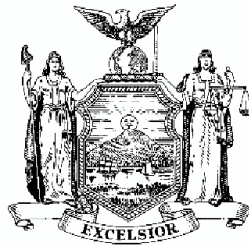


**Includes
Dec. 1999 Addendum**

**SUMMARY OF
1999
REAL PROPERTY TAX LEGISLATION**



STATE BOARD OF REAL PROPERTY SERVICES

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**STATE OF NEW YORK
GEORGE E. PATAKI, GOVERNOR**

SUMMARY OF 1999 REAL PROPERTY TAX LEGISLATION

NEW YORK STATE BOARD OF REAL PROPERTY SERVICES

Office of Counsel
Richard J. Sinnott, Counsel

Compiled and Edited by
Joseph K. Gerberg, Esq.

October, 1999

To help us reduce the costs of printing, please notify us if you would like your name to be deleted from our mailing list, or if your address has changed.

ACKNOWLEDGMENTS

Credit for much of the content of this publication must be given to Stephen J. Harrison, James J. O'Keefe and other members of the staff of the Office of Counsel of the Office of Real Property Services.

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

SUMMARY OF 1999 REAL PROPERTY TAX LEGISLATION

This publication provides a summary of legislation enacted in 1999 relating to real property tax administration. The descriptions it contains are intended only as a source of general information about the major features of these new laws. For a more detailed and authoritative account of what these new laws do, the best resource is, of course, the laws themselves.

The following new laws may be of particular interest:

- Maintenance Aid Revisions (p.1)
- STAR Program (p.5)
- Divestiture Study (p.1)
- Correction of Errors in Essential Fact (p.1)
- Electronic Signatures and Records (p.2)
- School District Property Tax Report Cards (p.7)

Most of the laws described herein are now in effect. In those few cases where a law had not become effective by the time this Summary was published, a statement to that effect should appear within the description of the law.

The laws which are summarized in this publication may generally be accessed through the website of either the State Senate or the State Assembly.

As of this writing, a few bills of interest which had passed both houses of the Legislature were still awaiting transmittal to the Governor, as indicated on the Legislative Status Chart in Section VI of this Summary. Changes in the status of those bills will be reflected in the on-line version of that chart. After the final status of those bills is known, an Addendum to this Summary will be issued.

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

Questions about any of the new laws described herein may be addressed to the Office of Real Property Services, Office of Counsel, 16 Sheridan Avenue, Albany, New York 12210-2714; telephone number (518) 474-8821, fax (518) 474-3657.

October, 1999

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* The numbers in brackets are Chapter numbers.

I. ASSESSMENT ADMINISTRATION

A. Maintenance Aid

Chapter 405, a comprehensive budget-related enactment, revises the Maintenance Aid program so that it will provide \$5 per locally-assessed taxable parcel annually through the 2004 assessment roll for cities and towns that meet the applicable criteria, including annually maintaining assessments at a uniform 100 percent of value (RPTL, §1573, as amended by Chapter 405, Part A, §§6 and 7).

Under the revised aid program, a city or town assessing unit may be eligible for “Triennial Aid” of up to \$5 per eligible parcel upon the completion of a qualifying revaluation or update (but no more than once in any three year period). Once the assessing unit has received Triennial Aid, it may then be eligible for “Annual Aid” of up to \$5 per eligible parcel through the 2004 assessment roll (\$2 per eligible parcel thereafter), if the State Board determines that the assessing unit has “maintained an equitable assessment roll.” When making this determination, the Board must consider whether the assessing unit is: (i) annually maintaining assessments at a uniform 100 percent of value; (ii) annually conducting a systematic analysis of all locally assessed properties; (iii) annually revising assessments as necessary to maintain assessments at a uniform 100 percent of value; and (iv) implementing a local program for physically inspecting and reappraising each parcel at least once every six years. The applicable standards are to be prescribed by rule.

This program replaces the former Maintenance Aid program which provided up to \$5 a parcel in the year of reassessment, but only \$2 if standards were met in subsequent years. (The \$2 payment is still available for 1999 and 2000 assessment rolls where the pre-existing criteria are satisfied.) For coordinated assessment programs (CAPs), \$7 per parcel remains available on a one-time basis, as before, in addition to the \$5 per parcel annually for maintaining assessments.

B. Correction of Errors

Chapter 262 extends the filing period for petitions for corrections of “errors in essential fact” (§550(3)) from one year to three years (§556(1)(a)). This conforms this filing period to that which has long governed “clerical errors” (§550(2)) and “unlawful entries” (§550(7)).

