

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

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

AN ACT to amend the real property tax law, in relation to authorizing the imposition of service charges upon certain real property

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

1 Section 1. Subdivision 20 of section 102 of the real property tax law
2 is amended and a new subdivision 13-a is added to read as follows:

3 13-A. "SERVICE CHARGE" MEANS A CHARGE, OTHER THAN A SPECIAL AD VALOREM
4 LEVY OR SPECIAL ASSESSMENT, IMPOSED UPON REAL PROPERTY BY OR ON BEHALF
5 OF A COUNTY, CITY, TOWN OR VILLAGE, TO DEFRAY THE COST OF SERVICES AND
6 IMPROVEMENTS NECESSARY OR CONVENIENT IN PROVIDING SUCH SERVICES FOR THE
7 FOLLOWING PURPOSES: POLICE PROTECTION; FIRE PROTECTION; STREET AND HIGH-
8 WAY CONSTRUCTION, MAINTENANCE AND LIGHTING; SANITATION; AND WATER
9 SUPPLY. ALL IMPROVEMENTS SPECIFIED IN PARAGRAPH (A) OF SUBDIVISION ONE
10 OF SECTION FOUR HUNDRED NINETY OF THIS CHAPTER SHALL BE DEEMED SUCH
11 IMPROVEMENTS.

12 20. "Tax" or "taxation" means a charge imposed upon real property by
13 or on behalf of a county, city, town, village or school district for
14 municipal or school district purposes, INCLUDING A SERVICE CHARGE, but
15 does not include a special ad valorem levy or a special assessment. The
16 term "tax" or "taxes" as used in articles five, nine[, ten] and eleven
17 of this chapter shall for levy and collection purposes include special
18 ad valorem levies.

19 S 2. The real property tax law is amended by adding a new section 403
20 to read as follows:

21 S 403. LIMITATION ON EXEMPTIONS GRANTED BY THIS TITLE. 1. NOTWITH-
22 STANDING THE PROVISIONS OF SECTIONS FOUR HUNDRED FOUR AND FOUR HUNDRED
23 SIX OF THIS TITLE, ALL REAL PROPERTY FOR WHICH EXEMPTION IS ALLOWED BY
24 ANY OF SUCH SECTIONS, EXCLUSIVE OF PROPERTY USED EXCLUSIVELY FOR CHARI-

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

1 TABLE, HOSPITAL, EDUCATIONAL OR CEMETERY PURPOSES, SHALL BE SUBJECT TO
2 SERVICE CHARGES COMPUTED AS PROVIDED IN SECTION FOUR HUNDRED NINETY-SIX
3 OF THIS ARTICLE AND TO SUCH SPECIAL AD VALOREM LEVIES AND SPECIAL
4 ASSESSMENTS AS ARE SPECIFIED IN SUBDIVISION TWO OF SECTION FOUR HUNDRED
5 NINETY OF THIS ARTICLE, EXCEPT THAT:

6 (A) REAL PROPERTY OWNED BY A MUNICIPAL CORPORATION WITHIN ITS CORPO-
7 RATE LIMITS WHICH IS OTHERWISE EXEMPT FROM TAXATION SHALL BE EXEMPT FROM
8 ANY SUCH SERVICE CHARGE, SPECIAL AD VALOREM LEVY OR SPECIAL ASSESSMENT
9 IMPOSED BY OR ON BEHALF OF SUCH MUNICIPAL CORPORATION; OR

10 (B) REAL PROPERTY OWNED BY A MUNICIPAL CORPORATION NOT WITHIN ITS
11 CORPORATE LIMITS WHICH IS OTHERWISE EXEMPT FROM TAXATION, EITHER WHOLLY
12 OR PARTIALLY, SHALL BE EXEMPT FROM ANY SUCH SERVICE CHARGE, SPECIAL AD
13 VALOREM LEVY OR SPECIAL ASSESSMENT IMPOSED BY OR ON BEHALF OF ANY MUNIC-
14 IPAL CORPORATION IN WHICH SUCH PROPERTY IS LOCATED, PROVIDED THE GOVERN-
15 ING BOARD THEREOF SHALL SO AGREE IN WRITING.

16 2. TO THE EXTENT THAT THE PROVISIONS OF THIS SECTION ARE INCONSISTENT
17 WITH ANY OTHER PROVISION OF LAW, THE PROVISIONS OF THIS SECTION SHALL BE
18 CONTROLLING.

19 S 3. Title 2 of article 4 of the real property tax law is amended by
20 adding a new section 420 to read as follows:

21 S 420. LIMITATION ON EXEMPTIONS GRANTED BY THIS TITLE. 1. NOTWITH-
22 STANDING THE PROVISIONS OF SECTIONS FOUR HUNDRED TWENTY-ONE-A, FOUR
23 HUNDRED TWENTY-FOUR THROUGH FOUR HUNDRED TWENTY-EIGHT, FOUR HUNDRED
24 THIRTY-TWO, FOUR HUNDRED THIRTY-FOUR, FOUR HUNDRED THIRTY-EIGHT THROUGH
25 FOUR HUNDRED FORTY-FOUR, FOUR HUNDRED FIFTY, FOUR HUNDRED FIFTY-TWO,
26 FOUR HUNDRED SIXTY-FOUR, FOUR HUNDRED SEVENTY-TWO, FOUR HUNDRED SEVEN-
27 TY-FOUR, FOUR HUNDRED EIGHTY-SIX AND FOUR HUNDRED EIGHTY-EIGHT OF THIS
28 TITLE; REAL PROPERTY FOR WHICH EXEMPTION IS ALLOWED BY ANY SUCH
29 SECTIONS, EXCLUSIVE OF PROPERTY OWNED BY A CORPORATION OR ASSOCIATION
30 ORGANIZED OR CONDUCTED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, HOSPITAL,
31 EDUCATIONAL OR CEMETERY PURPOSES, SHALL BE SUBJECT TO SERVICE CHARGES
32 COMPUTED AS PROVIDED IN SECTION FOUR HUNDRED NINETY-SIX OF THIS ARTICLE
33 AND TO SUCH AD VALOREM LEVIES AND SPECIAL ASSESSMENTS AS ARE SPECIFIED
34 IN SUBDIVISION TWO OF SECTION FOUR HUNDRED NINETY OF THIS CHAPTER.

35 2. TO THE EXTENT THAT THE PROVISIONS OF THIS SECTION ARE INCONSISTENT
36 WITH ANY OTHER PROVISION OF LAW, THE PROVISIONS OF THIS SECTION SHALL BE
37 CONTROLLING.

38 S 4. Section 490 of the real property tax law, as amended by chapter
39 87 of the laws of 2001, is amended to read as follows:

40 S 490. Exemption from special ad valorem levies and special assess-
41 ments. [Real] 1. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION TWO OF
42 THIS SECTION, REAL property exempt from taxation pursuant to subdivision
43 two of section four hundred, subdivision one of section four hundred
44 four, subdivision one of section four hundred six, sections four hundred
45 eight, four hundred ten, four hundred ten-a, four hundred ten-b, four
46 hundred eighteen, four hundred twenty-a, four hundred twenty-b, four
47 hundred twenty-two, four hundred twenty-six, four hundred twenty-seven,
48 four hundred twenty-eight, four hundred thirty, four hundred thirty-two,
49 four hundred thirty-four, four hundred thirty-six, four hundred thirty-
50 eight, four hundred fifty, four hundred fifty-two, four hundred fifty-
51 four, four hundred fifty-six, four hundred sixty-four, four hundred
52 seventy-two, four hundred seventy-four and four hundred eighty-five of
53 this chapter shall also be exempt from special ad valorem levies and
54 special assessments against real property located outside cities and
55 villages for a special improvement or service or a special district
56 improvement or service and special ad valorem levies and special assess-

1 ments imposed by a county improvement district or district corporation
2 except [(1)] (A) those levied to pay for the costs, including interest
3 and incidental and preliminary costs, of the acquisition, installation,
4 construction, reconstruction and enlargement of or additions to the
5 following improvements, including original equipment, furnishings,
6 machinery or apparatus, and the replacements thereof: water supply and
7 distribution systems; sewer systems (either sanitary or surface drainage
8 or both, including purification, treatment or disposal plants or build-
9 ings); waterways and drainage improvements; street, highway, road and
10 parkway improvements (including sidewalks, curbs, gutters, drainage,
11 landscaping, grading or improving the right of way) and [(2)] (B)
12 special assessments payable in installments on an indebtedness including
13 interest contracted prior to July first, nineteen hundred fifty-three,
14 pursuant to section two hundred forty-two of the town law or pursuant to
15 any other comparable provision of law.

16 2. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION,
17 REAL PROPERTY SUBJECT TO SERVICE CHARGES AS PROVIDED IN SECTION FOUR
18 HUNDRED THREE OR FOUR HUNDRED TWENTY OF THIS ARTICLE SHALL ALSO BE
19 SUBJECT TO SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS IMPOSED TO
20 DEFRAY THE COST, INCLUDING OPERATION AND MAINTENANCE, OF SPECIAL
21 DISTRICT IMPROVEMENTS OR SERVICES OR OF SPECIAL IMPROVEMENTS OR SERVICES
22 FOR THE FOLLOWING PURPOSES: POLICE PROTECTION; FIRE PROTECTION; STREET
23 AND HIGHWAY CONSTRUCTION, MAINTENANCE AND LIGHTING; SANITATION; AND
24 WATER SUPPLY. ALL IMPROVEMENTS SPECIFIED IN PARAGRAPH (A) OF SUBDIVISION
25 ONE OF THIS SECTION SHALL BE DEEMED SUCH IMPROVEMENTS.

26 S 5. The real property tax law is amended by adding a new section 496
27 to read as follows:

28 S 496. SERVICE CHARGES. 1. ANY SERVICE CHARGE TO WHICH ANY REAL PROP-
29 erty MAY BE SUBJECT AS PROVIDED IN SECTION FOUR HUNDRED THREE OR SECTION
30 FOUR HUNDRED TWENTY OF THIS ARTICLE SHALL BE IMPOSED AT A RATE COMPUTED
31 AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION.

32 2. FOR THE PURPOSES OF THIS SECTION, "CHARGEABLE SERVICES AND IMPROVE-
33 MENTS" MEANS SERVICES, AND IMPROVEMENTS NECESSARY OR CONVENIENT IN
34 PROVIDING SUCH SERVICES, FOR THE FOLLOWING PURPOSES: POLICE PROTECTION;
35 FIRE PROTECTION; STREET AND HIGHWAY CONSTRUCTION, MAINTENANCE AND LIGHT-
36 ING; SANITATION; AND WATER SUPPLY. ALL IMPROVEMENTS SPECIFIED IN PARA-
37 GRAPH (A) OF SUBDIVISION ONE OF SECTION FOUR HUNDRED NINETY OF THIS
38 TITLE SHALL BE DEEMED CHARGEABLE IMPROVEMENTS.

39 3. THE AMOUNT OF THE SERVICE CHARGE SHALL BE DETERMINED AS FOLLOWS:

40 (A) THE SERVICE CHARGE SHALL BE BASED ON THE ASSESSED VALUE OF THE TAX
41 EXEMPT REAL PROPERTY AND THE AMOUNT WHICH THE COUNTY, CITY OR TOWN OR
42 VILLAGE EXPENDED, IN THE YEAR PRECEDING THE YEAR IN WHICH SUCH CHARGE IS
43 ASSESSED, FOR CHARGEABLE SERVICES AND IMPROVEMENTS. ANY AMOUNT RECEIVED
44 FROM FEDERAL OR STATE AID SPECIFICALLY DESIGNATED FOR THE ABOVE-MEN-
45 TIONED PURPOSES SHALL NOT BE CONSIDERED IN DETERMINING THE COST OF
46 PROVIDING SUCH SERVICES FOR THE REAL PROPERTY. THE EXPENDITURES FOR
47 SERVICES NOT PROVIDED FOR CERTAIN REAL PROPERTY SHALL NOT BE CONSIDERED
48 IN THE CALCULATION OF THE SERVICE CHARGE FOR SUCH REAL PROPERTY, NOR
49 SHALL SUCH EXPENDITURES BE CONSIDERED WHEN A SERVICE IS CURRENTLY FUNDED
50 BY ANOTHER SPECIAL AD VALOREM LEVY OR SPECIAL ASSESSMENT.

51 (B) THE SERVICE CHARGE RATE FOR THE TAX-EXEMPT PROPERTY SHALL BE
52 DETERMINED BY DIVIDING THE EXPENDITURES DETERMINED PURSUANT TO PARAGRAPH
53 (A) OF THIS SUBDIVISION BY THE ASSESSED VALUE OF ALL REAL PROPERTY
54 LOCATED WITHIN THE COUNTY, CITY, TOWN OR VILLAGE IMPOSING THE SERVICE
55 CHARGE, INCLUDING NONTAXABLE PROPERTY.

1 (C) THE RESULTING RATE SHALL THEN BE APPLIED TO THE ASSESSED VALUATION
2 OF THE TAX EXEMPT PROPERTY SUBJECT TO SERVICE CHARGES TO DETERMINE THE
3 AMOUNT OF SUCH CHARGES.

4 (D) UNDER NO CIRCUMSTANCES SHALL THE AMOUNT OF SUCH SERVICE CHARGE
5 EXCEED TEN PERCENT OF THE PROPERTY TAX LIABILITY IF THE PROPERTY WERE
6 SUBJECT TO TAXATION.

7 4. THE PROVISIONS OF THIS SECTION SHALL NOT AUTHORIZE THE IMPOSITION
8 OF ANY SERVICE CHARGE, SPECIAL AD VALOREM LEVY OR SPECIAL ASSESSMENT BY
9 ANY MUNICIPAL CORPORATION ON REAL PROPERTY OTHERWISE EXEMPT BY LAW FROM
10 TAXATION UNLESS THE GOVERNING BOARD OF SUCH MUNICIPAL CORPORATION SHALL
11 PREVIOUSLY, AFTER PUBLIC HEARING, HAVE ADOPTED A LOCAL LAW, ORDINANCE OR
12 RESOLUTION ELECTING TO MAKE THE PROVISIONS OF THIS SECTION APPLICABLE.
13 FOR THE PURPOSES OF THIS SECTION, GOVERNING BOARD, WITH RESPECT TO THE
14 CITY OF NEW YORK, SHALL MEAN THE BOARD OF ESTIMATE OF THE CITY OF NEW
15 YORK.

16 S 6. This act shall take effect on the first of April of the calendar
17 year next succeeding the date on which it shall have become a law, and
18 shall apply to all assessments made with reference to a taxable status
19 date which falls on or after such effective date.