

**LOCAL LAWS
OF
THE CITY OF NEW YORK**

FOR THE YEAR 1998

No. 13

By The Speaker (Council Member Vallone) and Council Members Leffler, Berman, Clarke, Duane, Eisland, Henry, Michels, Fiala, Golden, Stabile, DiBrienza, Foster, Lasher, Miller, Robinson, Robles, Warden, Weiner, Wooten, Freed, Spigner, Eldridge, Abel, Boyland, Carrion, Fusco, Cruz, Dear, Espada, Malave-Dilan, Fisher, Harrison, Koslowitz, Linares, Marshall, McCaffrey, O'Donovan, Ognibene, Perkins, Pinkett, Povman, Provenzano, Reed, Rivera, Rodriguez, Robinson, Sabini, Watkins and White

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to authorizing a real property tax exemption for persons with disabilities whose incomes are limited due to such disabilities.

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 11 of the administrative code of the city of New York, is amended by adding a new section 11-245.4 to read as follows:

§ 11-245.4 Exemption for persons with disabilities.

1. (a) *Real property owned by one or more persons with disabilities, or real property owned by a husband, wife, or both, or by siblings, at least one of whom has a disability, and whose income, as hereafter defined, is limited by reason of such disability, shall be exempt from taxes on real estate to the extent of fifty per centum of the assessed valuation thereof as hereinafter provided. For purposes of this section, sibling shall mean a brother or a sister, whether related through half blood, whole blood or adoption.*

(b) *For purposes of this section, a person with a disability is one who has a physical or mental impairment, not due to current use of alcohol or illegal drug use, which substantially limits such person's ability to engage in one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working, and who (i) is certified to receive social security disability insurance (SSDI) or supplemental security income (SSI) benefits under the federal social security act, or (ii) is certified to receive railroad retirement disability*

benefits under the federal railroad retirement act, or (iii) has received a certificate from the state commission for the blind and visually handicapped stating that such person is legally blind. An award letter from the social security administration or the railroad retirement board or a certificate from the state commission for the blind and visually handicapped shall be submitted as proof of disability.

2. Exemption from taxation for school purposes shall not be granted in the case of real property where a child resides if such child attends a public school of elementary or secondary education.

3. No exemption shall be granted:

(a) if the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of eighteen thousand five hundred dollars. Income tax year shall mean the twelve month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife, or ex-husband or ex-wife is absent from the property due to divorce, legal separation or abandonment, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances or monies earned through employment in the federal foster grandparent program and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance. In computing net rental income and net income from self-employment no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income;

(b) unless the property is used exclusively for residential purposes, provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this section;

(c) unless the real property is the legal residence of and is occupied in whole or in part by the disabled person; except where the disabled person is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in section twenty-eight hundred one of the public health law, provided that any income accruing to that person shall be considered income for purposes of this section only to the extent that it exceeds the amount paid by such person or spouse or sibling of such person for care in the facility.

4. Application for such exemption must be made annually by the owner, or all of the owners of the property, on forms prescribed by the state board, and shall be filed with the department of finance on or before the appropriate taxable status date; provided, however, proof of a permanent disability need be submitted only in the year exemp-

tion pursuant to this section is first sought or the disability is first determined to be permanent.

5. At least sixty days prior to the appropriate taxable status date, the department of finance shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll an application form and a notice that such application must be filed on or before the taxable status date and be approved in order for the exemption to continue to be granted. Failure to mail such application form or the failure of such person to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

6. Notwithstanding the maximum income exemption eligibility level provided in subdivision three of this section, an exemption, subject to all other provisions of this section, shall be granted as indicated in the following schedule:

ANNUAL INCOME	PERCENTAGE ASSESSED VALUATION EXEMPT FROM TAXATION
More than \$18,500 but less than \$19,500	45 per centum
\$19,500 or more but less than \$20,500	40 per centum
\$20,500 or more but less than \$21,500	35 per centum
\$21,500 or more but less than \$22,400	30 per centum
\$22,400 or more but less than \$23,300	25 per centum
\$23,300 or more but less than \$24,200	20 per centum
\$24,200 or more but less than \$25,100	15 per centum
\$25,100 or more but less than \$26,000	10 per centum
\$26,000 or more but less than \$26,900	5 per centum

7. Any exemption provided by this section shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed; provided, however, that no parcel may receive an exemption pursuant to both this section and section 11-245.3.

8.(a) For purposes of this section, title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides, and which is represented by his or her share or shares of stock in such corporation as determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder. That proportion of the assessment of such real property owned by a cooperative apartment corporation determined by the relationship of such real property vested in such tenant-stockholder to such entire parcel and the buildings

thereon owned by such cooperative apartment corporation in which such tenant-stockholder resides shall be subject to exemption from taxation pursuant to this section and any exemption so granted shall be credited by the department of finance against the assessed valuation of such real property; the reduction in real property taxes realized thereby shall be credited by the cooperative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder.

(b) Notwithstanding any other provision of law, a tenant-stockholder who resides in a dwelling which is subject to the provisions of either article II, IV, V or XI of the private housing finance law shall not be eligible for an exemption pursuant to this subdivision.

9. Notwithstanding any other provision of law to the contrary, the provisions of this section shall apply to real property held in trust solely for the benefit of a person or persons who would otherwise be eligible for a real property tax exemption, pursuant to subdivision one of this section, were such person or persons the owner or owners of such real property.

§ 2. This local law shall take effect immediately and shall apply to assessment rolls prepared on the basis of a taxable status date occurring on or after January 1, 1999.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on March 18, 1998 and approved by the Mayor on April 6, 1998.

CARLOS CUEVAS, City Clerk, Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 13 of 1998, Council Int. No. 9-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on March 18, 1998: 48 FOR, 0 AGAINST.

Was returned signed by the Mayor on April 6, 1998.

Was returned to the City Clerk on April 8, 1998.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel