S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

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

AN ACT to amend the real property tax law, in relation to authorizing a residential investment exemption in certain towns

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

Section 1. The real property tax law is amended by adding a new section 485-n to read as follows:

S 485-N. RESIDENTIAL INVESTMENT EXEMPTION; CERTAIN TOWNS. 1. RESIDENTIAL REAL PROPERTY CONSTRUCTED ON OR AFTER THE FIRST DAY OF APRIL FOLLOWING THE EFFECTIVE DATE OF THIS SECTION IN TOWNS WITH A POPULATION OF EIGHTEEN THOUSAND SIX HUNDRED THIRTY-FIVE BASED UPON THE TWO THOUSAND FEDERAL CENSUS MAY BE EXEMPT FROM TOWN TAXATION AND SPECIAL AD VALOREM LEVIES AS PROVIDED IN THIS SECTION.

2. (A) (I) SUCH REAL PROPERTY SHALL BE EXEMPT FOR A PERIOD OF ONE YEAR TO THE EXTENT OF FIFTY PER CENTUM OF THE INCREASE IN ASSESSED VALUE THEREOF ATTRIBUTABLE TO SUCH CONSTRUCTION AND FOR AN ADDITIONAL PERIOD OF NINE YEARS PROVIDED, HOWEVER, THAT THE EXTENT OF SUCH EXEMPTION SHALL BE DECREASED BY FIVE PER CENTUM EACH YEAR DURING SUCH ADDITIONAL PERIOD OF NINE YEARS AND SUCH EXEMPTION SHALL BE COMPUTED WITH RESPECT TO THE "EXEMPTION BASE". THE EXEMPTION BASE SHALL BE THE INCREASE IN ASSESSED VALUE AS DETERMINED IN THE INITIAL YEAR OF SUCH TEN YEAR PERIOD FOLLOWING THE FILING OF AN ORIGINAL APPLICATION, EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH.

(II) IN ANY YEAR IN WHICH A CHANGE IN LEVEL OF ASSESSMENT OF FIFTEEN PERCENT OR MORE IS CERTIFIED FOR A FINAL ASSESSMENT ROLL PURSUANT TO THE RULES OF THE STATE BOARD, THE EXEMPTION BASE SHALL BE MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE TOTAL ASSESSED VALUE OF THE PARCEL ON SUCH FINAL ASSESSMENT ROLL (AFTER ACCOUNTING FOR ANY PHYSICAL OR QUANTITY CHANGES TO THE PARCEL SINCE THE IMMEDIATELY PRECEDING

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

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ASSESSMENT ROLL), AND THE DENOMINATOR OF WHICH SHALL BE THE TOTAL ASSESSED VALUE OF THE PARCEL ON THE IMMEDIATELY PRECEDING FINAL ASSESSMENT ROLL. THE RESULT SHALL BE THE NEW EXEMPTION BASE. THE EXEMPTION SHALL THEREUPON BE RECOMPUTED TO TAKE INTO ACCOUNT THE NEW EXEMPTION BASE, NOTWITHSTANDING THE FACT THAT THE ASSESSOR RECEIVES THE CERTIFICATION OF THE CHANGE IN LEVEL OF ASSESSMENT AFTER THE COMPLETION, VERIFICATION AND FILING OF THE FINAL ASSESSMENT ROLL. IN THE EVENT THE ASSESSOR DOES NOT HAVE CUSTODY OF THE ROLL WHEN SUCH CERTIFICATION IS RECEIVED, THE ASSESSOR SHALL CERTIFY THE RECOMPUTED EXEMPTION TO THE LOCAL OFFICERS HAVING CUSTODY AND CONTROL OF THE ROLL, AND SUCH LOCAL OFFICERS ARE HEREBY DIRECTED AND AUTHORIZED TO ENTER THE RECOMPUTED EXEMPTION CERTIFIED BY THE ASSESSOR ON THE ROLL. THE ASSESSOR SHALL GIVE WRITTEN NOTICE OF SUCH RECOMPUTED EXEMPTION TO THE PROPERTY OWNER, WHO MAY, IF HE OR SHE BELIEVES THAT THE EXEMPTION WAS RECOMPUTED INCORRECTLY, APPLY FOR A CORRECTION IN THE MANNER PROVIDED BY TITLE THREE OF ARTICLE FIVE OF THIS CHAPTER FOR THE CORRECTION OF CLERICAL ERRORS.

(III) THE FOLLOWING TABLE SHALL ILLUSTRATE THE COMPUTATION OF THE TOWN TAX EXEMPTION:

YEAR OF EXEMPTION	PERCENTAGE OF EXEMPTION
1	50
2	45
3	40
4	35
5	30
6	25
7	20
8	15
9	10
10	5

(B) NO SUCH EXEMPTION SHALL BE GRANTED UNLESS:

(I) SUCH CONSTRUCTION WAS COMMENCED ON OR AFTER THE FIRST DAY OF APRIL FOLLOWING THE EFFECTIVE DATE OF THIS SECTION OR SUCH LATER DATE AS MAY BE SPECIFIED BY LOCAL LAW;

(II) THE RESIDENTIAL REAL PROPERTY IS SITUATE IN A TOWN WITH A POPULATION OF EIGHTEEN THOUSAND SIX HUNDRED THIRTY-FIVE BASED UPON THE TWO THOUSAND FEDERAL CENSUS;

(III) THE COST OF SUCH CONSTRUCTION EXCEEDS THE SUM OF SEVENTY THOUSAND DOLLARS OR SUCH GREATER AMOUNT AS MAY BE SPECIFIED BY LOCAL LAW; AND

(IV) SUCH CONSTRUCTION IS COMPLETED AS MAY BE EVIDENCED BY A CERTIFICATE OF OCCUPANCY OR OTHER APPROPRIATE DOCUMENTATION AS PROVIDED BY THE OWNER.

(C) FOR PURPOSES OF THIS SECTION THE TERM CONSTRUCTION SHALL NOT INCLUDE ORDINARY MAINTENANCE AND REPAIRS.

3. SUCH EXEMPTION SHALL BE GRANTED ONLY UPON APPLICATION BY THE OWNER OF SUCH REAL PROPERTY ON A FORM PRESCRIBED BY THE STATE BOARD. SUCH APPLICATION SHALL BE FILED WITH THE ASSESSOR OF SUCH TOWN ON OR BEFORE THE APPROPRIATE TAXABLE STATUS DATE OF SUCH TOWN AND WITHIN ONE YEAR FROM THE DATE OF COMPLETION OF SUCH CONSTRUCTION.

4. IF THE ASSESSOR IS SATISFIED THAT THE APPLICANT IS ENTITLED TO AN EXEMPTION PURSUANT TO THIS SECTION, HE OR SHE SHALL APPROVE THE APPLICATION AND SUCH REAL PROPERTY SHALL THEREAFTER BE EXEMPT FROM TAXATION AND SPECIAL AD VALOREM LEVIES BY A TOWN WITH A POPULATION OF EIGHTEEN THOUSAND SIX HUNDRED THIRTY-FIVE BASED UPON THE TWO THOUSAND FEDERAL CENSUS

AS PROVIDED IN THIS SECTION COMMENCING WITH THE ASSESSMENT ROLL PREPARED AFTER THE TAXABLE STATUS DATE REFERRED TO IN SUBDIVISION THREE OF THIS SECTION. THE ASSESSED VALUE OF ANY EXEMPTION GRANTED PURSUANT TO THIS SECTION 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.

5. THE PROVISIONS OF THIS SECTION SHALL APPLY TO REAL PROPERTY USED AS THE PRIMARY RESIDENCE OF THE OWNER.

6. IN THE EVENT THAT REAL PROPERTY GRANTED AN EXEMPTION PURSUANT TO THIS SECTION CEASES TO BE USED PRIMARILY FOR ELIGIBLE PURPOSES, THE EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL CEASE.

7. A TOWN WITH A POPULATION OF EIGHTEEN THOUSAND SIX HUNDRED THIRTY-FIVE BASED UPON THE TWO THOUSAND FEDERAL CENSUS MAY, BY LOCAL LAW, REDUCE THE PER CENTUM OF EXEMPTION OTHERWISE ALLOWED PURSUANT TO THIS SECTION; PROVIDED, HOWEVER, THAT A PROJECT IN COURSE OF CONSTRUCTION AND EXEMPTIONS EXISTING PRIOR IN TIME TO PASSAGE OF ANY SUCH LOCAL LAW SHALL NOT BE SUBJECT TO ANY SUCH REDUCTION SO EFFECTED. SUCH TOWN UPON REDUCTION OF THE PER CENTUM OF EXEMPTION PURSUANT TO THIS SUBDIVISION MAY THEREAFTER, BY LOCAL LAW, INCREASE THE PER CENTUM OF EXEMPTION UP TO ANY PER CENTUM NOT EXCEEDING THE MAXIMUM ALLOWED BY SUBDIVISION TWO OF THIS SECTION, PROVIDED, HOWEVER, THAT ANY SUCH LOCAL LAW SHALL APPLY ONLY TO CONSTRUCTION COMMENCED SUBSEQUENT TO THE EFFECTIVE DATE OF SUCH LOCAL LAW. A COPY OF ALL SUCH LOCAL LAWS SHALL BE FILED WITH THE STATE BOARD AND THE ASSESSOR OF THE TOWN.