C. Divestiture Study

Chapter 239 directs the State Board and the Public Service Commission (PSC) to submit, on or before January 1, 2000, a report to the Governor and enumerated Legislative leaders. This report will analyze the real property tax implications of the divestiture of generating assets by investor-owned utilities. The report will be prepared by ORPS and will review and detail the projected real property tax implications of the divestiture of generating assets by investor-owned utilities and recommend ways to address any negative fiscal implications of such divestiture on local governments. The report will include an analysis of the potential impact on real property tax rates and revenues of those local governments in which a significant portion of the tax base

consists of real property and generating assets of utilities subject to divestiture; the real property tax impact of the transfer of generating facilities and assets to other companies; and the effect that such divestiture may have upon the methods of valuing such generating facilities and assets for real property tax purposes.

D. Telecommunications Study

Chapter 407, a comprehensive budget-related enactment, includes a directive that the Department of Taxation and Finance and the State Board of Real Property Services jointly prepare and submit to the Governor and enumerated Legislative leaders by December 1, 2000 a study of “local taxes, fees and other governmental revenue sources on telecommunications companies and consumers of telecommunications services” (Chapter 407, Part U). The study shall also review “what local taxes, fees, or charges of any kind currently exist and are being collected from telecommunications and cable television companies and providers.” An advisory panel comprised of knowledgeable individuals from the private and academic sectors is to be appointed to assist the agencies in the preparation of this study.

E. Electronic Signatures and Records

Chapter 4 establishes an “Electronic Signatures and Records Act” (State Technology Law (STL), §§101-109), which is designed to facilitate the use of electronic documents bearing electronic signatures, as opposed to paper documents with manual signatures. The law provides that, in accordance with rules to be adopted by the State Office for Technology (OFT), any person may use an electronic signature in lieu of a manual signature, unless otherwise provided by law. An electronic signature which is so used “shall have the same validity and effect” as a manual signature (STL, §104(2)).

The new law further provides that, in accordance with rules to be adopted by OFT, “state agencies and local governments are authorized and empowered, but not required, to produce, receive, accept, acquire, record, file, transmit, forward, and store information by use of electronic means” (STL, §105). There are a number of caveats attached to this authorization, which are essentially:

- (1) the public must be able to access these documents and receive paper copies upon payment of the applicable fees,
- (2) people may still file, and state agencies and local governments must still accept, non-electronic documents, unless some other law provides otherwise,
- (3) electronic records are subject to the same disposal procedures as non-electronic records, and
- (4) an electronic record shall have the same force and effect as a non-electronic record.

Chapter 4 takes effect on March 27, 2000. OFT must adopt rules implementing the law by that date, after consulting with affected state agencies, local governments and other parties.

F. Tax Certiorari Proceedings

Chapter 367 authorizes the establishment of an experimental program to allow legal papers to be filed or served by facsimile transmission or by electronic means in certain types of legal proceedings, including tax certiorari proceedings, that are commenced in certain courts (*i.e.*, the Supreme Court of Monroe, Westchester, New York, and Suffolk Counties, and the Court of Claims). Participation in this program shall be strictly voluntary, and will take place only upon consent. The Chief Administrator of the Courts is authorized to promulgate rules to implement this experimental program, and must submit a report evaluating the program by April 1, 2002. The program is scheduled to end on July 1, 2002.

II. EXEMPTION ADMINISTRATION

A. Agriculture

Chapter 472 modifies the real property tax exemption that applies to replanted and expanded orchards and vineyards (Agriculture and Markets Law, §305(7)), by liberalizing the eligibility requirements in an area that has been declared a State Disaster Emergency. Specifically, the new law suspends the normal acreage limitation in such cases and allows the exemption to be granted on more than 20 percent of the original acreage. However, the total eligibility acreage may not exceed the total acreage damaged or destroyed in the disaster, or the total acreage which remains damaged or destroyed thereafter (*i.e.*, if only a portion of the damaged acreage is replaced, the remainder will still be eligible). The eligible acreage is subject to verification by the Commissioner of Agriculture and Markets.

Chapter 473 provides that agricultural land set aside due to participation in a federal conservation program pursuant to Title One of the Federal Food Security Act of 1985 (7 U.S.C. §1281, *et seq.*) or a similar program is eligible for an agricultural assessment without having to satisfy the “gross sales value” requirement normally applicable to lands used in agricultural production (Agriculture and Markets Law, §§301(4)(e), (9)). Chapter 473 further provides that any payments received under the set-aside program would be included in the definition of “gross sales value.” In effect, then, these lands will be deemed to be “used in agricultural production” and the set-aside payments they generate may be used to help any other lands in the farm operation meet the gross sales value requirement, if necessary. This new law was enacted to overrule a relatively recent Opinion of Counsel (10 Op.Counsel SBRPS No. 57) which had concluded that the gross sales requirement does apply to these lands.

