

SUMMARY OF
2001
REAL PROPERTY TAX LEGISLATION



STATE BOARD OF REAL PROPERTY SERVICES

Ifigenia T. Brown, Chairwoman
John M. Bacheller
Frank B. Cernese
Michael Joseph, Jr.

Thomas G. Griffen, Executive Director

STATE OF NEW YORK
GEORGE E. PATAKI, GOVERNOR

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NEW YORK STATE BOARD OF REAL PROPERTY SERVICES

Office of Counsel
Richard J. Sinnott, Counsel

Compiled and Edited by
Joseph K. Gerberg, Esq.

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THOMAS G. GRIFFEN
EXECUTIVE DIRECTOR

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
OFFICE OF REAL PROPERTY SERVICES
16 SHERIDAN AVENUE
ALBANY, NEW YORK 12210-2714

RICHARD J. SINNOTT
COUNSEL

Telephone: (518) 474-8821 Fax: (518) 474-3657
Website: <http://www.orps.state.ny.us/>

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**SUMMARY OF
2001
REAL PROPERTY TAX LEGISLATION**

This document provides a summary of legislation enacted in 2001 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:

Annual Reassessment Aid (p. 1)
Cooperative Assessment Programs (p. 1)
Nuclear Power Plants; Exemption/PILOT Program (p. 2)
Agricultural Buildings Exemption; Livestock Breeding and Boarding (p. 5)
Senior Citizens Exemption; School-age children (p. 5)
STAR and Third Party Notices (p. 6)
First-time Homebuyers Exemption (p. 6)
Manufactured Home Parks; Rental Credits (p. 8)
Regional OTB Corporation Exemption; Unrelated Uses (p. 8)
Dishonored Check Fee (p. 10)
Property Condition Disclosure Act (p. 10)

All statutory citations herein are to the Real Property Tax Law (RPTL), unless otherwise noted. The terms "State Board" and "ORPS" as used herein refer to the New York State Board of Real Property Services and Office of Real Property Services, respectively. It may be assumed that the laws described herein are now in effect and applicable, unless otherwise noted.

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I. ASSESSMENT ADMINISTRATION

State Assistance

Annual Reassessment Aid: Chapter 530 promotes more current and equitable property tax assessments, by extending the duration of the levels of State aid payable under the annual reassessment aid and maintenance aid programs, and by providing counties with State aid for providing certain types of assistance to assessing units.

The annual reassessment program (RPTL, §1573(2)) originally authorized state aid of up to \$5 per parcel on each assessment roll through 2004, and up to \$2 per parcel on each assessment roll thereafter, for assessing units which satisfied the applicable criteria (e.g., full value assessment, an annual systematic analysis of assessments of all locally assessed properties, and reinspection and reappraisal of all parcels at least once every 6 years in accordance with an approved plan). To encourage the fullest possible participation in this program, the new law (1) extends the \$5 payment to apply to each qualifying assessment roll completed during an assessing unit's first five years in the program (or if its fifth year was before 2004, to each qualifying roll through 2004), and (2) increases the maximum annual payment thereafter to \$3 per parcel. It should be noted that the authorization for these payments is scheduled to sunset after the completion of 2009 assessment rolls.

The legislation also extends until 2004 the authorization for payments of up to \$2 per parcel for assessing units which continue to satisfy the requirements of the pre-existing maintenance aid program, provided that they had applied for aid in either 1999 or 2000. Under prior law, the authorization for this payment was to expire after 2000.

Finally, the legislation authorizes a one-time payment of aid of up to \$1 per parcel to counties which enter into agreements with assessing units pursuant to section 1537 of the RPTL to provide exemption services, appraisal services or assessment services to the assessing unit.

Inter-municipal Cooperation

Cooperative Assessment Programs: Chapter 421 removes a variety of barriers to the creation of Coordinated Assessment Programs (CAPs). In particular, it (1) allows CAPs to be formed between assessing units in adjoining counties (before, they all had to be in the same county); (2) allows CAP agreements to be approved by "a majority vote of the voting strength" of the governing body of each participating assessing unit; a local law is no longer required unless an assessment calendar needs to be changed; (3) clarifies and reduces the "lead time" for CAP approval from 60 days prior to the effective date to 45 days prior to the applicable taxable status date; (4) allows CAPs to be modified without a local law; and (5) reduces the lead time for modifying a CAP from one year to six months before the

applicable taxable status date, or in the case of a CAP expansion, from 60 days to 45 days before that date.

