to speak at the meeting at which the issue will be considered.

G. Persons with Disabilities

Chapter 315 authorizes municipalities to grant a partial real property tax exemption to property owned by persons with disabilities whose incomes are limited by reason of such disabilities (RPTL, §459-c).

This new exemption is patterned on the senior citizens exemption (§467), and includes a similar ownership requirement whereby all of the owners must have a disability (except where property is owned by spouses or siblings, in which case only one must be disabled). Like section 467, there is a basic 50 percent exemption, with lesser exemption percentages authorized as incomes increase. The definition of "income" is also similar to that in section 467(3)(a). A parcel may not receive an exemption (for the same tax purpose) pursuant to both section 467 and the new law (§459-c(3)). Annual applications are required, except that proof of a permanent disability is required only once.

To be eligible for the new exemption, the disabled person must be (1) certified to receive Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits under the Federal Social Security Act, (2) certified to receive Railroad Retirement Disability Benefits under the Federal Railroad Retirement Act, or (3) a recipient of a certificate of legal blindness from the State Commission for the Blind and Visually Handicapped. Chapter 315 includes the definition of "disability" used in the Americans with Disabilities Act of 1990 ("a physical or mental impairment that substantially limits one or more of the major life activities . . ." (42 USCS §12102(2)(A))), and includes examples of such activities. Persons who are disabled as the result of the current use of alcohol or illegal drug use will not be eligible for the exemption.

Chapter 315, which was a Governor's Program Bill (see Section VI of this Summary for Governor's Approval Memorandum), will become effective on January 2, 1998. Municipalities may adopt their local laws or (school district) resolutions to authorize the exemption prior to that date.

H. Senior Citizens

Chapter 168 permits the exclusion of veterans disability compensation (as defined in Title 38 of the United States Code) from the computation of an applicant's income for purposes of the senior citizens exemption (RPTL, §467). Municipalities which offer the senior citizens exemption have the option to adopt a local law, ordinance or resolution to allow the exclusion of such compensation.

I. Veterans

1. Alternative Exemption: Property Value Limits

Chapter 417 authorizes an increase in the maximum assessed value eligible for the alternative veterans exemption (RPTL, §458-a). Until 1996, the alternative veterans exemption was limited to an \$80,000 market value home (*i.e.*, a home of greater value could not receive the full statutory percentage of exemption). Municipalities offering the exemption had the option of "pegging" the exemption to a \$60,000 or \$40,000 market value home (RPTL, §458-a(2)(d)(ii)).

In 1996, the Legislature authorized an increase in the exemption cap to \$100,000 or \$120,000 but it also restored the use of equalization factors to assure inter-municipal equity (L.1996, c.477). In some places, where equalization rates had dropped considerably since 1989 (or 1986 in New York City and Nassau County), restoring the equalization factor resulted in lower exemptions even where the new, highest caps were used. Chapter 417 now authorizes still higher caps, pegged to \$140,000, \$160,000 or \$180,000. In New York City only, a \$300,000 cap is allowed.

Because most assessing units have already filed their final 1997 assessment rolls, the new law authorizes the adoption (prior to January 1, 1998) of local laws to implement the new limits on 1997 assessment rolls (to be used for the levy of 1998 taxes). The local law needs to include a provision indicating its intent to apply to the 1997 roll. If adopted timely, the 1997 assessment roll may be changed, tax bills adjusted or tax refunds paid.

New York City is authorized to ratify the City's use of its 1985 residential assessment ratio in computing alternative veterans exemptions on the 1997 assessment roll. The City may not increase its limit until its 1998 assessment roll.

2. Eligible Funds: Post-Revaluation Funds

Chapter 178 permits magnification of the value of the eligible funds veterans exemption (RPTL, §458) where the change in level of assessment provision (subdivision five) is in effect. The new amendment allows municipalities to adopt a local law to extend the benefit to eligible funds first used to purchase property after the occurrence of a revaluation or update of assessments. If adopted, those moneys will also be multiplied by the change in level of assessment factor. Recomputed exemptions may first be granted under this new law on assessment rolls filed in 1998.

3. Co-operative Apartments

Chapter 171 authorizes municipalities to extend the eligible funds veterans exemption (RPTL, §458) and the alternative veterans exemption (§458-a) to resident owners of cooperative apartments. While such exemptions will be granted to the real property (*i.e.*, the apartment building), the individuals actually entitled to the exemption will receive an adjustment to their monthly

maintenance fees to reflect the benefit of that exemption. Similar provisions are contained in the senior citizens exemption (§467(3-a)) as well as the new STAR exemption (§425(2)(k)).

Note that the eligible funds exemption is not generally limited to residential property (unlike the alternative exemption which is so limited), except for the special exemption for seriously disabled veterans (§458(3)). However, the new co-op provision does require residency.

J. Other

1. Belated Exemptions for Specific Properties

There were 18 chapters generally authorizing the appropriate assessors to accept exemption applications for specific properties owned by 16 nonprofit corporations, a private-housing company and a municipal corporation, though the owners generally took title after the applicable taxable status date. (See Section VI of this Summary for Governor's Approval Memoranda). The prospective applicants, and the counties in which their properties are located, are as follows:

Ch. 276	Greater New York Seventh Day Adventists	Nassau
Ch. 277	Long Beach Public Library	Nassau
Ch. 278	Chabad of Port Washington	Nassau
Ch. 279	Second Baptist Church of Rockville Center	Nassau
Ch. 280	Church of God of Brentwood	Suffolk
Ch. 281	Anshe Sholom Synagogue	Westchester
Ch. 282	Bible Way Church	Westchester
Ch. 283	Jain Center of America, Inc.	Nassau
Ch. 284	Landmark on Main St. Limited Partnership	Nassau
Ch. 364	Solomon Schechter Day School	Nassau
Ch. 384	Village of Sea Cliff	Nassau
Ch. 410	Iglesia Pentecostal Refugio DeSalvation	Suffolk
Ch. 411	Long Island Aquarium	Nassau
Ch. 412	Harvest House III	Nassau
Ch. 416	Word of Jesus Outreach Center	Suffolk
Ch. 419	North Shore Sephardic Synagogue	Nassau
Ch. 427	East Hewlett Traditional Synagogue	Nassau
Ch. 428	Evergreen Presbyterian Church	Nassau

In addition, **Chapter 377** authorizes the City of New York to annul any unpaid taxes on certain property owned by Wagner College, located on Staten Island. The property was acquired by Wagner College through a mortgage foreclosure sale. (See Section VI of this Summary for Governor's Approval Memorandum.) **Chapter 630** authorizes a similar cancellation of unpaid taxes for certain property that may be acquired by a nonprofit organization by the name of Tzivos Hashem, located in Brooklyn.

