



OFFICE OF COUNSEL

SUMMARY OF 2022 REAL PROPERTY TAX LEGISLATION

This publication summarizes noteworthy 2022 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.

EXEMPTION ADMINISTRATION

First-time homebuyers exemption extender

□ Chapter 485 (A.9135) • RPTL § 457(5)

Chapter 485 changes the sunset date of the first-time homebuyers exemption from December 31, 2022 to December 31, 2028. This exemption statute, RPTL § 457, allows municipalities to elect to provide a partial exemption to first-time homebuyers, subject to certain limitations. One of those limitations is that in order to qualify for the exemption, the home must be purchased, or the parties must enter into a contract for its purchase, before the deadline set by law. By virtue of Chapter 485, that deadline is now December 31, 2028.

Not-for-profit housing companies

□ Chapter 479 (A.7882-A) • RPTL § 422(1)(a)

Chapter 479 amends numerous state statutes, including the exemption for not-for-profit housing companies authorized by RPTL § 422, to update outdated terminology. It generally eliminates the use of the terms "mentally ill" or "mentally retarded" and replaces them with terms such as "people with mental illness or developmental disabilities." It makes no substantive changes to the law.

Senior citizens and persons with disabilities; Exemption income limits

□ Chapter 488 (S.3085-A) • RPTL §§ 467(3)(a), 459-c(5)(a)

Chapter 488 allows municipalities to increase the income limits for both the senior citizens exemption and the exemption for persons with disabilities and limited incomes. The maximum allowable income limit for these exemptions is now \$50,000. The income limits for both exemptions had been \$29,000. The limits applicable to the "sliding scale" feature of the exemptions were automatically adjusted accordingly.

Senior citizens exemptions; Second notices

□ Chapter 738 (A.1980) • RPTL § 467(4)

Chapter 738 expands the obligation of municipal corporations to notify homeowners of the availability of the senior citizens exemption under RPTL § 467(4). Previously, only one notice was required; it was generally furnished in conjunction with tax bills. Chapter 738 requires a second notice to be sent 30 days before applications are due.

STAR; Administrative improvements

Chapter 59, Part Z, improves the administration of the STAR program as follows:

- It allows the Tax Department to issue checks to senior citizens whose “Good cause” applications are approved after the preparation of school tax bills has begun. As a result, local officials no longer need to use the “Correction of Errors” procedures to correct tax bills and issue refunds in such cases (Subpart A • RPTL § 425(6)(a-2)).
- It clarifies that eligibility for the Basic STAR credit, like for other STAR benefits, is based on income from two years prior (Subpart C • Tax Law § 606(eee)(3)(A)).
- It authorizes the Tax Department to share lists of STAR credit recipients with assessment officials in other States, if the laws of their States allow similar sharing (Subpart D • Tax Law § 606(eee)(7)(B)).
- It authorizes the Tax Department to share lists of decedents directly with assessors (Subpart E • Tax Law § 651(c)).

Superstorm Sandy exemption extender

□ Chapter 235 (S.8718) • L.2015, Chap.122

Chapter 235 extends the ability of certain taxpayers impacted by Superstorm Sandy to seek exemption relief for qualifying reconstruction, alterations or improvements. Previously, to be eligible, a certificate of occupancy had to be issued by March 1, 2022. This enactment changes that deadline to March 1, 2024.

Task force on real property tax exemptions

□ Chapter 539 (S.8942) • L.2020, Chap.317

Chapter 539 extends the duration of the task force that was created in 2020 to examine the laws governing real property tax exemptions. The legislation establishing the task force previously had initially been set to expire on December 2, 2022 or upon the delivery of its report if sooner. Chapter 539 gives the task force an additional two years to complete its report.

Veterans exemptions; Department of Veterans’ Services

□ Chapter 56 (S.8006-C), Part PP • RPTL § 458, 458-a 458-b

Chapter 56, Part PP, restructures the law governing the delivery of veterans’ services, primarily by creating the Department of Veterans’ Services and codifying the Veterans’ Services Law. Various other statutes, including sections 458, 458-a and 458-b of the RPTL, are being left in place but amended to reflect these changes. This enactment takes effect April 1, 2023.

Volunteer firefighters and ambulance workers exemption; statewide option

□ Chapter 670 (A.10155-A) • RPTL § 466-a

Chapter 670 gives municipalities, school districts and fire districts throughout the State the option to provide a property tax exemption of up to 10% to volunteer fire fighters and ambulance workers. Any such exemption applies only to property used exclusively for residential purposes; if a portion of a volunteer’s property is used for other purposes, the exemption must be prorated accordingly. To be eligible, volunteers must live in the community served by their volunteer organization, and must meet a minimum service requirement of between two and five years, as set by the respective taxing jurisdiction. Additionally, at local option, a lifetime exemption may be provided to volunteers with at least 20 years of service as long as they maintain their primary residence in the county they served. Taxing jurisdictions also have the option to allow unremarried surviving spouses of deceased eligible volunteers to retain the exemption.

Though similar exemptions have been available in 30 counties under RPTL §§ 466-a through 466-k, Chapter 670 repeals those statutes effective December 9, 2025. The jurisdictions that have been offering exemptions under those statutes will have to adopt local laws, ordinances or resolutions by that date conforming their exemptions to the provisions of the

new RPTL § 466-a. As required by the statute, the Tax Department has conducted outreach to the chief executive officers of these jurisdictions, notifying them of the terms of this legislation.

TAX COLLECTION AND ENFORCEMENT

Abandoned commercial or industrial property; Acquisition of title by municipality

Chapter 837 (S.9470) • Real Property Actions and Proceedings Law Article 19-B

Chapter 837 generally enables a city, town or village to commence a special proceeding to acquire title to abandoned commercial or industrial property. It specifies various circumstances that would warrant a finding that commercial or industrial property is abandoned, and sets forth a detailed process for obtaining a court judgment conveying such property to the city, town or village in which it is located. Insofar as real property tax administration is concerned, the most noteworthy aspect of this legislation may be that a failure to pay taxes for a year or more on commercial or industrial property that is vacant and unprotected could lead to a finding that the property is abandoned. Note this legislation is distinct from recently-enacted legislation that enables tax districts to take title to abandoned residential properties on which taxes have been unpaid for a year or more (see RPTL § 1111-a, added by L.2019, Chap.704). Upon signing this bill, the Governor issued an Approval Message (#113), a copy of which appears below.

Homeownership relief and protection program

Chapter 53 (S.8003-D), page 973

Chapter 53, an appropriation bill, includes a reference to delinquent tax payments involving funds from the Homeownership relief and protection program. It states: “Notwithstanding any provision of state or local law to the contrary, when real property tax payment assistance is provided, with regard to a property with delinquent taxes, the enforcing officer shall accept such assistance as full or partial payment of the delinquent taxes regardless of when the delinquency occurred and shall apply such assistance to any liens against the property” (see p.973).

MISCELLANEOUS

Homeowner tax rebate credit

Chapter 59 (S.8009-C), Part BB • Tax Law § 606(n-1)

Chapter 59, Part BB, enacted a “Homeowner tax rebate credit” for the 2022 income tax year. This credit, issued in the form of a check, was available to homeowners with STAR exemptions or credits whose 2020 “qualified gross income” was no greater than \$250,000, and whose 2022-23 school tax bills exceeded their 2022 STAR exemptions or credits. The amount of the credit depended on the homeowner’s income. If the calculated credit would have been less than \$100, no credit was payable.

Telecommunications assessment ceilings

Chapter 59 (S.8009-C), Part Y • RPTL § 499-pppp; L.2013, c.475, § 4

Chapter 59, Part Y, extends the telecommunications utility mass real property assessment ceiling program for four years, so that instead of expiring on January 1, 2023, it will expire on January 1, 2027. The legislation also revises the procedural rules governing judicial challenges of the assessments determined by local assessors. Most notably, it provides that when a local assessment is challenged, the assessing unit is entitled to receive, upon request, the inventory data pertaining to the telecommunications property within its borders.

