

Memorandum in Support ELDER LAW SECTION

Elder #4

April 23, 2013

S. 4600
A. 6658

By: Senator Golden
By: M. of A. Wright

Senate Committee: Local Government
Assembly Committee: Ways and Means
Effective Date: Immediately

THE ELDER LAW SECTION SUPPORTS SECTION 1 OF THIS LEGISLATION WITH A RECOMMENDATION

SECTION 1 OF THIS LEGISLATION MAKES IT CLEAR THAT THE RPTL § 467-A TAX ABATEMENT APPLIES TO A DWELLING UNIT HELD IN TRUST SOLELY FOR THE BENEFIT OF A PERSON OR PERSONS WHO WOULD OTHERWISE BE ELIGIBLE FOR THE ABATEMENT.

Chapter 4 of the Laws of 2013 amended RPTL § 467-a regarding the partial abatement of real property taxes for condominiums and cooperatives, in a city having a population of one million or more. The new law provides that to be eligible for the abatement in 2012, 2013 or 2014, an owner could own no more than a maximum of three dwelling in a single building, one of which must be the primary residence of the tenant stockholder or unit owner. The New York City Department of Finance has advised Coops and Condominiums, “Non-primary resident owners include units that are held solely by a trust,” thereby excluding coop and condominium units held in trust from the benefits of the law.

Current law, regarding other tax abatements provide that property held in trust solely for the benefit of persons otherwise eligible for the Senior Citizen Homeowners Exemption (SCHE), veteran's exemptions and STAR qualifies for those programs. RPTL §§ 425(3)(c), 458(7), 458-a(5), 467(10). Adding this similar provision to RPTL § 467-a will protect cooperative and condominium owners, especially many senior citizens, who have put their apartments into living trusts.

However, this legislation does not clarify that the abatement also applies to holders of a legal life estate. Many apartment owners, especially those in condominiums have used deeds with reserved life estates instead of trusts. We recommend that that the legislation be revised to not only include property held in trust but also to “person or persons holding a legal life estate.” Such a change would make this legislation consistent with RPTL §§ 425(7)(d) and 467(10).

Based on the foregoing, the Elder Law Section **SUPPORTS** this legislation, with a recommendation.

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