Chapter 421 also empowers County Directors of Real Property Tax Services to perform or supervise the performance of data collection, sales verification, or other assessment-related services, pursuant to an agreement between the county and an assessing unit or ORPS.

Business Improvement Districts: Chapter 328 allows two or more municipalities to establish Business Improvement Districts cooperatively (General Municipal Law, §980-b). In such cases, each municipality is subject to the laws that authorize the creation of such districts. Upon signing this Chapter, the Governor issued an Approval Message (# 16), a copy of which appears below.

Gloversville/Johnstown Cooperative Agreements: Chapter 148 authorizes the City of Gloversville and Town of Johnstown to enter into cooperative agreements pursuant to which the City may provide water and other services to properties in the Town in exchange for an agreed upon portion of the property and sales taxes generated those benefited properties. Any such agreements must be approved by the governing body of each municipality after a public hearing.

Nuclear Power Plants

New Exemption/PILOT Program: Chapter 87 authorizes a temporary local-option real property tax exemption for nuclear power plants (RPTL, §485). [*Note: Non-nuclear plants are not affected by this new law.*] The option may only be exercised by local law or resolution adopted after conducting a public hearing. Each level of local government – i.e., the county, town and school district – is empowered to decide whether to offer the exemption for its own purposes. Thus, for example, if the county opts to offer the exemption but the town and school district do not, the plant would be exempt from county taxes but subject to town and school district taxes.

In a locality that chooses to offer the exemption, a nuclear power plant will remain exempt until 2016, unless the locality provides for an earlier termination. During the term of the exemption, the owner or owners of the facility must make payments in lieu of taxes (PILOTs). If the parties cannot negotiate a mutually satisfactory PILOT arrangement, a compulsory PILOT will be imposed pursuant to a statutory formula that essentially equates to the taxes that would have been paid if the plant had been taxable. Assessment disputes may be reviewed in the usual manner though the plant is wholly exempt from taxation; any court-ordered reduction would result in an appropriate reduction in the PILOT obligation.

For purposes of State aid to education, if the school district has opted to offer the exemption, the PILOTs it receives will be converted into their actual valuation equivalent and treated as taxable assessed value in the State aid formula.

For tax apportionment purposes, a nuclear power plant which is exempt for all purposes will be not be considered when calculating the ‘regular’ State equalization rate. If the plant is exempt for school district and/or county purposes – but not all purposes – and the ‘regular’ rate would result in a tax shift of at least two percent, the State Board must establish a “special apportionment rate” to be used to apportion school district and/or county taxes, as the case may be. The State Board may establish “full value adjustments” at the request of an affected county or school district to phase in over a five year period any apportionment impact resulting from the special apportionment rate.

More detailed information about this new exemption program may be found in the ORPS Assessors’ Manual at Section 4.06 - RPTL Section 485.

A related enactment, Chapter 202, authorizes any municipal corporation in which a nuclear power plant is located to create a “nuclear facility tax stabilization fund.” The amount to be placed in the fund is the excess of taxes or PILOTs paid in any year over the amount so paid in the year prior to the creation of the fund.

Marinas

Current Use Standard: Chapter 515 requires real property that is owned or leased for “non-residential water dependent activities” to be assessed based upon its current use, rather than its highest and best use (RPTL, §582-a). The structures covered by this new law include those that are (1) within a “marine district as provided in the coastal zone management local waterfront revitalization program” or a “state approved comprehensive harbor management plan” pursuant to the Executive Law; (2) located on lands leased from the State or the Thruway Authority for non-residential purposes considered to support water dependent activities; (3) used for the purpose of berthing and mooring of recreational vessels, and the storage thereof, or a boatyard, marine service facility, charter or sports fishing station, bait and fuel operations, marine towing; or (4) used for any other non-residential purpose that requires the use of waterfront lands in order to function or provide marine services. Since current use had already been the standard of assessment for purposes of real property taxation (see, RPTL, §302; 10 Op. Counsel SBRPS No. 45), this legislation essentially codifies pre-existing law, as interpreted by the courts, for this type of property.