Solar and wind energy systems

□ Chapter 59 (S.8009-C), Pt. AA • RPTL § 575-b

Chapter 59, Part AA, clarifies the process for challenging assessments based on the Tax Department's Solar and Wind valuation model developed under RPTL § 575-b (enacted by L.2021, Ch.59, Pt.X). It generally provides that upon request, the assessor must give the property owner a copy of the inputs that the assessor used in the model. If the property owner believes erroneous inputs were used, the owner may so advise the assessor and request that a change be made. The assessor may choose to change the assessment based on the request and supporting information provided by the property owner. If the assessor chooses not to make a change, or makes a change the property owner considers inaccurate, the property owner may then file a petition for review by the Board of Assessment Review. However, the only issue the BAR could consider would be whether the assessor's inputs were incorrect. Any challenges to the model itself or to the discount rates used would have to be brought against the Tax Department in a proceeding under Article 78 of the Civil Practice Law and Rules. These amendments to RPTL § 575-b took effect on April 9, 2022.

Note that a Temporary Restraining Order regarding the Tax Department's Solar and Wind Appraisal Model was issued on April 29, 2022, in *Matter of Town of Blenheim et al v Hiller*. Assessors seeking guidance regarding this temporary restraining order should contact their municipal attorneys.

PILOTs; Industrial Development Agencies

The following enactments modify the law in relation to Payments in Lieu of Taxes (PILOTs) and/or Industrial Development Agencies (IDAs):

- Chapter 708 (S.4471-A) requires IDAs to provide notice to affected taxing jurisdictions two years before a PILOT agreement expires, or in the case of an early termination, immediately.
- Chapter 766 (S.3256) requires IDAs, when providing financial incentives to projects and when deviating from their uniform tax exemption policies, to notify affected taxing jurisdictions by certified mail, return receipt requested. If the affected jurisdiction is a school district, the notice must be sent to the school board and district superintendent by certified mail, return receipt requested. Upon signing this bill into law, the Governor issued an Approval Message (# 68), a copy of which appears below.
- Chapter 799 (S.953-A) provides that if a person or business entity makes PILOTs to an agency or municipal corporation, and it intends to file for a change of assessment, it must give at least 45 days advance notice to such agency or municipal corporation prior to filing for the change of assessment.

Tax credits; Economic impact analysis

□ Chapter 58 (S.8008-C), Part JJJ • Tax Law § 180

Chapter 58, Part JJJ, directs the Tax Department to contract with an "economic impact firm" to provide an independent, comprehensive, analysis of each tax credit, tax deduction, and tax incentive authorized by State law that relates to economic development. This analysis is to be submitted to the Tax Department by January 1, 2024, and posted on the Department's website within 30 days of its submission.

Hudson River-Black River Regulating District

□ Chapter 58 (S.8008-C), Part XX • RPTL § 532(I), Env. Cons. Law § 15-2115

Chapter 58, Part XX, relieves the Hudson River-Black River Regulating District of the obligation to pay taxes on its lands, and makes the State responsible for the payment of those taxes. The taxable status of the District's lands are otherwise unchanged.

Public meetings; Remote attendance and access

□ Chapter 56 (S.8006-C), Part WW • Public Officers Law § 103-a

Chapter 56, Part WW, generally empowers public bodies to authorize their members to participate in meetings by videoconference from locations that are not open to the public, if necessitated by “extraordinary circumstances.” This law, codified as section 103-a of the Public Officers Law, sets forth a number of specific conditions that be met in order for this to be permissible. The statute is set to expire on July 1, 2024.

It may also be noteworthy that a separate enactment, Chapter 1 (A.8591), provided that for the duration of the COVID-related State disaster emergency declared by Executive Order # 11 of 2021, public bodies could meet by videoconference or teleconference, without permitting in-person access to the public, subject to certain conditions (*see also*, Approval Message # 1, set forth below). However, that Executive Order and its disaster emergency declaration expired on September 12, 2022, so Chapter 1 became moot at that point.

