

4139

2009-2010 Regular Sessions

I N   A S S E M B L Y

January 30, 2009

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

AN ACT to amend the real property tax law, the executive law, the real  
property law and the vehicle and traffic law, in relation to the sepa-  
rate assessment of manufactured homes; and repealing certain  
provisions of the real property tax law and the real property law  
relating thereto

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

1     Section 1. Paragraph (g) of subdivision 12 of section 102 of the real  
2     property tax law, as amended by chapter 637 of the laws of 2004, is  
3     amended to read as follows:  
4     (g) [Forms of housing adaptable to motivation by a power connected  
5     thereto, commonly called "trailers" or "mobile homes", which are or can  
6     be used for residential, business, commercial or office purposes, except  
7     those (1) located within the boundaries of an assessing unit for less  
8     than sixty days, (2) unoccupied and for sale or (3) "recreational vehi-  
9     cles" that are four hundred square feet or less in size, self propelled  
10    or towable by an automobile or light duty truck and used as temporary  
11    living quarters for recreational, camping, travel or seasonal use. The  
12    value of any trailer or mobile home shall be included in the assessment  
13    of the land on which it is located; provided, however, that if either  
14    the trailer or mobile home or the land on which it is located is enti-  
15    tled to any exemption pursuant to article four of this chapter, other  
16    than the exemption authorized by section four hundred twenty-five of  
17    this chapter, such trailer or mobile home shall be separately assessed  
18    in the name of the owner thereof] MANUFACTURED HOMES, WHICH SHALL HAVE  
19    THE SAME MEANING AS SUCH TERM IS DEFINED IN SECTION TWO HUNDRED THIRTY-  
20    THREE OF THE REAL PROPERTY LAW, BUT FOR THE PURPOSES OF THE APPLICATION  
21    OF THE TAXES AUTHORIZED TO BE IMPOSED PURSUANT TO THIS CHAPTER, SHALL  
22    NOT INCLUDE MANUFACTURED HOMES THAT ARE UNOCCUPIED, FOR SALE AND LOCATED

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

LBD04688-01-9

1 ON A RETAIL SALES LOT. MANUFACTURED HOMES SHALL BE ASSESSED SEPARATELY  
2 FROM THE LAND EXCEPT WHERE THE OWNERSHIP OF THE LAND AND THE MANUFAC-  
3 TURED HOME IS THE SAME;

4 S 2. Paragraph (1) of subdivision 2 of section 425 of the real proper-  
5 ty tax law is REPEALED.

6 S 3. Paragraph (a) of subdivision 3 of section 425 of the real proper-  
7 ty tax law, as amended by chapter 264 of the laws of 2000, is amended to  
8 read as follows:

9 (a) Property use. To qualify for exemption pursuant to this section,  
10 the property must be a one, two or three family residence, A MANUFAC-  
11 TURED HOME, a farm dwelling or residential property held in condominium  
12 or cooperative form of ownership. If the property is not an eligible  
13 type of property, but a portion of the property is partially used by the  
14 owner as a primary residence, that portion which is so used shall be  
15 entitled to the exemption provided by this section; provided that in no  
16 event shall the exemption exceed the assessed value attributable to that  
17 portion.

18 S 4. Section 574 of the real property tax law is amended by adding a  
19 new subdivision 1-a to read as follows:

20 1-A. UPON THE TRANSFER OF OWNERSHIP, LOCATION, OR RELOCATION OF A  
21 MANUFACTURED HOME, THE MANUFACTURED HOME OWNER SHALL FILE A REAL PROPER-  
22 TY INFORMATIONAL REPORT PRESCRIBED WITH RESPECT TO MANUFACTURED HOMES BY  
23 THE STATE BOARD PURSUANT TO THIS SECTION. THE REAL PROPERTY INFORMA-  
24 TIONAL REPORT PRESCRIBED FOR SUCH PURPOSE SHALL INCLUDE THE SERIAL  
25 NUMBER OF THE MANUFACTURED HOME, AS PROVIDED BY THE MANUFACTURER OF THE  
26 HOME. IN THE EVENT THAT THE MANUFACTURED HOME DOES NOT HAVE A SERIAL  
27 NUMBER, THE ASSESSOR SHALL ASSIGN AND ISSUE A UNIQUE IDENTIFYING NUMBER  
28 WHICH SHALL BE PERMANENTLY AFFIXED TO THE HOME BY THE HOMEOWNER, AND  
29 WHICH SHALL THEREAFTER BE USED AS THE SERIAL NUMBER FOR THAT HOME AND  
30 ADDED TO THE DESCRIPTION ON THE ASSESSMENT ROLL.

31 S 5. The real property tax law is amended by adding a new section 998  
32 to read as follows:

33 S 998. TAX COMPLIANCE CERTIFICATES FOR MANUFACTURED HOMES. 1. THE  
34 APPROPRIATE COUNTY TAX ENFORCEMENT OFFICER, OR, IN THE COUNTY OF WEST-  
35 CHESTER, THE APPROPRIATE CITY OR TOWN TAX ENFORCEMENT OFFICER, UPON  
36 APPLICATION THEREFOR, SHALL ISSUE A TAX COMPLIANCE CERTIFICATE TO THE  
37 OWNER OF ANY MANUFACTURED HOME LOCATED WITHIN THE TAX DISTRICT UPON  
38 RECEIPT OF PROOF THAT ALL CURRENTLY BILLED AND DELINQUENT TAXES WITH  
39 RESPECT TO SUCH HOME HAVE BEEN PAID. A COPY OF SUCH CERTIFICATE SHALL BE  
40 FILED WITH THE ASSESSOR BY THE APPROPRIATE TAX ENFORCEMENT OFFICER. THE  
41 TAX ENFORCEMENT OFFICER MAY CHARGE A FEE FOR SUCH CERTIFICATE IN AN  
42 AMOUNT NOT TO EXCEED TWENTY-FIVE DOLLARS. SUCH APPLICATION SHALL INCLUDE  
43 THE SERIAL NUMBER OR OTHER UNIQUE IDENTIFYING NUMBER ASSIGNED PURSUANT  
44 TO SECTION FIVE HUNDRED SEVENTY-FOUR OF THIS CHAPTER. THE STATE BOARD  
45 SHALL PRESCRIBE THE FORM FOR SUCH APPLICATION AND CERTIFICATE. THE HOME-  
46 OWNER SHALL FILE A COPY OF SUCH CERTIFICATE WITH THE DEPARTMENT OF  
47 TRANSPORTATION AS A PRECONDITION TO THE ISSUANCE OF A PERMIT PURSUANT TO  
48 SECTION THREE HUNDRED EIGHTY-FIVE OF THE VEHICLE AND TRAFFIC LAW.

49 2. NO MANUFACTURED HOME MAY BE RELOCATED WITHOUT FIRST OBTAINING A TAX  
50 COMPLIANCE CERTIFICATE PURSUANT TO THIS SECTION. A COPY OF SUCH CERTIF-  
51 ICATE SHALL BE PROVIDED TO THE HAULER RESPONSIBLE FOR MOVING SUCH HOME  
52 WHO SHALL PRODUCE THE COPY OF THE PERMIT UPON DEMAND OF AN OFFICER  
53 CHARGED WITH ENFORCEMENT OF THE PROVISIONS OF SECTION THREE HUNDRED  
54 EIGHTY-FIVE OF THE VEHICLE AND TRAFFIC LAW.

1 3. MANUFACTURED HOME PARK OR COMMUNITY OWNERS SHALL INFORM MANUFAC-  
2 TURED HOME OWNERS RESIDING IN SUCH PARK OR COMMUNITY OF THE REQUIREMENTS  
3 OF THIS SECTION.

4 4. THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION SHALL NOT BE  
5 APPLICABLE TO THE TRANSPORT OF A MANUFACTURED HOME FROM THE MANUFACTURER  
6 OF SUCH HOME OR FROM A RETAIL SALES LOT OR TO A TAX DISTRICT THAT HAS  
7 FORECLOSED UPON THE HOME.

8 S 6. Section 1126 of the real property tax law is amended by adding a  
9 new subdivision 4 to read as follows:

10 4. (A) THE OWNER OF A MANUFACTURED HOME WHICH IS LOCATED ON LAND OWNED  
11 BY ANOTHER MAY FILE A DECLARATION OF INTEREST WITH RESPECT TO THE LAND  
12 ON WHICH THE MANUFACTURED HOME IS LOCATED.

