

**Town of DeKalb**

**Local Law No. 3 of the year 2015**

**A Local Law** Providing a Partial Exemption from Taxation to Persons Sixty-Five (65) Years of Age or Older Pursuant to the Provisions of Section 467 of the Real Property Tax Law of the State of New York

**Be it enacted by the Town Board of the Town of DeKalb as follows:**

Section 1. Title.

This Local Law shall be known and cited as "A Local Law of the Town of DeKalb, County of St. Lawrence, State of New York, Providing a Partial Exemption from Taxation to Persons Sixty-Five Years of Age or Older Pursuant to the Provisions of Section 467 of the Real Property Tax Law of the State of New York".

Section 2. Exemption Provided.

a. Real property situate within the bounds of the Town of DeKalb, St. Lawrence County, New York, owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband and wife or siblings (i.e. a brother or sister, whether related through half blood, whole blood or adoption), one of whom is 65 years of age or over, shall be exempt from taxation for real estate taxes to be levied by the Town of DeKalb for the year 2016 and thereafter by the percentage of exemption specified for the annual income ranges listed below. Such exemption shall be based upon the assessed valuation of the exempt real property and shall be computed after all other partial exemptions allowed by law, excluding the School Tax Relief (STAR) exemption authorized by Section 425 of the Real Property Tax Law, have been subtracted from the total amount assessed.

Annual Income Amount	Exemption Percentage
\$14,000.00 or less	50%
\$14,001.00 to \$14,999.00	45%
\$15,000.00 to \$15,999.00	40%
\$16,000.00 to \$16,999.00	35%
\$17,000.00 to \$17,899.00	30%
\$17,900.00 to \$18,799.00	25%
\$18,800.00 to \$19,699.00	20%

b. Annual income shall include the income of the owner or the combined income of the owners of the property for the income year immediately preceding the date of making an application for exemption. Income tax year shall mean the twelve (12) 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 as provided in subparagraph (ii) of paragraph (d) of the subdivision, 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 or 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 real or personal property held for the production of income. Nor shall such income include veteran's disability compensation as defined in Title 38 of the United States Code.

c. The title of the property shall have been vested in the owner or one of the owners of the property for at least twelve (12) consecutive months prior to the date of making application for exemption, provided, however, that in the event of the death of either a 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 twelve (12) consecutive months. In the event of a transfer by either a husband or a 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 purpose of computing such period of twelve (12) consecutive months. In the event of a transfer by either a husband or a 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 purpose of computing such period of twelve (12) consecutive months. 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, 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 a residence is sold and replaced with another within one year and both residences are within the State, the

period of ownership of both properties shall be deemed consecutive for purposes of the exemption from taxation. 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 (9) months of the date of transfer shall be deemed to satisfy the requirements 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 twelve (12) 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 (9) months after such death, solely in 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 twelve (12) consecutive months shall be deemed satisfied.

d. 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.

e. The real 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: (1) an owner who is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in Section 2801 of the Public Health Law, and provided that any income accruing to that person shall only be income 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 (2) 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 due to divorce, legal separation or abandonment and all other provisions of this section are met, provided that where an exemption was previously granted when both resided on the property, then the person remaining on the property shall be 62 years of age or older.

### Section 3. Application for Exemption.

a. Application for such exemption must be made by the owner or all the owners of the property on forms to be furnished by the Town of DeKalb Assessor's Office; such applications shall furnish the information, and the forms are to be executed in the manner required or prescribed in such forms and shall be filed in such Assessor's Office on or before the date for hearing of complainants in the Town of DeKalb. Any person otherwise qualifying under the section shall not be denied the exemption under this section if he/she becomes 65 years of age after the appropriate taxable status date on or before December 31 of the same year.