Special Franchises

Administrative Procedures: Chapter 322 allows the State Board to adjust current special franchise assessments when the special franchise assessments for the preceding year were based upon incorrect physical inventories (RPTL §608(2) and (3)). A separate assessment will be created when there was omitted property. A deduction will be taken from the current assessment when physical property was incorrectly included when valuing the special franchise for the preceding

assessment roll. The legislation also allows a special franchise owner or assessing unit to submit material at a hearing when the other party is challenging a special franchise assessment (RPTL §610(3)).

Approved/Special Assessing Units

Tonawanda PILOTs: Chapter 201 allows the Town of Tonawanda to apply some or all of certain payments in lieu of taxes (PILOTs) entirely to the credit of the non-homestead class, rather than to all property, when allocating taxes between the homestead and non-homestead classes (RPTL, §1903(4-a)). The only PILOTs subject to this option are those payable by lessees of Industrial Development Agency property. The legislation remains in effect for three years from the date it became effective (August 20, 2001) and then is deemed repealed.

Nassau County Special Districts: Chapter 191 essentially preserves the class tax shares that will exist when taxes are levied in most special districts in Nassau County on the 2001 assessment roll (RPTL, §§1803, 1803-a(8), 1803-b(1)(a)). In the future, the class tax shares would be adjusted annually to keep pace with ‘physical changes’ (e.g., new construction or demolition). The County may also make an annual five percent discretionary adjustment, as long as the adjustment is not inconsistent with any changes in the value of the class as indicated by the assessed value of the class and the most relevant class equalization rate.

New York City ABP Limitations: Chapter 344 provides that for purposes of the New York City fiscal year ending in 2002, the current base proportion of any class may not exceed the adjusted base proportion of that class in the prior fiscal year by more than two percent (RPTL, §1803-a(k)). Any excess over this limit is to be distributed to the other classes, as long as the distribution does not cause any other class to exceed its own two percent limit. Without this legislation, an increase of up to five percent would have been allowable.

New York City Co-op/Condo Abatement Program: Chapter 294 extends for three years (through fiscal years ending in 2003) the temporary partial tax abatement program for residential cooperatives and condominiums in class 2 in New York City (RPTL, §467-a). Class 2 is basically comprised of residential structures of more than three units other than hotels or motels (RPTL, §1802(1)(b)). The abatement is a tax reduction of 25% in structures with an average unit assessed value of \$15,000 or less and 17.5% in structures with a greater average unit assessed value.

Lower Manhattan Revitalization Program Extender: Chapter 118, Part FF, adds another three years to a six-year-old program, commonly known as the “Lower Manhattan Revitalization Program” (RPTL, §§499-a *et seq.*), which provides real property tax abatements for qualifying commercial properties in a defined area of downtown Manhattan. Under Chapter 118 – which was enacted several weeks before the September 11, 2001 terrorist attack on the World Trade Center – the application deadline has been moved from August 2, 2001 to March 31, 2004, and

the conclusion of the benefit period has been moved from March 31, 2007 to March 31, 2010.

It may be noteworthy that when this program was originally enacted in 1995 (c.4), the application deadline was March 31, 1998. That deadline was extended to March 31, 2001 in 1997 (c.629), and was extended on a short-term basis several times in 2001 (c.20, pt. H; c.23, pt. C; c.34, pt. C; c.63, pt. B; c.101, pt. B; c.103, pt. B; c.105, pt. B) until August 3, 2001, when Chapter 118 was approved.

II. EXEMPTION ADMINISTRATION

Agriculture

Livestock Breeding and Boarding: Chapter 411 expands the Agriculture Buildings exemption (RPTL, §483) to encompass structures and buildings used for the “breeding and boarding of livestock, including commercial horse boarding operations.” Previously, property was eligible for the exemption if it was used to breed horses, but not if it was used primarily to board horses, or to breed and/or board other livestock (see, 10 Op.Counsel SBRPS No. 82, which was effectively overridden by this legislation). Note that since the statute requires an agricultural nexus between the buildings and the land, a non-farmer who boards animals would not qualify for the exemption.

