



OFFICE OF COUNSEL

## SUMMARY OF 2021 REAL PROPERTY TAX LEGISLATION

*This publication summarizes noteworthy 2021 legislation related to real property tax administration. These descriptions are intended only as a source of general information about the key elements of the new laws. For a more complete and authoritative account of what these new laws do, the best resource is, of course, the laws themselves. As used herein, "RPTL" means the Real Property Tax Law and the "Tax Department" means the Department of Taxation and Finance.*

### ASSESSMENT ADMINISTRATION

#### **Real Property Transfer Reporting**

□ Chapter 59 (S.2509-C), Part U • Real Property Law § 333(1-e), (3); Tax Law § 1423

Chapter 59, Part U, modernizes the reporting of real property transfers by authorizing the Tax Department to develop an online reporting form integrating Forms RP-5217 and TP-584. Users of the online form will pay the associated taxes and fees online. Upon completing the transaction, users will be given a receipt to be printed and filed with the County Clerk in place of paper Forms RP-5217 and TP-584. County Clerks will continue to receive the same fees as before. The TP-584 will remain confidential, except to the extent it overlaps with the RP-5217, which is public. This system will be optional for buyers and sellers, so parties who prefer to file the paper forms will be permitted to do so. Once implemented, this system will be available Statewide, except in New York City and Westchester County, where comparable systems are already in place.

#### **Valuation; Comparable Sales**

□ Chapter 497 (A.894-C) • RPTL § 305-a

Chapter 497 establishes criteria to be considered when selecting comparable sales and rentals to be used to value commercial and mixed-use property outside of New York City. More specifically, the law provides that when valuing such property using the comparable sales, income capitalization or cost methods, consideration shall be given to sales or rentals of properties exhibiting similar use or the use at the time of sale in the same real estate market. For this purpose, comparable properties shall include properties located in proximate location to the subject property, unless there is an inadequate number of appropriate sales or rentals within the same market. In addition, consideration shall also be given to sales or rentals of properties that are similar in age, condition, use or the use at the time of sale, type of construction, location, design, physical features and economic characteristics, including but not limited to similarities in occupancy and market rent.

#### **Valuation; Solar and Wind Energy Systems**

□ Chapter 59 (S.2509-C), Pt. X • RPTL § 575-b

Chapter 59, Part X, directs the Tax Department to develop a standard appraisal methodology for solar and wind energy systems with a nameplate capacity of one megawatt or greater. The Department – in consultation with the New York State Energy Research and

Development Authority (NYSERDA) and the New York State Assessors Association (NYSAA) – will develop an appraisal model using the discounted cash flow approach for these systems, to be updated periodically as appropriate, and will annually develop the discount rates to be applied to the model. Beginning with 2022 assessment rolls, local assessors must use the prescribed model and discount rates to value and place assessments on affected solar and wind energy systems. For additional information regarding this program, see <https://www.tax.ny.gov/research/property/renewable-appraisal.htm>.

### **Technical Amendments**

#### Chapter 59 (S.2509-C), Part W

Chapter 59, Part W, made various technical amendments to the RPTL. As far as assessment administration is concerned, it:

- Provided that at meetings of the State Board of Real Property Tax Services, a majority of the duly appointed members constitutes a quorum for the transaction of business. RPTL § 200.
- Clarified that hearings on many tentative ORPTS determinations – special franchise assessments and values, telecommunications ceilings, railroad ceilings and equalization rates – may be canceled if no complaints are filed. RPTL §§ 489-n, 489-kk, 499-oooo, 612 and 1208.

<b>EXEMPTION ADMINISTRATION</b>
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### **Agriculture; Apiaries**

#### Chapter 160 (S.7111) • Agriculture and Markets Law § 301(9); RPTL § 483(2)(e)

Chapter 160 enacts or modifies various laws impacting the beekeeping industry. One of its provisions expands the definition of “land used for agricultural production” for purposes of the agricultural assessment program. The expanded definition expressly allows sales of royal jelly, bee pollen and propolis to be counted toward the gross sales requirement, if produced by bees in hives located on land used in agricultural production in conjunction with the same or an otherwise qualified farm operation. As part of this change, the term “gross sales value” as used in § 301 of the AML has been changed to “gross sales.” In addition, the agricultural structures exemption has been extended to structures used to produce royal jelly, bee pollen, and propolis.