13 (B) THE OWNER OF LAND ON WHICH A MANUFACTURED HOME OWNED BY ANOTHER IS  
14 LOCATED MAY FILE A DECLARATION OF INTEREST WITH RESPECT TO ANY MANUFAC-  
15 TURED HOME LOCATED ON SUCH LAND.

16 S 7. Section 1136 of the real property tax law is amended by adding a  
17 new subdivision 4 to read as follows:

18 4. TRANSFER OF MANUFACTURED HOME. NOTWITHSTANDING ANY PROVISION OF  
19 LAW TO THE CONTRARY, WHERE A PARCEL WHICH IS THE SUBJECT OF A CONVEYANCE  
20 PURSUANT TO THIS SECTION EITHER CONSISTS OF A SEPARATELY ASSESSED MANU-  
21 FACTURED HOME OR CONTAINS A MANUFACTURED HOME THAT HAS BEEN ASSESSED  
22 WITH THAT LAND, A DEED EXECUTED PURSUANT TO THIS SECTION SHALL OPERATE  
23 TO TRANSFER TITLE OF THE MANUFACTURED HOME TO OR FROM THE TAX DISTRICT  
24 IF IT CONTAINS A DESCRIPTION WHICH IDENTIFIES THE MANUFACTURED HOME WITH  
25 REASONABLE CERTAINTY. A DESCRIPTION CONTAINING THE SERIAL NUMBER OR  
26 OTHER UNIQUE IDENTIFYING NUMBER ASSIGNED TO THE MANUFACTURED HOME PURSU-  
27 ANT TO SECTION FIVE HUNDRED SEVENTY-FOUR OF THIS CHAPTER SHALL BE DEEMED  
28 A SUFFICIENT DESCRIPTION FOR THIS PURPOSE.

29 S 8. Subdivision 1 of section 1138 of the real property tax law, as  
30 amended by chapter 203 of the laws of 2000, paragraph (g) as amended by  
31 chapter 149 of the laws of 2003, is amended to read as follows:

32 1. Grounds. The enforcing officer of any tax district may at any time  
33 prior to final judgment withdraw any parcel of real property from a  
34 foreclosure proceeding under this title for one or more of the following  
35 reasons:

36 (a) there is reason to believe that there may be a legal impediment to  
37 the enforcement of the tax lien affecting such parcel;

38 (b) the tax has been cancelled or is subject to cancellation pursuant  
39 to section five hundred fifty-eight of this chapter, or, in the case of  
40 a tax district to which such section does not apply, the tax would be  
41 subject to cancellation if such section were applicable to the tax  
42 district;

43 (c) the enforcement of the lien has been stayed by the filing of a  
44 petition pursuant to the Bankruptcy Code of 1978 (Title Eleven of the  
45 United States Code);

46 (d) if the tax district were to acquire the parcel, there is a signif-  
47 icant risk that it might be exposed to a liability substantially in  
48 excess of the amount that could be recovered by enforcing the tax lien;

49 (e) the owner of the parcel has entered into an agreement to pay the  
50 taxes in installments pursuant to section eleven hundred eighty-four of  
51 this article, and has not defaulted thereon;

52 (f) in a tax district which has extended the redemption period for  
53 residential or farm property, (i) the parcel has been included on a  
54 petition for foreclosure, (ii) it has since been demonstrated to the  
55 satisfaction of the enforcing officer that the parcel is residential or

1 farm property, and (iii) being residential or farm property, the parcel  
2 is not yet subject to inclusion on such a petition; [or]

3 (g) the tax lien has been or is to be sold pursuant to title five of  
4 this article; OR

5 (H) THE PARCEL CONSTITUTES A MANUFACTURED HOME WHICH IS NO LONGER  
6 WITHIN THE BOUNDARIES OF THE TAX DISTRICT.

