

County of Erie Local Laws of 1999

Local Law No.	Title/Subject A local law . . .
2-1999	. . . in relation to granting a partial exemption from real property taxation, pursuant to section four hundred fifty-nine c of the real property tax law, to persons with disabilities who have limited incomes

Section 1. Persons with disabilities and limited incomes.

- 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 hereinafter defined, is limited by reason of such disability shall be exempt from taxation by the county of Erie, as authorized by section four hundred fifty-nine-c of the real property tax law, to the extent of fifty per centum of the assessed valuation thereof as hereinafter provided.
- b. To be eligible for the exemption provided by subdivision one of this local law, the maximum income or such person shall not exceed eighteen thousand five hundred dollars. Real property owned by one or more persons with disabilities, or real property owned by a husband and 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 taxation by the county of Erie to the extent provided in the following table:

<u>Annual Income</u>	<u>Percentage of Assessed Valuation Exempt from Taxation</u>
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 cenrum
\$22,400 or more, but less than \$23,300	25 per cenrum
\$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

Section 2. **Definitions.** As used in this local law, the following words shall have the following meanings:

- a. "Sibling" shall mean a brother or a sister, whether related through whole blood, half blood or adoption;
- b. 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) 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 New York 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 the New York state commission for the blind and visually handicapped shall be submitted as proof of disability.

Section 3. Computation of exemption. Any' exemption provided by this local law 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 for the same municipal tax purpose pursuant to both this local law and section four hundred sixty-seven of the real property tax law.

Section 4. Limitation on exemption. 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 limits provided in sections one and two of this local law. 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 or 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. In computing net rental income and net income from self-employment. no depreciation deduction shall be allowed for the exhaustion, wear and tear of 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 shall be entitled to the exemption provided by this local law;

- 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 of the public health law, provided that any income accruing to that person shall be considered income for purposes of this local law 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.

Section 5. Shares in co-operative apartment corporations.

- a. Title to that portion of real property owned by a co-operative apartment corporation in which a tenant-stockholder of such corporation resides, and which is represented by his share or shares 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.
- b. That proportion of the assessment of such real property owned by a co-operative 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 co-operative apartment corporation in which such tenant-stockholder resides shall be subject to exemption from taxation pursuant to this local law and exemption so granted shall be credited against the assessed valuation of such real property; the reduction in real property taxes realized thereby shall be credited by the co-operative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder.

Section 6. Annual application for exemption. Application for such exemption shall 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 in the appropriate assessor's office on or before the appropriate taxable status date; provided, however, that proof of a permanent disability need be submitted only in the year exemption pursuant to this local law is first sought or the disability is first determined to be permanent.

Section 7. At least sixty days prior to the appropriate taxable status date, the assessor shall mail to each person who was granted exemption pursuant to this local law 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 owed by such person.

Section 8. Notwithstanding any other provision of law to the contrary, the provisions of this local law 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 section one of this local law, were such person or persons the owner or owners of such real property.

Section 9. This local law shall be effective immediately.

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