2. Technical and Clarifying Amendments

Chapter 362 makes a series of amendments, primarily technical in nature, to clarify several laws relating to real property tax administration. From the standpoint of exemption administration, the most noteworthy changes are as follows:

- (a) The provisions relating to the application of a special equalization rate in the computation of the alternative veterans exemption (§458-a) have been clarified.
- (b) The New York City filing deadline for the senior citizens exemption (L.1996, c.49) has been codified (§467(5-c)).

IV. TAX COLLECTION AND ENFORCEMENT

A. Installment Payments: School Districts

Chapters 199 and 665 allow school districts to establish installment programs under which school taxes may be paid in three installments, so as to ease the burden upon school taxpayers (RPTL, §1326-a). If a school district elects to exercise this option, the payment schedule would be as follows:

- (1) The first installment would be at least 50 percent of the total taxes due, and would generally be payable by September 30th.
- (2) The second installment would be at least 50 percent of the remainder, plus interest, and would be payable by a date set by the school district.
- (3) The third and final installment would be the amount remaining due, plus interest, and would be payable by the date on which the warrant expires.

The program would apply to all classes of property, unless the school district opted to limit it to (1) residential property, (2) property which is receiving the senior citizens exemption (§467), (3) property which is either receiving the disabled persons exemption (§459) or owned and occupied by a person who qualifies as disabled under that statute, or (4) a combination of these types of property. The collecting officer would be authorized to receive installment payments as provided by the program until the expiration of the warrant, and would make a return upon the expiration of the warrant in the usual manner.

The adoption of the program does not extend the normal collection period; any taxes remaining unpaid when the warrant expires, whether "regular" taxes or installments, will be returned to the county treasurer or city tax enforcement officer (§§1330(5), 1332(3)), and the unpaid amount will be enforced in the manner provided by law. Thus, the program should have no direct effect upon counties or cities.

In conjunction with this new law, the law that previously authorized counties to establish "partial" payment programs for school districts (former §928-a(2)(b)) has been repealed.

B. Installment Payments: Counties

Chapter 389, in addition to establishing the STAR program, consolidates and improves the installment payment options available to counties, primarily by updating certain laws that were already in effect (RPTL, §§972-976, 1336-1342). The program is optional at all levels; if a county

decides to offer such a program, each town and school district in the county would have the ability to opt-in, but none would be obliged to do so.

A county which decides to offer such a program must prescribe by local law the number of payments that may be made, and the dates on which each payment is due. One or more of the payments may be due after the collecting officer's warrant expires. Thus, for example, a county may allow taxes to be paid in two bi-annual payments, four quarterly payments, or 12 monthly payments. The payments would include interest determined at the rate that is normally applied to unpaid taxes (§924-a). The first installment must be paid to the Collecting Officer; all subsequent installments must be paid to the County Treasurer.

A county may extend its installment program to all classes of taxpayers, or may limit the program to homeowners, to persons receiving the senior citizens exemption (§467), to the disabled and/or to recipients of Supplemental Security Income. However, those whose taxes are paid through escrow accounts may not participate in this installment program.

The collecting officer must deliver to the County Treasurer a separate return identifying the owners who have chosen to pay their taxes in installments. The return must be delivered by February first in the case of a town, or upon the expiration of the time for paying the first installment in the case of a school district. The County Treasurer must pay over the amount of the pending installments within 10 days of receiving the return.

In conjunction with this new law, a variety of other laws that had authorized installment programs in counties have been repealed as unnecessary (former §§928, 928-b). Any programs that had been adopted under those laws have been preserved by a "grandfather" clause.

C. Extensions of Interest-Free Period

Chapter 389, in addition to establishing the STAR program, gives towns, cities, villages and school districts the option of allowing eligible senior citizens up to five extra business days to pay their property taxes without interest or penalties (RPTL, §925-b). To be eligible, the senior citizen's property would have to be receiving the senior citizens exemption (§467), and would have to be his or her principal residence.

Chapter 389 also allows the Governor to issue an Executive Order, at the request of the Chief Executive Officer of a county, city, town, village or school district, extending the interest-free tax collection period therein during a State Disaster Emergency (RPTL, §925-a). This will allow prompt action to be taken when a major snowstorm, flood or other disaster occurs.

V. MISCELLANEOUS

A. School Districts

1. Budgeting Reform

Chapter 436 improves the process by which the public reviews school district expenditures. Under Chapter 436, the vote on proposed school district budgets will take place on a uniform Statewide date, which generally will be the third Tuesday in May (Education Law, §2022). If a school district budget is not approved on that date, it may be resubmitted to the voters only once. If a school district budget is disapproved a second time, a contingency budget must be adopted, which generally may not exceed the prior year's budget by a factor of either four percent or 120 percent times the consumer price index, whichever is less (*id.*, §2023). The administrative component of a contingency budget also may not exceed certain limitations.

These changes were adopted in conjunction with the STAR program (L.1997, c.389), which provides a substantial State-funded exemption from school district taxes to owner-occupied primary residences. The provisions of the STAR program are described elsewhere in this Summary (p.1).

2. City School District Levies

A correction: In the 1996 Summary of Legislation, we stated (p.22) that Chapter 474 of the Laws of 1996 required city school districts to levy taxes by September first, beginning with the 1997-98 fiscal year. We have learned that this statement was incorrect, and that under the applicable law (RPTL, §1306(2)), city school districts may continue to levy taxes as late as 90 days after the start of their fiscal year (i.e., by September 29th), notwithstanding the provisions of Chapter 474. We regret the error.

B. Revenue Sharing

Chapter 430, a multifaceted budget-related enactment, includes provisions which may reestablish the State's program of per capita state aid for the support of local government, commonly known as "revenue sharing" (State Finance Law, §54). If this program should become effective (it is tentatively scheduled to take effect on June 30, 1999), the State Board would have a significant role in its administration.

However, Chapter 430 further provides that this program will become effective only if the State Legislature does not adopt an alternative local government aid program by June 30, 1999. In conjunction with this provision, a commission has been created to study the issue of general purpose aid and to report its findings by December 31, 1998. Depending on what transpires in the future, the program nominally established by Chapter 430 may never actually take effect.

C. Notary Acknowledgment Form

Chapter 179 changes the form for acknowledgment of deeds as of September 1, 1999 (RPTL, §309). From the standpoint of real property tax administration, the significance of this Chapter is that real property must be assessed in the name of the property's "owner, last known owner or reputed owner" (§502(2)). Assessors generally obtain ownership information from the State Board prescribed real property transfer form (RP-5217), which (outside New York City) must accompany deeds offered for recording (Real Property Law (RPL), §333(1-e)), and deeds must be acknowledged to be recorded (RPL, §291).

Nevertheless, assessment records do not establish title to real property (6 Op.Counsel SBEA No. 36). Moreover, even if the owner or owners of a parcel have been identified incorrectly on the assessment roll, the error should have no bearing on the levy, collection or enforcement of a tax against that parcel, as long as the parcel can be identified with reasonable certainty (RPTL, §504(6)). Thus, even if a question should develop as to the validity of a deed because of the form of acknowledgment thereon, it should not affect any tax lien on the property.

D. Laws of Limited Applicability

1. Buffalo: Priority of Tax Liens

Chapter 232 provides that when real property in the City of Buffalo is sold pursuant to a judgement in a mortgage foreclosure proceeding, the outstanding property taxes must be paid out of the proceeds of the sale (Real Property Actions and Proceeding Law, §1354(2)).

2. Cattaraugus County: Seneca Nation of Indians

Chapter 611 clarifies that lands leased from the Seneca Nation of Indians remain taxable (Indian Law, §71), despite the fact that the federal law authorizing such leases was revised in 1991. In so doing, it overrides a contrary State Supreme Court decision (City of Salamanca v. County of Cattaraugus, Index No. 59668, slip op. (Sup. Ct., Cattaraugus Co., Feb. 6, 1997), *appeal pending*).

3. Erie County: Interest on Unpaid Taxes

Chapter 439 increases the effective interest rate on unpaid Erie County taxes from 12 percent to 18 percent per year under the Erie County Tax Act. It also requires Erie County to enforce delinquent village taxes whenever a village therein so requests.

4. New York City: Adjusted Base Proportions

Chapter 440 reduces the allowable increase for each class tax share in New York City for the fiscal year ending in 1998. More specifically, it provides that the current base proportion of any

class for the 1997-98 fiscal year may not exceed the prior adjusted base proportion by more than 2.5 percent. Similar bills have been enacted repeatedly in recent years (see, L.1992, c.298; L.1994, c.711; L.1995, c.73; L.1996, c.151).

5. New York City: Lower Manhattan Revitalization Program

Chapter 629 revises the eligibility criteria for real property tax abatements for commercial property under the Lower Manhattan Revitalization Program (RPTL, §§499-a et seq.; 499-aa et seq.), and extends the period for obtaining benefits under the program. It also modifies the provisions relating to the exemption for certain improvements to multiple dwellings in New York City (§421-g). (See Section VI of this Summary for Governor's Approval Memorandum.)

6. New York City: Urban Development Action Areas

Chapter 95 provides that for purposes of the "Urban Development Action Area Act" (General Municipal Law, §§690-698), a program to assist distressed urban areas, the term "municipally-owned area" includes property in New York City which has been conveyed by the City to a third party in connection with a tax enforcement proceeding. Such property may be eligible for certain loans under the program.

7. Rockland County: Payments in Lieu of Taxes by IDA

Chapter 28 provides that, upon a written agreement between the Rockland County Industrial Development Agency and a local taxing jurisdiction, the IDA may make payments in lieu of taxes (PILOTs) in an amount which is less than the taxes that would have been payable on the property if it was privately owned (General Municipal Law, §925-l(i)). Prior law required the PILOT to be equal to the foregone taxes.

8. Town of Smithtown: Library Changes

Chapter 401 offers property owners of parcels located in the Town of Smithtown within the Sachem or Three Villages School District a one-time opportunity to elect to cease paying the ad valorem charges imposed by the appropriate school district for library purposes.

9. Village of Sloan: Ratifying Act

Chapter 313 ratifies the actions of the Village Board of the Village of Sloan (Erie County) in adopting the alternative veterans exemption (RPTL, §458-a) for purposes of the Village's 1998-99 fiscal year.

VI. GOVERNOR'S APPROVAL AND DISAPPROVAL MEMORANDA

A. Approval Memoranda

1. Exemption for Persons with Disabilities (c.315; Memo # 62)
2. Belated Exemptions for Specific Properties (cc.276-284; Memos ## 16-24)
3. Belated Exemptions for Specific Properties (cc.410-412, 416, 419, 427, 428; Memos ## 35-41)
4. Annulment of Unpaid Taxes for Wagner College (c.377; Memo # 49)
5. Lower Manhattan Revitalization Program (c.629; Memo # 79)
6. Membership of Erie County IDA (c.173; Memo # 14)

B. Disapproval Memoranda

1. Service Lines Exemption (Veto #44, S.4790-A)
2. Durable Paper for State Records (Veto # 7; A.5390)

STATE OF NEW YORK
EXECUTIVE CHAMBER
GEORGE E. PATAKI, GOVERNOR

FOR RELEASE:
IMMEDIATE, MONDAY
SEPTEMBER 15, 1997

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STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

July 29, 1997

MEMORANDUM filed with Senate Bill Number 5492-A, entitled:

 "AN ACT to amend the real property tax law, in relation to granting a partial
#62 exemption from taxation to persons with disabilities who have
(Chapter 315) limited incomes"

A P P R O V E D

This bill amends the Real Property Tax Law by adding a new §459-c to provide a real property tax exemption to persons with disabilities who have limited incomes. The exemption is for up to 50% of the assessed value of the property at local option. The bill's provisions are available for real property owned by one or more disabled persons, or by married couples or siblings, one of whom is disabled. The bill takes effect January 2, 1998.

Last year I disapproved a similar bill because of its numerous technical deficiencies (Veto #41). In my veto message I instructed the Office of Real Property Services to draft program legislation providing a partial exemption from real property taxes for the disabled residents of our State. This Governor's Program Bill is the product of the efforts of the Office of Real Property Services, working in conjunction with the New York State Office of Advocate for Persons with Disabilities.

