

10596

I N A S S E M B L Y

April 8, 2010

Introduced by M. of A. CASTELLI, PAULIN -- read once and referred to the
Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to exempting
certain construction, reconstruction, alteration or improvement of
multiple dwelling buildings within certain cities from taxation and
other assessments

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

1 Section 1. The real property tax law is amended by adding a new
2 section 421-l to read as follows:

3 S 421-L. EXEMPTION OF CERTAIN CONSTRUCTION OR IMPROVEMENTS IN CERTAIN
4 CITIES. 1. NEW CONSTRUCTION OF A MULTIPLE DWELLING BUILDING, RECON-
5 STRUCTION, ALTERATION, OR IMPROVEMENT OF A PREEXISTING MULTIPLE DWELLING
6 BUILDING OR STRUCTURE WHICH IS TO BE OCCUPIED OR IS OCCUPIED AS A RESI-
7 DENCE OR HOME AND CONSISTS OF NO LESS THAN FOUR UNITS, WHETHER SUCH
8 DWELLING IS RENTED OR OWNED AS A COOPERATIVE OR CONDOMINIUM, AND IS
9 LOCATED IN ANY CITY HAVING A POPULATION OF MORE THAN FIFTY-THREE THOU-
10 SAND SEVENTY BUT LESS THAN FIFTY-THREE THOUSAND ONE HUNDRED AS DETER-
11 MINED BY THE TWO THOUSAND FEDERAL DECENNIAL CENSUS SHALL BE EXEMPT FROM
12 TAXATION OTHER THAN ASSESSMENTS FOR LOCAL IMPROVEMENTS, TO THE EXTENT
13 PROVIDED IN THIS SECTION. AFTER A PUBLIC HEARING, THE GOVERNING BOARD OF
14 SUCH CITY MAY ADOPT A LOCAL LAW TO GRANT THE EXEMPTION AUTHORIZED PURSU-
15 ANT TO THIS SECTION. A COPY OF SUCH LOCAL LAW SHALL BE FILED WITH THE
16 STATE BOARD AND THE ASSESSOR OF SUCH CITY WHO PREPARES THE ASSESSMENT
17 ROLL ON WHICH THE TAXES OF SUCH CITY ARE LEVIED.

18 2. (A) EXCEPT AS OTHERWISE PROVIDED HEREIN, SUCH BUILDINGS WITHIN SUCH
19 CITY SHALL BE EXEMPT DURING THE PERIOD OF CONSTRUCTION OR FOR A PERIOD
20 OF THREE YEARS IMMEDIATELY FOLLOWING THE COMMENCEMENT OF CONSTRUCTION,
21 WHICHEVER OCCURS EARLIER, AND THEN FOR A PERIOD OF ELEVEN YEARS THERE-
22 AFTER, TO THE EXTENT OF ONE HUNDRED PERCENT OF THE INCREASE IN ASSESSED
23 VALUE ATTRIBUTABLE TO SUCH CONSTRUCTION, RECONSTRUCTION, ALTERATION OR
24 IMPROVEMENT, AND FOR AN ADDITIONAL PERIOD OF FOUR YEARS AS PROVIDED
25 BELOW AND, SUBJECT, IN EACH CASE, TO THE FOLLOWING:

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

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1 (I) FOLLOWING SUCH ELEVEN YEAR PERIOD, THE EXTENT OF SUCH EXEMPTION
2 SHALL BE DECREASED BY TWENTY PERCENT OF THE "EXEMPTION BASE" EACH YEAR
3 DURING SUCH ADDITIONAL FOUR YEAR PERIOD. THE "EXEMPTION BASE" SHALL BE
4 THE INCREASE IN ASSESSED VALUE AS DETERMINED IN THE INITIAL YEAR OF THE
5 TERM OF THE EXEMPTION, EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
6 PARAGRAPH.