Manure Processing and Handling Facilities: Chapter 374 adds “manure processing and handling facilities” to the definition of “farm operation” for purposes of the Agricultural Districts Program (Agriculture and Markets Law, Article 25AA). Such facilities use new methods to handle manure, such as separating liquids and solids to aid in composting and using anaerobic digesters to generate electricity and process manure. The purpose of the new law is to extend to such facilities various benefits of the Agricultural Districts Program, such as protection from local governmental regulation. It should be understood that this new law does not amend the definition of “land used in agricultural production” or “crops, livestock and livestock products” for purposes of this program, and so the lands associated with these facilities still would not be eligible for an agricultural assessment under current law. (As to whether the structures themselves might qualify for the exemption authorized by RPTL, §483-a, it would depend on whether they qualify as “manure storage and handling facilities” for purposes of that statute.)

Senior Citizens

School-age Children: Chapter 199 authorizes school districts which grant the senior citizens exemption to adopt a resolution, following a public hearing, to allow the exemption to be granted to property even though the property is also the residence of a child who is attending a public school of elementary or secondary education (RPTL, §467(2)). The hearing and resolution must be separate and distinct from

the hearing the school district must hold before it may adopt the exemption in the first instance. Previously, if such a child resided on the premises, the exemption could not be granted for school tax purposes. Upon signing this Chapter, the Governor issued an Approval Message (# 9), a copy of which appears below.

STAR

Third Party Notices: Chapters 233 and 555 authorize a taxpayer who is eligible for the Enhanced STAR exemption to designate an adult third party to receive from the school district an annual notice regarding the application requirement. The taxpayer's request must be made on a form prescribed by the State Board, and must be submitted to the school district no later than 60 days before the first taxable status date to which it is to apply. When such a request has been filed, the designated third party must be sent a notice at least 30 days before each ensuing taxable status date, reading substantially as follows: "On behalf of (identify senior citizen or citizens), you are advised that his, her or their renewal application for the enhanced STAR exemption must be filed with the assessor no later than (enter date). You are encouraged to remind him, her, or them of that fact, and to offer assistance if needed, although you are under no legal obligation to do so. Your cooperation and assistance are greatly appreciated."

A school district's obligation to mail a Notice will cease if the eligible taxpayer cancels the request or ceases to qualify for the Enhanced STAR exemption. In addition, the failure to mail a Notice, or failure of the third party to receive a Notice, "shall not affect the validity of the collection or enforcement of taxes on property owned by such senior citizen."

Cash Flow to School Districts: Chapter 383, Part W, extends the pre-existing provisions regarding payments of STAR reimbursement to school districts by the State, so that the moneys will be paid during the 2001-02 school year on the same schedule as in the 1998-99 through 2000-01 school years (Education Law, §3609-e(2)).

Housing

First-time Homebuyers: Chapter 529 authorizes municipalities to offer, at local option, a partial exemption for newly constructed homes purchased by "first-time homebuyers" (RPTL, §457). For this purpose, a "first-time homebuyer" is any person who has not owned -- and whose spouse has not owned -- a home during the previous three years, and who does not own a vacation or investment home. The exemption does not generally apply to purchases of existing homes. However, if a first-time homebuyer purchases and renovates or remodels an existing home, any increase in assessed value due to the renovation or remodeling would be eligible for the exemption, as long as the cost exceeded \$3,000 and the contract for the work was executed within 90 days from the date of purchase.

The exemption, if authorized, lasts for a maximum term of five years, beginning at fifty percent in the first year and declining to ten percent in the fifth and final year. A municipality that opts in to the program may also opt to grant the exemption for a shorter term.

Eligibility for the exemption depends, in part, on the homebuyer's income and the purchase price of the home. The "household income" (defined as the total combined incomes of all of the owners and their resident spouses) may not exceed the income limits established by the State of New York Mortgage Agency (SONYMA) as of January 1, 2001 for its low interest mortgage program in its non-target, one and two person household category for the county where the property is located. The purchase price of the home is similarly limited, with two exceptions: (1) Municipalities opting into the program may increase the purchase price limit by up to 25 percent, and (2) Where the purchase price exceeds the applicable limit by no more than 15 percent, the exemption may be granted as if the purchase price were equal to the applicable limit (but no exemption may be granted if the purchase price is more than 15 percent above the limit). A list of the applicable SONYMA income and purchase price limits for each county may be found in the ORPS Assessors' Manual at Section 4.01 - RPTL section 457.