I am sensitive to the needs of our State's disabled residents who live on fixed incomes and who face an ever increasing real property tax burden. These citizens need and deserve our help. I am also mindful of the burden that real property tax exemptions place on local municipalities and schools faced with budgeting for public needs. There are instances, however, where a partial exemption from real property taxes is warranted despite its burden on local municipalities and schools. This is one of those instances.

This bill will provide benefits to individuals with disabilities equivalent to those already enjoyed by our State's senior citizens. My approval of this bill will also support the efforts of qualified homeowners with disabilities to remain independent in their own homes. Increasing property taxes have far too often resulted in our State's disabled residents moving away from their long-standing houses and neighborhoods and into the more restrictive and costly option of publicly supported institutions.

The bill is approved.

(Signed) George E. Pataki

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STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

July 29, 1997

MEMORANDUM filed with Senate Bill Number 2484-A, entitled:

#16
(Chapter 276) "AN ACT authorizing the assessor of the county of Nassau to accept an application for exemption from real property taxes from the Greater New York Corporation of the Seventh Day Adventists for a certain parcel of land located in the town of Hempstead"

Senate Bill Number 2485, entitled:

#17
(Chapter 277) "AN ACT authorizing the assessor of the county of Nassau to accept an application for exemption from real property taxes from the Long Beach Public Library for a certain parcel of land located in the city of Long Beach"

Senate Bill Number 2844, entitled:

#18
(Chapter 278) "AN ACT authorizing the assessor of the county of Nassau to accept an application for exemption from real property taxes from Chabad of Port Washington"

Senate Bill Number 3862, entitled:

#19
(Chapter 279) "AN ACT authorizing the assessor of the county of Nassau to accept an application for exemption from real property taxes from the Second Baptist Church of Rockville Centre, New York for a certain parcel of land located in the town of Hempstead"

Senate Bill Number 3951-A, entitled:

#20
(Chapter 280) "AN ACT to authorize the Church of God of Brentwood to file an application for a real property tax exemption"

Senate Bill Number 4446-A, entitled:

#21
(Chapter 281) "AN ACT authorizing the assessor of the city of New Rochelle to accept an application for exemption from real property taxes from Anshe Sholom Synagogue for a certain parcel of land located in the city of New Rochelle"

Senate Bill Number 4447, entitled:

#22
(Chapter 282) "AN ACT authorizing the city of New Rochelle to accept an application for real property tax exemption on certain real property owned by the Bible Way Church"

Senate Bill Number 4680, entitled:

#23
(Chapter 283) "AN ACT authorizing the assessor of the county of Nassau to accept an application for exemption from real property taxes from Jain Center of America, Inc."

(more)

Senate Bill Number 4681, entitled:

#24
(Chapter 284) "AN ACT authorizing the assessor of the county of Nassau to accept an application for the exemption for specified real property owned by Landmark on Main Street Limited Partnership"

APPROVED

These bills authorize the assessors of various localities throughout the State, at local option, to accept late applications for real property exemptions under Real Property Tax Law § 420-a or Private Housing Finance Law § 477 for property owned by certain religious, educational and other not-for-profit entities. These bills treat the various parcels of properties as having been acquired prior to the tax status date of the localities affected by the bill. Applications accepted by the different assessors would be reviewed as if they had been timely filed on or before the applicable tax status date. If the assessors for the localities under these bills were to grant retroactive tax exemptions to the properties, the localities and the school districts in which the properties are located would have to provide a refund of taxes already paid.

This year, the Legislature has passed an unprecedented number of this type of bill. I have in the past approved similar bills because they merely authorize a local tax assessor to accept such late applications, and thus leave it up to the assessor to determine on a case-by-case basis whether to accept or reject a late application. This type of bill, however, raise several concerns suggesting that special acts are not the optimal means for affording this kind of relief. In the future, therefore, I will not routinely approve bills of this nature.

Moreover, I invite the Legislature to work with me to establish a task force, with representatives from the Executive and Legislative branches and local government, to develop alternative means for determining whether to grant the type of relief sought in these measures.

The bills are approved.

(Signed) George E. Pataki

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FOR RELEASE:
IMMEDIATE, TUESDAY
AUGUST 26, 1997

STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

August 20, 1997

MEMORANDUM filed with:

Senate Bill Number 3950-A, entitled:

#35 "AN ACT to authorize the Iglesia Pentecostal Refugio De Salvation to file an
(Chapter 410) application for a real property tax exemption"

Senate Bill Number 3965, entitled:

#36 "AN ACT authorizing the assessor of the town of Islip to accept an
(Chapter 411) application for exemption from real property taxes from the Long
Island Aquarium for a certain parcel of land located in such town"

Senate Bill Number 4499, entitled:

#37 "AN ACT authorizing the assessor of the county of Nassau to accept an
(Chapter 412) application for exemption from real property taxes from Harvest
House III"

Senate Bill Number 4907-A, entitled:

#38 "AN ACT to authorize the Word of Jesus Outreach Center to file an
(Chapter 416) application for a real property tax exemption"

Senate Bill Number 5006, entitled:

#39 "AN ACT authorizing the assessor of the county of Nassau to accept from
(Chapter 419) North Shore Sephardic Synagogue applications for exemption from
real property taxes for certain parcels of land located in the town of
North Hempstead"

Senate Bill Number 5670, entitled:

#40 "AN ACT authorizing the assessor of the county of Nassau to accept an
(Chapter 427) application for exemption from real property taxes from the East
Hewlett Traditional Synagogue for a certain parcel of land located
in the town of Hempstead"

Senate Bill Number 5678, entitled:

#41 "AN ACT authorizing the assessor of the county Nassau to accept an
(Chapter 428) application for exemption from real property taxes from the
Evergreen Presbyterian Church, Inc. for certain parcels of land
located in the town of Oyster Bay"

APPROVED

These bills authorize the assessors of various localities throughout the State, at local option, to accept late applications for real property tax exemptions under Real Property Tax Law §420 for property owned by certain religious, educational and other not-for-profit entities. The bills treat such property as if it had been acquired prior to the taxable status date of the affected locality. If the assessor elects to exercise the option afforded by this bill, the applications will be reviewed as if they had been filed on or before the taxable status date. If the

(more)

(App. #35, 36, 37, 38, 39, 40 and 41 Cont'd.)

assessors grant the retroactive tax exemption, the localities and school districts in which the property is located would forgive any unpaid taxes and would provide a refund of taxes already paid.