7 (II) IN ANY YEAR IN WHICH A CHANGE IN LEVEL OF ASSESSMENT OF FIFTEEN
8 PERCENT OR MORE IS CERTIFIED FOR A FINAL ASSESSMENT ROLL PURSUANT TO THE
9 RULES OF THE STATE BOARD, THE EXEMPTION BASE SHALL BE MULTIPLIED BY A
10 FRACTION, THE NUMERATOR OF WHICH SHALL BE THE TOTAL ASSESSED VALUE OF
11 THE PARCEL ON SUCH FINAL ASSESSMENT ROLL (AFTER ACCOUNTING FOR ANY PHYS-
12 ICAL OR QUANTITY CHANGES TO THE PARCEL SINCE THE IMMEDIATELY PRECEDING
13 ASSESSMENT ROLL), AND THE DENOMINATOR OF WHICH SHALL BE THE TOTAL
14 ASSESSED VALUE OF THE PARCEL ON THE IMMEDIATELY PRECEDING FINAL ASSESS-
15 MENT ROLL. THE RESULT SHALL BE THE NEW EXEMPTION BASE. THE EXEMPTION
16 SHALL THEREUPON BE RECOMPUTED TO TAKE INTO ACCOUNT THE NEW EXEMPTION
17 BASE, NOTWITHSTANDING THE FACT THAT THE ASSESSOR RECEIVES CERTIFICATION
18 OF THE CHANGE IN LEVEL OF ASSESSMENT AFTER THE COMPLETION, VERIFICATION
19 AND FILING OF THE FINAL ASSESSMENT ROLL. IN THE EVENT THE ASSESSOR DOES
20 NOT HAVE CUSTODY OF THE ROLL WHEN SUCH CERTIFICATION IS RECEIVED, THE
21 ASSESSOR SHALL CERTIFY THE RECOMPUTED EXEMPTION TO THE LOCAL OFFICERS
22 HAVING CUSTODY AND CONTROL OF THE ROLL, AND SUCH LOCAL OFFICERS ARE
23 HEREBY DIRECTED AND AUTHORIZED TO ENTER THE RECOMPUTED EXEMPTION CERTI-
24 FIED BY THE ASSESSOR ON THE ROLL. THE ASSESSOR SHALL GIVE WRITTEN NOTICE
25 OF SUCH RECOMPUTED EXEMPTION TO THE PROPERTY OWNER, WHO MAY, IF HE OR
26 SHE BELIEVES THAT THE EXEMPTION WAS RECOMPUTED INCORRECTLY, APPLY FOR A
27 CORRECTION IN THE MANNER PROVIDED BY TITLE THREE OF ARTICLE FIVE OF THIS
28 CHAPTER FOR THE CORRECTION OF CLERICAL ERRORS.

29 (B) NO SUCH EXEMPTION SHALL BE GRANTED FOR CONSTRUCTION, RECON-
30 STRUCTION, ALTERATIONS OR IMPROVEMENTS UNLESS:

31 (I) SUCH CONSTRUCTION, RECONSTRUCTION, ALTERATION OR IMPROVEMENT WAS
32 COMMENCED SUBSEQUENT TO THE EFFECTIVE DATE OF THE LOCAL LAW ADOPTED
33 PURSUANT TO SUBDIVISION ONE OF THIS SECTION BY SUCH CITY; AND

34 (II) THE VALUE OF THE CONSTRUCTION, RECONSTRUCTION, ALTERATION OR
35 IMPROVEMENT EXCEEDS, ON AVERAGE, FIFTEEN THOUSAND DOLLARS PER DWELLING
36 UNIT; AND

37 (III) THE CONSTRUCTION, RECONSTRUCTION, ALTERATION OR IMPROVEMENT IS
38 FINANCED IN WHOLE OR IN PART BY THE CITY, OR, WITH THE APPROVAL OF THE
39 GOVERNING BODY OF THE CITY, BY THE LOCAL URBAN RENEWAL AGENCY, THE LOCAL
40 HOUSING AUTHORITY OR ANOTHER PUBLIC BENEFIT CORPORATION; AND

41 (IV) EITHER THE CITY, THE LOCAL URBAN RENEWAL AGENCY, THE LOCAL HOUS-
42 ING AUTHORITY OR ANOTHER PUBLIC BENEFIT CORPORATION HAS IMPOSED A
43 REQUIREMENT OR HAS CERTIFIED THAT TWENTY PERCENT OF THE UNITS BE AFFORD-
44 ABLE TO FAMILIES OF LOW AND MODERATE INCOME, FOR SUCH PERIOD AND UNDER
45 SUCH CONDITIONS AS MAY BE ESTABLISHED FROM TIME TO TIME BY THE CITY
46 PURSUANT TO A LOCAL LAW.

47 (C) FOR PURPOSES OF THIS SECTION THE TERMS CONSTRUCTION, RECON-
48 STRUCTION, ALTERATION AND IMPROVEMENT SHALL NOT INCLUDE ORDINARY MAINTEN-
49 NANCE AND REPAIRS.

50 3. SUCH EXEMPTION SHALL BE GRANTED ONLY UPON APPLICATION BY THE OWNER
51 OF SUCH BUILDING ON A FORM PRESCRIBED BY THE STATE BOARD. THE APPLICA-
52 TION SHALL BE FILED WITH THE ASSESSOR OF SUCH CITY ON OR BEFORE THE
53 APPROPRIATE TAXABLE STATUS DATE OF SUCH CITY.

54 4. IF SATISFIED THAT THE APPLICANT IS ENTITLED TO AN EXEMPTION PURSU-
55 ANT TO THIS SECTION, THE ASSESSOR SHALL APPROVE THE APPLICATION AND SUCH
56 BUILDING SHALL THEREAFTER BE EXEMPT FROM TAXATION AS PROVIDED IN THIS

1 SECTION COMMENCING WITH THE ASSESSMENT ROLL PREPARED ON THE BASIS OF THE
2 TAXABLE STATUS DATE REFERRED TO IN SUBDIVISION THREE OF THIS SECTION.
3 THE ASSESSED VALUE OF ANY EXEMPTION GRANTED PURSUANT TO THIS SECTION
4 SHALL BE ENTERED BY THE ASSESSOR ON THE ASSESSMENT ROLL WITH THE TAXABLE
5 PROPERTY, WITH THE AMOUNT OF THE EXEMPTION SHOWN IN A SEPARATE COLUMN.

6 5. IN THE EVENT THAT A BUILDING GRANTED AN EXEMPTION PURSUANT TO THIS
7 SECTION CEASES TO BE USED PRIMARILY FOR RESIDENTIAL PURPOSES OR ANY
8 CONDITION TO THE EXEMPTION ESTABLISHED BY A LOCAL LAW IS NO LONGER
9 SATISFIED, THE EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL CEASE.

10 6. IN ADDITION TO THE ABOVE PAYMENTS, DURING ANY PERIOD IN WHICH A
11 FULL OR PARTIAL EXEMPTION ESTABLISHED ABOVE IS STILL IN EFFECT, THE
12 OWNER SHALL PAY IN EACH TAX YEAR IN WHICH SUCH FULL OR PARTIAL EXEMPTION
13 IS IN EFFECT, REAL PROPERTY TAXES AND ASSESSMENTS AS FOLLOWS:

14 (A) REAL PROPERTY TAXES ON THE ASSESSED VALUATION OF SUCH LAND AND ANY
15 IMPROVEMENTS THEREON IN EFFECT DURING THE TAX YEAR PRECEDING THE
16 COMMENCEMENT OF SUCH CONSTRUCTION WITHOUT REGARD TO ANY EXEMPTION OR
17 ABATEMENT FROM REAL PROPERTY TAXATION IN EFFECT PRIOR TO SUCH
18 CONSTRUCTION WHICH REAL PROPERTY TAXES SHALL BE CALCULATED ON THE TAX
19 RATE IN EFFECT AT THE TIME SUCH TAXES ARE DUE; AND

20 (B) ALL ASSESSMENTS FOR LOCAL IMPROVEMENTS.