Chapter 407, an extensive budget-related enactment, contains provisions that expand the Agricultural Property Tax Credit Program (Tax Law, §§210(22) and 606(n), as amended by Chapter 407, Part N), also known as the “Farmer’s Circuit Breaker” Program. The amendments extend the program to land set aside or retired under a federal supply management or soil conservation program, and provide that acreage enrolled or participating in a federal environmental conservation acreage reserve program may be included in total base acreage.

B. Economic Development Zones

Chapter 492 authorizes the designation of another six Economic Development Zones (General Municipal Law, §§958(d), 960(b)(vi)). At least three of those zones must meet the following criteria: (i) at the time of application, the unemployment rate of the county must equal or exceed the unemployment rate of the State (ii) the rate of poverty for individuals is at least 20 percent; (iii) the number of households receiving public assistance is 15 percent or more; (iv) the county is considered a non-metropolitan area; and (v) there is no other economic development zone in such county. Any county may apply for designation of an area within a municipality as an Economic Development Zone where these criteria are satisfied. Upon signing this legislation, the Governor issued an Approval Message (#8), a copy of which appears in Section V of this Summary.

C. Multiple Dwellings Financed by HFA

Chapter 97 adds two additional years to the “sunset” provisions of various laws relating to the New York State Housing Finance Agency (HFA), including the real property tax exemption for multiple dwellings financed by HFA (RPTL, §421-d). As a result, the exemption is now scheduled to sunset on June 30, 2001, rather than on June 30, 1999.

D. Persons with Disabilities and Limited Incomes

Chapter 238 amends the partial exemption for persons with disabilities and limited incomes, to increase the maximum income ceiling from \$18,500 to \$19,500 (§459-c(5)(a)), which is the same as the maximum income ceiling in the Senior Citizens Exemption (§467(3)(a)). This results in a corresponding increase in the “sliding scale” portion of the exemption (§459-c(1)(b)), for example, permitting municipalities to grant the minimal five percent exemption to persons with incomes between \$27,000 and \$27,900.

E. Senior Citizens

Chapter 270 provides that a person holding a legal life estate in property shall be deemed to own the property for purposes of the Senior Citizens Exemption (§467(10)). This effectively codifies various Opinions of Counsel to the same effect (*e.g.*, 1 Op.Counsel SBEA No. 34; 3 *id.* No. 45), at least for purposes of this exemption.

F. STAR

Several new laws were enacted relating to the School Tax Relief (STAR) Exemption authorized by section 425 of the RPTL:

Chapter 405, a comprehensive budget-related enactment, contains provisions that revise the STAR Program in various respects, effective with STAR applications for the 2000-01 school year (Chapter 405, Part A, §§1-5, 7). In particular:

1. Enhanced Exemption Eligibility Issues

Age requirement: Previously, to receive the enhanced STAR exemption, applicants generally had to be at least 65 years old by the locally applicable “taxable status date,” which varies throughout the State. Chapter 405 specifies that for the 2000-01 school year, all owners must be 65 years old as of December 31, 2000. In each succeeding school year, this standard will be advanced by one year (e.g., for the 2001-02 school year, age will be determined as of 12/31/01).

Siblings: Previously, the only exception to the age requirement was that in the case of property owned by husband and wife, only one of the spouses had to satisfy the age requirement. Chapter 405 extends that exception to property owned by siblings, as has already been done for purposes of the senior citizens exemption.

Surviving spouses: The enhanced exemption may be granted to a husband and wife when only one spouse is 65 or older. Previously, if the older spouse died, the exemption had to be removed because the surviving spouse would not have been eligible in his or her own right. Chapter 405 provides that in such cases, the exemption may continue if the surviving spouse is less than 65, but at least 62 years of age, as is done for purposes of the senior citizens exemption.

Nursing home residents: Previously, the enhanced exemption had to be denied when the owner was absent from the residence due to long-term confinement in a nursing home or other health care facility, since the property might no longer have been his or her primary residence. Chapter 405 allows the exemption to be granted under such circumstances, as long as the property is not occupied by anyone other than the co-owner or spouse. A similar provision applies to the senior citizens exemption, except that no income adjustment is applicable for STAR purposes.

Failure to re-apply for Enhanced exemption: Seniors receiving the enhanced exemption must reapply annually in order to retain that exemption. (Annual applications ensure that the income requirement continues to be satisfied.) Chapter 405 specifies that seniors who fail to reapply for the enhanced exemption will at least receive the “Basic” exemption.