### **Agriculture; Historic Barns**

#### Chapter 672 (S.6042) • RPTL § 483-b(5)

Chapter 672 revises both the State tax credit and the local option property tax exemption for the rehabilitation of historic barns. The portion that impacts the property tax exemption revises the definition of “historic barn” in RPTL § 483-b(5) to mean a “certified agricultural structure” that (1) was at least partially constructed before 1945 and is or was used as an agricultural facility or for purposes related to agriculture, or that (2) was constructed after 1945 and is eligible for listing on the state or national register of historic places, or is a contributing structure of a listed historic district. The Office of Parks, Recreation and Historic Preservation has been tasked with establishing eligibility guidelines for the certification of historic barns.

### **COVID-19 Pandemic; Application Filing Deadlines**

#### Chapter 409 (S.6086) • Unconsolidated

Chapter 409 gave municipal corporations the option to extend the deadline for filing applications for 2021 exemptions and abatements until July 15, 2021. A similar measure was in place in 2020 (Chap. 92).

## **Housing Finance Agency**

### Chapter 232 (S.6975) • RPTL § 421-d

Chapter 232 extends certain statutory authorizations relating to the New York State Housing Finance Agency, and increases its bonding authority. One of the statutes that was extended is the exemption authorized by RPTL § 421-d for the construction of multiple dwellings financed by the HFA. That statute had been set to sunset on July 23, 2021, but this legislation keeps it (and the other HFA-related statutes) in effect until July 23, 2023.

## **Real Property Tax Exemption Task Force**

### Chapter 131 (S.905) • Unconsolidated

Chapter 131 modifies the structure of the Real Property Tax Exemption Task Force that was established by Chapter 317 of the Laws of 2020 to examine the laws governing real property tax exemptions and to recommend changes to those laws. Chapter 131 changes the Task Force's composition, primarily by adding additional legislative representatives and the President of the New York State Assessors Association as members. It also takes the Task Force out of the Department of Taxation and Finance while continuing to provide for the open sharing of data.

## **Residential-Commercial Urban Exemption Program**

### Chapter 132 (S.1309) • RPTL § 485-a

Chapter 132 modifies the eligibility requirements of the Residential-Commercial Urban Exemption authorized by RPTL § 485-a. Most notably, it:

- Clarifies that eligible commercial uses include non-residential lawful uses such as offices, hotels, retail stores, breweries, distilleries, restaurants, cafes, bars or taverns, gymnasiums, theaters, or entertainment venues that employ or are anticipated to employ a minimum of five employees primarily at the mixed-use property for which the exemption is sought.
- Sets the minimum portion of the building's square footage that must be used for residential purposes at 40%.
- Provides that projects on land that was vacant prior to the residential or commercial construction work remain eligible for the exemption.
- Removes the requirement that the existing building make up 75% of the floor area in order for a redevelopment project to qualify for the exemption.
- Specifies that the exemption may be revoked if the commercial component has not been in active use and open to the public for three consecutive years.

These revisions build upon a set of amendments enacted in 2020 (see Chapter 357 and Approval Message # 59 of 2020).

## **Residential Reassessment Exemption**

### Chapter 560 (A.3489) • RPTL § 485-v

Chapter 560 allows an assessing unit that is conducting a full value reassessment to offer a "residential reassessment exemption" so that adverse tax impacts upon homeowners may be phased in over three years. It does so by giving the assessing unit the option to grant impacted homeowners an exemption in the amount of 66% of the "exemption base" (i.e., the assessment increase caused by the correction of the underassessment) in the year of the revaluation, and 33% in the following year. The legislation is modeled upon legislation that enabled the Towns of Greenburgh and Ossining in Westchester County to offer a similar exemption (Chapters 90 and 91 of the Laws of 2016).

## **Senior Citizens Exemption; Income Tax Year**

### Chapter 558 (A.3034) • RPTL 467(3)(a)

Chapter 558 standardizes the "income tax year" to be used to determine eligibility for the senior citizens exemption authorized by RPTL § 467. In municipalities with taxable status dates

earlier than April 15, an applicant's eligibility will be based upon income for the second most recent tax year (e.g., eligibility for the exemption in 2022 will be based upon 2020 income). In municipalities with taxable status dates of April 15 or later, an applicant's eligibility will be based upon income for the most recent tax year (e.g., eligibility for the exemption in 2022 will be based upon 2021 income). Previously, eligibility had been generally based upon the most recent income tax year when the return for that year was available; otherwise, eligibility was based upon the second most recent income tax year (see [10 Op. Counsel SBRPTS No. 47](#)).