21 7. (A) THE ENACTMENT OF A LOCAL LAW IN SUCH CITY MAY:

22 (I) REDUCE THE PERCENT OR PERIOD OF EXEMPTION OTHERWISE ALLOWED PURSU-
23 ANT TO THIS SECTION;

24 (II) LIMIT ELIGIBILITY FOR THE EXEMPTION TO THOSE FORMS OF
25 CONSTRUCTION, RECONSTRUCTION, ALTERATIONS OR IMPROVEMENTS AS ARE
26 PRESCRIBED IN SUCH LAW OR RESOLUTION;

27 (III) PROVIDE THAT THE EXEMPTION SHALL BE APPLICABLE ONLY TO THOSE
28 IMPROVEMENTS WHICH WOULD OTHERWISE RESULT IN AN INCREASE IN THE ASSESSED
29 VALUATION OF THE REAL PROPERTY BUT WHICH CONSIST OF AN ADDITION, REMOD-
30 ELING OR MODERNIZATION TO AN EXISTING OWNER OCCUPIED MULTIPLE RESIDENCE
31 STRUCTURE TO PREVENT PHYSICAL DETERIORATION OF THE STRUCTURE OR TO
32 COMPLY WITH APPLICABLE BUILDING, SANITARY, HEALTH AND/OR FIRE CODES; AND

33 (IV) PROVIDE TERMS AND CONDITIONS UNDER WHICH THE CITY, OR, IF AUTHOR-
34 IZED BY A LOCAL LAW, A LOCAL URBAN RENEWAL AGENCY, MAY REQUIRE THE
35 RECAPTURE OF THE BENEFITS CONFERRED HEREUNDER IN WHOLE OR IN PART,
36 INCLUDING REQUIREMENTS TO MAINTAIN ALL OR A PORTION OF THE BUILDING AS
37 AFFORDABLE UNITS FOR FAMILIES OF LOW OR MODERATE INCOME FOR A PERIOD
38 WHICH MAY EXCEED THE PERIOD FOR WHICH AN EXEMPTION IS GRANTED.

39 (B) NO SUCH LOCAL LAW SHALL REDUCE OR REPEAL AN EXEMPTION GRANTED
40 PURSUANT TO THIS SECTION UNTIL THE EXPIRATION OF THE PERIOD FOR WHICH
41 SUCH EXEMPTION WAS GRANTED.

42 8. (A) AS USED IN THIS SUBDIVISION, THE FOLLOWING TERMS SHALL HAVE THE
43 FOLLOWING MEANINGS:

44 (I) "BUILDING SERVICE EMPLOYEE" MEANS ANY PERSON WHO IS REGULARLY
45 EMPLOYED AT A BUILDING WHO PERFORMS WORK IN CONNECTION WITH THE CARE OR
46 MAINTENANCE OF SUCH BUILDING. "BUILDING SERVICE EMPLOYEE" INCLUDES, BUT
47 IS NOT LIMITED TO WATCHMAN, GUARD, DOORMAN, BUILDING CLEANER, PORTER,
48 HANDYMAN, JANITOR, GARDENER, GROUNDSKEEPER, ELEVATOR OPERATOR AND START-
49 ER, AND WINDOW CLEANER.

50 (II) "PREVAILING WAGE" MEANS THE WAGE DETERMINED BY THE FISCAL OFFICER
51 TO BE PREVAILING FOR THE VARIOUS CLASSES OF BUILDING SERVICE EMPLOYEES
52 IN THE LOCALITY PURSUANT TO SECTION TWO HUNDRED THIRTY OF THE LABOR LAW.

53 (B) NO EXEMPTION UNDER THIS SECTION SHALL BE GRANTED FOR ANY
54 CONSTRUCTION, RECONSTRUCTION, ALTERATIONS, OR IMPROVEMENTS UNLESS THE
55 APPLICANT AGREES THAT ALL BUILDING SERVICE EMPLOYEES EMPLOYED AT THE
56 BUILDING, WHETHER EMPLOYED DIRECTLY BY THE APPLICANT OR ITS SUCCESSORS,

1 OR THROUGH A PROPERTY MANAGEMENT COMPANY OR A CONTRACTOR, SHALL RECEIVE
2 THE APPLICABLE PREVAILING WAGE FOR THE DURATION OF THE BUILDING'S TAX
3 EXEMPTION.
4 9. NO ADDITIONAL EXEMPTIONS SHALL APPLY.
5 S 2. This act shall take effect immediately.