2. Technical issues

Co-ops and Manufactured Homes: STAR contains special provisions to enable residents of co-operative apartments and owners of manufactured homes (which are referred to in the RPTL as “trailers or mobile homes”) to receive the benefit of the STAR exemption. The law allows these persons to apply for the exemption even though co-ops are not individually assessed (the tax bill goes to the co-operative corporation), and the same is generally true for manufactured home communities (the tax bill generally goes to the landowner). To ensure that the correct amounts are credited to the correct parties, Chapter 405 clarifies that the assessor must provide a breakdown of the aggregate STAR

exemption to the co-operative apartment corporation in the case of co-ops, and to the landowner in the case of manufactured home communities. These requirements had been implicit in existing law; now they are explicit.

Chapter 441 requires assessors to mail a notice to any STAR applicant who has been denied the STAR Exemption (§425(6)(b)). The notice must be sent on a form prescribed by the State Board of Real Property Services, must set forth the basis for the denial, and must be sent not later than ten days prior to Grievance Day (except in New York City, where it must be mailed not later than thirty days prior to the final date for filing an assessment appeal). However, the failure by an assessor to mail the notice of denial, or the failure of the applicant to receive the notice, will not jeopardize the “levy, collection and enforcement” of the real property taxes. It should be noted that this notice of denial requirement is somewhat broader than that of the Senior Citizens Exemption, which requires a notice of denial (or approval) to be sent only if the applicant supplies “one self-addressed, pre-paid envelope.” (§467(6)(a)).

Chapter 400 relates to the administration of real property tax escrow accounts that are impacted by STAR. It provides essentially that when an owner of qualified residential property pays his or her taxes through an escrow account, and the property owner learns that the property will be receiving STAR, the property owner may ask the mortgage investing institution to review the expected real property tax liability of the account (§953(6-a)). If the institution finds there is an overage, it is obliged to make a proportionate reduction in the required monthly payment. The review would be considered “maintenance” of the account, meaning that no fee may be charged for performing this service (see, §953(6)(d)).

In addition to these 1999 enactments, a STAR-related law was enacted in December of 1998, after the Summary of 1998 Legislation was published. That law, **Chapter 627 of the Laws of 1998**, extended the STAR application period for purposes of the 1999 assessment roll to March 1, 1999 in assessing units where the taxable status date for that roll was earlier than March 1, 1999. The affected assessing units were given special authority to adjust their local procedures and calendars as necessary to accommodate the full processing of STAR applications. This law does not affect any assessment rolls other than the 1999 rolls of these assessing units.

G. Veterans

Senate Bill No. 557-A, if approved by the Governor, would extend the alternative veterans exemption to a recipient of any expeditionary medal, no matter when the military operation giving rise to the medal occurred (§458-a(1)(e)(i) and (2)(b)). Under current law, the expeditionary medal provision is limited to specified military operations in Lebanon, Grenada or Panama.

ORPS has previously expressed the opinion that receipt of an expeditionary medal for service in Lebanon, Grenada or Panama is proof of service in a combat zone, so medal recipients receive a minimum 25 percent exemption (i.e., 15% for service during a qualified period of war, another 10% for combat zone service), and more if they are disabled (9 Op.Counsel SBEA No. 120). Accordingly, if this bill should be approved (it was transmitted to the Governor shortly

before this Summary went to press), it would add a new class of veterans who would qualify for an exemption of at least 25 percent.

III. TAX COLLECTION AND ENFORCEMENT

A. City School District Installment Programs

Chapter 447 provides that when a city school district exercises the option to allow taxpayers to pay taxes in installments pursuant to section 1326 of the RPTL, all interest payments other than the first will be subject to interest. Previously, in city school districts, interest could be charged only when an installment payment was late.

B. Technical

Chapter 278 corrects Rule 3217(a)(3) of the Civil Practice Law and Rules by removing an obsolete reference to former §1122(2)(e) of the RPTL, a provision which was erased when the new tax enforcement provisions took effect on January 1, 1995 (L.1993, c.602). The CPLR Rule in question, which concerns the discontinuance of certain proceedings, now refers to Article 11 of the RPTL, rather than the nonexistent §1122(2)(e).

IV. MISCELLANEOUS

A. School District Budgetary Issues

Chapter 405, a comprehensive budget-related enactment, contains a series of provisions addressing various school district budgetary issues (Chapter 405, Part L), some of which have real property tax implications. In particular:

1. Property Tax Report Cards

Chapter 405 provides that beginning with the 2000-2001 school year, common, union free and small city school districts shall annually prepare “Property Tax Report Cards” in accordance with regulations promulgated by the Commissioner of Education, and shall make them available to local newspapers and the general public (Education Law, §§1608(7), 1716(7), 2601-a(3), as amended by Chapter 405, Part L, §§10-a through 10-c). These Report Cards will be prepared in conjunction with the proposed school district budget and shall show:

- the amount of total spending and total estimated school tax levy that would result from adoption of the proposed budget;
- the percentage increase or decrease in total spending and total school tax levy from the school district budget for the preceding school year;
- the projected enrollment growth for the school year for which the budget is prepared;

- the percentage change in enrollment from the previous year; and
- the percentage increase in the consumer price index, from January first of the prior school year to January first of the current school year.