Legislation of local interest

Enactments that are primarily of local interest include the following:

- The Town of Greenburgh has been given the option to eliminate, on a prospective basis, assessment restrictions on condominiums and cooperatives (Chap.786).
- The formula for determining current base proportions in the Towns of Clarkstown and Orangetown has been temporarily modified (Chaps. 273, 550).
- The villages of Minoa in Onondaga County and Owego in Tioga County have been authorized to offer an exemption to newly-constructed single-family and multi-family residences (Chap.510).
- The following enactments primarily affect Suffolk County or jurisdictions therein:
 - The formula for determining current base proportions in the Town of Islip has been temporarily modified (Chap.536).
 - The ability of the Eastport-South Manor Central School District to tax state land has been clarified (Chap.692).
 - The Peconic Bay towns have been authorized to use community preservation funds to mitigate the impact of lost tax revenues upon school and other districts under certain conditions (Chap.788, *see also* Approval Message # 74, below).
- The following enactments primarily impact Nassau County or jurisdictions therein:
 - The laws governing the county’s current assessment calendar have been extended for another two years (Chap.289).
 - The formula for determining current base proportions in the county and its approved assessing units has been modified for another year (Chap.536).
- The following enactments primarily impact New York City:
 - A tax abatement for childcare centers has been authorized (Chap.59, Pt.HH).
 - The formula for determining current base proportions has been temporarily modified (Chap.215).
 - A real property tax rebate program has been authorized for the fiscal year commencing July 1, 2021 (Chap.216).
 - The SCRIE program has been extended and modified in various respects (Chaps.292, 684, 686, 687).

GOVERNORS' APPROVAL MESSAGES

APPROVAL MEMORANDUM - No. 1 Chapter 1

MEMORANDUM filed with Assembly Bill Number 8591, entitled:

"AN ACT to amend chapter 417 of the laws of 2021 relating to authorizing political subdivisions to permit any public body to hold meetings remotely and without in-person access during the COVID-19 state disaster emergency, in relation to public bodies holding meetings remotely and to the effectiveness thereof"

APPROVED

This bill extends authorization for public bodies, including state boards and local governments, to continue meeting remotely where necessary until the end of the current public health emergency. The bill also requires that the public be able to listen to or view virtually-held meetings and that a transcript be published. This authorization has been in effect throughout most of the COVID-19 pandemic and has provided government entities and the public with participation opportunities and added safety.

The current authorization for remote public meetings is set to expire on January 15, 2022, and the ability to meet remotely remains a necessary tool for our public bodies to safely conduct public business. Additionally, it allows for increased participation in these meetings while maintaining the safety of our citizens.

As I have said consistently, my administration is committed to the highest level of transparency. Government business should be conducted in the open, and all of our citizens have a right to participate in that process. I am committed to continue working with stakeholders including our open government advocates, people with disabilities, and local governments to make permanent changes in the law in order to bring open meetings into the 21st century, including increased access to in-person and virtual meetings, remote attendance and participation, expanded broadband and technological access, and improved accessibility for people with disabilities. In the meantime, and during the pendency of the public health emergency, I encourage all public bodies to expand opportunities for public engagement and participation in all public meetings. I look forward to working with our partners to get this done. With that commitment, I am signing this bill.

The bill is approved.

(signed) KATHY HOCHUL

APPROVAL MEMORANDA - Nos. 12, 13 and 14 Chapters 436, 440 and 466

MEMORANDUM filed with Assembly Bill Number 10419, entitled:

"AN ACT authorizing the Bais Torah U'tefillah to receive a retroactive real property tax exempt status"

MEMORANDUM filed with Senate Bill Number 6035-A, entitled:

"AN ACT in relation to authorizing the Bellmore Fire District to file an application for exemption from real property taxes"

MEMORANDUM filed with Senate Bill Number 8940-A, entitled:

"AN ACT in relation to authorizing the assessor of the county of Nassau to accept from the Mineola Union Free School District an application for exemption from real property taxes"

APPROVED

These bills would allow the Bais Torah U'tefillah, Bellmore Fire District, and the Mineola Union Free School District to file late and retroactive applications for exemption from property taxes for property owned by such organizations.

These bills, however, required technical edits to ensure accuracy in applying for exemption status, conformity with the current law, and to keep the bills customary in nature by allowing local approval. The Legislature has agreed to chapter amendments that changes the required approving entity from the Town of Hempstead to the Nassau County assessor, changes the statute under which the Bellmore Fire District would be exempt from the Real Property Tax Law (RPTL) Section 464 to RPTL Section 410, and provides a local option to approve the exemption status change with the county legislature rather than the town board.

