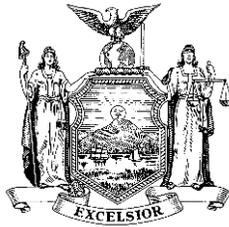


**SUMMARY OF**  
**2009**  
**REAL PROPERTY TAX LEGISLATION**



**STATE BOARD OF REAL PROPERTY SERVICES**

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**Victor Mallison, Executive Deputy Director**

**STATE OF NEW YORK**

**DAVID A. PATERSON, GOVERNOR**

# SUMMARY OF 2009 REAL PROPERTY TAX LEGISLATION

NEW YORK STATE BOARD OF REAL PROPERTY SERVICES

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December, 2009



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December, 2009

**SUMMARY OF 2009 REAL PROPERTY TAX LEGISLATION**

This document provides general summaries of the most noteworthy legislation enacted to date in 2009 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, “State Board” means the State Board of Real Property Services, “ORPS” means the Office of Real Property Services, and “RPTL” means the Real Property Tax Law, unless otherwise indicated.

**1. ASSESSMENT ADMINISTRATION**

**Coordinated Assessment Programs**

- Chapter 46; A.7505 • RPTL §579

Chapter 46 promotes intergovernmental cooperation in relation to the administration of Coordinated Assessment Programs (CAPs) under section 579 of the Real Property Tax Law (RPTL). Its key provisions are as follows:

- It reaffirms that any Agreement must be entered into at least 45 days prior to the relevant taxable status date, while deleting the prior requirement that the governing body must approve such Agreement within that same time frame.
- It clarifies that an appointive assessor in a CAP is subject to the six year term of office set forth in section 310 of the RPTL.
- It simplifies the withdrawal or termination of a CAP by:
  - Reducing from six months to 45 days the time period prior to taxable status date that a governing body of an assessing unit must notify the State Board of Real Property Services that it intends to withdraw from a CAP;
  - Providing for the same six months to 45 day time period reduction for a CAP to be terminated;

- Providing for the automatic termination of a CAP in the event that the State Board becomes aware, at least 45 days prior to taxable status date, that the same individual is no longer serving as assessor of all the assessing units of a CAP; and
- Providing that a CAP shall continue unless it is so terminated pursuant to the provisions of paragraphs (c) or (d) of subdivision 4.

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### **Oil and Gas Charges**

- Chapter 56, Part II; A.156-B • RPTL §593; L.1992, c.540, §2

Chapter 56, Part II, extends the charges imposed upon oil and gas producers associated with the unit of production values which ORPS determines for oil and gas economic units. The authorization for these charges is now set to expire March 31, 2012, rather than March 31, 2009.

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### **Real Property Transfer Reports**

- Chapter 56, Part JJ; A.156-B • Real Property Law §333(3)

Chapter 56, Part JJ, increases the fee associated with filing a real property transfer report (i.e., Form RP-5217). Effective June 1, 2009, the fee for qualifying residential and farm property has been increased from \$75 to \$125, while the fee for all other property has been increased from \$165 to \$250. In addition, the fee applicable to non-deed transfers in New York City has been increased from \$50 to \$100.

This legislation also redirects the State's share of the proceeds of this fee into the General Fund rather than the Improvement of Real Property Tax Administration Account (State Finance Law §97-II). Henceforth, ORPS operations are to be funded through the General Fund.

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### **Middle Class STAR Rebate Program**

- Chapter 57, Part M; A.157-B • RPTL §1306-b; Tax Law §§171-q, 178

Chapter 57, Part M, eliminates the Middle Class STAR Rebate Program, which provided rebate checks to homeowners with incomes of \$250,000 or less. It leaves the STAR Exemption Program unchanged. Thus both the Basic and Enhanced STAR Exemptions continue to be available to eligible homeowners. This restores the original concept of the STAR Program while saving some \$1.4 billion in State spending.

## **2. EXEMPTION ADMINISTRATION**

### **Empire Zones**

- Chapter 57, Part S-1, §§10, 29; A.157-B
  - General Municipal Law §969(1)(a), Tax Law §15(e)(3)

Chapter 57, Part S-1, enacts a series of amendments to the Empire Zone Program. It does not directly amend the local option real property tax exemption authorized by RPTL §485-e for real property constructed or improved in an Empire Zone. However, one of the amendments provides that the designations of all Empire Zones shall terminate on June 30, 2010, instead of

June 30, 2011. As far as real property tax administration is concerned, this essentially means that no new Empire Zone exemptions may be granted on any assessment rolls with taxable status dates of June 30, 2010 or later (RPTL §485-e(2)(b)(3)).

Another amendment made by Chapter 57 changes to the credit authorized by the Tax Law for real property taxes paid by a Qualified Empire Zone Enterprise (QEZE). Under this amendment, the allowable real property tax credit for a QEZE which is first certified on or after April 1, 2009 will be 75% of the otherwise applicable amount. It should be noted that this amendment does not affect the real property tax exemption authorized by RPTL §485-e.

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### **Persons with Disabilities and Limited Incomes; Veterans Disability Pensions**

- Chapter **353**; A.2239 • RPTL §459-c(2)(b)

Chapter **353** expands the availability of the exemption for Persons with Disabilities and Limited Incomes to include those taxpayers who are certified to receive a disability pension from the United States Department of Veterans Affairs pursuant to federal law (i.e., 38 U.S.C. §1521). It also requires that an award letter from the United States Department of Veterans Affairs be submitted to the assessor as proof of disability.

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### **Senior Citizens; Reverse Mortgages**

- Chapter **259**; S.2760 • RPTL § 467(3)(a), Banking Law §6-h

Chapter **259** provides that proceeds from a reverse mortgage are not to be considered income for purposes of eligibility for the Senior Citizens Exemption. It also correspondingly provides that payments of a reverse mortgage may not be deducted from such income, and that interest and /or dividends from the investment of the proceeds of a reverse mortgage shall be considered income. This enactment is essentially a codification of 9 Op.Counsel SBEA No.72.

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### **Veterans; Cold War**

- Chapter **235**; S.4766 • RPTL §458-b

Chapter **235** amends numerous provisions of the Cold War veterans exemption (RPTL §458-b), essentially, to conform certain provisions of the Cold War exemption to current provisions of the alternative veterans exemption (RPTL §458-a). The most significant change relates to the limitation upon the amount of the exemption.

As originally enacted, the exemption was essentially “capped” at a veteran’s residence having a market value of \$80,000 (i.e., a municipality could exempt either 10 percent of assessed value up to the lesser of \$8,000 or \$8,000 times the equalization factor, or 15 percent of assessed value up to the lesser of \$12,000 or \$12,000 times the factor). Higher-valued homes were limited to the same exemption amount as though they were valued at \$80,000. In addition, municipalities were authorized to reduce the cap so that it applies to a \$60,000 or \$40,000 home, but not to raise it.

Chapter 235 continues the municipal option to reduce the cap, but also permits the adoption of significantly higher caps, that is, the same caps that are currently available to the

alternative veterans exemption (compare RPTL §458-a(2)(d)(ii)). In most municipalities, the highest permissible cap would be that for a \$240,000 home. The permissible increased caps would range from \$100,000 to \$240,000 in \$20,000 steps. In a “high-appreciation municipality,” the highest permissible cap would be for a \$360,000 home. “High-appreciation municipalities” are (1) New York City, (2) a county for which the State Board has established a sales price differential factor for purposes of the STAR exemption for three consecutive years, or (3) a city, town, or village located within such a county.

Among the other features of Chapter 235 are that it:

- eliminates language which seemed to impose a deadline by which municipalities could opt into the Cold War exemption.
- provides that a trust beneficiary may receive the exemption.
- permits the granting of the Cold War exemption to cooperative apartments.

Chapter 235 takes effect January 2, 2010 and applies to assessment rolls having taxable status dates occurring on or after such date.

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### **Retroactive Exemptions for Specific Properties**

In a number of assessing units, the assessor has been authorized to accept an exemption application after taxable status date for a parcel owned by a named nonprofit or governmental entity. In many cases the entity acquired the property after taxable status date, though in other cases, the entity had title but simply failed to apply by taxable status date. The affected assessing units, entities involved, and Chapter Numbers are identified in the Legislative Status Chart appearing later in this Summary.

## **3. TAX COLLECTION AND ENFORCEMENT**

### **Notification of Foreclosure Proceedings**

- Chapter 275; S.3639 • RPTL §1125(1)(b)(i)

Chapter 275 presents taxing districts with procedural options for providing notice of foreclosure petitions to the Commissioner of the New York State Department of Taxation and Finance. In general, notice of foreclosure proceedings must be sent to any person who has a right, title or interest in the real property, as of the date of the filing of the list of delinquent taxes, which right, title or interest might be affected by the termination of the redemption period (RPTL §§ 1124, 1125 (1)). The notice must be sent by both certified and ordinary first class mail (RPTL §1125(1) (b)(i), as added by L.2006 c.415).

If a tax warrant is levied against the real property subject to the foreclosure proceeding, the Commissioner of Taxation and Finance is considered an interested party entitled to notice of foreclosure. Chapter 275 allows taxing districts foreclosing on real property tax liens to provide the Commissioner with notice of commencement of the judicial proceeding by an alternative means, other than certified and first class mail, in accordance with instructions prescribed by the

Commissioner. This option applies only to delinquency notices that are directed to the Commissioner, not to any other party.

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### **Tax Lien Sales**

- Chapters **62, 100, 104, 230** and **307**

Several new enactments have expanded or extended the authority of certain tax districts to sell their delinquent tax liens to third parties. In particular:

- Chapters **62** and **100** extend the authority for the Cities of Utica and Schenectady to conduct tax lien sales, while Chapter **104** authorizes the City of Middletown to conduct tax lien sales.
- Chapter **230** extends the authority of certain villages (i.e., those which duly opted out of the tax enforcement process established by RPTL Article 11) to conduct tax lien sales.
- Chapter **307** updates the pre-existing authority of Monroe County to conduct tax lien sales. It also revises the prior installment payment schedule and provides authorization for partial payments of taxes in Monroe County.

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### **Municipal Sustainable Energy Loan Programs**

- Chapter **497**, S.66004-A • General Municipal Law Article 5-L

Chapter **497** authorizes counties, towns, cities and villages to establish loan programs to encourage the installation of energy-saving improvements by property owners, using funding from federal stimulus dollars or other federal moneys provided for that purpose. From the standpoint of real property tax administration, this program is noteworthy because if the municipal corporation so directs, the payments due each year will be separately listed on the tax bills and will be levied and collected at the same time and in the same manner as municipal taxes. The loan amounts due will become liens against the affected properties, much as property taxes do. However, the general requirement that counties guarantee the unpaid taxes of other municipal corporations does not apply to any unpaid loans under this program.

Similar programs were established specifically for the Town of Bedford and the City of Binghamton by special legislation enacted earlier in 2009 (Chaps. **336** and **344**).

## **4. MISCELLANEOUS**

### **Local Government Consolidation**

- Chapter **74**; A.8501 • General Municipal Law Article 17-A

Chapter **74** enacts the “New N.Y. Government Reorganization and Citizen Empowerment Act.” While a detailed discussion of this legislation is beyond the scope of this publication, its general purpose is to establish uniform procedures to facilitate the dissolution or consolidation of local government entities, with the aim of reducing real property taxes and improving the long-term financial condition of the State. Its provisions apply specifically to towns, villages, special improvement districts and other improvement districts, including certain special districts and library districts, but not school districts. It takes effect March 21, 2010.