### **STAR Exemption; Mobile Homes**

□ Chapter 59 (S.2509-C), Part V • RPTL § 425(2)(l)(iv); Real Property Law § 233(w)

Chapter 59, Part V, requires most mobile homes with STAR exemptions to be switched to the STAR credit, beginning in 2022. More specifically, it provides that mobile homeowners whose units are included in the assessment of land that they do not own (for example, a mobile home park) will not be eligible for a STAR exemption after 2021. To continue receiving a STAR benefit, they must switch to the STAR credit. Where possible, mobile homeowners will be switched into the STAR credit without any action on their part. Separately assessed mobile homes are not impacted by this change.

### **Veterans; Vietnam War**

□ Chapter 606 (A.7388-B) • RPTL § 458-a

Chapter 606 amends various State statutes regarding Vietnam War veterans, including the Alternative Veterans Exemption authorized by RPTL § 458-a, to align with federal law. As a result of these amendments, the Vietnam War is now deemed to have started on November 1, 1955, rather than on February 28, 1961. The ending date remains at May 7, 1975.

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

In certain assessing units, the assessor has been authorized to accept an exemption application after taxable status date for a specific parcel owned by a named nonprofit or governmental entity that either acquired the parcel after taxable status date, or acquired title but failed to apply for the exemption by taxable status date. The details of the various authorizations may be found in the [2021 Legislative Status Chart](#) that is posted on the Department's website.

### **Technical Amendments**

□ Chapter 59 (S.2509-C), Part W

Chapter 59, Part W, made various technical amendments to the RPTL. As far as exemption administration is concerned, it:

- Clarified that if an exemption statute gives an option to a municipal corporation with a population within a specified range, and a municipal corporation exercises the option while its population is within that range, that option remains in effect even if the municipality's population later shifts outside that range. RPTL § 497(1).
- Clarified that if an exemption statute gives an option to a municipal corporation and provides for copies of local laws or resolutions that exercise the option to be filed with a State agency other than the Department of State, a failure to file that local law or resolution with that agency does not render it invalid. RPTL § 497(2).

<b>TAX COLLECTION AND ENFORCEMENT</b>
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### **COVID-19 Pandemic**

The following measures relating to tax collection and enforcement were enacted in response to the COVID-19 pandemic:

- STAR and Delinquency: The law that precludes delinquent property owners from receiving Basic STAR credits or exemptions while their property taxes are unpaid was suspended for the duration of the COVID-19 State Disaster Emergency declared by Executive Order 202 (Chapter 663).
- Foreclosure moratorium: A moratorium was enacted upon the sale and foreclosure of tax liens in certain cases, effective through January 15, 2022 (Chapter 417, Pt. B, Sbpt. C, and Pt. C, Sbpt. C). This moratorium replaced an earlier moratorium that had expired (see Laws of 2020, Ch. 381, Pt. B, Sbpt. B; Laws of 2021, Ch. 73, Pt. B, Sbpt. B, and Chs.104 and 154).
- Utility Moratorium: A moratorium upon the termination of utility services that had been enacted in 2020 (Ch.108) was expanded in 2021 (Ch.106) to effectively preclude the relieving of unpaid municipal utility bills for the duration of the moratorium.

### **Tax Lien Sales; Village Opt Out Extender**

□ Chapter 562 (A.6841) • L.1993, c.602

Chapter 562 extends for three years the ability of various villages to continue selling tax liens pursuant to former Title 3 of Article 14 of the RPTL, even though that Title was repealed as of January 1, 1995 (see L.1993, c.602, §§ 4 and 8; L.1994, c.532). Those villages were previously permitted to conduct such sales for taxes that became liens prior to December 31, 2021; now they are permitted to conduct such sales for taxes that become liens prior to December 31, 2024.

<b>MISCELLANEOUS</b>
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### **Real Property Tax Relief Credit**

□ Chapter 59 (S.2509-C), Part III • Tax Law § 606(e-2)

Chapter 59, Part III, enacted a new State income tax credit, called the “Real Property Tax Relief Credit,” for the 2021, 2022 and 2023 income tax years. The credit is available to homeowners whose “qualified gross income” is less than \$250,000 and whose property taxes exceed six percent of their qualified gross income. To be eligible, the homeowner must be a full-year resident and occupy the home for at least six months of the year. The amount of the credit is a percentage of the “excess” property taxes, depending on income, but no credit is payable if the computed amount would be less than \$250, and no credit may exceed \$350. The credit will be claimed on State income tax returns.

