

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

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I N S E N A T E

February 10, 2009

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

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 separate 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 ASSEMBLY, 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.

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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

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

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

11 3-a. Any reduction required to be provided pursuant to paragraph one
12 or two of this subdivision shall be provided as follows:

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

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

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

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

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

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

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

48 (9) IN THE EVENT THAT THE REAL PROPERTY IS A MANUFACTURED HOME, A
49 STATEMENT THAT THE OWNERSHIP OF THE MANUFACTURED HOME HAS BEEN TRANS-
50 FERRED, AND/OR THE MANUFACTURED HOME HAS BEEN LOCATED OR RELOCATED WITH-
51 IN THE COUNTY. THE STATE BOARD OF REAL PROPERTY SERVICES MAY PRESCRIBE A
52 SEPARATE FORM FOR USE SOLELY FOR MANUFACTURED HOMES. SUCH FORM SHALL
53 CONTAIN SUCH INFORMATION AS MAY BE REQUIRED BY SUCH BOARD.

54 S 15. Subdivision 15 of section 385 of the vehicle and traffic law is
55 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.