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## State Budget; Real Property Tax-Related Appropriations

- Chapters **50**, **53** and **502**; A.150-C, A.153-C and A.40022

Chapter **50** enacted the 2009-10 Public Protection and General Government Budget, which, among other things, provided \$13.965 million in aid for improved real property tax administration as part of the \$46.52 million ORPS budget, with a 2% reduction applied to certain aid programs due to the State's fiscal difficulties (*pp.225-227*). The State Operations part of the ORPS budget was \$32.56 million. Chapter 50 also appropriated \$194.258 million for payments of taxes on certain State lands (*p.285*). Chapter **53** enacted the 2009-10 Education, Labor and Family Assistance Budget, which, among other things, appropriated \$3.359 billion to pay for tax relief under the STAR program (*p.89*). In the face of a deepening State fiscal crisis, Chapter **502** reduced the aid payable under RPTL §1573 (i.e., Annual Aid, Triennial Aid, Consolidation Incentive Aid and County Aid payments) by an additional 12.5% for the 2009-10 fiscal year.

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## Telecommunications Tax Study

- Chapter **59**, Part NN, §5; A.159-B

Chapter **59**, Part NN, §5, calls for a study to be done “of assessments, fees, and tax rates, and associated policies of the state of New York, relating to the telecommunications industry including, but not limited to the cable, satellite and wireless industries of the state.” The study will be conducted by the State Department of Taxation and Finance with the cooperation of the Public Service Commission and ORPS, and must be completed by October 1, 2009.

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## Public Meetings and Records

- Chapter **26**, A.3169 • Public Officers Law §104(5)
- Chapter **27**, A. 6382 • Public Officers Law §95(d)

Two new laws of note bear upon public meetings and/or records issues:

- Chapter **26** requires a public body to post notice of its meetings conspicuously on its website where it has the ability to do so, in addition to posting notice and publicizing its meetings in the traditional manner.
- Chapter **27** generally requires State agencies that are subject to the Personal Privacy Protection Law (Public Officers Law, Art. 6-A) to accept and respond to requests for records under that law by e-mail, where the agency has “reasonable means” to do so. A similar requirement already existed under the Freedom of Information Law (POL, §89(3)(b)).

Note that two other proposals that also dealt with public meeting and/or records issues were vetoed by the Governor (Vetoed ## 3 and 9, reprinted below).

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## Legislation of Local Interest

Enactments that are primarily of local interest include the following:

- The Towns of Orchard Park and Elma in Erie County have each been authorized to establish programs to preserve open space via conservation easements, and to grant

partial exemptions to participating properties (Chaps. **296** and **311**, Approval Messages ## 8 and 9).

- The calculation of Adjusted Base Proportions has been “capped” for the 2009 assessment rolls of Nassau County (1%), New York City (0%), and the three Approved Assessing Units in Nassau County (1%) (Chaps. **384**, **207**, **382**), though not for the one Approved Assessing Unit in Suffolk County (*see* Veto # 17, below).
- Suffolk County has been authorized to permit military service members or their surviving spouses to redeem tax-foreclosed property without interest, penalties or fees under certain circumstances (Chap. **227**).
- Several housing programs have been amended, specifically:
  - The exemption authorized by RPTL §421-b for certain owner-occupied one or two family homes in New York City that are newly constructed, reconstructed or converted to private dwellings has been extended (Chap. **154**);
  - The exemption authorized by RPTL §421-d for certain multiple dwellings financed by the New York State Housing Finance Agency and located outside New York City has been revised and extended (Chaps. **76**, **176**);
  - The exemption authorized by Private Housing Finance Law §577 for certain housing development fund company projects in New York City has revised (Chap. **73**).
- The Town of Schroepfel has been authorized to approve refunds or credits of certain special assessments (Chap. **223**).
- The 2001 legislation authorizing the City of Gloversville and the Town of Johnstown to enter into an inter-municipal agreement under which tax revenues may be shared has been clarified (Chap. **303**).
- The authority of the Town of Oyster Bay to offer the Cold War veterans exemption has been clarified (Chap. **458**).

**GOVERNOR'S APPROVAL AND DISAPPROVAL MESSAGES**

**APPROVAL MESSAGES:**

- # 8: Conservation Easement Exemption, Town of Orchard Park
- # 9: Conservation Easement Exemption, Town of Elma

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**APPROVAL MEMORANDUM - No. 8 Chapter 296**

MEMORANDUM filed with Assembly Bill Number 2089-A, entitled:

"AN ACT to amend the real property tax law, in relation to establishing a conservation agreement exemption in certain towns"

APPROVED

This bill applies to a town with a population between 27,600 and 27,750, located in a county with a population between 950,000 and 951,000, based on the latest federal decennial census. The only locality that fits this description is the Town of Orchard Park, located in Erie County. I also have before me an almost identical bill, A.6273-B/S.1566-B, which applies to a town with a population between 11,300 and 11,400 individuals, also located in a county with a population between 950,000 and 951,000. This description fits only the Town of Elma, also in Erie County.

This bill provides the Town of Orchard Park with the authority to adopt a local law offering local real property tax exemptions to real property owners who enter into conservation easement agreements and promise to preserve from development land that qualifies as an open space or open area. While I am concerned about the expansion of local property tax exemptions, which tend to have the result of placing additional tax burdens on other taxpayers, encouraging the preservation of open spaces and areas is a laudable and important purpose. Moreover, the Town Supervisor of Orchard Park has made clear that the Town desires this authority. Therefore, approval of this bill is warranted.

However, I am troubled by the Legislature's use of narrow population corridors to provide property tax exemptions to what appears to be a class of municipalities but is really a single municipality. One of the dangers inherent in this approach is that we are rapidly approaching the year 2010, when the federal government will conduct its next census, and the new statute that would be enacted by this bill may well end up applying to an entirely different locality than that to which it would now apply, or to none at all. I urge the Legislature to correct this deficiency by passing appropriate legislation before such a situation occurs.

The bill is approved.