This year, the Legislature passed an unprecedented number of this type of bill. I have, in the past, approved similar bills because they merely authorize a local tax assessor to accept such late applications, and thus leave it up to the assessor to determine on a case-by-case basis whether to accept or reject a late application. This type of bill, however, raises several serious concerns suggesting that special acts are not the optimal means for affording this kind of relief. In the future, therefore, I will not routinely approve bills of this nature.

Moreover, I invite the Legislature to work with me to establish a task force, with representatives from the Executive and Legislative branches as well as local government, to develop alternative means for determining whether to grant the relief sought in these bills.

The bills are approved.

(Signed) George E. Pataki

STATE OF NEW YORK
EXECUTIVE CHAMBER
GEORGE E. PATAKI, GOVERNOR

FOR RELEASE:
IMMEDIATE, FRIDAY
SEPTEMBER 5, 1997

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STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

August 5, 1997

MEMORANDUM filed with Senate Bill Number 5256, entitled:

“AN ACT to amend the real property tax law, in relation to the exemption for
#49 certain real property owned by an educational institution in the city
(Chapter 377) of New York”

A P P R O V E D

This bill adds a new subdivision 13 to §420-a of the Real Property Tax Law to authorize the City of New York to annul unpaid taxes, amounting to nearly \$2.5 million, on property located in Staten Island acquired by Wagner College in a mortgage foreclosure sale on March 23, 1994. In addition, the bill grants Wagner College, a non-profit tax-exempt organization, a real property tax exemption with respect to such property. The bill takes effect immediately.

This bill affords Wagner College, an invaluable asset to both the Staten Island and the New York City community, an excellent opportunity to expand. The measures enacted in this bill will facilitate Wagner College's plans to broaden its scope as an educational institution and as a community resource by building improved educational and athletic facilities.

The bill is approved.

(Signed) George E. Pataki

A8416-A Rules (Silver) Chapter 629 Approval Message 79

APPROVAL MEMORANDUM - No. 79 Chapter 629

MEMORANDUM filed with Assembly Bill Number 8416-A, entitled:
"AN ACT to amend the real property tax law and the administrative code of the city of New York, in relation to the conversion of certain nonresidential buildings to class A multiple dwellings in cities having a population of one million or more, tax abatement for certain commercial properties in cities having a population of one million or more and the commercial rent or occupancy tax imposed on certain tenants of taxable premises located in lower Manhattan"

APPROVED

This bill, which is part of New York City's 1997 Legislative Program, amends various sections of both the Real Property Tax Law and the Administrative Code of the City of New York, which relate to the improvement of certain properties in New York City eligible for benefits provided through the Lower Manhattan Revitalization Program. The bill is effective immediately.

Since enactment of the Lower Manhattan Revitalization Program, the downtown commercial sector of Manhattan has begun to stabilize, and new residents and businesses have been attracted to the area. Unfortunately, certain program requirements--such as the terms of a lease required for eligibility and the period of time allowed to apply for a tax abatement--have proved counterproductive to the program's original goals.

This bill removes these impediments by making various technical changes in the Real Property Tax Law and the Administrative Code of the City of New York to modify program requirements and to extend the time period to apply for benefits. The bill also extends the program for an additional three years beyond its scheduled expiration date of March 31, 1998, and allows a second certificate of abatement for expansion space.

The Lower Manhattan Revitalization Program has successfully nurtured the growth of activities that contribute to the City's economic vitality. The changes implemented in this legislation will provide further impetus for commercial development in lower Manhattan into the next century.

The bill is approved.

(signed) GEORGE E. PATAKI

STATE OF NEW YORK
EXECUTIVE CHAMBER
GEORGE E. PATAKI, GOVERNOR

FOR RELEASE:
IMMEDIATE, WEDNESDAY
JULY 23, 1997

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STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

July 3, 1997

MEMORANDUM filed with Assembly Bill Number 6795-A, entitled:

#14
(Chapter 173)

“AN ACT to amend the general municipal law, in relation to the membership of the Erie county industrial development agency”

A P P R O V E D

The bill amends General Municipal Law § 891-a to expand the membership of the Erie County Industrial Development Agency Board of Directors to include the President of the Erie County Association of School Boards as a voting member.

Article 18-A of the General Municipal Law authorizes the Erie County Industrial Development Agency (IDA) to grant property tax exemptions and abatements, as well as to enter into agreements for payment in lieu of taxes (PILOT) with property owners for the purpose of creating and retaining jobs. The IDA's power to grant tax exemptions and to enter into PILOT agreements extends to all state and local taxes within Erie County, including taxes imposed by local school districts.

While the power to grant tax exemptions and enter into PILOT agreements is an extremely useful tool to attract and retain business, it necessarily results in the short-term in a lower level of available funding for local school districts. By extending the membership of the IDA's Board of Directors to the President of the Erie County Association of School Boards, this bill fittingly gives local school districts in Erie County a voice in determining which projects will receive these tax exemptions.

The bill is approved.

(Signed) George E. Pataki

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FOR RELEASE:
IMMEDIATE, THURSDAY
SEPTEMBER 4, 1997

STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

September 3, 1997

TO THE SENATE:

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

Senate Bill Number 4790-A, entitled:

#44 "AN ACT to amend the real property tax law, in relation to service lines"

NOT APPROVED

This bill would add a new §475 to the Real Property Tax Law to exempt "service lines" from real property taxation, special ad valorem levies and special assessments imposed on natural gas, electric and telecommunications service lines. Service lines are defined in the bill as property that (1) conducts any product from a main or distribution facility to a customer's meter or wiring and (2) is not owned by the customer, is not located on land owned by the public utility, and is not special franchise property. The bill would take effect immediately.

The taxable status of this property recently became an issue because of a reporting error by a utility, National Fuel. National Fuel discovered that for a number of years it had been incorrectly reporting its gas service lines as located in the public right-of-way, which made them subject to taxation as tangible property of a "special franchise." When the Office of Real Property Services was notified of the error, appropriate reductions were made in the inventory and special franchise assessments of the company. Many local assessors then concluded that the service lines were assessable locally as "real property." National Fuel and other utilities have contested these assessments by suing municipalities who have sought to tax service lines and by advancing the instant legislation. While I am mindful of the costs imposed on National Fuel by this taxation, I must disapprove the bill for the following three reasons.