7 S 9. Subdivision 1 of section 1180 of the real property tax law, as  
8 amended by chapter 579 of the laws of 1995, is amended and a new subdi-  
9 vision 4 is added to read as follows:

10 1. Neither the owner, occupant nor any other person shall have the  
11 right to despoil any lands subject to a delinquent tax lien by removing  
12 buildings or [mobile] MANUFACTURED homes, other than [separately  
13 assessed mobile] MANUFACTURED homes UPON WHICH NO CURRENTLY BILLED OR  
14 DELINQUENT TAXES ARE DUE, or by cutting, removing or destroying timber  
15 or other valuable products, growing, existing or being thereon at the  
16 time of the filing of the list of delinquent taxes pursuant to section  
17 eleven hundred twenty-two of this article.

18 4. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED AS PRECLUDING  
19 THE ENFORCEMENT OF DELINQUENT TAX LIENS AGAINST MANUFACTURED HOMES.

20 S 10. The executive law is amended by adding a new section 382-b to  
21 read as follows:

22 S 382-B. CERTIFICATES OF OCCUPANCY FOR MANUFACTURED HOMES. NO CERTIF-  
23 ICATE OF OCCUPANCY PERMITTING OCCUPANCY OF A MANUFACTURED HOME, AS  
24 DEFINED IN SECTION TWO HUNDRED THIRTY-THREE OF THE REAL PROPERTY LAW,  
25 SHALL BE ISSUED EXCEPT UPON PROOF OF THE FILING OF THE REAL PROPERTY  
26 INFORMATIONAL REPORT PRESCRIBED PURSUANT TO SECTION FIVE HUNDRED SEVEN-  
27 TY-FOUR OF THE REAL PROPERTY TAX LAW.

28 S 11. Paragraph 3 of subdivision a of section 233 of the real property  
29 law, as amended by chapter 566 of the laws of 1996, is amended to read  
30 as follows:

31 3. The term "manufactured home park" OR "MANUFACTURED HOME COMMUNITY"  
32 means a contiguous parcel of privately owned land which is used for the  
33 accommodation of three or more manufactured homes occupied for year-  
34 round living.

35 S 12. Subdivision w of section 233 of the real property law, as  
36 amended by section 18 of part B of chapter 389 of the laws of 1997 and  
37 paragraph 3-a as added by chapter 405 of the laws of 2001, is amended to  
38 read as follows:

39 w. Real property tax payments. 1. A manufactured home park OR COMMUNI-  
40 TY owner[, operator or the agent of such owner or operator] shall reduce  
41 the annual rent paid by a manufactured home [tenant] OWNER for use of  
42 the land upon which such manufactured home sits in an amount equal to  
43 the total of the real property taxes actually paid by such manufactured  
44 home [tenant] OWNER for such manufactured home plus the amount by which  
45 the taxes on such manufactured home were reduced as a result of the  
46 partial real property tax exemption granted to the manufactured home  
47 [tenant] OWNER pursuant to article four of the real property tax law,  
48 provided such manufactured home [tenant] OWNER:

49 (a) owns a manufactured home which is separately assessed, subject to  
50 the provisions of paragraph two of this subdivision;

51 (b) is entitled to and actually receives a partial real property tax  
52 exemption pursuant to article four of the real property tax law; and

53 (c) pays the real property taxes due on such home.

54 2. In the case of a manufactured home which is not separately  
55 assessed, but which is entitled to and actually receives the school tax  
56 relief (STAR) exemption authorized by section four hundred twenty-five

of the real property tax law, the tenant of such manufactured home shall be entitled to a rent reduction pursuant to this subdivision to the same extent as a tenant of a manufactured home which satisfies the criteria set forth in paragraph one of this subdivision. Such rent reduction shall be equal to the amount by which the taxes on such manufactured home were reduced as a result of such exemption.

3. A manufactured home park OR COMMUNITY owner [or operator] providing a reduction in rent as required by paragraph one or two of this subdivision may retain, in consideration for record keeping expenses, two percent of the amount of such reduction.

3-a. Any reduction required to be provided pursuant to paragraph one or two of this subdivision shall be provided as follows:

(a) a reduction in monthly rent (prorating the reduction in twelve parts) shall take effect upon the first monthly rental payment due sixty days after the last date for the payment of real property taxes with no penalty or interest for lateness and shall be extended to the next eleven monthly payments thereafter; or

(b) with the consent of the manufactured home park OR COMMUNITY owner, [operator, or agent of such owner or operator,] a reduction in rent may be offset in the entire amount of such reduction against the first monthly rental payment due sixty days after the last date for the payment of real property taxes with no penalty or interest for lateness, and the balance thereof, if any, may be offset against the monthly rental payments for succeeding months, until exhausted; or

(c) at the election of the manufactured home park OR COMMUNITY owner, [operator, or agent of such owner or operator,] the total amount of such reduction in rent may be paid to the tenant no later than sixty days after the last date for the payment of real property taxes with no penalty or interest for lateness.