If locally authorized, the exemption will apply to homes purchased or contracted for before December 31, 2005.

SCRIE Income Standard: Chapter 500 amends the income requirement for purposes of two senior citizen rental property tax abatement/exemption programs that apply primarily in New York City (i.e., RPTL, §467-b, which provides a tax abatement for rent controlled and rent regulated property occupied by senior citizens, and §467-c, provides a rent increase exemption to senior citizens residing in property subject to certain articles of the Private Housing Finance Law). As amended, the definitions of "income" for these two programs now exclude any increases in public or private pensions to any member of the household so long as the increase does not exceed the consumer price index (for all items United States city averages) for each year. Each program is subject to a "household income" limit, which previously had been "capped" at \$20,000 (§§467-b(3)(a), 467-c(1)(d)). It should be understood that this legislation does not impact the more widely-applicable senior citizens exemption (RPTL, §467), which continues for the time being to impose an income ceiling of \$20,500 (L.2000, c.198) unless the "sliding scale" option has been exercised.

Secured Loan Rental Housing Program: Chapter 80 extends until June 30, 2003 the effectiveness of certain laws concerning the Secured Loan Rental Housing Program administered by the New York State Housing Finance Agency, including the exemption for certain multiple dwellings financed by HFA (RPTL, §421-d). Those laws otherwise would have expired on June 30, 2001.

Municipal Housing Authorities: Chapter 352 extends by another 60 years the term of the real property tax exemption afforded to certain federal housing projects owned by municipal housing authorities which have completed the existing 60-year exemption period established by law (Public Housing Law, §52(5)).

Multiple Dwellings: Chapter 427 extends until December 31, 2003 the date by which construction for certain new multiple dwellings in the City of New York must begin in order to qualify for exemption (RPTL, §421-a). Under prior law, those dwellings had to be completed by December 31, 2003 in order to qualify for the exemption.

Mutual Redevelopment Company Projects: Chapter 118, Part EE, revises the exemption/ tax payment schedule for mutual redevelopment company projects in New York City, and limits the total exemption period for such projects to 60 years (RPTL, §423(3); Private Housing Finance Law, §125(1)(a-2)).

Manufactured/Mobile Homes

Rental Credits: Chapter 405 specifies the timing and procedure for crediting owners of manufactured homes (sometimes referred to as mobile homes) located in manufactured home parks with rental credits on account of real property tax exemptions granted to the manufactured homes. The reduction in monthly rent would normally be paid in 12 parts, beginning with the first monthly rental payment due 60 days after the penalty-free period for the payment of taxes and continuing for 11 months (Real Property Law, §233(w)). In lieu of providing a monthly rent reduction, the park owner (or operator or agent) has two options: (1) to credit the total reduction against the first month's rent, with any balance credited against the following month(s)' rent(s) until exhausted, or (2) to pay the total reduction to the manufactured home owner within 60 days of the interest-free collection period.

Regional OTB Corporations

Unrelated Uses: Chapter 535 modifies the real property tax exemption enjoyed by Regional Off-Track Betting Corporations (Racing, Pari-Mutuel Wagering and Breeding Law, §513). Under prior law, property owned by a Regional OTB and under its jurisdiction, control or supervision was exempt from taxation without regard to its use (see, 8 Op.Counsel SBEA No. 106). This new law revises the scope of the exemption so that where only a portion of OTB property is used for its corporate purposes, only that portion may receive the exemption, while those portions which are used for unrelated purposes (e.g., portions which are leased to other entities) will be taxable. This legislation takes effect March 12, 2002, and applies to assessment rolls with taxable status dates on or after that date (so it will not apply to most 2002 assessment rolls).