First, as with the granting of any real property tax exemption, enactment of this bill would result in the loss of local tax revenues and/or a shifting of the real property tax burden. The resultant increase in costs to local property taxpayers, without any promise of reduced costs for ratepayers, is troubling.

Second, the case law cited by the sponsor of the legislation in support of the bill, People ex rel. New York Edison Co. v. Feitner, 181 N.Y. 549 (1905), was decided at a time when utility service lines were considered to be "personal property" and were taxed as such until 1933 when the personal property tax was repealed. The issue decided in Feitner was not whether or not the service lines were taxable but, rather, how such lines were to be taxed (i.e., as personal property or as real property). Accordingly, it could be argued that with the repeal of the personal property tax in 1933, the doctrine of Feitner, which is cited as the basis for the bill, is no longer germane.

Third, I have been informed that National Fuel and the affected municipalities have settled the litigation concerning taxation of the service lines. This settlement agreement eliminates the immediate need for the instant bill.

The bill is disapproved.

(Signed) George E. Pataki

STATE OF NEW YORK
EXECUTIVE CHAMBER
GEORGE E. PATAKI, GOVERNOR

FOR RELEASE:
IMMEDIATE, TUESDAY
JULY 8, 1997

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STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

July 3, 1997

TO THE ASSEMBLY:

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

Assembly Bill Number 5390, entitled:

"AN ACT to amend the arts and cultural affairs law, in relation to
preserving printed records of enduring value"

#7

NOT APPROVED

The bill would amend the Arts and Cultural Affairs Law to provide for the preservation of printed records of enduring value. The bill would require the Commissioner of Education to promulgate regulations requiring "permanent/durable" paper to be used when producing and copying designated State records. I vetoed a similar bill (Veto Message #31 of 1996) last year because it was contrary to the State's use of properly designed and implemented electronic document management systems. While this bill incorporates a number of changes to respond to my veto message, it nonetheless commands my disapproval because it fails to provide necessary administrative flexibility and is superfluous.

The purpose of the bill, the preservation of important printed records, is already comprehensively addressed in statute. Existing section 57.05(11) of the Arts and Cultural Affairs Law contains provisions directing state agencies to cooperate with the State Archives to preserve public records. This section of law provides the Commissioner of Education with broad powers to establish a state records center in the State Archives. These powers include the ability "[t]o review plans submitted by state agencies for management of their records"; "[t]o inquire into the condition, character, amount and method of keeping such records"; and "[t]o promulgate such other regulations as are necessary to carry out the purposes of this subdivision."

Ironically, this bill would afford state agencies less administrative flexibility than existing law does. The current statutory structure both protects important State records for future generations and gives State agencies latitude to determine which documents are best preserved on durable paper and which documents should be preserved using alternative means. In addition, the bill does not make allowance for technological change. If this bill were enacted, new legislation would be needed each time a technological advance rendered the use of a particular kind of durable paper obsolete.

The bill is disapproved.

(Signed) George E. Pataki

1997 RPT Related Bills of Interest -- Passed Both Houses -- Status as of 10/23/97

Subject of Legislation	Bill Numbers	Prime Sponsor	Last Action of Legislature	Action of Governor
RPS Departmental / Governor's / Budget Bills:				
Budget -- Education (Includes Limitation on School Contingency Budgets, see sec. 24)	S.5788 A.8678	Rules Rules	Passed Senate 8/4 Passed Assembly 8/4	Signed 8/20 Ch. 436
Budget -- Misc. provisions (Includes Move of Training \$; Rev. Sharing -- see secs. 20,23, 24)	S.5762 A.8646	Rules Rules	Passed Senate 8/1 Passed Assembly 8/1	Signed 8/20 Ch. 430
Elected Assessors -- Reimbursement for Continuing Education Related Expenses	S.4581 A.8034	Larkin Rules(Gunther)	Passed Senate 5/20 Passed Assembly 8/4	Signed 9/3 Ch. 527
Exemption -- Disabled Persons, Local Option, w/ Income Limitations (Gov.'s Prog. Bill # 55)	S.5492-a A.3977-a	Johnson Glick	Passed Senate 6/24 Passed Assembly 7/8	Signed 7/29 Ch. 315 Approval Memo # 62
Mandate Relief Related Provisions (#97-04RRR)	S.3802-b A.7059-a	Rath Gunther	Re-Passed Senate 7/22 Passed Assembly 7/22	Signed 8/5 Ch. 355
Oil & Gas Program Fee Extender to 3/31/2000	S.3864 A.6329	Present Ramirez	Passed Senate 3/26 Passed Assembly 3/24	Signed 4/8 Ch. 35
STAR Program (see Part B, pp.136-151) (STAR Exemption, Taxpayer Bill of Rights)	S.5785 A.8671	Rules Rules	Passed Senate 8/3 Passed Assembly 8/4	Signed 8/7 Ch. 389
Technical and Clarifying Amendments (#97-09)	S.4357 A.7058	Rath Gromack	Passed Senate 6/2 Passed Assembly 7/22	Signed 8/5 Ch. 362
Watershed Conservation & Ag. Easements, NYC Watershed Area Only (Gov.'s Prog. Bill)	S.5683-a A.8636	Cook Rules(Gunther)	Passed Senate 8/1 Passed Assembly 8/2	Signed 9/10 Ch. 2
Other RPT Related Bills:				
Ag. Assessments -- Includes Ratites as Livestock (e.g., Ostriches, Emus, Rheas and Kiwis)	S.3055 A.4920	Cook Parment	Passed Senate 5/7 Passed Assembly 4/1	Signed 5/20 Ch. 62
Ag. Assessments -- Misc. Provisions Relating to Ag. Districts Program (Ag. & Mkts. Dept. Bill)	S.4182-a A.7065-a	Kuhl Parment	Passed Senate 6/10 Passed Assembly 7/22	Signed 8/5 Ch. 357
Article 18 -- NYC, Class Adjustment Limits (Base Proportion Changes, 2.5% Cap)	S.4842 A.8345	Goodman Rules(Silver)	Passed Senate 8/4 Passed Assembly 8/1	Signed 8/20 Ch. 440
Board of RPS Member Requirement, One Must be a Commercial Farmer	S.2061 A.3691	Kuhl Parment	Passed Senate 6/16 Passed Assembly 8/2	Signed 8/20 Ch. 403
Condominium Conversion Loophole Closer (Local Option, Prospective)	S.3641 A.511	Rath Gunther	Passed Senate 4/16 Passed Assembly 6/25	Signed 7/29 Ch. 293
County RPTS Directors' Authority (Adv.Appraisals & Exp.Witness)	S.3133-a A.5353-a	Lack Harenberg	Passed Senate 4/14 Passed Assembly 8/1	Signed 8/20 Ch. 406
Exemption -- Banks, Located in Banking Development Districts	S.4244-b A.6351-b	Farley Lafayette	Passed Senate 7/1 Re-Passed Assembly 6/30	Signed 7/15 Ch. 204
Exemption -- Business Invest., Not Applicable for Certain Fire District Taxes	S.293 A.190	Seward Magee	Passed Senate 2/5 Passed Assembly 7/22	Signed 8/5 Ch. 332
Exemption -- Historic Property Rehab. (Local Option)	S.478 A.3201	DeFrancisco Abbate	Passed Senate 6/23 Passed Assembly 5/27	Signed 7/8 Ch. 183
Exemption -- Housing, Certain Condo. Alteration & Improve. Projects (489)	S.5613 A.8257-a	Leibell Rules(Rivera)	Passed Senate 6/25 Passed Assembly 8/2	Signed 9/3 Ch. 540
Exemption -- Housing, Section 489, Extends Local Law Adoption Period	S.4463-a A.8254	Leibell Rules(Espaillet)	Passed Senate 6/25 Passed Assembly 8/1	Signed 9/17 Ch. 599

Subject of Legislation	Bill Numbers	Prime Sponsor	Last Action of Legislature	Action of Governor
Exemption -- Housing, NYC, Extends Section 421-a of RPTL	S.5371-a A.8256	Goodman Rules(Ramirez)	Passed Senate 6/25 Passed Assembly 8/1	Signed 9/3 Ch. 534
Exemption -- Housing, NYSHFA Sec. 421-d Extender (Gov's Bill)	S.4815 A.7640	Leibell Rules(Aubry)	Passed Senate 6/24 Passed Assembly 6/16	Signed 6/26 Ch. 146
Exemption -- Industrial Development Agencies Affects "uniform tax exemption policies" of IDAs	S.4285-b A.8448-a	Larkin Rules (Colman)	Passed Senate 8/4 Passed Assembly 8/4	Signed 8/20 Ch. 444
Exemption -- 1 Property, RPTL Sec. 406 (V. of Sea Cliff, Nassau Co.)	S.5534 A.8341	Marcellino Rules(Sidikman)	Passed Senate 6/24 Passed Assembly 7/22	Signed 8/5 Ch. 384
Exemption -- 1 Property, RPTL Sec. 420-a (Anshe Shalom Synag., New Rochelle)	S.4446-a A.5291-a	Vellela Tocci	Passed Senate 6/2 Passed Assembly 7/8	Signed 7/29 Ch. 281 Approval Memo # 21
Exemption -- 1 Property, RPTL Sec. 420-a (Baptist Church, Rockville Ctr., Hempstead)	S.3862 A.6640	Skelos Becker	Passed Senate 6/16 Passed Assembly 7/8	Signed 7/29 Ch. 279 Approval Memo # 19
Exemption -- 1 Property, RPTL Sec. 420-a (Bible Way Church, New Rochelle)	S.4447 A.6612	Vellela Tocci	Passed Senate 5/20 Passed Assembly 7/8	Signed 7/29 Ch. 282 Approval Memo # 22
Exemption -- 1 Property, RPTL Sec. 420-a (Chabad of Pt. Washington, N.Hempstead)	S.2844 A.4782	Tully DiNapoli	Passed Senate 6/4 Passed Assembly 7/8	Signed 7/29 Ch. 278 Approval Memo # 18
Exemption -- 1 Property, RPTL Sec. 420-a (Church of God of Brentwood, Islip)	S.3951-a A.6893-a	Johnson Harenberg	Passed Senate 6/19 Passed Assembly 7/8	Signed 7/29 Ch. 280 Approval Memo # 20
Exemption -- 1 Property, RPTL Sec. 420-a (East Hewlett Trad. Synagogue, Nassau)	S.5670 A.8488	Skelos Rules(Weisenber)	Passed Senate 7/1 Passed Assembly 8/3	Signed 8/20 Ch. 427 Approval Memo # 40
Exemption -- 3 Parcels, RPTL Sec. 420-a (Evergreen Presbyterian Church, Nassau)	S.5678 A.8508	Rules Rules(Labriola)	Passed Senate 8/1 Passed Assembly 8/3	Signed 8/20 Ch. 428 Approval Memo # 41
Exemption -- 1 Property, RPTL Sec. 420-a (Harvest House III, Hempstead)	S.4499 A.6966	Tully Alfano	Passed Senate 5/29 Passed Assembly 8/2	Signed 8/20 Ch. 412 Approval Memo # 37
Exemption -- 1 Property, RPTL Sec. 420-a (Greater NY 7th Day Adventists, Hempstead)	S.2484-a A.3924-a	Skelos Weisenberg	Passed Senate 4/9 Passed Assembly 5/5	Signed 7/29 Ch. 276 Approval Memo # 16
Exemption -- 1 Property, RPTL Sec. 420-a (Iglesia Pentecostal Refugio, Islip)	S.3950-a A.6892-a	Johnson Harenberg	Passed Senate 6/19 Passed Assembly 7/8	Signed 8/20 Ch. 410 Approval Memo # 35
Exemption -- 1 Property, RPTL Sec. 420-a (Jain Center of America, Nassau)	S.4680 A.7779	Tully Rules(DiNapoli)	Passed Senate 6/3 Passed Assembly 7/8	Signed 7/29 Ch. 283 Approval Memo # 23
Exemption -- 1 Property, RPTL Sec. 420-a (N.Shore Sephardic Synagogue, Nassau)	S.5006 A.7781	Tully Rules(DiNapoli)	Passed Senate 7/1 Passed Assembly 8/1	Signed 8/20 Ch. 419 Approval Memo # 39
Exemption -- 1 Property, RPTL Sec. 420-a (Solomon Schechter Day School, Nassau)	S.4501 A.8304	Tully Rules(Sidikman)	Passed Senate 6/4 Passed Assembly 7/22	Signed 8/5 Ch. 364
Exemption -- 1 Property, RPTL Sec. 420-a (Wagner College, Staten Island), (Forgives Liens)	S.5256 A.7766	Marchi Rules(Vitaliano)	Passed Senate 6/19 Passed Assembly 7/8	Signed 8/5 Ch. 377 Approval Memo # 49
Exemption -- 1 Property, RPTL Sec. 420-a (Tzivos Hashem, Brooklyn), (Cancels Unpd. Taxes	A.8639	No Same As Rules(Norman)	Passed Senate 8/4 Passed Assembly 8/4	Signed 9/17 Ch. 630
Exemption -- 1 Property, RPTL Sec. 420-a (Word of Jesus Outreach Ctr., Islip)	S.4907-a A.8306	Trunzo Rules(Mazzarelli)	Passed Senate 6/19 Passed Assembly 8/1	Signed 8/20 Ch. 416 Approval Memo # 38
Exemption -- 1 Property, RPTL Sec. 420-b (Long Beach Public Library, Hempstead)	S.2485 A.3925	Skelos Weisenberg	Passed Senate 3/25 Passed Assembly 5/5	Signed 7/29 Ch. 277 Approval Memo # 17
Exemption -- 1 Property, RPTL Sec. 420-b (Long Island Aquarium, Islip)	S.3965 A.6638	Johnson Boyle	Passed Senate 5/29 Passed Assembly 7/22	Signed 8/20 Ch. 411 Approval Memo # 36