4. The failure of a manufactured home park OR COMMUNITY owner [or operator] to comply with the provisions of this subdivision shall be a violation punishable by a fine not to exceed five hundred dollars for each violation.

S 13. Subdivision w of section 233 of the real property law is REPEALED and a new subdivision w is added to read as follows:

W. A MANUFACTURED HOME PARK OR COMMUNITY OWNER SHALL NOT INCLUDE, AS PART OF THE RENT PAYABLE BY A MANUFACTURED HOME OWNER, REAL PROPERTY TAXES ATTRIBUTABLE SOLELY TO THE HOME OWNED BY THE MANUFACTURED HOME OWNER. NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SUBDIVISION, NOTHING CONTAINED IN THIS SUBDIVISION SHALL BE DEEMED TO PROHIBIT A MANUFACTURED HOME PARK OR COMMUNITY OWNER FROM INCLUDING SUCH TAXES AS RENT TO BE PAID BY THE MANUFACTURED HOME OWNER WHERE THE MANUFACTURED HOME PARK OR COMMUNITY OWNER PAYS THE REAL PROPERTY TAXES ON BEHALF OF A MANUFACTURED HOME OWNER RESIDING WITHIN SUCH PARK OR COMMUNITY WITH THE CONSENT OF THE HOMEOWNER.

S 14. Paragraph ii of subdivision 1-e of section 333 of the real property law is amended by adding a new subparagraph 9 to read as follows:

(9) IN THE EVENT THAT THE REAL PROPERTY IS A MANUFACTURED HOME, A STATEMENT THAT THE OWNERSHIP OF THE MANUFACTURED HOME HAS BEEN TRANSFERRED, AND/OR THE MANUFACTURED HOME HAS BEEN LOCATED OR RELOCATED WITHIN THE COUNTY. THE STATE BOARD OF REAL PROPERTY SERVICES MAY PRESCRIBE A SEPARATE FORM FOR USE SOLELY FOR MANUFACTURED HOMES. SUCH FORM SHALL CONTAIN SUCH INFORMATION AS MAY BE REQUIRED BY SUCH BOARD.

S 15. Subdivision 15 of section 385 of the vehicle and traffic law is amended by adding a new paragraph (1) to read as follows:

1 (L) NO PERMIT SHALL BE ISSUED PURSUANT TO THIS SUBDIVISION THAT WILL  
2 ALLOW THE RELOCATION OF A MANUFACTURED HOME UNLESS A TAX COMPLIANCE  
3 CERTIFICATE, PURSUANT TO SECTION NINE HUNDRED NINETY-EIGHT OF THE REAL  
4 PROPERTY TAX LAW, HAS BEEN FILED WITH THE DEPARTMENT OF TRANSPORTATION.  
5 THIS SUBDIVISION SHALL NOT BE APPLICABLE TO THE TRANSPORT OF A MANUFAC-  
6 TURED HOME FROM THE MANUFACTURER OF SUCH HOME OR A RETAIL SALES LOT, OR  
7 TO A TAX DISTRICT THAT HAS FORECLOSED UPON THE HOME.

8 S 16. Nothing contained in this act shall be deemed to affect the  
9 priority of real property tax liens. Such liens shall continue to have  
10 priority over other liens.

11 S 17. This act shall take effect immediately; provided that sections  
12 four, ten, eleven and twelve of this act shall take effect January 1,  
13 2010; provided further that sections two, three, five, six, seven,  
14 eight, nine, fourteen and fifteen of this act shall take effect January  
15 1, 2011; and provided further that sections one and thirteen of this act  
16 shall take effect January 1, 2012; and provided further however, that  
17 effective immediately, the addition, amendment and/or repeal of any rule  
18 or regulation necessary for the implementation of this act on its effec-  
19 tive date are authorized and directed to be made and completed on or  
20 before such effective date.