Retroactive Exemptions for Specific Properties

New and Revised Authorizations: Assessors in several jurisdictions were authorized to accept exemption applications after the applicable taxable status date for specific properties owned by named nonprofit organizations and certain other entities. In most cases, the entity acquired the property after taxable status date, though in some cases, the entity had title but simply failed to file the exemption application by taxable status date. The prospective applicants, and the assessing units in which their properties are located, are as follows:

<u>Chap.</u>	<u>Owner</u>	<u>Location</u>
43	Chabad of Port Washington	Nassau
90	St. Ann's School	New York City
133	Faith Tabernacle Church in Christ	Babylon
134	Holy Church of Christ*	Islip
142	Congregation Shaaray Tefilah	New York City
219	Bronx Arya Samaj	New York City
228	Shaw Temple AME Zion Church	Babylon
246	Congregation Shira Chadasa	Nassau
255	Central Islip Church of Christ	Islip
256	Beis Hamedrash Sharei Tefilah	Ramapo
257	New Hyde Park Fire District	Nassau
258	Elmont Fire District	Nassau
261	Town of Babylon	Babylon
262	W. Babylon Church of God of Prophecy	Babylon
265	Baldwin Fire District	Nassau
266	Gingerbread Learning Center	New York City
274	Zion Baptist Church	Nassau
275	Jain Center of America	Nassau
278	Mesorah Foundation of Long Island	Huntington
279	Village of Valley Stream	Nassau
283	Deliverance Revival Center	Nassau, Hempstead(v) [†]
287	Suffolk County Sports Hall of Fame	Brookhaven, Patchg.(v)
286	St. Basil Orthodox Church	Nassau
289	First Methodist Church	Babylon, Amityville(v)
325	Church of the New Life*	Nassau, Hempstead (v)
326	Miracle Christian Center*	Nassau, Hempstead (v)
332	Brooklyn Cultural Center of New York*	New York City
543	Trinity Evangelical Lutheran Church	Babylon
561	Chabad Lubavitch of Old Westbury	Nassau
577	Chabad of Five Towns	Nassau

* Amends a Chapter of the Laws of 2000 or a prior year

[†] An assessing unit whose name is followed by a "(v)" is a village

Fire and Ambulance Volunteers in Certain Counties

Applicability to Certain Cities: Chapter 319 makes a technical amendment to a recent enactment which allows a county with a population of between 133,000 and 141,000 inhabitants, and the towns and villages therein, to provide a partial exemption for members of volunteer fire companies, fire departments and incorporated volunteer ambulance services (RPTL, §466-b, as added by L.2000, c.609). The amendment extends this option to the cities within such a county as well. The only county which currently falls within the specific population bracket is Chautauqua County, which contains two cities.

III. TAX COLLECTION AND ENFORCEMENT

Payment of Taxes by Check

Dishonored Check Fee: Chapter 474 allows municipal corporations to impose a charge for dishonored checks in an amount not exceeding the maximum allowed for dishonored checks by section 5-328 of the General Obligations Law (currently, \$20). Previously, the maximum charge was \$15, and it could only be imposed when the check was returned for insufficient funds. Note that the authorization for municipal corporations to impose this charge applies to dishonored checks in general, not just tax payments.

Enforcement Procedures

Village Opt-out Extender: Chapter 367 extends by three years the effectiveness of local laws which various eligible villages adopted to continue enforcing delinquent taxes pursuant to former Title 3 of Article 14 of the RPTL, rather than Article 11. Prior to this enactment, such local laws only applied to taxes becoming liens from 1995 through 2000 (see, L.1994, c.532, §9; L.1998, c.466).

IV. MISCELLANEOUS

Property Condition Disclosure Act: Chapter 456 establishes a Property Condition Disclosure Act, generally requiring sellers of one-to-four unit residential housing to complete a Property Condition Disclosure Statement (PCDS) providing information about the property (Real Property Law (RPL), §§460-467). The PCDS contains 48 questions concerning environmental, structural, mechanical and other issues, most of which may be answered with a Yes, No, Unkn (Unknown), or NA (Non-applicable). Where the seller answers Yes to a question, the PCDS generally instructs the seller to provide further information.

The seller must complete the PCDS and deliver it to the buyer or the buyer's agent before the buyer signs a binding contract. A copy of the PCDS is to be

signed by both the buyer and seller and attached to the contract of sale. If the seller fails to provide the PCDS as required, the buyer shall receive at the closing a \$500 credit against the agreed-upon purchase price. Where the PCDS is provided, the seller shall be liable “only for a willful failure to perform the requirements” of the Act; such a willful failure exposes the seller to liability “for the actual damages suffered by the buyer in addition to any other existing equitable or statutory remedy” (RPL, §465).