### **Library Tax Refunds**

□ Chapter 503 (A.6489-A) • RPTL § 726(1)(c)

Chapter 503 expands the ability of school districts to charge libraries for their proportional share of a court-ordered school property tax refund. Previously, school districts could only impose such chargebacks upon school district public libraries. This legislation enables them to impose such chargebacks not only upon school district public libraries, but also upon association libraries, municipal public libraries, and special district public libraries.

### **Solar and Wind Energy Systems; PILOTs**

□ Chapter 59 (S.2509-C), Pt. X • RPTL § 487

Chapter 59, Part X, amends RPTL § 487 to extend the construction deadline to January 1, 2030, and to provide that written notice by an owner or developer to a taxing jurisdiction of its intent to construct a qualifying energy system must include a hard copy letter sent to the highest-ranking official of the taxing jurisdiction. Such letter must explicitly reference RPTL § 487(9) and clearly state that unless the taxing jurisdiction responds within 60 days, in writing,

with its intent to require a PILOT agreement, such project shall not be obligated to pay PILOTs. Should a taxing jurisdiction adopt a local law or resolution at any time within or prior to the 60 day window indicating the taxing jurisdiction's ongoing intent to require a PILOT agreement for such systems, such local law or resolution shall be considered notification to the owners or developers, and no further action would be required on the part of the taxing jurisdiction as long as the local law or resolution remains in effect through the end of the 60-day notification period.

### **Electric generating facility cessation mitigation program**

#### Chapter 55 (A.3005-c), Part XX • Unconsolidated

Chapter 55, Part XX, increased the maximum amount payable under the electric generating facility cessation mitigation program, a program that was enacted in 2015 to provide assistance to counties, towns, cities, villages, school districts and special districts that are impacted by reductions in taxes and/or PILOTs owed by an electric generation facility. Previously, the maximum payable under this program had been \$69,000,000; Chapter 55 has increased that cap to \$140,000,000.

### **Public Meetings**

#### Chapter 417 (S.50001), Part E • Unconsolidated

Chapter 417, Part E, provides that until January 15, 2022, most public bodies may meet and conduct business without permitting in public in-person access. Those meetings may be held remotely by conference call or similar service, as long as the public has the ability to view or listen to its proceedings, and the meetings are recorded and later transcribed.

### **Legislation of Local Interest**

Enactments that are primarily of local interest include the following:

- Monroe County has been authorized to offer a property tax exemption to volunteer fire fighters and ambulance workers. (Chap. 652).
- The City of Troy has been authorized to provide an exemption allowing for the phasing in of real property tax increases on rehabilitated residential and mixed-use real property in specific areas (Chap. 638).
- The Towns of Guilderland in Albany County and Danby in Tompkins County have been authorized to establish programs to preserve open space via conservation easements, and to grant partial exemptions to participating properties (Chaps. 221 and 637).
- State-owned lands in the Towns of Blooming Grove and Chester in Orange County have been subjected to taxation (Chap. 59, Pt. WW).
- The Village of Upper Nyack has been authorized to hire an assessor who is a resident of Rockland County or an adjacent county within New York State (Chap. 365).
- The formula for determining current base proportions under RPTL § 1903(3)(a) in the Towns of Clarkstown, Orangetown and Islip has been modified for another year (Chaps. 203, 213 and 346).
- The following enactments primarily affect Suffolk County:
  - The period for challenging the denial of certain 2020 and 2021 applications for the non-profit exemption in the county has been reopened (Chap. 336).
  - The 2001-2020 apportionment of the school tax levy in the Eastport-South Manor Central School District has been ratified. (Chap. 453)
- The following enactments primarily impact Nassau County:
  - The formula for determining current base proportions in the county and the approved assessing units in the county has been modified for another year (Chap 203).
  - A capital improvement exemption has been created for residential property in the county (Chap. 55, Pt. WW).

- The following enactments primarily impact New York City:
  - The J-51 tax abatement program has been extended (Chap. 176).
  - The tax abatement for cooperative and condominium units has been extended and revised (Chaps. 184 and 422).
  - The application requirements of the Industrial and Commercial Abatement Program (ICAP) have been revised for certain projects (Chap. 361).