A copy of each such Report Card is to be furnished to the Department of Education, which shall compile the data for all affected school districts and make it available electronically at least 10 days before the uniform statewide date for voting on school district budgets.

2. Annual Budget Notices

Chapter 405 further provides that, effective January 1, 2000, school districts (excluding the “Big Five” city school districts) must generally mail an annual school budget notice to all qualified school district voters prior to the vote on the school district budget (Education Law, §2022(2-a), as added by Chapter 405, Part L, §10-d). This notice shall compare (1) the percentage increase or decrease in total spending under the proposed budget relative to total spending under the school district budget adopted for the current school year, with (2) the percentage increase or decrease in the consumer price index, from January first of the prior school year to January first of the current school year. The notice shall also set forth the date, time and place of the school budget vote, in the same manner as in the notice of annual meeting.

3. STAR Payments to School Districts

The schedule for paying STAR reimbursements to school districts has been modified by Chapter 405, so that the 1999-2000 schedule will be the same as the 1998-99 schedule had been (Education Law, §3609-e, as amended by Chapter 405, Part L, §46-a).

4. Actual Valuation Computation

Chapter 405 also contains provisions addressing the computation of the “actual valuation” component of the school aid formula for purposes of the Utica and Oswego City School Districts (Part L, §§84 and 88), as well as for any school districts that may be created under the new “partitioning” process (Education Law, §§2218 and 3602-f, as added by Chapter 405, Part L, §§83 and 83-a).

B. Enactments Pertaining to Specific Jurisdictions

New York City Class Tax Shares: **Chapter 407**, a comprehensive budget-related enactment, contains provisions which direct that for purposes of New York City’s fiscal year ending in 2000, the current base proportion of any class may not exceed the adjusted base proportion of the class in the prior fiscal year by more than 2.5 percent, as opposed to the 5 percent increase that otherwise would have been allowed (§1803-a(1)(1); Chapter 407, Part LL, §§ 2 and 3).

New York City Class Two Tax Abatements: **Chapter 407**, a comprehensive budget-related enactment, contains provisions that modify and extend the temporary tax abatement program for

eligible condominiums and cooperatives in New York City (§467-a, as amended by Chapter 407, Part LL, §§4-11). The program had been set to terminate after the fiscal year commencing in 1998; it is now set to end after the fiscal year commencing in 2000. In addition, the City is required to submit a plan to the Legislature by December 31, 1999 recommending how to alleviate the disparities in the real property tax burden between Class One and Class Two residential properties.

Nassau County Assessment Review: **Chapter 218** makes a series of amendments to RPTL, §523-b, which was added last year, establishing a new Assessment Review Commission to hear complaints in Nassau County.

Nassau County Real Estate Transfer Tax: **Chapter 407**, a comprehensive budget-related enactment, contains a provision that authorizes Nassau County to impose a tax upon transfers of real property within the County, at the rate of five dollars for each five hundred dollars of consideration or fractional part thereof (Tax Law, Article 31-E, as added by Chapter 407, Part LL, § 1). The County's authority to adopt the necessary enabling local legislation, and to impose a tax thereunder, is schedule to expire on January 31, 2001.

Erie County Tax Act: **Chapter 390** amends the Erie County Tax Act to allow taxpayers in Erie County to make partial payments of real property taxes. State law already generally provides for partial or installment payments at local option (see, RPTL, §§928-a, 972, 1184). Chapter 390 incorporates that same concept into the law which governs the tax collection process in Erie County.

C. Exemptions of Limited Applicability

Low-income Housing in New York City: **Chapter 104** expands the class of property owners eligible to receive the real property tax exemption for certain low-income housing accommodations in New York City (§420-c), previously limited to certain corporations and partnerships, to include limited liability companies. The newly eligible owners are subject to the same statutory criteria as have been applicable heretofore to corporations and partnerships.

New York City ICIP: **Chapter 143** makes minor technical changes to certain provisions within RPTL, Title 2-D ("Tax Exemption and Deferral of Tax Payments for Certain Industrial and Commercial Properties in a City of One Million or more Persons") with respect to the New York City Industrial and Commercial Incentive Program (ICIP), and extends the program for four years. In major respects, Title 2-D is the equivalent of the business investment exemption (§485-b), which is available (at local option) in localities outside of New York City.

Onondaga County Water Authority: **Chapter 494** expands the scope of the existing real property tax exemption for property of the Onondaga County Water Authority (Public Authorities Law, §1163(1)) to include special ad valorem levies or special assessments.