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**APPROVAL MEMORANDUM - No. 9 Chapter 311**

MEMORANDUM filed with Assembly Bill Number 6273-B, entitled:

"AN ACT to amend the real property tax law, in relation to establishing a conservation easement agreement exemption in a town having a certain population based upon the latest decennial federal census"

APPROVED

This bill applies to a town with a population between 11,300 and 11,400 individuals located in a county with a population between 950,000 and 951,000, based on the latest federal decennial census. The only locality that fits this description is the Town of Elma, located in Erie County. I also have before me an almost identical bill, A.2089-A/S.3337-A, which applies to a town with a population between 27,600 and 27,750, also located in a county with a population between 950,000 and 951,000. This refers to the Town

of Orchard Park, also in Erie County.

This bill provides the Town of Elma with the authority to adopt a local law offering local real property tax exemptions to real property owners who enter into conservation easement agreements and promise to preserve from development land that qualifies as an open space or open area. While I am concerned about the expansion of local property tax exemptions, which tends to have the result of placing additional tax burdens on other taxpayers, encouraging the preservation of open spaces and areas is an important and laudable purpose. Moreover, the Town Supervisor of Elma has made clear that the Town desires this authority. Therefore, approval of this bill is warranted.

However, I am troubled by the Legislature's use of narrow population corridors to provide property tax exemptions to what appears to be a class of municipalities but is really a single municipality. One of the dangers inherent in this approach is that we are rapidly approaching the year 2010, when the federal government will conduct its next census, and the new statute that would be enacted by this bill may well end up applying to an entirely different locality than that to which it would now apply. I urge the Legislature to correct this deficiency by passing appropriate legislation before such a situation occurs.

The bill is approved.

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**DISAPPROVAL MESSAGES:**

- # 3: Enforcement of the Open Meetings Law
- # 9: Extension of the Rule-Making Comment Period
- # 12: Definition of "Income" for the Senior Citizens Rent Increase Exemption
- # 17: Town of Islip 2009 Adjusted Base Proportions
- # 70: Recalculation of Aid for Marlboro Central School District

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**VETO MESSAGE - No. 3**

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

Assembly Bill Number 2046-A, entitled: "AN ACT to amend the public officers law, in relation to enforcement of the open meetings law"

NOT APPROVED

This bill addresses an issue of significant public importance: the need to ensure compliance with the provisions of the Open Meetings Law (OML). The OML is an important element of this State's regime for open government, and this bill is an effort to strengthen its enforcement mechanisms. At present, a court can order the invalidation of an act, either in whole or in part, when undertaken by a public body in violation of the OML. This bill would provide a court with alternative sanctions, including a civil penalty of up to \$500 per violation and the ability to stay implementation of an action and remand it back to the public body for reconsideration. Further, it would allow a court to declare an action void if "substantial deliberations" related thereto were undertaken in violation of the OML.

I am grateful to the sponsors for having taken on this important issue, and applaud their goal of strengthening this law. The bill, however, has significant technical problems, and is opposed by every major local government group, including the Association of Towns, the School Boards Association, the New York Conference of Mayors and Municipal Officials and the New York State Association of Counties, as well as the Division of the Budget and the Department of Health.

In particular, the proposed civil penalty is highly problematic in that the public body itself would be liable, and the ultimate price would be paid by the taxpayer. It is difficult to see how the public benefits from this penalty, or how it would serve as a deterrent, when a public body will use public funds to pay for violations. The bill does not say who would receive the penalty, and -- to the extent it is to go the State's

General Fund -- the upshot for State agencies is that the State would pay a penalty to itself.

In addition, the term "substantial deliberations" is undefined, and will leave localities deeply uncertain as to what they must do to avoid sanction. The entities subject to this law include numerous small municipalities, many of whom lack staff counsel or the resources to contest extensive litigation. This bill, and its ambiguous wording, is likely to subject such localities to additional lawsuits over this statute, and place a burden on local government resources. Moreover, once a government entity has engaged in private deliberations, it is unclear how this error could be remedied. If, realizing its mistake, it seeks to make all subsequent deliberations public, it may be determined already to have engaged in "substantial deliberations," which would lead to the invalidation of its act.

Finally, one new remedy provided by the statute -- to allow a court to stay implementation of any action and to remand it to the locality for reconsideration -- appears redundant. A court's declaration that an act is void under current law means that the act would not go into effect, and the locality could re-deliberate. That is the precise result of this new remedy.

I fully share the sponsors' goals of strengthening the OML, and recognize that the task of ensuring compliance with this law is a thorny one. I have directed my staff to work with the sponsors to address the concerns raised about this bill with the aim of reaching agreement between the Executive and Legislature on a bill that can be enacted this session. Because I am concerned about the impact of this bill on local governments, however, and since it seems likely to foster unnecessary litigation, I am regretfully constrained to veto it.

The bill is disapproved.

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**VETO MESSAGE - No. 9**

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

Assembly Bill Number 7458, entitled: "AN ACT to amend the state administrative procedure act, in relation to notice of proposed rule making"

NOT APPROVED

This bill would amend State Administrative Procedure Act ("SAPA") section 202(1)(a) to: (1) allow State agencies to extend the last date for submission of comments on a proposed rule by publishing a notice of the extension in the State Register; (2) allow any citizen or resident of New York State to ask an agency to extend a comment period; and (3) require the agency to either grant a request to extend a comment period, or deny the request and state in writing the reasons for such denial, when such request is made by the Comptroller, the Attorney General, or a member of the Legislature.

I appreciate the sponsors' effort to allow for greater public input in the regulatory process. The basic rights provided by this legislation, however, are already present in current law. In particular, SAPA does not preclude agencies from extending a rulemaking comment period. Indeed, agencies may currently extend the comment period in response to a request from a citizen or resident of the State, a State official or on the agency's own initiative. As such, the bill creates no new rights for the people of the State and appears to be unnecessary.

I am concerned, moreover, that enactment of this legislation could cause delays and inefficiencies in the rulemaking process, and may expose the State to needless litigation. The bill does not establish standards under which a request for extension may be honored or denied, and fails to provide any guidance as to the length of time for which the comment period may be extended or the number of extensions that may be granted. The bill is also silent on the issue of whether an agency denial may be subject to legal challenge.

