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

1085--A

2009-2010 Regular Sessions

I N   S E N A T E

January 26, 2009

Introduced by Sens. OPPENHEIMER, DIAZ, PARKER, SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 ASSEMBLY, DO ENACT AS FOLLOWS:

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

S 421-L. EXEMPTION OF CERTAIN CONSTRUCTION OR IMPROVEMENTS IN CERTAIN CITIES. 1. NEW CONSTRUCTION OF A MULTIPLE DWELLING BUILDING, RECONSTRUCTION, ALTERATION, OR IMPROVEMENT OF A PREEXISTING MULTIPLE DWELLING BUILDING OR STRUCTURE WHICH IS TO BE OCCUPIED OR IS OCCUPIED AS A RESIDENCE OR HOME AND CONSISTS OF NO LESS THAN FOUR UNITS, WHETHER SUCH DWELLING IS RENTED OR OWNED AS A COOPERATIVE OR CONDOMINIUM, AND IS LOCATED IN ANY CITY HAVING A POPULATION OF MORE THAN FIFTY-THREE THOUSAND SEVENTY BUT LESS THAN FIFTY-THREE THOUSAND ONE HUNDRED AS DETERMINED BY THE TWO THOUSAND FEDERAL DECENNIAL CENSUS SHALL BE EXEMPT FROM TAXATION OTHER THAN ASSESSMENTS FOR LOCAL IMPROVEMENTS, TO THE EXTENT PROVIDED IN THIS SECTION. AFTER A PUBLIC HEARING, THE GOVERNING BOARD OF SUCH CITY MAY ADOPT A LOCAL LAW TO GRANT THE EXEMPTION AUTHORIZED PURSUANT TO THIS SECTION. A COPY OF SUCH LOCAL LAW SHALL BE FILED WITH THE STATE BOARD AND THE ASSESSOR OF SUCH CITY WHO PREPARES THE ASSESSMENT ROLL ON WHICH THE TAXES OF SUCH CITY ARE LEVIED.

2. (A) EXCEPT AS OTHERWISE PROVIDED HEREIN, SUCH BUILDINGS WITHIN SUCH CITY SHALL BE EXEMPT DURING THE PERIOD OF CONSTRUCTION OR FOR A PERIOD OF THREE YEARS IMMEDIATELY FOLLOWING THE COMMENCEMENT OF CONSTRUCTION,

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

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WHICHEVER OCCURS EARLIER, AND THEN FOR A PERIOD OF ELEVEN YEARS THEREAFTER, TO THE EXTENT OF ONE HUNDRED PERCENT OF THE INCREASE IN ASSESSED VALUE ATTRIBUTABLE TO SUCH CONSTRUCTION, RECONSTRUCTION, ALTERATION OR IMPROVEMENT, AND FOR AN ADDITIONAL PERIOD OF FOUR YEARS AS PROVIDED BELOW AND, SUBJECT, IN EACH CASE, TO THE FOLLOWING:

(I) FOLLOWING SUCH ELEVEN YEAR PERIOD, THE EXTENT OF SUCH EXEMPTION SHALL BE DECREASED BY TWENTY PERCENT OF THE "EXEMPTION BASE" EACH YEAR DURING SUCH ADDITIONAL FOUR YEAR PERIOD. THE "EXEMPTION BASE" SHALL BE THE INCREASE IN ASSESSED VALUE AS DETERMINED IN THE INITIAL YEAR OF THE TERM OF THE EXEMPTION, 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 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 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.

(B) NO SUCH EXEMPTION SHALL BE GRANTED FOR CONSTRUCTION, RECONSTRUCTION, ALTERATIONS OR IMPROVEMENTS UNLESS:

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

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

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

(IV) EITHER THE CITY, THE LOCAL URBAN RENEWAL AGENCY, THE LOCAL HOUSING AUTHORITY OR ANOTHER PUBLIC BENEFIT CORPORATION HAS IMPOSED A REQUIREMENT OR HAS CERTIFIED THAT TWENTY PERCENT OF THE UNITS BE AFFORDABLE TO FAMILIES OF LOW AND MODERATE INCOME, FOR SUCH PERIOD AND UNDER SUCH CONDITIONS AS MAY BE ESTABLISHED FROM TIME TO TIME BY THE CITY PURSUANT TO A LOCAL LAW.

(C) FOR PURPOSES OF THIS SECTION THE TERMS CONSTRUCTION, RECONSTRUCTION, ALTERATION AND IMPROVEMENT SHALL NOT INCLUDE ORDINARY MAINTENANCE AND REPAIRS.

3. SUCH EXEMPTION SHALL BE GRANTED ONLY UPON APPLICATION BY THE OWNER OF SUCH BUILDING ON A FORM PRESCRIBED BY THE STATE BOARD. THE APPLICA-

TION SHALL BE FILED WITH THE ASSESSOR OF SUCH CITY ON OR BEFORE THE APPROPRIATE TAXABLE STATUS DATE OF SUCH CITY.

4. IF SATISFIED THAT THE APPLICANT IS ENTITLED TO AN EXEMPTION PURSUANT TO THIS SECTION, THE ASSESSOR SHALL APPROVE THE APPLICATION AND SUCH BUILDING SHALL THEREAFTER BE EXEMPT FROM TAXATION AS PROVIDED IN THIS SECTION COMMENCING WITH THE ASSESSMENT ROLL PREPARED ON THE BASIS OF 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. IN THE EVENT THAT A BUILDING GRANTED AN EXEMPTION PURSUANT TO THIS SECTION CEASES TO BE USED PRIMARILY FOR RESIDENTIAL PURPOSES OR ANY CONDITION TO THE EXEMPTION ESTABLISHED BY A LOCAL LAW IS NO LONGER SATISFIED, THE EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL CEASE.

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

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

(B) ALL ASSESSMENTS FOR LOCAL IMPROVEMENTS.

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

(I) REDUCE THE PERCENT OR PERIOD OF EXEMPTION OTHERWISE ALLOWED PURSUANT TO THIS SECTION;

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

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

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

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

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

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

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

(B) NO EXEMPTION UNDER THIS SECTION SHALL BE GRANTED FOR ANY CONSTRUCTION, RECONSTRUCTION, ALTERATIONS, OR IMPROVEMENTS UNLESS THE APPLICANT AGREES THAT ALL BUILDING SERVICE EMPLOYEES EMPLOYED AT THE BUILDING, WHETHER EMPLOYED DIRECTLY BY THE APPLICANT OR ITS SUCCESSORS, OR THROUGH A PROPERTY MANAGEMENT COMPANY OR A CONTRACTOR, SHALL RECEIVE THE APPLICABLE PREVAILING WAGE FOR THE DURATION OF THE BUILDING'S TAX EXEMPTION.

9. NO ADDITIONAL EXEMPTIONS SHALL APPLY.

S 2. This act shall take effect immediately.