The disclosure requirement does not apply to sales of condominium or cooperative units, or of newly constructed residential real property. A series of other types of transfers, generally occurring outside of the normal real estate marketplace, are also exempted from coverage (RPL, §463).

Though this legislation does not directly affect real property tax administration, the following points may be of particular interest to the real property tax community: (1) The PCDS explicitly states, immediately after the final question, “Note: Buyer is encouraged to check public records concerning the property (e.g., tax records and wetland and flood plain maps)”;

(2) There is no requirement that a copy of a PCDS be filed with the assessor or any other local official; and (3) A PCDS is not required in connection with a “transfer to or from the state, a political subdivision of the state, or another governmental entity” (RPL, §463(11)).

This legislation, which is a revised version of a 2000 bill that had been vetoed on technical grounds (2000 Veto # 73), takes effect on March 1, 2002 and applies to real estate contracts entered into on and after that date.

Alternative Implementation of Regulatory Mandates: Chapter 479 eases the burden of rules which impose regulatory mandates upon local governments, by allowing a local government to petition for approval of an alternate method of implementing such a rule (State Administrative Procedure Act, §204-a). The petition must establish that the proposed alternate method of implementation is consistent with, and will effectively carry out the objectives of, the rule. The petition shall also address the process the local government used to involve all stakeholders in developing the alternate method, any proposed sharing of the resulting savings between the local government and the state, and a plan and timetable for evaluating the alternate method’s effectiveness. A petition may not be approved if it would contravene any environmental, health or safety standard, or would reduce any third-party rights or benefits. Any agency determination in response to such a petition may be reviewed pursuant to Article 78 of the Civil Practice Law and Rules. This new law becomes effective January 20, 2002, subject to the qualification that no petition may be approved on or after May 31, 2004.

Broome/Chenango Boundary Adjustment: Chapter 537 delineates the boundary between Broome and Chenango Counties to conform to the terms of a negotiated settlement resulting from a lawsuit initiated by Chenango County. All taxes and special assessments that were previously levied lawfully against the affected

parcels (which are located in the Towns of Triangle and Barker in Broome and Smithville and Greene in Chenango) remain due and payable as if this law had not been enacted. The two counties jointly petitioned the State Legislature for this measure.

Certain Water Authorities; Taxable Status: Chapter 498 amends certain statutes to explicitly provide that real property owned by, or under the jurisdiction, control or supervision of, the Erie County, Suffolk County and Monroe County Water Authorities, is exempt from special ad valorem levies and special assessments as well as real property taxes (Public Authorities Law, §§1063, 1082, and 1105). The amendments also exempt those authorities from filing, recording or transfer taxes.

Village of Pelham Manor; Veterans Exemption: Chapter 492 authorizes the Village of Pelham Manor to retroactively recompute and grant increased eligible funds veterans exemptions (RPTL, §458) and refund taxes as necessary to reflect the higher exemptions. The Village had elected to terminate its status as an assessing unit in 1998, and its 1999-2000 taxes were based upon the 1998 assessment roll of the Town of Pelham. This created an unexpected reduction in the value of eligible funds veterans exemptions for Village purposes, because the Town implemented a full value revaluation on its 1998 assessment roll, and the Village had not exercised in a timely manner its option to adjust the exemptions to reflect the change in the level of assessment (§458(5)).

State Budget: The appropriations to ORPS for the 2001-2002 State fiscal year may be found in Chapter 53 (which enacts the Education, Labor and Family Assistance Budget), at pages 174-177, with supplemental language appearing in Chapter 149, §§96-99, pages 70-71. There are also appropriations in Chapter 50 (which enacts the Public Protection and General Government Budget) that relate to programs in which ORPS has a direct or indirect role, such as payment of taxes on certain State lands (pp.125-126) and emergency financial (“overburden”) aid to certain cities (p.130; see also, State Finance Law, §54-c, as amended by L.2001, c.91).