b. At least sixty (60 ) days prior to the appropriate taxable status date, the assessor 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 be granted. The assessor shall, within three (3) days of the completion and filing of the tentative assessment roll, notify by mail any applicant who has included with this application at least one self-addressed, pre-paid envelope of the approval or denial of the application, provided however, that the assessor shall, upon the receipt and filing of the application, send mail notification of receipt to any applicant who has included two such envelopes with the application. Failure to mail any such application form or notices or the failure of such person to receive any of the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

c. Any person who has been granted exemption pursuant hereto on five (5) consecutive completed assessment rolls, including any years when the exemption was granted to a property owned by a husband and/or wife while both resided in such property, shall not be subject to the requirements set forth in paragraph b. of this section; however, said person shall be mailed an application form and a notice informing him/her of his/her rights. Such exemption shall automatically be granted on each subsequent assessment roll provided, however, that when tax payment is made by such person, a sworn affidavit must be included with such payment stating that such person continues to be eligible for such exemption. Such affidavit shall be on a form prescribed by the State Office of Real Property Services. If such affidavit is not included with the tax payment, the collecting officer shall proceed pursuant to Section 551-a of this chapter.

d. (1) Notwithstanding the provisions of subparagraph a of this section, where a person who meets the requirements for an exemption, pursuant to this ordinance, purchases property after the levy of taxes, such person may file an application for exemption to the assessor within thirty (30) days of the transfer of title to such person. The assessor shall make a determination of whether the parcel would have qualified for exempt status on the tax roll on which the taxes were levied, had title to the parcel been in the name of the applicant on the taxable status date applicable to the tax roll. The application shall be on a form prescribed by the State Office of Real Property Services. The assessor, no later than thirty (30) days after receipt of such application, shall notify both the applicant and the Board of Assessment Review, by first class mail, of the exempt amount, if any, and the right of the owner to a review of the exempt amount upon the filing of a written complaint. Such complaint shall be on a form prescribed by the Board of Assessment Review and shall be filed there within twenty (20) days of the mailing of this notice. If no complaint is received, the Board of Assessment Review shall so notify the assessor and the exempt amount determined by the assessor shall be final. If the applicant files a complaint, the Board of Assessment Review shall schedule a time and place for a hearing with respect thereto no later than thirty (30) days after the mailing of the notice by the assessor. The Board of Assessment Review shall meet and determine the exempt amount and shall



immediately notify the assessor and the applicant, by first class mail, of its determination. The amount of exemption determined pursuant to this paragraph shall be subject to review as provided in Article 7 of the Real Property Tax Law of the State of New York. Such a proceeding shall be commenced within thirty (30) days of the mailing of the notice of the Board of Assessment Review to the new owner as provided in this paragraph.

(2) Upon receipt of a determination of exempt amount as provided in subparagraph (1) of this paragraph, the assessor shall determine the pro-rata exemption to be credited toward such property by multiplying the tax rate or tax rates for each municipal corporation which levied taxes, or for which taxes were levied, on the appropriate tax roll used for the fiscal year or years during which the transfer occurred times the exempt amount, as determined in subparagraph (1) of this paragraph, times the fraction of each fiscal year or years remaining subsequent to the transfer of title. The assessor shall immediately transmit a statement of the pro-rata exemption credit due to each municipal corporation which levied taxes or for which taxes were levied on the tax roll used for the fiscal year or years during which the transfer occurred and to the applicant.

(3) Each municipal corporation which receives notice of pro-rata exemption credits pursuant to this subdivision shall include an appropriation in its budget for the next fiscal year equal to the aggregate amount of such credits to be applied in that fiscal year. Where a parcel, the owner of which is entitled to a pro-rata exemption credit, is subject to taxation in said next fiscal year, the receiver or collector shall apply the credit to reduce the amount of taxes owed for the parcel in such fiscal year. Pro-rata exemption credits in excess of the amount of taxes, if any, owed for the parcel shall be paid by the treasurer of the municipal corporation which levies such taxes for or on behalf of the municipal corporation to all owners of property entitled to such credits within thirty (30) days of the expiration of the warrant to collect taxes in said next fiscal year.

e. (1) Notwithstanding the provisions of paragraph a. of this section, where a person who meets the requirements for an exemption pursuant to this ordinance purchases property after the taxable status date, but prior to the levy of taxes, such person may file an application for an exemption to the assessor within thirty (30) days of the transfer of title to such person. The assessor shall make a determination within thirty (30) days after receipt of such application of whether the applicant would qualify for an exemption pursuant to this section on the assessment roll if title had been in the name of the applicant on the taxable status date applicable to such assessment roll. The application shall be made on a form prescribed by the State Office of Real Property Services.

