Concerns of the Omnibus Property Tax Reform Consortium on The Executive Budget Proposed Tax Cuts

Numerous property tax reform groups, fiscal watchdogs and concerned citizens have been working to enact meaningful property tax reform and relief for years now. We are pleased to see the Governor is talking about linking property taxes to an individuals' income level and doing the same for renters. However, we have to seriously question some aspects of the proposal. Our concerns fall basically into four categories, with our proposed Solution as Part 5.

1) STRUCTURE OF CIRCUIT BREAKER PROPOSAL IS FLAWED

2) RENTER TAX RELIEF SHOULD BE INTEGRATED INTO THE CIRCUIT BREAKER

3) WHY A TEMPORARY PROPERTY TAX FREEZE?

4) CIRCUIT BREAKER SHOULD NOT BE LINKED TO CAP

5) SOLUTION TO PROVIDE MEANINGFUL, TARGETED TAX RELIEF TO PEOPLE THAT NEED IT MOST

Each of these is briefly discussed below.

STRUCTURE OF CIRCUIT BREAKER PROPOSAL IS FLAWED

The circuit breaker should be TARGETED in a way that provides MEANINGFUL relief to those most overburdened and at greatest risk of being forced from their homes, rather than distributed in relatively small amounts to large numbers of homeowners. The proposal fails miserably in this respect. The Governor's proposal, with its unusually low 3% income threshold, encompasses about half of NYS homeowners, but its unusually low 10%-20% credit percentage and $1000 credit limit give those homeowners very little relief. And, most unfortunate under this formula, the greater one's overburden the less meaningful the benefit. We can appreciate the politics which must have led to this decision, but how do we explain to those who are paying 10% or 20% (or more) of their income in property taxes on their home -- people with five figure incomes paying five figure tax bills -- those truly overwhelmed through no fault of their own -- that in most cases they will get no more relief than someone paying 3%? It's another sad case of good politics trumping good policy.

We're not complaining about the $1 Billion total. Although more will be needed as soon as possible, the $1 Billion could be a credible beginning if distributed rationally. The formula being employed to include as many households as possible might be understandable if we were starting from scratch to create a property tax relief program. But with STAR in place as the state's flagship relief system guaranteeing something to virtually everyone, (which together with the $350 "family rebate" check already costs nearly $4 Billion), this additional funding should be targeted to those truly overburdened. Formulas used in the Krueger-Engelbright bill (S3266-A5384) and the Galef-Little bill (S1002-A1941) are models for how this may be done. (See Appendix.)

We offer a suggestion. Apparently the proposal does not include a prior residency requirement, such as the five years prescribed in both the Krueger-Engelbright and Galef-Little bills. (Galef-Little actually started out with a ten year requirement.) We suggest that, while some will inevitably complain, most would probably accept such a requirement as reasonable since it does not preclude eligibility but only delays it. Those most in need of a circuit breaker, in general, are those who have been in their homes for many years, during which property taxes have had ample time to escalate and outstrip their incomes. Those who purchased their homes less than five years ago, in most cases, presumably could afford the taxes then existing, and in most cases would not be paying exorbitantly higher amounts during this relatively short period. In any event, as a matter of good public policy when fiscal resources are scarce, those who have already been paying outrageous portions of their income for many years (and have been waiting many years for relief) should have priority. A residency requirement could produce significant savings, enough to at least raise the credit limit -- which seems to be the most inequitable feature of the proposal when you start crunching numbers -- or perhaps raise some combination of the income percentage threshold(s), credit percentage(s), and credit limit.

RENTER TAX RELIEF SHOULD BE INTEGRATED INTO THE CIRCUIT BREAKER

We commend the Governor for his interest in extending relief to overburdened renters as well as homeowners through a renter tax credit. We urge that the tax credit be structured as part of the new circuit breaker -- the usual practice in most of the 30 or so states that have circuit breakers.

Tenants pay property taxes through their rents, an estimated 20 percent of the contract rent. This "property tax equivalent" becomes part of the circuit breaker calculation, which most meaningfully measures one's tax burden.

Low-income renters across the state face a worsening rent affordability crisis. A study by the Community Service Society* found that in 2005 the statewide median gross rent burden for low-income renters was 57 percent of household income. In nearly half of the State's counties—28 out of 62—the median rent burden was over 50 percent.

We urge that funding for the proposed cost of the Governor's independent renter tax credit be added instead to the new circuit breaker (with the modifications recommended above) and be dedicated to targeting significant benefits to lower income tenants who are most in need. Such an approach should replace and vastly improve New York's current, outmoded, obsolescent Real Property Circuit Breaker Tax Credit, which presently excludes two-thirds of low-income New Yorkers who rent.

*See: *Shorted Renters: Circuit Breaker Property Tax Relief for Low-Income Renters,* Community Service Society, January 2009. A low-income household is defined as having an income within twice the federal poverty level—about $35,000 for a family of three. _"http://www.cssny.org/publications/entry/shorted-renters-circuit-breaker-property-tax-reliefJan2009

WHY A TEMPORARY PROPERTY TAX FREEZE, WHICH FURTHER DELAYS THE ALREADY OVERDUE CIRCUIT BREAKER? (AND THERE'S A BROADER ISSUE)

We question the policy merit of the proposed two year property tax freeze for homeowners, seemingly designed mainly as a way to jawbone local governments and school districts into cost savings through consolidation or sharing services. While such cost savings are important, we wish at least equal attention would be paid to the continuing costs of unfunded state and federal mandates. In any event, if we're talking about property tax relief, the long overdue circuit breaker is clearly a more urgent need than an across-the board freeze and should be fully funded immediately, with the modifications suggested above. As noted earlier, the nearly $3.5 Billion STAR program is already in place to provide modest aid to virtually every homeowner regardless of need, along with the $350 "family rebate checks" costing another $400 million-plus. With resources still scarce, it is unreasonable from a policy standpoint to delay fully funding the need-based circuit breaker to give additional tax breaks to all STAR homeowners. The freeze will also take valuable resources from struggling schools and local governments while providing wealthy homeowners bigger rebates than working class homeowners (example: Owner of $5 million home gets $6,040 over two years, while owner of $250,000 home gets $302, per chart below.)

Owners of More Expensive Homes Will Receive Larger Rebates Under the Freeze Proposal

	HOME A	HOME B
TAXABLE FULL VALUE ASSESSMENT AFTER EXEMPTIONS	$250,000	$5,000,000
BASE YEAR TAX BILL @ $20/$1000 ASSESSED VALUE	$ 5,000	$100,000
YEAR 1 TAX BILL (2% TAX LEVY INCREASE)	5,100	102,000
YEAR 2 TAX BILL (2% INCREASE OVER YEAR ONE TAX LEVY)	5,202	104,040
TOTAL REBATE OVER TWO YEARS (ASSUMING ALL MUNICIPAL CONDITIONS ARE MET IN BOTH YEARS):	$302	$ 6,040

(NOTE: If the municipality fails in either one of the two years to meet the conditions imposed by the legislation, the homeowner will lose approximately two thirds of the total rebate that would otherwise be payable per the above chart. Additionally, in "Year 3", following the two years of the freeze, the tax bill for the $250,000 homeowner would be $5306, whether or not he has received a full rebate per the chart above. If he has received a full rebate, he will now face a non-rebatable $306 tax increase (or 6.12%) over what he paid in the base year and over what he actually paid during each of the two years of the freeze.)

While the "temporary freeze" is not the solution, it is clear that the role of the property tax in funding services in New York State has reached levels that have made it the people's choice as our most burdensome tax. It is also inherently the least equitable, starting with the flawed presumption that an increase in one's property value denotes an ability to pay more taxes. And this is the tax hitting hardest at the middle/working class, contributing to its decline and to a level of income inequality not seen since the eve of the Great Depression, with our state at the top of the list nationally. As the Governor commendably points out, we now collect some $50 Billion in property tax, compared to $40 Billion from the income tax. This needs to change. And for that to happen the state's taxation and fiscal policies need to change. And they need to change in a direction that will systematically and permanently lower property taxes for everyone who pays them, by gradually reducing the continuing overuse of this anachronistic system for schools and other local governments. And to do that the state must play a significantly enhanced funding role going forward, more in line with its constitutional obligations and 21st century realities. This underlying need for systemic, permanent funding reform rather than temporary gimmicks like the freeze -- and how to get there -- should be on the minds of all of us, regardless of current or future fiscal constraints, as we consider this budget and the future of our state.

WHATEVER HAPPENS WITH THE PROPOSED FREEZE, THE CIRCUIT BREAKER SHOULD NOT BE LINKED TO THE TAX CAP

In addition to our arguments above, and whatever may eventuate with the proposed freeze, we strongly urge that the circuit breaker NOT be linked to the property tax cap.

To fully appreciate our position, one needs to fully understand the circuit breaker, and misconceptions abound. We hear concerns, for example, about "regional equity" and how to make the circuit breaker "fair" to school districts and municipalities statewide. But schools and municipalities don't pay taxes, they collect them. Taxes are paid by individual households, one at a time, and the unique, irreplaceable feature of the circuit breaker as a form of property tax relief is that the eligibility and benefit amount is calculated for EACH INDIVIDUAL TAXPAYER based on his REAL INDIVIDUAL BURDEN, measured by his tax bill and the income available to pay it, rather than on some notional "average" or "median" burden in a given taxing jurisdiction. It's truly a "bottom up" system of property tax relief. If you're paying 10% or 20% of your income in property tax on your home, whether you live in Bronxville, Boonville, Binghamton or Buffalo, you've got a problem, and you need some help. How that shakes out by school, municipality or region should not matter, as far as "tax fairness" is concerned.. Only politically does it somehow become an issue.

Continuing this thread, we hear of "wealthy" communities and school districts and assume "those people" won't need as much circuit breaker relief as those at the other end of the spectrum. And indeed fewer taxpayers in those communities may qualify as a percentage of the total. But some of our most struggling property taxpayers live in such communities, in which a solid majority of the residents are either relatively affluent or otherwise willing and able to support spending and tax levels which are forcing more and more of the struggling minority out of their homes. And the smaller that minority, the worse off they are – without the lifeline of a circuit breaker. **The reality is that, in virtually any community, those taxpayers struggling the most – and who by definition most need a circuit breaker -- have no control over the community's demographics and will likely never be able by themselves to achieve the 40% voting strength to block an override of the tax cap. Losing their circuit breaker lifeline due to an override they can't defeat would be an unconscionable injustice and worsen their situation.**

And that's why the circuit breaker should be decoupled from the tax cap.

More broadly, there is an unfortunate perception among some fiscal conservatives that providing a circuit breaker without making the tax cap effectively mandatory would lead to higher budgets and more overrides. This may have contributed to the decision to link the circuit breaker to the tax cap. At least some of their concern is based on the experience with STAR, which does appear to have impacted budgets along with its other flaws. It's important to recognize that the circuit breaker is structured very differently, with features designed to significantly reduce the potential for such budgetary impact. These include: 1) In contrast to STAR, which benefits virtually every homeowner, the circuit breaker only benefits those most overburdened, so many homeowners will not qualify; 2) With STAR, large numbers of beneficiaries pay no school tax or just a token amount. In contrast, the circuit breaker beneficiary continues to pay a higher percentage of his income in property tax than those homeowners who do not benefit; (no one gets a "free ride".) Instead of getting a credit for the entire amount over the income percentage threshold, he is reimbursed for only a portion of that amount as a credit, paying the remainder himself, which effectively constitutes a "co-pay". That keeps circuit breaker beneficiaries interested in controlling budgets. 3) In contrast to STAR, where the tax reduction is already included in the bill, the circuit breaker beneficiary pays his full taxes up front, and only later applies for the income tax credit. Thus he is well aware of the amount of the full tax and how it increases annually, even with the benefit; and, 4) With STAR, everyone knows what the benefit is in each jurisdiction, and how many qualify, making it easy for the taxing entity, if so inclined, to calculate the total amount of relief and take that into consideration in designing a budget. In contrast the circuit breaker is handled as a NYS Income Tax Credit confidentially between the individual taxpayer and the NYS Tax Department. There should be no routine local involvement or knowledge by local officials of the names and numbers of those qualifying for a circuit breaker credit, or in what amounts.

SOLUTION: ELIMINATE THE PROPOSED FREEZE AND REPLACE IT WITH IMMEDIATE TARGETED RELIEF THROUGH A MODIFIED CIRCUIT BREAKER THAT INCORPORATES HOMEOWNERS AND RENTERS AND IS BASED ON NEED

No matter how you slice it, the "freeze" is not a logical use of $1 billion, especially if the goal is to reduce the burden of the property tax on individuals. Rather than proposing to replace just the Governor's proposed circuit breaker with a better circuit breaker, we would propose to replace:

(1) the Governor's proposed Circuit Breaker that has a $1,000 Maximum credit and costs $1 Billion when fully phased in after the two-year freeze;

(2) the Governor's proposed renters credit ($410 million annually);

(3) the Governor's proposed property tax freeze ($1 billion) and;

(4) the $350 "flat amount credits" for families with children in 2014, 2015 and 2016 ($410 million a year for three years – Governor proposes to turn this into an income tax credit post 2014 Election – could be incorporated into Circuit Breaker in second year).

with a **meaningful circuit breaker** that covers both homeowners and renters in a fair, even-handed and effectively targeted manner and that includes a 5-year residency requirement and a $5,000 maximum credit.

The Circuit Breaker/Renter bill would be phased in over three years in order to take the state's fiscal situation into consideration while ensuring that the most overburdened property taxpayers – based on the percentage of income they are paying in property tax on their home – will get as much relief as possible as quickly as possible.

During the first year, 2015, resident homeowners with household income of $100,000 or less who have lived in their homes for at least five years will be eligible for an income tax credit equal to 70% of the amount by which the total ad valorem taxes on their home exceeds 9% of their household income.

Ad valorem taxes, in this case, are any taxes based on the value of one's home. These include all taxes levied by school districts, counties, towns, villages, and fire districts, as well as any special districts, as long as the tax is based on the assessed value of the home. Taxes levied on everyone in equal amounts (such as those for water and sewer in most cases) are "non ad valorem" and are not included.

Implementation Schedule

Calendar Year	Household Income	Property tax threshold as % of Household Income	Credit Percentage
2015-2016	$100,000 or less	9%	70%
2016-2017	$100,000 or less $150,000 or less	7.5% 8.5%	70%
2017 and beyond	$100,000 or less $150,000 or less $200,000 or less	6% 7% 8%	70%

EXAMPLE (under our proposal):

2015:

Household income = $50,000

Taxes paid on home = $7000

$50,000 x 9% = $4500
(The threshold to qualify for credit); (The difference (i.e., the excess over the 9%, also known as the "overage" , or "overload") = $2500

70% of Difference = $1750, the amount of the income tax credit

Household income = $50,000

Taxes paid on home = $10,000

$50,000 x 9% = $4500
; Difference (i.e., the excess over the 9%) = $6500

70% of Difference = $4,550 the amount of the income tax credit

2016:

Household income = $120,000

Taxes paid on home = $12,000

$100,000 x 7.5% = $7500

$ 20,000 x 8.5% = $1700

Total $7500 + $1700 = $9200
(Threshold)

Difference (i.e. the excess over $9200) = $2800

70% of Difference = $1960, the amount of the income tax credit

Cuomo Plan:

Calendar Year	Household Income	Property Tax Threshold as a percentage of Household Income	Credit Percentage
2016 and beyond	$120,000 or less	3%	20%
	$120,000 to $150,000	4%	15%
	$150,000 to $200,000	5%	10%

Example:

Household income = $50,000

Taxes paid on home = $7000

$50,000 x 3% = $1500 (Threshold);
Difference (i.e., the excess over the 3%) = $5500

20% of Difference = $1,100 the amount of the income tax credit

but individual gets $1,000 maximum credit

Household income = $50,000

Taxes paid on home = $10,000

$50,000 x 3% = $1500 Threshold);
Difference (i.e., the excess over the 3%) = $8500

20% of Difference = $1,700 the amount of the income tax credit (but individual gets $1,000 maximum credit)

Household income = $120,000

Taxes paid on home = $12,000

$120,000 x 3% = $3,600

Difference (i.e. the excess over $3,600) = $8,400 Threshold

20% of Difference = $1680 the amount of the income tax credit (but individual gets $1,000 maximum credit)

FOR THE OMNIBUS PROPERTY TAX REFORM CONSORTIUM:

John Whiteley
Legislative Affairs Officer
NYS Property Tax Reform Coalition