Finally, the bill would require an agency to provide a written explanation to a member of the Legislature, the Comptroller or the Attorney General if it denied a request to extend the comment period, while average citizens would not have the benefit of a similar notice. It is unclear to me why certain individuals

should have a favored role in the regulatory process. Moreover, many agencies have expressed concerns that by establishing such different standards, agencies could be accused of arbitrarily and capriciously denying a request, which may result in litigation. For that reason, numerous agencies object to this proposal, including the Department of Health, the Governor's Office of Regulatory Reform, the Department of Environmental Conservation, the Department of State and the Office of Real Property Services.

The bill is disapproved.

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**VETO MESSAGE - No. 12**

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

Assembly Bill Number 1800, entitled: "AN ACT to amend the real property tax law, in relation to excluding certain expenditures for medical care from the definition of "income" for the purpose of a tax abatement for rent-controlled and rent regulated property occupied by senior citizens"

NOT APPROVED

This bill would permit municipalities to adopt a local law allowing more seniors to qualify for the Senior Citizens Rent Increase Exemption (SCRIE) and more individuals with disabilities to qualify for the Disability Rent Increase Exemption (DRIE) by excluding their out-of-pocket medical and prescription drug expenses from the definition of income under Real Property Tax Law (RPTL) Sections 467-b and 467-c.

The intent of the bill is worthy, but the current fiscal crisis unfortunately makes it untenable. The Mayor of New York City estimates that when fully implemented, the expansion of these programs would cost the City approximately \$76.4 million per year for SCRIE and \$85.6 million for DRIE. In light of the City's projected budget gaps of \$4.6 billion in its 2011 fiscal year and \$5.2 billion in 2012, the Mayor advises that it would be impossible to absorb these additional expenses without additional budget cuts.

Further, the income ceiling for the SCRIE program was increased from \$20,000 to \$24,000 in 2004 and was increased by \$1,000 per year over the ensuing five years, for a total increase of 45 percent in six years. Moreover, the last increase took effect only a few weeks ago, on July 1, 2009. The Mayor also notes that the DRIE program was created in 2005 and should not be expanded absent further evaluation.

Finally, a local law enacted under this bill would create an administrative burden for New York City, which would be required to determine which medical and prescription drug expenses are legitimate and which were not covered by health insurance. Applicants would be burdened as well, as they would need to maintain detailed records of their expenses.

Given these fiscal and administrative challenges, it would be imprudent to authorize the expansion of the SCRIE and DRIE programs at this time.

The bill is disapproved.

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**VETO MESSAGE - No. 17**

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

Assembly Bill Number 5788, entitled: "AN ACT to amend the real property tax law, in relation to limiting base proportion for the 2009-2010 assessment roll in the county of Suffolk"

NOT APPROVED

This bill would limit at 1% the growth in the base proportion for any class in the Town of Islip, Suffolk County, for the 2009-2010 assessment roll.

The Town of Islip uses a two-class system of assessment, which categorizes property as "homestead" (residential real property, vacant land and land in agricultural production) or "non-homestead" (all other real property), for local tax purposes. The two-class system was established to protect homeowners from

shifts in the relative shares of tax burdens due to reassessments, by limiting the annual change in the relative assessed value of each class of properties to 5%. However, since 2003, special legislation has been enacted on an annual basis to restrict the growth of the Town homestead class even further by limiting the growth of any class to 1%.

While previously the Town of Islip has requested and supported the extension of the aforementioned 1% cap on an annual basis over the past several years, the Town has not expressed support for the bill this year. In fact, the Town Assessor has expressly requested that this bill be disapproved. In matters that impact only one jurisdiction, I customarily defer to the wishes of that local government. Inasmuch as this bill applies only to the Town of Islip, and to the extent the Town has indicated it does not want this bill enacted, I am accordingly constrained to veto it.

The bill is disapproved.

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**VETO MESSAGE - No. 70**

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

Assembly Bill Number 6700, entitled: "AN ACT to direct the commissioner of education to recalculate certain state aid payments which may be payable to the Marlboro central school district; and to establish a 30 year period of probable usefulness for the payment of certain judgments by such school district"

**NOT APPROVED**

The Marlboro Central School District has received an unfavorable judgment in a tax certiorari proceeding involving two electrical generating facilities, who were determined to have been overassessed. This result will require reimbursement by the taxing jurisdictions in which the facilities are located, including the District, which benefited from the overassessment.

The District now seeks the State's assistance in mitigating the negative financial impact of this decision. The bill attempts to provide such assistance in two ways - the State aid to education formula would be accelerated to recognize the loss in tax base for the District sooner than currently provided (thus increasing State aid) and the period for the District to "bond" the tax refund would be extended from 20 to 30 years (thus mitigating the sting of the refunds).

Unfortunately, due to the State's dire fiscal situation, it is not possible to provide additional aid. Moreover, the bill would waive Education Law Section 3604(5)(b), which requires that no additional state aid be paid to a school with a full value change due to tax certiorari proceeding, unless the revised full value change due to a tax certiorari proceeding generates an increase of at least one percent above the amount of state aid paid to the district in that year. Thus, the bill would effectively allow this district to receive aid under terms different from those applicable to every other district affected by a tax certiorari action.

While the District's efforts to address the financial consequences of this decision are understandable, I cannot agree to the fiscal impact on the State imposed by this bill, or to the exemption provided from statutory requirements.

The bill is disapproved.

## LEGISLATIVE STATUS CHART

### 2009 RPT Related Bills of Interest -- Passed Both Houses -- Final Status

<u>Subject of Legislation</u>	<u>Bill Numbers</u>	<u>Prime Sponsor</u>	<u>Last Action of Legislature</u>	<u>Action of Governor</u>
<b>RPS Departmental / Governor's Program / Budget Bills:</b>				
1 Budget Bill -- PPGG, Includes Oil & Gas fee extender (Part II), 5217 fee increase & redirection to General Fund (Part JJ), etc.	S.56-b <b>A.156-b</b>	Budget Bill Budget Bill	Passed Senate 4/2 Passed Assembly 3/31	Signed 4/7 Ch. 56
2 Budget Bill -- ELFA, Includes Repeal of STaR Rebates (Part M), and Empire Zone Reform (Part S-1, esp. Sec. 29, pg. 136)	S.57-b <b>A.157-b</b>	Budget Bill Budget Bill	Passed Senate 4/3 Passed Assembly 3/31	Signed 4/7 Ch. 57
3 Budget Bill -- Extraordinary Session, Deficit Reduction related, Reduces undisbursed 1573 aid by another 12.5% for '09/'10	S.66022 <b>A.40022</b>	Budget Bill Budget Bill	Passed Senate 12/2 Passed Assembly 12/2	Signed 12/4 Ch. 502
4 ORPS Dept. Bill #79 -- Coordinated Assessment Program (CAP), makes timing and procedural revisions	S.3743 <b>A.7505</b>	Stewart-Cousins Galef	Passed Senate 5/12 Passed Assembly 5/6	Signed 5/29 Ch. 46
5 Taxation & Finance Dept. Bill #109 -- Authorizes alternative property tax lien foreclosure notices to Commissioner of T&F	<b>S.3639</b> A.7966	Squadron Galef	Passed Senate 6/3 Passed Assembly 6/18	Signed 7/28 Ch. 275
<b>Other RPT Related Bills:</b>				
6 Exemption -- T. of Elma, Conservation Easement Law, authorizes property tax exemption to encourage open space	S.1566-b <b>A.6273-b</b>	Volker Corwin	Passed Senate 7/16 Passed Assembly 6/18	Signed 8/11 Ch. 311 Approval Memo. #9
7 Exemption -- T. of Orchard Park, Conservation Easement Law, authorizes property tax exemption to encourage open space	S.3337-a <b>A.2089-a</b>	Volker Schroeder	Passed Senate 7/16 Passed Assembly 6/4	Signed 8/11 Ch. 296 Approval Memo. #8
8 Exemption -- Multiple Dwellings involving NYSHFA, extends RPTL 421-d to June 30, 2011 (amds. Ch. 514 of '83)	S.2865-a <b>A.7087-a</b>	Espada Barron	Passed Senate 6/3 Passed Assembly 5/18	Signed 6/30 Ch. 76
9 Exemption -- Multiple Dwellings involving NYSHFA, extends RPTL 421-d to June 30, 2011 & increases Bonding (HFA bill)	S.3458-a <b>A.8528</b>	Espada Camarra	Repassed Senate 7/9 Passed Assembly 6/11	Signed 7/11 Ch. 176
10 Exemption -- 1 Property, RPTL Sec. 406 (T. of Ramapo, 21 Lenore Ave., T. of Ramapo)	S.5309-a <b>A.7579-a</b>	Morahan Jaffee	Passed Senate 7/16 Passed Assembly 6/17	Signed 8/11 Ch. 319
11 Exemption -- 1 Property, RPTL Sec. 406 (T. of Ramapo, 7 Elm St., T. of Ramapo)	S.5322-a <b>A.7580-a</b>	Morahan Jaffee	Passed Senate 7/16 Passed Assembly 6/17	Signed 8/11 Ch. 320
12 Exemption -- 1 Property, RPTL Sec. 406 (T. of Ramapo, 168 Sixth St., T. of Ramapo)	S.5338-a <b>A.7749-a</b>	Morahan Rabbitt	Passed Senate 7/16 Passed Assembly 6/22	Signed 8/11 Ch. 326
13 Exemption -- 1 Property, RPTL Sec. 406 (T. of Ramapo, 319 Haverstraw Rd., T. of Ramapo)	S.5337-a <b>A.7750-a</b>	Morahan Rabbitt	Passed Senate 7/16 Passed Assembly 6/15	Signed 8/26 Ch. 386
14 Exemption -- 1 Property, RPTL Sec. 406 (T. of Ramapo, Route 17, T. of Ramapo)	S.5336-a <b>A.7751-a</b>	Morahan Rabbitt	Passed Senate 7/16 Passed Assembly 6/15	Signed 8/11 Ch. 327
15 Exemption -- 1 Property, RPTL Sec. 406 (T. of Ramapo, Route 17, T. of Ramapo)	S.5904 <b>A.7773-a</b>	Morahan Rabbitt	Passed Senate 7/16 Passed Assembly 6/22	Signed 8/11 Ch. 328