(2) If the assessor's determination is made prior to the filing of the tentative assessment roll, the assessor shall enter the exempt amount, if any, on the tentative assessment roll and within ten (10) days after filing such roll, notify the applicant of the approval or denial of such exemption, the exempt amount, if any, and the applicant's right to review by the Board of Assessment Review.

(3) If the assessor's determination is made after the filing of the tentative assessment roll, the assessor shall petition the Board of Assessment Review to correct the tentative or final assessment roll in the manner provided in Title 3 of Article 5 of the Real Property Tax Law with respect to unlawful entries, in the case of wholly exempt parcels, and with respect to clerical errors, in the case of partially exempt parcels, if the assessor determines that an exemption should be granted and within ten (10) days of petitioning the Board of Assessment Review, notify the applicant of the approval or denial of such exemption, the amount of such exemption, if any, and the applicant's right to administrative or judicial review of such determination pursuant to Article 5 or Article 7 of the Real Property Tax Law, respectively.

f. If, for any reason, a determination to exempt property from taxation as provided in paragraph e. of this section is not entered on the final assessment roll, the assessor shall petition the Board of Assessment Review to correct the final assessment roll.

g. If, for any reason, the pro-rata tax credit as provided in paragraph d. of this section is not extended against the tax roll immediately succeeding the fiscal year during which the transfer occurred, the assessor shall immediately notify the municipal corporation which levied the tax or for which the taxes were levied of the amount of pro-rata exemption credits for the year in which such transfer occurred. Such municipal corporation shall proceed as provided in subparagraph (3) of paragraph d. of this section.

h. If, for any reason, a determination to exempt property from taxation as provided in paragraph e. of this section is not entered on the tax roll for the year immediately succeeding the fiscal year during which the transfer occurred, the assessor shall determine the pro-rata tax exemption credit for such tax roll by multiplying the tax rate or tax rates for each municipal corporation which levied taxes, or for which taxes were levied, times the exempt amount and shall immediately notify such municipal corporation or corporations of the pro-rata exemption credits for such tax roll. Such municipal corporation shall add such pro-rata exemption credits for such property to any outstanding pro-rata exemption amounts and proceed as provided in subparagraph (3) of paragraph d. of this section.

#### Section 4. Penalties.

The making of any willful false statement in the application for an exemption under this ordinance shall be a violation thereof, and a conviction for any such violation shall be punishable by a fine of not more than \$100.00 and shall disqualify the applicant or applicants from further exemption for a period of five years.

#### Section 5. Separability.

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 ordinance shall not be affected thereby.


#### Section 6. Inconsistency.

All resolutions, ordinances or Local Laws or portions thereof of the Town of DeKalb not consistent with this ordinance, in whole or in part, shall be repealed.

#### Section 7. Effective Date.

This Local Law shall take effect immediately upon filing with the New York State Secretary of State.

I hereby certify that the Local Law annexed hereto, designated as Local Law No. 3 of 2015, of the Town of DeKalb was duly passed by the Town Board on April 15, 2015, in accordance with the applicable provisions of law.


  
Barbara Creazzo, Clerk  
Town of DeKalb

(Seal)

Dated: 4/15/15

STATE OF NEW YORK            )  
  ) ss.:  
COUNTY OF ST. LAWRENCE)

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

  
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Charles B. Nash, Esq.  
Town Attorney  
Town of DeKalb

Dated: 4/15/15