8. A TOWN WITH A POPULATION OF EIGHTEEN THOUSAND SIX HUNDRED THIRTY-FIVE BASED UPON THE TWO THOUSAND FEDERAL CENSUS MAY, BY LOCAL LAW, ESTABLISH A DATE FOR THE COMMENCEMENT OF EFFECTIVENESS OF EXEMPTION OFFERED PURSUANT TO THIS SECTION AND MAY PROVIDE THAT THE PROVISIONS OF THIS SECTION SHALL APPLY ONLY TO CONSTRUCTION HAVING A GREATER VALUE THAN THAT SPECIFIED BY SUBDIVISION TWO OF THIS SECTION.

9. (A) A TOWN WITH A POPULATION OF EIGHTEEN THOUSAND SIX HUNDRED THIRTY-FIVE BASED UPON THE TWO THOUSAND FEDERAL CENSUS MAY, BY LOCAL LAW, ESTABLISH A BOARD TO BE KNOWN AS THE RESIDENTIAL INCENTIVE BOARD. THE MEMBERSHIP AND COMPOSITION OF SUCH BOARD SHALL BE SET FORTH IN THE LOCAL LAW.

(B) THE RESIDENTIAL INCENTIVE BOARD SHALL PRESENT A PLAN TO A TOWN WITH A POPULATION OF EIGHTEEN THOUSAND SIX HUNDRED THIRTY-FIVE BASED UPON THE TWO THOUSAND FEDERAL CENSUS CONCERNING THE VARIOUS TYPES OF RESIDENTIAL REAL PROPERTY WHICH SHOULD BE GRANTED ELIGIBILITY FOR AN EXEMPTION PURSUANT TO SUBDIVISION ONE OF THIS SECTION. IN ADDITION, SUCH PLAN SHALL IDENTIFY SPECIFIC GEOGRAPHIC AREAS WITHIN WHICH SUCH EXEMPTIONS SHOULD BE OFFERED. IN DEVELOPING THE PLAN REQUIRED BY THIS PARAGRAPH, THE BOARD SHALL CONSIDER THE PLANNING OBJECTIVES OF A TOWN WITH A POPULATION OF EIGHTEEN THOUSAND SIX HUNDRED THIRTY-FIVE BASED UPON THE TWO THOUSAND FEDERAL CENSUS, THE NECESSITY OF THE EXEMPTION TO THE ATTRACTION OR RETENTION OF HOME OWNERS AND THE ECONOMIC BENEFIT TO THE AREA OF PROVIDING EXEMPTIONS TO HOME OWNERS.

(C) IN ADDITION, THE BOARD MAY MAKE RECOMMENDATIONS TO A TOWN WITH A POPULATION OF EIGHTEEN THOUSAND SIX HUNDRED THIRTY-FIVE BASED UPON THE TWO THOUSAND FEDERAL CENSUS WITH RESPECT TO ACTIONS IT DEEMS DESIRABLE TO IMPROVE THE ECONOMIC CLIMATE THEREIN.

10. IF A TOWN WITH A POPULATION OF EIGHTEEN THOUSAND SIX HUNDRED THIRTY-FIVE BASED UPON THE TWO THOUSAND FEDERAL CENSUS ESTABLISHES A RESIDENTIAL INCENTIVE BOARD, PURSUANT TO SUBDIVISION NINE OF THIS SECTION, SUCH TOWN MAY, BY LOCAL LAW, RESTRICT REAL PROPERTY ELIGIBLE TO RECEIVE THE EXEMPTION TO REAL PROPERTY CONSTRUCTED FOR THOSE PURPOSES IDENTIFIED

IN THE PLAN PRESENTED BY THE BOARD. SUCH LOCAL LAW SHALL RESTRICT THE AVAILABILITY OF SUCH EXEMPTION TO THE SPECIFIC GEOGRAPHIC AREAS IDENTIFIED IN THE PLAN PRESENTED BY THE BOARD.

11. ANY TOWN WHICH ADOPTS AN EXEMPTION PURSUANT TO THIS SECTION SHALL CAUSE INFORMATION RELATING TO THE AVAILABILITY OF SUCH EXEMPTION, INCLUDING REQUIREMENTS AND APPLICATION PROCEDURES, TO BE ATTACHED TO ALL BUILDING PERMIT APPLICATIONS AND COPIES OF SUCH INFORMATION SHALL BE POSTED IN A CONSPICUOUS LOCATION IN ANY OFFICE OR OFFICES WHERE SUCH PERMITS AND APPLICATIONS FOR PERMITS ARE ISSUED AND PROCESSED.

S 2. This act shall take effect immediately.