V. GOVERNOR'S APPROVAL MESSAGES

Senior Citizens Exemption; School-age Children

APPROVAL MEMORANDUM - No. 9 Chapter 199

MEMORANDUM filed with Assembly Bill Number 2692, entitled:

"AN ACT to amend the real property tax law, in relation to authorizing a school district to provide for an exemption from taxation for persons sixty-five years of age or over in certain cases"

APPROVED

This bill amends the partial exemption from property taxation provided at local option to low-income persons 65 years of age or older pursuant to Real Property Tax Law section 467. Currently, section 467 provides that where a school district has authorized the granting of such exemption for school tax purposes, no exemption shall be granted for a residence if a child who resides there attends a public school of elementary or secondary education. This bill authorizes school districts to conduct a public hearing and adopt a resolution to permit a school tax exemption for an otherwise eligible residential property even if such a child resides in the home. The bill takes effect on January 1, 2002 and applies to assessment rolls prepared on the basis of taxable status dates occurring on or after such date.

The purpose of this bill is to accord low-income seniors who undertake to accept grandchildren, foster children, or other members of an extended family into their household, the same opportunity for a partial exemption from property taxation for school tax purposes that the law affords to seniors who do not share their home with a child who attends a public school.

While I wholeheartedly support the goal of the bill, I am concerned that as drafted the bill may encourage an unscrupulous few to manipulate the law for the purpose of gaining an unjust advantage. By placing a child within the residence for the purpose of attending a particular school thought to be advantageous, not out of an earnest desire to assume responsibility for the care and custody of a grandchild, foster child or other child, the bill would provide a financial windfall (in the form of a partial tax exemption) that will be subsidized by all other residents of the district. Accordingly, I asked the Senate and Assembly to agree to a chapter amendment providing that any resolution authorizing such a school tax exemption must condition the exemption upon satisfactory proof that the child was not brought into the residence in whole or in substantial part for the purpose of attending a particular school within the district. I am pleased that both Houses have agreed to enact such a chapter amendment.

By expanding eligibility for the exemption to all low-income seniors, this bill removes an existing financial disincentive for senior citizens to assume responsibility for

young children, including grandchildren and foster children. As improved by the chapter amendment, I am pleased to support the bill.

The bill is approved.

(signed) GEORGE E. PATAKI

Business Improvement Districts in Multiple Municipalities

APPROVAL MEMORANDUM - No. 16 Chapter 328

MEMORANDUM filed with Senate Bill Number 4693, entitled:

"AN ACT to amend the general municipal law, in relation to authorizing the establishment of business improvement districts in two or more municipalities"

APPROVED

The bill provides that two or more municipalities may jointly establish Business Improvement Districts (BIDS). By clarifying the authority of municipalities to establish joint-BIDS, the bill facilitates economic growth across municipal boundaries. The bill takes effect immediately.

While I completely support the purpose of the bill, it contains several technical defects. General Municipal Law (GML) Section 980-k provides for tax and debt limits applicable to BIDS. That section limits the annual district charge for BIDS, exclusive of debt service, to no more than 20% of the total general municipal taxes levied annually against the taxable real property located within such a district. Unfortunately, that limit may be construed to apply to the cumulative total of property taxes in all municipalities within such a district. Therefore, clarification is necessary to ensure the equitable apportionment of costs between participating municipalities and the separate application of the tax limit to each such municipality.

Section 980-k also provides that the aggregate amount of outstanding indebtedness that is incurred to provide funds for capital improvements shall be chargeable against a municipality's constitutional debt limit and may not exceed ten percent of the amount allowable under that limit. However, the bill is unclear concerning whether municipalities are authorized to issue joint indebtedness for BIDS. If joint indebtedness is intended, the bill should be amended so to provide. On the other hand, if joint indebtedness is not intended, the bill should be amended to provide that municipalities which form joint BIDS are authorized to incur several indebtedness for the equitable share of capital costs.

Under GML Section 980-b, every municipality is authorized to adopt a local law, subject to permissive referendum, providing for the establishment or extension of BIDS. However, the law is unclear concerning whether there must be a single district-wide referendum to establish joint BIDS or separate referenda in each municipality.

Clarification is also necessary concerning dissolution of joint BIDS and the appointment of district management associations. See GML Sections 980-n and 980-m(b).

These defects can be addressed by a chapter amendment. I am pleased that both the Senate and Assembly have agreed to such an amendment. Since this bill takes effect immediately, I urge the Legislature to approve this chapter amendment at its earliest opportunity.

The bill is approved.

(signed) GEORGE E. PATAKI

VI. LEGISLATIVE STATUS CHART

See the Legislative Status Chart published online.

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