Certain Nonprofit Organizations: There were 21 Chapters generally authorizing the appropriate assessor to accept exemption applications for specific properties owned by named

nonprofit organizations. In most cases, the owner acquired the property after taxable status date. The prospective applicants, and the assessing units in which their properties are located, are as follows:

<u>Chap.</u>	<u>Organization</u>	<u>Location</u>
229	Plain Lawn Cemetery ¹	Nassau
236	Congregation Eitz Chaim of Cedarhurst, Inc. ¹	Nassau
248	Trinity Evangelical Lutheran Church	Babylon
250	Salvation and Deliverance Church, Inc.	Babylon
261	First Baptist Church, Inc.	Nassau
263	Apostolic Overcoming Holy Church of God, Inc.	Babylon
267	Iranian Jewish Center	Nassau
277	Touro College	Islip
282	Yeshiva of Great Neck	Nassau
283	I Am Corporation	Nassau
293	Church of the New Life, Inc.	Nassau
294	First Church of God, Amityville ²	Babylon
302	Lubavitch Chai Center	Huntington
306	Islamic Center of South Shore, Inc. ¹	Nassau
310	Fine Arts Museum of Long Island	Nassau & Vlg. Hempstead
343	Church of God in Christ Good Samaritan Ministries, Inc.	Babylon
344	Church of God of Lindenhurst	Babylon
345	Bibleway Missionary Baptist Church, Inc.	Babylon
346	Brighton Heights Reformed Church	New York City
432	Babylonian Jewish Center of Great Neck	Nassau
433	Shelter Rock Jewish Center, Inc.	Nassau
438	Brooklyn Cultural Center of New York, Inc.	New York City
496	Society of St. Vincent DePaul; Universal Church ³	New York City

¹ Amends a chapter of the Laws of 1998

² Also mandates reconveyance of property

³ Also declares properties to be exempt

V. GOVERNOR'S APPROVAL MEMORANDA

APPROVAL MEMORANDUM - No. 8 Chapter 492

MEMORANDUM filed with Senate Bill Number 5699-A, entitled:

"AN ACT to amend the general municipal law, in relation to designation of additional economic development zones in certain counties"

APPROVED

This bill would amend the General Municipal Law to authorize the creation of up to six additional Economic Development Zones ("EDZs"). This bill provides that at least three of the six new EDZs must satisfy the following new criteria: (1) at the time of the application, the unemployment rate of the county must exceed New York State's unemployment rate; (2) the individual poverty rate is at least twenty percent; (3) fifteen percent or more of households receive public assistance; (4) the county is considered a non-metropolitan area; and (5) there is no other EDZ within the county.

The EDZ program targets areas within the State that are characterized by persistent poverty, high unemployment and dependence on public assistance, and provides special incentives designed to promote the development of new businesses and the expansion of existing businesses. This bill will ensure that the benefits of the program are brought to clearly deserving areas of the State that do not currently qualify under the existing criteria for demographic reasons.

There are, however, a number of technical defects in the new criteria set forth in the bill that may impede the achievement of the important economic development goals underlying the program. Certain of the new provisions are unclear as to which geographic area -- the county or the municipality -- must meet the new criteria in order to qualify for EDZ status. If uncorrected, it is possible that no region would qualify under the new criteria. The Senate and the Assembly have agreed to chapter amendments to the bill in order to cure these flaws and ensure that localities that would benefit from EDZ status will be eligible to apply for the program.

The bill is approved.

(signed) GEORGE E. PATAKI

VI. LEGISLATIVE STATUS CHART

See the Legislative Status Chart published online.

VII. CHAPTER INDEX

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December, 1999

ADDENDUM TO SUMMARY OF 1999 REAL PROPERTY TAX LEGISLATION

When the Summary of 1999 Real Property Tax Legislation was prepared in October, a number of bills of interest were still awaiting action. This Addendum has been prepared to advise you of the final status of those bills. Also included are copies of the relevant Approval and Disapproval Messages that were issued by the Governor since the publication of that Summary, as well as an updated Legislative Status Chart and an updated Chapter Index.

As before, the descriptions that follow are intended to provide general information about the major features of the new laws, rather than detailed explanations. Questions may be directed to the Office of Counsel, State Office of Real Property Services, 16 Sheridan Avenue, Albany, New York 12210-2714; telephone number (518) 474-8821.

I. ASSESSMENT ADMINISTRATION

Assessment Disclosure: **Chapter 611** amends RPTL, §502(3) in relation to the form of assessment rolls. Under this new law, assessment rolls will have to display: (1) the uniform percentage of value applicable to the assessing unit (or in a special assessing unit, the uniform percentage of value applicable to the class) pursuant to section 305 of the RPTL; and (2) the full value of each parcel on the roll. This requirement applies to assessment rolls that are based upon taxable status dates occurring on and after January 2, 2000. Tax bills have been required to contain this same information since the Property Taxpayer's Bill of Rights was enacted in conjunction with the STAR Program (RPTL, §922(a); L.1997, Part B, §§4 and 5).

II. EXEMPTION ADMINISTRATION

Veterans: The Summary of 1999 Legislation indicated that Senate Bill No. 557-A, extending the alternative veterans exemption to a recipient of any expeditionary medal, was still awaiting final action when the Summary went to press. That bill has since been approved by the Governor and is now **Chapter 566**. A description of this law appears in the Summary at pages 6-7. The next update to Volume 4 of the Assessor's Manual will include a list of qualifying expeditionary medals.

III. TAX COLLECTION AND ENFORCEMENT

City School District Installment Programs: The Summary of 1999 Legislation included a description of Chapter 447, which relates to interest on installment payments of taxes in city school districts (p.7). Upon signing this legislation, the Governor issued an Approval Message (#13), a copy of which is included in Section V of this Addendum.

IV. MISCELLANEOUS

Rockland County Volunteer Fire and Ambulance Members: **Chapter 617** adds a new section 466-a to the Real Property Tax Law to authorize Rockland County and the towns and villages (but not school districts) therein to provide a partial real property tax exemption to members (meeting certain statutory requirements) of incorporated volunteer fire companies, fire departments and incorporated ambulance services. The exemption would be available only to enrolled members and their spouses, and would equal 10 percent of assessed value, but not to exceed \$3,000 times the latest State equalization rate. Upon signing this legislation, the Governor issued an Approval Message (#16), a copy of which is included in Section V of this Addendum.

Urban Development Action Areas: **Chapter 645** modifies the local option exemption available in certain areas under the Urban Development Action Area Act (General Municipal Law, §§690-698) by providing that for new construction projects, the land value which is subject to the exemption shall be the assessed valuation immediately prior to the commencement of construction, or the assessed valuation of the land in the first year after completion of construction, whichever is less (*id.*, §696). As a result, when land in New York City is reclassified from Class 4 to Class 1 upon the completion of a residential construction project, the exemption will be adjusted accordingly. A similar amendment was made to a related New York City exemption last year (RPTL, §421-b(1), as amended by L.1998, c.125).

Town of Haverstraw; Bonding of certain refunds: **Chapters 601 and 621** extend from 20 to 30 years the period of probable usefulness for which bonds may be issued by the Town of Haverstraw and the Haverstraw-Stony Point Central School District, respectively, to finance the cost of refunds of real property taxes potentially due as a result of pending tax certiorari proceedings commenced by Orange and Rockland Utilities.

V. GOVERNOR'S APPROVAL AND DISAPPROVAL MEMORANDA

A. Approval Memoranda

APPROVAL MEMORANDUM - No. 13 Chapter 447

MEMORANDUM filed with Assembly Bill Number 7928, entitled:

"AN ACT to amend the real property tax law, in relation to payment of taxes in installments in city school districts"

APPROVED

This bill would require all city school districts that authorize the payment of taxes in installments to collect interest on the installments. Each installment after the first would include interest on the balance calculated from the date on which the first installment was due. Under current law, city school districts are authorized to permit taxpayers to pay their real property taxes in installments. Since city school districts are not authorized to charge interest on the amount due – except to the extent installment payments are not made on a timely basis – taxpayers who elect to pay their taxes in installments receive a tax break. At present, some 30 city school districts authorize payment in installments.

By mandating that interest be charged whenever a city school district authorizes the payment of taxes in installments, the effect of the bill would be to increase the real property taxes paid by all taxpayers who have been paying in installments. Although I appreciate that a city school district may not be willing to authorize the installment method and thereby incur a revenue shortfall, the solution is not to mandate a tax increase by requiring all city school districts that authorize the installment method to collect interest. Rather, city school districts should be given the option of authorizing the installment method with or without interest.

I am approving this bill, however, because the Senate and Assembly have agreed to a chapter amendment giving city school districts the option of authorizing the installment method with or without interest. Since this bill does not take effect until July of next year, there is ample time to enact the chapter amendment.

The bill is approved.

