

**LOCAL LAWS**  
**OF**  
**THE CITY OF NEW YORK**  
**FOR THE YEAR 1992**

**No. 8**

Introduced by the Speaker (Council Member Vallone) and Council Members Berman, Alter, Pinkett and Maloney; also Council Members Dear, DeMarco, DiBrienza, Dryfoos, Eisland, Fisher, Friedlander, Greitzer, Harrison, Horwitz, Koslowitz, Leffler, Lisa, McCafrey, Michels, Povman, Rivera, Robles, Spigner, Ward, Williams, Wooten and Cerullo III. (Passed under a Message of Necessity from the Mayor.)

**A LOCAL LAW**

To REPEAL section 167 of the New York City Charter and to amend the Administrative Code of the City of New York, in relation to increasing the graduated income eligibility level for the granting of partial exemptions from real property taxation to certain persons sixty-five years of age or over.

*Be it enacted by the Council as follows:*

Section one. Section 167 of the New York City Charter is hereby REPEALED and the administrative code of the city of New York is hereby amended by adding thereto a new section 11-245.3 to read as follows:

*§ 11-245.3 Exemption for persons sixty-five years of age or over. 1. Real property owned by one or more persons each of whom is sixty-five years of age or over or real property owned by husband and wife one of whom is sixty-five years of age or over shall be exempt from taxes on real estate to the extent of fifty per centum of the assessed valuation thereof.*

*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 exceeds the sum of fifteen thousand dollars for the income tax years immediately preceding the date of making application for exemption. 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. 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 gifts, inheritances, or a return of capital. 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 title of the property shall have been vested in the owner or one of the owners of the property for at least twenty-four consecutive months prior to the date of making application for exemption, provided, however, that in the event of the death of either husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of twenty-four consecutive months, and provided further, that in the event of a transfer by either husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of twenty-four consecutive months, and provided further, that where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, and where a residence is sold and replaced with another within one year and both are within the state, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this section. Where the owner or owners transfer title to property which as of the date of transfer was exempt from taxation under the provisions of this section, the reacquisition of title by such owner or owners within nine months of the date of transfer shall be deemed to satisfy the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twenty-four consecutive months. Where, upon or subsequent to the death of an owner or owners, title to property which as of the date of such death was exempt from taxation under such provisions, becomes vested, by virtue of devise or descent from the deceased owner or owners, or by transfer by any other means within nine months after such death, solely in a person or persons who, at the time of such death, maintained such property as a primary residence, the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twenty-four consecutive months shall be deemed satisfied;*

*(c) 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;*

*(d) unless the property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property: except where, (i) an owner 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 income only to the extent that it exceeds the amount paid by such owner, spouse, or co-owner for care in the facility, and provided further, that during such confinement such property is not occupied by other than the spouse or co-owner of such owner; or, (ii) the real property is owned by a husband and/or wife, or an ex-husband and/or an ex-wife, and either is absent from the residence, and an exemption was previously granted when both resided in the residence, provided the person remaining on the real property is sixty-two years of age or over and all other provisions of this section are met.*

*4. Application for such exemption must be made by the owner, or all of the owners of the property, on forms prescribed by the state board to be furnished by the tax commission*

*and shall furnish the information and must be executed in the manner required or prescribed in such form and shall be filed in the department of finance in the borough in which the real property is located between the fifteenth day of January and the fifteenth day of March.*

5. *At least sixty days prior to the fifteenth day of January 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 between the fifteenth day of January and the fifteenth day of March every two years from the year in which such exemption was granted and be approved in order for the exemption to be granted. The department of finance shall, within three days of the completion and filing of the tentative assessment roll, notify by mail any applicant who has included with his application at least one self-addressed, prepaid envelope, of the approval or denial of the application; provided, however, where an applicant has included two such envelopes, the department of finance shall, upon the filing of the application, send by mail, notice of receipt of that application. Where an applicant is entitled to notice of denial provided herein, such notice shall state the reasons for such denial and shall further state that such determination is reviewable in a manner provided by law. Failure to mail any such application form or notices or the failure of such person to receive any or all of the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.*

6. *Any conviction of having made any willful false statement in the application for such exemption shall be punishable by a fine of not more than one hundred dollars and shall disqualify the applicant or applicant from further exemption for a period of five years.*

7. *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:*

<i>ANNUAL INCOME</i>	<i>PERCENTAGE ASSESSED VALUATION EXEMPT FROM TAXATION</i>
<i>More than \$15,000 but less than \$15,600</i>	<i>45 per centum</i>
<i>\$15,600 or more but less than \$16,200</i>	<i>40 per centum</i>
<i>\$16,200 or more but less than \$16,800</i>	<i>35 per centum</i>
<i>\$16,800 or more but less than \$17,400</i>	<i>30 per centum</i>
<i>\$17,400 or more but less than \$18,000</i>	<i>25 per centum</i>
<i>\$18,000 or more but less than \$18,600</i>	<i>20 per centum</i>
<i>\$18,600 or more but less than \$19,200</i>	<i>15 per centum</i>
<i>\$19,200 or more but less than \$19,800</i>	<i>10 per centum</i>

8. *Any exemption provided by this section shall be computed after all partial exemptions allowed by law have been subtracted from all total amount assessed.*

9. *Exemption from taxation as provided in this section on real property owned by husband and wife, one of whom is sixty-five years of age or older, once granted, shall not be rescinded solely because of the death of the older spouse so long as the surviving spouse is at least sixty-two years of age.*

§ 2. *Notwithstanding any provision of this local law, any exemption granted pursuant to section 167 of the New York City Charter on the latest completed assessment roll prior to the effective date of this local law shall remain in effect until June 30, 1992 in accordance with such section.*

§ 3. *This local law shall take effect on January 1, 1992 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 1992.*

**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 December 19, 1991, and approved by the Mayor on January 6, 1992.

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 8 of 1992, Council Int. No. 778-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on December 19, 1991: 34 for, 0 against.

Was approved by the Mayor on January 6, 1992.

Was returned to the City Clerk on January 7, 1992.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel