

4544

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 6, 2013

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Introduced by M. of A. CUSICK, COLTON, ENGLEBRIGHT -- read once and referred to the Committee on Veterans' Affairs

AN ACT to amend the real property tax law, in relation to establishing an exemption for permanently totally disabled veterans

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The real property tax law is amended by adding a new  
2     section 458-c to read as follows:

3     S 458-C. EXEMPTION FOR PERMANENTLY TOTALLY DISABLED VETERANS. 1. AS  
4     USED IN THIS SECTION:

5     (A) "VETERAN" MEANS A PERSON WHO SERVED IN THE ACTIVE MILITARY, NAVAL  
6     OR AIR SERVICE DURING A PERIOD OF WAR, OR WHO WAS A RECIPIENT OF THE  
7     ARMED FORCES EXPEDITIONARY MEDAL, NAVY EXPEDITIONARY MEDAL, MARINE CORPS  
8     EXPEDITIONARY MEDAL, OR GLOBAL WAR ON TERRORISM EXPEDITIONARY MEDAL, AND  
9     WHO WAS DISCHARGED OR RELEASED THEREFROM UNDER HONORABLE CONDITIONS.

10    (B) "PERIOD OF WAR" MEANS THE SPANISH-AMERICAN WAR; THE MEXICAN BORDER  
11    PERIOD; WORLD WAR I; WORLD WAR II; THE HOSTILITIES, KNOWN AS THE KOREAN  
12    WAR, WHICH COMMENCED JUNE TWENTY-SEVENTH, NINETEEN HUNDRED FIFTY AND  
13    TERMINATED ON JANUARY THIRTY-FIRST, NINETEEN HUNDRED FIFTY-FIVE; THE  
14    HOSTILITIES, KNOWN AS THE VIETNAM WAR, WHICH COMMENCED FEBRUARY TWENTY-  
15    EIGHTH, NINETEEN HUNDRED SIXTY-ONE AND TERMINATED ON MAY SEVENTH, NINE-  
16    TEEN HUNDRED SEVENTY-FIVE; AND THE HOSTILITIES, KNOWN AS THE PERSIAN  
17    GULF CONFLICT, WHICH COMMENCED AUGUST SECOND, NINETEEN HUNDRED NINETY.

18    (C) "SERVICE CONNECTED" MEANS, WITH RESPECT TO DISABILITY OR DEATH,  
19    THAT SUCH DISABILITY WAS INCURRED OR AGGRAVATED, OR THAT DEATH RESULTED  
20    FROM DISABILITY INCURRED OR AGGRAVATED, IN LINE OF DUTY IN THE ACTIVE  
21    MILITARY, NAVAL OR AIR SERVICE.

22    (D) "PERMANENTLY TOTALLY DISABLED" AND "PERMANENT TOTAL DISABILITY"  
23    MEANS THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR THE MILITARY  
24    SERVICE FROM WHICH THE VETERAN WAS DISCHARGED HAS RATED THE DISABILITY  
25    AT ONE HUNDRED PERCENT OR HAS RATED THE DISABILITY COMPENSATION AT ONE

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD08116-01-3

1 HUNDRED PERCENT BY REASON OF BEING UNABLE TO SECURE OR FOLLOW A SUBSTAN-  
2 TIALY GAINFUL EMPLOYMENT. THE PERMANENT LOSS OR LOSS OF USE OF BOTH  
3 HANDS, OR OF BOTH FEET, OR OF ONE HAND AND ONE FOOT, OR OF THE SIGHT OF  
4 BOTH EYES, OR BECOMING PERMANENTLY HELPLESS OR BEDRIDDEN ARE CONSIDERED  
5 PERMANENT TOTAL DISABILITIES. BEING BLIND IN BOTH EYES MEANS HAVING A  
6 VISUAL ACUITY OF 5/200 OR LESS, OR CONCENTRIC CONTRACTION OF THE VISUAL  
7 FIELD TO FIVE DEGREES OR LESS. LOSING THE USE OF A HAND OR FOOT MEANS  
8 THAT THE HAND OR FOOT HAS BEEN AMPUTATED OR ITS USE HAS BEEN LOST BY  
9 REASON OF ANKYLOSIS, PROGRESSIVE MUSCULAR DYSTROPHIES, OR PARALYSIS.

10 (E) "QUALIFIED OWNER" MEANS A VETERAN WITH A SERVICE-CONNECTED PERMA-  
11 NENT TOTAL DISABILITY FOR WHOM A LETTER FROM THE UNITED STATES GOVERN-  
12 MENT OR UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR ITS PREDECESSOR  
13 HAS BEEN ISSUED CERTIFYING THAT THE VETERAN HAS A PERMANENT TOTAL DISA-  
14 BILITY.

15 (F) "QUALIFIED RESIDENTIAL REAL PROPERTY" MEANS PROPERTY OWNED BY A  
16 QUALIFIED OWNER WHICH IS USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES;  
17 PROVIDED, HOWEVER, THAT IN THE EVENT THAT ANY PORTION OF SUCH PROPERTY  
18 IS NOT USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES, BUT IS USED FOR OTHER  
19 PURPOSES, SUCH PORTION SHALL BE SUBJECT TO TAXATION AND THE REMAINING  
20 PORTION ONLY SHALL BE ENTITLED TO THE EXEMPTION PROVIDED BY THIS  
21 SECTION. SUCH PROPERTY MUST BE THE PRIMARY RESIDENCE OF THE PERMANENTLY  
22 TOTALLY DISABLED VETERAN UNLESS SUCH VETERAN IS ABSENT FROM THE PROPERTY  
23 DUE TO MEDICAL REASONS OR INSTITUTIONALIZATION.

24 2. (A) THE GOVERNING BODY OF ANY CITY, TOWN OR VILLAGE IS HEREBY  
25 AUTHORIZED AND EMPOWERED TO ADOPT, AFTER PUBLIC HEARING, IN ACCORDANCE  
26 WITH THE PROVISIONS OF THIS SECTION, A LOCAL LAW, ORDINANCE OR RESOL-  
27 UTION PROVIDING THAT QUALIFIED RESIDENTIAL REAL PROPERTY OWNED BY A  
28 PERMANENTLY TOTALLY DISABLED VETERAN SHALL BE EXEMPT FROM TAXATION.

29 (B)(I) THE EXEMPTION FROM TAXATION PROVIDED BY THIS SUBDIVISION SHALL  
30 BE APPLICABLE TO COUNTY, CITY, TOWN AND VILLAGE TAXATION, BUT SHALL NOT  
31 BE APPLICABLE TO TAXES LEVIED FOR SCHOOL PURPOSES.

32 (II) IF A PERMANENTLY TOTALLY DISABLED VETERAN RECEIVES AN EXEMPTION  
33 UNDER SECTION FOUR HUNDRED FIFTY-EIGHT, FOUR HUNDRED FIFTY-EIGHT-A OR  
34 FOUR HUNDRED FIFTY-EIGHT-B OF THIS TITLE, THE PERMANENTLY TOTALLY DISA-  
35 BLED VETERAN SHALL NOT BE ELIGIBLE TO RECEIVE THE EXEMPTION UNDER THIS  
36 SECTION.

37 3. APPLICATION FOR SUCH EXEMPTION SHALL BE MADE ANNUALLY BY THE OWNER,  
38 OR ALL OF THE OWNERS, OF THE PROPERTY ON FORMS PRESCRIBED BY THE DEPART-  
39 MENT AND SHALL BE FILED IN THE ASSESSOR'S OFFICE ON OR BEFORE THE APPRO-  
40 PRIATE TAXABLE STATUS DATE; PROVIDED, HOWEVER, PROOF OF A PERMANENT  
41 TOTAL DISABILITY, PURSUANT TO PARAGRAPH (D) OF SUBDIVISION ONE OF THIS  
42 SECTION NEED BE SUBMITTED ONLY IN THE YEAR EXEMPTION PURSUANT TO THIS  
43 SECTION IS FIRST SOUGHT OR THE DISABILITY IS FIRST DETERMINED TO BE  
44 PERMANENT.

45 4. ANY APPLICANT CONVICTED OF MAKING ANY WILLFUL FALSE STATEMENT IN  
46 THE APPLICATION FOR SUCH EXEMPTION SHALL BE SUBJECT TO THE PENALTIES  
47 PRESCRIBED IN THE PENAL LAW.

48 5. A LOCAL LAW ADOPTED PURSUANT TO THIS SECTION MAY BE REPEALED BY THE  
49 GOVERNING BODY OF THE APPLICABLE COUNTY, CITY, TOWN, OR VILLAGE. SUCH  
50 REPEAL SHALL OCCUR AT LEAST NINETY DAYS PRIOR TO THE TAXABLE STATUS DATE  
51 OF SUCH COUNTY, CITY, TOWN, OR VILLAGE.