## 2009 RPT Related Bills of Interest -- Passed Both Houses -- Final Status

<u>Subject of Legislation</u>	<u>Bill Numbers</u>	<u>Prime Sponsor</u>	<u>Last Action of Legislature</u>	<u>Action of Governor</u>
16 Exemption -- 1 Property, RPTL Sec. 406 (T. of Ramapo, Route 17, T. of Ramapo)	S.5905 A.7775-a	Morahan Rabbitt	Passed Senate 7/16 Passed Assembly 6/18	Signed 8/26 Ch. 387
17 Exemption -- 1 Property, RPTL Sec. 406 (V. of Airmont, T. of Ramapo)	S.3758-a A.6472-a	Morahan Jaffee	Passed Senate 7/16 Passed Assembly 6/1	Signed 9/16 Ch. 435
18 Exemption -- 1 Property, RPTL Sec. 406 (V. of Sloatsburg, 88 Orange Turnpike, T. of Ramapo)	S.5158-a A.2756-a	Morahan Rabbitt	Passed Senate 7/16 Passed Assembly 6/18	Signed 8/26 Ch. 356
19 Exemption -- 1 Property, RPTL Sec. 420-a (Adalante of Suffolk County, Inc., T. of Islip)	S.2705-a A.7838-a	Foley Ramos	Passed Senate 7/16 Passed Assembly 6/17	Signed 8/26 Ch. 388
20 Exemption -- 1 Property, RPTL Sec. 420-a (Bethel A.M.E. Church, T. of Huntington)	S.3649-a A.7201-a	Marcellino Conte	Passed Senate 7/16 Passed Assembly 6/22	Signed 8/26 Ch. 378
21 Exemption -- 1 Property, RPTL Sec. 420-a (Congregation Khal Torath Chaim of Rockland, T. of Ramapo)	S.3757 A.6473	Morahan Jaffee	Passed Senate 7/16 Passed Assembly 5/26	Signed 8/26 Ch. 370
22 Exemption -- 1 Property, RPTL Sec. 420-a (Ethical Humanist Society of Long Island, T. of Hempstead)	S.3434-a A.8339-a	Hannon McKevitt	Passed Senate 7/16 Passed Assembly 6/11	Signed 8/26 Ch. 402
23 Exemption -- 1 Property, RPTL Sec. 420-a (Long Island Youth Mentoring, Inc., T. of Islip)	S.4428 A.8674	O. Johnson Ramos	Passed Senate 7/16 Passed Assembly 6/17	Signed 9/16 Ch. 469
24 Exemption -- 1 Property, RPTL Sec. 420-a (Mosdos Sanz Klausenburg of Monsey, T. of Ramapo)	S.3756 A.7220	Morahan Jaffee	Passed Senate 7/16 Passed Assembly 6/10	Signed 8/26 Ch. 379
25 Exemption -- 1 Property, RPTL Sec. 420-a (Mount Olivet Baptist Church, C. of Peekskill)	S.5763 A.8097	Leibell Galef	Passed Senate 7/16 Passed Assembly 6/10	Signed 9/16 Ch. 451
26 Exemption -- 1 Property, RPTL Sec. 420-a (Nigam Agam Sugam Sharnam, Inc., T. of Babylon)	S.2708 A.5807	Fuschillo Sweeney	Passed Senate 7/16 Passed Assembly 6/10	Signed 8/26 Ch. 366
27 Exemption -- 1 Property, RPTL Sec. 420-a (Shavi Uma Ganesh Mandir, T. of Islip)	S.4980-a A8342-a	Foley Eddington	Passed Senate 7/16 Passed Assembly 6/18	Signed 9/16 Ch. 456
28 Exemption -- 1 Property, RPTL Sec. 420-a (United Methodist Church, Patchogue, T. of Islip)	S.3643 A.7148	Foley Eddington	Passed Senate 7/16 Passed Assembly 6/11	Signed 8/26 Ch. 376
29 Exemption -- 2 Properties, RPTL Secs. 420-a & 462 (Young Israel of Hewlett, T. of Hempstead)	No Same As A.8905	Weisenberg	Passed Senate 7/16 Passed Assembly 6/18	Signed 8/11 Ch. 346
30 Exemption -- 1 Property, RPTL Sec. 420-b (Rockland Housing Action Coalition, Inc., T. of Ramapo)	S.5331 A.2757	Morahan Rabbitt	Passed Senate 7/16 Passed Assembly 6/10	Signed 8/26 Ch. 357
31 Exemption -- 1 Property, RPTL Sec. 420-b (Schenectady Day Nursery, Inc., C. of Schenectady)	S.1171-a A.3337-a	Farley Tedisco	Passed Senate 7/16 Passed Assembly 6/22	Signed 8/26 Ch. 358
32 Exemption -- Persons with Disabilities, Makes certain Vets. Disability pension recipients eligible (RPTL 459-c)	S.2240 A.2239	Stachowski Schroeder	Passed Senate 7/16 Passed Assembly 4/20	Signed 8/26 Ch. 353

