

**"A Local Law to Amend Article 81-100 of the Town  
of Busti Code Entitled "Tax Exemption to Certain Eligible Persons 65 Years of Age or  
More."**

Section 81-105, Subsection (d), of Article 81 of the Town code of the Town of Busti shall be amended to read as follows: (d) All of the owners of such property shall have an income of \$10,000.00 or less for the twelve month period preceding the date of the application for the period from January 1, 1994, to December 31 1994; an income of \$10,500.00 for the period of January 1, 1995 to December 31, 1995; and \$11,000.00 for any period after January 1, 1996.

If the title of the property invested in the sole name of the husband or the wife, then combined income of both the husband and the wife shall not exceed \$10,000.00 prior to January 1, 1995; \$10,500.00 prior to January 1, 1996; and \$11,000.00 thereafter.

Effective Date - This local law shall take effect immediately upon it having been filed by the Clerk of the Town of Busti with the Secretary of State of the State of New York.

10/25/93

From and after the effective date of this ordinance, all real property within the Town of Busti owned by any person or persons over sixty-five (65) years of age who shall otherwise qualify under Section 81-105 hereof, for the purpose of the Town Tax each year, shall be exempt to the extent of fifty percent (50%) of the assessed valuation thereof, as shown on the assessment roll for the Town for that year.

Persons qualifying for the exemption provided for in Section 81-101 hereof shall meet the following requirements:

(a) All owners of real property for which exemption is sought shall be sixty-five (65) years of age or over unless such owner shall be husband and wife, in which event either of whom may be over such age of sixty-five.

(b) All persons who shall file such application must have been the record owner of the title to the property for a period of at least five (5) years prior to the filing of such combined income of both the husband and wife shall not exceed the sum of seven thousand, five hundred dollars (\$7,500.00).

For the purpose of this ordinance the word "income" shall include all Social Security and retirement payments, interest, dividends, rental Income, salaries, and other earnings, including income from self-employment.

It does not, however, include gifts or inheritances received during the twelve (12) month period.

All application's filed under the provisions of this ordinance should be filed annually, on the forms provided by the Town Assessor.

Law of the State of New York to grant a partial exemption from taxation to certain first-time homebuyers of newly constructed or certain reconstructed homes, in order to promote home ownership by persons of moderate income, which will in turn create a positive climate for economic growth and attract future homeowners who might otherwise opt to live elsewhere.

For purposes of this Local Law:

A. "First-time homebuyer" means a person who has not owned a primary residential property

C. "Income" means the "adjusted gross income" for federal income tax purposes as reported on the applicant's latest available federal and state income tax return subject to any subsequent amendments or revisions, reduced by distributions, to the extent included in federal adjusted gross income, received from an individual retirement account and an individual retirement annuity; provided that if no such return was filed within the one year period preceding taxable status date, "income" shall mean the adjusted gross income that would have been so reported if such a return had been filed. For purposes of this subdivision, "latest available return" shall mean the federal or state income tax return for the year immediately preceding the date of making application, provided however, that if the tax return for such tax year has not been filed, then the income tax return for the tax year two years preceding the date of making application shall be considered the latest available.

D. "Newly constructed" means an improvement to real property which was constructed as a primary residential property, and which has never been occupied and was constructed after November 28, 2001. "Newly constructed" shall also mean that portion of a primary residential property that is altered, improved or reconstructed

E. "Primary residential property" means any one or two family house, townhouse or condominium located in the Town of Busti, outside the Village of Lakewood, which is owner occupied by such homebuyer.

F. The terms reconstruction, alteration and improvement shall not include ordinary maintenance and repairs.

A. Newly constructed primary residential property purchased by one or more persons, each of whom is a first-time homebuyer and has not been married to a homeowner in the three years prior to applying for this first-time homeowners exemption, shall be exempt from taxation levied by the Town of Busti. Such exemption shall be computed in accordance with the following table:

Percentage of Assessed

Year of Exemption Valuation Exempt from Tax

1 50

2 40

3 30

4 20

of the sale of the primary residence for reconstruction, alteration or improvements, the value of which exceeds three thousand dollars, to the primary residential property shall be exempt from

to this Local Law for that portion of the sales price of such newly constructed primary residential property equal to the maximum eligible sales price, provided, however, that any newly constructed primary residential property purchased at a sales price greater than fifteen percent above the maximum eligible sales price (or \$199,668.75) shall not be allowed any exemption.

D. No exemption shall be allowed pursuant to this Local Law for any newly constructed primary residential property purchased by a first-time homebuyer on or after December 31, 2005, unless such purchase is pursuant to a binding written contract entered into prior to December 31, 2005.

Provided, however, that any first-time homebuyer who is allowed an exemption pursuant to this section prior to such date shall continue to be allowed further exemptions pursuant to subdivision A of this section.

E. (1) No portion of a single family newly constructed primary residential property shall be leased during the period of time when the first-time homeowner exemption shall apply to the residence. If any portion of the single family newly constructed primary residential property is found to be the subject of a lease agreement the assessor shall discontinue any exemption granted pursuant to this Local Law.

(2) In the event that a primary residential property granted an exemption pursuant to this Local Law ceases to be used primarily for residential purposes or title thereto is transferred to other than the heirs or distributees of the owner, the exemption granted pursuant to this Local Law shall be discontinued.

(3) Upon determining that an exemption granted pursuant to this Local Law should be discontinued, the assessor shall mail a notice so stating to the owner or owners thereof at the time G. If satisfied that the applicant is entitled to an exemption pursuant to this Local Law, the assessor shall approve the application and such primary residential property shall thereafter be exempt from taxation and special ad valorem levies as provided in this section commencing with the assessment roll prepared on the basis of the taxable status date referred to in subdivision F of this section. The assessed value of any exemption granted pursuant to this Local Law shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

The making of any willful false statement in the application for an exemption under this Local Law shall be a violation thereof and a conviction for any such violation shall be punishable by a fine of not more than \$100.

Should any section, paragraph, sentence, clause or phrase of this Local Law be declared unconstitutional or unjust for any reason by a court of competent jurisdiction, the remainder of this Local Law shall not be affected thereby.

This Local Law shall take effect immediately.

**Section 1: Amendment**

Section 81-100—Tax Exemption to Certain Eligible Persons 65 Years of Age or More is hereby amended to read as follows:

**ARTICLE 81-100: TAX EXEMPTION TO CERTAIN ELIGIBLE PERSONS 65 YEARS OF AGE OR MORE**

**Section 81-101.**

From and after the effective date of this ordinance, all real property within the Town of Busti owned by any person or persons over sixty-five (65) years of age who shall otherwise qualify under Section 81-105 hereof, for the purpose of the Town Tax each year, shall be exempt to the extent of fifty percent (50%) of the assessed valuation thereof, as shown on the assessment roll for the Town for that year.

**Section 81-105.**

Persons qualifying for the exemption provided for in Section 81-101 hereof shall meet the following requirements:

- (a) All owners of real property for which exemption is sought shall be sixty-five (65) years of age or over unless such owner shall be husband and wife, in which event either of whom may be over such age of sixty-five.
- (b) All persons who shall file such application must have been the record owner of the title to the property for a period of at least five (5) years prior to the filing of such application as provided in Section 467(b) of the Real Property Tax Law.
- (c) The property for which such exemption is sought must be occupied in whole or in part by and be the legal residence of the owner or owners and it must be used exclusively for residential purposes.
- (d) All of the owners of such property shall have an income of \$12,000.00 or less for the twelve (12) month period preceding the date of application for the period from January 1, 2003, to December 31, 2003; an income of \$12,500 or less for the period of January 1, 2004 to December 31, 2004; an income of \$13,000 or less for the period of January 1, 2005 to December 31, 2005; an income of \$13,500 or less for the period of January 1, 2006 to December 31, 2006; an income of \$14,000 or less for the period

**Section 81-110.**

For the purpose of this ordinance the word "income" shall include all Social Security and retirement payments, interest, dividends, rental income, salaries, and other earnings, including income from self-employment. It does not, however, include gifts or inheritances received during the twelve (12) month period.

**Section 81-115.**

All applications filed under the provisions of this ordinance should be filed annually, on the forms provided by the Town Assessor. The application shall be filed with the Board of Assessors at least ninety (90) days before the final date for the filing of the Town Assessment Roll to be affected by the exemption sought under this ordinance.

**Section 81-120.**

All applications filed under the provisions of this ordinance must be filed annually with the assessor on or before the taxable status date. All such applications shall be filed in accordance with the provisions of Section 467 of the New York State Real Property Tax Law.

**Section 2. Effective Date**

This Local Law shall become effective on the date it shall be filed in the office of the Secretary of State.

**AMENDED 1/27/03**