(signed) GEORGE E. PATAKI

APPROVAL MEMORANDUM - No. 16 Chapter 617

MEMORANDUM filed with Assembly Bill Number 7339-A, entitled:

"AN ACT to amend the real property tax law, in relation to providing a tax exemption on real property owned by members of volunteer fire companies or voluntary ambulance services in certain counties"

APPROVED

This bill would authorize those counties "having a population of more than 261,000 inhabitants but less than 270,000 inhabitants, determined in accordance with the 1990 federal census", and the towns and villages (but not school districts) therein, to adopt local laws, ordinances or resolutions providing a partial real property tax exemption for members of incorporated volunteer fire companies, fire departments and incorporated volunteer ambulance services. If the eligibility conditions are satisfied, the exemption would equal 10 percent of assessed value, but may not exceed the product of \$3,000 multiplied by the latest State equalization rate. Although I am approving the bill, I note that it presents a serious constitutional issue. The 1990 federal census makes plain that Rockland County is the only county fitting the bill's population requirements. Thus, the bill appears to violate Article 16, section 1 of the State Constitution, which requires that "[e]xemptions from taxation may be granted only by general laws". I recommend that the sponsors address this issue through a chapter amendment striking the reference to the 1990 census.

The bill is approved.

(signed) GEORGE E. PATAKI

B. Disapproval Memorandum

VETO MESSAGE No. 59

TO THE SENATE:

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

Senate Bill Number 675, entitled:

"AN ACT to amend the general municipal law, the executive law and the state administrative procedure act, in relation to agreements between municipal corporations, districts and counties"

NOT APPROVED

This bill would amend the General Municipal Law, the Executive Law and the State Administrative Procedure Act to encourage municipal cooperation agreements between and among local governments. The bill would require local governments to file a copy of all municipal cooperation agreements, along with all studies, data, reports and information relating thereto, with the Department of State for inclusion in a publicly available database to be developed by the Department. The bill would also require virtually all State agencies and public authorities to provide assistance, cooperation, technical assistance and data to local governments that enter into, or are considering entering into, municipal cooperation agreements and to appoint a liaison for local government affairs. The ability of the State to reduce aid to reflect cost savings achieved through inter-governmental cooperative agreements would be limited by the bill to twenty-five percent each year, beginning in the second year of any such agreement. The bill would also amend the State Administrative Procedure Act to require State agencies to consider the effects of a proposed rule or regulation on existing and future intermunicipal cooperation. Finally, the bill would include counties among the political subdivisions that may engage in municipal cooperation. The bill would take effect immediately.

While the bill's objective of facilitating inter-municipal cooperation is laudable, the bill is technically flawed in several respects. For example, section one of the bill would amend GML section 119-o to specifically grant counties the authority to enter into municipal cooperation agreements. However, counties outside of the City of New York already have such authority under current law, and there is no indication that the sponsors intended to allow those counties within the City to enter into inter-municipal cooperation agreements.

The provisions limiting the State's ability to phase out aid in response to local cost savings achieved through cooperation agreements also is flawed. As the State Education Department points out in its memorandum recommending disapproval, this legislation is inconsistent with the statutory framework established by the Education Law for apportioning aid for educational services provided through boards of cooperative educational services, for aid provided to joint school district facilities and for a variety of other education aid programs. I concur with the State Education Department's view that approving this bill in its current form would likely result in litigation between school districts and the State over the apparent conflict between this legislation and the State aid formulas set forth in the Education Law. In any event, the degree to which State aid should be reduced in recognition of local cost savings is a decision that should be left for case by-case resolution through the annual budgetary process.

The burdensome requirement that local governments file all "studies, data, reports or information relating to" inter-municipal cooperation agreements with the Department of State also is problematic. While the collection of this information and its electronic dissemination by the Department apparently is intended to benefit local governments considering entering into such agreements, this overly broad mandate would require local governments to file detailed information specific to a particular agreement that in all likelihood would have no value to other municipalities. For example, school districts operating a common transportation system should not be required to bear the burden of filing daily bus schedules with the Department of State for statewide dissemination, as the bill would require.

Indeed, the burden and expense to the State and local governments of collecting, compiling and disseminating a comprehensive collection of municipal cooperative agreements may outweigh the benefits of such a system. Municipal cooperation agreements are, in essence, contractual agreements between and among local governments. As such, each one must uniquely reflect the specific needs of the parties and the relevant legal requirements.

Finally, I am advised by the Department of State that the immediate effective date of the bill is problematic for State agencies that are currently in the process of promulgating new rules and regulations. As noted above, the bill requires State agencies to evaluate the effect of a proposed rule upon any present or future inter-municipal agreements, innovations or collaborations. By making this new requirement effective immediately, the bill fails to provide sufficient opportunity for agencies to comply with new statutory direction for rules already in the pipeline.

In sum, although I endorse the sponsors' goal of facilitating municipal cooperation, I cannot approve the bill in its current form. I invite the sponsors to work with my staff and the Department of State on a new bill that furthers this important goal and remedies the serious flaws in this bill.

The bill is disapproved.

(signed) GEORGE E. PATAKI

VI. LEGISLATIVE STATUS CHART

See the Legislative Status Chart published online.

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