With these changes, I am pleased to sign these bills into law.

These bills are approved.

(signed) KATHY HOCHUL

APPROVAL MEMORANDUM - No. 68 Chapter 766

MEMORANDUM filed with Senate Bill Number 3256, entitled:

"AN ACT to amend the general municipal law and the public authorities law, in relation to requiring notice and confirmation of such notice by affected local taxing jurisdictions and school districts prior to approval of projects by industrial development agencies"

APPROVED

This bill amends General Municipal Law and Public Authorities Law to require Industrial Development Agencies (IDAs) to send notifications of proposed financial incentives for a project and any reasons for deviating from their uniform tax exemption policy to affected local taxing jurisdictions by certified mail, return receipt requested. If the affected local taxing jurisdiction is a school district, notifications are required to be sent to the school board and district superintendent of the school district.

This legislation required several amendments to ensure its feasibility. The Legislature has agreed to these changes, which ensure that IDAs and the affected taxing jurisdictions can establish notification procedures that provide proper notice. The notification methods were also expanded to include email notifications with read receipt to the local chief executive officers and district clerks to further ensure that proper parties are identified and notified of changes of a tax exemption policy. These changes will help provide proper notification and dissemination of important financial information to help taxing jurisdictions make decisions that affect their schools and districts.

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

This bill is approved.

(signed) KATHY HOCHUL

APPROVAL MEMORANDUM - No. 74 Chapter 788

MEMORANDUM filed with Assembly Bill Number 9158, entitled:

"AN ACT to repeal sections 2, 3, 4, and 5 of chapter 330 of the laws of 2011 amending the town law relating to payments for certain school, fire, fire protection, and ambulance districts for lands exempt from real property taxation for purposes which implement the Peconic Bay community preservation fund; and providing for the repeal of certain provisions upon expiration thereof"

APPROVED

This bill would authorize the Peconic Bay Region towns of East Hampton, Southampton, Riverhead, Shelter Island and Southold to use their community preservation funds for annual payments to school, fire, fire protection, and ambulance districts to mitigate the impact of lost tax revenue due to land acquisition by the federal, state, or local government for the preservation of community character.

I strongly support the goals of this bill, which will help ensure that efforts to preserve the community character of the Peconic Bay Region do not negatively impact the finances of local schools and first responders. I have reached agreement with the Legislature to remove provisions of the bill that would have inserted the Department of Taxation and Finance into local decisions regarding the assessment of affected parcels. Based on this agreement, I am pleased to sign this bill into law.

This bill is approved.

(signed) KATHY HOCHUL

APPROVAL MEMORANDUM - No. 113 Chapter 837

MEMORANDUM filed with Senate Bill Number 9470, entitled:

"AN ACT to amend the real property actions and proceedings law, in relation to authorizing special proceedings to convey title to abandoned commercial and industrial real property to a city, town, or village; and providing for the repeal of such provisions upon expiration thereof"

APPROVED

This bill creates judicial procedures to enable a municipality to make a funding that a commercial or industrial property has been abandoned and to subsequently obtain title to such property. The bill sets forth notice and service of process requirements for property owners and other interested parties, procedures for the commencement of the proceedings in court, conditions under which the proceedings may be stayed, and conditions under which an interested party may challenge a judicial determination of abandonment and transfer of title.

I support the goals of this bill. Abandoned commercial and industrial properties impede economic development, pose risks to health and safety, and decrease property values. They also strain local resources and contribute to declining tax revenues. The bill would provide a much-needed avenue for local governments to reclaim such properties and return them to productive uses that have beneficial impacts on the surrounding neighborhoods and communities. I have secured an agreement with the Legislature to make technical changes to the bill on conditions of abandonment, notice and service of process provisions, and timeframes within which to assert certain rights. In light of this agreement, I am pleased to sign this bill into law.

This bill is approved.

(signed) KATHY HOCHUL

GOVERNORS' DISAPPROVAL MESSAGES

VETO MESSAGE - No. 63

[Note: The body of this veto message applies to multiple bills, only one of which relates directly to real property taxation. The other bill numbers and bill titles have been omitted.]

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bills: * * *

Assembly Bill Number 9448-A, entitled:

"AN ACT in relation to requiring the commissioner of taxation and finance to study the frequency of residents who are being assessed library taxes for more than one library and to make recommendations to prevent the double taxation of residents; and providing for the repeal of such provisions upon expiration thereof" * * *

NOT APPROVED

These thirty-nine bills would establish various commissions and task forces touching nearly every aspect of state government. Several of the bills would require intensive studies and reports to be undertaken by state agencies and authorities. I share a strong interest in addressing the problems and issues identified in this legislation, and I commend the Legislature for seeking to address such a broad array of problems.

However, enactment of this package of legislation would collectively cost the State approximately forty million dollars. None of these costs are accounted for in the State Financial Plan. Without appropriate funding, these unbudgeted costs would create significant staffing and other programmatic burdens on state agencies. Additionally, because of the ongoing work of state agencies and authorities, a number of the proposals would result in duplication and unnecessary bureaucracy.

Many of the proposed studies, task forces and commissions are important to a wide-variety of stake holders and constituencies. Therefore, I am directing state agencies that have ongoing efforts or future plans to address the issues described in these bills to continue their efforts and to review and incorporate the goals in the legislation to the extent practicable. Where this is not the case, I am directing my office to work with state agencies to assess what components of the legislation can be implemented using resources already in their financial plans.

Because of the fiscal impact of this legislation, the proposals would be more appropriately considered in the context of the State budget process. Therefore, I am constrained to veto these bills.

These bills are disapproved.

(signed) KATHY HOCHUL

VETO MESSAGE - No. 90

TO THE ASSEMBLY:

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

Assembly Bill Number 8427, entitled:

"AN ACT to amend the real property tax law, in relation to including certain spent fuel rods within the definition of real property"

NOT APPROVED

The bill would add "spent fuel rods" to the statutory definition of "real property" for real property tax purposes, building upon legislation enacted in 2020 that subjected certain spent nuclear fuel storage

systems to property taxation. The bill is intended to enable the taxation of spent fuel rods currently housed at the now closed Indian Point Energy Center.

The 2020 legislation removed any ambiguities about the taxability of spent fuel pools, a type of real property, and dry cask storage systems, permanent fixtures that are annexed to real property. This bill, in contrast, would extend the definition of real property to the spent fuel rods themselves, even though these objects are not affixed to land and have none of the hallmarks of what has historically been considered real property. It is not clear that including spent fuel rods in the assessment of the property where they are stored would increase the assessed value of that property. Given the hazardous nature of spent nuclear fuel rods, integrating them into the assessment of the existing real property could reduce the property's value overall and thereby reduce the taxes paid to the communities where fuel rods are being stored.

I am concerned about the precedent that would be set by extending the definition of real property to objects that are not affixed to land and do not have the hallmarks of what has historically been considered taxable. Because the division of tax and finance has been indicated, this unprecedented legislation could harm, rather than help, the financial security of the communities where spent fuel rods are being stored, I am constrained to veto this bill.

The bill is disapproved.

(signed) KATHY HOCHUL

VETO MESSAGE - No. 142

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

Assembly Bill Number 3491-B, entitled:

"AN ACT to amend real property tax law and the real property law, in relation to the taxation of property owned by a cooperative corporation"

NOT APPROVED

This bill would give municipalities throughout New York the authority to adopt a local law to change the methodology for assessing real property that is owned or leased by a cooperative corporation or on a condominium basis. A municipality that agreed to change their agreement could assess a higher tax rate on their properties.

Many first-time home buyers rely on co-ops and condos to purchase a home. This bill would result in an effective tax increase upon newly constructed housing built as condominiums and cooperatives in jurisdictions who change their assessment, which would make this housing less attractive to potential homeowners and ultimately could lead to fewer units of housing being built. At a time when New York State is in the midst of a statewide housing crisis, this would be an unacceptable outcome.

This bill could remake the housing landscape in unforeseen ways and limit the development of new housing at a time when it should be encouraged. Therefore, I am constrained to veto this bill.

The bill is disapproved.

(signed) KATHY HOCHUL

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