

2424

2009-2010 Regular Sessions

I N   A S S E M B L Y

January 15, 2009

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Introduced by M. of A. REILICH, TOWNSEND, SAYWARD, FINCH, RAIA, KOLB, ERRIGO -- Multi-Sponsored by -- M. of A. ALFANO, BACALLES, BALL, BARCLAY, BARRA, BOYLE, BURLING, BUTLER, CALHOUN, CONTE, CROUCH, DUPREY, FITZPATRICK, GIGLIO, HAWLEY, HAYES, P. LOPEZ, McDONOUGH, McKEVITT, MILLER, MOLINARO, OAKS, O'MARA, SALADINO, SCOZZAFAVA, SPANO, TEDISCO, THIELE, WALKER, WEISENBERG -- read once and referred to the Committee on Real Property Taxation

AN ACT to amend the real property tax law, in relation to extending the benefits of the STAR program to small businesses

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

1     Section 1. Subdivision 3 of section 425 of the real property tax law,  
2     as added by section 1 of part B of chapter 389 of the laws of 1997,  
3     paragraph (a) as amended by chapter 264 of the laws of 2000, paragraph  
4     (d) as added by chapter 443 of the laws of 2003, paragraph (e) as added  
5     by section 2 of part W of chapter 57 of the laws of 2008, is amended to  
6     read as follows:  
7     3.   Eligibility requirements. (a) Property use. To qualify for  
8     exemption pursuant to this section, the property must be a one, two or  
9     three family residence, a farm dwelling, A SMALL BUSINESS or residential  
10    property held in condominium or cooperative form of ownership. If the  
11    property is not an eligible type of property, but a portion of the prop-  
12    erty is partially used by the owner as a primary residence, that portion  
13    which is so used shall be entitled to the exemption provided by this  
14    section; provided that in no event shall the exemption exceed the  
15    assessed value attributable to that portion.  
16    (b) Primary residence. The property must serve as the primary resi-  
17    dence of one or more of the owners thereof, UNLESS SUCH PROPERTY IS  
18    OWNED BY A SMALL BUSINESS AS DEFINED IN PARAGRAPH (F) OF THIS SUBDIVI-  
19    SION.

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

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1 (c) Trusts. If legal title to the property is held by one or more  
2 trustees, the beneficial owner or owners shall be deemed to own the  
3 property for purposes of this subdivision.

4 (d) Farm dwellings not owned by the resident. (i) If legal title to  
5 the farm dwelling is held by an S-corporation or by a C-corporation, the  
6 exemption shall be granted if the property serves as the primary resi-  
7 dence of a shareholder of such corporation.

8 (ii) If the legal title to the farm dwelling is held by a partnership,  
9 the exemption shall be granted if the property serves as the primary  
10 residence of one or more of the partners.

11 (iii) Any information deemed necessary to establish shareholder or  
12 partner status for eligibility purposes shall be considered confidential  
13 and exempt from the freedom of information law.

14 (e) Dwellings owned by limited partnerships. (i) If legal title to a  
15 dwelling is held by a limited partnership, the exemption shall be grant-  
16 ed if the property serves as the primary residence of one or more of the  
17 partners, provided that the limited partnership which holds title to the  
18 property does not engage in any commercial activity, that the limited  
19 partnership was lawfully created to hold title solely for estate plan-  
20 ning and asset protection purposes, and that the partner or partners who  
21 primarily reside thereon personally pay all of the real property taxes  
22 and other costs associated with the property's ownership.

23 (ii) Any information deemed necessary to establish partner status for  
24 eligibility purposes shall be considered confidential and exempt from  
25 the freedom of information law.

26 (F) SMALL BUSINESSES. FOR THE PURPOSES OF THIS SUBDIVISION:

27 (I) THE TERM "SMALL BUSINESS" SHALL MEAN A BUSINESS WHICH EMPLOYS ONE  
28 HUNDRED PERSONS OR LESS AND IS LOCATED ON A NON-RESIDENTIAL PROPERTY  
29 USED PRIMARILY FOR COMMERCIAL PURPOSES. SUCH BUSINESS WILL ONLY BE  
30 ELIGIBLE FOR THE EXEMPTION IF IT DOES NOT RECEIVE EMPIRE ZONE REAL PROP-  
31 erty TAX BENEFITS PURSUANT TO SECTION FIFTEEN OF THE TAX LAW OR DOES NOT  
32 MAKE PAYMENTS IN LIEU OF TAXES TO THE PUBLIC SCHOOL DISTRICT IN WHICH  
33 SUCH SMALL BUSINESS IS LOCATED AT A RATE BELOW THE RATE APPLICABLE TO  
34 ALL OTHER PROPERTIES; AND

35 (II) THE TERM "COMMERCIAL" SHALL HAVE THE SAME MEANING AS SET FORTH IN  
36 SECTION FOUR HUNDRED EIGHTY-NINE-AAA OF THIS ARTICLE.

37 S 2. This act shall take effect immediately and shall apply to all  
38 taxable years beginning on and after January 1, 2010.