52 6. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY, THE  
53 PROVISIONS OF THIS SECTION SHALL APPLY TO ANY REAL PROPERTY HELD IN  
54 TRUST SOLELY FOR THE BENEFIT OF A PERSON OR PERSONS WHO WOULD OTHERWISE  
55 BE ELIGIBLE FOR A REAL PROPERTY TAX EXEMPTION, PURSUANT TO THIS SECTION,  
56 WERE SUCH PERSON OR PERSONS THE OWNER OR OWNERS OF SUCH REAL PROPERTY.

1 7. (A) FOR THE PURPOSE OF THIS SECTION, TITLE TO THE PORTION OF REAL  
2 PROPERTY OWNED BY A COOPERATIVE APARTMENT CORPORATION IN WHICH A  
3 TENANT-STOCKHOLDER OF SUCH CORPORATION RESIDES AND WHICH IS REPRESENTED  
4 BY HIS OR HER SHARE OR SHARES OF STOCK IN SUCH CORPORATION AS DETERMINED  
5 BY ITS OR THEIR PROPORTIONAL RELATIONSHIP TO THE TOTAL OUTSTANDING STOCK  
6 OF THE CORPORATION, INCLUDING THAT OWNED BY THE CORPORATION SHALL BE  
7 DEEMED TO BE VESTED IN SUCH TENANT-STOCKHOLDER.

8 (B) PROVIDED THAT ALL OTHER ELIGIBILITY CRITERIA OF THIS SECTION HAS  
9 BEEN MET, THAT PROPORTION OF THE ASSESSMENT OF SUCH REAL PROPERTY OWNED  
10 BY A COOPERATIVE APARTMENT CORPORATION DETERMINED BY THE RELATIONSHIP OF  
11 SUCH REAL PROPERTY VESTED IN SUCH TENANT-STOCKHOLDER TO SUCH REAL PROP-  
12 erty OWNED BY SUCH COOPERATIVE APARTMENT CORPORATION IN WHICH SUCH  
13 TENANT-STOCKHOLDER RESIDES SHALL BE SUBJECT TO EXEMPTION FROM TAXATION  
14 PURSUANT TO THIS SECTION AND ANY EXEMPTION SO GRANTED SHALL BE CREDITED  
15 BY THE APPROPRIATE TAXING AUTHORITY AGAINST THE ASSESSED VALUATION OF  
16 SUCH REAL PROPERTY; THE REDUCTION IN REAL PROPERTY TAXES REALIZED THERE-  
17 BY SHALL BE CREDITED BY THE COOPERATIVE APARTMENT CORPORATION AGAINST  
18 THE AMOUNT OF SUCH TAXES OTHERWISE PAYABLE BY OR CHARGEABLE TO SUCH  
19 TENANT-STOCKHOLDER.

20 (C) NOTWITHSTANDING PARAGRAPH (B) OF THIS SUBDIVISION, A TENANT-STOCK-  
21 HOLDER WHO RESIDES IN A DWELLING THAT IS SUBJECT TO THE PROVISIONS OF  
22 ARTICLE TWO, FOUR, FIVE OR ELEVEN OF THE PRIVATE HOUSING FINANCE LAW  
23 SHALL NOT BE ELIGIBLE FOR AN EXEMPTION PURSUANT TO THIS SECTION.

24 (D) NOTWITHSTANDING PARAGRAPH (B) OF THIS SUBDIVISION, REAL PROPERTY  
25 OWNED BY A COOPERATIVE CORPORATION MAY BE EXEMPT FROM TAXATION PURSUANT  
26 TO THIS SECTION BY A MUNICIPALITY IN WHICH SUCH PROPERTY IS LOCATED ONLY  
27 IF THE GOVERNING BODY OF SUCH MUNICIPALITY, AFTER A PUBLIC HEARING,  
28 ADOPTS A LOCAL LAW, ORDINANCE OR RESOLUTION PROVIDING THEREFOR.

29 S 2. This act shall take effect on the first of January next succeed-  
30 ing the date on which it shall have become a law and shall apply to  
31 assessment rolls prepared on the basis of taxable status dates occurring  
32 on or after such date.