## 2009 RPT Related Bills of Interest -- Passed Both Houses -- Final Status

	<u>Subject of Legislation</u>	<u>Bill Numbers</u>	<u>Prime Sponsor</u>	<u>Last Action of Legislature</u>	<u>Action of Governor</u>
33	Exemption -- SCRIE, Excludes medical care expenditures from definition of "income" for tax abatement purposes	S.2210 <b>A.1800</b>	Diaz Dinowitz	Passed Senate 6/2 Passed Assembly 4/27	Vetoed 7/21 Veto Message #12
34	Exemption -- Srs., Codifies ORPS Opinion of Counsel (# 9-72) concerning the handling of Reverse Mortgage proceeds	S.2760 A.8305	Monserrate Meng	Passed Senate 5/13 Passed Assembly 6/16	Signed 7/28 Ch. 259
35	Exemption -- Vets., Cold War, extends benefits to Cooperatives, allows increased \$ limits on exemption amounts (RPTL 458-b)	S.4766 A.7422-a	Addabbo Paulin	Passed Senate 6/1 Passed Assembly 6/22	Signed 7/23 Ch. 235
36	Local Gov't Reorganization and Citizen Empowerment Act, Simplifies consolidations & mergers (Attorney General Bill #1)	S.5661 <b>A.8501</b>	Stewart-Cousins Silver	Passed Senate 6/3 Passed Assembly 6/1	Signed 6/24 Ch. 74
37	Marlboro Central School District -- Allows 30 yr. bonding of Dynergy related tax cert refunds, directs ORPS/SED data review	S.2737 <b>A.6700</b>	Larkin Skartados	Passed Senate 7/16 Passed Assembly 6/15	Vetoed 9/16 Veto Message #70
38	Monroe Co. Provisions -- Amends the Monroe Co. Tax Act and the Monroe Co. Tax Foreclosure Act	S.2408-d <b>A.5303-c</b>	Nozzolio Morelle	Passed Senate 7/16 Passed Assembly 6/18	Signed 8/11 Ch. 307
39	Nassau Co. Provisions -- Limits Adjustment of Current Base Proportions to One percent	S.3822 <b>A.7664</b>	Johnson, C. Weisenberg	Passed Senate 7/16 Passed Assembly 5/26	Signed 8/26 Ch. 384
40	Nassau Co. Provisions -- Long Beach, Glen Cove, Lk. Success, Limits adjustment of Art. 19 CBPs to One percent in '09	S.3568-a <b>A.7261-a</b>	Skelos Weisenberg	Passed Senate 7/16 Passed Assembly 6/22	Signed 8/26 Ch. 382
41	New York City Provisions -- Housing Dev. Fund. Cos., requires City Council action on ex. apps. w/in 120 days (PvHFL 577)	S.2844-a <b>A.5567-a</b>	Espada Lopez, V.	Passed Senate 5/11 Passed Assembly 5/4	Signed 6/24 Ch. 73
42	New York City Provisions -- Certain private dwellings, extends RPTL 421-b project commencement timeframe until 7/1/2010	S.5705 <b>A.8048</b>	Savino Lopez, V.	Repassed Senate 7/9 Passed Assembly 6/2	Signed 7/11 Ch. 154
43	New York City Provisions -- Industrial & Commercial Incentive Program, makes beneficiaries eligible for other benefits	S.5935 <b>A.8868</b>	Padavan Silver	Repassed Senate 7/9 Passed Assembly 6/16	Signed 7/11 Ch. 202
44	New York City Provisions -- Limits the change in adjusted base proportions to Zero % for fiscal year '09	S.5944 <b>A.8895</b>	Krueger Hyer-Spencer	Repassed Senate 7/9 Passed Assembly 6/17	Signed 7/11 Ch. 207
45	Real Estate Transfer Tax -- Essex County, authorizes County to impose a transfer tax to fund a Public Safety Radio System	S.5869 <b>A.8936</b>	Little Sayward	Repassed Senate 7/9 Passed Assembly 6/22	Signed 7/11 Ch. 212
46	Suffolk Co. Provisions -- T. of Islip, Limits adjustment of current base proportions under Art. 19 to 1% in '09	S.2706-a <b>A.5788</b>	Foley Fields	Passed Senate 6/2 Passed Assembly 5/26	Vetoed 7/21 Veto Message #17
47	Tax Bills -- Statewide Local Option, Authorizes Repayment of Sustainable Energy loans on Tax bills	S.66004-a A.40004-a	Thompson Rules (Sweeney)	Passed Senate 11/16 Passed Assembly 11/16	Signed 11/19 Ch. 497
48	Tax Bills -- C. of Binghamton, Authorizes Repayment of Sustainable Energy loans on Tax bills	S.5867-a <b>A.8890</b>	Libous Lupardo	Passed Senate 7/16 Passed Assembly 6/16	Signed 8/11 Ch. 344
49	Tax Bills -- T. of Bedford, Authorizes Repayment of Sustainable Energy loans on Tax bills	S.5762-a <b>A.8387-a</b>	Leibell Bradley	Passed Senate 7/16 Passed Assembly 6/17	Signed 8/11 Ch. 336

## 2009 RPT Related Bills of Interest -- Passed Both Houses -- Final Status

	<u>Subject of Legislation</u>	<u>Bill Numbers</u>	<u>Prime Sponsor</u>	<u>Last Action of Legislature</u>	<u>Action of Governor</u>
50	Tax Enforcement -- C. of Middletown, Authorizes the bulk sale of tax liens through December 31, 2012	S.3183-a <b>A.5208-a</b>	Bonacic Gunther	Passed Senate 7/9 Passed Assembly 6/11	Signed 7/11 Ch. 104
51	Tax Enforcement -- C. of Schenectady, Extends authority to sell delinquent tax liens to private parties (amds. Ch. 177 of '04)	S.1261-b <b>A.4554-c</b>	Farley Amedore	Passed Senate 7/9 Passed Assembly 6/17	Signed 7/11 Ch. 100
52	Tax Enforcement -- C. of Utica, Authorizes the bulk sale of tax liens through December 31, 2011	S.1732 <b>A.1204</b>	Griffo Destito	Passed Senate 5/27 Passed Assembly 5/11	Signed 6/9 Ch. 62
53	Tax Enforcement -- Suffolk Co., Allows redemption w/o interest by certain military personnel who were deployed since 10/7/01	S.5564-a <b>A.7227-a</b>	Foley Sweeney	Repassed Senate 7/9 Passed Assembly 6/11	Signed 7/16 Ch. 227
54	Tax Enforcement -- Villages, Extends ability to enforce under old Law through 2012 (amds. Ch. 602 of '93 & Ch.599 of '06)	S.5145 <b>A.7606</b>	Johnson, C. Schimel	Repassed Senate 7/9 Passed Assembly 6/2	Signed 7/16 Ch. 230
55	T. of Johnstown & C. of Gloversville -- Cooperative Agreement revisions for a joint Economic Dev. area (amds. Ch. 148 of '01)	S.5840 <b>A.4421-a</b>	Farley Butler	Passed Senate 7/16 Passed Assembly 6/18	Signed 8/11 Ch. 303
56	T. of Oyster Bay -- Exemption -- Cold War Vets., Legalizes adoption of Local Law after the 2009 roll deadline	S.5556 <b>A.8356</b>	Fuschillo Walker	Passed Senate 7/16 Passed Assembly 6/22	Signed 9/16 Ch. 458
57	T. of Schroepfel -- Authorizes repayment to taxpayers of monies received from erroneous overpayment of RPTs	S.246 <b>A.1939</b>	Aubertine Townsend	Passed Senate 7/9 Passed Assembly 6/10	Signed 7/16 Ch. 223

## 2009 Public Officers Law Related Bills of Interest -- Passed Both Houses

1	Online Posting -- if a public body has the ability, it must post place and time of public meetings on web	S.2754 <b>A.3169</b>	Johnson, C. Bradley	Passed Senate 4/21 Passed Assembly 3/18	Signed 5/12 Ch. 26
2	Open Meetings Law -- relates to court ordered fines and stay of implementation for actions at closed meetings	S.3453 <b>A.2046-a</b>	Oppenheimer John	Passed Senate 4/21 Passed Assembly 3/18	Vetoed 5/12 Veto Message #3
3	Requires Agencies to accept Personal Privacy Protection Law related requests via e-mail, and provides for e-mail responses	S.3020 <b>A.6382</b>	Valesky Destito	Passed Senate 4/21 Passed Assembly 3/18	Signed 5/12 Ch. 27

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