Subject of Legislation	Bill Numbers	Prime Sponsor	Last Action of Legislature	Action of Governor
Exemption -- 1 Property, PHFL Sec.577 (Landmark on Main St. Ltd..., Nassau)	S.4681 A.7780	Tully Rules(DiNapoli)	Passed Senate 6/4 Passed Assembly 7/8	Signed 7/29 Ch. 284 Approval Memo # 24
Exemption -- Srs., Exclude Vets. Disability Payments from Income (Option)	S.4526-a A.5323-b	Skelos DiNapoli	Passed Senate 6/17 Passed Assembly 6/9	Signed 7/3 Ch. 168
Exemption -- Utility Service Lines (With Certain Exclusions)	S.4790-a A.7692-a	Seward Rules(Ramirez)	Re-Passed Senate 7/22 Passed Assembly 8/4	Vetoed 9/3 Veto Message # 44
Exemption -- Vets., Add'l. Elig. Funds (Magnify Benefits)	S.1902 A.969	Maltese Schimminger	Passed Senate 6/23 Passed Assembly 5/19	Signed 7/8 Ch. 178
Exemption -- Vets., Co-ops Eligible	S.819-a A.5811	Skelos Lafayette	Passed Senate 6/16 Passed Assembly 5/5	Signed 7/3 Ch. 171
Exemption -- Vets., Alternative (Allows for Additional Higher Limits)	S.4977-a A.8417	Holland Rules(Robach)	Passed Senate 6/4 Passed Assembly 8/1	Signed 8/20 Ch. 417
Indian Law Amd. -- Re: Taxation of Certain Village Lands Leased from the Seneca Nation	S.5577-a A.6973-a	Present McGee	Passed Senate 8/4 Passed Assembly 8/4	Signed 9/17 Ch. 611
Installment Payments -- School Taxes	S.2394 A.2632	Rath Bragman	Passed Senate 7/1 Passed Assembly 5/19	Signed 7/15 Ch. 199
Installment Payments -- Chapter Amendment	S.5713 A.8589	Rath Rules (Bragman)	Passed Senate 8/1 Passed Assembly 8/4	Signed 9/24 Ch. 665
NYC Commercial Tax Abatements (Affects lower Manhattan)	S.5630-a A.8416-a	Connor Rules (Silver)	Passed Senate 8/4 Passed Assembly 8/4	Signed 9/17 Ch. 629 Approval Memo # 79
Notary Acknowledgement Form Standards (Real Property Law Sections 309 & 309-a)	S.586-a A.1069-a	Lack Sidikman	Passed Senate 6/19 Re-Passed Assembly 6/11	Signed 7/8 Ch. 179
Rockland Co. IDA's -- PILOT payment related	S.563 A.1081	Holland Gromack	Passed Senate 3/18 Passed Assembly 3/24	Signed 4/8 Ch. 28
State Agencies Required to Use Durable Paper in Publications and Records of Enduring Value	S.2810 A.5390	Farley Luster	Passed Senate 6/18 Passed Assembly 6/2	Vetoed 7/3 Veto Message # 7
Tax Appeals -- SCAR Service Reqs. (OCA Bill)	S.3611 A.6558	Rath Ramirez	Passed Senate 4/14 Passed Assembly 8/3	Signed 9/3 Ch. 517
Tax Enforcement -- Cities w/ > 300K Population Priority of Liens in Mortgage Foreclosures	S.2789 A.222	Volker Hoyt	Passed Senate 5/5 Passed Assembly 6/30	Signed 7/21 Ch. 232
Tax Enforcement -- Erie Co. Tax Act, Increases Interest Rates, etc.	S.3884 A.6587-a	Volker Hoyt	Passed Senate 8/2 Passed Assembly 8/1	Signed 8/20 Ch. 439
Tax Refunds/Corrections -- Designee May Handle Amounts Up to \$2,500	S.3569 A.5265	Alesi Gantt	Passed Senate 6/2 Passed Assembly 7/15	Signed 9/3 Ch. 515
Tax State Property -- 2 Towns, Orange, Palisades Interstate Park Commission	S.5450 A.3349	Holland Calhoun	Passed Senate 6/19 Passed Assembly 8/4	Delivered 9/12
Town of Smithtown, Library District Choice for Tax Purposes	S.1168 A.1843	Lack Wertz	Passed Senate 2/25 Passed Assembly 8/4	Signed 8/20 Ch. 401
Urban Development Action Areas -- NYC only (Some transfers deemed to be municipal property)	S.2226 A.4714	Leibell Lopez	Passed Senate 4/8 Passed Assembly 5/12	Signed 6/11 Ch. 95
Village of Sloan -- Vets. Exemption (Validating Act)	S.5277 A.7813	Stachowski Rules(Tokasz)	Passed Senate 5/29 Passed Assembly 6/9	Signed 7/29 Ch. 313

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