**GOVERNORS' APPROVAL MESSAGES**

**APPROVAL MEMORANDUM - No. 1 Chapter 73**

MEMORANDUM filed with Senate Bill Number 471-A, entitled:

"AN ACT establishing the "COVID-19 Emergency Protect Our Small Businesses Act of 2021"; in relation to eviction proceedings; and to provide for the expiration of certain provisions upon the expiration thereof (Part A); and in relation to foreclosure proceedings; and providing for the expiration of certain provisions upon the expiration thereof (Subpart A); in relation to tax sales; and providing for the expiration of certain provisions upon the expiration thereof (Subpart B); to establish hardship declarations for owners of commercial real property; and providing for the expiration of such provisions upon the expiration thereof (Subpart C) (Part B)"

APPROVED

This legislation provides additional protections to New York's small commercial businesses and commercial property owners who have suffered hardship during the COVID-19 public health crisis by prohibiting evictions, foreclosures and tax lien sales for covered persons and businesses until May 1, 2021. The legislation also prohibits discrimination in credit decisions for any covered entity.

First, the legislation suspends all eviction, foreclosure and tax lien proceedings for a period of sixty days from the signing of the legislation, buying critical time for struggling commercial businesses to get back on their feet. Second, the bill suspends these proceedings for any covered commercial business who files a financial hardship declaration until May 1, 2021. Covered businesses include a commercial tenant that is a resident of the state, independently owned and operated, not dominant in its field and employing fifty or fewer persons. A covered commercial property owner owns ten or fewer commercial units relating to commercial real property.

Since March 2020, during the earliest days of the public health crisis, I have repeatedly acted by Executive Order to protect commercial businesses and commercial property owners from eviction and foreclosure. I believe that such measures, and by extension this legislation, are vital to the continued success of businesses across New York and the State's economic recovery. This legislation also functions as a public health measure - giving small business owners the opportunity to operate their business even while at diminished capacity, ensuring their long-term survival and allowing their owners and employees to remain housed, fed and financially secure.

I have reached an agreement with the Legislature to expand the protections in the original legislation to additional commercial businesses suffering financial hardship. The agreement will expand protections to small businesses with one hundred or fewer employees, and to any business with five hundred or fewer employees that was closed to in-person operations by Executive Order or Department of Health directive for two or more weeks between May 15, 2020 and May 1, 2021.

With these changes, I am pleased to sign this bill into law and provide further relief to New York's residents as the State moves towards a full-economic recovery.

This bill is approved.

(signed) ANDREW M. CUOMO

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**APPROVAL MEMORANDUM - No. 12 Chapter 271**

MEMORANDUM filed with Assembly Bill Number 7908-A, entitled:

"AN ACT in relation to authorizing the Town of Oyster Bay to grant Sai Mandir USA a real property tax exemption"

APPROVED

This bill would allow Sai Mandir USA to file a late application for exemption from property taxes for property it owned for the 2019-2020 tax year.

Qualifying nonprofits are generally exempted from real property taxes, but are required to submit annual applications to local assessors in order to receive this exemption. Although Sai Mandir USA did not submit a timely application for the 2019-2020 tax year, this defect can be overcome by the enactment of a bill authorizing the assessor to accept a late application.

This bill, however, requires that Sai Mandir USA file its application with the assessor of the town of Oyster Bay and the town of Oyster Bay approve the exemption. The town of Oyster Bay does not have an assessor; property therein is assessed by the Nassau County assessor. Further, while it is customary in bills of this nature for the exemptions to be subject to local approval, in Nassau County, the County is the assessing unit and so the power to approve the exemptions should be vested in the Nassau County Legislature. The New York State Legislature has agreed to pass a chapter amendment addressing these issues. Based on that agreement, I am approving this bill.

This bill is approved.

(signed) ANDREW M. CUOMO

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**APPROVAL MEMORANDUM - No. 49 Chapter 644**

MEMORANDUM filed with Senate Bill Number 1208-A, entitled:

"AN ACT to authorize the assessor of the town of Hempstead, county of Nassau, to accept from Mercy Medical Center an application for exemption from real property taxes"

APPROVED

This bill authorizes the assessor of the town of Hempstead, county of Nassau, to accept from Mercy Medical Center an application for exemption from real property taxes for the 2018-2019 school and the 2018 and 2019 general assessment rolls, for the parcel owned by such organization and located at 30 East Sunrise Highway, in the village of Valley Stream. I agree with the intent of the bill. I have worked with the legislature to fix a technical error in this bill to authorize the assessor of the County of Nassau to accept the application for exemption.

Based on this agreement, I am pleased to sign this bill.

This bill is approved.

(signed) KATHY HOCHUL

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For the 2021 Legislative Status Chart, see <http://www.tax.ny.gov/research/property/legal/legis/21bills.htm>.